

# Decision notice

## PROPOSED ACQUISITION BY HYTERA COMMUNICATIONS CORPORATION LIMITED OF SEPURA PLC –SECRETARY OF STATE ACCEPTS UNDERTAKINGS

1. On 10 April 2017 the Secretary of State issued a public interest intervention notice to the Competition and Markets Authority ("CMA") under section 42 of the Enterprise Act 2002 (the "Act") in relation to the proposed acquisition by Hytera Communications Corporation Limited (Hytera) of the entire issued ordinary share capital of Sepura plc (Sepura) (the "Transaction").
2. On 4 May 2017, the CMA reported to the Secretary of State in accordance with section 44(2) of the Act. The report contained the CMA's decisions on the jurisdictional and competition aspects of the Transaction and summarised representations received by it relating to the national security public interest consideration specified in the public interest intervention notice.
3. The Secretary of State also received further representations direct from the Home Office as regards the security concerns raised by the Transaction.
4. In the light of the report from the CMA and the advice of the Home Office, the Secretary of State considers that he has the power to refer the Transaction 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. Alternatively he may, instead of making such a reference, accept undertakings in lieu under paragraph 3(2) of Schedule 7 to the Act.
5. On 8 May 2017 the Secretary of State announced that in line with advice from the Home Office he was proposing to accept draft undertakings offered by Hytera and Sepura instead of making a reference to the CMA for a more detailed investigation and published the undertakings in draft for consultation before accepting them. Following that announcement the Secretary of State received representations from 3 respondents. Having carefully considered these representations, the Secretary of State believes that the undertakings are appropriate to remedy the national security concerns raised by the Transaction and has therefore decided to accept the undertakings instead of making reference to the CMA for a further more detailed assessment.
6. The undertakings are intended to provide assurance that sensitive information and technology is protected and to ensure the maintenance of UK capabilities in servicing and maintaining radio devices used by emergency services in the UK. They require Hytera and Sepura to implement enhanced controls to protect sensitive information and technology from unauthorised access and to provide rights of access to premises and information so that relevant agencies including the Home Office can audit compliance with the security measures. Hytera and Sepura have also undertaken to continue the UK repair and maintenance service for the relevant radio devices as long as it is required by the Home Office.
7. A copy of the signed undertakings is attached to this notice. The Confidential Annex to the undertakings which sets out the detail of the security control measures is not being published in order to protect their security.

**Date: 12 May 2017**