IN THE COMPETITION APPEAL TRIBUNAL

Case No: 1698/7/7/24

BETWEEN:

CLARE MARY JOAN SPOTTISWOODE CBE

Class Representative

- v -

(1) AIRWAVE SOLUTIONS LIMITED
(2) MOTOROLA SOLUTIONS UK LIMITED
(3) MOTOROLA SOLUTIONS, INC.

Defendants

- and -

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Non-Party

ORDER

UPON the Tribunal's Collective Proceedings Order made on 12 November 2025

AND UPON the case management conference (**CMC**) in these proceedings on 23–24 September 2026 (the **September CMC**)

AND UPON the Tribunal's Directions Order made on 29 September 2026 (as amended on 1 October 2026) in which it was, *inter alia*, directed that the parties file a list for each field of expert evidence specifying (i) the proposed issues to be addressed by their respective experts and (ii) how the experts will provide evidence on these issues

IT IS ORDERED THAT:

1. The parties have permission to instruct the following experts:

   (a) Economics

      (i) Class Representative: Joseph Bell, Oxera Consulting LLP.

      (ii) Defendants: Liam Colley, Cornerstone Research UK Limited.

   (b) Accounting and valuation

      (i) Class Representative: Frank Ilett, Kroll Advisory Ltd.

      (ii) Defendants: Andrew Grantham, AlixPartners UK LLP.

2. The page limits for the expert reports are as follows:

   (a) The economic experts:

      (i) 100 pages each for their primary reports; and

      (ii) 70 pages each for their reply expert reports.

   (b) The accounting and valuation experts:

      (i) 50 pages each for their primary reports; and

      (ii) 25 pages each for their reply expert reports.

3. The page limits are exclusive of technical annexes. The technical annexes are to allow for additional technical exposition/supporting calculations for analyses contained in the expert reports, and are not expected to be read by the Tribunal. Any such technical annexes are to be limited to the material necessary to support the analysis in the expert reports.

4. The page limits for the Joint Expert Statements are as follows:

   (a) 20 pages in total for the economic experts; and

   (b) 10 pages in total for the accounting and valuation experts.

5. The page limits for the Trial Expert Reports are as follows:

   (a) 90 pages in total for the economic experts; and

   (b) 40 pages in total for the accounting and valuation experts,

   or such other limit for the experts as may be agreed between the parties or directed by the Tribunal once the areas of agreement and disagreement between the experts have been identified.

6. The lists of issues for the experts set out in Annexes 1A and 1B are approved.

7. Costs in the case.

8. There be liberty to apply.

The Hon. Mrs Justice Bacon
President of the Competition Appeal Tribunal

Made: 19 November 2026
Drawn: 19 November 2026

ANNEX 1A – ECONOMIC EXPERT ISSUES

Definition of the relevant market(s)

1. **What is the relevant product market for Airwave Services? Does the product market include (a) LTE-based services, including ESN, and (b) other communications services? [§81(a) CF; §59 Def; §25(b) Reply]**

   a) The experts will identify the focal product(s) and assess the competitive constraints on all such products relevant to Airwave Services, applying the hypothetical monopolist test as the analytical framework. The assessment will consider substitution and will be based on the available factual evidence.

   b) In identifying the focal product(s), the experts will consider whether access to the Airwave Network should be assessed alone or together with ancillary services.

   c) The experts will consider the role of dynamic competition, including the scope for transition from TETRA to LTE. This will take into account how, if at all, interoperability provisions, interworking solutions, and asset transfer provisions affect the substitutability of the relevant products with alternatives. As part of this assessment, the experts will also consider the relevant time frame for market definition in the context of this case and the relative weight that should be placed on short and long run competitive dynamics. [§§49, 83(d)(iv) CF; §§21.2(c), 61.2 Def; §§12(d), 27(a) Reply]

2. **What is the relevant geographic market in the Claim Period? [§81(b) CF; §59 Def]**

   a) The experts agree the relevant geographic market is likely to be Great Britain, and it is not currently considered necessary for the experts to consider this further.

Dominance and market power

3. **Did Motorola hold a dominant position in the relevant market(s) (once defined) during the relevant period(s)? [§§82, 83(a), 83(c)–(d) CF; §§6.1, 61, 62.3–62.4 Def; §§26, 30 Reply; §§1.1–1.2, 2.1 RFI2]**

   The experts will consider the following factors to inform this question:

   a) **Market context**: What do the observed market features and outcomes imply for market power during the relevant period(s)?

      i) The experts will consider the extent to which there are particular structural or behavioural or other features of the market(s) or the economic context in which it operates which are likely to support or undermine Motorola's ability to act independently of its rivals, customers, and/or consumers during the relevant period(s).

      ii) The experts will consider whether market outcomes, such as investments, prices, and the quality and volume of services are informative as to the extent of Motorola's market power during the relevant period(s).

b) **Competitive constraints:** What actual or potential alternative providers (if any) were active or potentially active in the market(s) identified during the relevant period(s), and to what extent did they impose an effective competitive constraint on Motorola? [§§83(c), 83(d)(ii), 83(d)(iv) CF; §§62.3, 62.4(b), 62.4(d) Def; §§26(a), 30 Reply; §§1.1–1.2, 2.1 RFI2]

   i) The experts will consider the extent to which market shares are informative as to the level of market power in this case, given the nature of demand and supply in the market identified.

   ii) The experts will, to the extent they consider it informative to do so, estimate the share of the relevant market that Motorola held based on the market(s) identified.

   iii) The experts will consider what customer switching opportunities to actual or potential providers or alternative services (if any) within the market existed, and whether they would have provided an effective competitive constraint on Airwave.

   iv) The experts will consider the nature and extent of barriers to entry, expansion, and exit that existed for the provision of services during the relevant period(s). This will include where relevant consideration of any role of the Home Office in shaping the conditions of competition, entry, and exit.

c) **Dynamic competition:** To what extent did dynamic competition, including ESN (irrespective of whether it is included in the market definition identified by the experts) provide a competitive constraint on Airwave in the relevant period(s)? [§§83(d)(iv), 95 CF; §§21.2, 36.2, 61.1(h), 61.2 Def; §§12(c)–(d), 26(l), 27 Reply]

   i) The experts will assess the extent to which the prospect of customer switching or supply side switching involving actual or potential alternatives outside the relevant market, including ESN (irrespective of whether it is included within the relevant market identified), imposed an effective competitive constraint on Motorola during the relevant period(s), accounting where relevant for the role of Motorola in the delivery of the ESN programme.

   ii) To the extent the experts consider it relevant, they may also consider the sub-issue of barriers to entry set out at 3(b)(iv) above in relation to the issue of dynamic competition.

d) **Bargaining power:** What was the extent of Motorola's and the Home Office's bargaining power during the relevant period(s)? To what extent did the Home Office and/or other direct purchasers have countervailing buyer power in the relevant period(s), and what were the sources of any such countervailing buyer power, if any? [§§83(a), 83(d)(v)–(vi) CF; §§61.1, 61.3–61.4, 62.4(f) Def; §§26, 28 Reply]

   i) The experts will assess countervailing buyer power using a bargaining framework, including the relative bargaining positions of the Home Office and Motorola, whether Motorola's position in the market identified or conduct within that market indicate an ability to act independently of rivals, customers and/or consumers, and whether the Home Office had and/or exercised buyer power.

ii) The experts will consider the contractual provisions and negotiation evidence relevant to bargaining power on both sides, including the terms of the PFI Contract, asset transfer provisions, and Benchmarking Provisions. They will also consider how the PFI Contract's duration, extension, and pricing are determined.

Relevant period(s) for dominance and market power

4. What is/are the relevant period(s) for considering dominance and market power? [Trial list of issues, Issue 1; §82 CF; §§5, 6.1–6.2, 61, 62.3–62.4, 68.2 Def; §26(c) Reply; §§1.1–1.2, 2.1 RFI2]

The experts will identify the time period(s) relevant to their analysis and justify their respective approaches. In respect of the issues set out immediately above, the experts are permitted to address the time period(s) they consider relevant to their economic analysis. Relevance will be a matter for submission at trial.

Abuse (Limb 1 of *United Brands*)

5. Did Airwave charge prices for relevant Airwave Services to Class Members which were excessive? [§§93–94 CF; §§68, 70 Def; §§31, 33 Reply]

The experts will consider the following factors to inform this question:

a) **Actual Prices versus Actual Costs**: Is the difference between costs actually incurred and the actual prices Airwave charged for relevant Airwave Services to Class Members excessive?

b) **Competitive Benchmark:** What is the benchmark for workable competition against which Claim Period prices should be tested? [§§93(a), 93(d), 104(c) CF; §68.2 Def; §§5(d), 5(f), 31(c) Reply]

i) The experts agree that the relevant benchmark is workable competition and they will assess the extent to which this may be assessed by reference to competition for the market or otherwise.

ii) To the extent relevant, the experts will define and assess scenarios that align with workably competitive conditions, including appropriate contractual terms.

iii) The experts will explain their respective assumptions underlying the benchmark, including, but not limited to, the relevant service period and treatment of costs and returns.

c) **Profitability Analysis**: What are the relevant costs and prices to consider, and how should they be measured and compared? [§104(c) CF; §§68.2–68.3 Def; §§31(c),(g) Reply]

i) The experts will assess profitability using a (truncated) IRR and may supplement this approach with other measures of profitability as they consider appropriate, such as return on capital employed or operating margins.

ii) The experts will identify the relevant services and purchasers to include in their analysis, the appropriate degree of aggregation across these, and the appropriate scope and measure of revenues and costs to be included.

iii) As part of this, by reference to accounting expert evidence if required, the experts will identify the most appropriate source of information for revenue, operating expenditure, capital expenditure, and out-of-scope activities.

iv) The experts will consider the appropriate period or periods over which profitability should be assessed.

d) **Opening asset methodology (economic aspects):** Within the economic framework of a Limb 1 truncated IRR analysis, how should the opening asset value be calculated? [§104(c) CF; §§68.2–68.4 Def; §31(h) Reply]

i) The economic experts will identify the appropriate economic concepts for determining the opening asset value for the purposes of a truncated IRR analysis beginning on 1 January 2020 (and the opening date of any other period they consider it appropriate to analyse).

ii) The experts will also consider from an economic perspective the relevance of investments made during the original PFI Period and investments made for the purposes of continuing to provide the Airwave Services during the extension period.

iii) The above may include (to the extent considered relevant) consideration of the extent to which the relevant investment costs identified are likely to have been recovered prior to the Claim Period and the relevance of this, if any, to the opening asset value.

e) **Closing asset methodology (economic aspects):** Within the economic framework of a Limb 1 truncated IRR analysis, how should the closing asset value be calculated? [§104(c) CF; §§68.2–68.4 Def; §31(h) Reply]

i) The experts will consider the appropriate economic concepts for determining the closing asset value for the purpose of a truncated IRR analysis ending on 31 July 2023 (and the closing date of any other period they consider it appropriate to analyse).

ii) In particular, the experts will consider whether, and on what basis, any residual value of the network should be included, the treatment of any capital expenditure incurred during the Claim Period and the economic consistency with the treatment of the opening asset value and other costs and revenues included in the analysis.

iii) The experts may also consider from an economic perspective the relevance, if any, of the CMA Charge Control and relevance, if any, of investments made in advance of the Charge Control coming into force which informed the allowed revenues within the Charge Control. The above may include consideration of the extent to which the relevant investment costs identified are likely to have been, or may in future, be recovered through the CMA Charge Control or other cash flows, and the relevance of this, if any, to the closing asset value.

f) **Reasonable rate of return:** What would be a reasonable rate of return to apply, reflecting conditions of workable competition? [§§93–94 CF; §§68.4, 70 Def; §§31, 33 Reply]

   i) The experts will consider the appropriate cost of capital to inform the reasonable return expected under conditions of workable competition including consideration of the relevant inputs and assumptions to be applied, the risk-free rate, market return and equity beta, and appropriate comparator companies.

   ii) The experts will consider whether any adjustment for project-specific risks is appropriate and, if so, how it may be applied.

g) **Excessiveness**: How do the actual prices charged by Motorola compare to what would be expected in conditions of workable competition? [§§93–94 CF; §68.4 Def; §§31, 33 Reply]

   i) The experts will compare the prices and/or profitability of the Airwave Services during the Claim Period with those that would arise under conditions of workable competition, with values to be determined based on the methods the experts identify through the preceding issues. The experts shall identify and explain any reliance placed on the evidence of the valuation and accounting experts in calculating these values.

   ii) Based on this, the experts will estimate the magnitude of any excess of actual prices over prices arising under conditions of workable competition, accounting for any relevant costs and a reasonable rate of return.

6. Is the price unfair when compared with comparator products? [§69 Def; §32 Reply]

The experts will consider the following factors to inform this question:

a) **Intertemporal comparators**: To what extent are intertemporal comparisons informative? Were Claim Period prices unfair by comparison with reference to Airwave's own prices or profitability in other periods? [§94 CF; §§68.2, 68.6(b) Def; §§5(b)–(d), 31(e) Reply]

   i) The experts will consider the relevance (if any) of comparing Airwave's prices and/or profitability as relevant during the Claim Period with those during the PFI Period and the Charge Control period.

   ii) In making those comparisons, the experts will consider relevant differences in the services supplied, costs, quality, requirements, and other circumstances across the periods.

b) **External comparators**: Are there suitable external comparators and, if so, were Claim Period prices unfair by comparison with them? [§§6.2(f), 69 Def; §32 Reply]

   i) The experts will identify appropriate comparators for assessing whether Airwave's prices in the Claim Period were unfair by comparison, and consider how (if at all)

the average price levels and/or profitability of such comparators can be meaningfully compared with those of Airwave.

ii) In assessing comparability, the experts will consider relevant differences in technology, functionality, service quality, ownership, and the requirements of mission-critical supply, together with the availability and limitations of the evidence.

Quantum of loss

7. What, if any, is the overcharge paid by the Class during the Claim Period, and how should it be quantified? [§§99, 102–104 CF; §§6.3, 75, 79 Def; §35 Reply]

The experts will consider the following factors to inform this question:

a) **Value of Commerce**: What is the total affected value of commerce, including the revenues and services that fall within the Class Definition? [§§103–104 CF; §§18.2, 79 Def]

i) The assessment will draw on the data and assumptions from the experts' analysis in Limb 1. The experts will identify the revenues and services relevant to the Class Definition and the value of the Airwave Services purchased by Class Members during the Claim Period.

ii) They will explain the data and assumptions used to estimate the total affected value of commerce, including the treatment of any services or revenues excluded from the estimate.

b) **Aggregate overcharge method**: How should the aggregate overcharge to the Class, if any, be determined? [§104 CF; §79 Def]

i) The experts will determine the aggregate overcharge, if any, by comparing the amounts paid for the relevant Airwave Services with the amounts that would have been paid absent the alleged abusive conduct.

ii) The assessment will draw on the experts' conclusions on Limb 1 and Limb 2 and identify the principal assumptions and data used in estimating any overcharge.

c) **Aggregate overcharge estimate**: Applying this method, what aggregate percentage overcharge, if any, follows from the Limb 1 and Limb 2 findings? [§104 CF; §79 Def]

i) The experts will estimate the aggregate percentage overcharge, if any, arising from their Limb 1 and Limb 2 analyses.

ii) They will consider the extent to which the estimate is sensitive to the assumptions adopted and whether cross checks or other reference points provide relevant support for the estimate.

d) **Overcharge timing for application of interest:** On what dates did the overcharge accrue for the purposes of calculating simple interest? [§104 CF; §§79, 84 Def]

   i) The experts will set out the dates on which Class Members made overcharge payments to Motorola based on their analysis, to inform any interest calculation.

e) **Simple interest rate benchmarks**: What borrowing costs and/or rates of return may be relevant to the Class Members? [§§103, 137 CF; §84 Def]

f) **Overcharge valuation**: What is the aggregate value of overcharge (if any) to the Class based on the experts' analysis, including any adjustments for interest?

Airwave's offers

8. How, if at all, would the expert's conclusions regarding Limb 1, Limb 2, and Quantum change on the assumption that the Home Office accepted Airwave's offers of discounts? [§ 85 CF, §§ 6.3, 43, 61.4, 77 Def; §§21(b), 34 Reply]

a) **Limb 1:** How, if at all, would the expert's conclusions regarding Limb 1 change had the Home Office accepted the offers at issue? The experts will estimate discounted prices of Airwave Services in the scenario in which the Home Office accepted the offers of discounts by Airwave and assess whether discounted prices in that scenario would exceed the prices that would be expected in conditions of workable competition.

b) **Limb 2:** How, if at all, would the expert's conclusions regarding Limb 2 change had the Home Office accepted the offers at issue?

c) **Overcharge:** Based on the above, how, if at all, would the expert's aggregate overcharge estimate change had the Home Office accepted Airwave's offers of discounts?

ANNEX 1B – ACCOUNTING AND VALUATION EXPERT ISSUES

1. **Opening asset methodology**: If a truncated IRR approach to profitability is adopted, on what valuation basis should the opening asset value at 1 January 2020 be calculated, based on the appropriate economic framework at Annex 1A, issue 5(d)? [§104(c) CF; §§68.2–68.4 Def; §31(h) Reply]

    i) The Accounting and Valuation Experts will address valuation methodologies from an accounting and valuation perspective, having regard to the relevant legal principles and economic frameworks determined by the Expert Economists instructed by the same party for the primary report, and by the opposing party (if considered relevant), for the reply report.

    ii) As part of their assessment of the appropriate valuation methodologies, the Accounting and Valuation Experts will identify which assets fall within the scope of the opening asset valuation. This will include consideration of CAPEX and maintenance expenditure.

    iii) The valuation methodologies that the Accounting and Valuation Experts will consider are likely to include: replacement cost (including MEA), depreciated historical cost, value in use and net realisable value.

2. **Closing asset methodology:** If a (truncated) IRR approach to profitability is adopted, on what valuation basis should the closing asset value at 31 July 2023 be calculated, based on the appropriate economic framework at Annex 1A, issue 5(e)? [§104(c) CF; §§68.2–68.4 Def; §31(h) Reply]

    The Accounting and Valuation Experts will address valuation methodologies from an accounting and valuation perspective, having regard to the relevant legal principles and economic frameworks determined by the Expert Economists.

    As part of their assessment of the appropriate valuation methodology, the Accounting and Valuation Experts will identify which assets fall within the scope of the closing asset valuation. They will include, to the extent relevant, consideration of:

    i) the assets identified as falling within scope of the opening asset valuation;

    ii) any capital additions, disposals or retirements during the Claim Period; and

    iii) the assets included by the CMA in calibrating the Charge Control (the Regulatory Asset Base).

    The Accounting and Valuation Experts will consider the same valuation methodologies as for the opening asset valuations and will reflect changes of value due to the passage of time during the Claim Period.

3. **Asset values**: Based on the economic framework set out at Annex 1A, issues 5(c)–(e) and in accordance with their findings on valuation methodologies, what are the relevant opening and closing asset values?

4. **Transfer pricing**: Based on the time period identified at Annex 1A, issue 5(c) what amounts should be included in respect of internal transfers?

    i) The experts will consider how transfer charges related to parent guarantees, staff secondments and strategic support were calculated, allocated and supported, their consistency, and whether adjustments are appropriate.

    ii) The experts will consider whether costs were appropriately allocated and recharged to Airwave, including the methodologies, allocation keys and supporting calculations used to determine the proportion of Motorola Group costs attributed to Airwave, and whether any adjustment is required based on the economic framework for the treatment of costs set out in Annex 1A, issue 5(c).

    iii) Subject to Mr Ilett providing an updated methodology statement on 22 January 2027, the experts will consider adjustments for other transfer charges, including (without limitation) in relation to management support, equipment purchases, and corporate support services on the same basis.