CASE STUDY 8 · BUSINESS C1

The Kestrel Letter & the Aventino Bond

Integrated case study · reading, analysis, negotiation and writing

BRIEFING

Two Sunday-night papers

8 min

Company A — Kestrel Industries. A UK-listed industrial group. Revenue £3.2bn, EBIT margin 9.8%. General counsel: Priya Ashworth (44), three years in the seat, previously partner at a City firm. On Friday afternoon a whistleblower letter reached her desk from a mid-level accountant in the Rotterdam subsidiary alleging that Q3 environmental-compliance costs had been re-classified as capex to avoid tripping a covenant on the group's revolving credit facility. She has 60 hours to draft the minute the audit committee will pass on Monday afternoon — the minute the outside world will, in the counterfactual case, read on Thursday.

The Kestrel situation. The letter is specific. It names three cost lines, four dates and one senior finance officer. The audit committee has to decide, on Monday, three things — whether to escalate to independent forensic accountants, whether to notify the auditor before the interims are signed on 30 April, and whether the officer named in the letter should be placed on precautionary leave. Priya's private view is that the letter is credible; her CEO's private view is that it is opportunistic. The minute has to survive three readers she cannot predict — a regulator, a plaintiff and a journalist.

Company B — Aventino Utilities. A Spanish-Portuguese regulated-utility mid-cap. Revenue €4.1bn, EBITDA margin 34%. CSO: Núria Vidal-Ribas (47), 18 months in the seat, previously Head of Transition Finance at a European peer. She has 60 hours to draft the front-page recommendation of the memo the board will approve on Monday — the recommendation on which a €600 million sustainability-linked bond, priced next Wednesday, will be printed.

The Aventino situation. The bond documentation contains a coupon step-up of 25 basis points if the 2027 scope-3 emissions milestone is missed by more than five per cent. The lead manager has told Núria, privately, that the pricing spread over the reference curve will be driven not by the target itself — the market has seen a hundred like it — but by the register of the front-page recommendation the CSO signs and the CFO countersigns. Núria's first draft is in the modal-indicative ('the board should consider…'); the lead manager has asked, in writing, for a mandative-subjunctive rewrite before the roadshow opens on Tuesday morning.

The parallel. Both papers open with a single paragraph read, at a distance, by an outsider whose reliance the register of the paragraph will invite or withhold. Kestrel's paragraph will be judged by whether its reported-speech register carries the fiduciary weight of the room; Aventino's paragraph will be judged by whether its mandative-subjunctive register carries the signable weight of the commitment. Both problems are grammatical, and both, on Monday afternoon, will be priced.

COMPLICATION

What can't be said as it stands

9 min

Kestrel — the reporting-verb problem. Priya's first draft opens: 'The CEO said the letter was probably opportunistic. The CFO said the accounting treatment was defensible. The chair said we should decide by Monday.' Three sentences, three uses of 'said', one direct-quotation of a personal opinion attributed to the CEO, and one soft modal ('should') on the chair's action. The minute, as drafted, tells a regulator on Thursday that the room heard three opinions and, effectively, deferred. It also tells a plaintiff that the CEO's characterisation of the letter as 'opportunistic' is on the record, in his own voice.

ASK THE TEACHER — notes to bring to class

Priya's private diagnostic: Every sentence in that minute uses 'said' where a reporting verb with weight would have named what the room actually did. What is needed is 'noted / cautioned / resolved / undertook' — each one specific to what that speaker committed the company to. And the CEO's characterisation, if it stands as direct quotation, will read as the sentence the board leaned on to defer.

Aventino — the mandative-mood problem. Núria's first draft opens with three modal-indicative sentences: 'The board should consider approving the enhanced disclosure protocol. Management should think about commissioning a fresh materiality assessment. If the milestone is missed, the coupon steps up.' Every sentence is technically defensible; every sentence is also, to the pension-fund analyst reading the front page, unsigned. The bond will price wider on the register than on any variable the model can measure.

Núria's private diagnostic: Every sentence uses 'should' or 'if' where the mandative subjunctive or the were-inversion would have carried the sign. The board is not being asked to consider; it is being asked to approve. The trustee is not being told what happens if the milestone is missed; it is being told what will follow, in a register that says the counterparty has already contemplated the outcome and drafted the response.

The register each reader is expecting. Kestrel's audit committee is calibrated, over three prior general counsels, to a specific reporting-verb register: the chair reminded / cautioned / resolved, general counsel advised / warned, the CFO confirmed / undertook, with narrowing phrases — subject to, on the basis of, in respect of — appended to every commitment. Aventino's bond desk is calibrated, over three prior CSOs, to a specific mandative-subjunctive register: it is essential that the target be validated, were the milestone to be missed, should the trustee require, had the recommendation not been drafted. Both readers will read the front paragraph in under ninety seconds and both will, silently, price the register.

DATA ROOM

Facts, uncontested and contested

6 min

Kestrel — uncontested:

- Whistleblower letter received 4 March, 15:42 GMT; logged in the whistleblower channel 4 March, 16:05.
- Allegations: three cost lines (€2.1m, €3.4m, €1.8m) re-classified from opex to capex in Q3; covenant test on RCF at 30 September at 3.75x, actual at 3.79x on the re-classified basis (3.71x uncorrected).
- Auditor's interim sign-off due 30 April; group interim results announcement 12 May.
- Prior two years of audit-committee minutes: 74% of reporting verbs 'said'; 3% 'cautioned / warned / resolved'.
- Chair's private note to Priya (Friday evening): 'the minute has to read the same way to a regulator on Thursday as it does to the CEO on Monday'.

Aventino — uncontested:

- €600m sustainability-linked bond, 7-year tenor, coupon step-up of 25 bps if 2027 scope-3 target missed by >5%.
- Roadshow opens 08:00 CET Tuesday; pricing Wednesday afternoon; settlement T+5.
- Lead manager's internal pricing memo: reference spread 128 bps; expected pricing 118–125 bps depending on register of front-page recommendation.

- Prior two years of front-page ESG recommendations: 82% modal-indicative ('should', 'ought to', 'we think'); 4% mandative subjunctive.
- Lead manager's written note to Núria (Friday afternoon): 'the front page will be read on Monday morning by the top 12 accounts on the deal, and the spread will follow the register'.

Contested (Priya and Núria vs their coaches):

- Priya. Her CEO wants the minute to record the letter as 'noted' pending further review. Priya wants 'resolved to commission independent forensic accountants' — the reporting verb the sentence will, on a Thursday reading, be judged by.
- Núria. Her CFO wants the recommendation to keep 'should consider' 'to preserve flexibility'. Núria wants three chained mandative-subjunctive clauses and a were-inversion escalation — anything less and the bond will price 5–7 bps wide of the achievable spread.

TEXT EXTRACTS

Two source paragraphs, side by side

5 min

Extract 1 — Priya's first-draft minute (Kestrel):

"The CEO said the letter was probably opportunistic and that he did not consider the allegations material. The CFO said the accounting treatment for the three cost lines was defensible and that the auditors had not, to his knowledge, raised any question. The chair said we should decide the next steps by Monday and moved to close the item."

Extract 2 — Núria's first-draft recommendation (Aventino):

"The board should consider approving the enhanced disclosure protocol at the July meeting. Management should also think about commissioning a fresh materiality assessment at some point in the next cycle. If the 2027 emissions milestone is missed, the coupon steps up."

Both paragraphs are grammatically defensible under a narrow reading. Both, as drafted, will fail — Kestrel by putting an unsupportable CEO opinion into the record in direct quotation, and Aventino by pricing 5–7 bps wide on the register of a paragraph that reads as unsigned. Your task begins here.

YOUR TASK

Two paragraphs, one register discipline each

35 min

You are, in turn, Priya and then Núria. Draft both:

Document 1 — Priya's minute for the Monday audit-committee meeting (200–240 words).

- Uses at least four different reporting verbs beyond 'said' — advised, confirmed, cautioned, reminded, undertook, resolved, noted, recommended.
- Contains at least three narrowing phrases (subject to, on the basis of, in respect of, to his recollection, within the applicable window).
- Every reported verb backshifted; every deictic (now, today, next Monday) shifted for a minute drafted several days later.
- Includes one participle-clause sentence ('having reviewed the letter and taken counsel, the committee resolved that...').
- Ends with the sentence the chair would be content for the outside world to read on Thursday.

Document 2 — Núria's front-page recommendation for the Monday board (200–240 words).

ASK THE TEACHER — notes to bring to class

- Contains three chained mandative-subjunctive clauses ('it is essential that the board approve… that the target be validated… that the CFO countersign…').
- Contains one were-inversion in the escalation clause ('were the 2027 milestone to be missed by more than five per cent…').
- Contains one should-inversion in the formal request to the trustee ('should the trustee require additional evidence…').
- Contains one had-inversion in the counterfactual defence ('had this recommendation not been drafted in this register…').
- Ends with the sentence the CFO would be prepared to countersign before the roadshow opens.

Teacher notes

Success criteria (teacher-facing): Document 1 passes if a regulator on Thursday would read the minute as an audit committee that acted, not one that deferred — the reporting-verb choice per sentence must earn the record. Document 2 passes if the bond desk would price 5–7 bps tighter on the register alone — the mandative subjunctive must appear on the front page in three chained clauses, and the were-inversion must appear where an 'if' would have been easier.

SOLO WORK

Two rewrites, in your own hand

25 min

Before you draft the two paragraphs, spend 15 minutes on the following:

- Take Priya's draft (Extract 1) and, sentence by sentence, replace every 'said' with the reporting verb the sentence actually needs. Which single sentence, once rewritten, would most disarm the 'the room deferred' reading a regulator would otherwise give it?
- Take Núria's draft (Extract 2) and, sentence by sentence, replace every 'should' or 'if' with the mandative subjunctive or the were-inversion. Which single sentence, once rewritten, would most tighten the pricing spread?
- Write, in one sentence, the difference between the register an audit committee has been calibrated to over three prior general counsels and the register a bond desk has been calibrated to over three prior CSOs. What does each reader take as the sign of a senior officer?

This is a private diagnostic. The point is not to publish the sentences — it is to notice which of the register moves you can, in fact, execute under time pressure.

Did you read carefully?

5 min

- The central commercial event at Kestrel Industries is:
  (a) a listing
  (b) a general counsel's minute drafted against a whistleblower letter the outside world will, in a bad case, read on Thursday morning
  (c) an acquisition
  (d) a rebrand
  Answer key: (b) a general counsel's minute drafted against a whistleblower letter the outside world will, in a bad case, read on Thursday morning

ASK THE TEACHER — notes to bring to class

- The parallel event at Aventino Utilities is:
  (a) a hiring plan
  (b) a CSO's front-page recommendation signed against a €600m sustainability-linked bond whose coupon the market will price on the register of the sentence
  (c) an IPO
  (d) a dividend increase
  Answer key: (b) a CSO's front-page recommendation signed against a €600m sustainability-linked bond whose coupon the market will price on the register of the sentence
- Kestrel's minute must be drafted in reported speech because it:
  (a) is required by law
  (b) must summarise, in a register the audit trail can defend, the specific fiduciary decisions the room took — and the reporting verb per sentence carries a distinct weight of evidence
  (c) is house style
  (d) shortens the pack
  Answer key: (b) must summarise, in a register the audit trail can defend, the specific fiduciary decisions the room took — and the reporting verb per sentence carries a distinct weight of evidence
- Aventino's recommendation must be drafted in the mandative subjunctive because it:
  (a) sounds academic
  (b) must commit the officer, in a register the auditor can sign the certification against and the bond desk can price the covenant on
  (c) is required by the trustee
  (d) impresses the chair
  Answer key: (b) must commit the officer, in a register the auditor can sign the certification against and the bond desk can price the covenant on

WRAP-UP

From two Mondays back to your desk

6 min

Answer, in a note to yourself:

- Which upcoming meeting of yours has the shape of Priya's Monday — a minute the outside world will, in a bad case, read on Thursday?
- Which has the shape of Núria's Monday — a recommendation the bond desk or the assurance partner will price on the register?
- Which of the two registers — the reporting-verb minute or the mandative-subjunctive recommendation — do you naturally reach for, and which do you have to force? What would it cost you, this quarter, to add the register you do not already have?

Take-away:

ASK THE TEACHER — notes to bring to class