

# Completed acquisition by NEC Software Solutions UK Limited of SSS Public Safety Limited and Secure Solutions USA LLC

## Summary of the CMA's decision on relevant merger situation and substantial lessening of competition

ME/6979-21

1. On 3 January 2022, NEC Software Solutions UK Limited (**NECSWS**) acquired the entire issued share capital of SSS Public Safety Limited<sup>1</sup> and Secure Solutions USA LLC<sup>2</sup> (together **SSS** or the **Target**) from Capita Secure Information Solutions Limited and Capita (USA) Holdings Inc. (**Capita**) (the **Merger**). NECSWS and SSS are together referred to as the **Parties** and for references relating to the future the **Merged Entity**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of NECSWS and SSS is an enterprise; that these enterprises have ceased to be distinct as a result of the Merger; and that the share of supply test is met. The four-month period for a decision has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
3. NECSWS and SSS supply essential software solutions to emergency service providers (including police forces, fire and rescue services and ambulance trusts) as well as transport service providers (such as TfL and Rail operators). These software solutions underpin key aspects of emergency services, including the services used to connect control rooms and police, fire and rescue and ambulance emergency responders, planning and managing resource (such as scheduling shifts), and managing records. Only a very small number of companies have a strong presence in these markets.
4. These services are generally sold to public sector bodies via awards run under public procurement law, with contracts typically established for three to

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<sup>1</sup> Formerly Capita (SSS) Limited.

<sup>2</sup> Formerly Capita Software (US) LLC.

five years or sometimes even longer periods. Like other public procurement markets, these arrangements create particular risks for purchasers, who must specify their needs and make judgments about the likely performance of providers based on their bids.

5. The CMA considered the effects of the Merger in the supply of the following software products in the UK:
  - (a) Integrated Communication and Control Services software (**ICCS**) - ICCS enables control room personnel to receive urgent phone calls from people in emergency situations (eg 999 calls) and to communicate with staff.
  - (b) Duties Management Systems software (**Duties**) for police customers - Duties enables the planning, scheduling, and shift management of emergency service staff.
  - (c) Records Management Systems software (**RMS**) for police customers which enables the recording and managing of case-related information for the processing of people in custody and case file management for prosecutions.

## Counterfactual

6. The Parties submitted that, absent the Merger, SSS would have become a weaker competitor than it is today, because Capita would have under invested and SSS's services would become outdated [X].
7. [X]. SSS is continuing to compete for and win contracts, and customers that responded to the CMA's merger investigation did not generally identify a decline in SSS's competitiveness. [X]. Internal documents also suggest that SSS [X].
8. In merger analysis, the counterfactual focuses only on significant changes affecting competition between the merging firms such as entry or exit. The evidence seen by the CMA did not support the Parties' argument sufficiently to justify adopting a different counterfactual. On that basis, the CMA assessed the Merger against the pre-Merger conditions of competition but considered the Parties' points about SSS in its competitive assessment.

## Supply of ICCS to emergency services and transport customers in the UK

9. The CMA found that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) in the supply of ICCS to emergency services and transport customers for the following reasons:
- (a) The supply of ICCS to emergency services is relatively concentrated. The Parties are two of only three suppliers (alongside Frequentis) with a large established customer base. The Parties' combined share of supply post-Merger to emergency services is significant, and the Merged Entity would become the market leader for the supply of ICCS to both police forces and fire and rescue services.
  - (b) An analysis of recent opportunities to supply ICCS, such as tenders and awards under framework agreements, shows direct competition between the Parties and that both Parties have won a number of contracts.
  - (c) Other evidence also indicates that the Parties compete closely. Internal documents show that the Parties monitor each other regularly and regard each other as key rivals. Customers also told the CMA that both Parties have strong ICCS offerings.
  - (d) The Parties face some constraint from alternative suppliers of ICCS. However, the CMA considers that this is insufficient to mitigate the loss of competition resulting from the Merger:
    - (i) The CMA found that Frequentis, which has a significant existing customer base and has won a number of large contracts in recent years, would exert a strong constraint on the Merged Entity.
    - (ii) Although a number of other suppliers have entered and been active in the market in the last ten years, including Systel (2013), SAAB (2015) and Motorola (2016), their shares of supply remain small. Of these entrants, the CMA considers that Motorola exerts the strongest constraint on the Parties, having won a number of recent contracts. Although SAAB and Systel have also won a number of contracts since entering, their track record, the Parties' internal documents and third party views indicate that they impose a more limited constraint on the Parties.
  - (e) The CMA believes barriers to entry are high in the supply of ICCS. The evidence as to smaller competitors suggests that entering this market can be difficult, and that even active and credible players such as Motorola have only established a small share of supply despite being active in the

market for several years. Any new entrant would have to overcome these obstacles to win substantial customers. The CMA has not seen evidence of entry that would be timely, likely and sufficient. The CMA therefore considers that entry would not be sufficient to prevent a realistic prospect of an SLC as a result of the Merger.

### **The supply of Duties to police customers in the UK**

10. The CMA found that the Merger gives rise to a realistic prospect of an SLC in the supply of Duties to police forces for the following reasons:
  - (a) The supply of Duties in the UK is highly concentrated, with only a limited number of significant suppliers (the Parties, Crown and to a lesser extent Totalmobile). The Parties' combined share of supply is high and the increment resulting from the Merger is significant, indicating that the Parties are an important competitive constraint on one another.
  - (b) An analysis of recent opportunities to supply Duties shows that the Parties are two of a small number of competitors competing for a limited number of opportunities. SSS won the majority of the limited opportunities it competed for, suggesting it is a strong competitor. The only competing suppliers for these opportunities were Crown and Totalmobile.
  - (c) The CMA believes barriers to entry are high in the supply of Duties to police customers in the UK. Supply of this software is a specialist activity and establishing a credible position involves a 'chicken and egg' challenge to obtain the experience needed to win customers. The CMA has not seen evidence of entry that would be timely, likely and sufficient in response to the Merger. As such, the CMA believes that entry would not be sufficient to prevent a realistic prospect of an SLC as a result of the Merger.

### **The supply of RMS to police customers in the UK**

11. The CMA found that the Merger gives rise to a realistic prospect of an SLC in the supply of RMS to police forces for the following reasons:
  - (a) The supply of RMS in the UK is highly concentrated, with only three significant suppliers (the Parties and Niche). The Parties' combined share of supply is high and the increment resulting from the Merger is significant, indicating that the Parties are an important competitive constraint on one another.

- (b) An analysis of recent opportunities to supply RMS shows direct competition between the Parties, and that the Parties are two of very few suppliers of RMS in the UK. The Parties regularly bid against each other and both won a significant proportion of the recent opportunities that they competed for.
- (c) While the CMA recognises that problems faced by SSS in relation to its RMS software for Greater Manchester Police may have impacted SSS's reputation, police forces nevertheless identified the Parties (alongside Niche) as the RMS suppliers that could meet their needs. Further, the police forces that responded to the CMA's merger investigation did not identify a recent decline in the competitive strength of the Parties and their RMS offering.
- (d) The only alternative supplier that would remain post-Merger is Niche. The CMA identified one company that is currently seeking to enter into the supply of RMS in the UK. However, CMA also found that barriers to entry and expansion are high, and incumbents have a strong advantage. The Parties' internal documents indicate that they do not anticipate a significant threat from new entrants. Given the concentrated nature of the market, even if the company mentioned above were to successfully enter, the CMA does not consider such entry would be sufficient to prevent a realistic prospect of an SLC as a result of the Merger.

## **The supply of Computer Aided Dispatch (CAD)**

- 12. In the UK, SSS also supplies software which allows details of incidents to be recorded and the status and allocation of resources (such as staff, vehicles and equipment) to be managed (computer-aided dispatch or **CAD**). Emergency services use CAD software in conjunction with other management software solutions, and they sometimes purchase CAD and ICCS through a single procurement process. While NECSWS does not supply CAD, the CMA has evidence to suggest it has considered doing so. Therefore, the CMA also considered whether the Merger would result in a loss of potential competition in the supply of CAD.
- 13. The CMA found that the Merger did not give rise to a realistic prospect of an SLC in relation to the loss of potential competition in the supply of CAD. This was primarily on the basis that there is sufficient competition in the supply of CAD and so any loss of potential competition that may have arisen from the Merger, would not have a substantial impact on competition within the overall supply of CAD in the UK.

## **The supply of live video streaming to emergency services**

14. The Parties also supply live video streaming products for all emergency services customers. These enable a caller with a smartphone to stream live footage of incidents to an emergency services call centre. SSS offers a live video streaming product, 999Eye designed for emergency service customers currently being used by a number of fire and rescue services in the UK. NECSWS has developed a live video streaming product, 'Stream,' which it launched in January 2021 and has been actively marketing to emergency service customers, [§<]. Given this, the CMA has considered whether the Merger would result in a loss of competition in the supply of live video streaming.
15. The CMA found that the merger does not give rise to a realistic prospect of an SLC in the supply of live video streaming to emergency services for the following reasons:
  - (a) One strong incumbent competitor (Goodsam) is already present.
  - (b) Two potential entrants have developed products and appear likely to enter in the near future. Furthermore these potential entrants appear similarly well positioned to NECSWS which [§<].
  - (c) Several other potential competitors are mentioned in SSS's internal documents.
  - (d) Barriers to entry and/or expansion from other jurisdictions and/or adjacent UK markets appear low (and lower than for the ICCS, Duties and RMS markets) given that there are several other potential entrants seeking to enter the UK market.

## **Conglomerate effects arising from potential bundling of SSS's CAD and the Parties' ICCS**

16. The CMA has considered whether competition in the supply of CAD would be reduced by the Merger if the Parties undertake a strategy to bundle the sale of ICCS and CAD (conglomerate effects). For example, the Merged Entity could decide to supply ICCS as a single integrated solution with CAD. The CMA found that, while there are few remaining ICCS suppliers post-Merger, the majority of customers do not tend to purchase ICCS and CAD products together. The CMA also found that a number of CAD suppliers are already partnering with ICCS providers or already have a bundled offering. These factors limit the Merged Entity's ability to sell ICCS and CAD as a bundle and

to reduce competition. The CMA therefore found that there is no realistic prospect of an SLC as a result of conglomerate effects.

## Conclusion

17. The CMA therefore believes that the Merger gives rise to a realistic prospect of a **SLC** as a result of horizontal unilateral effects in a number of markets in the UK.
18. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). NECSWS has until 9 May 2022 to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 22(1) and 34ZA(2) of the Act.