

***Case No COMP/M.3396 -
GROUP 4 FALCK /
SECURICOR***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(2) NON-OPPOSITION
Date: 28/05/2004

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28/05/2004

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PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject: Case No COMP/M.3396 – Group 4 Falck / Securicor

Notification of 13.04.2004 pursuant to Article 4 of Council Regulation No 4064/89

1. On 13.04.04, the Commission received a notification of a proposed concentration by which Group 4 Falck A/S (“Group 4 Falck”) enters into a full merger within the meaning of Article 3(1)(a) of the EC Merger Regulation with Securicor plc (“Securicor”) by way of exchange of shares.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and raises serious doubts as to its compatibility with the common market and with the EEA Agreement. The commitments proposed by the parties fully remove these concerns.

I. THE PARTIES' ACTIVITIES AND THE OPERATION

3. **Group 4 Falck** is a Danish company listed on the Copenhagen Stock Exchange. It is the second largest security services provider globally with operations in more than 85 countries around the world. Group 4 Falck is organised in three main business divisions: security services (guarding and alarm services); rescue and safety services (such as fire, ambulance and rescue services) and global solutions, including justice services (such as prisoner transportation and immigration services).
4. **Securicor** is an English company listed on the London Stock Exchange operating in three main areas: cash services, justice services and guarding and alarm.
5. Prior to the merger, the Group 4 Falck will be de-merged into two new separate companies, Falck A/S and Group 4 A/S (“Group 4”), which will be listed on the Copenhagen Stock Exchange. The global solutions and the rescue and safety services will be transferred to Falck A/S. The guarding, alarm and cash services business will be transferred to Group 4.

According to the notification only the security business of Group 4 (“the merged assets”) will be merged to Securicor and therefore form part of the notified concentration.

6. The transaction will take place by way of an exchange offer, as laid down in the merger agreement concluded by the notifying parties on 24 February 2004. It is expected that the public offer would close in late June 2004 and completion would follow shortly thereafter. The new merged entity will be named Group 4 Securicor, plc.

II. COMMUNITY DIMENSION

7. In 2003 the world-wide turnover of Group 4 Falck was approximately € 3716 million (merger assets only) and of Securicor € 1971.6 million. The parties Community wide turnover was above € 250 million (Group 4 Falck 1644 million, Securicor 1316 million). The notified concentration therefore has a Community dimension.

III. COMPETITIVE ASSESSMENT

A. Relevant product markets

8. Group 4 Falck is active in security services (i.e., cash, guarding and alarm services), safety services (including ambulance, fire-fighting and rescue services) and justice services (“Global Solutions” covering a range of difference custodial services). Given that justice services business of Group 4 Falck will be first de-merged and then divested, these services do not form part of the assessment of the notified concentration.
9. Securicor provides security services (i.e, cash, guarding and alarm services) and justice services. The notified concentration therefore gives rise to overlaps in relation to the provision of cash, guarding and alarm services.

1. Cash services

10. Cash services can comprise the provision of cash-in-transit (CIT), cash management and the transport of high value items. For the purposes of the current case, the investigation will focus on CIT services, since the proposed concentration would not lead to overlaps for other cash services.

Cash in transit (CIT) services

11. Historically, cash transportation was an activity conducted in-house by the major banks and financial institutions. Retailers would rely on the “walk to bank”. Today specialist operators provide the majority of cash transportation services, at least for banks, financial institutions and larger retailers. In this regard, the CIT operator will enter into contracts with the financial institutions or retailers to provide cash transportation.
12. The physical transportation of cash (note or coin form) usually takes place in armoured vehicles. Most transportation take place between cash centres (where cash is stored, sorted and processed) and customer outlets (e.g. bank branches or retailers) and involves either the collection of cash from cash generating businesses and delivery to cash centres or vice-versa.
13. The notifying parties submit that cash services should be considered as distinct product markets as compared with other security activities such as guarding or alarm services. Within cash services, CIT services should also arguably be seen as a market on its own.

This contention is in line with previous decisions by National Competition Authorities such as the decision by the OFT in October 2002 with respect to the proposed acquisition by Securicor of the cash handling and distribution business of the Royal Mail Group plc.

14. The investigation carried out by the Commission widely confirmed the parties' submission: on the demand side, the transportation of cash in armoured vehicles constitutes a service quite different from the other cash handling service (mainly cash management) and, *a fortiori*, different from other security, safety or justice services. On the supply side, market participants indicated that a company active in other security services could not rely on the latter to quickly and easily enter the CIT business in case of a permanent and significant increase of the CIT prices: CIT services require specific heavy investment, in particular in armoured vehicles, electronic security devices (such as high-technology safes) and the protection of the personnel in charge of the transportation. In most countries, regulations apply specifically to CIT and impose that a specific license be delivered to operate CIT services. The training of the personnel is also much more advanced than in most activities of guarding (the CIT personnel commonly carry weapons while most guards do not). These distinctions are further evidenced by the fact that in most members states the structure of competition in the CIT market is significantly different from that on the other security markets.
15. The Commission also investigated whether the CIT services achieved in-house by certain banks or retailers should be included in the market for CIT services, as contended by the notifying parties. The vast majority of respondents made it clear that (i) the proportion of customers performing CIT in-house was limited and strongly declining, as they tend to out-source this non-core business to specialised companies; (ii) only the trend toward out-sourcing these services can be observed on the market. The companies which have once out-sourced these services rarely decide later on to in-source them since they do not have usually the related personnel and equipment any more. Therefore, a customer cannot credibly threaten a CIT provider to in-source the CIT services in case of price increase and only the market for out-sourced CIT services should be considered.
16. Within the CIT services offered to banks, the replenishment of remote ATMs is a service whose features are different from those of the traditional CIT services in several respects: These services require that the operating staff have specific skills in particular with a view to being able not only to replenish the ATM but also to perform some maintenance on it. As a result, the prices for remote ATM services are significantly higher than those for the mere transportation of cash, suggesting that two distinct markets may exist. However, if it seems difficult for providers of traditional CIT services to quickly enter the market for remote ATM servicing, the reverse does not hold true: the Commission has not found strong evidence suggesting that a provider of remote ATM services could not use its personnel and equipment to offer less demanding services such as traditional CIT. Therefore, in the absence of evidence, in the context of the present case, that two separate product markets should be distinguished, the Commission considers that the impact of the proposed transaction, in which the overlaps concern exclusively the traditional CIT services, must be assessed on the basis of the market for all CIT services including remote ATM services¹.

¹ It is worth noting that if the overlapping activities had been confined to remote ATM services, traditional CIT services should not necessarily be included in the relevant market since the providers of traditional CIT services may not be able to quickly switch to remote ATM services in the event of a slight but significant non-transitory increase of price.

2. Guarding and alarm services

17. Activities in the overall guarding and alarm industry can be segmented in a number of different ways. For the purpose of the current investigation there are in particular four segments that appear to be important: (a) manned guarding services; (b) electronic guarding equipment; (c) services of remote security monitoring & response; and (d) aviation security services.
18. According to the parties, manned guarding would encompass services such as: (i) uniform on-site guards; (ii) guard patrols; (iii) retail guards and plain clothes store detective; (iv) key-holding; (v) vehicle escort services; (vi) dog patrol; (vii) anti-terrorist and diplomatic security; (viii) information security services; (ix) training and security methods; (x) consultancy and risk management and auditing. Further, they submit that services of remote security monitoring and response would be part of the manned guarding segment and not electronic guarding.
19. The parties submit that electronic guarding equipment would consist of the technical installation and maintenance of alarms; access control; and fire alarm or CCTV² systems.

Integrated Security Services

20. The parties submit that the relevant product market for the purposes of the assessment of the current transaction is the market for integrated security services. This market would comprise manned guarding and electronic guarding equipment combined, excluding aviation security services as described above. In their view there is an existing and continuing trend for customers to seek guarding and alarm services in a multitude of packages reflecting a wide range of requirements and often customers look for an integrated security solution (involving a mix of manned and electronic guarding to meet their security needs). An important element in this regard is that the cost of electronic solutions is falling rapidly as compared to the general rising cost of manned solutions – electronic guarding is increasingly providing customers with substitutes for manned guarding solutions.
21. In terms of supply, the parties submit that those suppliers that offer the full range of manned guarding and electronic guarding equipment will be able to rapidly readjust the content of the package to supply the full range of consumer requirements for integrated security services. In relation to those suppliers of manned guarding or electronic guarding equipment that supply only a limited range of the products or services, there are, in the parties' view, great possibilities to enter into cooperation agreements with suppliers of the complementary elements. Such flexible solutions are, it is submitted, providing a very competitively priced alternative. In support of this argument the parties point to the fact that they both have such arrangements.
22. The parties have also claimed that the security services achieved in-house by certain banks or retailers should be included in the market. Similarly to the CIT markets, the Commission's investigation has however confirmed that in-house services do not form part of the relevant market.

(i) Manned guarding services vs. electronic guarding equipment

² CCTV: Close-Circuit TV

23. The market investigation indicates that the majority of customers would not replace their manned guarding requirements for electronic systems, as they serve different needs. Although guards can detect and identify security problems, customers primarily use manned guarding services to deter and prevent such problems, thanks to the physical on-site presence of guards and the possibility of an immediate response. Electronic guarding equipments allows only the detection of security problems (eventually leading to an *ex post* reaction). Finally, manned guarding services are particularly necessary for a number of specific services such as access control or reception services. Manned guarding cover a number of specific deterrent and preventive requirements that customers cannot substitute by electronic guarding equipment.
24. From the supply side, the market investigation has confirmed that both services are quite different in terms of applicable regulations, investment, cost structure, training, know how, etc. A large number of suppliers of manned guarding services does not provide electronic guarding equipment and vice versa; the market investigation shows that these companies regards the two segments as a different business. In fact, only a few companies, generally the largest ones, provide a combination of both services. The parties recognise that for instance, Securicor does not have a strong presence in respect of electronic guarding.
25. The Commission have observed that since the use of electronic guarding equipment is less costly than that of manned guarding services, many customers tend to cover to the extent possible their security detection requirements by electronic equipment. Consequently, customers increasingly tend to combine both types of security services. However, the complementary nature of these services does not amount to the substitutability of these services and thus to the existence of one single market of “integrated security services”. As discussed earlier, there are a certain number of requirements of customers currently covered by manned guarding services that cannot be satisfied by electronic guarding equipment. In this regard, the parties themselves recognise that the number of manned guarding contracts containing a significant proportion of electronic guarding is actually very limited.

(ii) Manned guarding services vs. alarm monitoring and response activities

26. The parties submit that remote security monitoring and response services forms part of the manned guarding services. Alarm monitoring and response services, however, present many particularities that differentiate this activity from both manned or electronic guarding. While electronic guarding does not require human intervention, apart from the initial installation and a punctual service of maintenance and repair, alarm monitoring and response requires a continuing human interaction. The degree of such intervention depends on the type of response agreed with the customers (from simple monitoring with no response or a simple phone call to the police or the customer, to the deployment of mobile patrols). However, contrary to manned guarding, this service is not provided on-site but from a distance, via a monitoring centre, and the human intervention is made *ex post*. These elements exclude the typical deterrent or preventive effect of manned guarding services. The parties claim that alarm monitoring and response have also a certain deterrent effect; however, such effect is not comparable to a physical presence on-site, which makes an immediate -or even preventive- reaction possible. The parties argue that for customers owning their own monitoring centre, the reaction time would be much faster, as the monitoring activities are performed inside the guarded premises. The Commission considers that customers owning their monitoring centre constitute an exception rather than the rule and, in all events, the possibility of a faster reaction does not equal to the deterrent effect of having on-site guards.

27. The cost of these services are also different. For instance, because of the different degree of human intervention, the cost of alarm monitoring and response is cheaper for customers than manned guarding services. In effect, as a general rule, the monitoring staff and response guards are not devoted to a single customer but cover a large number of clients. In this manner, the costs for the guards and other personnel in the alarm monitoring and response services are shared by more than one customer. Finally, the purchase of electronic equipment would be the cheapest option for customers. The market investigation has confirmed that, although customers see manned guarding, alarm monitoring and response and electronic guarding equipment as complementary, they do not consider them to be substitutable activities.
28. From the supply side, the investments are different. For instance, as mentioned before, the weight of wages in the total costs is less important for alarm monitoring and response than manned guarding. Further, suppliers would require to build and equip a monitoring centre to offer monitoring services. The know-how, training, technologic elements and regulatory requirements of manned guarding, alarm monitoring and response and electronic guarding are also different. The Commission has observed that some security companies offering alarm monitoring and response activities do not necessarily provide electronic guarding equipment or manned guarding services or vice versa (for instance, Pedus in Luxembourg, Chubbs or Initial Varel in The Netherlands and, in general, a multitude of electronic and technology companies that only produce alarm systems).

(iii) Conclusion

29. The Commission therefore considers that, for the purpose of assessing the present case, the provision of manned guarding, alarm monitoring and response and electronic guarding equipment (i.e. alarm installation and maintenance) services constitute three distinct product markets.

Aviation Security Services

30. The parties submit that there is a distinct market for the provision of aviation security services, which although comprising elements of manned and electronic guarding should be considered distinct due to the specialised nature of the services and the specific regulations that apply. Such a definition has been proposed by the parties further to the past conclusions of the UK Competition Commission³ and has been confirmed by the Commission's investigations.
31. Customers of aviation security services would either be the airlines or airports. The services are normally provided as packages of specialised products and services. The extent to which an airline or airport decides to outsource security services may vary. As a result, the Commission had to establish whether achieving these services in-house is a real alternative for customers who formerly decided to outsource them, i.e. whether in-house aviation security services should be taken into account. Similarly to the trend observed in CIT services, the vast majority of respondents indicated that (i) airlines rarely achieved these services in-house as it is not part of their core business and (ii) airports may perform these services using their own staff or, more often, relying on a dedicated subsidiary. However,

³ See "Proposed acquisition by Group 4 Falck of the Wackenhut Corporation", October 2002.

once an airport (or an airline) has decided to out-source aviation security services to a specialised company it is extremely rare that the reverse process takes place later on. This is due to the fact that by out-sourcing these highly specialised services the airport (or airline) disposes of its ability to perform the services in-house (both in terms of trained staff and up-to-date equipment). Out-sourcing is also a way to focus on its core business and have a better control on price and quality of the services actually performed. None of the respondents which had out-sourced the aviation security services considers in-sourcing these services in the near future. No evidence was found that September 11 may have altered the ongoing out-sourcing trend. As a result and for the purpose of assessing the present case, the Commission considers the aviation security services provided to airports and airlines as the relevant product market.

B. Relevant geographic markets

1. Cash services

32. The notifying parties argue that, although the service is supplied on a local, regional or national basis, depending on customer requirements, the geographic market is national. The parties affirm that there is almost no instances in which CIT services are procured on a EU-wide basis. They also state that the degree of overlap between depots and the different geographical scope of customer demand is sufficient to rule out the possibility of regional or local CIT markets.
33. The market investigation has confirmed that the market for CIT services were at most national in scope given the lack of cross-border CIT services, the different regulatory regimes prevailing in each country. This is evidenced by the very different market structure from one country to another.
34. The CIT services are carried out using armoured vehicles and specialised personnel from a depot or a network of depots. The radius around a depot within which customers can be economically supplied varies depending on the density of customers and the presence of other depots. According to the parties⁴, the catchment area of a depot typically ranges from 50km to 80km in urban areas and up to 150-200km in rural areas. The investigation⁵ tends to show that the second range is rather uncommon. The degree of overlap between depots might vary from country to country, potentially leading to narrower geographic markets, i.e. regional or even local markets. Besides, even when two catchment areas overlap; it may be questioned whether there is actually a substitution chain in a similar manner as for retail activities. Contrary to retailers, the CIT suppliers are fully aware of the location of the customers that they serve. As a result, absent national and public price lists, the overlap between two catchment areas may force the CIT suppliers to align their prices, but only in the area where the suppliers know that they are competing with each other, i.e. only where the catchment areas overlap. As a result, there is not necessarily a transmission chain of the competitive environment along the overlapping catchment areas.

⁴ The parties' submission on 7 May 2004 (question 4)

⁵ The Commission asked the parties to provide precise estimates of the catchment areas around the depots in Scotland, where the operation could raise serious doubts. Most of Scotland can be considered as a rural area but the catchment areas provided by the parties range from [30-80] km only (The parties' submission on 7 May 2004 (question 4)).

35. As a result, in each member state where the notifying parties were providing CIT services⁶, the Commission assessed whether the location of depots and the subsequent overlaps of catchment areas led to narrower geographic markets.
36. In Luxemburg, each active national player has only one depot used to serve all customers in this country. The market for CIT services in Luxemburg is thus national in scope.
37. As regards CIT services in The Netherlands, the parties submit that this market would be national in scope. No third party contended that this market could wider than The Netherlands. Group 4 Falck has *de minimis* activities⁷. The exact definition of the geographic market can therefore be left open since no competition concern arises irrespective of the definition retained.
38. As regards CIT services in Germany, the exact definition can be left open as the proposed merger does not raise serious doubts in this respect irrespective of the geographic market considered (be it national or on the other side of the scale purely local). To arrive at this conclusion, the Commission assesses in subsequent sections competition issues both at the local and at the national level.

Scotland has to be considered as a distinct geographic market

39. Lastly, as regards CIT services in the UK, the investigation carried by the Commission has shown that Scotland should be considered as a distinct geographic market within the UK for the reasons described below.
40. Group 4 Falck has provided CIT services across the whole UK until 1993, when they sold their entire CIT activity in the UK but that achieved in Scotland, comprising three depots (Edinburgh, Glasgow and Inverness). These activities are performed through Group 4 Falck's subsidiary Group 4 CIT Scotland Ltd, recently renamed Group 4 Falck Cash services UK Limited. Group 4 Falck also operates a CIT depot in Manchester, England. Securicor has numerous depots across the UK, among which four are located in Scotland, in Inverness, Aberdeen, Glasgow and Edinburgh. Other CIT depots in Scotland are operated by the Post Office and Brink's and are located in cities mentioned above or nearby.
41. The catchment areas of the depots located in Scotland appear not to overlap with those of the closest depots of Northern England. In order to estimate the width of the catchment areas which may play a role in this region, the Commission asked⁸ the parties to provide, for each depot located in Scotland or less than 150km away from Scotland, the smallest radius within which 80% of the customers supplied from the depot were located. Group 4 Falck replied that "the majority of the business is located in the vicinity of the depots and a rough estimate suggests that this radius would be in the range of [30-50] km"⁹. Securicor provided the table below indicating the radii relating to their four Scottish depots as well as

⁶ These are the following: Germany, Luxemburg, the UK and the Netherlands.

⁷ Only one customer served from Belgium and accounting to [0-5]% market share according to the parties' submission on 24 May 2004.

⁸ Article 11 letter sent to each notifying party on 4 May 2004

⁹ Reply to an article 11 request on 7 May 2004, question 4.

those for the two depots that could potentially impact on competition in Scotland: Carlisle and Newcastle-upon-Tyne.

Depot	Economic radius (km)
Glasgow	[...]
Edinburgh	[...]
Inverness	[...]
Aberdeen	[...]
Carlisle	[...]
Newcastle	[...]

Source: Securicor, 7 May 2004

42. Given the time constraint, the Commission has not been in a position to gather information about the scattering of the competitors' customers. However, the competitors' depots are located in the same areas as those of the notifying parties and the parties' competitors address the same types of customers. The Commission has therefore not found evidence showing that the catchment areas of the competing depots should be significantly different.
43. Besides, the competitors' most southern Scottish depots are located in Glasgow and Edinburgh and their most northern English depots are around Carlisle and Newcastle. In order to determine whether there is a continuum of overlapping catchment areas between Scotland and England, it thus suffices to check whether the catchment areas around Edinburgh and Glasgow intersect those around Carlisle and Newcastle. As indicated in the table below¹⁰, the distances between these cities are higher than the catchment areas. As a result, only a marginal number of Scottish customers if any could also be supplied from depots located in Northern England. This has been confirmed by Scottish customers: when asked whether they could be supplied from depots located outside Scotland, most respondents explained that this seemed not to be economically sound due to the distance. The Commission therefore came to the conclusion that there is a break in the chain of substitution between Scotland and England.

Distance (km)	Carlisle	Newcastle
Glasgow	155	246
Edinburgh	148	191

44. A third party submitted a study of the competition structure in the UK, comprising a precise analysis of the relevant geographic market. This study seeks to assess the extra costs that a competitor would face if it decided to serve Scottish CIT customers from a depot located in England. It considers two possible locations for English depot: (i) the closest English depot to Scotland, i.e. located in Carlisle (155km away from Glasgow) and (ii) the closest English depot which is operated by a CIT supplier that has no depot in Scotland, i.e. located in Bradford (394km away from Glasgow). Since the armoured cars have to be parked in the depot overnight, such a competitor would have to drive the armoured car from the English depot up to Scotland in the morning and back to the depot in the evening.

¹⁰ Source: Mappy (www.mappy.com)

45. For each of the two above-mentioned possible locations, the study computes the extra cost that the competitor would thus face, taking into account the time needed, the wages of the driver/guards and the running costs of the van (fuel, oil, tyres and maintenance). As a result, cost differential would be as high as 13%-15%¹¹ of the revenues, if the depot is located in Carlisle and 29%-35% if it is located in Bradford. In case of a permanent 5%-10% increase of the prices in Scotland, it would therefore not be profitable for a competitor to start serving Scottish customers from Northern England.
46. The figures and assumptions used in the study seem reasonable and derive from publicly available information. The Commission provided the notifying parties with a non-confidential version thereof in order to identify whether there may be pitfalls in the reasoning or in the underlying assumptions. The parties did not bring forward any comment.
47. In light of the above, the Commission takes the view that, in the context of the present case, Scotland should be considered as a relevant market for CIT services.

2. Manned guarding, electronic guarding equipment and aviation security services.

48. The notifying parties submit that the relevant geographic markets for other security services are likely to be national in scope. For manned and alarm guarding services, the parties argue that chains of substitution across national jurisdictions are likely to prevent the build up of market power in any other geographic area. For aviation security services, the parties underline that contracts are concluded for several years and hence there is sufficient stability to ensure that providers will relocate resources to supply at the very least within national boundaries. They also mention the existence of specific national legislation in aviation security. In general, as is the case for CIT services, multinationals does not procure security services at the EU-level and tend to do use different providers in different jurisdictions.
49. Overall the response to the market investigation confirms the views of the parties. The Commission has observed that the markets appears to be national due to the existence of specific national regulations and standards, such as licenses for both the companies and their employees, language differences and national preferences derived from the reputation of each of the players at the national level. The Commission has observed that such national requirements impede securities companies to expand to new geographic markets by simple organic growth; this is why there is a tendency to acquire already existing small or medium size companies to enter new markets. This might be one of the reasons why the geographic presence of the main security companies within the EU is highly fragmented: a company could have a strong presence in one Member State while being completely inexistent in a neighbouring geographic market. This provides a strong indication that the markets for manned guarding, including alarm monitoring and response, electronic guarding equipment and aviation security services are national in scope.

C. Assessment

50. The proposed concentration would give rise to overlaps and affected markets in relation to the provision of CIT services in four Member States (Germany, United Kingdom,

¹¹ One driver, one guard. 15% extra costs when standing costs (insurance, depreciation, etc.) are taken into account.

Luxembourg and The Netherlands); in manned guarding services in four Member States (Ireland, Luxembourg, The Netherlands and United Kingdom); in alarm monitoring and response in two Member States (Luxembourg and The Netherlands); in electronic guarding equipment in Luxembourg and in aviation security services in the United Kingdom.

51. As a general remark before assessing the affected markets, it should be underlined that the market investigation has shown that security services markets in Europe have two common characteristics. First, there are close links between the different product markets defined above. Many customers, particularly the largest ones, have expressed a clear preference for a single point of contact for all their security requirements, particular for guarding services. These customers would therefore tend to contract with large suppliers with a large portfolio offer. In this context, the small players in the market of security services could only cover the specific needs of smaller customers that only require a very limited and particular type of service. Second, customers attach a great importance to reputation and in general, prefer suppliers with international, well-known brand names such as the merging parties, Brinks, Chubbs and Securitas. This would explain the high degree of concentration of the markets of security services in Europe, where a few large national suppliers, mainly international firms, enjoy high market shares in each national market, while a small part of the market is shared by a large number of small local players competing for smaller contracts.

1. CIT services

Germany

52. Contrary to many other CIT markets in Europe which are highly concentrated, the market for CIT services in Germany is characterised by a high number of players. According to market participants, as many as fifty different companies offer CIT services in Germany in specific geographic areas.

(i) Impact of the proposed operation at the national level

53. When looking at the sales aggregated on a national basis, the proposed operation would create a combined entity being the third largest player in Germany, behind Heros ([20-30]%) and Securitas ([10-20]%), and followed by numerous smaller players. Any serious doubt as to the creation of a dominant position at the national can therefore be excluded.
54. Several customers even considered that the transaction would be pro-competitive since it would create as stronger player, both in terms of resources and geographic coverage, which could more effectively compete with the two leading CIT companies, namely Heros and Securitas.

Players	Sales	Share
Securicor	[...]	[10-20]%
Group4Falck	[...]	[0-10]%
Combined	[...]	[10-20]%
Heros	[...]	[20-30]%
Securitas	[...]	[10-20]%
Cash Logistik	[...]	[10-20]%
GUW	[...]	[0-10]%

Brink's	[...]	[0-10]%
Kötter	[...]	[0-10]%
Others	[...]	[10-20]%
Total	500 ¹²	100%

Source: The Commission's investigation, Year 2003

(ii) Impact of the proposed merger at the local level

55. In order to assess the possible impact of the proposed transaction at the local level, the Commission asks the notifying parties to identify all their depots in Germany which are distant from one another by less than 50km¹³. This way, the Commission identified the areas where there are overlaps between the CIT activities of the merging parties. The overlapping areas are limited to Berlin, Leipzig, München, Stuttgart/Heilbronn and Rostock/Schwerin.
56. The position of each player as well as that of the merged entity has been analysed using the number of armoured vehicles as a proxy to the turnover. Indeed, there is a direct relation between the two since the number of armoured vehicles sets a limit to the turnover that can be achieved by a player. Conversely, given the costs that armoured vehicles represent, the CIT companies have to optimise the utilisation of their vehicle and seek to optimise the turnover generated by each vehicle.
57. In the area of Berlin, Securicor have [...] armoured vehicles while Group4 Falck operate [...] armoured vehicles and Heros, Kötter and Securitas respectively [...], [...] and [...].
58. In the area of Leipzig, the combined entity will be in a position to operate [...] armoured vehicles (Securicor [...], Group4 Falck [...]) and will face competition by Heros ([...] vehicles), Securitas ([...] vehicles) and several smaller players such as GuW, Brinks and Kötter.
59. In the area of München, the combined entity will own the largest fleet of armoured vehicles (Securicor: [...], Group4 Falck in Augsburg: [...]). They will however face significant local players such as Ehrl ([...] armoured vehicles), Götz ([...] vehicles) and nationwide competitors such as Securitas ([...] vehicles) and Heros ([...] vehicles).
60. In the area of Stuttgart/Heilbronn, Group 4 Falck operate [...] armoured vehicles and Securicor [...] while Heros, Securitas and GuW have respectively [...], [...] and [...] armoured vehicles at their disposal. Brinks and Kötter are also present, even though to a smaller extent.
61. Lastly, in the area of Rostock/Schwerin, the combined entity will have [...] vehicles (Securicor: [...], Group4 Falck: [...]) while the other competitors operates in total more than [...] vehicles (e.g. WSN: [...], BWS Greifswald: [...], MST Schwerin: [...], Heros: [...], GSD Strahlsund: [...]).

¹² Given the high number of small players, the Commission has not been able to reconstruct the entire market but only the sales of the largest players, as indicated in the table. However, respondents seem to agree on the size of the overall market, which would be in the range of EUR 500 million.

¹³ The repartition of the customers around a depot is such that, on average, most customers are located within a 50km-80km radius around the depot.

62. As a result of the above-described analysis, it can be concluded that the merging parties' local CIT activities in Germany overlap only in a limited number of areas, where the structure of competition make it very unlikely that a dominant position may be created or strengthened further to the proposed transaction.
63. Hence, with respect to the CIT services in Germany, the envisaged merger does not raise any competition concern, both at the local and national level.

Luxembourg

64. The CIT market in Luxembourg is highly concentrated with only three national players. Group 4 Falck and Securicor are the largest CIT operators ([30-40]% and [30-40]% market share respectively) and post merger the combined overall market share would be around [70-80]% ([70-80]% according to competitors). Each of the parties owns a depot in Luxembourg and operates a total of [...] armoured vehicles and employs a total of [...] guards.
65. The notifying parties' only national competitor in this market is Brinks, with an estimated market share of around [20-30]%. It operates one depot. The parties mention a fourth competitor, the German operator Chorus, which also pursues some CIT activities in Luxembourg, with an estimated market share of [0-10]%. However, Chorus cannot be regarded as a national player able to exert competitive constraint to the merged entity, as it does not own any depot in Luxembourg and does not hold a full license to operate these services in Luxembourg.
66. According to the parties, customers such as large financial institutions have significant bargaining power that could sponsor entry into Luxembourg or could credibly threaten to transfer contracts to Brinks. The parties therefore submit that despite the post-merger high market shares, it would not be possible for the merged entity to raise prices. In addition, they claim that large companies in Luxembourg usually adopt the practice of multi-sourcing, which would allow additional competition in the market.
67. The market investigation has shown that barriers to entry to Luxembourg are high, thus rendering market entry difficult. Private security services in Luxembourg are heavily regulated by Private Security Law of 12 November 2002 and Regulation of 22 August 2003¹⁴. These laws establish one of the most detailed legal frameworks for the provision of security services the European Union. For CIT services, the law requires the maintenance of a secured central office in Luxembourg, three company vehicles, three armoured vehicles for the transportation of cash and a minimum of 20 employees. The Regulation lays down additional requirements on the premises, the equipment and the training of staff devoted to CIT activities. Competitors claims that the legal requirements and the sunk costs necessary to start the CIT business in Luxembourg, namely the construction of a depot, constitute significant barriers to entry, as it requires an important financial investment before being even able to bid for a contract.
68. Further, contrary to what the parties argued, customers in Luxembourg generally privilege experience, reputation, national coverage and/or level of security over price. Reputation is

¹⁴ « Loi du 12 novembre 2002 relative aux activités privées de gardiennage et de surveillance » and « Règlement grand-ducal du 22 août 2003 portant exécution de certaines dispositions de la loi du 12 novembre 2002 relative aux activités privées de surveillance et de gardiennage ».

particularly important in Luxembourg and the degree of loyalty towards the firm providing security services is high. In this regard, some customers have suggested that Brinks [...]. Moreover, the Commission have observed that a large number of customers prefer a single point of contact to cover all their security needs. Brinks, contrary to the merging parties, does not offer the whole range of security services (such as CIT, manned and electronic guarding) and hence cannot compete for such customers with the merging parties. The market investigations indicate that most customers identify each of the two merging companies as the most credible competitors in the market. Further, only a minority of the customers consulted by the Commission declare adopting multi-sourcing practices. In this regard, customers and competitors have expressed their concerns by the post-merger reduction of choice for CIT service suppliers.

69. Given the very concentrated nature of the market and the high barriers to entry, the fact that the merger would lead to a significant increase in market shares and that the merged entity would become three times larger than its only credible competitor, Brinks, the Commission considers that the proposed transaction would raise serious doubts for the provision of CIT services in Luxembourg.

The Netherlands

70. The Dutch CIT market is a duopolistic market dominated by two companies; Securicor through Geldnet (about [50-60]% market share) and Brink's (about [40-50]%¹⁵). Group 4 Falck has only limited activities in this market (about [0-5]%) through CIT services provided by Group 4 Falck in Belgium. According to third parties¹⁶, this competitive situation may in part explain why prices for CIT services would be 50%-80%¹⁷ higher in The Netherlands than in other member states, such as Germany.
71. The Commission's investigation revealed that Group 4 Falck used to be a significant player in CIT services in The Netherlands through its 25% share in the Geldnet joint venture. Geldnet was originally established as a joint venture between Group 4 and The Netherlands Post Office. Securicor became a third member of the joint venture when it contributed its existing CIT business to Geldnet in the early 1990s. As a result, Group 4 Falck and Securicor held each 25% of the JV while the Post office owned the remainder. In 2002, Group 4 Falck and the Post Office decided to withdraw from the JV and Securicor acquired sole control of the company (decision by the Dutch NCA of 2003).
72. Since selling its share in Geldnet, Group 4 Falck is active in Netherlands CIT only through the ABN-AMRO contract managed by its Belgium subsidiary. The ABN-AMRO contract is for the provision of bulk transportation services to ABN-AMRO's coin counting centre to the Dutch national bank. The contract was entered into in 2002 and expires in[...]. It is serviced by [...] operatives and [...] vehicles located in leasehold premises in the Rotterdam area. Even though G4F according to the parties had decided to exit The Netherlands cash market, the contract was kept at the request of the customer which objected to shifting to Geldnet. Other than the assets involved in servicing this contract

¹⁵ Parties' estimates, in line with the Commission's findings.

¹⁶ Telephone conference on 12 May 2004

¹⁷ Given the time constraints of the first phase procedure, the Commission has not been able to investigate further on this argued price differential.

there is no other Dutch CIT infrastructure within The Netherlands and the Dutch management of G4F are not involved with the contract.

73. The Commission also sought to assess whether the proposed transaction would eliminate potential entries into the Dutch CIT market. Even though [...]. In particular, a player active in CIT in other countries explained¹⁸ that some of their customers which also require CIT services in The Netherlands have asked it to provide them with CIT services also in The Netherlands. As a result, this third party is seeking to enter the Dutch CIT market and has already hired key personnel in The Netherlands to develop this activity. This player appears as a credible potential entrant as it has the necessary expertise and resources, in particular given its position in other member states.
74. Given this and the limited scope of the activities provided by G4F and the future entry of a third player, the Commission has come to the conclusion that the proposed transaction will not raise serious doubts as regards the provision of CIT services in The Netherlands.

UK

(i) Impact of the merger at the national level

75. In the United Kingdom, Group 4 Falck's CIT activities are mainly located in Scotland, where they operate 3 depots (Inverness, Glasgow and Edinburgh), and to a lesser extent in Northern England (one depot in Manchester)¹⁹. On the contrary, Securicor operate depots across the UK and hence offer CIT services nationwide. When looking at the sales aggregated on a national basis, the merger results in an increment of Securicor's market share limited to 1%. The main players are Securicor ([60-70]%) and Securitas ([20-30]%) and to a lesser extent the Royal Post Office ([0-10]%) and Brink's ([0-10]%). The remaining players account in total for less than 3%²⁰, according to the main market participants. The Commission has not found any convincing evidence pointing toward the fact that the proposed operation could raise serious doubts at the national level. In addition, no customer located outside Scotland expressed concerns about the proposed transaction.

(ii) Impact of the merger in Scotland

76. As explained above, the Commission came to the conclusion that Scotland had to be considered as a distinct CIT market. In this area, the structure of competition is as indicated in the table below. These market shares, as reconstructed by the Commission, are in line with the parties' estimates.

Players	Sales	Share
Securicor	[...]	[40-50]%
Group4Falck	[...]	[10-20]%
Combined	[...]	[60-70]%

¹⁸ Telephone conference on 12 May 2004.

¹⁹ Map of the parties' depots in the UK, provided in Annex 25 of the Form CO

²⁰ As a result, the market reconstruction carried out by the Commission led to an overall market size of EUR 540 Million in 2003, in line with the parties' estimate (EUR 527 million). The market sizes submitted by competitors are larger.

Securitas	[...]	[20-30]%
Brinks	[...]	[0-10]%
Post Office	[...]	[0-10]%
Total	[...]	100%

Source: The Commission's investigation.
Year 2003. Sales in million euros

77. While Securicor is already twice as large as the second player in Scotland, the proposed operation would create a merged entity holding around [60-70]% of the CIT market in Scotland. The concentration of the market, as measured by its HHI, would increase by 1500 to reach 4740. Besides, the market investigation revealed that Brink's and the Royal Post Office were considered as credible suppliers by customers less often than the three major players: Securicor, Securitas and Group 4 Falck. The proposed transaction may thus appear as a reduction of the number of players from three to two.

(iii) High barriers to entry

78. It is very unlikely that the proposed operation triggers the entry of a new competitor from the rest of the UK or from abroad: CIT services are already very concentrated in the UK, the four main players holding more than 97% of the business. These are already active in Scotland. New entrant coming from abroad seem also to be excluded since the barriers to entry are high in the UK as explained by the parties in the Form CO: *"The principal issues for a new entrant will be meeting national regulatory standards, and the costs of staff, vehicles, a depot and insurance."*²¹

"8.9.2 The UK CIT industry is currently self-regulating. However, in 2005 licensing will be introduced and activity monitored by a "Security Industry Authority". There are currently no legislative barriers to entry.

8.9.3 In terms of self-regulation, all major suppliers are members of the British Security Industry Association (BSIA), and accredited to British Standards via the National Security Inspectorate (NSI). This accreditation in effect controls many aspects of the service offering, such as the standard of vehicles used, the recruitment, training and vetting of employees, the levels of security at premises and so forth. Any player wishing to enter the market would need to gain accreditation in order to compete effectively, as it is unlikely that customers would procure the services of a non-accredited company.

[...]

8.9.8 The business itself is capital intensive; in order to satisfy insurance requirements and protect against external risk, vehicles, equipment, and premises have to be robust. In a country with a high attack risk, such as the UK, one finds that such equipment has developed to a very sophisticated level which means that it is expensive. The average cost of a standard CIT truck in the UK is approximately UKP 50.000-60.000. A business may purchase a less expensive model, but that decision would need to be offset against the insurance risk. The same consideration applies to other equipment, such as pavement protection, and of course depots, of which even the most basic would merit a conversion cost of approximately UKP 200.000."

²¹ Section 8.9.1 of the Form CO

79. The market investigation also showed that reputation and track record was one of the most important criteria for customers when choosing a CIT supplier. This appears to be also a significant barrier to entry. In this respect, the only major CIT supplier which is not active in the UK is Heros, a German company. The Commission has not found any evidence that Heros would have plans to enter the UK market in a foreseeable future as they seem to focus on Benelux and Nordic countries. All these elements tend to show that there is no foreseeable potential entrant in the UK, as specified by the notifying parties in section 8.8 of the Form CO.

(iv) The parties' contentions are not confirmed by the investigation

80. The parties argued that Group 4 Falck was not a significant constraint on Securicor because their coverage is limited to Scotland and they thus cannot compete for customers requiring wider coverage. Even though Securicor may take advantage of its national coverage to gain large customers with premises in Scotland, the investigation has not confirmed that Group 4 Falck could not exercise a constraint on Securicor with respect to larger customers. The Commission analysed the structure of Group 4 Falck's customer base. It turns out that [50-60]% of Group 4 Falck's CIT sales in Scotland are achieved with customers which require CIT services in other parts of the UK. Splitting the CIT contracts in several contracts covering different areas is in fact not uncommon.

81. The parties also contended that [...].

82. [...]

83. [...]

84. [...]

85. In light of the above, the proposed operation raises serious doubts as to the creation of a dominant position in the CIT market in Scotland.

2. Other security services

Ireland – Manned guarding services

86. The proposed transaction will not lead to any overlap in the provision of electronic guarding or aviation security services in Ireland. However, both parties are active in the provision of manned guarding services. The parties estimate their market shares range from [10-20]% (Securicor [0-10]% and Group 4 Falck [10-20]%) to [10-20]% (Securicor [0-10]% and Group 4 Falck [10-20]%) depending on market definition.
87. As in other countries it has been difficult to verify the parties' estimates given the lack of publicly available information. On a worst case scenario estimate, as presented by a competitor, Group 4 Falck would be the largest provider for manned guarding services in Ireland with a market share of [10-20]% and Securicor the fourth largest with a [0-10]% market share, giving the parties a combined market share of approximately [20-30]%. The parties' main competitor in Ireland is Chubb, with an estimated market share of [10-20]%. Thereafter a number of companies would have market shares ranging [0-10]%, including Securitas, Federal Security, O'Mada Group, Top Security and Sheehan Group.
88. Even if the merged entity would become significantly larger than its next competitor, the investigation has not shown that the proposed transaction would lead to competition concerns. The merged entity will continue to face a number of players of a considerable size and established in the market that will be able to provide a competitive constraint on the parties also following the proposed concentration. In addition, it appears that barriers to entry are not significant. The Commission therefore concludes that the proposed transaction would not raise serious doubts in Ireland.

Luxembourg – Manned guarding, alarm monitoring and response and electronic guarding

(i) Manned guarding

89. The notifying parties submit that post merger the parties would have a market share of [80-90]% (Securitas [40-50]% and Group 4 Falck [40-50]%). The largest competitor listed is Pedus, with an estimated market share of around [0-10]%. Other 12 smaller manned guarding companies active in Luxembourg, amongst which Belux, ultimately owned by Securitas, hold market shares below 5%.
90. The parties argue that, despite the large market shares in both markets, large customers could credibly threaten to transfer contract to Pedus or other competitors.
91. Manned guarding services and alarm monitoring and response services in Luxembourg are regulated by the Law of 12 November 2002 and Regulation of 22 August 2003, mentioned earlier. These regulations laid down the minimum requirements for manned guarding business, such as the employment of 15 or more security guards, three or more cars and one secure room operating on a 24 hour basis. As it is the case of the CIT business, new entrants to any of the two markets need to incur significant investment before being able to bid for a first contract.
92. The market investigation shows that many customers, particularly the large ones, demand a minimum level of service such as national coverage, a high and permanent level of security (24 hours a day, 7 days a week), the capacity for a single supplier to offer the largest variety

of services and the flexibility to increase the resources devoted to a contract at short notice (e.g. due to unexpected situations or extraordinary events). These customers consider that only securities companies with a high volume of resources, such as Securitas and Group 4 Falck, have the capacity to guarantee such requirements. In addition, given the necessity of the deterrent effect of security guards, the reputation and the brand name of the security company seems to be particularly important in the manned guarding market. The market investigation in Luxembourg indicates that most of the customers consider that only the merging parties are able to fully meet their requirements. It should be noted that Pedus is only present in the markets of manned guarding services market and alarm monitoring and response and does not provide electronic guarding equipment (nor does it provide other related security services such as CIT). The merged entity will therefore be the only supplier able to satisfy the needs of customers requiring a single supplier to cover all their security requirements.

(ii) Alarm monitoring and response

93. The notifying parties state that the combined market shares of the parties alarm monitoring and response services is [90-100]% (Securitas [40-50]% and Group 4 Falck [50-60]%), the rest being shared by Pedus and Abanico. The market investigation confirms the strong position of the parties in this market.
94. The legislation mentioned above is also applicable to alarm monitoring and response. This legislation requires suppliers to employ at least 20 agents, three cars and a secure room with the permanent presence of at least two guards. In addition to the minimum requirements provided for the law, important investments would be required to build and equip a monitoring room. These confirm the existence to significant financial barriers to enter this market in Luxembourg. Furthermore, the requirements on reputation, capacity and flexibility mentioned for manned guarding services are also important for this market, while the competition constraint of the parties post merger is even lower than in manned guarding: there are only two competitors left offering monitoring and response in Luxembourg, with less than 5% of the market. Finally, it has to be underlined that the parties are also active in the electronic guarding equipment. The market investigation confirms that the supplier of such equipment might have an influence on the choice of the monitoring and response supplier by the customers, and vice versa. In this regard, it has to be noted that the merged entities' competitors in the alarm monitoring and response market are not active in the market for electronic guarding equipment.

(iii) Electronic guarding equipment

95. As far as electronic guarding equipment in Luxembourg is concerned, the parties submit that proposed transaction would not lead to any affected market as the market share would be [10-20]%, with an overall market size of 80 MEUR. The market investigation indicates however that the overall market share could be smaller (competitors estimations range from 25 to 60 MEUR) and the combined market shares of the parties might in that case exceed [10-20]%. The market investigation has however confirmed that there are a large number of credible competitors offering alarm installation and maintenance in Luxembourg, such as Wagner & Fils, Kess Security, Manelli, Muller & Fils, Téléphonie, Siemens and Socom. They all hold market shares ranging from 4 to 10% and have the necessary technical capability and reputation to exert a sufficient competitive constraint on the merged entity. In addition, it appears that barriers to enter this market are not significantly high. On this

basis the Commission finds that the proposed transaction will not lead to serious doubts for the provision of electronic guarding equipment in Luxembourg.

96. It should be noted, however, that the merged entity will be the main player in the market for electronic guarding equipment. As seen before, this would reinforce the commercial strength of the merged entity in other related markets, notably in manned guarding and alarm monitoring and response, where complementarities with electronic guarding equipment are particularly important. The merging parties are thus the only companies in Luxembourg offering the whole range of security services and being significant players in all security markets in Luxembourg.

(iv) Conclusion

97. In view of the strong market position of the parties in an already concentrated market, having in mind the barriers to entry mainly derived from the degree of reputation, volume, capacity and range of services offered by the merged entity, and the elimination of the main competitor of each of the parties, which pre-merger were the only two companies in Luxembourg able to offer the whole range of security services, the proposed transaction raises serious doubts in the market for the provision of manned guarding services and alarm monitoring and response services in Luxembourg.

The Netherlands – Manned guarding and alarm monitoring and response

(i) Manned guarding

- The parties' estimates of sales and market shares

98. In the Form CO, the parties have submitted that the overall market size of manned guarding services in The Netherlands, excluding response, which is regarded by the Commission as part of a distinct market, will be of around 1 000 MEUR. The merged entity would hold a market share of [30-40]%, while their main competitors would hold [0-10]% (Securitas) and [0-10]% (PreNed) respectively of the market.
99. The parties stated that these figures were based on their best estimates on sales and on the number of registered guards. The estimates are based on figures from Vpb, the Dutch association on security services, which show that there are 30,500 licensed guards in The Netherlands. However, the website of Vpb indicates that this figure does not relate to licensed guards (where a turnover per guard can be attributed) but to the overall personnel employed by the members of Vpb. Attributing the turnover generated by a licensed guards to all the personnel employed is likely to significantly overestimate the overall size of the market.
100. The parties claim that Vpb members represents only 70% to 80% of the Dutch guarding market and therefore adjust their figures accordingly (increasing the overall market size by 25%). However, the Commission tend to consider that their members actually represent a higher share of this market, as only the four most important members of the association would represent more than 80% of such market²².

²² Submission by Securicor to the Dutch competition authority concerning their acquisition of Geldnet.

101. To calculate the total volume of sale from the number of guards, the parties have adjusted the number of guards according to the degree of full time employed staff ([...]) and applied their average ratio for hourly rate per guard ([...] EUR). However, it appears that the total number of licensed guards considered by the parties include guards active in aviation security, custodial and response services. These activities correspond to distinct product markets and therefore the total number of manned guards would be lower than proposed by the parties. In addition, the market investigation shows that applying the same methodology with the competitors' average ratio for full time guards and rate per hour, would lead to a lower overall market size (down to 662 MEUR). For all these reasons, the Commission is of the view that the methodology used by the parties is not fully reliable and is likely to overestimate the overall market size of the Dutch market for manned guarding services.
102. In the course of the investigation, the parties provided alternative methods of calculation based on information, notably from Vpb, CoESS and the Dutch Bureau of Statistics. However, the methodology applied by the notifying parties, particularly as regards the services considered in the calculation (CIT, custodial, response and aviation services, which do not form part of the manned guarding services), the distinction between license and unlicensed guards and the growth ratio, does not provide an reliable figure for the actual size of the overall market of manned guarding in The Netherlands²³.

- The Commission's findings as regards sales and market shares

103. The Commission sought to reconstruct the market for manned guarding services in The Netherlands. To this end, it asked the main players for their sales in this market for the past three years. The results are indicated in the table below. All other competitors have smaller sales.
104. As regards the manned guarding market in The Netherlands, the parties have repeatedly provided the Commission with different and always lower figures for their respective sales, after that the Commission told them it had concerns regarding this market.

²³ Firstly, based on the figures provided by Vpb for 2000, the parties argue that the total size of the security market would be around 1,086 MEUR in 2003, assuming an annual growth of around 11% in 2001 and 2002 and more than 6% in 2003 (includes volume and price increase). This figure is based on the assumption that there are 30,500 licensed guards in the Netherlands, as explained above, and that the number of companies associated to Vpb represents only 70 to 80% of the sector. However, the official site of Vpb specifies that the 30,500 figure correspond to personnel working on security companies, not to guards; therefore the number of guards would be smaller. Further, according to the market investigations, the main players of guarding services are members of Vpb and, according to different sources consulted by the Commission, there is a strong presumption that such players would represent more than 80% of the total market. The figure does include response, custody and aviation security services and may include CIT, which are regarded as being part of distinct product markets by the Commission. Finally, the growth rate applied by the parties is not shared by other sources. For these reasons, the Commission tends to think that overall size of the manned guarding service market is necessarily inferior to 1,086 MEUR. The parties submitted an additional paper with updated figures from Vpb for 2003, according to which the size of the market would be between 1,093 and 1,143 MEUR. However, the Commission has not received details on how this figure has been calculated. Secondly, the parties have forwarded data from the CoESS; however this organisation is the European association of security services and the figures on the Dutch market have been provided by Vpb; which is roughly the same figures discussed above. Thirdly, based on the figures published by the Dutch Bureau of Statistics for 2001, they claim that the overall size of the market in 2003 would be between 1,070 and 1,120 MEUR. Again, the methodology applied is not clear to the Commission, particularly as regards the services considered (CIT, custodial, response and aviation services) and the growth rate.

Players	Sales in million euros		
	2001	2002	2003
Securicor	[100-150]	[100-150]	[100-150]
Group4Falck	[150-200]	[150-200]	[150-200]
combined	[250-300]	[300-350]	[300-350]
Securitas	[100-150]	[100-150]	[100-150]
PreNed	[50-100]	[50-100]	[50-100]
CSU	[0-50]	[0-50]	[0-50]

Source: The Commission's investigation.

105. The above-mentioned figures show that, irrespective of the total size of the market, the merged entity will hold a market share that is twice as large as that of the second player (Securitas) and three to four times that of the third player (PreNed). Given that the fourth largest player (CSU) is 15 times smaller and all other market participants even smaller, it is clear that the merger will create a player that is by far much larger than all other players. In this respect, it is worth noting that, in the Form CO²⁴, the parties estimated that their combined market share would be almost four times that of Securitas.
106. In its investigation, the Commission has invested a substantial amount of time to establish an estimate of the likely market shares of each market participant. In particular, on the parties' request, it has verified that the figures provided by each competitor were correct and rely on the market definition retained by the Commission. In particular, Securitas confirmed²⁵ that the sales indicated in its annual reports included other services such as electronic systems and monitoring and response.
107. The main issue that the Commission had to solve related to the overall size of the market or, put differently, the sales accounted for by the fringe players. Several sources, detailed in following sections, indicated that the total market size in 2003 would be in the range of 600-650 million euros. Using an average market size of 625 million euros lead to the market shares indicated in the table below. This takes into account the parties' contention that Securicor's sales are actually smaller than those notified since the Form CO figures erroneously included sales relating to custodial services (corresponding to 4% market shares):

²⁴ Annex 9.2.

²⁵ E-mail by Securitas Netherlands, dated 19/05/2004.

Players	Sales	Share
Securicor	[...]	[20-30]%
Group4Falck	[...]	[20-30]%
combined	[...]	[40-50]%
Securitas	[...]	[20-30]%
Pre ned	[...]	[10-20]%
CSU	[...]	[0-10]%
Others	[...]	[10-20]%
Total	625	100%

Source: the Commission's investigation

108. Several distinct sources of information converge to confirm this level of market shares. These sources are described below.

- The parties' estimates provided further to past mergers

109. According to a decision from the Dutch competition authority (Nederlandse Mededingingsautoriteit) dated 21 March 2003 concerning the acquisition of sole control by Securicor over the Dutch security services company Geldnet, Securicor estimated that the combined entity (Securicor plus Geldnet) would have a combined market share of 20% to 30% on the overall Dutch security services market and that the market shares of the two other major competitors, Group 4 Falck and Securitas, amounted to 20% to 30% each. In addition, Securicor submitted²⁶ to the Dutch competition authority that (i) the total turnover generated by guarding and alarm monitoring services is estimated at approximately 735 million euros and (ii) that Securicor has a share of approximately 17% on this segment. Given that the parties estimate that the monitoring and response market is worth 100 million euros²⁷, this yields a market size in the range of 635 million euros, in line with the Commission's findings.

110. In 1999, Group 4 Falck (then named only "Falck") entered the Dutch market for manned guarding through the acquisition of NVD. The press release²⁸ issued by Group 4 Falck mentions that "*the six largest companies have a market share of between 85% and 90%. [...] NVD is the largest operator and has a 35% market share²⁹, while the closest competitors hold 18% and 14% of the market respectively*". The decision by the Dutch NCA relating to this operation specifies that the merged entity, i.e. Group 4 Falck, would hold a 32% market share according to themselves and 40% according to the competitors. When adjusting these figures to remove the sales relating to aviation security services, the market share submitted by Group 4 Falck is about [20-30]%, still far above the mere [10-20]% submitted by the parties in the present case³⁰.

²⁶ See section 3.4 of the Dutch NCA's decision

²⁷ The notifying parties' submission on 12 May 2004

²⁸ Press release issued on 10 June 1999.

²⁹ The market implicitly considered by Group 4 Falck in its press release is wider than that retained by the Commission. However, the services excluded from the Commission's product definition do not generate sales large enough to significantly modify Group 4 Falck's market share.

³⁰ Even on the basis of a wider market definition.

111. The size of the fringe, as submitted by the parties in 1999, also contradicts the parties' submission in the present case: given the sales of the main players, an overall market size in excess of 1000 million euros means that the numerous small players would hold more than 45% of the market. This is in strong opposition to the 10%-15% submitted by Group 4 Falck in 1999 as it is very unlikely that small players have expanded to such an extent over the past five years.

- Estimates by independent sources

112. On the Commission's request, the parties have provided copies of the studies relating to the market for manned guarding in The Netherlands. Two studies contain estimates of market shares. A report by Citibank³¹ analyses the risks linked to the present merger. It outlines that the merger could lead to "*competition concerns in The Netherlands where Group 4 securicor would have over 40% of the guarding market*". Unfortunately, no indication is provided as to how these market shares have been computed. The other study has been achieved by Freedonia³², an industry research group. Based on the data that they have gathered from the market place, Freedonia estimate that the size of the manned guarding market (including aviation security services and response) in 2001 is in the range of EUR 595 million. Adjusting³³ this figure to remove aviation security services and response yields a market worth about EUR 500-540 million in 2001 and a combined market share for the merging parties in the range of [50-60]%.

113. A third party also provided the Commission with a copy of a study achieved in July 2002 by the Caesar group and relating to the security sector. This study analyses the security market in The Netherlands as a whole. Given that the sales in this industry are driven by the volume of human resources, the Caesar group bases its estimate of each player market share on its number of staff in 2001, as provided in the table below. The number of staff used for each competitor as well as the overall number staff in the industry is in line with the figures made publicly available by the market players (e.g. Securitas, Securicor and Group 4 Falck when they acquired respectively VNV, Randon and NVD). These estimates lead to a combined market share of 59% for the merged entity.

Company	Staff	share
Group 4Falck	7000	42%
Securicor	4000	17%
Combined	11000	59%
Securitas	4700	25%
Prend	1555	9%
Others	7745	7%
Total	25000	100%

Source: Caesar Group, 2002

114. All the estimates of market shares and market sizes described above have been computed by independent third parties over the past years (i.e. under no influence of the present case).

³¹ Information provided by the parties on 4 May 2004, analysis dated 6 February 2004.

³² See www.freedoniagroup.com

³³ The parties estimate that the ASS market was worth 37 million in 1999 and 95 million in 2003 and monitoring & response typically accounts for 10% of the revenues derived from the traditional manned guarding activities.

The Commission is therefore of the view that, at this stage of the procedure, these estimates are the most reliable ones at its disposal. They all point toward a combined market share in excess of 50% for the merged entity in the market for manned guarding in The Netherlands.

- Qualitative evidence stemming from the Commission's investigation

115. According to the parties, there are no legal or other barriers to entry into the Dutch manned guarding market. As evidence they have pointed to the large number of smaller competitors that has entered the market in the past years (20-30 every year) and Group 4 Falck's loss of market shares. According to the parties the volume of sales of Group 4 Falck has remained stable despite growth in the market hence indicating a loss of market power. They further submit that the merged entity is likely to lose market shares as a result of the merger since some large customers that had used both parties as suppliers will split their contract and take a new supplier. The parties have also argued that small competitors can and do provide a competitive constraint to the main players today and they have provided specific examples of cases in which the parties had lost major contracts to smaller players such as YLS, EBN or NBO. Furthermore, the relevant Dutch legislation (in particular the law of 24 October 1997 on Private Security Organisations and Detective Agencies³⁴ and derived regulation enacted by the Ministry of Justice) does not impose particularly burdensome requirements and hence does not constitute a significant barrier to entry.
116. Admittedly there has been entry at local or regional level in The Netherlands. It also appears that the relevant Dutch legislation would not impose the same barriers as e.g. the Luxembourg legislation. However, despite these facts the market investigation has not shown any substantial entry during the last 3 to 4 years except through acquisitions:
- Securicor expanded its position in The Netherlands through the acquisitions of Randon Beveiling Beheer, a leading Dutch guard service firm in 2001³⁵;
 - Group 4 Falck entered and expanded through the acquisitions of two guarding businesses Seceurop and NVD; and
 - Securitas entered the Dutch security market through the acquisition in 2000 of B&M Beveiling & Alarmerin and VNV Beveiliging in early 2002 (the latter gave it national presence).
117. The two remaining larger competitors, PreNed and CSU have both grown organically. However, despite being on the market for more than 10 years neither PreNed nor CSU have been able to reach the same size as the merging parties and their main competitor Securitas.
118. The high barriers to expansion are further evidenced by information provided by the parties and the Commission's own market share calculations. All estimations indicate that despite a large number of new entrants in the market every year bidding for manned guarding contracts, the market shares of the main players have remained relatively stable (subject to

³⁴ Wet van 24 oktober 1997 tot vaststelling van de Wet particuliere beveiligingsorganisaties en recherchebureaus (Staatsblad 1997, 500).

³⁵ Randstad was established in 1981. In the period from 1981 to 1987 it grew through acquisitions and thereafter organically.

acquisitions) and smaller players have not been able to significantly challenge their positions through organic growth.

119. As regards the possibility of local and regional players to retain national contracts, the market investigation has shown that local or regional players are not considered viable alternatives for larger and more demanding customers. In general, the minimal requirements of larger customers already discussed for manned guarding services in Luxembourg are also present in the Dutch market: i) national coverage, ii) reputation, iii) capacity to provide the whole range of security services and iv) capacity and flexibility to increase the level of security required at short notice and for short period of time.
120. In particular large customers appears to have a strong preference for security companies having *inter alia* national coverage, a high and permanent level of security (24 hours a day, 7 days a week), the capacity for a single supplier to offer the largest variety of services and the flexibility to increase the resources devoted to a contract at short notice (e.g. due to unexpected situations or extraordinary events). In addition, most of them would only contract with companies enjoying a good reputation in The Netherlands. The fact that, in some specific cases, the parties have lost some contracts to smaller players does not provide any indication that these small players could become national players and provide any significant constraints on the merged entity as argued by the parties. Even if former clients of both merging parties are willing to split their contracts and take on an additional supplier, it is very likely that the retained supplier would be one of the two remaining national players. This is further evidence of strong barriers to expansion.
121. Although the market investigation has not conclusively shown that the parties are each others closest competitors, the proposed concentration will remove important competitive constraints through the loss of competition. In fact, following the proposed transaction only two specialised security companies will remain in The Netherlands – the merged entity and Securitas. Though it cannot be excluded that Securitas would be able to exert some competitive constraint on the parties post-merger, it has not been possible to conclude within the time-frame of a phase 1 investigation that they would be able to provide a sufficient constraint to remove concerns about the creation of a dominant position given the strong position gained by the parties through the merger.

- Conclusion

122. The proposed transaction will create a provider of manned guarding services in The Netherlands that, irrespective of market share calculations, will become two to three times as large as the following competitors. It will further reduce the number of national players in an already highly concentrated market.
123. In view of the strong market position of the parties, the highly concentrated nature of the market, having in mind that barriers to expansion are high due to the need for national coverage to serve larger contracts/customers, the importance of reputation, volume, capacity and range of services offered by the merged entity, and the elimination of one of the main competitors of each of the parties, the Commission finds that subject to modifications, the proposed concentration raises serious doubts in the market for the provision of manned guarding services in The Netherlands.

124. On the date of adoption of the decision, the parties submitted³⁶ new figures for both Securicor and Group 4 Falck as regards their sales of manned guarding services in the Netherlands. Given the late submission and the fact that these figures were provided without any detailed explanation, the Commission would be able to evaluate this submission just within the in-depth investigation as provided for in the Art. 6 (1) c ECMR.

(ii) Remote monitoring and response

125. According to estimates provided by the parties, the merged entity would have a market share of [20-30]% for remote monitoring and response based on a market size of 100 MEUR. Competitors have estimated the merged entity's market shares to between 16 to 17 percent, although they have estimated the market to be smaller (around 85 MEUR). Even if using third party estimates of a total market of 85 MEUR, the parties' combined market shares would not exceed [20-30]%.

126. The parties are and will continue to face a number of significant players in the market such as Initial Varel Security ([10-20]%) and Securitas [0-10]%. Other companies indicated in the market investigation as credible suppliers for monitoring services in The Netherlands are PreNed, Chubbs, ADT, Alert Services, SMC and Siemens. On this basis the Commission finds that the proposed transaction will not lead to serious doubts for the provision of remote monitoring and response in The Netherlands.

UK - Manned guarding

127. The market for manned guarding services has not been considered as an affected market by the notifying parties since, according to the market definition they used (the so-called integrated security services, encompassing all security services), the combined market shares of the merging parties were in the range of [0-10]%. However, the Commission sought to assess the impact of the proposed operation on this market since it finally adopted a narrower product market definition.

128. The sales and market shares of the main players in this market are indicated in the table below. Most competitors agreed that the overall size for this market was around EUR 2 billion in 2003, conferring the merging parties a combined market share of about [20-30]%. This is in line with the parties' estimates, based on the retained product market definition.

Player	sales	share
Securicor	[...]	[10-20]%
Group4Falck	[...]	[10-20]%
Combined	[...]	[20-30]%
Chubb	[...]	[0-10]%
Reliance	[...]	[10-20]%
Securitas	[...]	[0-10]%
ICTS	[...]	[0-10]%
Others		[50-60]%
Total	2000	100%

Source: the Commission's investigation
Sales in million euros, in 2003

³⁶ Faxes sent on 28 May 2004 between 9:09am and 9:56am.

129. Even though the proposed merger will result in creating a new leading player, it appears that the latter will hold only limited market shares and will face well-known competitors such as Reliance, Chubb or Securitas as well as numerous smaller companies. These smaller companies account for more than half of the market. This is in part owing to the fact that, in the UK, there is no regulation applying specifically to the manned guarding sector.
130. In addition, no competitor or customer of manned guarding services expressed concerns in the course of the Commission's investigation. Consequently, the Commission does not see any ground for serious doubts in relation with the market for manned guarding in the UK.

UK – Aviation Security Services

131. In its investigation, the Commission sought to reconstruct the position of each player on the market for ASS. As described in the table below, the investigation pointed toward the fact that only four players are actually active on this market with some scale. Securicor appears as the market leader with more than [60-70]% market share, followed by ICTS, which holds [20-30]% of the ASS market. Initial Aviation (which belongs to the international group Initial/Rentokil) and Group 4 Falck have much smaller market shares of, respectively, [0-10]% and [0-10]%.

Player	Sales (MEUR)	Market share
Securicor	[...]	[60-70]%
Group 4 Falck	[...]	[0-10]%
<i>Combined</i>	<i>[...]</i>	<i>[60-70]%</i>
ICTS	[...]	[20-30]%
Initial Aviation	[...]	[0-10]%
Total	112.4	100%

Source: The Commission's investigation

132. Given the market structure as described above, the Commission seek to assess (i) whether Securicor was pre-merger dominant on the market for ASS and the merger with Group 4 Falck would strengthen their already dominant position or, if not, (ii) whether the proposed transaction, by removing Group 4 Falck as an independent player would allow Securicor to act independently from the remaining player, thereby creating a dominant position as a result of which competition would be significantly impeded in the market for ASS in the UK.

(i) No set of evidence suggests that Securicor is already dominant on the ASS market

133. The Commission investigated whether Securicor would hold a dominant position on the ASS market prior to the merger. The Commission found no convincing evidence showing that this would be case.

134. Even though Securicor's current market share is high, it used to be even higher. Securicor's sales did not grow as fast as those of other competitors such as ICTS³⁷ over the past years, thus showing that certain competitors can successfully challenge Securicor's incumbency.
135. The Commission also asked Securicor and Group 4 Falck to provide the list of the ASS contracts for which they competed during the year 2003 and, for each of them, the Commission requested that the parties specify the competitors which were present, who were the previous provider and who eventually won the contract. [...]
136. All respondents unanimously indicated that reputation was a decisive element to be successful in the market for ASS. In this respect, Securicor's brand image may also have been damaged to some extent by the terrorist attacks on September 11.
137. In the light of the above elements and given that the Commission has not found convincing counter arguments, it has to be concluded that Securicor does not currently enjoy a dominant position in the UK ASS market.

(ii) Group 4 Falck does not appear to be a significant constraint on Securicor

138. Group4 Falck market share on the ASS market is limited to [0-10]% and has not significantly evolved over the past years. Group4 Falck entered the market for ASS in 2002 through the acquisition of the Wackenhut Corporation, which held a dozen of very small ASS contract in the UK. Since then, the data requested by the Commission indicates that Group4 Falck tried to compete for other ASS contracts but won only one so far. It is therefore doubtful that Group4 Falck be considered by the other players as a strong player and thus exercise a significant constraint on their behaviour as well as the outcome of the negotiation.
139. The Commission also seek to assess to what extent Group4 Falck activities in neighbouring markets could confer the latter a significant advantage over the players. When enquired about their main selection criteria, customers indicated that reputation and available resources played an important role. With respect to the latter, customers expect that the security company not only meet their normal requirements in terms of human resources but also be able to quickly increase them if need be (e.g. in case of terrorist alert). However, aviation security services are much specialised services as compared with the traditional manned guarding services. Respondents explained that, for this reason, specific skills were required: having a good reputation in manned guarding could help as a start but was not sufficient to succeed on the ASS market. This is further evidenced by the fact that Securitas, despite its strong brand name in manned guarding and CIT in the UK, has not managed to enter the ASS market.
140. Similarly, the specific skills and the regulation applying to the ASS staff make it very difficult, if not impossible, for companies such as Group 4 Falck to rely on their human resources in manned guarding to offer customers to swiftly increase the level of security if need be. The Commission therefore came to the conclusion that Group4 Falck's other

³⁷ ICTS's sales increased by more than [30-50]% over the past three years while Securicor's remain roughly stable. Source: turnover figures provided by each market player.

security activities did not confer Group4 Falck a significant advantage on the market for ASS.

(iii) Post-merger, Securicor will still face strong competition

141. On the basis of the Commission's investigation in the present case, ICTS seems to exercise a significant constraint on Securicor, which will remain post-merger. ICTS is a international company specialised in Aviation Security Services. It holds significant positions on several important ASS markets such as the UK, France, The Netherlands or Germany. ICTS's sales in the UK have been growing rapidly to the detriment of Securicor: their ASS turnover increased as more than [30-50]% over the past three years to reach a market share close to [20-30]%.

142. Further to the analysis³⁸ of the competition for contracts carried out by the Commission for the year 2003, it appears that ICTS has been present, or at least perceived as such by Securicor, in all contract negotiations in which Securicor took part. ICTS won more than 37% of the contracts, in the majority of which ICTS was not the previous supplier. This tends to show that ICTS is an effective competitor against Securicor and no evidence was found that this should change after the merger.

As a result, the Commission did not find evidence raising serious doubts as to the creation or the strengthening of a dominant position as a result of which effective competition would be impeded on the UK market for ASS.

3. Conclusions

143. In light of the above, the notified transaction raises serious doubts as to :

- (i) the creation of a dominant position in the CIT, manned guarding and alarm response and monitoring markets in Luxembourg;
- (ii) the creation of a dominant position in the manned guarding market in The Netherlands and
- (iii) the creation of a dominant position in the CIT market in Scotland.

IV. PROPOSED REMEDIES

144. In order to render the concentration compatible with the common market, the parties have entered into the following commitments, which are annexed to this decision and form an integral part thereof. A first commitment package was proposed by the parties on 5 May 2004. After being informed by the Commission that the commitments offered were not sufficient to remove all competitive concerns raised by the operation, the parties offered modified commitment packages, the final version of which was received on 28 May 2004, including improvements of the original commitments which ensure that the commitment package as a whole is workable and effective.

³⁸ Analysis carried out based on Annex 28 of the Form CO.

145. The parties commit to divest within a time limit specified:

- Securicor’s activities regarding CIT and manned guarding in Luxembourg, including electronic installation and maintenance;
- Group 4 Falck’s activities regarding cash transportation and related cash activities in Scotland;
- Group 4 Falck’s licensed manned guarding (static, mobile and response) as operated through Falck Security B.V. in The Netherlands.

146. In addition the parties enter into related commitments regarding the preservation of viability, marketability and competitiveness of the divestment businesses, including the appointment of a monitoring and, if necessary, a divestiture trustee, in accordance with common practice.

V. ASSESSMENT OF THE PROPOSED REMEDIES

A. Markets for CIT and manned guarding in Luxembourg

147. The commitment to divest Securicor’s activities regarding CIT and manned and electronic guarding in Luxembourg entirely removes the overlap of the parties’ activities in the markets for CIT and manned guarding in Luxembourg.

148. The inclusion of electronic guarding services in the divestment business is necessary in view of the fact that, although the market investigation has indicated the proposed transaction does not raise serious doubts for this particular market, customers see electronic guarding as a market complementary to manned guarding and particularly, to alarm monitoring and response. The market investigation indicated that a credible security service provider should offer the whole range of guarding services, including electronic guarding, and give preference to a single point of contact for their security requirements. Therefore, in order to constitute a viable stand-alone business and to create a competitor as effective as the notifying parties, the divestment business has to include both manned guarding, alarm monitoring and response and electronic guarding services.

149. In light of the above, the proposed remedy clearly removes the serious doubts raised by the proposed transaction on the markets for CIT and manned guarding, including alarm monitoring and response services, in Luxembourg.

B. Market for manned guarding in The Netherlands

150. Further to the concerns raised by the Commission on the basis of its investigation, the parties had first proposed a more limited set of commitments in relation to the market for manned guarding services in The Netherlands. This first version proposed to divest an artificially newly created manned guarding company, which would have included a series of customers selected by the parties from both Group 4 Falck’s and Securicor’s Dutch customer base, in order to reach a targeted level of sales (8% market shares).

151. The Commission estimated that, within the time frame of a phase 1 procedure, the way the divestment business was constructed did not warrant that (i) it could be a viable and

autonomous business³⁹, (ii) that the parties had not selected the customers which are the least interesting or which can easily be recaptured by the parties⁴⁰ and (iii) the entity created this way would have a sufficient size to be a real constraint on the merged entity and remove any serious doubts. For the above-mentioned reasons, the Commission informed the parties that the first set of remedies could not be accepted in first phase and asked the parties to improve it.

152. The parties then proposed to divest both Group 4 Falck's manned guarding activities (as pursued by Falck Security B.V.) and monitoring business (as pursued by Falck Alarmcentrale B.V.). The Commission informed the parties that, given its assessment of the market for monitoring & response services in the Netherlands, the latter divestiture did not appear as necessary and suggested to withdraw it.

153. The final commitments offer to divest the whole of Falck Security B.V.. It would according to the parties mean that all of Group 4 Falck's licensed manned guarding activities in The Netherlands are divested. The activities of Group 4 Falck in the relevant market for manned guarding retained by the merged entity (non-licence business such as reception services) are only marginal and are currently operated through a different legal entity than its licensed activities. The final version of the remedy has not been market-tested as it was proposed at a late stage of the procedure. However, the proposed divestiture does not raise any doubt as to its viability as it is already an on-going company. It also prohibits any possible cherry-picking of customers. Lastly, it removes most of the overlap in the manned guarding market and thus clearly removes the serious doubts raised by the proposed transaction on the market for manned guarding services in The Netherlands.

C. CIT market in Scotland

154. The commitment to divest Group 4 Falck's activities regarding cash transportation and related cash activities in Scotland entirely removes the overlap of the parties' activities in the Scottish CIT market and therefore clearly removes the serious doubts raised by the proposed transaction on that market.

D. Conclusion

155. For the reasons outlined above, the commitments entered into by the parties are sufficient to eliminate the serious doubts as to the compatibility of the transaction with the common market.

156. The commitments in sections B and D of the annex constitute conditions attached to this decision as only through full compliance therewith can the structural changes on the relevant markets be achieved. The other commitments set out in the annex constitute obligations as they concern the implementing steps, which are necessary to achieve the sought changes.

³⁹ The Commission had not enough time to estimate whether the resources included in the artificially-created entity could make it viable. The divestment business would have had to use the same premises as the parties, for instance

⁴⁰ For instance, out of the 9 customers proposed by the parties for which the contract duration is known, 7 entered into contracts that come to an end within the next 12 months.

VI. ANCILLARY RESTRICTIONS

157. Paragraph 1 and 2 of article 26 of the merger agreement signed by the notifying parties on 24 February 2004 establish mutual non-solicitation clauses between the de-merged entity, Falck A/S, and Securicor, for a period of one year following the completion date of the notified transaction. Given that these restrictions are directly related and necessary to implement the proposed transaction and are in line with the Commission Notice on restrictions directly related and necessary to concentrations⁴¹, the mentioned clauses are also covered by the present decision.

VII. CONCLUSION

158. The Commission has concluded that the remedies submitted by the parties are sufficient to address the serious doubts raised by the concentration. Accordingly, subject to the full compliance with the commitments submitted by the notifying party, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) and 6(2) of Council Regulation (EEC) No 4064/89.

For the Commission

Signed by Stavros DIMAS
Member of the Commission

⁴¹ OJEC C 188, 4.7.2001, p.5.

Business Secret 28 May 2004

By hand and by fax: 00 32 2 296 4301

European Commission - Merger Task Force

DG Competition

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CASE M.3396 – GROUP 4 FALCK/ SECURICOR – COMMITMENTS TO THE EUROPEAN COMMISSION

INTRODUCTION

On 13 April 2004 Group 4 Falck A/S (*hereafter **Group 4 Falck***) and Securicor plc (*hereafter **Securicor***) notified the merger between Securicor and the security business of Group 4 Falck (but excluding the business of Global Solutions Limited) under Article 4 (1) of Council Regulation (EEC) No. 4064/89 as amended (the "**Merger Regulation**") to the European Commission (the "**Commission**").

The Commission has indicated to Group 4 Falck and Securicor (the "**Parties**") that it may have serious doubts as to the compatibility of the Notified Concentration with the common market in respect of (i) the markets for cash-in-transit ("**CIT**"), manned guarding and monitoring and response services in Luxembourg, (ii) the market for CIT services in the UK and (iii) the market for manned guarding services in the Netherlands.

On 5 May 2004, pursuant to Article 6(2) of the Merger Regulation, the Parties provided commitments (the "**Original Commitments**") in order to restore competition on a lasting basis in the markets identified above, and thereby enable the Commission to declare the Notified Concentration compatible with the common market and the functioning of the EEA Agreement by a decision pursuant to Article 6(1)(b) of the Merger Regulation (the "**Decision**").

Following an assessment of the Original Commitments by the Commission which suggested that the Original Commitments were not sufficient to remove the serious doubts identified by the Commission, the Parties now provide the following modified Commitments (the "Commitments") in response to the Commission's assessment to ensure that the commitments are workable and effective, and subject to the Commission approving the merger by the Decision.

These commitments are given by the Parties without prejudice to their position as stated in the Form CO notification and elsewhere, that the Notified Concentration does not with respect to the markets identified above create or strengthen a dominant position within the common market or a substantial part of it and is therefore compatible with the common market and the functioning of the EEA Agreement.

The Commitments shall take effect upon the date of adoption of the Decision provided that if Completion of the Notified Concentration does not subsequently take place for any reason and is thereby abandoned, the Parties shall not be bound by these Commitments.

This text shall be interpreted in the light of the Decision to the extent that the Commitments are attached as conditions and obligations, in the general framework of Community law, in particular in the light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EEC) No 4064/89 and under Commission Regulation (EC) No 447/98.

Section A. Definitions

For the purpose of the Commitments, the following terms shall have the following meaning:

Affiliated Undertakings: undertakings controlled by the Parties and/or by the ultimate parents of the Parties, whereby the notion of control shall be interpreted pursuant to Article 3 Merger Regulation and in the light of the Commission Notice on the concept of concentration under Council Regulation (EEC) No 4064/89.

Aviation Security Services; The provision of specialized guarding and alarm services to the aviation industry, in particular, airports and airlines.

Cash in transit (CIT): Cash transportation and related services, namely the physical transportation of cash, ATM replenishment, retail cash processing and bulk draw schemes, and not including cash management which may comprise larger scale cash processing undertaken in secure cash centres and may include the receipt, counting, validation, sorting for fitness and specific uses, secure storage, repackaging, supply and management of cash sometimes within regulation set by or under the supervision of central banks.

Commission: The Commission of the European Communities

Commitments: The undertakings given in paragraphs 2-4 below.

Closing: The transfer of the legal title of the Divestment Business as specified to the Purchaser.

Decision: The decision adopted by the Commission under Article 6(1)(b) of the Merger Regulation declaring that the Notified Concentration is compatible with the common market and the functioning of the EEA agreement.

Divestment Business: The business or businesses as defined in Section B and Schedules 1 - 3 that the Parties commit to divest.

Divestiture Trustee: One or more natural or legal person(s), independent from the Parties, who is approved by the Commission and appointed by Group 4 Falck and Securicor and who has received from Group 4 Falck and Securicor the exclusive Trustee Mandate to sell the Divestment Business to a Purchaser at no minimum price.

Effective Date: The date of adoption of the Decision.

Electronic Installation and Maintenance: The technical installation and maintenance of alarms, access control, fire alarms and closed circuit TV systems.

First Divestiture Period: The period of [...] from the Effective Date.

Form CO Notification: The Form CO dated 7 April 2004 by which Securicor and Group 4 Falck notified their proposed merger to the Commission under Article 4 (1) of the Merger Regulation.

Group 4 Falck A/S: Group 4 Falck A/S, incorporated under the laws of Denmark, with its registered office at Polititorvet, 1780 Copenhagen V, Denmark, and registered with the Danish Commerce and Companies Agency under CVR No. 24792110. ("**Group 4 Falck**").

Group 4 Securicor plc: The new company created as a result of the merger between Group 4 Falck and Securicor. ("**Group 4 Securicor**").

Hold Separate Manager: The person(s) appointed by Group 4 Falck and/or Securicor for the Divestment Business to manage the day-to-day business under the supervision of the Monitoring Trustee.

Key Personnel: All personnel necessary to maintain the viability and competitiveness of the Divestment Business.

Manned guarding: Comprises the following services: uniformed on-site, guard patrols, retail guards, key-holding, dog patrols, vehicle escort services, anti-terrorist and diplomatic security, information security and related services but excluding electronic installation and maintenance and monitoring and response.

Monitoring and Response: Alarm and access control monitoring and the provision of a response service.

Monitoring Trustee: One or more natural or legal person(s), independent from the Parties, who is approved by the Commission and appointed by Group 4 Falck and/or Securicor as the case may be, and who has the duty to monitor Group 4 Falck's and Securicor's compliance with the conditions and obligations attached to the Decision.

Notified Concentration: The proposed merger of Group 4 Falck and Securicor as notified to the Commission on 13 April 2004.

Parties: Securicor and Group 4 Falck

Personnel: All personnel currently employed by the Divestment Business, including Key Personnel, staff seconded to the Divestment Business, shared personnel and the additional personnel listed in the Schedules.

Purchaser: The entity approved by the Commission as acquirer of the Divestment Business in accordance with the criteria set out in Section D.

Trustee(s): The Monitoring Trustee and the Divestiture Trustee.

Trustee Divestiture Period: The period of [] from the end of the First Divestiture Period.

Securicor plc: Securicor plc, incorporated under the laws of England and Wales, with its registered office at Sutton Park house, 15 Carshalton Road, Sutton, Surrey SM1 4LD, United Kingdom ("**Securicor**").

Section B. The Divestment Businesses

Commitment to divest

1. Group 4 Falck and Securicor through Group 4 Securicor commit to divest, or procure the divestiture of the Divestment Business by the end of the Trustee Divestiture Period as a going concern to a purchaser and on terms of sale approved by the Commission in accordance with the procedure described in paragraphs 14 and 15. To carry out the divestiture, the Parties commit to find a purchaser and to enter into a final binding sale and purchase agreement for the sale of the Divestment Business within the First Divestiture Period. If the Parties have not entered into such an agreement at the end of the First Divestiture Period, the Parties shall grant the

Divestiture Trustee an exclusive mandate to sell the Divestment Business in accordance with the procedure described in paragraphs 24 and 25 in the Trustee Divestiture Period. The Commitments set out in this paragraph are subject to the specific provisions set out below in respect of each of the businesses comprising the Divestment Business.

2. Group 4 Falck and Securicor through Group 4 Securicor shall be deemed to have complied with this commitment if (i) by the end of the Trustee Divestiture Period (or other period set out in respect of each of the businesses comprising the Divestment Business in accordance with Section F) final binding sale and purchase agreements for the sale of the Divestment Businesses have been made, or the Parties comply with such alternative commitments as may be provided for in respect of each of the businesses comprising the Divestment Business including any modifications made under section F below; (ii) the Commission approves the Purchasers and the terms in accordance with the procedure described in paragraphs 14 and 15; and (iii) if closing of the sale of the Divestment Businesses takes place within a period not exceeding 3 months after the approval of the purchasers and the terms of sale by the Commission (or such longer period as may be specified pursuant to Section Fin order to comply with applicable law).
3. In order to maintain the structural effect of the Commitments, the Parties shall, for a period of [] after the Effective Date, not acquire direct or indirect influence over the whole or part of the Divestment Businesses, unless the Commission has previously found that the structure of the markets has changed to such an extent that the absence of influence over the Divestment Businesses is no longer necessary to render the proposed concentration compatible with the common market. For the avoidance of any doubt it being understood that nothing shall prevent the Parties and subsequently Group 4 Securicor from otherwise competing with the Divestment Businesses as from the Effective Date including tendering for or entering into contracts with past or present customers of the Divestment Business.

Structure and definition of the Divestment Businesses

(i) Luxembourg – cash in transit and manned guarding

- 4.1 The Luxembourg Divestment Business consists of Securicor's activities regarding CIT, Manned Guarding, Monitoring and Response and Electronic Installation and Maintenance in Luxembourg but excluding the Manned Guarding operations carried out exclusively in Belgium currently undertaken by Securicor Services SARL but managed via Securicor's Luxembourg operations ("Securicor Luxembourg Divestment Business").

The Securicor Luxembourg Divestment Business, described in more detail in Schedule 1, include:

- (a) all tangible and intangible assets (including intellectual property rights, save for any rights to use the name "Securicor", necessary to ensure the viability and competitiveness of the Divestment Business;
- (b) all licences, permits and authorizations issued by any governmental organization for the benefit of the Divestment Business;
- (c) all contracts, leases, commitments and customer orders of the Divestment Business; all customer, credit and other records, including customer register, marketing plans and other customer or market related documentation of the Divestment Business (items referred to under (a)-(c) hereinafter collectively referred to as "**Assets**"); and
- (d) the Personnel.

The sale of the Securicor Luxembourg Divestment Business may be effected either by a sale of the entire share capital in Securicor Luxembourg S.A. as the case may be, or through a sale of the Assets of the Luxembourg Divestment Business as further described in Schedule 1.

(ii) United Kingdom – cash in transit ("CIT")

4.2 The Divestment Business consists of Group 4 Falck A/S's activities regarding cash transportation and related cash activities in Scotland, these activities currently being pursued exclusively and independently through the company Group 4 Falck Cash Services UK Limited (formerly Group 4 CIT (Scotland) Limited). The present legal and functional structure of the Divestment Business as operated to date is described in Schedule 2 (the "**UK CIT Divestment Business**"). The UK CIT Divestment Business, described in more detail in Schedule 2, includes

- (a) all tangible and intangible assets (including intellectual property rights, save for any rights to use the name "Group 4 Falck" or the Group 4 Falck Falcon logo in any appearance) comprising the existing Group 4 Falck UK CIT business, and necessary to ensure the viability and competitiveness of the UK CIT Divestment Business;

- (b) all licences, permits and authorizations issued by any governmental organization for the benefit of the UK CIT Divestment Business;
- (c) all contracts, leases, commitments and customer orders of the UK CIT Divestment Business; all customer, credit and other records, including customer register, marketing plans and other customer or market related documentation of the UK CIT Divestment Business (items referred to under (a)-(c) hereinafter collectively referred to as "**Assets**"; and
- (d) the Personnel.

The sale of the UK CIT Divestment Business may be effected either by way of sale of the entire share capital of Group 4 Falck Cash Services UK Limited or through a sale of the Assets of the company.

(iii) The Netherlands – manned guarding/monitoring and response

4.3 The Divestment Business consists of all of Group 4 Falck's licensed Manned Guarding activities (and including response services) as currently operated through Falck Security B.V. The divestment will be by way of a sale of the shares in Falck Security BV or an asset sale of the assets and liabilities comprised in this company. The Divestment Business does not include unlicensed activities provided by Falck Services B.V. and subsidiaries as well as Monitoring and Electronic Installation and Maintenance activities and all Aviation Security Services activities provided through Falck Alarmcentrale B.V., Falck Alarmering & Techniek B.V., Falck Security Systems B.V. and Seceurop Beheer B.V. and subsidiary. The structure of the Divestment Business is described in Schedule 3 (the "**Netherlands Divestment Business**"). The Netherlands Divestment Business, described in more detail in Schedule 3, includes

- (a) all tangible and intangible assets (including intellectual property rights, save for any rights to use the name " Falck" or the Group 4 Falck Falcon logo in any appearance), necessary to ensure the viability and competitiveness of the Netherlands Divestment Business;
- (b) all licences, permits and authorizations issued by any governmental organization for the benefit of the Netherlands Divestment Business;
- (c) all contracts, leases, commitments and customer orders of the Netherlands Divestment Business; all customer, credit and other records, including customer register, marketing plans and other customer or market related documentation of the Netherlands Divestment Business (items referred to

under (a)-(c) hereinafter collectively referred to as "**Assets**"; and

(d) the Personnel.

Section C. Related commitments

Preservation of Viability, Marketability and Competitiveness

5. From the Effective Date until Closing, Group 4 Falck, Securicor or Group 4 Securicor as the case may be, shall preserve the economic viability, marketability and competitiveness of the Divestment Businesses, in accordance with good business practice, and shall minimize as far as possible any risk of loss of competitive potential of the Divestment Business. In particular Group 4 Falck, Securicor or Group 4 Securicor undertake:
- (a) Not to carry out any act upon its own authority that might have a significant adverse impact on the value, management or competitiveness of the Divestment Businesses or that might alter the nature and scope of activity, or the industrial or commercial strategy or the investment policy of the Divestment Businesses;
 - (b) To make available sufficient resources for the development of the Divestment Businesses, on the basis of and in continuation of the existing business plans;
 - (c) To take all reasonable steps, including appropriate incentive schemes (based on industry practice), to encourage all Key Personnel to remain with the Divestment Businesses.

Save that for the avoidance of all doubt the parties and Group 4 Securicor shall from the Effective Date be entitled to compete with the Divestment Business, in so far as compatible with paragraph 10, notwithstanding its obligations in this paragraph.

Hold-separate obligations of Parties

6. Group 4 Falck, Securicor or Group 4 Securicor commit, from the Effective Date until Closing, to keep the Divestment Businesses separate from the businesses being retained and to ensure that Key Personnel of the Divestment Businesses - including the Hold Separate Managers - have no involvement in any business retained and vice versa. The Parties shall also ensure that the Personnel do not report to any individual outside the Divestment Businesses.
7. Until Closing, Group 4 Falck, Securicor or Group 4 Securicor as the case may be, shall assist the Monitoring Trustee in ensuring that the Divestment Businesses are

managed as distinct and saleable entities separate from the businesses retained by the Parties. A Hold Separate Manager for each Divestment Business shall be appointed who shall be responsible for the management of the Divestment Business, under the supervision of the Monitoring Trustee. The Hold Separate Manager shall manage the Divestment Business independently and in the best interest of the business with a view to ensuring its continued economic viability, marketability and competitiveness and its independence from the businesses retained by the Parties.

8. To ensure that the Divestment Businesses are held and managed as separate entities the Monitoring Trustee shall exercise the Parties' rights as shareholder in the Divestment Businesses (except for its rights to dividends that are due before Closing), with the aim of acting in the best interest of the business, determined on a stand-alone basis, as an independent financial investor, and with a view to fulfilling the Parties' obligations under the Commitments. Furthermore, the Monitoring Trustee shall have the power to replace members of the supervisory board or non-executive directors of the board of directors, who have been appointed on behalf of the Parties. Upon request of the Monitoring Trustee, the parties shall resign as member of the boards or shall cause such members of the boards to resign.

Ring-fencing

9. The Parties shall implement all necessary measures to ensure that they do not after the Effective Date obtain and use any business secrets, know-how, commercial information, or any other information of a confidential or proprietary nature relating to the Divestment Businesses. In particular, the participation of the Divestment Businesses in a central information technology network shall be severed to the extent possible, without compromising the viability of the Divestment Businesses. The Parties may only obtain and use information relating to the Divestment Businesses which is reasonably necessary for the divestiture of the Divestment Businesses or whose disclosure to the Parties is required by law.

Non-solicitation clause

10. The Parties undertake not to solicit, and to procure that Affiliated Undertakings do not actively solicit, the Key Personnel transferred with the Divestment Businesses for a period of [] after Closing. The Parties also undertake that in competing with the Divestment Businesses they will not for a period of [] after Closing actively solicit customers of the Divestment Businesses as at the Effective Date using information that Group 4 Falck has in relation to those customers in the case of the Netherlands and UK CIT Divestment Businesses and using information that Securicor has in relation to those customers in the case of the Luxembourg Divestment Business.

Due Diligence

11. In order to enable potential purchasers to carry out a reasonable due diligence of the Divestment Business, Group 4 Falck, Securicor or Group 4 Securicor as the case may be shall, subject to customary confidentiality assurances and dependent on the stage

of the divestiture process:

- (a) provide to potential purchasers sufficient information as regards the Divestment Business;
- (b) provide to potential purchasers sufficient information relating to the Personnel and allow them reasonable access to the Personnel.

Reporting

- 12. The Parties shall submit written reports in English on potential purchasers of the Divestment Businesses and developments in the negotiations with such potential purchasers to the Commission and the Monitoring Trustee no later than 10 days after the end of every second month following the Effective Date (or otherwise at the Commission's request).
- 13. The Parties shall inform the Commission and the Monitoring Trustee on the preparation of the data room documentation and the due diligence procedure and shall submit a copy of an information memorandum to the Commission and the Monitoring Trustee before sending the memorandum out to potential purchasers.

Section D. The Purchasers

- 14. In order to ensure the immediate restoration of effective competition, a Purchaser, in order to be approved by the Commission, must:
 - (a) be independent of and unconnected to the Parties;
 - (b) have the financial resources, proven expertise and incentive to maintain and develop the Divestment Business as a viable and active competitive force in competition with the Parties and other competitors;
 - (c) neither be likely to create, in the light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed, and must, in particular, reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Business (the before-mentioned criteria for the purchaser hereafter the "**Purchaser Requirements**").
- 15. The final binding sale and purchase agreements shall be conditional on the Commission's approval. When the Parties have reached an agreement with a purchaser, they shall submit a fully documented and reasoned proposal, including a

copy of the final agreement(s), to the Commission and the Monitoring Trustee. The Parties must be able to demonstrate to the Commission that the purchaser meets the Purchaser Requirements and that the Divestment Business is being sold in a manner consistent with the Commitments. For the approval, the Commission shall verify that the purchaser fulfils the Purchaser Requirements and that the Divestment Business is being sold in a manner consistent with the Commitments. The Commission may approve the sale of the Divestment Business without one or more Assets or parts of the Personnel, if this does not affect the viability and competitiveness of the Divestment Business after the sale, taking account of the proposed purchaser.

Section E. Trustee

I. Appointment Procedure

16. The Parties shall appoint a Monitoring Trustee to carry out the functions specified in the Commitments for a Monitoring Trustee. If the Parties have not entered into a binding sales and purchase agreement one month before the end of the First Divestiture Period or if the Commission has rejected a purchaser proposed by the Parties at that time or thereafter, the Parties shall appoint a Divestiture Trustee to carry out the functions specified in the Commitments for a Divestiture Trustee. The appointment of the Divestiture Trustee shall take effect upon the commencement of the Extended Divestment Period.
17. The Trustee shall be independent of the Parties, possess the necessary qualifications to carry out its mandate, for example as an investment bank or consultant or auditor, and shall neither have nor become exposed to a conflict of interest. The Trustee shall be remunerated by the Parties in a way that does not impede the independent and effective fulfillment of its mandate. In particular, where the remuneration package of a Divestiture Trustee includes a success premium linked to the final sale value of the Divestment Business, the fee shall also be linked to a divestiture within the Trustee Divestiture Period.

Proposal by the Parties

18. No later than one week after the Effective Date, the Parties shall submit a list of one or more persons whom the Parties propose to appoint as the Monitoring Trustee to the Commission for approval. No later than one month before the end of the First Divestiture Period, the Parties shall submit a list of one or more persons whom the Parties propose to appoint as Divestiture Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the proposed Trustee fulfils the requirements set out in paragraph 16 and shall include:
 - (a) The full terms of the proposed mandate, which shall include all provisions necessary to enable the Trustee to fulfil its duties under these Commitments;

- (b) The outline of a work plan which describes how the Trustee intends to carry out its assigned tasks;
- (c) An indication whether the proposed Trustee is to act as both Monitoring Trustee and Divestiture Trustee or whether different trustees are proposed for the two functions.

Approval or rejection by the Commission

19. The Commission shall have the discretion to approve or reject the proposed Trustee(s) and to approve the proposed mandate subject to any modifications it deems necessary for the Trustee to fulfill its obligations. If only one name is approved, the Parties shall appoint or cause to be appointed, the individual or institution concerned as Trustee, in accordance with the mandate approved by the Commission. If more than one name is approved, the Parties shall be free to choose the Trustee to be appointed from among the names approved. The Trustee shall be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

New proposal by the Parties

20. If all the proposed Trustees are rejected, the Parties shall submit the names of at least two more individuals or institutions within one week of being informed of the rejection, in accordance with the requirements and the procedure set out in paragraphs 16, 17 and 18.

Trustee nominated by the Commission

21. If all further proposed Trustees are rejected by the Commission, the Commission shall nominate a Trustee, whom the Parties shall appoint, or cause to be appointed, in accordance with a trustee mandate approved by the Commission.

II. Functions of the Trustee

22. The Trustee shall assume its specified duties in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee or the Parties, give any orders or instructions to the Trustee in order to ensure compliance with the conditions and obligations attached to the Decision.

Duties and obligations of the Monitoring Trustee

23. The Monitoring Trustee shall:
- (i) Propose in its first report to the Commission a detailed work plan describing how it intends to monitor compliance with the obligations and conditions attached to the Decision.
 - (ii) Oversee the on-going management of the Divestment Businesses with a view

to ensuring its continued economic viability, marketability and competitiveness and monitor compliance by the Parties with the conditions and obligations attached to the Decision. To that end the Monitoring Trustee shall:

- (a) monitor the preservation of the economic viability, marketability and competitiveness of the Divestment Businesses, and the keeping separate of the Divestment Businesses from the business retained by the Parties, in accordance with paragraphs 5 and 7 of the Commitments;
 - (b) supervise the management of the Divestment Businesses as a distinct and saleable entity, in accordance with paragraph 7 of the Commitments;
 - (c) (i) in consultation with the Parties, determine all necessary measures to ensure that the Parties do not after the effective date obtain any business secrets, know-how, commercial information, or any other information of a confidential or proprietary nature relating to the Divestment Businesses, in particular strive for the severing of the Divestment Businesses' participation in a central information technology network to the extent possible, without compromising the viability of the Divestment Businesses, and (ii) decide whether such information may be disclosed to the Parties as the disclosure is reasonably necessary to allow the Parties to carry out the divestiture or as the disclosure is required by law;
 - (d) monitor the splitting of assets and the allocation of Personnel between the Divestment Businesses and the Parties or Affiliated Undertakings.
- (iii) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision;
- (iv) propose to the Parties such measures as the Monitoring Trustee considers necessary to ensure the Parties' compliance with the conditions and obligations attached to the Decision, in particular the maintenance of the full economic viability, marketability or competitiveness of the Divestment Businesses, , the holding separate of the Divestment Businesses and the non-disclosure of competitively sensitive information;
- (v) review and assess potential purchasers as well as the progress of the divestiture process and verify that, dependent on the stage of the divestiture process, (a) potential purchasers receive sufficient information relating to the Divestment Businesses and the Personnel in particular by reviewing, if available, the data room documentation, the information memorandum and the due diligence process, and (b) potential purchasers are granted reasonable access to the Personnel;
- (vi) provide to the Commission, sending the Parties a non-confidential copy at the same time, a written report within 15 days after the end of every month. The report shall cover the operation and management of the Divestment Businesses so that the Commission can assess whether the business is held in a manner consistent with the Commitments and the progress of the divestiture process as well as potential purchasers. In addition to these

reports, the Monitoring Trustee shall promptly report in writing to the Commission, sending the Parties a non-confidential copy at the same time, if it concludes on reasonable grounds that the Parties are failing to comply with these Commitments;

- (vii) within one week after receipt of the documented proposal referred to in paragraph 14, submit to the Commission a reasoned opinion as to the suitability and independence of the proposed purchaser and the viability of the Divestment Businesses after the Sale and as to whether the Divestment Businesses is sold in a manner consistent with the conditions and obligations attached to the Decision, in particular, if relevant, whether the Sale of the Divestment Businesses without one or more Assets or not all of the Personnel affects the viability of the Divestment Businesses after the sale, taking account of the proposed purchaser.

Duties and obligations of the Divestiture Trustee

- 24. Within the Trustee Divestiture Period, the Divestiture Trustee shall use all reasonable endeavors to sell at a fair market value the Divestment Businesses to a purchaser, provided that the Commission has approved both the purchaser and the final binding sale and purchase agreement in accordance with the procedure laid down in paragraph 14. The Divestiture Trustee shall include in the sale and purchase agreement such terms and conditions as it considers appropriate for an expedient sale in the Trustee Divestiture Period. In particular, the Divestiture Trustee may include in the sale and purchase agreement such customary representations and warranties and indemnities as are reasonably required to effect the sale. [] In all circumstances, the Divestiture Trustee shall protect the legitimate financial interests of the Parties, subject to the Parties' unconditional obligation to divest at no minimum price in the Trustee Divestiture Period.
- 25. In the Trustee Divestiture Period (or otherwise at the Commission's request), the Divestiture Trustee shall provide the Commission with a comprehensive monthly report written in English on the progress of the divestiture process. Such reports shall be submitted within 15 days after the end of every month with a simultaneous copy to the Monitoring Trustee and a non-confidential copy to the Parties.

III. Duties and obligations of the Parties

- 26. The Parties shall provide and shall cause its advisors to provide the Trustee with all such cooperation, assistance and information as the Trustee may reasonably require to perform its tasks. The Trustee shall have full and complete access to any of the Parties or the Divestment Businesses' books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and the Parties and the Divestment Businesses shall provide the Trustee upon request with copies of any document. The Parties and the Divestment Businesses shall make available to the Trustee one or more offices on

their premises and shall be available for meetings in order to provide the Trustee with all information necessary for the performance of its tasks.

27. The Parties shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request on behalf of the management of the Divestment Businesses. This shall include all administrative support functions relating to the Divestment Businesses which are currently carried out at headquarters level. The Parties shall provide and shall cause its advisors to provide the Monitoring Trustee, on request, with the information submitted to potential purchasers, in particular give the Monitoring Trustee access to the data room documentation and all other information granted to potential purchasers in the due diligence procedure. The Parties shall inform the Monitoring Trustee on possible purchasers, submit a list of potential purchasers, and keep the Monitoring Trustee informed of all developments in the divestiture process.
28. The Parties shall grant or procure Affiliated Undertakings to grant comprehensive powers of attorney, duly executed, to the Divestiture Trustee to effect the sale, the Closing and all actions and declarations which the Divestiture Trustee considers necessary or appropriate to achieve the sale and the Closing, including the appointment of advisors to assist with the sale process. Upon request of the Divestiture Trustee, the Parties shall cause the documents required for effecting the sale and the Closing to be duly executed.
29. The Parties shall indemnify the Trustee and its employees and agents (each an **"Indemnified Party"**) and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to the Parties for any liabilities arising out of the performance of the Trustee's duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.
30. At the expense of the Parties, the Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to the Parties' approval (this approval not to be unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should the Parties refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard the Parties. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 29 shall apply mutatis mutandis. In the Trustee Divestiture Period, the Divestiture Trustee may use advisors who served the Parties during the Divestiture Period if the Divestiture Trustee considers this in the best interest of an expedient sale.

IV. *Replacement, discharge and reappointment of the Trustee*

31. If the Trustee ceases to perform its functions under the Commitments or for any other good cause, including the exposure of the Trustee to a conflict of interest:
- (a) the Commission may, after hearing the Trustee, require the Parties to replace the Trustee; or
 - (b) the Parties, with the prior approval of the Commission, may replace the Trustee.
32. If the Trustee is removed according to paragraph 31, the Trustee may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full hand over of all relevant information. The new Trustee shall be appointed in accordance with the procedure referred to in paragraphs 16-21.
33. Beside the removal according to paragraph 31, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.

Section F. The Review Clause

34. Unless otherwise specified above, the Commission may, where appropriate, in response to a request from the Parties showing good cause and accompanied by a report from the Monitoring Trustee:
- (i) Grant an extension of the time periods foreseen in the Commitments, or
 - (ii) Waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in these Commitments.

Where the Parties seek an extension of a time period, it shall normally submit a request to the Commission no later than one month before the expiry of that period, showing good cause. An extension shall however not be excluded even if a request is submitted within the last month of any period.

.....
duly authorized for and on behalf of
Group 4 Falck A/S

.....
duly authorized for and on behalf of
Securicor plc.

**SCHEDULE 1 –
Luxembourg
Divestment Business –
CIT and manned
guarding**

1. The Luxembourg Divestment Business – comprising the Manned Guarding, Monitoring and Response, CIT and Electronic Installation and Maintenance businesses of Securicor in Luxembourg –operated within the company Securicor Luxembourg SA (the “Company”) through the assets and liabilities of this company which are necessary for the conduct of the Luxembourg Divestment Business (paragraph 2 below) but excluding the provision of certain Manned Guarding services in Belgium undertaken by Securicor Services SARL (a subsidiary of Securicor Luxembourg SA) but currently managed via the Luxembourg Divestment Business. The subsidiary, Securicor Services S.à.r.l, will not be part of the divestment business as this contains the Belgian contracts which will be retained – this company only performs contracts relating to Belgium and none that relate to Luxembourg.
2. Following paragraph 4.1 of these Commitments, the Luxembourg Divestment Business includes the Manned Guarding, Monitoring and Response, CIT and Electronic Installation and Maintenance businesses of Securicor in Luxembourg, and all assets and liabilities necessary for the pursuit hereof, including, but not limited to:

(a) The following main tangible assets:

Freehold premises located at 8 rue de Bitbourg, L-1273, Luxembourg (book value: €[...]);
Vehicles: ((€[...]));
IT Equipment: (€[...]); and
Other tangible fixed assets such as radios, office furniture and other ancillary equipment: (€[...]).

(b) The following main intangible assets;

Goodwill relating to an acquired business (book value €[...]);

Temporary use of Genesis software as per the licence referred to in (c) below.

Save for the above, no brand names, IPR or other material intangible assets will be included;

(c) The following main licences, permits and authorizations;

Ministry of Justice authorizations to provide CIT and manned guarding services and all applicable authorizations from the *Ministre des Classes Moyennes* relating to individuals providing manned guarding services.

2 year non-exclusive royalty free licence to use the Securicor Group’s proprietary Genesis software in its monitoring business.

All IT licences used in the operation of the IT equipment utilized in the Luxembourg

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Divestment Business.

Membership of the Luxembourg Chamber of Commerce, Chambre des Métiers and Fédération des Industriels Luxembourgeois.

(d) The following main contracts, agreements, leases, commitments and understandings

Supplier Contracts
and all other supply contracts necessary for the Luxembourg Divestment Business.

Customer Contracts

Name of Customer	Nature of Service
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
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[...]	[...]
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and all other CIT, Manned Guarding, Monitoring and Electronic Installation and Maintenance customer contracts of the Luxembourg Divestment Business

(e) The following customer, credit and other records;

All CIT, Manned Guarding, Monitoring and Response and Electronic Installation and Maintenance customer credit and other records of the Luxembourg Divestment Business.

(f) The following Personnel;

All operational CIT, Manned Guarding, Monitoring and Response and Electronic Installation and Maintenance and administrative staff (other than any who are not required for the purposes of the Luxembourg Divestment Business).

(g) The following Key Personnel;

[...]

An organisational chart is included as Schedule 1.1.

3. The Divestment Business shall not include:

All contracts, personnel and assets relating to the provision of Manned Guarding services in Belgium;

Securicor Luxembourg SA

Management & Organisational Structure

[...]

SCHEDULE 2 – UK – CIT services

1. The UK CIT Divestment Business comprises the CIT business operated in Scotland by Group 4 Falck Cash Services UK Limited (the “Company”).

Organizational chart is attached as Schedule 2.1.

2. The UK CIT Divestment Business includes the CIT business of the Company, and all assets and liabilities necessary for the pursuit hereof, including, but not limited to:

(a) The following main tangible assets;

- CIT contracts generation a total revenue of approximately EUR [...] million per annum.
- [...]:
- [...].
- Operating equipment necessary to conduct the cash business
- 4 leasehold contracts with the CIT depots located in:
Glasgow, Edinburgh, Inverness and Manchester.
- Lease contracts for [...] Vehicles

(b) The following main intangible assets;

- Software and other intangible assets (value approximately EUR [...])

(c) The following main licences, permits and authorizations;

Any licenses that are currently in the possession of Group 4 Falck Cash Services UK Ltd.

(d) The following Personnel;

- 122 employees – subject to individual agreement

(e) The following Key Personnel;

[...]

Schedule 2.1 includes an organizational chart.

- (f) The arrangements for the supply with the following products or services by Group 4 Falck Total Security Ltd. the Company or Affiliated Undertakings for a transitional period of up to 6 months after Closing:

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- All administrative services necessary for the uninterrupted pursuit of the Divestment Business, including bookkeeping, salary administration, invoicing etc. to the extent this is being provided from other Group 4 Falck companies.
3. The Group 4 Falck UK CIT Divestment Business shall not include the Group 4 Falck Falcon logo or appearance.

GROUP 4 FALCK

CASH SERVICES UK LTD

[...]

SCHEDULE 3 –
The Netherlands –
Manned Guarding and
Monitoring and
Response

1. The Netherlands Divestment Business comprises all of Group 4 Falck's licensed Manned Guarding activities including Response services as operated through Falck Security B.V. The divestment will be by way of a sale of the shares or an asset sale of the assets and liabilities comprised in this subsidiary.

2. Following paragraph 4.3 of these Commitments, the Netherlands Divestment Business includes all licensed Manned Guarding and Response activities currently operated by Falck Security BV, and all assets and liabilities necessary for the pursuit hereof, including, but not limited to:

(a) The following main tangible assets:

Attached as schedule 3.1 is a list of the premises that will be divested as being used by the Netherlands Divestment Business.

To include all fixtures and fittings located at such premises;

Leased vehicles utilized in the Netherlands Divestment Business, it being noted that the Netherlands Divestment Business does not own vehicles;

Office, radio and other equipment utilized in the Netherlands Divestment Business (including leased equipment).

(b) The following main intangible assets; [...]

(c) The following main licences, permits and authorizations;

Licence to operate as a security firm in The Netherlands, issued by the Dutch Ministry of Justice;

Licences of all guards who will be transferred to the Netherlands Divestment Business;

All IT licences used in the operations of the IT equipment transferred to the Netherlands Divestment Business.

(d) The following main contracts, agreements, leases, commitments and understandings;

All contracts to which the Netherlands Divestment Business is party for the provision of manned guarding and response services in the Netherlands:

Supplier contracts

Those supply contracts to which Falck Security B.V. is party.

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(e) The following customer, credit and other records;

All credit and other records and files relating to customers of Falck Security B.V.

(f) The following Personnel;

All operational staff engaged in the Netherlands Divestment Business currently comprised in the subsidiaries which are to be divested.

Manned Guarding:

- 3,200 guards (approximately)
- 156 administration, management and IT
- 15 sales

(g) The following Key Personnel; [...]

[...]

The Parties are advised that it would be contrary to Dutch employment regulations to provide names of the individuals concerned (or details of their current positions) prior to consultation with such individuals and appropriate representative bodies.

(h) To the extent that any products or services are required from Securicor or Group 4 Falck or their Affiliated Undertakings in order for the Divestment Business to operate effectively during the period immediately following divestment, these will be provided for a transitional period of up to 6 months after Closing on arms length terms to be finalized. Likewise the Netherlands Divestment Business will for a transitional period enter into a lease arrangement, on reasonable arm's length terms, for space used by Falck Services B.V. or subsidiaries for certain training activities at Treubstraat 19-23 in Den Haag.

3. The Netherlands Divestment Business shall not include any assets relating to other security businesses of Group 4 Falck or Securicor in the Netherlands other than those comprised in the Netherlands Divestment Business. Specifically the Netherlands Divestment Business does not include the following parts of Group 4 Falck in the Netherlands which are held in separate companies: the unlicensed guarding, reception and other services business (held in Falck Services B.V. and its four subsidiaries), the Aviation Security Services business (Seceurop Beheer B.V. and its subsidiary Falck Airport Security B.V.), the Electronic Installation and Maintenance business (Falck Alarmering & Techniek B.V. and its subsidiary Falck Security Systems B.V.) and the Monitoring activities (Falck Alarmcentrale B.V.).

For the avoidance of any doubt the Netherlands Divestment Business will not include the Group 4 Falck Falcon logo or appearance, or any other intellectual property right not specifically included in this schedule as an asset to be divested.

BUILDINGS FALCK NETHERLANDS 21-05-2004

Enclosure A		
Region	Place	Address
Amsterdam	Amsterdam	Ottho Heldringstraat 41-43
Amsterdam	Zaandam	Grote Tocht 8
Den Haag	Rijswijk	Handelskade 68-72
Den Haag	Rijswijk	Treubstraat 19-23
Den Haag	Zoetermeer	Argonstraat 56
Rotterdam	Barendrecht	Zuideinde 148
Rotterdam	Capelle a/d IJssel	Essebaan 16
Utrecht	Utrecht	Boven Clarenburg 135/143
Utrecht	Utrecht	Sophialaan 6
Eindhoven	Eindhoven	Fuutlaan 14
Eindhoven	Eindhoven	Hondsruglaan 87
Eindhoven	Tilburg	Boogschutterstraat 10
Noord Nederland	Tynaarlo	Nijverheidsweg 5
Zwolle-Overijssel	Meppel	Industrieweg 5
Zwolle-Overijssel	Zwolle	Schrevenweg 6
Amersfoort	Amersfoort	Nijverheidsweg Noord 123-127
Amersfoort	Amersfoort	Reigerstraat 10
Arnhem	Groessen	Helhoek 30
Zuid-Nederland	Hoensbroek	Heerlerweg 154
Zuid-West-Nederland	Terneuzen	Beneluxweg 14
Zuid-West-Nederland	Breda	Tinstraat 9
Noord-Holland	Hoorn	Verlengde Lageweg 19

13 Organisation Charts – [...]