

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

Decision on relevant merger situation and substantial lessening of competition

ME/6979-21

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 29 April 2022. Full text of the decision published on 14 June 2022.

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

1. On 3 January 2022, NEC Software Solutions UK Limited (**NECSWS**) acquired the entire issued share capital of SSS Public Safety Limited¹ and Secure Solutions USA LLC² (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,

¹ Formerly Capita (SSS) Limited.

² Formerly Capita Software (US) LLC.

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 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 (in particular because [X]).
7. The CMA found that although there is a general trend away from on-premise solutions to cloud-based solutions, the use of on-premise solutions remains widespread and some customers consider cloud capability more important than others. 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. Although Capita has refused some capital expenditure requests by SSS in recent years, others, as recently as 2021, have been approved, including specifically requests for the improvement of particular SSS offerings. Internal documents also suggest that

SSS has been looking at ways to offer cloud capability for its products in the future.

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.

ASSESSMENT

Parties

19. NECSWS supplies software and associated services primarily to UK public sector bodies. NECSWS's ultimate parent company is NEC Corporation, which is headquartered in Japan. NEC Corporation is a global technology business, offering IT and network technologies for businesses and the public sector. NECSWS's turnover in 2021³ was approximately [£<] in the UK.⁴ For the same period NEC Corporation's turnover was approximately £22 billion worldwide of which approximately [£<] was generated in the UK.⁵

³ This refers to the financial year ending on 31 March 2021.

⁴ Final merger notice submitted by the Parties to the CMA on 1 March 2022 (**FMN**), paragraph 3.5.

⁵ FMN, paragraph 3.3.

20. SSS supplies software solutions and managed services primarily to the emergency and justice sectors. SSS's turnover in 2020⁶ was approximately [X] in the UK.⁷

Transaction

21. On 3 January 2022, NECSWS purchased the entire issued share capital of SSS from Capita.⁸

Procedure

22. The Merger was considered at a Case Review Meeting.⁹

Jurisdiction

23. Each of NECSWS and SSS is an enterprise. As a result of the Merger, these enterprises have ceased to be distinct.
24. The Parties overlap in the supply of software including ICCS, RMS and Duties to emergency services and other customers. The Parties had a combined share in the supply of ICCS in the UK in 2021 of [X] [80-90]% with an increment of [X] [10-20]% brought about by the Merger.¹⁰ The CMA considers this to be a reasonable description of goods for the purposes of determining the share of supply test. The CMA therefore believes that the share of supply test in section 23 of the Act is met.
25. The Merger completed on 3 January 2022 and NECSWS informed the CMA about this on 4 January 2022. The four-month deadline for a decision under section 24 of the Act is therefore 4 May 2022.
26. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
27. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 3 March 2022 and the statutory 40 working day deadline for a decision is therefore 29 April 2022.

⁶ This refers to the financial year ending on 31 December 2020.

⁷ FMN, Table 6.2.

⁸ References to the entire issued share capital with respect to the Merger are to 100% of the issued ordinary shares of SSS Public Safety Limited and 100% of the equity interests of Secure Solutions USA LLC.

⁹ See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2022, p. 43 and from Paragraph 9.29.

¹⁰ See Table 1 below.

Background

28. The Parties overlap in the supply of:
- (a) ICCS software that enables control room personnel to make and receive phone calls (including 999 and 101) and to communicate with staff over radio networks and in the future the new emergency services network (**ESN**)¹¹. This software is used by different emergency services agencies (such as police forces, fire and rescue services, ambulance trusts and coastguard services¹²) as well as certain transport customers (such as Transport for London).
 - (b) Duties software which enables the planning, scheduling and shift management of emergency service staff.
 - (c) RMS which are used by the police to record and manage case-related information for the processing of people in custody and case file management for prosecutions.
 - (d) Live video streaming products, which enable callers with smartphones to stream live footage to a call centre (NECSWS has recently developed this product [redacted]).¹³
29. SSS also supplies CAD 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. CAD software facilitates such functions by integrating information from multiple sources, including other management software solutions such as ICCS and RMS (police only). NECSWS's plans to supply CAD are discussed further in paragraphs 262 to 265.

Process for awarding contracts

30. The Parties' customers include public sector bodies that are generally subject to the Public Contracts Regulations 2015 (the **Regulations**). The Regulations

¹¹ ESN is a new digital mobile communications network which will be used by the UK's emergency services (via their ICCS software) and is estimated to be in use by the end of 2026, replacing the current radio based Airwave system.

¹² As regards ICCS services, the CMA found that NECSWS does not supply coastguard customers, these customers have specific requirements and [redacted]. ICCS for coastguard services is therefore not discussed further in this decision.

¹³ The Parties also overlap in the supply of software solutions for digital interview recording, digital evidence management, cave rescue, mountain rescue and bomb disposal. Having considered the supply of each of these solutions, the CMA believes that no competition concerns arise for a number of reasons including the very limited overlap between the Parties in these activities. These products are therefore not discussed further in this decision.

limit the circumstances in which contracts can be awarded directly to suppliers without some form of competitive process.¹⁴

31. The Parties submitted that the effect of the Regulations is that contracts for ICCS, Duties and RMS are usually awarded by customers using one of the following processes:¹⁵
- (a) a competitive one-off tender, which involves a tender for a single contract;
 - (b) a competitive tender for a framework agreement (**frameworks**), which involves a tender to establish the price and other terms upon which contracts may be awarded during a given period to a supplier by one or more customers identified in the agreement;
 - (c) a direct contract awarded under a framework (known as a call-off), which involves a contract awarded to a supplier on terms which cannot involve substantial modification to those set out in the framework; and,
 - (d) a direct contract that falls outside the scope of the Regulations or within an exception permitting direct negotiation.
32. The CMA's assessment of opportunities data submitted by the Parties (see further paragraph 119) indicates that across all contracts for ICCS, Duties and RMS awarded since 2017 most involved direct awards (categories c and d above). Of [X] opportunities identified by the Parties [X] were direct awards ([X] of which were awarded through a framework agreement and [X] of which were not). Tenders (categories a or b above) were relatively uncommon with only [X] out of [X] opportunities being awarded via a tender (the majority of which ([X]) were not for a framework agreement). When considering only new opportunities (excluding extensions, upgrades and renewals) tendering was relatively more common, accounting for [X] of [X] new opportunities since 2017; and, direct awards not through a framework were relatively less common accounting for [X] out of [X] opportunities since 2017.¹⁶
33. The Parties' products may be supplied directly to a customer, or alternatively they may be supplied to a prime contractor that is awarded a contract to supply a broader range of products and/or services which then sub-contracts the supply of one component of the contract to the Parties. For example, some Enterprise Resource Planning (**ERP**) providers sub-contract the Duties

¹⁴ FMN, paragraph 12.78.

¹⁵ FMN, paragraph 12.83.

¹⁶ The CMA has considered "new & upgrade" as a new opportunity. The CMA has also excluded all 19 instances where the type of opportunity was "unknown".

component of an ERP offering to the Parties. Suppliers may also partner with other suppliers to respond to multi-product/service tenders. For example, some customers may procure ICCS and CAD together and ICCS and CAD providers may partner up to provide a combined ICCS and CAD offering.¹⁷

Development of cloud based software

34. Historically the software supplied by the Parties and their competitors have been on-premise solutions (ie hosted on the customer's servers).
35. The CMA has received some evidence that there is a general trend away from on-premise solutions towards cloud-based solutions.¹⁸ For example, the National Policing Digital Strategy from January 2020 recommended that police forces '[d]evelop and execute a nationally coordinated transition to the cloud' and 'adopt a "cloud first" principle for applications and data, where economical.'¹⁹
36. However, the CMA understands that there is no requirement for police forces (or other emergency service agencies) to purchase cloud-based software solutions and that it is ultimately up to individual customers whether and when to transition to cloud-based solutions. The CMA also received mixed evidence from customers on the importance of cloud capability. Some customers said that cloud capability is an important feature, while other customers said that it was one of a number of features they considered when selecting a supplier, and other customers said that it may become important in the future. Although a number of suppliers have introduced cloud-based solutions, the use of on-premise solutions remains widespread.

Counterfactual

37. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual).
38. The CMA will generally conclude on the counterfactual conditions of competition broadly – that is pre-merger conditions of competition (in the case of completed transactions), conditions of stronger competition or conditions of weaker competition.²⁰ The counterfactual is not intended to be a detailed description of the conditions of competition that would prevail absent the merger, which are better considered in the competitive assessment.²¹ The

¹⁷ FMN, paragraphs 15.3 – 15.4.

¹⁸ Cloud-based solutions require little or no specialist physical computer equipment to be located on site, rather, the software can be accessed via an internet connection.

¹⁹ [National-Policing-Digital-Strategy-2020-2030.pdf](#) ([pds.police.uk](#)), p 11.

²⁰ [Merger Assessment Guidelines](#) (CMA129), March 2021, paragraph 3.9.

²¹ [Merger Assessment Guidelines](#), paragraph 3.7.

counterfactual assessment will often focus on significant changes affecting competition between merger firms, such as entry into new markets in competition with each other, significant expansion by the merger firms in markets where they are both present, or exit by one of the merger firms.²² Moreover, the CMA is likely to only focus on significant changes where there are reasons to believe that those changes would make a material difference to its competitive assessment.²³

39. NECSWS submitted that the counterfactual should not be the current competitive situation because²⁴:
- (a) there has been significant underinvestment by Capita in recent years, as a result of Capita's financial difficulties and SSS not being a focus area for Capita, which would materially impair SSS's ability to compete effectively. NECSWS submitted that SSS's products are becoming increasingly [X], in particular in light of increasing demand for cloud-based solutions, and that investment has been mostly limited to [X]. NECSWS submitted that absent the Merger it expects that this trend of underinvestment would have continued.²⁵ In relation to specific products, NECSWS submitted that SSS's RMS product PoliceWorks [X] given publicly documented issues with its implementation for Greater Manchester Police, and that its other RMS product UNIFI makes use of an [X] modular approach compared to the single integrated platforms offered by competitors;²⁶ and
 - (b) absent a sale of SSS, Capita is likely to have considered winding down and withdrawing SSS's products from the market in the long run.
40. In relation to (b), NECSWS clarified that it was not seeking to demonstrate that the criteria of the exiting firm scenario set out in the CMA's Mergers Assessment Guidelines are met,²⁷ but rather that SSS's ability to compete would have declined materially in any counterfactual scenario.²⁸ The CMA has not seen any evidence, such as internal documents, indicating that Capita was considering winding down SSS absent a suitable purchaser.²⁹ The CMA

²² [Merger Assessment Guidelines](#), paragraph 3.8

²³ [Merger Assessment Guidelines](#), paragraph 3.9

²⁴ FMN, paragraph 11.2 and The Parties' response to the CMA's issues letter, 8 April 2022 (**Parties' response to Issues Letter**), Appendix.

²⁵ FMN, paragraph 11.5 and 11.6.

²⁶ FMN, paragraph 11.6.

²⁷ [Merger Assessment Guidelines](#), paragraph 3.21 and 3.23.

²⁸ FMN, paragraph 11.10.

²⁹ In order to conclude at phase 1 that the relevant counterfactual is that one of the merging firms would have exited the market, the CMA would need to see compelling evidence that it was inevitable that the merging party would have exited (limb 1) and that there would be no alternative, less anti-competitive purchaser for the merging party or its assets than the purchaser in question (limb 2). The CMA has not received evidence to suggest that either limb is satisfied and NECSWS has clarified that it is not seeking to submit that these conditions are met. [Merger Assessment Guidelines](#), paragraphs 3.21 and 3.23.

therefore considers that, absent the Merger, SSS would have continued to compete in the market.

41. As regards NECSWS' submissions in (a) that underinvestment by Capita would materially impair SSS's ability to compete effectively, the CMA considered available evidence on investments by Capita in SSS, SSS's future product strategy and the competitiveness of SSS's products.
42. The Parties submitted that Capita had [X] and would [X].³⁰ The Parties also submitted that any investment that was approved (and that would be available under Capita ownership in the future) [X].³¹
43. The CMA found that although some requests by SSS to approve capital expenditure were rejected by Capita in recent years, others were not.
44. In 2018, Capita undertook a rights issue that secured additional funding from shareholders to reinvest back into Capita's business.³² This resulted in capex expenditure being approved for a number of SSS's products between 2018 and 2021.³³
45. Moreover, [X] capex requests in [X] for [X] projects costed at approximately [X] and [X] respectively, with one of these projects [X], were fully funded by Capita.
46. Capita also approved capex funding (of circa [X]) in 2021. Although SSS submitted that this funding was approved by Capita when [X] for SSS was well underway and that Capita was therefore [X],³⁴ no contemporaneous evidence has been provided to suggest that this funding (or future funding tranches) would not have been provided had the Merger not been in contemplation.
47. SSS also told the CMA that it intended to [X] to Capita between 2022 and 2025.³⁵ While the Parties submitted that [X] would [X] absent the Merger,³⁶ Capita submitted that forward looking figures for [X] in SSS are not available.³⁷

³⁰ In particular, the Parties submitted that only a small number of capex requests had been approved, funding for key projects was cut and Capita publicly stated that it would not invest in non-strategic portfolio businesses in 2020. Parties' response to Issues Letter, Appendix.

³¹ Parties' response to Issues Letter, Appendix.

³² See SSS response to s109 request of 18 January 2022, question 5.

³³ See SSS response to s109 request of 18 January 2022, question 5. SSS submitted that [X].

³⁴ Parties' response to Issues Letter, Appendix, paragraphs 3.7.3 to 3.7.5.

³⁵ See s109 request of 4 February 2022, question 11.

³⁶ Parties' response to Issues Letter, Appendix, paragraph 3.2

³⁷ FMN, paragraph 11.5.

48. Moreover, the CMA notes that SSS's product strategy for 2021 sets out recommendations for the future development of SSS's products including the introduction of [REDACTED].³⁸ For example, for ICCS the recommendation is [REDACTED]. In relation to Duties the recommendation is to [REDACTED] and to [REDACTED] in the medium term.
49. While SSS stated that this strategy document was created[REDACTED]³⁹ [REDACTED], no evidence has been provided to show that a different strategy would have been pursued absent the Merger. Similarly, although SSS submitted that the document was 'purely aspirational' the document describes the product visions as 'a stretch (but realistic)'.⁴⁰
50. Moreover, with respect to NECSWS's submissions that SSS's products are becoming increasingly [REDACTED] in particular in light of demand for cloud- based solutions, as set out in more detail in the competitive assessment, customers that responded to the CMA's merger investigation did not generally indicate that SSS' position was declining and, when asked to rate the strength of SSS as a supplier, rated SSS high on average. Further, as explained above, the CMA received mixed evidence on the importance of cloud-based software solutions (see paragraphs 35-36 above). Although SSS has lost a number of customers in recent years, SSS still has a significant presence in ICCS, RMS and Duties and continues to bid for and win contracts.
51. Consequently, although the CMA accepts that there is some uncertainty over what funding might have been made available to SSS absent the Merger and how its products might have been developed and over what time horizon (including with respect to cloud capability), the CMA does not consider that the evidence available to it demonstrates that absent the Merger significant underinvestment by Capita would have materially impacted SSS's ability to compete effectively on an ongoing basis relative to the position pre-Merger.
52. Furthermore, at phase 1, where the CMA is considering alternative realistic counterfactuals it will choose the one where the merger firms exert the strongest competitive constraint on each other. Consequently, even if the CMA had found the Parties' proposed counterfactual to be realistic, the CMA considers that the most appropriate counterfactual would still be the pre-Merger conditions of competition.

³⁸ See See Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled [REDACTED], May 2021. slides 57, and 129..

³⁹ See paragraph 4.8. Parties' response to Issues Letter, Counterfactual paper.

⁴⁰ See Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled [REDACTED], May 2021. slide 26

53. More generally, given that the counterfactual is not intended to be a detailed description of the conditions of competition that would prevail absent the merger, the CMA considers it more appropriate to consider the Parties' submissions that SSS was becoming a weaker competitor in its competitive assessment where relevant.
54. The CMA therefore considers the pre-Merger conditions of competition to be the relevant counterfactual.

FRAME OF REFERENCE

55. While market definition can sometimes be a useful tool, it is not an end in itself.⁴¹ The outcome of any market definition exercise does not determine the outcome of the CMA's analysis of the competitive effects of the merger in any mechanistic way.⁴² In assessing whether a merger may give rise to an SLC, the CMA may take into account constraints outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.⁴³

Product scope

56. The Parties overlap in the supply of the following software solutions:
- (a) Both Parties supply ICCS to emergency services customers (the police, ambulance and fire and rescue services) and transport customers.
 - (b) Both Parties supply RMS to police customers only.
 - (c) Both Parties supply Duties to police customers only.
 - (d) SSS supplies, and NECSWS has considered supplying, CAD to emergency services customers.
 - (e) Both Parties compete to supply live video streaming products to emergency service customers.
57. With respect to each of ICCS, Duties, CAD and live video streaming the CMA considered whether the frame of reference should be segmented by customer group, namely, police, fire and rescue, ambulance and transport customers.

⁴¹ [Merger Assessment Guidelines](#), paragraph 9.4.

⁴² [Merger Assessment Guidelines](#), paragraph 9.4.

⁴³ [Merger Assessment Guidelines](#), paragraph 9.4.

As RMS is only used by the police, it was not necessary to consider possible customer segmentation.

58. In relation to Duties the CMA also considered whether the frame of reference should be widened to include ERP.

ICCS

Segmentation by customer group

59. NECSWS submitted that the relevant product frame of reference should include the supply of ICCS to all emergency services customers without further segmentation. NECSWS submitted that:
- (a) ICCS software is inherently capable of being supplied to different types of emergency services customers, and there are minimal differences in the features and functionality of ICCS software supplied to different types of emergency services customers.⁴⁴
 - (b) Barriers for a supplier of ICCS to one type of emergency services customer to supply another type of emergency services customer are therefore very low.⁴⁵
60. Furthermore, the Parties submitted that ICCS transport customers share many of the same characteristics of the Parties' core emergency services customers.⁴⁶ The Parties therefore submitted that it is not meaningful to separate ICCS-utilising transport customers: these customers can choose from the same array of providers available to the emergency services.⁴⁷

CMA assessment

61. The CMA considered whether the product frame of reference for ICCS should be segmented by customer group.
62. Third party feedback received by the CMA indicates that the core design and framework that ICCS software is developed on are broadly the same regardless of the type of emergency customer being served. The CMA has been told that ICCS 'is generic'⁴⁸ and that the 'fundamental features [are] the same across emergency services'.⁴⁹ Many customers indicated that ICCS for

⁴⁴ FMN, paragraph 13.4.

⁴⁵ FMN, paragraph 13.7.

⁴⁶ FMN, paragraph 13.32.

⁴⁷ FMN, paragraph 13.34.

⁴⁸ [§].

⁴⁹ [§].

one type of emergency service customer can be used by different emergency service customers. For example, one ambulance customer said that ‘ICCS used by ambulance services can also be used by the police, and fire and rescue services’.⁵⁰

63. This is also consistent with feedback from one competitor which indicated that broadly speaking all UK emergency services use the same or similar communications infrastructure and that when it had to make changes to serve different types of emergency services customer, these were mainly restricted to ‘functional’ adaptations to support subtly different ways of working between the emergency services. This competitor explained that ICCS is a constant work in progress requiring regular tailoring and updating for all customers, whether they be within the same or a different emergency segment.⁵¹
64. In relation to transport customers, while one third party competitor said that the requirements of transport customers are ‘more unique’,⁵² another competitor told the CMA that the functionality of ICCS for transport customers is similar to the functionality for emergency customers and that it had started offering ICCS to those customers with very few changes needed.⁵³ A different competitor said that the operational processes and integration points for transportation customers do differ significantly, but noted that these differences impact the ICCS module less than other modules.⁵⁴
65. The CMA notes that the Parties supply ICCS to all types of emergency services customer as well as transport customers. A number of the Parties’ competitors also supply more than one type of customer.⁵⁵ For example, Frequentis AG (**Frequentis**) currently supplies police and fire and rescue customers and is about to start supplying ambulance customers, and Motorola Solutions (**Motorola**) supplies fire and rescue, and police customers. The limited evidence received from transport customers indicates that broadly the same suppliers are active in supplying ICCS to transport customers as emergency service customers.
66. Many suppliers have expanded from supplying one type of customer to supplying others. SSS initially had police customers but now also serves both fire and rescue, and ambulance customers,⁵⁶ NECSWS started supplying ambulance customers but now also serves police, and fire and rescue

⁵⁰ [redacted].

⁵¹ [redacted].

⁵² [redacted].

⁵³ [redacted].

⁵⁴ [redacted].

⁵⁵ See, for example, FMN, Table 13.1, [redacted]

⁵⁶ FMN, paragraph 13.8.2.

customers,⁵⁷ [X] has [X] started supplying [X] customers,⁵⁸ and [X] is beginning to target [X] customers and other types of [X] customer.⁵⁹

67. There is also evidence indicating that competitors compete for contracts for customer segments that they do not currently serve. For example, Frequentis is expected to go from having no current ambulance customers to gaining a [X] [90-100]% share of supply in this segment following the win of a major contract.⁶⁰
68. The Parties' internal documents available to the CMA indicate that the Parties often consider the competitive landscape for ICCS overall without breaking down their analysis by customer segment.⁶¹ However, the CMA has also identified internal documents for both Parties that look at shares of supply by customer segment, suggesting that suppliers' competitive strength may vary by segment.⁶²
69. Moreover, some third parties did identify some differences between customer segments that could impact ICCS requirements. For example, one police customer stated that 'other emergency services will have similar requirements, albeit the interface to systems and solutions used after the initial call will be different and therefore the data collected and processed will differ.' One fire and rescue customer noted that 'police control rooms mobilise in a slightly different way to fire', indicating a some difference in requirements between different types of emergency services customer.⁶³ Two competitors noted that significant development time and resources is required to adapt ICCS to supply new types of emergency services customer.⁶⁴
70. Moreover, not all competitors are active across all customer segments (for example Systel, which has been active in the UK since 2013, only supplies fire and rescue customers⁶⁵). There are also significant differences in suppliers' shares of supply across different segments (see further Tables 2 to 4 below). Although the CMA recognises that these differences may be driven in part by recent contract wins and losses (in particular for ambulance customers where there are few contracts), the CMA also considers that these may suggest that some suppliers are relatively weaker or stronger in particular customer segments.

⁵⁷ FMN, paragraph 13.10.

⁵⁸ [X].

⁵⁹ [X].

⁶⁰ FMN, Tables 14.1A and 14.1B.

⁶¹ [X] p. 15 and Capita, [X] 17 September 2020, page 24.

⁶² See paragraphs 110 and 112.

⁶³ [X].

⁶⁴ [X].

⁶⁵ For example, see FMN, Table 14.1A.

Conclusion

71. Taking the evidence above in the round, the CMA considers that the appropriate product frame of reference is the supply of ICCS to emergency service and transport customers without any customer segmentation between those categories. The CMA considers that any differences in competitors' relative strength or weakness across customer segments can be taken into account in its competitive assessment.

Duties

Segmentation by customer group

Parties' submissions

72. The Parties submitted that the relevant frame of reference should include the supply of Duties to all emergency services customers because⁶⁶:
- (a) Duties software has broadly the same basic functionality regardless of customer type.⁶⁷ All Duties software enables workforce planning, scheduling and shift management based on a set of rules which are an input into the software. Although the content of the rules themselves will generally differ between different categories of emergency services customer, the products and the types of rules involved are the same or broadly similar.⁶⁸
 - (b) the scale of investment required by, for example, NECSWS, to focus on a different set of emergency services customers such as fire and rescue customers would not present an obstacle to doing so.⁶⁹
 - (c) there are no significant differences in ongoing customer support provided to different categories of emergency services customers.⁷⁰
73. The Parties also submitted that the fact that some suppliers' shares of supply differ significantly across emergency services customer segments is not indicative of any significant difference in conditions of competition across different customer groups as competition takes place 'for the market' in bidding markets such that shares of supply can fluctuate significantly.⁷¹

⁶⁶ FMN, paragraph 13.27.

⁶⁷ Parties' response to Issues Letter, paragraph 4.6.1.

⁶⁸ FMN, paragraph 13.16.

⁶⁹ FMN, paragraph 13.21.

⁷⁰ FMN, paragraph 13.24.

⁷¹ FMN, paragraph 13.22.

CMA assessment

74. The CMA notes that the Parties supply Duties only to police customers.⁷² The Parties' own share of supply data indicates that other suppliers of Duties, with the exception of Totalmobile (GRS), are only active in one emergency services customer segment.⁷³ For example, according to the Parties' data, Crown only serves police customers, Gartan, Fire Service Rota and Fire Watch only serve fire and rescue customers, and Working Time Solutions only serves ambulance customers.⁷⁴ The Parties' data is consistent with feedback received by the CMA from competitors during its investigation.⁷⁵ ⁷⁶
75. The CMA acknowledges that in bidding markets with long term contracts current differences in shares of supply between customer segments may not be indicative of any significant difference in conditions of competition across different customer groups. However, in this case, the fact that only one sizable supplier is active across multiple segments is indicative that there may be significant differences in conditions of competition across customer segments. This is further evidenced by the fact that suppliers seldom bid across segments (see paragraph 76(c) below).
76. The CMA has also seen evidence which indicates that there are substantial differences in the Duties requirements of different customer groups and that from a supply-side perspective switching into another customer segment may be time consuming and expensive:
- (a) Customers generally did not consider that a Duties product for a different type of emergency service customer would be suitable for their needs. For example, one police customer highlighted that Duties software for policing is complex with all requirements needing to be 'hard-coded' in the software.⁷⁷ An ambulance customer told the CMA that ambulance trusts would only be likely to consider other scheduling / rostering software used in the wider NHS rather than other emergency services.⁷⁸
 - (b) Supplier feedback also suggests supply-side substitution is not feasible as expanding into a new customer segment is difficult due to the high level of

⁷² FMN, paragraph 13.1.3.

⁷³ FMN, Table 14.3A.

⁷⁴ FMN, Table 14.3A.

⁷⁵ [§].

⁷⁶ In the issues meeting, the Parties noted that a number of key competitors (Crown, Totalmobile (GRS) and SAP) supply both emergency services customers and other mobile workforce organisations. See slide 15 of the Issues Meeting Presentation. The CMA does not consider that this provides evidence that there is substitutability across *different emergency services customers*. Moreover, one of these competitors, [§], told the CMA that it had to make enhancements to hundreds of areas to make its product suit the peculiarities of police forces. [§]

⁷⁷ [§].

⁷⁸ [§].

tailoring needed to cater to the requirements of customers in a different segment. One third party that currently supplies [X] said that it had considered offering its product to [X] customers, but indicated that this was proving to be difficult [X] to tailor its current product to the standards required by other types of emergency services customers.⁷⁹ Another third party indicated that it supplies ‘a specialist duty management system for [X] market’ that it had ‘spent over [X] building’ as part of and along with its [X], with a cumulative investment ‘in the region of [X]’.⁸⁰

- (c) The Parties’ Opportunities Data (see paragraph 119) shows that the Parties have not bid for Duties opportunities for any ambulance customers (they were not aware of any opportunities in relation to fire and rescue). Likewise, other suppliers focus on a particular segment (eg [X]). For example, in the Customer Opportunities Data (information collected from emergency customers on their procurements, discussed in detail below in paragraph 128), there is not a single instance of a supplier that is identified as being active in one customer segment being considered as an alternative by a customer in a different customer segment.⁸¹

77. Furthermore, the few internal documents that the CMA has seen that consider the competitive landscape for Duties refer to suppliers that are active supplying the police (ie the customer segment where the Parties are active), rather than suppliers to emergency services more generally. For example, SSS’s internal documents refer to [X] and do not refer to [X]⁸² In response to the issues letter, the Parties submitted that Duties is a more limited area for the Parties and the Parties have a lower level of [X]market visibility with respect to other Duties suppliers.⁸³ The CMA considers that this simply underscores that the Parties see their key rivals as those that currently supply other police forces and not anyone else.
78. For these reasons, the CMA considers that it is appropriate to segment the supply of Duties by emergency services customer type. Given the Parties supply only police customers, the CMA’s starting point for the frame of reference is the supply of Duties to police customers only.

⁷⁹ [X].

⁸⁰ [X].

⁸¹ This is based on three procurements by police forces and four procurements by fire customers.

⁸² [X] slide 122.

⁸³ Parties’ response to Issues Letter, paragraph 4.7.

Inclusion of ERP in product frame of reference

Parties' submissions

79. The Parties submitted that the frame of reference should include both suppliers of Duties and suppliers of ERP software⁸⁴ (ie wider enterprise resource planning software that include HR and finance functions (**ERP**)). In particular, the Parties submitted that although Duties can be procured separately or as as part of ERP software, most tenders are for wider ERP software rather than the Duties aspect alone. ERP suppliers can choose to sub-contract the Duties element to a third-party supplier or build a Duties product themselves. The Parties submitted that in the event of a small but significant and non-transitory price increase, ERP vendors that do not currently have an in-house Duties offering may see an opportunity to develop and supply their own Duties product. The Parties submitted that international ERP suppliers such as SAP and Oracle already supply Duties to police customers in the UK and that other ERP suppliers (such as Unit4 or Advanced) could readily develop a Duties capability by customising their existing ERP product.⁸⁵
80. In response to the issues letter the Parties also submitted that third party feedback received by the CMA on substitutability between ERP software and Duties focused on degrees of functionality which might be more relevant to closeness of competition such that ERP suppliers should not be excluded from consideration as actual or potential competitors.⁸⁶

CMA assessment

81. The CMA considered whether suppliers of Duties are constrained by ERP suppliers and as such whether ERP suppliers should be included in the same frame of reference as Duties suppliers.
82. Although customers sometimes procure Duties as part of a wider tender for an ERP software, the CMA notes that generally an ERP supplier will sub-contract the Duties component to a third party-supplier of Duties, or will work with a customer's existing Duties supplier. The CMA has seen very limited evidence to date that police customers use Duties solutions developed in-house by their ERP supplier.⁸⁷ While some police customers told the CMA that it is important that their Duties product integrates into wider systems such

⁸⁴ Parties' response to Issues Letter, paragraph 4.8.

⁸⁵ FMN, paragraph 13.15 and 13.25 and Parties' response to Issues Letter, paragraph 4.8.1.

⁸⁶ Parties' response to Issues Letter, paragraph 4.8.22.

⁸⁷ The CMA has observed one such instance in its feedback from third parties. [3<].

as their ERP software,⁸⁸ none indicated that their ERP supplier had developed their Duties solution.

83. Furthermore, as indicated in paragraph 76 above, Duties solutions are highly complex. Although some customers suggested that ERP software could be a viable alternative to Duties solutions, many customers emphasised that Duties solutions are highly specialised and offer greater functionality than ERP software.⁸⁹ For example, one police customer told the CMA that ‘in the early stages’ Duties solutions supplied by ERP suppliers had been ‘fairly unsophisticated’, and that as a result, police customers started demanding that their ERP provider enable integration with their Duties solution already designed and supplied by a third party.⁹⁰ Another police customer said that as ‘forces get used to the support of the deep functionality available [with Duties] they are reluctant to forego that for the poorer cousin functionality of the ERP module’.⁹¹ Another police customer that had scoped the possibility of replacing its specialised Duties solution with ERP software said that the functionality offered was ‘limited particularly in the policing context’ and that a third party specialised Duties solution had to be deployed alongside the ERP software to replicate the functionality available in its existing Duties solution.⁹²
84. Suppliers of ERP software and Duties solutions that responded to the CMA’s merger investigation did not consider that they compete with each other.⁹³ A third party described ERP software and Duties solutions as complementary and explained that it ‘[redacted]’.⁹⁴ That third party said that none of the principal ERP vendors including Oracle, Microsoft, SAP, Unit4 / Agresso and MHR has a resource scheduling component that is capable of dealing with the many complexities of the police sector. Another third party said that ‘ERP software does not typically help with rostering, shift planning, time sheets or clocking in and out’ which Duties software does.⁹⁵
85. The CMA notes that one internal SSS document states that while SSS’s main competitor is [redacted], and [redacted] is an emerging threat, the ERP supplier [redacted] is a [redacted] to SSS’s Origin product. However, the same document also notes that [redacted] has no DMS [Duties Management Systems] capabilities’.⁹⁶

⁸⁸ For example, see [redacted].

⁸⁹ For example, see [redacted].

⁹⁰ [redacted].

⁹¹ [redacted].

⁹² [redacted].

⁹³ See [redacted].

⁹⁴ See [redacted].

⁹⁵ See [redacted].

⁹⁶ NEC/Capita 51119 [redacted], slide 24-26.

86. Taking the evidence above in the round, the CMA considers that ERP suppliers are unlikely to be able to supply an appropriate substitute to Duties supplied by specialist suppliers. As such, ERP suppliers should not be included in the frame of reference for Duties.

Conclusion

87. For the reasons set out above, the CMA considers that the appropriate product frame of reference is the supply of Duties to police customers and should not include ERP suppliers.

RMS

88. The Parties submitted that RMS is required only by police customers, and accordingly, the appropriate product frame of reference should be the supply of RMS to police customers.
89. The CMA has not received any evidence to the contrary. RMS is mentioned in the Parties' internal documents only in the context of police customers.⁹⁷
90. Accordingly, the CMA considers that the product frame of reference is the supply of RMS to police customers only.

CAD

91. The CMA considered whether the product frame of reference for CAD should be segmented according to customer type.
92. The CMA notes that SSS currently has both police and fire and rescue customers for its CAD product.⁹⁸ Moreover, the CMA notes that
- (a) One SSS document shows that it has historically competed and plans to compete for opportunities involving other types of customer.⁹⁹
 - (b) Another SSS document indicates that there are a number of suppliers which offer CAD to all types of emergency services customers.¹⁰⁰ A different SSS document indicates that Hexagon/Intergraph, SopraSteria and SSS provide CAD to police and fire and rescue customers (although

⁹⁷ One internal document about Capita's strategy for RMS refers [REDACTED] ([REDACTED], page 1). A NEC internal document [REDACTED], September 2021, page 8.

⁹⁸ FMN, Table 3.3.

⁹⁹ SSS, [REDACTED] May 2021, page 51.

¹⁰⁰ SSS, [REDACTED] 20 March 2021, pages 4, 6 and 10.

Remsdaq and Telent currently only have fire and rescue CAD customers).¹⁰¹

- (c) A NECSWS internal document contemplating its possible entry into the supply of CAD suggested that it would seek to serve both police and fire and rescue customers.¹⁰²

- 93. Although a number of suppliers are active across more than one customer segment, the CMA notes that shares of supply in CAD differ between different customer segments.¹⁰³ The CMA considers that although this may reflect the outcome of past tender wins and losses, it may also mean that conditions of competition between customer segments are different.
- 94. Taking the evidence above in the round, the CMA considers that the appropriate product frame of reference is the supply of CAD to emergency service customers without any customer segmentation. The CMA considers that any differences in competitors' relative strength or weakness across customer segments can be taken into account in its competitive assessment.

Live video streaming products

- 95. The CMA had limited time to gather evidence in relation to the frame of reference for live video streaming products due to the CMA only receiving material information from the Parties towards the end of the CMA's investigation. Based on the limited evidence available to it, the CMA considers that there is unlikely to be an alternative product that could replace the specific functionality of streaming live footage from a caller's phone.
- 96. The CMA also considered whether the product frame of reference for live video streaming should be segmented according to customer type. In relation to this the CMA notes the following:
 - (a) An internal document from NECSWS notes that in the [redacted] phase of marketing its streaming product can be offered [redacted].¹⁰⁴
 - (b) Although SSS only currently supplies its live video streaming product to fire and rescue customers, its live video streaming product is targeted at all emergency services customers.¹⁰⁵ Furthermore, SSS's internal

¹⁰¹ [redacted] slide 72 and 73.

¹⁰² [redacted].

¹⁰³ FMN, table 18.3.

¹⁰⁴ [redacted], slide 24.

¹⁰⁵ SSS stated that: 'SSS' digital streaming product, 999Eye, was originally designed for UK emergency services customers.' (10 March 2022).

documents monitor [redacted] product even though it is only currently being used by ambulance and police customers.¹⁰⁶

- (c) One potential entrant, which is in discussions with a number of potential customers has been discussing potential supply with both police and fire customers.¹⁰⁷

97. For these reasons, the CMA considers that the appropriate product frame of reference is the supply of live video streaming products to emergency service customers without further segmentation.

Geographic scope

98. NECSWS submitted that the Parties supply customers across the UK, conditions of competition do not differ materially across the country, and that therefore the geographic frame of reference should be the UK.¹⁰⁸

99. The CMA notes that the Parties' internal documents mainly discuss products in the context of UK customers rather than on an international basis. Where other countries/regions are discussed, the Parties dedicate specific analysis to those particular regions/regions.¹⁰⁹

100. Third parties highlighted that suppliers must comply with UK regulatory requirements in order to supply UK customers, and that suppliers not already active in the UK would need to tailor their product to the UK market in order to supply UK customers. Many also highlighted that using suppliers based outside the UK raised issues around IT security and data protection. For example:

- (a) In relation to ICCS, one third party said that there are very few non-UK suppliers that can offer solutions that meet UK-specific requirements.¹¹⁰ Another third party told the CMA that it would be difficult for a non-UK player to supply the UK market because of the need to develop its products to work with ESN.¹¹¹ The third party also said that customers generally ask for a recent UK reference as part of their procurement process.¹¹²

¹⁰⁶ [redacted] slide 13.

¹⁰⁷ See [redacted].

¹⁰⁸ FMN, paragraph 13.27.

¹⁰⁹ For example, see NECSWS, Annex 1.21 - Copy of Products Update - [redacted] August 20.pptx, August 2020, page 31- separate slides are dedicated to products in Australia.

¹¹⁰ [redacted].

¹¹¹ I.e ESN that will replace the current Airwave system used by the emergency services in Great Britain.

¹¹² [redacted].

- (b) In relation to Duties, one third party said that overseas suppliers had ‘not gained traction with any UK police services’.¹¹³ Another third party said non-UK suppliers ‘lack the specialist functionality required’ to supply a Duties solution ‘within sensible timescale, risk and cost parameters’.¹¹⁴ One customer mentioned that ‘UK Police legislation and terms and conditions for HR and DMS [is] likely preventative of immediate viable alternatives from other countries’.¹¹⁵
- (c) In relation to RMS, no third party could identify a supplier that had started supplying the UK in the last five years. A number of third parties emphasised that non-UK suppliers would need to tailor their products for UK policing and UK criminal justice processes to supply UK customers.¹¹⁶
- (d) The CMA had limited time to gather evidence on live video streaming, but considers that it is likely that this product would not need to be tailored to the UK market to the same extent as the above products. However, even on a UK-wide basis, the CMA found no problems and hence it was not necessary to conclude on this point.

101. The CMA therefore considers that the geographic frame of reference for the software products considered in this decision is the UK.

Conclusion on frame of reference

102. For the reasons set out above, the CMA has considered the impact of the Merger in the following frames of reference:

- (a) the supply of ICCS to emergency service customers and transport customers in the UK;
- (b) the supply of Duties to police customers in the UK;
- (c) the supply of RMS to police customers in the UK;
- (d) the supply of CAD to emergency service customers in the UK; and
- (e) the supply of live video streaming products to emergency service customers in the UK.

¹¹³ [redacted].

¹¹⁴ [redacted].

¹¹⁵ [redacted].

¹¹⁶ [redacted].

Competitive assessment

Horizontal unilateral effects in the supply of ICCS

103. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.¹¹⁷ Horizontal unilateral effects are more likely when the merging parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in the supply of ICCS to emergency services customers and transport customers, as the Parties overlap in this frame of reference.
104. NECSWS, through APD Communications Limited (**APD**), which it acquired in 2018, supplies an ICCS product known as Cortex.¹¹⁸ NECSWS also has an ICCS product that it offered prior to the acquisition of APD called CallTouch which it now only offers to transport customers.¹¹⁹ SSS's ICCS product is called DSX.¹²⁰

Shares of supply

105. The Parties submitted shares of supply for ICCS on a volume basis, calculated by reference to the number of calls handled by each emergency services customer.¹²¹
106. Data on the volume of calls handled by each emergency services customer was combined with the Parties' market intelligence on which customers were supplied by each supplier in 2021.¹²²
107. Table 1 below sets out the Parties' estimates of shares of supply for ICCS to emergency services customers in the UK in 2021, and incorporating won/lost contracts that have not yet gone live. Table 2, Table 3 and Table 4 set out the Parties' estimates of shares of supply of ICCS to police, fire and rescue, and ambulance customers respectively.

¹¹⁷ [Merger Assessment Guidelines](#), paragraph 4.1.

¹¹⁸ FMN, paragraph 4.5.

¹¹⁹ FMN, paragraph 4.5.

¹²⁰ FMN, Table 12.1.

¹²¹ FMN, paragraph 14.17.1.

¹²² FMN, paragraph 14.17.2.

Table 1: Shares of supply for supply of ICCS to emergency services customers (UK, 2021)

Competitor	2021 live supplier (%)	Incorporating won and lost contracts (%)
NECSWS	[10-20] [3<]	[10-20] [3<]
Capita SSS	[70-80] [3<]	[10-20] [3<]
Parties Combined	[80-90] [3<]	[20-30] [3<]
Frequentis	[10-20] [3<]	[60-70] [3<]
SAAB	[0-5] [3<]	[0-5] [3<]
Systel	<[0-5] [3<]	[0-5] [3<]
Motorola	<[0-5] [3<]	[5-10] [3<]
Total	100%	100%

Source: FMN, Table 14.1A; Table 14.1B

Table 2: Shares of supply for supply of ICCS to police customers (UK, 2021)

Competitor	2021 live supplier (%)	Incorporating won and lost contracts (%)
NECSWS	[30-40] [3<]	[20-30] [3<]
Capita SSS	[40-50] [3<]	[30-40] [3<]
Parties Combined	[70-80] [3<]	[50-60] [3<]
Frequentis	[20-30] [3<]	[20-30] [3<]
SAAB	[0-5] [3<]	[0-5] [3<]
Systel	N/A	N/A
Motorola	[0-5] [3<]	[10-20] [3<]
Total	100%	100%

Source: FMN, Table 14.1A; Table 14.1B

Table 3: Shares of supply for supply of ICCS to fire and rescue customers (UK, 2021)

Competitor	2021 live supplier (%)	Incorporating won and lost contracts (%)
NECSWS	[5-10] [3<]	[0-5] [3<]
Capita SSS	[60-70] [3<]	[50-60] [3<]
Parties Combined	[70-80] [3<]	[50-60] [3<]
Frequentis	[10-20] [3<]	[10-20] [3<]
SAAB	N/A	N/A
Systel	[5-10] [3<]	[20-30] [3<]
Motorola	[5-10] [3<]	[5-10] [3<]
Total	100%	100%

Source: FMN, Table 14.1A; Table 14.1B

Table 4: Shares of supply for supply of ICCS to ambulance customers (UK, 2021)

Competitor	2021 live supplier (%)	Incorporating won and lost contracts (%)
NECSWS	[0-5] [3<]	[0-5] [3<]
Capita SSS	[90-100] [3<]	N/A
Parties Combined	[90-100] [3<]	[0-5] [3<]
Frequentis	N/A	[90-100] [3<]
Total	100%	100%

Source: FMN, Table 14.1A; Table 14.1B

108. The Parties also estimated shares of supply for transport customers based on the number of control rooms served by each of the Parties.¹²³ The Parties submitted that they have a combined share of supply of [3<] [30-40]% (NECSWS [3<] [20-30]% and SSS [3<] [10-20]%).¹²⁴

¹²³ Response to CMA RFI 2 - 14 February 2022.pdf, question one.

¹²⁴ [3<].

Parties' internal shares of supply estimates

109. In addition to the share of supply estimates produced by the Parties for the FMN, the CMA also identified shares of supply in a number of the Parties' internal documents.
110. For example, according to an internal document from May 2021 setting out SSS' product strategy, the Parties had a combined share of [X] [80-90]% in the supply of ICCS to fire and rescue customers (compared to the estimate in the FMN of [X] [70-80]% for 2021, or [X] [50-60]% including won/lost contracts due to go live) and [X] [80-90]% in the supply of ICCS to police forces (compared to the estimate in the FMN of [X] [70-80]% for 2021, or [X] [50-60]% including won/lost contracts due to go live).¹²⁵
111. The CMA also identified shares of supply in a February 2021 internal document produced by NECSWS. According to this document, the Parties had a combined share in the supply of ICCS to police forces of [X] [80-90]% based on number of police forces and [X] [60-70]% based on number of officers.¹²⁶

CMA's assessment of shares of supply

112. The CMA notes that in this case there are a number of reasons which, when combined, indicate that shares of supply may not reflect the degree of competitive constraint which the Parties (and their competitors) impose on one another:
- (a) **Infrequency of contract awards** - Shares of supply reflect past wins/losses in tenders rather than the future competitive strength and constraint posed by each competitor. In this case, this is exacerbated by the relatively long duration of the contracts – ICCS contracts typically last for three to five years.¹²⁷ Therefore changes in suppliers' competitive positions will take several years to fully feed through into changes in shares of supply.
- (b) **Contract size** – Some ICCS contracts account for a large proportion of the market (or at least segments of the market) such that wins and losses of those contracts lead to substantial changes in suppliers' shares of supply. This is especially relevant in relation to ambulance customers, where the results of one tender (the Ambulance Radio Programme (**ARP**)) led to SSS losing all of its ([X] [90-100]%) share of supply in that

¹²⁵ [X] slide 43.

¹²⁶ [X].

¹²⁷ As noted by the Parties in FMN, paragraph 23.30.

segment.¹²⁸ It is less acute for other customer segments where there are a larger number of contracts.

- (c) **'Winner takes all'** - Emergency services and transport customers only appoint a single ICCS provider at a given point in time. The winner is reflected in the shares of supply, whereas any other bidders are not represented for that contract, regardless of the strength of their competitive constraint in the bidding process.

113. Moreover, the CMA believes that there are additional reasons why the Parties' share of supply estimates based on the volume of calls handled by emergency service customers may not accurately reflect the degree of competitive constraint which the Parties (and their competitors) impose on one another:

- (a) Although the CMA acknowledges that the market shares included in internal documents may have been produced using a more straightforward and high-level approach,¹²⁹ the fact that both Parties independently estimated shares of supply in the ordinary course of business that are higher than those submitted to the CMA, may indicate that the shares of supply submitted to the CMA do not accurately reflect the degree of competitive constraint the Parties impose on one another.
- (b) The number of calls made to an emergency service customer may not reflect the economic importance of that customer to the extent that call numbers do not correlate with revenue. The CMA considers that this issue may be most significant when comparing across customer segments as revenue per call may differ significantly.

114. While recognising these limitations, the CMA notes that most contracts for ICCS are three to five years in duration, and that therefore that most contracts represented in the shares of supply are likely to have been entered into since 2017 or later. Over this period all six current suppliers have been active in the UK and were therefore available as alternatives when these contracts were entered into.

115. The CMA considers that the Parties' share of supply estimates show that:

¹²⁸ In 2017, the ARP procured ICCS for all ambulance trusts in Great Britain. The ARP is responsible for the delivery of mobile communications to ambulance trusts in England, which is paid for by the Department of Health.

¹²⁹ FMN, paragraph 14.13. NECSWS's submitted that the methodology used to calculate these shares of supply was a straightforward way of obtaining a high-level forward looking (rather than live) assessment of market positions, as opposed to the more comprehensive approach used for the shares of supply submitted with the FMN.

- (a) For the supply of ICCS to emergency service customers:
- (i) The Parties' combined shares in 2021, at [X] [80-90]%, are very high, indicating that the Parties have been very successful in winning contracts. If won/lost contracts due to go live are taken into account, the Parties' combined share of supply remains relatively high at [X] [20-30]%, with an increment of [X] [10-20]%. The significant drop in the Parties' combined share of supply is largely attributable to SSS' loss of the ARP ambulance contract (see paragraph 112(b) above).
 - (ii) The only other competitor with a material share of supply is Frequentis. All other suppliers (ie Motorola, SAAB and Systel) have a share of supply of [X] [5-10]% or less (regardless of whether won/loss contracts due to go live are taken into account).
- (b) For the supply of ICCS to police customers, taking into account won/lost contracts due to go live, the Parties are the largest (SSS) and third largest (NECSWS) suppliers. The Merged Entity's share of supply ([X] [50-60]%) would be more than twice that of the next largest supplier (Frequentis with [X] [20-30]%).
- (c) For the supply of ICCS to fire and rescue customers, taking into account won/lost contracts due to go live, the Merged Entity's share of supply ([X] [50-60]%) would be more than twice that of the next largest supplier (Systel with [X] [20-30]%).
- (d) For the supply of ICCS to ambulance customers, there are few contracts. Until SSS lost the ARP contract it had a [X] [90-100]% share. Only NECSWS, SSS and Frequentis have won ambulance contracts in the period covered by the shares of supply.
- (e) For the supply of ICCS to transport customers, the Parties' combined shares are high ([X] [30-40]%).

116. The CMA considers that the shares of supply indicate that the Parties are strong competitors with few rivals with material shares.

Opportunities analysis

117. The following comments relate to opportunities data for ICCS, Duties and RMS. Where the data relates to one product only, this is stated.
118. The CMA requested information from all emergency service agencies in the UK (around 120) on their procurements of ICCS, Duties and RMS (police

only) since 2017 (**Customer Opportunities Data**). The CMA received responses from 49 emergency services customers in the UK.¹³⁰

119. The Parties also submitted information on opportunities since 2017 (**Parties' Opportunities Data**).¹³¹ This data included all opportunities that the Parties were aware of over the period for ICCS, RMS and Duties.¹³² The Parties submitted various iterations of this data during the CMA's investigation. The CMA only received the latest version of this data at a relatively late stage of the CMA's investigation. This gave the CMA limited time to interrogate and analyse the data.
120. As explained above in paragraph 32, contracts are awarded through direct awards, tenders and through framework agreements. The CMA notes that the majority of opportunities identified by the Parties were direct awards (both direct with the customer and through frameworks), with tenders accounting for a small proportion of total opportunities. The Parties noted that customers procuring through direct awards may still request quotations in the form of market tests or mini-tenders, and that direct awards off a framework are the result of the competitive process used to award the framework.¹³³ Given that competition may occur in relation to all opportunity types the CMA has considered evidence across all opportunity types.

Parties' submissions

121. The Parties submitted that the Parties' Opportunities Data shows that there are multiple competitors in ICCS and that Frequentis, Motorola and SAAB exert a competitive constraint that appears at least as strong as the constraint the Parties impose on each other.¹³⁴

¹³⁰ This figure includes around 40% of police agencies, around 40% of fire and rescue customers and around 50% of ambulance agencies. This figure also includes a number of respondents that told the CMA that they had not procured or considered switching provider since 2017. Some respondents also responded on behalf of a number of different agencies with whom they procured products collectively, therefore, the figure of 49 respondents will understate the proportion of emergency service agencies from whom the CMA has opportunities data to some extent.

¹³¹ The Parties previously provided data starting in 2014. Later information requested, including that from third parties, focussed on the period 2017-present. The CMA has focussed its assessment on the period 2017-present.

¹³² The data also included opportunities relating to other related products such as CAD, ERP and CRM.

¹³³ FMN, paragraph 12.86.3.

¹³⁴ The Parties' Note on analysis of bidding data, page 2.

The CMA's assessment of opportunities analysis

- *CMA's assessment of the weight it can place on both sets of opportunities data*

122. As a preliminary point, the CMA considers that evidence on opportunities from customers and prospective customers (ie the Customer Opportunities Data) is likely to be more informative of the Parties' and their competitors' competitive strength, than information from the Parties (ie the Parties' Opportunities Data) as customers will have full sight of which suppliers decided to bid for tenders, their relative strengths and rankings, and which suppliers were considered in non-tender opportunities (for example if they were considering providers on a framework agreement).
123. However, the CMA also recognises that there are limitations and potential issues relating to the Customer Opportunities Data, in particular the limited sample size (which is smaller than the Parties' Opportunity Data because a significant proportion of emergency services agencies did not respond to the CMA request for information). In particular, the Customer Opportunities Data may understate the competitive strength of particular providers if customers using their products did not respond to the CMA's request for information. For example, only one emergency services customer that currently uses Motorola's ICCS product responded, while the CMA is aware of Motorola having won a number of recent contracts.
124. The CMA has performed some cross-checks of the Parties' Opportunities Data with the Customer Opportunities Data.¹³⁵ The CMA notes that there are significant inconsistencies between the Parties' Opportunities Data and Customer Opportunities Data:¹³⁶
- (a) On four¹³⁷ out of five occasions in which the CMA was able to compare the Customer Opportunities Data and the Parties' Opportunities Data for ICCS, the Parties have identified a third-party competitor as being an

¹³⁵ Given the time available the CMA has only made such cross checks in relation to ICCS but considers similar issues could apply to Duties and RMS. The CMA also notes that in requesting information from customers the CMA asked for information relating to all processes in which they compared between suppliers. As such, this is more likely to capture any instances of comparison between providers compared to the Parties' data which may be more likely to focus on formal tender processes.

¹³⁶ Additionally, the CMA found a number of apparent data entry errors within the Parties' Opportunities Data's underlying data set which inhibited the CMA's ability to verify the Parties' analysis in the limited available time frame. For example, in relation to ICCS: (i) Identifying the Parties as having won tenders for which they were not identified as having submitted a bid ([3<]). (ii) Identifying third parties as having won tenders for which they were not identified as having submitted a bid ([3<]),

¹³⁷ [3<]– the CMA only attempted to perform cross-checks for ICCS opportunities.

active bidder in instances where the customer has not identified that third-party as submitting a bid;¹³⁸

- (b) On at least four occasions there are other material inconsistencies such as differences in total contract value,¹³⁹ the Parties identifying an incumbent supplier that was not identified by an emergency service respondent,¹⁴⁰ and including opportunities that the emergency service stated did not occur in the time period under consideration.¹⁴¹

125. The CMA notes that the sample sizes in relation to opportunities are small across both datasets. Customers tender for ICCS, Duties, and RMS relatively infrequently. When contracts do end, customers often extend contracts with existing suppliers. In relation to ICCS, the Parties identified [X] opportunities since 2017 in which there was more than [X] participant. For Duties and RMS the number of opportunities in which there was more than one participant since 2017 was even smaller (only [X] and [X] respectively).¹⁴²
126. On this basis, the CMA has given limited evidentiary weight to the Parties' Opportunities Data and Customer Opportunities Data and has assessed these pieces of evidence in the round together with other evidence.¹⁴³

- *CMA's assessment of the Parties' Opportunities Data for ICCS*

127. Taking the Parties' Opportunities Data at face value, the CMA considers that in relation to ICCS since 2017:
- (a) The average number of bidders faced by each Party is low with NECSWS and SSS having faced an average of [X] and [X] bidders respectively for all opportunities where more than one supplier submitted a bid.¹⁴⁴ This indicates that the Parties operate in a concentrated market where customers already have very limited alternatives.

¹³⁸ The CMA was only able to compare opportunities in instances where (i) it had a response from an emergency services agency to the CMA's opportunities questionnaire, (ii) that emergency service agency had procured ICCS since 2017 (iii) the emergency service customer awarded an ICCS contract via a tender (iv) the Parties had identified this opportunity in their opportunities data set, and, (v) the Parties' opportunity data set indicated that a third-party competitor bid for the opportunity.

¹³⁹ [X].

¹⁴⁰ [X].

¹⁴¹ [X].

¹⁴² RFI 5 response, 24 March 2022, Table 1.128(b).

¹⁴³ The CMA notes that the Customer Opportunity Data also has a limited number of observations, but does not have the other limitations which are present in the Parties' Opportunity Data.

¹⁴⁴ Table 3, 30 March 2022.

- (b) Both Parties frequently participate in ICCS opportunities: out of [X] opportunities identified by the Parties in which there were at least two bidders, NECSWS bid in [X] and SSS in [X].¹⁴⁵
- (c) For the [X] bids in which NECSWS participated (and another rival was present), Motorola [X] times, SSS bid [X], Frequentis [X] and SAAB [X]. For the [X] bids in which SSS participated (and another rival was present), Frequentis and Motorola [X], SAAB [X], NECSWS [X] and Systel [X].^{146,147} The CMA considers that this indicates that the Parties frequently face each other in competitive procurements.¹⁴⁸ Although the data also indicates that the Parties frequently face third-party competitors, as noted in paragraph 124(a) above, the Parties' Opportunities Data identifies bidders not identified by customers in [X] out of [X] occasions in which the CMA was able to compare datasets. This suggests that the frequency with which the Parties face third-party competitors may be significantly overstated by the Parties' Opportunities Data.
- (d) When NECSWS bid, it lost to Motorola [X], Frequentis [X] and SSS [X]. When SSS bid, it lost [X] to Frequentis, [X] NECSWS [X] Systel, [X] SAAB and Motorola.¹⁴⁹
- (e) NECSWS has not lost a customer to [X] but has lost [X] customers [X] Motorola, and [X] to each of SAAB and Systel. SSS has lost [X] customers to Frequentis, [X] to NECSWS, [X] to each of Motorola, Systel, and SAAB since 2017. One customer switched to an unknown supplier.¹⁵⁰ The CMA considers that the switching to Frequentis may be

¹⁴⁵ CMA analysis. Table 1 from submission dated 24 March 2022 states that there were [X] ICCS opportunities since 2017. Table 3 from submission dated 30 March 2022 states that NECSWS bid in [X] and Capita SSS in [X].

¹⁴⁶ Other bidders listed by the Parties were: [X]. However, the CMA understands that [X] do not have ICCS capability and would have sub-contracted the ICCS component of a combined ICCS and CAD bid.

¹⁴⁷ CMA estimate based on Table 3, RFI response dated 30 March 2022 (number of bids participated in by NECSWS or Capita SSS where at least one other bidder present). This provides the number of bids in which NECSWS or Capita SSS participated. The number of times that other bidders were present is calculated from Table 2.1, RFI response dated 30 March 2022. The CMA calculated the number of bids by each rival by multiplying the percentage of times that each bidder is present in the share of bidding by the total number of rival bidders across all opportunities.

¹⁴⁸ The CMA considers that given the Parties are able to reconcile the opportunities in which they both bid, relatively more weight can be placed on the finding that the Parties frequently face each other in bidding processes.

¹⁴⁹ CMA estimate based on Table 3, RFI response dated 30 March 2022 (number of bids participated in by NECSWS or Capita SSS where at least one other bidder present). This provides the number of bids in which NECSWS or Capita SSS participated. The number of times that other bidders were present is calculated from Table 3.1, RFI response dated 30 March 2022. The CMA calculated the number of wins by each rival by multiplying the percentage of times that each bidder is present in the share of winners by the total number of winners across all opportunities.

¹⁵⁰ CMA estimate based on Table 3, RFI response dated 30 March 2022 (number of bids participated in by NECSWS or Capita SSS where at least one other bidder present). This provides the number of bids in which NECSWS or Capita SSS participated. The number of times that other bidders were present is calculated from Table 3.1, RFI response dated 30 March 2022 (the CMA believes that this Table is labelled in error). The CMA

overstated due to the Parties treating the ARP's GB wide ICCS tender as 13 different instances of switching rather than a single switch from SSS to Frequentis, although the CMA notes that this was a very significant ICCS contract.

- (f) The Parties' win rates are material with NECSWS and SSS having won [%] and [%] of the ICCS opportunities they competed for since 2017. This suggests that both Parties are strong competitors.¹⁵¹

- *CMA's assessment of the Customer Opportunities Data for ICCS*

128. As described in paragraph 117, the CMA requested information from all emergency service agencies in the UK on their procurements of ICCS since 2017.
129. With respect to police agencies, eight respondents stated that they had procured ICCS since 2017. Around [%] stated that they compared alternative suppliers:
- (a) SSS and NECSWS were the most commonly considered suppliers, with SSS considered in over 80% and NECSWS considered in 60% of the processes in which comparisons were made.
 - (b) On average, these customers compared five suppliers. The CMA considers this is likely to be an overestimate of the number of ICCS suppliers compared as some respondents listed all suppliers on the framework agreement they used to procure ICCS. However, it is not clear that all suppliers on all of these frameworks can supply ICCS and some are known to be providers that sub-contract the supply of ICCS to third parties rather than providing ICCS directly (the CMA notes that consistent with this many of these suppliers were not raised at all during the CMA's market test as potential suppliers of ICCS).
 - (c) Frequentis and Motorola were also considered, but less frequently than either SSS or NECSWS.¹⁵²

calculated the number of wins by each rival by multiplying the percentage of times that each bidder is present in the share of winners by the total number of winners across all opportunities.

¹⁵¹ CMA estimate based on Table 3, 30 March 2022 submission (NECSWS present in [%] opportunities and Capita SSS in [%]). Table 3.1 indicates that NECSWS lost [%] of these bids and Capita SSS [%] (indicating that they won [%] and [%] respectively).

¹⁵² Customers also identified a number of suppliers which the CMA does not believe to currently have an ICCS offering. These suppliers were typically named in the context of the customer choosing the supplier from a framework where it appears that range of different types of suppliers were listed. In the one instance that one of these suppliers (Leidos) was chosen by a customer it sub-contracted the ICCS component of a wider CAD and ICCS contract to Frequentis. The CMA has been informed by the [%] that there are only six providers of ICCS in

- (d) Of the instances in which comparisons were made between suppliers NECSWS and SSS won 60% of the opportunities. There were no examples of customers switching from NECSWS to SSS (or vice versa). For those opportunities which the Parties did not win, one of the Parties came second [[X]]. [X] won the opportunities that were lost by the Parties.
130. With respect to fire and rescue customers, there were five respondents that stated that they had procured ICCS since 2017. Around [[X]] stated that they compared alternative suppliers:
- (a) Motorola was the most commonly considered supplier when alternative suppliers were compared (considered by [X] customers) followed by SSS and Systel which were considered in [X] instances and NECSWS which was considered in [X].¹⁵³
- (b) On average, these customers compared six suppliers. The CMA considers this is likely to be an overestimate of the number of ICCS suppliers able to supply customers (see above).
- (c) Neither NECSWS nor SSS won any of the [[X]] instances in which comparisons were made between suppliers. There were no instances of customers switching between NECSWS and SSS or vice versa. SSS was placed second in one process. Motorola and Systel were both successful. [[X]].
131. The Customer Opportunities Data indicates that very few new contracts have been awarded in the ambulance segment since 2017. The two organisations that procured ICCS in this time period were the [X] and the [X] which procured ICCS for all ambulance trusts in Great Britain.
- (a) [X] procured what they described as a complete solution¹⁵⁴ through [X] where NECSWS provides the ICCS requirements. They stated that they, along with [X], examined the market for this type of solution and determined that NECSWS was the best fit for their needs (it is not clear how many other suppliers were considered, if any, or their identities). NECSWS was their incumbent supplier.
- (b) [X] switched from SSS to Frequentis. [X] while SSS, and three other suppliers [X] all made it through a pre-qualification questionnaire and

the UK (the Parties, Frequentis, Motorola, SAAB and Systel), this is consistent with the submissions of the Merger Parties.

¹⁵³ One customer also identified Telent, a supplier for which the CMA does not believe to have an ICCS offering.

¹⁵⁴ [X].

submitted an outline bid, but only [S<] were requested to make a detailed bid.¹⁵⁵

CMA's conclusions on opportunities analysis

132. The CMA considers that:

- (a) Both the Parties' and Customer Opportunities Data indicates that relatively few suppliers bid for ICCS opportunities (see paragraphs 127(a), 130(b) and 130(b)).
- (b) Both the Parties' and Customer Opportunities Data indicates that the Parties regularly compete for ICCS opportunities (see paragraphs 127(b), 129(a), and 130(a)).
- (c) The Parties' Opportunities Data indicates that the Parties are successful in winning opportunities, and the Customer Opportunities data indicates that the Parties are successful in winning police opportunities (see paragraphs 127(b), 127(f) and 129(d)).
- (d) Both the Parties' and Customer Opportunities data indicates that Frequentis, Motorola, Systel and [S<] have competed for opportunities (see paragraphs 127(c) 129(c) 130(c) 131(b)), and that all were successful winning at least one opportunity with Motorola winning more opportunities than the others (see paragraphs 127(d), 127(e), 129(d), 130(c) and 131(b)).

133. Given the limitations of both the Parties' Opportunities and the Customer Opportunities Data set out above, the CMA is considering the opportunities evidence (for all products) alongside the share of supply data and evidence from internal documents and third parties.

Other evidence on closeness of competition

134. In addition to the share of supply data and opportunities data described above, the CMA has also considered the extent to which internal documents and third-party views indicate that the Parties are close competitors.

135. The Parties submitted that ICCS software has a low degree of differentiation.¹⁵⁶ However, the CMA understands that there are a variety of characteristics that customers consider important, in relation to which the Parties' and their competitors' offerings may differ. For example, customers

¹⁵⁵ [S<] also responded to a PQQ but were not invited to submit an outline bid.

¹⁵⁶ FMN, paragraph 15.36.

referred to the following factors, amongst others, as important when procuring ICCS: product functionality (including user interface), product reliability, ongoing customer support and maintenance, ability to integrate with other software, cost and the historical track record of the supplier.

136. Furthermore, as noted by the CMA in the product scope section above, there are some differences in the requirements and preferences of different customer groups. The CMA has also observed differences in the competitive strength of suppliers within these different segments, which indicates suppliers may be more or less capable of meeting the different requirements and preferences of different customer groups. In particular, the Parties are both strong in relation to police customers where they appear to compete most closely.

Third party evidence

137. The available evidence from police customers indicates that the Parties compete closely and are considered alternatives by police forces.
- (a) Police customers frequently mentioned the Parties when asked to name suppliers that they believed could meet their software requirements.
 - (b) Police customers ranked the Parties highest in terms of the competitive strength of their offering (4.5/5 for NECSWS out of 4 police forces that provided rankings and 4/5 for SSS out of three police forces that provided rankings).
 - (c) More than half [3<] of police forces said that NECSWS and SSS compete with each other. Less than half [3<] said they did not know (for example because it was many years since they had tested the market) or did not answer this question.
138. With respect to fire and rescue customers, the available evidence indicates that many customers consider the Parties to be alternative suppliers of ICCS:
- (a) Fire and rescue customers frequently mentioned NECSWS when asked to name suppliers that they believed could meet their software requirements . SSS was also mentioned, albeit less frequently .
 - (b) Fire and rescue customers ranked SSS the highest in terms of the competitive strength of its offering (4.7/5). NECSWS was ranked lower (joint fourth with Systel with 3.5).
 - (c) Several fire and rescue customers said that NECSWS and SSS compete with each other, although some noted that they did not compete that

closely given NECSWS's focus on the police segment. Some said they did not know (for example because it was many years since they had tested the market).

139. Ambulance customers noted that both Parties compete in the supply of ICCS.¹⁵⁷
140. The CMA received a low response rate from transport customers, but the evidence received was consistent with the evidence received from emergency service customers.
141. A competitor ranked the Parties as its two strongest rivals.¹⁵⁸ It described them as competing closely and 'the major shareholder of the market across Fire and Police Sectors'. Another competitor gave both Parties the same very high rating in terms of their competitive strength mentioning that they were the 'dominant' players in ICCS.¹⁵⁹

Internal documents

142. The CMA considered the extent to which the Parties view each other as close competitors in their internal documents.
143. A document from SSS dated May 2021¹⁶⁰ shows that APD (NECSWS) is seen as an 'incumbent' and 'traditional market threat' with 'high completeness of product offering'. In relation to particular customer segments, the document notes that SSS has the highest market share ([redacted][80-90]%) for fire and rescue¹⁶¹ and that APD (NECSWS) and SSS are the main competitors (with [redacted][40-50]% and [redacted][30-40]% market share each) for police.
144. A due diligence document produced for Capita in September 2020 lists several competitors and whether they have [redacted] as regards SSS. In relation to ICCS only NECSWS, [redacted], [redacted] and [redacted] are mentioned.¹⁶²
145. In an internal strategy document, NECSWS states that SSS is its [redacted].¹⁶³
146. An internal document from NECSWS¹⁶⁴ [redacted].

¹⁵⁷ [redacted].

¹⁵⁸ [redacted].

¹⁵⁹ [redacted].

¹⁶⁰ Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled '[redacted]', May 2021. See slide 51.

¹⁶¹ Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled '[redacted]', May 2021, slide 43

¹⁶² [redacted], slide 24

¹⁶³ [redacted], slide 12

¹⁶⁴ [redacted]. See in particular slides 4, 5, 32, 33, 37 and 54.

147. In a document discussing a tender by [X], NECSWS identifies SSS as one of three potential competitors (the others are Motorola and SAAB).¹⁶⁵

Alternative suppliers

148. The Parties submitted that five competitors will remain active in the supply of ICCS to emergency service customers in the UK post-Merger: the Merged Entity, Frequentis, Motorola, SAAB and Systel, and that there will therefore be significant competition in the supply of ICCS.¹⁶⁶
149. The Parties also submitted that in recent years a number of emergency services customers who have tendered for the provision of ICCS have required that the solution offered be cloud-based,¹⁶⁷ and that SSS's lack of a cloud offering [X] its competitors, which can offer cloud-based products.
150. The CMA has seen mixed evidence on the desirability of cloud-based solutions. Some customers have indicated that it is important, for example, one police force told the CMA that '[t]he ability to operate in a cloud environment is becoming very important', while others indicated that it was one of a number of considerations, for example one police force said that '[i]t is a consideration but not vital'. Overall, the CMA considers that cloud capability is a factor of increasing importance, however, many emergency services customers did not consider it a determinative factor.
151. The CMA acknowledges that the Parties' competitors have cloud based ICCS offerings and this may make them more desirable for some customers. However, demand for cloud based ICCS will be reflected in the evidence discussed below on the competitive constraint imposed by alternative suppliers. Furthermore, the CMA asked emergency services customers and ICCS competitors whether they were aware of any significant changes in the Parties' competitive strength in ICCS in the last five years and very few noted a reduction in SSS's competitive strength and no customers mentioned SSS's lack of cloud offering. Finally, as discussed in the counterfactual there is some evidence of Capita exploring developing cloud-capability for its ICCS software and it is not clear that SSS would not have developed a cloud-based offering absent the Merger.
152. The CMA has considered evidence on the competitive constraint imposed by each of these competitors below.

¹⁶⁵ NECSWS internal document, Annex 4.16 to NECSWS' response to the CMA's section 109 notice of 7 January 2022, titled [X], May 2021, slide 4.

¹⁶⁶ FMN, paragraph 15.39

¹⁶⁷ FMN, paragraph 5.26 and 5.27.

Frequentis

153. Frequentis is an Austrian-based business that develops and supplies communication and information systems for control centres to a global customer base.¹⁶⁸ Frequentis has an established position providing ICCS in the UK (it entered the UK in 2005) and has recently secured some large contracts.¹⁶⁹ In particular, it won the contract to provide ICCS to ambulance services across GB in 2017 and has also recently been awarded a contract to provide ICCS to the Metropolitan police.¹⁷⁰
154. Frequentis has a large share in the supply of ICCS to emergency services on a go live basis at [X] [60-70]%. This high share is mostly driven by its expected [X] [90-100]% share in the ambulance segment once the GB-wide ambulance contract goes live. However, Frequentis also has a high share in the police segment, at [X] [20-30]% on a go live basis, making it the second largest supplier to police forces after the Parties. It is also the third largest supplier of ICCS to fire and rescue services, at [X] [10-20]% on go live basis, after SSS and Systel.
155. In total, more than half [[X]] of customer respondents to the CMA's merger investigation considered that Frequentis could meet their software requirements. This is lower than SSS, which was mentioned slightly more often [[X]] and NECSWS which was mentioned by most customers [[X]], and the same as Motorola and SAAB. Frequentis received the lowest average customer ranking for the suitability of its product at 2.5 out of 5 (lower than SSS and NECSWS at 4.3 and 3.6 respectively).
156. One ICCS supplier identified Frequentis as an ICCS provider that it competes with and gave it a rating of three out of five for competitive strength, lower than both the Parties which received ratings of five out of five. This supplier noted Frequentis' 'strong ICCS capability' as a strength and 'no platform offering' as a weakness.
157. The Parties' and Customers' Opportunities Data indicates that Frequentis is an active competitor that regularly bids against both SSS and NECSWS.
158. Frequentis has also been successful in competitive opportunities identified by the Parties winning [X] opportunities. This indicates that it was similarly successful to the Parties, as SSS won [X] and NECSWS won [X] opportunities.

¹⁶⁸ FMN, paragraph 15.39.5.

¹⁶⁹ FMN, paragraph 15.39.5.

¹⁷⁰ FMN, paragraph 15.39.5.

159. Internal documents suggest that [X] is considered to be a close competitor to SSS with a [X], for example:
- (a) A SSS internal document¹⁷¹ dated March 2021 only mentions [X] competitors in ICCS. These are [X], which has [X] but is considered to be [X], and APD (NECSWS), which is pushing [X].
 - (b) A SSS document from March 2021 has a [X] competitive watchlist with [X] and APD (NECSWS) listed [X]. The same document also compares competitors' offerings with SSS and [X] scoring well on [X], and APD (NECSWS) and [X] scoring well on [X].
 - (c) A SSS document from 2018 analyses its ICCS product against [X], [X], APD (NECSWS) and 'others'.¹⁷² [X] is described as being [X].
160. Based on the available evidence, the CMA therefore considers that Frequentis is an established competitor of similar strength to the Parties and imposes a strong constraint on the Parties.

Motorola

161. Motorola is a NYSE-listed US-based global communications and analytics supplier and is the largest supplier of public safety communications technology worldwide.¹⁷³ Motorola re-entered the UK ICCS market in 2016 (having previously withdrawn from it a number of years before) through its acquisition of an ICCS product from Cyfas Systems Ltd (**Cyfas**).¹⁷⁴ ¹⁷⁵ Since re-entering, Motorola has been awarded a number of contracts in the UK to supply ICCS to police forces (including [X]) and to fire and rescue services (including [X]).
162. Motorola has a small share in the supply of ICCS to emergency services on a go live basis at [X] [5-10]%. Motorola's share of supply is highest in the police segment where it has an [X] [10-20]% share on a go live basis and is the fourth largest supplier behind SSS, Frequentis and NECSWS.
163. In total, more than half [[X]] of the respondents to the CMA's merger investigation considered that Motorola could meet their software requirements. Motorola received the second highest average customer

¹⁷¹ [X].

¹⁷² [X] slide 4.

¹⁷³ FMN, paragraph 15.39.2.

¹⁷⁴ FMN, paragraph 15.39.2.

¹⁷⁵ Prior to Motorola's acquisition, Cyfas offered ICCS to the fire and rescue sector and had won tenders to supply ICCS to Shropshire and Cleveland fire and rescue services. Motorola acquired these contracts as part of its acquisition in 2016.

ranking for the suitability of its product at 3.7 out of 5 (tied with SAAB). For police customers its ranking was 3.5 out of 5, below both of the Parties (NECSWS and SSS had average rankings of 4.5 and 4 respectively).

164. One ICCS supplier identified Motorola as an ICCS provider that it competes with and gave it a rating of two out of five for competitive strength, lower than than NECSWS and SSS, which received ratings of four out of five and three out of five respectively. This supplier noted Motorola's 'Strong service Management offering', 'ESN' and 'Cloud References' as strengths, and having a product that was 'Not as feature rich as some of the providers' as its weakness.
165. The Parties' Opportunities Data indicates that Motorola has been actively bidding for contracts and has been successful in competitive opportunities identified by the Parties, winning [REDACTED] opportunities since 2017. The Customer Opportunities Data shows that Motorola was one of two ICCS suppliers (the other being Frequentis) considered by police customers, and was the most commonly considered supplier by fire and rescue customers.
166. Internal documents from NECSWS suggest that it considers Motorola to be relatively new, yet a significant competitive threat, for example:
 - (a) A NECSWS document [REDACTED] identifies Motorola as a competitor and states that it poses [REDACTED]. While the other competitors, SAAB and SSS, [REDACTED]. However, this same document identifies SSS as the 'main competitor in ICCS'.¹⁷⁶
 - (b) A NECSWS document [REDACTED] which discusses the invitation to tender for the [REDACTED] lists SSS, [REDACTED] as the other competitors.¹⁷⁷ [REDACTED] is described as having [REDACTED], but the document mentions that [REDACTED] uses [REDACTED]. The document also mentions that [REDACTED].
167. Internal documents from SSS suggest that it [REDACTED], for example:
 - (a) A SSS document from March 2021 has a [REDACTED] competitive watchlist with [REDACTED] and APD (NECSWS) listed as the incumbents [REDACTED]. [REDACTED] and [REDACTED] are listed in the [REDACTED]. The same document also compares competitor' offerings on slide 19, with SSS and [REDACTED] scoring well on [REDACTED], and APD (NECSWS) and [REDACTED] scoring well on [REDACTED].

¹⁷⁶ [REDACTED], slide 12.

¹⁷⁷ [REDACTED].

(b) A SSS document from 2018 analyses its ICCS product against [X], [X], APD (NECSWS) and a category of 'others' which is made up of [X].¹⁷⁸ [X] is considered to be pushing [X].

168. Taking the available evidence in the round, the CMA notes that despite re-entering the market more than five years ago, Motorola still has a small share of supply of [X] [5-10]%. Nevertheless the CMA considers that Motorola is an emerging threat that has regularly been competing with the Parties in recent years and has been successful winning a number of recent contracts indicating that it imposes a material competitive constraint on the Parties.

SAAB

169. SAAB is a Swedish-listed and headquartered global aeronautics, military defence and civil security software supplier.¹⁷⁹ It entered the police ICCS segment in 2016 and since then has won contracts to supply ICCS¹⁸⁰ to [X] police forces with its last win being in [X]. It has also recently released a version of its platform for fire and rescue customers which includes ICCS.
170. SAAB does not offer a standalone ICCS software solution, instead its 'ICCS functionality' is offered as part of its integrated CAD solution, SAFE.¹⁸¹ This has been identified as a potential weakness in internal documents and by a third party.¹⁸² It means that SAAB is not an alternative for customers that wish to procure a standalone ICCS solution (for example, [X]), but may be preferred by customers with a preference for procuring ICCS and CAD from the same provider. As discussed in more detail in the conglomerate effects section below most customers procure ICCS and CAD products separately.
171. SAAB has a very small share in the supply of ICCS to emergency services on a go live basis at [X] [0-5]%. All of SAAB's current and go live emergency services customers are in the police segment where SAAB has a [X] [0-5]% share on a go live basis.
172. In total, more than half [[X]] of respondents to the CMA's merger investigation considered that SAAB could meet their software requirements. SAAB received the second highest average customer ranking for the suitability of its product at 3.7 out of 5 (tied with Motorola). Specifically with respect to police customers its ranking was 3.7 out of 5, below both of the

¹⁷⁸ [X] slide 4.

¹⁷⁹ FMN paragraph 15.39.3.

¹⁸⁰ FMN paragraph 15.39.3.

¹⁸¹ NECSWS-Capita SSS - Third party questionnaire - competitors (SAAB).docx (sharepoint.com), Q2.

¹⁸² [X].

Parties (NECSWS and Capita had average rankings of 4.5 and 4 respectively).

173. One supplier [X] gave SAAB a rating of two out of five for competitive strength highlighting that its ICCS product is only offered together with its CAD product and that SAAB does not offer a full web-based solution. Another competitor [X] gave SAAB a one out of five rating because it had a weak ICCS offering with no hosting capability.
174. The Parties' Opportunities Data suggests that SAAB has competed for some opportunities. The Customer Opportunities Data did not show [X]. SAAB had some limited success in competitive opportunities identified by the Parties winning [X] opportunities since 2017.
175. Internal documents from NECSWS and Capita suggest that SAAB is a niche or emergent threat, for example:
- (a) A SSS document from 2018 analyses its ICCS product against [X], [X], APD (NECSWS) and 'others'. [X] is described as having [X], active in [X] but could be considered [X] because of its [X].¹⁸³
 - (b) A NECSWS document [X] which discusses the invitation to tender for the [X] lists SSS, Motorola and SAAB as the other competitors.¹⁸⁴ However, the document mentions that since [X].
176. Based on the available evidence, the CMA considers that that SAAB has been competing with the Parties in recent years with limited success as indicated by its very low share of supply and lack of contract wins since [X]. The CMA therefore considers that SAAB exerts a more limited constraint on the Parties than Frequentis and Motorola.

Systel

177. Systel is a French-based telecommunications and systems supplier that offers a wide range of software and products to civil security, fire and rescue, and emergency medical services.¹⁸⁵ Systel entered the UK market in 2013 and serves the fire and rescue services with ICCS and CAD products.¹⁸⁶
178. Systel has a very small share in the supply of ICCS to emergency services on a go live basis at [X] [0-5]%. Systel is only active in the supply to fire and

¹⁸³ [X] slide 4.

¹⁸⁴ [X].

¹⁸⁵ FMN, 15.39.4.

¹⁸⁶ FMN, 15.39.4.

rescue customers where it has a share of supply of [X] [20-30]% share on a go live basis making it the second largest supplier behind SSS.

179. Only very few [X] respondents to the CMA's merger investigation considered that Systel could meet their software requirements. This is considerably fewer than other suppliers which had significantly more [X] respondents saying they could do so. The one respondent that ranked Systel's offering gave it a ranking of 3 out of 5, below SSS and equal to Motorola, Frequentis and SAAB.¹⁸⁷
180. One supplier [Frequentis] gave Systel a rating of two out of five for competitive strength highlighting that it only serves fire and rescue customers and possible delivery issues. Another supplier [X] did not identify Systel as a supplier which they compete with in the supply of ICCS.
181. The Parties' Opportunities Data indicates that Systel bids infrequently [X]. However, Systel was successful in both of the opportunities where it competed against [X]. The Customer Opportunities Data showed that Systel was the second most commonly considered supplier (tied with SSS) by responding fire and rescue customers.
182. References to Systel in the Parties' internal documents are limited, but where Systel is mentioned internal documents indicate that Systel may pose a more limited constraint than other competitors, for example:
- (a) A SSS document from 2018 analyses its ICCS product against [X], APD (NECSWS) and a category of 'others' which is made up of [X] and [X].¹⁸⁸ The only commentary on [X] is that they [X].
 - (b) A SSS document from March 2021 mentions [X] as one of five competitors but notes that it only has [X] and has [X].^{189, 190}
183. The CMA's view is that Systel is only active in fire and rescue and is a relatively weak competitor in ICCS overall given its limited share, recent bidding behaviour and the very small number of emergency services that considered Systel able to meet their ICCS software requirements. Therefore, the CMA considers that Systel imposes a very limited constraint on the Parties.

¹⁸⁷ NECSWS was not listed a suitable supplier. [X].

¹⁸⁸ [X] slide 4.

¹⁸⁹ [X].

¹⁹⁰ TETRA stands for terrestrial trunk radio and is the current radio communications technology used by all emergency services in the UK through the Airwave system.

Conclusion

184. The CMA considers that the Parties have been very successful in this market on the basis of their current shares, which reflect past bids. On a go live basis the Parties still have a large share and the Merged Entity would be the second largest supplier (with [X] [20-30]%) and the only supplier other than Frequentis with a share of supply of more than [X] [5-10]%. The Merged Entity's share of supply for individual segments apart from ambulance (police, fire and rescue, and transport) would be substantial ([X] [50-60]%, [X] [50-60]% and [X] [30-40]% respectively).
185. Other evidence gathered by the CMA also indicates that the Parties are strong competitors. The Parties' and Customer Opportunities Data show that the Parties frequently participate in competitive opportunities and are often successful. Customers and competitors told the CMA they see the Parties as strong alternatives that offer similar products and ranked them highly amongst competing suppliers, particularly in the police segment where customers considered the Parties to have the two strongest offerings. Internal documents indicate that the Parties monitor each other in the ordinary course of business and regard each other as key rivals which indicates that the Parties are competing closely.
186. Only one other supplier has a material share of supply in the supply of ICCS across all emergency services customers – Frequentis. The CMA also recognises that Motorola has won a number of recent contracts and appears to be a credible alternative in the police segment where the Parties compete most closely. SAAB, and to a lesser extent Systel, are actively bidding for contracts and have had some more limited success. Even taking into account recent/wins losses due to go live, the shares of supply of Motorola, SAAB and Systel are still very small (<[X] [5-10]% each) even though they have all been active in the UK for some time. The CMA does not therefore consider that the constraint from alternative suppliers is sufficient to prevent competition concerns from arising.
187. The CMA therefore believes that the Merger raises significant competition concerns in relation to the supply of ICCS to emergency and transport customers in the UK.

Horizontal unilateral effects in the supply of Duties to police customers

188. The Parties overlap in the supply of Duties to police customers. NECSWS's Duties product is called CARM and SSS's is called Origin.¹⁹¹ Both CARM and Origin allow police customers to manage shifts and rotas.¹⁹²

Shares of supply

189. The Parties submitted estimated shares of supply for Duties on a volume basis, based on the number of police officers per police customer, according to official data on the number of police officers per force in England and Wales as of March 2021.¹⁹³ Table 5 sets out the Parties' estimated shares of supply of Duties to police customers in the UK in 2021.

Table 5: Shares of supply for supply of Duties to police customers (UK, 2021)

Competitor	2021 live supplier (%)
NECSWS	[30-40] [3<]
Capita SSS	[20-30] [3<]
Parties Combined	[50-60] [3<]
Crown	[20-30] [3<]
Totalmobile (GRS)	[10-20] [3<]
SAP	[5-10] [3<]
Zellis	[0-5] [3<]
Midland HR	<[0-5] [3<]
In House	[5-10] [3<]
Total	100%

Source: FMN, Table 14.3A.

190. As with ICCS (see paragraph 112), the CMA notes that there are similar reasons why shares of supply may not accurately reflect the degree of competitive constraint which the Parties (and their competitors) impose on one another in the supply of Duties. In particular, the CMA has seen evidence that contracts may last for more than ten years.¹⁹⁴

191. However, notwithstanding these limitations, the CMA considers that the share of supply data shows that the supply of Duties to police customers is highly concentrated, with a small number of suppliers accounting for a large proportion of overall supply. In particular, the Parties are the largest (NECSWS) and third largest (SSS) suppliers. The Merged Entity's share of supply ([3<] [50-60]%) would be more than twice that of the next largest supplier (Crown with [3<] [20-30]%). Excluding the supply of Duties on an in-

¹⁹¹ FMN, paragraphs 12.51 and 12.55.

¹⁹² FMN, paragraphs 12.52 and 12.55.

¹⁹³ FMN, paragraph 14.17.8.

¹⁹⁴ [3<].

house basis, the Parties' combined share of supply is [X] [50-60]%.¹⁹⁵ The CMA is therefore of the view that the Parties' high shares of supply raise prima facie competition concerns.

Opportunities analysis

192. The Parties' Opportunities Data indicates that, since 2017, [X].¹⁹⁶
193. As noted in paragraphs 122 to 126 above, the CMA has concerns regarding the robustness of the Parties' Opportunities Data. In addition, the Parties' Opportunities data relates to a very small number of competitive opportunities ([X] in total).
194. Notwithstanding the above, taken at face value, the Parties' Opportunities Data shows that:
- (a) NECSWS or SSS bid on [X] competitive opportunities that have occurred since 2017. NECSWS bid on [X] opportunities, and SSS bid on [X] opportunities;¹⁹⁷
 - (b) In the [X] instance when NECSWS bid and at least [X] supplier also bid, it faced [X] competitors;¹⁹⁸
 - (c) In the [X] instances when SSS bid and at least [X] supplier also bid, it faced, on average, fewer than [X] competitors;¹⁹⁹
 - (d) When SSS bid, it performed strongly, winning [X] opportunities it bid for (NECSWS [X] it bid for).²⁰⁰ The only other supplier that won a contract was [X], which won [X].²⁰¹
195. The CMA notes that the Parties' Opportunities Data suggests that the competitors faced by NECSWS were Indirect Insight, SCC, Softcat²⁰² and

¹⁹⁵ The CMA notes that a small number of emergency services agencies use in-house Duties software. The CMA notes that developing such software may not be a feasible alternative to using the Parties' products for many customers as the costs involved may be significant and some customers may be of insufficient scale to justify the development of an in-house solution. However, in any event, the limited share of police customers currently using in-house Duties software indicates that the overall customer demand for this solution is low and is unlikely to impose a significant constraint on the Parties.

¹⁹⁶ Paragraph 7.1, RFI5 (24 March 2022).

¹⁹⁷ The Parties' Opportunities Data, Table 1, 24 March 2022 states there were [X] Duties opportunities in which there were at least [X] bidders. Table 4.1 (30 March 2022) indicates that the Parties bid in [X] opportunities in total (the opportunities that the Parties bid in were [X]).

¹⁹⁸ The Parties' Opportunities Data, Table 3, 30 March 2022.

¹⁹⁹ The Parties' Opportunities Data, Table 3, 30 March 2022.

²⁰⁰ CMA analysis of The Parties' Opportunities Data, 30 March 2022 submission. Number of bids won is calculated as the number of opportunities bid for, [X], (Table 3) minus number of bids lost, [X] (total row from Table 5.1).

²⁰¹ The Parties' Opportunities Data, Table 5.1, 30 March 2022 submission.

²⁰² These competitors were not mentioned in any internal documents nor by any third party responding to the CMA's merger investigation.

Crown and that the rivals faced by SSS were Crown, Totalmobile (GRS) and Oracle.²⁰³ As noted in paragraphs 210 and 211 below, third parties only identified Crown and Totalmobile (GRS) as rivals to the Parties.

196. The CMA has also received Customer Opportunities Data relating to Duties opportunities. As noted in paragraph 193, this is also based on a small number of opportunities.
197. Three police customers provided details of procurement processes that they ran:
 - (a) The first customer chose [redacted]. This was a direct award and the customer did not appear to consider other alternatives;
 - (b) The second customer chose SSS. The customer noted that it received bids from a number of suppliers (there is no evidence that any of these suppliers have ever won any Duties contracts); and
 - (c) The third customer chose SSS and [redacted].
198. Whilst the Parties do not appear to have competed against each other in the procurement processes covered by the data sets, the CMA does not consider that the lack of recent direct competition indicates that the Parties would not compete in the future. There have been very few recent opportunities. Moreover, the Parties' and Customer Opportunities Data indicates that one or the other Party competed on all known opportunities and that the Parties compete against a small number of alternative suppliers. SSS appears to be successful in winning Duties customers, indicating that it is a strong competitor. The only other rival that won a contract in the sample was Crown. Of the other rivals identified in the data as competing for the opportunities in question, only Totalmobile (GRS) is identified in the Parties' internal documents or mentioned by third-parties.

Other evidence on closeness of competition

199. In addition to shares of supply and the Parties' and Customer Opportunities Data, the CMA has also considered the extent to which internal documents and third-party views indicate that the Parties are close competitors.
200. The Parties submitted that there is differentiation between NECSWS and SSS's Duties products, as NECSWS's product is more modern and has benefited from investment, whereas SSS's product is older and incorporates

²⁰³ Paragraph 7.1/Table 4.1, RFI5 (24 March 2022).

an HR module.²⁰⁴ The CMA recognises that there are some differences between the Parties' offerings, however, as discussed below, in spite of these differences customers said that they consider the Parties' products to be alternatives. Further, customers told the CMA that there a number of other product characteristics which they consider important, over which suppliers of Duties may compete, which do not appear to relate to the points of differentiation highlighted by the Parties, such as: price, integration with other products, support and maintenance and supplier provenance. Finally, the CMA asked police customers and Duties competitors whether they were aware of any significant changes in the Parties' competitive strength in Duties in the last five years, and, none indicated that there had been a reduction in the strength of the Parties' Duties offerings.

201. Closeness of competition is a relative concept. Where there is a degree of differentiation between the merging firms' products, they may nevertheless still be close competitors if rivals' products are more differentiated, or if there are few rivals. For example, where the CMA finds evidence that competition mainly takes place among few firms, any two firms would normally be sufficiently close competitors that the elimination of competition between them would raise competition concerns, subject to evidence to the contrary. The smaller the number of significant players, the stronger the prima facie expectation that any two firms are close competitors. In such a scenario, the CMA will require persuasive evidence that the merging firms are not close competitors in order to allay any competition concerns.²⁰⁵

Internal documents

202. The CMA notes that it has seen few internal documents discussing Duties. This may be because there are very few competitive opportunities, as indicated by one internal document from SSS²⁰⁶ The same internal document also states that SSS is '[X] suppliers' ([X]) with a share of [X][40-50]%. Another internal document dated May 2021²⁰⁷ shows that SSS monitors [X] of Duties products closely, namely [X] Northgate (ie NECSWS). The document estimates SSS's share of supply as '~[X] [40-50]%', [X] '~[X] [30-40]%' and Northgate's (NECSWS) as '~[X] [10-20]%' .²⁰⁸

²⁰⁴ FMN, paragraph 15.60

²⁰⁵ [Merger Assessment Guidelines](#), paragraph 4.10.

²⁰⁶ See for example [X], which states that 'Few competitive tenders [X]'.

²⁰⁷ Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled [X], May 2021

²⁰⁸ Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled '[X]', May 2021, slide 110.

203. The CMA therefore considers that the internal documents are consistent with other data suggesting that the supply of Duties is very concentrated. While Crown might be a closer competitor to SSS, the CMA considers that the internal documents indicate that SSS considers NECSWS a close competitor as well.

Third party comments

204. Most customers providing evidence to the CMA said that NECSWS and SSS compete in the supply of Duties. These customers noted that both Parties are active in the supply of Duties to police customers. Duties competitors also generally gave SSS and NECSWS similar scores, as regards competitive strength, although NECSWS usually scored slightly lower than SSS.

Alternative suppliers

205. The Parties submitted that following the Merger there will remain competition in the supply of Duties to police customers in the form of:
- (a) Specialist providers of Duties software to police customers such as Crown and Totalmobile (GRS).²⁰⁹
 - (b) Providers of ERP software which includes a Duties component such as SAP, Oracle, Zellis and Midland HR.²¹⁰
206. The Parties also submitted that there is an increasing shift towards cloud capability that its competitors are better able to meet. In particular, NECSWS submitted that this will be a requirement in an upcoming opportunity with the Metropolitan Police [§<]. NECSWS submitted that the Metropolitan Police has invited providers from the Solution Providers Framework (such as Leidos) to develop new Duties software.²¹¹
207. In addition to the shares of supply and the opportunities data described above, the CMA has also considered the extent to which internal documents and third party views indicate that the Parties face competitive constraints from alternative suppliers.

²⁰⁹ FMN, Table 14.3A.

²¹⁰ FMN, Table 14.3A and paragraph 15.73.

²¹¹ Parties' response to the Issues Letter, paragraph 6.11.

Internal documents

208. The CMA considers that internal documents supplied by the Parties indicate that there are a limited number of alternative suppliers of Duties besides the Parties. For example:
- (a) A SSS document dated May 2021²¹² shows that [X] Northgate (NECSWS) are the main alternatives to SSS²¹³ and SSS compares its Duties functionalities to that of [X] Northgate (NECSWS).²¹⁴ [X] appear to be mentioned once in relation to Duties (in this instance it is also alongside [X] Northgate (NECSWS)) but are not discussed in any detail.²¹⁵
 - (b) Another SSS document²¹⁶ notes in relation to the supply of Duties in the UK ‘Intense rivalry in the UK with [X], Northgate (NECSWS) & Capita’.
 - (c) A due diligence document produced for SSS from September 2020 lists several competitors [X] and in relation to Duties only NECSWS (Northgate) and [X] are mentioned.²¹⁷
209. In relation to the Metropolitan Police, the CMA considers that it is uncertain whether the project between the Metropolitan Police with some of the suppliers from the Solution Providers Framework will result in a new product which will be ultimately used by the Metropolitan Police. The CMA further notes that internal documents indicate that [X] has extended its contract with NECSWS for [X]. The CMA therefore considers that it is uncertain whether the Solution Providers Framework will develop a new police Duties software product.

Third party views

210. Police customers generally identified few alternatives to the Parties in the supply of Duties. Crown was identified most frequently [[X]] by police customers as a suitable supplier, with those police forces considering Crown’s Duties product as meeting their requirements, SSS was identified by substantially fewer[[X]] police forces, NECSWS and Totalmobile (GRS) were

²¹² Capita SSS internal document, Annex 60 to Capita SSS’ response to the CMA’s section 109 notice of 18 January 2022, titled ‘[X]’, May 2021

²¹³ Slide 118.

²¹⁴ Slide 124.

²¹⁵ Slide 122.

²¹⁶ Capita SSS Internal document, Annex 10.2.31 to DMN, titled ‘[X]’, undated. Slide 2.

²¹⁷ [X], slide 24.

identified by even fewer [[X]] and only a very limited number [[X]] mentioned SAP.

211. [X] confirmed that they supply police customers with a Duties product. [X] stated that it had a Duties product and noted that it had [X] police customer. [X] (an ERP supplier) stated that it did not provide a product equivalent to a Duties product in the UK. In general, competitors ranked Crown the highest, SSS second and NECSWS third in terms of their competitive strength. TotalMobile (GRS) was mentioned as being less strong in police, having a focus on fire and rescue customers.²¹⁸

Constraint from ERP suppliers

212. As noted in paragraph 82, the evidence received by the CMA indicates that even when a police customer tenders for ERP software rather than procuring Duties separately, the Duties element is generally sub-contracted by the ERP software supplier to a specialist Duties supplier. The only ERP suppliers that third parties identified as having their own in-house Duties modules are [X]. Only one customer told the CMA that it used an ERP supplier's Duties solution.²¹⁹
213. Notwithstanding this, the CMA has considered the extent to which ERP software act as a constraint on Duties suppliers.
214. Police customers generally stated that ERP software did not offer the same functionality as Duties software and would not be an effective alternative. A small number of police customers stated that ERP systems may be a viable alternative to Duties. See further paragraph 83.
215. Suppliers active in the supply of Duties and ERP solutions that responded to the CMA's merger investigation told the CMA that they do not consider that they compete with each other. In particular, suppliers stated that Duties integrate with, and are a complement to, ERP software. See further paragraph 84.

Conclusion

216. The CMA considers, based on the evidence set out above, that the Parties are two of a small number of competitors competing for a limited number of available opportunities in the supply of Duties to police customers.

²¹⁸ However, the CMA notes that it is not aware of any fire and rescue services that use TotalMobile and Parties shares of supply indicate that it has no fire and rescue customers.

²¹⁹ See paragraph 82.

217. In particular, the evidence indicates that the Parties will, post-Merger, have a high combined share of supply (>[3X] [50-60]%) and face limited competitive constraints from other suppliers of Duties to police customers. Based on the evidence, including shares of supply and the Parties' and Customer Opportunities Data, the CMA considers that the Merger will result in a reduction of the number of significant competitors from four to three, with the only significant other competitors being Crown, and to a lesser extent Totalmobile (GRS). Feedback from third parties and the Parties' internal documents also indicate that the Parties compete with each other and that there are few credible alternatives.
218. The CMA therefore believes that the Merger raises significant competition concerns in relation to the supply of Duties to police customers in the UK.

Horizontal unilateral effects in the supply of RMS

219. The Parties both supply RMS to police customers. RMS software enables the recording and management of investigations, the capture of intelligence, the processing of people in police custody and the building of case files for prosecutions.²²⁰
220. SSS has two different RMS products: Policeworks, which is currently deployed by the Greater Manchester Police (GMP),²²¹ and UNIFI. The Parties submitted that Policeworks has been tailored to the specific needs of GMP and would need significant adaptations to make it attractive to other police forces. UNIFI covers the same scope as modern RMS products and is formed of modules²²² addressing the different elements of RMS where the underlying data is integrated into a single data POLE (people, objects, locations, and events) store.²²³
221. NECSWS offers one RMS product called CONNECT. NECSWS submitted that CONNECT is a contemporary event-driven RMS, which means that data or events entered into the software will trigger other relevant actions.²²⁴

Shares of supply

222. The Parties submitted estimated shares of supply for RMS based on the number of recorded crimes reported by each police customer in 2021

²²⁰ FMN, paragraph 1.7.2.

²²¹ Durham and Cumbria use RedSigma and PoliceWorks. The internally developed Red Sigma system covers Intelligence, Crime and Safeguarding. SSS PoliceWorks covers Case and Custody.

²²² The modules are Crime (for recording details of crimes), Intelligence (for recording intelligence reports), Case (for managing court case files) and Custody (for processing detainees).

²²³ FMN paragraph 15.55.

²²⁴ FMN, paragraph 12.58-61.

according to ONS data, combined with the Parties' market intelligence on which customers are supplied by each supplier in 2021.²²⁵ Table 6 below, sets out the Parties' estimated shares of supply for the supply of RMS to police customers in the UK in 2021.

Table 6: Shares of supply for supply of RMS to police customers (UK, 2021)

Competitor	2021 live supplier (%)
NECSWS	[20-30] [3<]
Capita SSS	[10-20] [3<]
Parties Combined	[40-50] [3<]
Niche	[40-50] [3<]
Memex	[0-5] [3<]
EDS CRIS	[0-5] [3<]
ABM	[0-5] [3<]
Red Sigma	<[0-5] [3<]
Sopra	<[0-5] [3<]
In House	[5-10] [3<]
Total	100%

Source: FMN, Table 14.1A; Table 14.1B

223. As with ICCS and Duties (see paragraphs 112 and 190), there are a number of reasons why shares of supply may not accurately reflect the degree of competitive constraint which the Parties (and their competitors) impose on one another in the supply of RMS. RMS contracts are generally between 5-10 years with most forces renewing at least once due to the high cost of implementation.²²⁶
224. Notwithstanding this, the CMA considers that the share of supply data shows that the supply of RMS to police customers is highly concentrated. Three suppliers account for over [3<] [80-90]% of the supply of RMS in the UK. In particular, the Parties represent the [3<] (NECSWS) and [3<] (SSS) suppliers. The Merged Entity would have a share of supply of [3<] [40-50]%. Niche, the other main supplier, would have a similar share of supply to the Parties of [3<] [40-50]%. The other remaining suppliers all have a share of supply of less than [3<] [5-10]% (and as discussed in more detail below, none of these suppliers were identified in the Parties' internal documents or by customers that responded to the CMA's merger investigation as providers that could meet their software requirements). Excluding the supply of RMS on an in-house basis, the Parties' combined share of supply is [3<] [40-50]%.²²⁷ The

²²⁵ FMN, paragraph 14.7.6.

²²⁶ [3<].

²²⁷ The CMA notes that a small number of emergency services used in-house RMS software or rely on in-house provision for a portion of their overall RMS solution. The CMA notes that developing such a system may not be a feasible alternative to using the Parties' products for many customers, as the costs involved may be significant and some customers may be of insufficient scale to justify the development of an in-house solution. However, in any event, the limited share of police customers currently using an in-house RMS product indicates that the overall customer demand for this solution is low and is unlikely to impose a significant constraint on the Parties.

CMA is therefore of the view that the Parties' high shares of supply raise prima facie competition concerns.

Opportunities analysis

225. As noted in paragraphs 122 to 126, above, the CMA has concerns regarding the robustness of the Parties' Opportunities Data. In addition, the Parties' Opportunities data relates to a very small number of competitive opportunities. In total, the Parties' Opportunities Data identifies [X] competitive opportunities since 2017,²²⁸ of which NECSWS competed for [X] and SSS competed for [X].²²⁹
226. Notwithstanding the above, taken at face value, the Parties' Opportunities Data shows that:
- (a) NECSWS or SSS bid on [X] competitive opportunities that have occurred since 2017. NECSWS bid on [X] opportunities, and SSS bid on [X] of opportunities.²³⁰
 - (b) When NECSWS bid, it faced [X] competitors on average.²³¹
 - (c) When SSS bid, it faced [X] competitors on average.²³²
 - (d) Of the [X] opportunities in which NECSWS bid, SSS bid on [X]. Of the [X] opportunities in which SSS bid, NECSWS bid on [X].²³³
 - (e) When SSS and NECSWS bid, both performed strongly, with both winning [X] of the opportunities that they bid for (NECSWS won [X] and SSS won [X]).²³⁴ All the other opportunities were won by [X].²³⁵
227. Notwithstanding the CMA's concerns relating to the Parties' Opportunities Data, the CMA considers that this data shows that the Parties compete against each other frequently, are strong competitors (as evidenced by their win rates) and face few rivals (with Niche the only successful bidder other than the Parties).

²²⁸ The Parties' Opportunity Data, Table 1, 24 March 2022.

²²⁹ The Parties' Opportunity Data, Table 5.1, 30 March 2022.

²³⁰ [X] and [X] opportunities (The Parties' Opportunity Data, Table 5.1 30 March 2022 and Table 1 24 March 2022).

²³¹ RFI 5, Table 3.

²³² RFI 5, Table 3.

²³³ CMA analysis of The Parties' Opportunity Data (30 March 2022). Table 5.1 shows that both Parties bid on opportunities [X].

²³⁴ CMA analysis of The Parties' Opportunity Data (30 March 2022). Number of bids won is calculated as the number of opportunities bid for (Table 5.1) minus number of bids lost (total row from Table 6.1).

²³⁵ The Parties' Opportunity Data, Table 7.1, 30 March 2022.

228. The CMA notes that the Parties' data identifies [X] as competing for opportunities in addition to [X].²³⁶ As noted in paragraph 242, below, third parties only identified Niche as a rival to the Parties and none of these suppliers are identified as rivals in the Parties' internal documents. The evidence available to the CMA does not indicate that any of the other suppliers listed by the Parties have won any RMS customers. Indeed the CMA understands that most of these companies are not active in the supply of RMS solutions.²³⁷
229. The CMA has also considered the Customer Opportunities Data in relation to RMS opportunities. As noted in paragraph 225 this is based on a small number of opportunities. Four RMS customers provided details of procurement processes that they ran since 2017:
- (a) One customer switched from [X] to [X], with NECSWS ranking second. SSS did not bid;
 - (b) One customer sought bids from a framework but received only one bid from [X];
 - (c) Two customers did not consider alternatives and remained with their current supplier (both [X]).
230. The CMA considers that both the Parties' Opportunities Data and the Customer Opportunities Data indicates that there are few suppliers of RMS.

Other evidence on closeness of competition

231. In addition to the share of supply data and opportunities data described above, the CMA has also considered the extent to which internal documents and third-party views indicate that the Parties are close competitors.
232. As stated above in paragraph 201, closeness of competition is a relative concept. Where there is a degree of differentiation between the merging firms' products, they may nevertheless still be close competitors if there are few rivals.
233. In considering closeness of competition between the Parties, the CMA had particular regard to submissions made by the Parties that SSS [X]. The Parties submitted that [X] issues had arisen with SSS's implementation of Policeworks for GMP, giving rise to concerns about the [X] and capability of

²³⁶ The Parties' Opportunity Data, Table 5.1, 30 March 2022.

²³⁷ The Parties also acknowledge that these companies are not full RMS providers (see footnote 15 of the Parties Note on analysis of bidding data). [X].

the PoliceWorks product [REDACTED].²³⁸ SSS noted that GMP has announced that it does not intend to renew its RMS contract with SSS and is planning to tender for a replacement in 2023.²³⁹ The Parties also submitted that SSS's other RMS product, UNIFI, [REDACTED] (and that only a small number of police customers use UNIFI [REDACTED]).²⁴⁰

234. The Parties submitted that NECSWS and SSS's RMS products are differentiated, as NECSWS's CONNECT product is a modern single integrated platform with superior features while SSS's UNIFI product consists of distinct modules that address the different elements of RMS.²⁴¹ Overall the Parties' submitted that NECSWS's product (CONNECT) is [REDACTED] SSS's products (UNIFI and PoliceWorks).²⁴²

235. The CMA recognises that there are some differences between the Parties' offerings. However, in spite of these differences, customers said that they consider the Parties' products to be alternatives. Further, customers have told the CMA that there a number of other product characteristics which they consider important, over which suppliers of RMS may compete, which do not appear to relate to the points of differentiation highlighted by the Parties, such as: integration with other software, price, support and a track record of being used by other forces.

Third party comments

236. A number of police customers said that NECSWS and SSS compete in the supply of RMS. Some said they did not know (for example, because they had not tested the market).

237. Generally, customers did not identify significant weaknesses in SSS's RMS offer. A small number of customers noted that the UNIFI product is old, and one customer noted the issues that had arisen with the GMP RMS software. Given the Parties' submissions relating to the GMP contract, the CMA asked customers whether they considered that the Parties' competitive strength had changed over time. No customers identified a decline in SSS's competitive strength. On the contrary, one customer [REDACTED] noted that SSS has developed its offering in this area and another customer [REDACTED] noted that SSS has won a new customer for UNIFI in Scotland (Police Scotland). Notwithstanding this,

²³⁸ FMN, paragraph 12.64 and 15.54

²³⁹ See email of 25 March 2022.

²⁴⁰ FMN paragraph 15.56.6

²⁴¹ FMN paragraphs 15.53 and 15.53.

²⁴² FMN paragraph 15.53

the CMA acknowledges the Parties' submissions that GMP will switch its RMS supply away from SSS (see paragraph 233).

238. A competitor [X] gave both Parties a similar medium/high rating (three (SSS) and four (NECSWS) out of five each) as regards competitive strength, noting that SSS had a good legacy product but that 'their attempt to develop a new RMS platform has been problematic', while NECSWS's products are known to be usable but unstable in some police forces.

Internal documents

239. The internal documents submitted by SSS suggest that it views NECSWS as a close competitor for the supply of RMS to police customers in the UK. For example:
- (a) A document from SSS dated May 2021²⁴³ shows that SSS only monitors two other suppliers of RMS in the UK: Northgate Connect/Athena (ie NECSWS) and [X].²⁴⁴ Under the heading [X] Athena is shown as having a [X] offering for [X] product features, [X] SSS, which is shown as having a [X] offering for [X] product features. The next [X] competitor, [X], is shown as [X] for [X].²⁴⁵ Others considered are [X] and [X], however these were not considered as strong as Athena or [X].
 - (b) A document from SSS dated June 2018²⁴⁶ shows that SSS identifies Northgate (ie NECSWS) as one of only three competitors for [X].
240. In relation to SSS's views of its own competitive strength, an SSS internal document summarising SSS's recommended product strategy for 2021 states that 'UNIFI provides very capable core RMS functionality whilst PoliceWorks provides generic case & custody functionality', although it notes that UNIFI is [X] and that PoliceWorks is [X].²⁴⁷ SSS submitted that it has recently been undertaking some work to [X].²⁴⁸ SSS's product strategy for 2021 sets out a roadmap for developments to both products between [X], and sets out SSS's

²⁴³ Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled [X], May 2021, slide 117.

²⁴⁴ Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled [X], May 2021, slide 117.

²⁴⁵ Idem slide 124

²⁴⁶ Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled [X], June 2018, slide 4.

²⁴⁷ [X], slide 117, 124 and 126

²⁴⁸ FMN paragraph 15.56.7.

objective to [REDACTED].²⁴⁹ It recommends that in the short term SSS focus on [REDACTED].²⁵⁰ SSS submitted that it may [REDACTED].²⁵¹

241. The CMA has also seen some evidence that NECSWS views SSS as a close competitor for the supply of RMS to police customers in the UK. For example a NECSWS document²⁵² dated [REDACTED] regarding NECSWS's bid for [REDACTED] shows SSS's UNIFI and PoliceWorks RMS products as possible competitors alongside [REDACTED]. NECSWS describes SSS's [REDACTED]. SSS's strengths include [REDACTED].

Alternative current suppliers

242. The Parties submitted that following the Merger there will remain significant competition in the market for the supply of RMS to police customers including 'leading player' Niche with a [REDACTED] [40-50]% share of supply, which has recently been awarded contracts to supply RMS to several police customers in the UK.²⁵³ The Parties also submitted that they will be constrained by HCL which is an active competitor that has bid for two opportunities in recent years.²⁵⁴
243. In addition to the shares of supply described in paragraph 222 and the opportunities data described in paragraphs 225 and 229 the CMA has also considered the extent to which internal documents and third party views indicate the Parties face competitive constraints from alternative suppliers.

Third party views

244. Niche was the most commonly identified RMS supplier that police forces responding to the CMA's merger investigation considered as capable of meeting their requirements. Niche was considered suitable by most [[REDACTED]] police forces that responded to the CMA's merger investigation, while SSS and NECSWS were identified by fewer police forces [[REDACTED]] and HCL was mentioned by very few [[REDACTED]].²⁵⁵ One police force said HCL was yet to develop a full product. This police force emphasised that the biggest challenge for new entrants including UK suppliers was the need to find a sponsoring police force willing to get the product ready for UK launch (see further paragraph 249). The CMA did not receive any evidence that HCL has secured [REDACTED] customers.

²⁴⁹ [REDACTED] slide 100 and 128. As noted in the counterfactual section above, the Parties submitted that this document was [REDACTED].

²⁵⁰ [REDACTED] slide 110

²⁵¹ FMN paragraph 15.56.7.

²⁵² NECSWS internal document, Annex 4.4 to NECSWS' response to the CMA's section 109 notice of 7 January 2022, titled [REDACTED] March 2019, slide 6 and 8.

²⁵³ FMN, paragraph 15.57.

²⁵⁴ FMN, paragraph 15.57.

²⁵⁵ One other competitor was mentioned by a very limited number of respondents. That competitor confirmed to the CMA that it does not offer RMS in the UK ([REDACTED]).

Further, one customer told the CMA that the market is ‘very polarised between Niche, NEC and SSS’.²⁵⁶

245. [X].²⁵⁷ A competitor of the Parties not active in the supply of RMS in the UK²⁵⁸ only identified three RMS suppliers in the UK, Niche and the Parties. This competitor ranked Niche as the strongest competitor (four out of five) citing its footprint and strong interface although noting that its weakness was its user interface and experience. NECSWS was ranked second (three out of five) citing its user experience as a weakness. SSS was ranked third (two out of five) citing its corporate reputation as a weakness.

Internal documents

246. Internal documents indicate that there are three main suppliers currently active supplying RMS to police customers in the UK: the Parties and Niche. For example:
- (a) A SSS document²⁵⁹ dated May 2021 states that SSS, Northgate (i.e., NEC) and [X] are the major players in this market. It notes that ‘the UK RMS market is [X] using either [X], [X] or Northgate’.
 - (b) A SSS document²⁶⁰ dated 20 March 2021 shows three competitors besides SSS. One of the competitors shown is Northgate Athena (NECSWS), which is noted as having ‘[X] UK customers, including [X]’. The other competitor noted with UK customers is [X]. Another supplier is mentioned ([X]) but [X].
 - (c) A SSS document²⁶¹ for which no date was provided, sets out SSS’s [X]. It notes that the RMS market is characterised by [X] Northgate [ie NECSWS] & Capita’. This document also shows market shares of [X] [50-60]% (for [X]), [X] [30-40]% (for NECSWS) and [X] [10-20]% (across the two RMS products owned by SSS, PoliceWorks and UNIFI).
 - (d) A SSS document,²⁶² dated [X], which concerns a tender for RMS issued by [X], shows that SSS considered that the opportunity was likely to be contested by three other competitors: [X] Northgate (ie NECSWS). The CMA notes that the Parties have explained that [X] does not use an

²⁵⁶ [X].

²⁵⁷ [X].

²⁵⁸ [X].

²⁵⁹ [X], May 2021. See slides 103, 104, 110.

²⁶⁰ [X] of 20 March 2021. Slide 23.

²⁶¹ Capita SSS internal document, Annex 10.2.32 to DMN, titled [X] undated. Slide 1.

²⁶² Capita SSS internal document, Annex 98 to Capita SSS’ response to the CMA’s section 109 notice of 18 January 2022, titled [X].

integrated RMS, but rather [REDACTED].²⁶³ The CMA understands that Sopra-Steria's 'Crime File' may only be able to offer some of the functionality offered by Niche, NECSWS and SSS.

- (e) A due diligence document produced for Capita from September 2020 lists several competitors [REDACTED] as regards SSS and in relation to RMS only NECSWS (Northgate) and [REDACTED] are mentioned.²⁶⁴

Potential entrants

247. The Parties submitted that they anticipated imminent new entry into RMS from non-UK based suppliers. In particular, the Parties noted that Mark43, a US based international supplier of RMS, had recently announced its intention to open an office in the UK and has already largely adapted its RMS software to fit the UK policing model.²⁶⁵ The Parties also submitted that there would be scope for a number of other established international suppliers of RMS to enter into the UK market, such as Hexagon, Motorola, Caliber and CentralSquare.²⁶⁶

Third party views

248. A few customers said that they were aware of non-UK RMS providers, such as Mark43. However, these customers said that any potential non-UK RMS provider would need to be compliant with UK requirements and willing to adapt its product for UK police forces.²⁶⁷ One of them explained that this would only be possible with a police force sponsor which would require a significant commitment in terms of time, resource and cost by the sponsoring police force. The customer said that it was not willing to take such a step.²⁶⁸ Similarly, another customer said that it would not be willing to take a 'leading edge' which was considered to be high risk per-se and potentially more so with a non-UK supplier.²⁶⁹ No other customers that responded to the CMA's merger investigation indicated that they would be willing to sponsor a new entrant.
249. One third-party told the CMA that they were aware of a police force considering an international supplier of RMS ([REDACTED]). This police force was regarded as being prepared to take more risk than other police forces. This

²⁶³ FMN, Note to Table 14.2: Shares of supply for RMS (2021 live supplier).

²⁶⁴ [REDACTED] slide 24.

²⁶⁵ Parties' response to Issues Letter, paragraph 7.1.5.

²⁶⁶ FMN, paragraph 15.58.

²⁶⁷ [REDACTED].

²⁶⁸ [REDACTED].

²⁶⁹ [REDACTED].

international supplier confirmed to the CMA that it has plans to enter the UK market and is in talks with a police force customer.

250. The CMA did not receive any evidence that this supplier has secured any customers.
251. [X] confirmed that it has no plans to enter the UK market.
252. More generally, third parties highlighted that there are significant barriers to entry in the supply of RMS. These are considered in more detail in paragraphs 322 and 323.

Internal documents

253. Internal documents also indicate that there are a limited number of international suppliers of RMS not currently active in the supply of RMS in the UK that have been monitored by the Parties and have been considered as possible entrants.²⁷⁰ However, there is no evidence that the Parties consider that any of these suppliers would be likely to enter imminently:
- (a) A SSS document²⁷¹ dated May 2021 includes [X]. [X] and [X] are described as '[X]' and [X] is described as [X]. However, the document [X].
- (b) A SSS document²⁷² dated March 2021 lists five competitors to SSS's [X] RMS product, including suppliers not currently active in the UK ([X]). However, the document notes that [X] and that [X] has [X].
254. More generally, the Parties' internal documents suggest that there are significant barriers to entry in the supply of RMS (discussed in more detail in the barriers to entry and expansion section at paragraph 320).

Conclusion

255. The CMA considers that the Parties are close competitors in the supply of RMS to police customers and face only one significant rival (Niche).
256. Although some third parties were aware of potential entrants, and potential entrants are also monitored in the Parties' internal documents, the CMA has

²⁷⁰ FMN paragraph 15.58.

²⁷¹ Capita SSS internal document, Annex 60 to Capita SSS' response to the CMA's section 109 notice of 18 January 2022, titled [X].

²⁷² Annex 10.2.21 - Aha_Export - Competitors - 20th March 2021.PDF. Page 22 and 28.

also seen evidence that any potential entrants face significant challenges, in particular finding a police ‘sponsor’ willing to support their market launch.

257. Although the CMA received evidence that one international supplier has plans to enter the UK and is in discussions with a police force, it is uncertain whether its entry will be successful. The CMA did not receive evidence to suggest that any other international suppliers have plans to enter the UK in the near future. On that basis, the CMA considers that the constraint from potential entry would neither be timely nor sufficient to prevent the competition concerns identified by the CMA from arising.
258. In addition, although the CMA received evidence that the issues faced by SSS with the implementation of PoliceWorks for GMP may have caused some reputational harm, the CMA did not receive any evidence to suggest that SSS is no longer a credible competitor. Given the concentrated nature of the market, the CMA does not consider that any weaknesses in SSS’s offering, or differentiation from NECSWS’s offering, is sufficient to prevent the competition concerns identified by the CMA from arising.
259. The CMA therefore believes that the Merger raises significant competition concerns in relation to the supply of RMS to police customers in the UK.

Future competition in the supply of CAD

260. Unilateral effects may arise from the elimination of potential or dynamic competition. In the CMA’s Mergers Assessment Guidelines, the term ‘potential competition’ is used to refer to competitive interactions involving at least one firm that has the potential to enter or expand in competition with other firms. Mergers involving a potential entrant can lessen competition in different ways, for example a merger involving a potential entrant may imply a loss of the future competition between the merger firms after the potential entrant would have entered or expanded.²⁷³
261. In assessing whether a merger involving a potential entrant leads to a loss of future competition between the merger firms, the CMA will consider evidence on: (a) whether either merger firm would have entered or expanded absent the merger; and (b) whether the loss of future competition brought about by the merger would give rise to an SLC, taking into account other constraints and potential entrants. In the present case the CMA has considered whether NECSWS would have entered into the supply of CAD in the UK (where SSS is currently active) and whether, as a result of the Merger, there would be a

²⁷³ [Merger Assessment Guidelines](#), paragraphs 5.1. and 5.2

loss of post-entry competition such that the Merger would have resulted in an SLC.

Whether NECSWS would have entered CAD absent the Merger

262. Prior to the Merger, [REDACTED]. [REDACTED].²⁷⁴
263. NEC developed three CAD ‘add on’ modules that were designed to work with a third-party CAD software in order to enhance customer capabilities.²⁷⁵ NECSWS submitted that these add-on modules did not constitute a full CAD software solution. [REDACTED].²⁷⁶
264. NECSWS submitted that, in July 2021 this set of capabilities, branded Dispatch, was announced to the market [REDACTED].²⁷⁷
265. The CMA has considered internal documentary evidence from NECSWS to understand whether it is likely that absent the Merger NECSWS would have entered the supply of CAD in the UK. However, ultimately the CMA did not need to conclude on whether NECSWS would have entered as it found that entry by NECSWS would not have given rise to a realistic prospect of a substantial loss of future competition as discussed below.

Whether the loss of potential competition from NECSWS would have resulted in a substantial lessening of competition

266. The impact of a potential entrant on competition is likely to be more significant when there are fewer strong existing competitive constraints on the other merger firm; where the other merger firm would already have market power absent the merger and/or where there are few other potential constraints.²⁷⁸ In this case, the CMA has considered the strength of SSS’s position in the supply of CAD and the constraint imposed by competing CAD providers.
267. The Parties submitted that SSS has a share of [REDACTED] [10-20%] in the supply of CAD to emergency services, with particular strength in the fire and rescue customer segment where it has a share of supply of [REDACTED] [50-60%].²⁷⁹
268. There are several other established suppliers with a larger share of supply to emergency services than SSS:

²⁷⁴ FMN, 18.8.

²⁷⁵ FMN, paragraph 18.8.1.

²⁷⁶ FMN, paragraph 18.8.2.

²⁷⁷ FMN, 18.8.2.

²⁷⁸ FMN, 5.15.

²⁷⁹ FMN, table 18.3, As with ICCS, the Parties submitted shares of supply on a volume basis, calculated by reference to the number of calls handled by each emergency services customer.

- (a) Cleric which supplies CAD to ambulance customers where it is the largest provider. Cleric has a share of supply in CAD to emergency services of [redacted] [40-50]%.
 - (b) Sopra which supplies CAD to police, and fire and rescue customers. Sopra has a share of supply in CAD to emergency services of [redacted] [20-30]%.
 - (c) MIS which supplies CAD to ambulance customers where it is the [redacted] provider. MIS has a share of supply in CAD to emergency services of [redacted] [10-20]%.
 - 269. There are also a large number of smaller competitors, such as SAAB, Hexagon, Motorola, Microsoft, Systel, 3TC, Seed, Unisys and Remsdaq.
 - 270. The CMA collected views from fire and rescue customers, the customer segment where SSS has its largest share of supply, to understand whether these customers would have sufficient alternatives to the Merged Entity. The large majority of fire and rescue customers that responded to the CMA indicated that there were a number of suppliers available to them. These frequently included Integraph/Hexagon, Remsdaq, SAAB, Systel, Motorola and 3TC. Scores as to the competitive strength of these alternatives were provided by a small number of respondents, with Motorola and 3TC being noted as strong by a number of respondents.
 - 271. The CMA also notes that some of NECSWS internal documents suggest that its plan was to focus initially on targeting [redacted], were it to have entered absent the Merger, which may have meant that NECSWS would not have competed as closely with SSS as some of SSS's current competitors [redacted].²⁸⁰
 - 272. On the basis of SSS's limited share of supply to emergency services and the presence of a number of competing CAD providers imposing a constraint on SSS, including in the fire and rescue segment where SSS has a stronger market position, the CMA found that the Merger does not give rise to a realistic prospect of a SLC from the loss of future competition by NECSWS.

Conclusion on potential competition

- 273. For the reasons set out above, the CMA believes that if NECSWS had entered absent the Merger, any loss in future competition between NECSWS and SSS would not be sufficient to give rise to a realistic prospect of an SLC.

²⁸⁰ For example, [redacted], slide 3.

Horizontal unilateral effects in the supply of live video streaming products

274. Live video streaming products enable a caller with a smartphone to stream live footage directly from their phone's camera into an emergency service customer's control room.
275. SSS offers a live video streaming product, 999Eye designed for emergency service customers. The wider Capita group also offers the same product to non-emergency service customers (such as utilities providers and Local Government) under the brand name ResponsEye. Following the sale of SSS, a commercial services agreement governs the supply of ResponsEye by SSS to Capita.²⁸¹
276. NECSWS has developed a live video streaming product, 'Stream,' to offer to emergency service and transport customers. NECSWS launched Stream in January 2021. Stream is currently marketed on its website, and [X]. NECSWS has also offered Stream [X] to a number of customers [X].²⁸²
277. Since this is an existing product and some customers are using it [X]²⁸³ the CMA assessed this as a loss of actual competition between NECSWS and SSS, although the framework is similar to the one the CMA would use for potential competition.²⁸⁴

Shares of supply

278. The Parties estimated shares of supply for live video streaming products. The Parties estimated shares based on the number of emergency services customers that SSS supplies out of (a) all emergency services customers and (b) all emergency services customers that SSS is aware are customers of live video streaming products.²⁸⁵
279. Based on the Parties' data, the CMA estimates there are 24 emergency service customers using a live video streaming product (to SSS's knowledge). SSS supplies [X] of these (ie a share of [X] [40-50]%) with GoodSam supplying the remainder (ie. a share of [X] [50-60]%).
280. Although SSS markets its product to all emergency services customers, SSS only currently serves fire and rescue customers. SSS serves [X] fire and rescue customers (out of 48), accounting for [X]% of all fire and rescue

²⁸¹ Response to CMA information request dated 3 March, provided 10 March. Paragraph 7.1-7.3.

²⁸² Response to CMA information request dated 22 March 2022, response of 24 March 2022, paragraphs 1.1-1.3.

²⁸³ Parties' response to Issues Letter, paragraph 8.4.1.

²⁸⁴ [Merger Assessment Guidelines](#), paragraph 5.15.

²⁸⁵ Response to CMA information request dated 3 March, provided 10 March. Paragraph 7.7-7.12. In producing these shares of supply estimates, [X].

customers. Of the fire and rescue customers that SSS knows purchases live video streaming products, SSS supplies all of these customers.

281. This indicates that at present live video streaming is highly concentrated and therefore a loss of competition from NECSWS could be significant.

Alternative current suppliers

282. The Parties identified a number of alternative suppliers which currently offer, or have recently offered, live video streaming to UK emergency services customers including GoodSam, Visionable, Totalmobile, Regola (majority owned by Frequentis) and Motorola.²⁸⁶
283. The Parties also submitted that there are multiple suppliers of video streaming products to other types of UK customers who could readily switch such as accuRx (healthcare), Sightcall (manufacturing, transportation, telehealth and utilities), Vyn (energy and utilities) and Portio. They also submitted that video streaming products in jurisdictions such as the US require limited adjustment for UK sale.²⁸⁷
284. The CMA considered evidence from internal documents and third parties on alternative suppliers.

Internal documents

285. In an internal document SSS identifies the following competitors to its ResponsEye product:²⁸⁸
- (a) Carbyne: SSS notes that Carbyne is '[X].'
 - (b) GoodSam: SSS notes that GoodSam is '[X]'
 - (c) Sightcall: SSS notes that Sightcall has a '[X]'
 - (d) Totalmobile: SSS notes that Totalmobile has '[X]'
286. The CMA considers that this document indicates that GoodSam and Totalmobile are considered to be competitors to SSS, whilst other rivals (Carbyne and Sightcall) are weaker competitors with Sightcall not yet active in emergency services.

²⁸⁶ Parties' response to the Issue Letter, paragraph 8.1.

²⁸⁷ Parties' slides presented at issues meeting with the CMA on 6 April 2022, slide 15.

²⁸⁸ [X].

287. The CMA further notes that another internal document from SSS does not mention any other player than [REDACTED] in relation to ResponsEye.²⁸⁹
288. Internal documents therefore indicate that there are few alternatives to the Parties' products.

Third party views

289. The CMA gathered evidence from potential customers of NECSWS.²⁹⁰ Generally, these customers had a low awareness of the alternative suppliers available to them, and, with the exception of one customer, were not current customers of live video streaming products. This customer currently used [REDACTED].²⁹¹ One customer identified SSS's 999Eye product as a rival to NECSWS's Stream product but noted that it had some limitations compared to NECSWS's Stream product (namely the fact that it could not offer a translation service). This customer was unable to identify any other competitors to the Parties.
290. The CMA also collected information relating to suppliers identified by the Parties as currently or having recently offered live streaming products to emergency service customers. That third party evidence indicates that there are a number of other potential competitors that are starting to offer (or already offer) their products to customers in the UK. More specifically:
- (a) GoodSAM – a third party [[REDACTED]] confirmed that it is a customer of GoodSAM. This customer also identified SSS's 999eye as the only alternative supplier of live video streaming that it was aware of.²⁹²
 - (b) TotalMobile – a third party [[REDACTED]] said that Totalmobile [REDACTED].
 - (c) Regola (majority owned by Frequentis) – a third party [[REDACTED]] told the CMA that Regola [REDACTED].²⁹³
 - (d) Motorola – a third party [[REDACTED]] informed the CMA that Motorola [REDACTED]

Barriers to entry and expansion

291. The CMA has considered the extent to which barriers to entry and expansion may impact competition in the supply of live video streaming products. As

²⁸⁹ [REDACTED].

²⁹⁰ The CMA gathered evidence from potential customers of [REDACTED] as identified in the Parties' response of 24 March 2022.

²⁹¹ The CMA has been unable to gather further evidence in relation to [REDACTED].

²⁹² [REDACTED].

²⁹³ [REDACTED].

discussed above [X] has a product that is being used in Europe which it is using to enter into the UK market, which shows that it is possible to enter from other jurisdictions. Additionally, a SSS internal document monitors suppliers that are active in adjacent markets such as Sightcall which indicates that Capita believes that competitors entering from adjacent markets may pose a credible threat. Finally, one NECSWS document notes that after entering into the emergency service customer segment it would [X], indicating that the product may not be highly specialised to the needs of emergency services customers.²⁹⁴ SSS also mentioned that the product supplied by SSS to emergency services customers is the same as the product supplied by Capita to non-emergency services customers,²⁹⁵

Conclusion

292. The CMA considers, based on the evidence gathered that there are few current suppliers with active customers. However, the CMA has seen evidence that a number of other competitors are starting to offer similar products to a variety of UK customers. While NECSWS may be well-positioned to offer live video streaming to customers [X] given its broader software offering to emergency services customers, the CMA found that the other competitors appear to be well-placed too. As such, NECSWS does not appear to be uniquely advantaged in terms of its ability to compete in this emerging area and any competitive constraint it may pose is not likely to be unique from that of other potential competitors.
293. The CMA therefore believes that the Merger does not raise a realistic prospect of an SLC in the supply of live video streaming to emergency services customers in the UK.

Conglomerate effects

294. Conglomerate effects may arise in mergers of firms that are active in the supply of goods or services that do not form part of the same markets but which are nevertheless related in some way, for example, because their goods or services target similar customers or may be purchased alongside each other.²⁹⁶
295. The concern with a conglomerate theory of harm is that the merged entity may restrict its rivals in one 'focal' market from accessing customers using its strong position in an 'adjacent' market. The merged entity could do this by

²⁹⁴ [X] slide 24.

²⁹⁵ Issues Letter presentation slides, slide 21

²⁹⁶ [Merger Assessment Guidelines](#), paragraph 7.1.

linking the sale of the two products in some way, thereby encouraging customers who want its product in the adjacent market to also purchase its product in the focal market, at the expense of rivals and therefore competition.²⁹⁷

296. In the present case, the CMA has considered whether the Merged Entity would be able to leverage market power in ICCS in order to foreclose rival CAD suppliers for example by only selling ICCS as an integrated solution with its CAD software, or making its ICCS software non-interoperable with rival CAD. The CMA has focused on CAD and ICCS as these products are more closely linked operationally and there are a number of customers who choose to procure these two products together (joint procurement of other products offered by the Parties is much less common).²⁹⁸ The CMA has not focused on leveraging from CAD to ICCS primarily on the basis that the Merged Entity would be constrained by several competitors and SSS currently has a limited share of supply of [redacted] [10-20]% in CAD, as discussed above in the CMA's assessment of the impact of the Merger on future competition in the supply of CAD.
297. The CMA's approach to assessing conglomerate theories of harm is to analyse (a) the ability of the merged entity to foreclose competitors, (b) its incentive to do so, and (c) the overall effect of the strategy on competition. These are discussed below.

Ability

298. In order to assess whether the Merged Entity would have the ability to foreclose competitors, the CMA first sought to determine whether the Merged Entity would have sufficient market power in the supply of ICCS to foreclose rival CAD suppliers. To the extent that customers have credible ICCS alternatives, the Merged Entity's ability to encourage customers to purchase its CAD solution by linking it to ICCS (for example, by only selling ICCS as an integrated solution with CAD), will be more limited. This is because customers may switch to a rival ICCS solution rather than take the Merged Entity's CAD.
299. The CMA considers that the Merged Entity would have a strong position in the supply of ICCS. As noted in the CMA's assessment of horizontal unilateral effects in the supply of ICCS, the Parties are two important suppliers of ICCS to emergency customers in the UK. However, as also noted, a few viable

²⁹⁷ [Merger Assessment Guidelines](#), paragraphs 7.30.

²⁹⁸ For example out of [redacted] opportunities identified by the Parties in the Parties' Opportunities Data there were [redacted] of either RMS or Duties being procured with any of ICCS, CAD, RMS or Duties.

alternatives in the supply of ICCS will remain post-Merger, most significantly Frequentis and Motorola.

300. The CMA also considered whether it would be feasible for the Merged Entity to link sales of CAD and ICCS. Third-party responses indicate that generally customers purchase these products separately, although a substantial minority of customers choose to purchase their CAD and ICCS products from the same supplier. This would limit the extent to which the Merged Entity could foreclose rival suppliers of CAD, as CAD rivals would continue to be able to supply the majority of customers seeking a standalone CAD solution.
301. The CMA also considered the extent to which rival CAD providers could mitigate a loss in sales either by partnering with an ICCS supplier or offering a combined product themselves. There is evidence of partnering between ICCS and CAD providers, for example [X] has a collaboration agreement with CAD provider [X] and these two providers recently agreed to provide ICCS and CAD to the [X].²⁹⁹ Additionally, many competing ICCS providers either have or are developing a combined ICCS and CAD offering. Motorola, SAAB and Systel all currently offer both an ICCS and a CAD solution, while, [X].³⁰⁰
302. Finally, the CMA considered the importance of scale for CAD providers to understand if the loss of some proportion of their sales to the Merged Entity as a result of any foreclosure strategy could impact the overall competitiveness of their offering. The CMA notes that there are a number of smaller providers of CAD which are active in the supply of CAD to a small number of customers, and that views from fire and rescue customers indicate that smaller suppliers are considered to be viable alternatives. Therefore, it appears that some loss in scale may not lead to rival CAD providers becoming uncompetitive.
303. Overall, the CMA has concluded that the Merged Entity would lack the ability to foreclose CAD competitors, on the basis that:
- (a) Post-Merger there remain a few suppliers of ICCS that emergency service customers could switch to and with which rival CAD providers could partner.
 - (b) Many customers have a preference to procure ICCS and CAD separately.
 - (c) Partnering between ICCS and CAD providers to win opportunities is common and provides an alternative way for customers to procure a

²⁹⁹ FMN, paragraph 20.9.1.

³⁰⁰ [X].

joined-up ICCS and CAD solution; additionally, there are a number of providers already offering a combined ICCS and CAD solution.

- (d) The existence of a number of smaller CAD providers that are considered viable alternatives by customers indicates that a loss in scale would not significantly impact the overall competitiveness of a CAD rival.

Incentive and effect

304. Given the CMA's conclusion that the Parties would not have the ability to foreclose CAD competitors, the CMA did not need to assess the Parties' incentive to do so, or the possible effects of any such strategy.

Conclusion on conglomerate effects

305. For the reasons set out above, the CMA believes that the Merged Entity would lack the ability to foreclose CAD competitors. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of conglomerate effects in relation to the supply of CAD in the UK.

Barriers to entry and expansion

306. Entry, or expansion of existing firms, can mitigate the initial effect of the acquisition on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.³⁰¹ In terms of timeliness, the CMA's guidelines indicate that the CMA will look for effective entry to occur within two years.³⁰²
307. The evidence received by the CMA from third parties does not indicate that entry or expansion will be timely, likely or sufficient to prevent a realistic prospect of an SLC arising.

Parties' submissions

308. The Parties submitted that for each of ICCS, Duties, and RMS barriers to entry facing potential international (and, in certain cases, UK) suppliers and barriers to expansion facing existing competitors respectively 'are at least readily surmountable'.³⁰³ Specifically, the Parties submitted that:

³⁰¹ [Merger Assessment Guidelines](#), paragraph 8.31.

³⁰² [Merger Assessment Guidelines](#), paragraph 8.33.

³⁰³ FMN, paragraph 22.2.

- (a) in relation to ICCS, there is a history of successful UK entry with US-based Motorola being the most recent entrant in the UK in 2016, and there are a number of international and UK suppliers with the experience and resources to expand.³⁰⁴
- (b) in relation to Duties, there are a number of international suppliers of ERP solutions such as Unit4 and Advanced that currently supply ERP solutions to certain UK emergency services customers and sub-contract the Duties component for their ERP solution, but could readily develop their own Duties capability. Longstanding UK emergency services workforce management providers such as Crown and Totalmobile and existing international ERP suppliers such as SAP and Oracle have significant capacity, experience and resources to expand.³⁰⁵
- (c) in relation to RMS, NECSWS entry in 2011, which was facilitated by a substantial framework opportunity awarded by the Athena group of 7 police forces, demonstrates that police customers are able to support new entry. There are also a number of international and UK suppliers, including Mark43 and Hexagon, which are highly credible potential entrants.³⁰⁶

ICCS

- 309. The CMA considers that there are entry barriers as regards ICCS as evidenced by internal documents and third party evidence.
- 310. An internal document from SSS describes the threat of new entry as 'low' as entrants need to build Airwave specific technology and 'certification required from authority for new products is potential barrier/cost to entry.'³⁰⁷
- 311. The CMA also notes that the examples listed by the Parties all relate to existing players in the UK market that have been active for a significant period of time (Frequentis since 2005 and SAAB and Motorola since 2016). The overall pace at which these suppliers have grown has also been slow, with no supplier achieving a share of supply of more than [X] [5-10]% across emergency services despite being active in the UK for [X] years. The CMA also notes that at least one of those competitors entered the UK by purchasing an existing player (Motorola acquired Cyfas), a strategy that was also pursued by NECSWS that purchased APD and Northgate. The CMA

³⁰⁴ FMN, paragraph 22.3.

³⁰⁵ FMN, paragraph 22.5.

³⁰⁶ FMN, paragraph 22.5.

³⁰⁷ [X] slide 40. The CMA notes that this slide also states that entry barriers may be lower once the new ESN is in place. However, ESN is still under development and not envisaged to be live within the next two years.

considers that only few competitors have entered the UK ICCS market organically.

312. An existing competitor also told the CMA that it would be difficult for a non-UK player to enter the market because of the need to develop its solution to work with ESN. The competitor also said that customers often ask for UK references as part of their procurement processes.³⁰⁸ Another competitor also confirmed that the development of ESN capability is a barrier to entry and also mentioned that the ability to integrate with other products such as CAD, Duties and RMS was essential.³⁰⁹
313. A number of police customers told the CMA that they had a low risk appetite and therefore would not be a first adopter of a non-UK entrant.³¹⁰ One customer said that security rules would prevent it from using non-UK suppliers.³¹¹ Likewise, other customers said that there were negative factors involved when employing a non-UK supplier, ie checking for security compliance, lack of references and a UK presence needed.³¹²
314. The CMA has received no evidence that international suppliers intend to enter the UK.

Duties

315. The CMA considers that there are entry barriers as regards Duties as evidenced by internal documents and third party evidence.
316. An internal document from SSS indicates that the threat of new entry is low because of 'complex regulatory environment resulting in high cost of entry [and] large MVP including significant interfacing regs. Needing high up-front investment'.³¹³ Another internal document from SSS also highlights customer stickiness stating that it is a '[v]ery slow moving market. Contract terms +10years. Customer change suppliers as part of a wider back office restructuring exercise'.³¹⁴
317. A third party mentioned that a potential barrier was the need to have a 'reference base, specialist functionality and presence'.³¹⁵ Another third party

³⁰⁸ [redacted].

³⁰⁹ [redacted].

³¹⁰ [redacted].

³¹¹ [redacted].

³¹² [redacted].

³¹³ [redacted] slide 103.

³¹⁴ [redacted].

³¹⁵ [redacted].

said that although it competed routinely with overseas suppliers these did not seem to gain any traction with UK police customers.³¹⁶

318. One customer said that security rules would prevent it from using non-UK suppliers³¹⁷ while another customer mentioned that ‘UK Police legislation and terms and conditions for HR and DMS [is] likely preventative of immediate viable alternatives from other countries’.³¹⁸ A few other customers said that they were unlikely to employ a non-UK provider as the location of the data was important to them.³¹⁹

RMS

319. The CMA considers that there are entry barriers as regards RMS as evidenced by internal documents and third party comments.³²⁰
320. An internal document from SSS mentions that ‘threat of new entry’ is ‘low’ because development costs are prohibitive and that there are high costs for customers to switch.³²¹ The document also notes that opportunities do not arise often highlighting that in the next five years there will be [redacted] opportunities and that customers are ‘exhibiting ‘consortia behaviour’ procuring what their partner or adjacent forces are buying’.³²² Another SSS internal document also highlights customer stickiness noting that: ‘typically RMS contracts are between 5-10 years with most forces renewing at least once due to high cost of implementation’.³²³
321. A third party also confirmed that there are barriers to entry in the UK. This is because it is an entrenched market with a few established players and the limited size of the market would make it unattractive for outside UK competitors to enter.³²⁴ Another third party also told the CMA that there were barriers to entry and mentioned, in particular, limited customer appetite for change with RMS software being monolithic, and containing vast amounts of sensitive material and around which police forces have established multiple business processes. To change these processes would be a considerable undertaking and with the risks around Data Protection and Management of Police Information (MOPI) the cost of change would be significant.³²⁵

³¹⁶ [redacted].

³¹⁷ [redacted].

³¹⁸ [redacted].

³¹⁹ [redacted].

³²⁰ See also the discussion at paragraphs 247 to 254.

³²¹ [redacted], slide 104.

³²² [redacted] slide 124.

³²³ [redacted].

³²⁴ [redacted].

³²⁵ [redacted].

322. This was confirmed by a customer who said that the biggest challenge ‘is the commitment in terms of resources, time and cost that a force would have to make in order to get the product ready for use in the UK – for example PACE compliance and Home Office reporting requirements.’³²⁶ A number of other customers noted security concerns in relation to using a new entrant.
323. Although the CMA has received evidence that one international supplier is looking to enter the UK (see further paragraph 249), the CMA has received no evidence that any other international suppliers intend to enter the UK.

Countervailing Buyer Power

324. The Parties submitted that all emergency customers have significant countervailing buyer power for the following reasons:
- (a) They are able to use multi-force or multi-service tenders for contracts and framework agreements.³²⁷
 - (b) The cycle of tenders and framework agreements enhances the buyer power of emergency services customers by raising tension between suppliers during competitive bidding process. It also imposes competitive discipline on suppliers during the contract period given the credible threat of switching at the end of the contract period, or, at significant reputational and financial cost to the supplier, terminating during the contract period.³²⁸
 - (c) Large police forces, fire brigades and ambulance services stand in a very strong bargaining position and are able to demand substantial product investment from suppliers, with the advantages of improved product quality and innovation carried across through an umbrella effect into offerings in the wider market.³²⁹
325. The CMA considers that it has not seen evidence of any countervailing buying power in any of the markets concerned.
326. First, based on the CMA’s analysis of the Parties’ opportunities data, the CMA notes that the large majority of contracts for ICCS, Duties and RMS are direct awards. Competitive tender processes are relatively uncommon. See further paragraph 32 above.

³²⁶ [32].

³²⁷ FMN, paragraphs 23.5 – 23.7.

³²⁸ FMN, paragraph 23.8

³²⁹ FMN, paragraph 23.9.

327. A number of customers also told the parties that they had not tested the market for many years. This is reflected in internal documents which suggest that contracts are long (particularly for Duties and RMS) and that customers are ‘sticky’. For example, one internal SSS document suggests that customers for ICCS, Duties and RMS ‘have little appetite for change’ and that solutions are ‘sticky’.³³⁰
328. Moreover, even for those procurement processes where there was some degree of competition, very few suppliers participated on average (see paragraphs 127(a), 194(c), 226(b) and 226(c) above). More generally, the CMA considers that the Parties face few material rivals for each of the products in question (see paragraphs 186, 217, and 243). As per the CMA’s Merger Assessment Guidelines, a customer’s buyer power depends on the availability of good alternatives they can switch to³³¹ and the CMA therefore considers that for each of the products considered in this Decision where the CMA has found significant competition concerns, buyer power is unlikely to be present.
329. Internal documents also indicate that customers in these markets do not possess buyer power. An internal SSS document mentions that [redacted] and buyer power is low for ICCS, RMS and Duties:
- (a) as regards ICCS, the document states that there is low buyer power, as there are a limited number of established players in the market, ICCS are complex integrated solutions, strong customer relationships influence buying and buying decisions are strategic with budgetary cycles.³³²
 - (b) as regards RMS, the document states that there is low/medium buyer power because of ‘limited market choice – few suppliers, strategic buying decisions – Long term contracts’ and [redacted].³³³
 - (c) as regards Duties, the document suggests that there is low buyer power because of a ‘limited number of suppliers in market, complex enterprise solutions, strong customer relationships and strategic buying decisions’ and ‘limited annual market; few opportunities to win’.³³⁴
330. The CMA has received no evidence that customers intend to start to self supply any of the products in question and, as stated above in paragraph 310, customers are generally reluctant to sponsor entry.

³³⁰ [redacted] slide 103 and 104.

³³¹ [Merger Assessment Guidelines](#), paragraph 4.20.

³³² [redacted] slide 40.

³³³ [redacted] slide 104.

³³⁴ [redacted] slide 103.

Conclusion on substantial lessening of competition

331. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to:

- (a) the supply of ICCS to emergency service and transport customers in the UK,
- (b) the supply of Duties to police customers in the UK; and
- (c) the supply of RMS to police customers in the UK.

Exceptions to the duty to refer

332. Where the CMA's duty to refer is engaged, the CMA may, pursuant to section 22(2)(a) of the Act, decide not to refer the merger under investigation for a Phase 2 investigation on the basis that the market(s) concerned is/are not of sufficient importance to justify the making of a reference (the ***de minimis* exception**). The CMA has considered below whether it is appropriate to apply the *de minimis* exception in the present case as the Parties noted that the total value of supply of Duties to police forces is *de minimis* (below £10 million per year).³³⁵

333. In assessing whether the markets concerned (ie those where the duty to refer is met) are sufficiently important to justify the making of a reference, the CMA's guidance on Exceptions to the Duty to Refer states that the CMA will consider the aggregate value of the markets concerned.³³⁶ The CMA considers that the markets concerned will generally be of sufficient importance to justify a reference (such that the exception will not be applied) where the annual value in the UK, in aggregate, of the markets concerned is more than £15 million. As the annual value in the UK of the supply of ICCS to emergency services, Duties to police forces and RMS to police forces in aggregate is substantially in excess of £15 million,³³⁷ the CMA considers that the markets concerned are sufficiently important to justify a reference. The CMA therefore believes that it is not appropriate for it to exercise its discretion to apply the *de minimis* exception.

³³⁵ Parties' slides presented at issues meeting with the CMA on 6 April 2022, slide 15 and Parties' response to Issues Letter, paragraph 6.15.

³³⁶ [Mergers: Exceptions to the duty to refer](#), paragraph 8.

³³⁷ See for example, [3<], slide 5- the ICCS UK market is valued at [3<] million, while the RMS UK market is valued at [3<] million.

334. Consequently, the CMA believes that it is or may be the case that (i) a relevant merger situation has been created; and (iii) the creation of that situation has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom.
335. The CMA therefore believes that it is under a duty to refer under section 22(1) of the Act. However, the duty to refer is not exercised whilst the CMA is considering whether to accept undertakings under section 73 of the Act instead of making such a reference.³³⁸ NECSWS has until 9 May 2022³³⁹ to offer an undertaking to the CMA.³⁴⁰ The CMA will refer the Merger for a phase 2 investigation³⁴¹ if NECSWS does not offer an undertaking by this date; if NECSWS indicates before this date that it does not wish to offer an undertaking; or if the CMA decides³⁴² by 16 May 2022 that there are no reasonable grounds for believing that it might accept the undertaking offered by NECSWS, or a modified version of it
336. The statutory four-month period mentioned in section 24 of the Act in which the CMA must reach a decision on reference in this case expires on 4 May 2022.
337. For the avoidance of doubt, the CMA hereby gives NECSWS notice pursuant to section 25(4) of the Act that it is extending the four-month period mentioned in section 24 of the Act. This extension comes into force on the date of receipt of this notice by NECSWS and will end with the earliest of the following events: the giving of the undertakings concerned; the expiry of the period of 10 working days beginning with the first day after the receipt by the CMA of a notice from NECSWS stating that it does not intend to give the undertakings; or the cancellation by the CMA of the extension.

David Stewart
Executive Director, Markets and Mergers
Competition and Markets Authority
29 April 2022

³³⁸ Section 22(3)(b) of the Act.

³³⁹ Section 73A(1) of the Act.

³⁴⁰ Section 73(2) of the Act.

³⁴¹ Sections 22(1) and 34ZA(2) of the Act.

³⁴² Section 73A(2) of the Act.