

**DEROGATION LETTER
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED
PURSUANT TO SECTION 72(2) ENTERPRISE ACT 2002**

Consent under section 72(3C) of the Enterprise Act 2002 to certain actions for the purposes of the Initial Enforcement Order issued by the Competition and Markets Authority ('CMA') on 21 December 2021.

Acquisition by NEC Software Solutions UK Limited of Capita (SSS) Limited and Capita Software (US) LLC (the 'Merger')¹

We refer to your emails of 25 August 2022 requesting that the CMA consents to derogations to the Initial Enforcement Order of 21 December 2021 (the '**Initial Order**'). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent by the CMA, NEC Corporation ('**NECJ**'), Garden Private Holdings Limited ('**GPHL**') and NEC Software Solutions UK Limited ('**NECSWS**') and its subsidiaries (the '**NEC business**') are required to hold separate the NEC business from SSS Public Safety Limited ('**SSS**'), Secure Solutions USA LLC ('**SUS**') and their subsidiaries (the '**SSS business**') and refrain from taking any action which might prejudice a reference under section 22 of the Act or impede the taking of any remedial action following such a reference.

After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, NECSWS may carry out the following actions, in respect of the specific paragraphs:

Paragraph 6(d) of the Initial Order

NECSWS requests a derogation from paragraph 6(d) of the IEO to enable NECSWS [X].

The CMA understands that [X] as a consequence of a change in legislation [X]. The CMA further understands that NECSWS intends to [X] to enable them to obtain an alternative solution, either from NECSWS or from alternative providers.

¹ Now SSS Public Safety Limited and Secure Solutions USA LLC, respectively, and further referred to as 'SSS'.

In light of the above, the CMA consents to grant a derogation from paragraph 6(d) of the Initial Order to take all necessary steps to [REDACTED]. This derogation is granted so that NECSWS is not required to maintain a [REDACTED].

This derogation is provided on the basis that:

- a) no changes are made to NECSWS' business other than those outlined in the derogation request;
- b) this derogation will not result in integration of the SSS business and the NECSWS business;
- c) this derogation does not impact the viability of the NECSWS business during the term of the Initial Order;
- d) this derogation will not impact the ability of the SSS business to compete independently of the NECSWS business; and
- e) this derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger.

Paragraphs 6(a) and 6(g) of the Initial Order

On 6 January 2022 the CMA granted a derogation request to allow NECSWS to take all necessary steps to facilitate the transfer of certain pensions benefits for particular SSS staff (the '**Pensions Derogation**').

The CMA understands that the following points have arisen as a result of permitted discussions that have taken place pursuant to the Pensions Derogation:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- NECSWS has instructed [REDACTED] to advise on pensions matters (the '**External Pensions Advisers**') and has internal expertise in this area, whereas SSS [REDACTED]. Therefore, NECSWS and SSS submit a joint derogation request to

enable NECSWS to provide the necessary internal and external expertise to assist SSS with the above decision-making.

In light of the above, NECSWS requests derogations from paragraphs 6(a) and 6(g) of the IEO for the NECSWS individuals listed below (the '**Authorised Individuals**') and the External Pensions Advisers to advise and make recommendations to SSS on [X] (collectively, the '**Pensions Advice**')

NECSWS Individual	Role	Reason for inclusion
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]

In light of the above, the CMA consents to grant a derogation from paragraphs 6(a) and 6(g) of the Initial Order to take all necessary steps to provide the Pensions Advice. This derogation is granted to ensure that the SSS business is maintained as a going concern as its work force is essential to maintain its continued viability.

This derogation is provided on the basis that:

- a) the role of NECSWS and the External Pensions Advisers shall be advisory only and SSS shall be the ultimate decision maker;
- b) SSS requires the Pensions Advice [X];
- c) None of the [X] form part of SSS's key staff;
- d) no changes to the list of Authorised Individuals set out above are permitted without the prior written consent of the CMA (including via email);

- e) the Authorised Individuals will continue to use the Pensions and DIS Information² received pursuant to the Pensions Derogation exclusively for the Permitted Purpose³ and the safeguards included in the Pensions Derogation will continue to apply to treatment of the Pensions and DIS Information;
- f) the Authorised Individuals are limited to those that are strictly necessary to assist with and provide the Pensions Advice;
- g) the Pensions Advice will have no influence upon the commercial direction of the SSS business during the term of the Initial Order;
- h) should the CMA prohibit the Merger or require NECSWS to divest all, or part of, the SSS business, NECSWS will ensure that any records or copies (electronic or otherwise) of business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature, wherever they may be held, that were received from the SSS business for the Pensions Advice will be returned to the SSS business and any copies destroyed, except to the extent that record retention is required by law or regulation;
- i) this derogation will not result in integration between the SSS business and the NECSWS business; and
- j) this derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger.

Lesley Moore
Director, Mergers
2 September 2022

² As defined in the Pensions Derogation.

³ As defined in the Pensions Derogation.