



Draft notice for consultation on proposed undertakings

Department for Business, Energy and Industrial Strategy Anticipated acquisition of Impcross Ltd by Gardner Aerospace Holdings Ltd Notice of proposed undertakings offered by the parties

Views are sought by midnight at the end of 2 July on the attached undertakings which are to mitigate public interest concerns in relation to the interests of national security raised by the proposed merger.

Intervention under the Enterprise Act 2002

1. On 5 December 2019, the Secretary of State for Business, Energy and Industrial Strategy (“the Secretary of State”) issued a Public Interest Intervention Notice to the Competition and Markets Authority (“CMA”) under section 42(2) of the Enterprise Act 2002 (“the Act”) in relation to the proposed acquisition by Gardner Aerospace Holdings Ltd (“Gardner”) (a subsidiary of Ligeance Aerospace Technologies) of Impcross Ltd (“Impcross”) (“the merger”).
2. On 02 March 2020, the CMA reported to the Secretary of State in accordance with section 44 of the Act. [The report](#) sets out the CMA’s belief that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, and summarised the representations it received relating to the national security public interest consideration specified in the intervention notice.
3. The Secretary of State received further written advice directly from the Secretary of State for Defence about the national security implications of the merger.
4. In light of the report from the CMA and advice of the Secretary of State for Defence, the Secretary of State considers that he has the power to refer the merger, under section 45 of the Act, to the chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 to carry out a more detailed assessment. This is termed a “phase 2 inquiry”.
5. Alternatively, if the Secretary of State would otherwise be minded to refer the merger to a phase 2 inquiry, he may accept undertakings from the parties in lieu of such a reference to mitigate public interest concerns, under paragraph 3 of Schedule 7 to the Act.
6. On 16 March 2020, the Secretary of State wrote to Gardner and Impcross, under section 104 of the Act, setting out that he was minded to make a reference to a phase 2 inquiry and providing the parties 15 working days to make representations
7. Gardner made representations that it was no longer pursuing the transaction at the present time.

Public interest concerns

The Secretary of State considers that the following risks would be raised by the merger, if it were to proceed:

- **Protection of the UK’s aerospace capability and the safeguarding of sensitive information, skills and manufacturing capability within Impcross.**
- **Protection of the UK’s operational advantage.**



Proposed undertakings

8. Gardner has offered [undertakings intended to confirm their change in position](#) and which would mitigate the public interest concerns. These would:
 - a. Confirm that they do not intend to proceed with any acquisition of Impcross in a specified period; and
 - b. Ensure that Gardner notifies the Secretary of State regarding any future attempts to purchase Impcross within a specified period.
9. The Secretary of State considers that the proposed undertakings would mitigate the national security risks identified to an acceptable level and therefore proposes to accept the undertakings instead of making a reference to a phase 2 inquiry.
10. The Secretary of State now publishes the proposed undertakings for consultation, in accordance with paragraph 2 of Schedule 10 to the Act, and will consider any representations made before making a decision about whether to accept the undertakings.

Consultation responses

11. Views are sought by **midnight at the end of 2 July 2020**. Responses should be sent to publicinterestconsultation@beis.gov.uk

Disclosure, Confidentiality and Data Protection

12. We may publish non-confidential versions of the responses received on the GOV.UK website and may also refer to them in any response to the consultation, or in further publications related to the Secretary of State's decisions. We would be grateful if you would indicate in your response whether you would be content for your response to be published and submit a non-confidential version for publication highlighting any redactions you wish to make. It would also be helpful if you would indicate whether you are content for your name and/or the name of your organisation to be published either alongside your response, or if not, as having responded to the consultation.
13. All responses and personal data will be processed in compliance with the Data Protection Act 2018 and the General Data Protection Regulation. More information on disclosure, confidentiality and data protection is set out in the [Privacy Notice associated with this consultation](#).

Related information

14. All documents published by the Department in relation to the proposed merger are available on GOV.UK at [Proposed acquisition of Impcross by Gardner Aerospace draft undertakings](#)