



Meg Hillier MP
Chair of Public Accounts Committee
House of Commons
London
SW1A 0AA

From: Dr Andrea Coscelli CBE
CHIEF EXECUTIVE – CMA

Direct line: 020 3738 6100

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Dear Ms Hillier,

CMA Potential Market Investigation Reference into the Airwave network

Given the Public Accounts Committee's long-standing interest in the Emergency Services Network (ESN) rollout, I am writing to let you know that the CMA is proposing to make a market investigation reference (MIR) into the supply of the Airwave network in Great Britain.¹

As you know, the network – which provides secure field communication for the police, fire and rescue, and ambulance services (among others) – was commissioned by the Home Office through a PFI Agreement in 2000 and was planned to be replaced by ESN in 2019. However, delays to the rollout mean that it is expected that the Airwave network will need to continue to operate until the end of 2026.

For reasons set out in the consultation on our proposal, the CMA's provisional view – on which we are inviting comments – is that the market for the supply of the Airwave network in Great Britain is not working well, as evidenced by the persistently high and increasing returns that have been achieved by its owner and operator, Airwave Solutions.² Our assessment is that this has resulted in significant detriment for customers (and ultimately the taxpayer), and that, absent intervention, the detriment can be expected to grow. Our preliminary calculations indicate that Airwave Solutions may be able to extract around £1.2bn between 2020 and 2026 as a result of the continuation of the PFI Agreement well beyond its original term.

The proposal to make a MIR follows concerns expressed by the Government, in particular about the role of Motorola Solutions as both the owner of Airwave Solutions

¹ Under Section 131 of the Enterprise Act 2002, the CMA may decide to make a market investigation reference (MIR) when it has reasonable grounds for suspecting that a feature or combination of features of a market or markets in the UK prevents, restricts or distorts competition, and a market investigation reference appears to be an appropriate response.

² Airwave Solutions is owned by Motorola Solutions Inc.

and as one of the main companies responsible for the delivery and roll-out of ESN, through a contract it won in late 2015.

Next steps

Although the CMA's provisional view is that the market for the supply of the Airwave network is not working well, and that an MIR is the most appropriate way to address the concerns we have identified, a process must be followed before remedial action can be taken by the CMA. In particular, under the Enterprise Act, the CMA must consult on its proposal to make an MIR. That consultation, which was launched today,³ will last until 2 September 2021. Once it has concluded, we will consider the responses carefully before making a final decision on whether or not to make an MIR. If we decide to do so, the market investigation will be led by an independent Inquiry Group, drawn from the CMA panel, and supported by CMA staff. Only at the end of the investigation, which we will try to conclude as quickly as we can, does the CMA have powers to impose remedies to address adverse effects on competition and/or detrimental effects on customers that may have been identified.

Although it would for the Inquiry Group to decide what remedial action may be appropriate following the making of a MIR, at this stage, the CMA has identified two types of action that could in principle remedy the issues it has identified:

- A form of rate of return regulation typically employed by regulators setting price caps for natural monopoly networks. The price control would fall away as soon as ESN is operational and Airwave is turned off. This could address the adverse effects – such as the high costs to the public sector – resulting from the exercise of market power by Airwave Solutions.
- Divestiture of the Airwave network. This could address the incentives identified in our consultation arising from the dual role of Motorola: as owner of Airwave Solutions, and as a key supplier in the roll-out of ESN since 2016.

The consultation document sets out in more detail our current assessment of the market, and the reasons why we are proposing an MIR. Should you or your Committee staff have further questions about the process and next steps, please do not hesitate to get in touch.

I am writing in similar terms to the Chair of the Home Affairs Committee.

Yours sincerely,



Andrea Coscelli
CHIEF EXECUTIVE

³ CMA consults on market investigation into emergency services' mobile radio network - GOV.UK (www.gov.uk)