

**COMMERCE ACT 1986: BUSINESS ACQUISITION  
SECTION 66: NOTICE SEEKING CLEARANCE**

Date: 29 September 2008

The Registrar  
Business Acquisitions and Authorisations  
Commerce Commission  
PO Box 2351  
WELLINGTON

Pursuant to s66(1) of the Commerce Act 1986 notice is hereby given seeking **clearance** of a proposed business acquisition.

<b>OVERVIEW</b>
-----------------

1. ISS Holdings NZ Limited (“**ISS NZ**”) proposes to acquire a portion of the manned (static and mobile) guarding business of Chubb New Zealand Limited (“**Chubb NZ**”) by acquiring all the shares in a company established by Chubb NZ to own that business. Chubb NZ will retain its alarm monitoring and cash services businesses.
2. ISS NZ carries on its own manned (static and mobile) guarding business through its wholly owned subsidiary, First Security Guard Services Limited (“**First Security**”). First Security only operates in the manned (static and mobile) guarding services markets. It does not operate alarm monitoring or cash services businesses.
3. By way of market definition, there are both regional (considered in Decision 419) and national aspects (insofar as there are multi-regional customers who favour single contracts for supply of services to multiple sites).
4. The acquisition by ISS NZ will not substantially lessen competition in any applicable market, as considerable competition and potential for further competition will remain. This is evidenced by factors including the following:
  - (a) ADT (formerly Armourguard) is currently the largest provider of manned (static and mobile) guarding services in the New Zealand market. It will remain a highly effective competitor post the proposed acquisition which will constrain the activities of the merged entity. Post acquisition, First Security estimates that ADT will be of a similar size to the combined First Security/Chubb NZ (static and mobile) guarding business.
  - (b) There is a plethora of other existing providers which compete with Chubb NZ and First Security, including a number of businesses equal to and larger than First Security in each region, a number of businesses which compete for both multi-regional and regional customers and many smaller highly competitive providers. First Security estimates that there are over 200 independent other companies providing much the same services as Chubb NZ and First Security in the manned (static and mobile) guarding markets.

- (c) Barriers to entry and expansion are very low. The regulatory requirements for security companies and individual guards are light and the capital requirements for companies entering into the market, or expanding their existing business, are minimal. Static guarding is labour intensive and training is not necessarily required, and labour has been readily available.
  - (d) Competition in the markets also results from the number of business models operating, and contractual devices used, for the delivery of services including:
    - (i) fully integrated monitoring and guarding service providers (like ADT and Chubb NZ),
    - (ii) monitoring companies (and, in respect of banks, cash service providers), which sub-contract static and mobile patrol services,
    - (iii) guarding companies, which sub-contract monitoring services (and in some cases regional guarding services where the provider does not have a presence), and
    - (iv) integrated facility services providers (like ISS and One Complete Solution (“OCS”)) which bundle guarding services with other site services (such as cleaning).
5. By reason of ADT and the plethora of other competitors remaining in the market post-acquisition, the range of business models with sufficiently different incentives and the ease of expansion to meet market opportunities, there will be no substantial lessening of competition by virtue of the proposed acquisition.

<b>PART I: TRANSACTION DETAILS</b>
------------------------------------

## 1. THE BUSINESS ACQUISITION

- 1.1. Clearance is sought in respect of the acquisition of a portion of the manned (static and mobile) guarding business of Chubb NZ by ISS NZ (see comments in paragraph 1.4 below).
- 1.2. The proposed acquisition has been structured in two stages:
  - (a) first, Chubb NZ will transfer a portion of its manned (static and mobile) guarding business to its wholly owned subsidiary, Security Salesco NZ Limited ("**Salesco**"); and
  - (b) secondly, ISS NZ will purchase all the shares in Security Salesco NZ Limited from Chubb NZ.
- 1.3. The parties have executed agreements to record the above transaction. The agreements provide that completion of the transfer of the business to Security Salesco NZ Limited, and the purchase of all the shares in Security Salesco NZ Limited by ISS NZ, is conditional on ISS NZ obtaining a clearance to purchase the shares under the Commerce Act 1986.

### Overview of the businesses

- 1.4. The business which is being sold by Chubb NZ comprises a portion of its manned (static and mobile) guarding business. The term "manned guarding" comprises a number of different services:
  - (a) *Static guarding*: This involves the stationing of a guard at a customer's premises. Some customers choose this option, while others rely on a monitored alarm to which, if the alarm sounds, a mobile patrol is despatched.
  - (b) *Mobile patrol*: This involves the dispatch of a security guard to a residential address or commercial premises. Patrolling can either be contracted for pre-specified times and routes or, as is often the case for commercial premises and almost exclusively for residences, is limited to responding to an alarm.
  - (c) *Event management*. This involves the provision of security guards at a site for the duration of a sporting or other event. Ancillary services such as cleaning will often also be provided or co-ordinated by the security company.
  - (d) *Prisoner Escort*. This involves the transportation of prisoners between Corrections facilities and Courts under contract to the Department of Corrections.
  - (e) *Home detention*: This involves the monitoring of home detention devices worn by prisoners on home detention and responding to alerts on the home detention devices.
  - (f) *Cash services*: This includes cash processing services; cash in transit services; and ATM replenishment and servicing services.
- 1.5. Associated with mobile patrol services referred to in paragraph 1.4(b) above is alarm monitoring:

- (a) This involves the remote monitoring of alarms through a range of telecommunications-based technologies. Some alarm monitoring companies, such as Chubb NZ, have their own mobile patrol units that they despatch in response to an alarm. In areas where their own units do not operate, they contract out the mobile patrol function. Other alarm companies which do not have their own mobile patrol units simply monitor the alarms and engage third party patrol companies to respond when an alarm is triggered.
- (b) In addition to alarm monitoring, Chubb NZ also monitors prisoners on home detention.
- 1.6. The only manned guarding functions that are affected by the proposed transaction are:
- static guarding;
  - event management; and
  - mobile patrol.
- 1.7. In respect of the activities listed in paragraph 1.4 above:
- (a) prisoner escort is a subset of static guarding in that it requires security guards to be physically available at certain times to transport and guard prisoners. Chubb NZ's prisoner escort contract is to be assigned to Salesco; and
- (b) home detention is a subset of mobile patrol as it requires security guards to routinely patrol the homes of prisoners and to respond to alerts.
- 1.8. Chubb NZ is not selling its alarm monitoring business or the home detention monitoring business. The cash services business is also not included in the sale. Chubb NZ is retaining its home detention contract with the Department of Corrections and the routine patrol and alarm response functions will be subcontracted to Salesco and carried on by Salesco through the same business unit which currently carries on this function for Chubb NZ.
- 1.9. The table below, and the diagram attached to Appendix 1 of this application, identify the various components of the "manned guarding" business and the areas of aggregation between Chubb NZ and First Security.

Components of the "manned guarding" business

	Chubb NZ	First Security
Static guarding	Yes	Yes
Event management	Limited	Limited
Prisoner escort	Yes	No
Home detention services		
• Alarm monitoring	Yes (retained by Chubb NZ)	No
• Alarm response	Yes	No
Alarm monitoring (retained by Chubb NZ)	Yes	No
Physical mobile patrol/alarm response		
• commercial	Yes	Yes
• residential	Yes	No

Cash services	Yes (retained by Chubb NZ)	No
---------------	----------------------------	----

- 1.10. First Security estimates that 65% of event management services are provided by specialist event management companies and in particular, Red Badge, Allied Security, Strategic Security and Red Key Security. Virtually all the main security companies provide event management services. However, due to the very limited role that both Chubb NZ and First Security play in this sector (approximately 10% combined), this application does not consider event management further.

## 2. PERSON GIVING NOTICE

- 2.1. Notice is given by:

ISS Holdings NZ Limited  
 Corner Carbine Road and Arthur Brown Place  
 Mt Wellington  
 Auckland

- 2.2. All correspondence and notices in respect of this application should be directed in the first instance to:

Matthew Dunning  
 Barrister  
 Park Chambers  
 PO Box 5844  
 Wellesley Street  
 Auckland

Ph: (09) 379 9780  
 Fax: (09) 377 0361  
 Email: mdunning@parkchambers.co.nz

With a copy to:

Lars Hoff  
 Chief Financial Officer  
 ISS Holdings NZ Limited  
 Private Bag 92239  
 Auckland

Ph: (09) 573 4536  
 Fax: (09) 573 4596  
 Email: lars.hoff@nz.issworld.com

Greg Horton/Michael Bright  
 Harnos Horton Lusk  
 PO Box 28, Shortland Street  
 Auckland

Ph: (09) 921 4300  
 Fax: (09) 921 4319  
 Email: greg.horton@hhl.co.nz; michael.bright@hhl.co.nz

### 3. CONFIDENTIALITY

- 3.1. Confidentiality is sought in respect of all items deleted from the public copy of this application (“**confidential information**”) and identified in square brackets.
- 3.2. A confidentiality order is sought under s100 of the Commerce Act 1986 (“**Act**”) for the confidential information, and confidentiality is claimed under section (2)(b)(ii) of the Official Information Act 1982 on the grounds that the information is commercially sensitive and valuable information which is confidential to the participants, and that disclosure of it is likely to give unfair advantage to competitors and/or unreasonably prejudice the commercial position of the participants.
- 3.3. The participants request that they be notified of any request made to the Commission for release of any of their confidential information, and that the Commission seeks their views as to whether the information remains confidential and commercially sensitive, at the time responses to such requests are being considered.

### 4. DETAILS OF THE PARTICIPANTS

#### ISS NZ

- 4.1. ISS NZ is a wholly owned subsidiary of ISS Global A/S, a company incorporated in Denmark. ISS Global A/S’ parent company, ISS Holdings A/S, is ultimately owned by EQT and Goldman Sachs Capital Partners, both leading private equity groups.
- 4.2. ISS NZ entered the New Zealand market in 2005. Services provided in New Zealand by ISS include office cleaning, hygiene cleaning, security and grounds maintenance. ISS NZ carries on its current manned (static and mobile) guarding business through its wholly owned subsidiary, First Security, a company it acquired in 2006.
- 4.3. Further information can be obtained from ISS NZ’s website [www.nz.issworld.com](http://www.nz.issworld.com) and from the global website for the ISS organisation [www.issworld.com](http://www.issworld.com).

#### Chubb NZ

- 4.4. Chubb NZ is a subsidiary of United Technologies Luxembourg and Chubb International (Netherlands) BV and is ultimately owned by UTC Fire & Security, United Technologies Corp (“**UTC**”), which is listed on the New York Stock Exchange.
- 4.5. Chubb NZ provides a wide range of services including manned (static and mobile) guarding services. The other services that it provides include heating, air ventilation and air conditioning services, fire protection services, installation of electronic security systems, cash handling and 24x7 electronic alarm monitoring services.
- 4.6. Chubb NZ has been operating in New Zealand since 1952 and today employs over 1,300 people in 19 office locations around the country.
- 4.7. Further information can be obtained from Chubb NZ’s website [www.chubb.co.nz](http://www.chubb.co.nz).
- 4.8. All correspondence and notices to Chubb NZ in respect of this application should be directed in the first instance to:

Chapman Tripp  
 23- 29 Albert Street  
 Auckland

Attention: Lindsey Jones/Melanie Tollemache

Ph: (09) 357 9020/ 357 9298

Fax: (09) 357 9099

Email: lindsey.jones@chapmantripp.com; melanie.tollemache@chapmantripp.com

**5. INTERCONNECTED AND ASSOCIATED PARTIES**

5.1. Nil.

**6. BENEFICIAL INTERESTS**

6.1. Neither of the participants currently holds any interest in the other.

**7. LINKS BETWEEN COMPETITORS**

7.1. Chubb NZ's alarm monitoring division from time to time engages First Security and other alarm response providers to respond to alarms. There is no formal arrangement with First Security for such service. As part of the proposal, it is intended that Chubb NZ will enter into a supplier agreement under which Salesco will be the exclusive (in some cases) and preferred (in other cases) supplier to Chubb NZ's alarm monitoring division.

7.2. First Security has a customer with premises in Auckland and Hamilton. As First Security does not have a presence in Hamilton it has subcontracted Chubb NZ to provide patrol services to such customer. In all other cases, First Security is able to use in house resources to provide patrol services.

7.3. A number of manned (static and mobile) guarding businesses that compete for contracts, particularly multi-regional contracts, sub-contract competitors to supply the physical guarding services. For instance, Allied Security (a Dunedin based security firm) which successfully bid for the Fonterra contract, subcontracts to competitors in several areas.

**8. CROSS DIRECTORSHIPS**

8.1. There are currently no cross directorships.

**9. BUSINESS ACTIVITIES OF EACH PARTICIPANT**

9.1. See section 4 above, and details at the respective websites.

**10. THE REASONS FOR THE PROPOSAL**

10.1. UTC has determined to sell its manned (static and mobile) guarding business as part of a divestment programme internationally.

10.2. UTC has elected to put its manned (static and mobile) guarding business in New Zealand and in some other jurisdictions around the world (including Australia) up for sale, and ISS wishes to expand its New Zealand operations.

10.3. The ISS global organization has heavily invested in New Zealand since its entry into the facility services market place in 2005 and it is committed to further investment in the future.

- 10.4. The acquisition of Chubb NZ's existing customer base will enable ISS NZ to cross sell its other facility services (e.g. cleaning services) to Chubb NZ's existing customers.
- 10.5. The operational synergies and economies of scale of the two combined businesses will allow ISS NZ to provide a more integrated facilities services product offering, and more efficient and price competitive services which will benefit its customers in New Zealand.

<b>PART II: IDENTIFICATION OF MARKETS AFFECTED</b>
--

## 11. HORIZONTAL AGGREGATION

### Market Definition Precedent

11.1. In Decision 419 the Commission defined the following markets:

- (a) the national market for the supply of cash processing services;
- (b) regional markets for the supply of manned services.

### Conclusion on Market Definition

11.2. For the reasons below and adopting the Commission's usual conservative approach, it is considered that the markets should be defined for the purposes of this application as:

- (a) the Auckland, Wellington and Christchurch markets for the supply of manned static guarding services,
- (b) the Auckland, Wellington and Christchurch markets for the supply of mobile patrol services, and
- (c) the national market for the provision of manned (static and mobile) guarding services to multi-regional customers.

### Product markets

11.3. First Security does not operate in any aspect of cash services. This market is therefore not affected by the proposed transaction.

11.4. As mentioned above, the security industry also involves a market for the supply of monitoring services but First Security does not operate in that market. Chubb NZ does, and it will be retaining that business along with its cash services business. There will be contractual arrangements in place whereby Chubb NZ will continue to provide monitoring and cash services to those customers it does now, after First Security takes over providing the guarding services to those customers. This market is therefore not affected by the proposed transaction.

11.5. In Decision 419 the Commission (at paragraph 46) noted an argument "on the face of it" for separate manned service markets reflecting static guarding, mobile patrols and retail. However, it was concluded that "the skills and capital costs required for static guards, mobile services and retail security are very similar and many security companies supply all three services". The applicant considers that approach is still correct, although First Security only operates in the supply of static and mobile patrol services. Some sites are retail premises such as shopping malls, etc, but First Security does not operate in the "retail" sector in the terms described by the Commission, as such (paragraphs 36 and 37: mostly plain clothed security personnel to apprehend shop



lifters, plus some uniformed personnel as a deterrent). The applicant calls this “store security”.

- 11.6. While the applicant supports the approach taken by the Commission to product market definition in Decision 419, for the purposes of this application it has considered the market in terms of the following narrower market definitions corresponding to the two areas of activity where the transaction will give rise to aggregation:
- (a) static guarding services; and
  - (b) mobile patrolling services.

### **Geographic markets**

- 11.7. The geographic characteristics of the industry have not changed markedly since Decision 419, and the analysis at paragraphs 49 to 52 of that decision remains appropriate.
- 11.8. In terms of geographic markets, Chubb NZ has branch operations with its own employees in Auckland, Tauranga, Hamilton, Palmerston North, Wellington, Christchurch and Invercargill but services other parts of the North and South Island through sub-contracting arrangements with local suppliers/owner drivers who contract exclusively to Chubb NZ.
- 11.9. First Security has branch operations with its own employees in Auckland (i.e. the area between Albany in the north, Henderson in the west, Botany in the east and Pukehoke in the south), Wellington (i.e. Wellington City and as far to the north as Tawa but does not operate in the Hutt Valley) and Christchurch (i.e. Christchurch City environs). It does not have subcontracted operations in other areas (other than Hamilton as noted in paragraph 7.2).
- 11.10. Accordingly, aggregation of the parties’ existing operations will occur only in Auckland, Wellington and Christchurch.
- 11.11. First Security does not consider itself as a potential entrant into other regional markets as its business model is one that focuses on larger commercial customers in larger commercial centres to whom it can cross sell its other facility services. While First Security could potentially enter the Dunedin market, it would only do this by way of acquisition of an existing operator.
- 11.12. As a result, the only geographic areas affected by the proposal transaction would be:
- (a) Auckland;
  - (b) Wellington; and
  - (c) Christchurch.
- 11.13. This conclusion is consistent with the approach taken by the Commission in Decision 419 where it concluded that the relevant geographic markets for manned services were New Zealand’s major urban centres and rural areas<sup>1</sup>.

### **Multi-regional customer market**

---

<sup>1</sup> Decision 419, paragraph 52.

- 11.14. In light of the Commission's Decisions 604, 622, 623, 624 and 625 (*Transpacific Industries Group (NZ) Limited*), the applicant has considered whether in this industry there has also emerged a multi-regional customer market which should be considered. Some multi-regional customers favour single providers of manned (static and mobile) guarding services (see Appendix 3) and, therefore, consideration of such a market would appear to be appropriate for the purposes of this analysis. However, several multi-regional customers also select providers of manned (static and mobile) guarding services on a region by region basis.<sup>2</sup>

## 12. DIFFERENTIATED PRODUCT MARKETS

- 12.1. As the Commission noted in Decision 419, at paragraphs 32 to 35, static and mobile guarding is labour intensive with very little capital requirement and training. The only additional equipment required for patrolling is vans and some form of despatch centre. Barriers to entry are very low.
- 12.2. In each of the markets for static guarding and mobile patrol services it is estimated there would be over 200 independent other parties providing much the same services as ADT, Chubb NZ and First Security. Many of those are small operations, however there are a number of other companies in each of the markets relevant to this application (other than Chubb NZ, ADT and First Security) with 15 or more employees.
- 12.3. In effect, providers sell "hours" (either rostered guards on duty, or on patrol, or call out in response to alarms). Consequently, the service provided by all participants is undifferentiated and providers compete largely on price and service quality (other than the prisoner escort and home detention services provided by Chubb NZ to the Department of Corrections and the Police which have specialised requirements).

## 13. NATURE OF DIFFERENTIATION

Not applicable.

## 14. VERTICAL INTEGRATION

- 14.1. The proposed acquisition does not raise issues of vertical integration.

## 15. PREVIOUS ACQUISITIONS AND COMMISSION NOTIFICATIONS

- 15.1. Chubb NZ acquired Securitas' manned guarding business in 1999 and Signature Security acquired Securitas' monitoring business in 2000. UTC acquired Chubb NZ in 2003. ISS NZ acquired First Security in 2006. OCS, a UK-based, global facilities service provider like ISS, bought Double Security then tried (but was unsuccessful commercially) to acquire First Security in competition with ISS NZ. OCS recently acquired City of Sails Security in Auckland, and First Security expects that OCS will continue to expand into the New Zealand market.
- 15.2. The last notification of an acquisition appears to be that by Amourguard Security Limited in 2001, when it was cleared to acquire Inacro Limited (Decision No. 419, 22 February 2001).
- 15.3. [       ]

---

<sup>2</sup> The Ministry of Education recently put out for tender just the Auckland region, the Department of Corrections has tendered work in just the Auckland and Northland region and Westfield tenders work on a region by region basis.

PART III: CONSTRAINTS ON MARKET POWER BY EXISTING COMPETITION
---

**16. EXISTING COMPETITORS IN MARKET**

- 16.1. As far as ISS NZ is aware, no independent market research has been carried out in the security guard industry. ISS NZ estimates that in each of the markets for static guarding and mobile patrol services there would be over 200 independent other parties providing the same services as Chubb NZ and First Security. Most of these are small operations, but there are a number of companies in Auckland, Wellington and Christchurch (apart from ADT, Chubb NZ and First Security) with 15 or more employees.
- 16.2. There are over 1,000 registered security providers and nearly 10,000 registered guards in New Zealand (see web link: <http://www.justice.govt.nz/pisg/forms.html>).
- 16.3. Attached as Appendix 2 is the applicant's best estimate of participants and market shares in the Auckland, Wellington and Christchurch manned (static and mobile) guarding markets. For businesses other than ADT and Chubb, ISS NZ has not been able to estimate the appropriate allocation between the static and mobile portions of their businesses. While market concentration ratios appear to be outside safe harbours<sup>3</sup>, in each region and nationally there remains not only a strong ADT but also a number of medium sized competitors, some of greater scale than First Security is now (eg, in Wellington and Christchurch there are two remaining competitors with businesses currently larger than First Security's, and others not far behind).

***Multi-regional customers***

- 16.4. As First Security is represented only in Auckland, Wellington and Christchurch, it does not have information to enable it to estimate market shares in this market. However, the examples in Appendix 3 illustrate that significant multi-regional contracts are held by Allied Security, ADT, Signature Security, Red Badge and Guard Force as well as First Security and Chubb NZ.

**17. CONDITIONS TO EXPANSION BY EXISTING COMPETITORS**

- 17.1. In respect of both the static guarding and mobile patrol services markets, barriers to entry or expansion are extremely low, hence the large number of operators.

***Static guarding***

- 17.2. As the Commission noted in paragraphs 32 to 35 of Decision 419, there is very little capital requirement. While guards need a security officer certificate, this is cheap (\$120 for a Certificate of Approval) and easy to obtain (a form is filled out and sent to the Registrar of Private Investigators and Security Guards, administered through the Department of Courts). There are no specific qualifications required to obtain an individual (employee) certificate and in some instances a criminal record is not always a bar to provision (it takes approximately 7 to 14 days to obtain a certificate). The security company also needs a licence which costs \$1,200 and takes approximately 4 to 6 weeks to obtain. Certificates and licences are renewed annually, at the end of March.

- 17.3. Former employees can and do set up their own operations in competition: [            ]

<sup>3</sup> Without information about other competitors' revenue breakdown between mobile and static services, it is not possible to calculate market-based concentration levels or market shares.

- 17.4. Training is not necessarily required, but can be provided (either internally or by third party providers). Many operations rely on a pool of “labour” from which personnel can be hired casually as circumstances demand (variable costs) or have “contractorised” staff: like Chubb NZ and ADT, in many regions staff will wear the company’s livery, but be independent contractors. Many operators also subcontract their obligations in various regions.

***Mobile patrol***

- 17.5. All of the factors set out above in relation to static guarding, are relevant to mobile patrol.
- 17.6. For mobile patrol, the only additional equipment required “is vans and some form of despatch centre” (paragraph 35, Decision 419). First Security estimates that to make a mobile patrol business viable, the provider only needs to generate \$9,000 in revenue each month. A typical monthly fee is \$500 so a provider only needs 18 customers before such revenue is generated. As a result, there is little difficulty for competitors entering into the mobile patrol market to quickly obtain the required scale for a viable business.

***Multi-regional customers***

- 17.7. The only additional resource needed to operate in this market is the ability to subcontract in areas where a company does not already compete. The ability of Allied Security to win contracts on this basis (see below) shows it is not an onerous requirement.

**18. EXAMPLES OF EXPANSION BY EXISTING COMPETITORS**

- 18.1. First Security is itself an example of entry and expansion to meet market opportunities. It was set up in 1999 by Ross Johnson because he perceived that the large companies at the time (Chubb NZ, Armourguard) were not providing a quality service. The model developed by First Security relied on providing a quality of service which customers were not getting from the larger providers, and it was successfully able to expand by providing such service. From a standing start in 1999, First Security was able to rapidly expand to become the third largest supplier of manned (static and mobile) guarding security services in the Auckland region in only 7 years.
- 18.2. By virtue of the low barriers to entry, a number of smaller companies have also entered the markets successfully over the years.
- 18.3. Many of First Security’s competitors identified in Appendix 2 also compete with the larger companies by providing quality of service. For example:
- (a) Allied Security is a Dunedin-based operation which traditionally only provided services in its local region. Over the last 2 to 3 years it has expanded and now supplies services to multi-regional customers (including Tegel, Fonterra and P&O Shipping).
  - (b) OCS has much the same business model as ISS (integrated facility services provider), and is obviously (given its acquisitions) also looking to expand and integrate manned (static and mobile) guarding services with its other site services to provide a “one stop shop”.

- (c) Strategic Security is a growing provider of static guard services, was recently awarded the Eden Park contract and would be capable of putting together a national tender.
- (d) Group 4 Securitas provides static guarding services in New Zealand, is an international security provider, as is the Australian-based Advent Security.
- (e) Recon Security in Wellington has the contacts and capabilities to provide security options nationally.

## 19. **CONDITIONS INFLUENCING EXPANSION**

19.1. In the past, falling service levels have encouraged customers of both static guard services and mobile patrol services to seek out other suppliers. Suppliers also perceive that falling service levels of competitors provides the opportunity to expand (eg, First Security, as above). Pricing has tended to be relatively stable (because everybody is primarily selling “hours” and there is relative transparency in that regard through tender processes), and has not generally been the trigger for expansion (although it could be: it is believed by First Security that Allied Security recently obtained the Fonterra contract primarily on the basis of price).

## 20. **TIME TO INCREASE SUPPLY**

- 20.1. It takes a very short time to expand, by virtue of the matters set out in section 17 above. Competitors can quickly put on staff, either directly or by way of sub-contracting.
- 20.2. Allied Security is an example, in respect of the Fonterra contract. National tenders also tend to provide a “lead-in” time (in the case of Fonterra, it was approximately 4 to 6 months) which enables the supplier time to source personnel before the contract begins.

## 21. **EXTENT OF CONSTRAINT BY POSSIBLE COMPETITIVE RESPONSE**

- 21.1. This is very significant. As should be apparent from the above, there are any number of credible alternative suppliers of security services, both static and mobile. A perusal of “Security Services” in the Yellow Pages bears that out, in each region.
- 21.2. In respect of “trans-regional” or multi-regional customers and the competitive dynamics:
  - (a) The usual length of contracts is 24 months and contracts frequently come up for tender. Attached as Appendix 3 is a sample of multi-regional customers and their suppliers. Moreover, as noted in 20.2 above, tenders usually have sufficient “lead-in” time for expansion by bidders.
  - (b) Both regionally based, and multi-regional customers require monitoring services in addition to guarding services (and some, ie the banks, require cash services). The industry contains a choice of those who provide all services (eg, Chubb NZ now, but not post-acquisition, and ADT), those who provide just guarding services (eg, First Security) and those who provide just monitoring (eg, Signature Security, and Chubb NZ, post-acquisition, which will also continue to provide cash services). Customers can choose any combination. Typically, where First Security has provided both static and mobile services, it will secure the primary contractual relationship and sub-contract a monitoring company for the customer’s package of services. However, in some instances, the monitoring company (which controls alarm call outs and usually mobile guarding generally) will secure the primary contractual relationship and will sub-contract

the static and mobile guarding services to a company like First Security. Monitoring companies like Signature Security, which is Australasian, and Chubb NZ (post-acquisition) are substantial businesses equal in revenue terms to First Security (Signature Security's NZ revenue was \$16 million in 2007). Monitoring companies are experienced in managing national contracts and in managing multi-regional sub-contracted services. As a result, First Security also sees these monitoring companies as competitors for the same business in the markets which Chubb NZ and First Security operate.

- (c) Within the provision of static and mobile guarding services itself, sub-contracting is a successful business model for the delivery of services under a multi-regional contract. For example, ADT subcontracts performance of the Telecom contract, Chubb NZ subcontracts performance of the Department of Corrections contract and Signature Security subcontracts performance of the Ministry of Social Development contract. The ability to freely subcontract performance is a further reason why there are low barriers to entry in the static and mobile guarding markets. A lack of staff at any particular time does not prohibit security companies from taking on major regional and national contracts and subcontracting performance to other providers.
- (d) There is no reason to believe there will be any real diminution in competition: ADT will remain as a strong competitor, as will other national and regional competitors who can and are competing for customers. (Note that for a large portion of Chubb NZ's business, there will be no competitive change. Chubb NZ historically has provided cash services (and in future plans to continue to provide such services) to most of the main trading banks and by reason of that has also provided manned (static and mobile) guarding services to the same banks. ADT is the only other likely competitor for this work. In addition, Chubb NZ has historically provided prisoner escort services for Department of Corrections, and was likely to continue to do so. As part of the proposed acquisition, First Security will be taking over Chubb NZ's prisoner escort operations. Other than through this acquisition, First Security has no intention of expanding into prisoner escort and the only other party likely to consider such a move would be ADT).
- (e) Multi-regional customers are big and sophisticated enough to look after themselves. Their tenders are detailed and broken down. Mobile call-out rates are pretty much an industry standard rate per 30 minutes or part thereof, there is a minute rate for premises patrol and transparency in the contracts as to the number of patrols, number of rostered guards, hourly charge out rate, and so on<sup>4</sup>. Customers scrutinise cost (price) as well as frequency, timeliness and related factors. Many multi-regional customers can, and several do or have in the past, chosen to take the provision of manned (static and mobile) guarding services in house where there have been no perceived cost benefits of using third party providers. A further reason why it is difficult for service providers to charge more than standard market rates.

## 22. CONCLUSIONS ON CONSTRAINT BY EXISTING COMPETITION ON EXERCISE OF UNILATERAL MARKET POWER

- 22.1. Looked at overall, while there will be one less multi-regional choice of provider, there is no reason to believe that competitiveness and the remaining choices of providers will be substantially less as a result. ADT alone will continue to constrain the merged entity, quite apart from:

---

<sup>4</sup> Examples of this include the recent Fonterra and Ministry of Social Development tenders.

- (a) the range of existing medium sized (and even small) security and monitoring companies; and
- (b) as a result of the low barriers to entry, the new security and monitoring companies entering into the market or expanding the scope of their business.

22.2. It should be noted that existing competitors and new competitors are not constrained by capital requirements when considering expanding, or entering into, the manned (static and mobile) guarding market. Infrastructure requirements are minimal, and as previously discussed, labour is the base requirement in being able to provide effective service.

### 23. MARKET CHARACTERISTICS FACILITATING OR IMPEDING COORDINATION

23.1. The presence of a number of medium sized competitors to ADT and the merged entity, and the low barriers to entry and expansion, make coordinated effects highly unlikely. These are relatively simple and transparent businesses, with low margins: there is no incentive to remain stable and every incentive to increase revenues by expanding business. Quite apart from the number of companies and individuals that would need to be involved in any collusion, there would be every incentive to cheat. The customers themselves are also likely to notice and have sufficient options available to constrain any such conduct.

23.2. In addition, complexity is added by the varying competing business models and contractual devices for delivery of the services in the markets. These include:

- (a) guarding companies sub-contracting multi-regional guarding services,
- (b) monitoring companies (and, in respect of banks, cash services providers) sub-contracting to guarding companies providing static and mobile services, in competition with guarding companies providing static and mobile services sub-contracting to monitoring companies, and both in competition with companies like ADT providing both monitoring services and static and mobile guarding services,
- (c) the provision of bundled service packages, including cleaning and other site management, by the likes of ISS NZ and OCS.

23.3. In Decisions 622, 623, 624 and 625 the Commission did not view it as necessary even to go on and consider coordinated market power (paragraphs 127 to 130).

*“The Commission considers that... there will be a sufficiently large number of competitors still present... with sufficiently different incentives, cost structures and size such that the scope of co-ordinated market power would not be materially enhanced...”*

In that case, the original proposal would have changed a “two player” market effectively into a monopoly in many areas. Revised proposals with divestments preserved sufficient competition for the four “regional” clearances to be granted. Very different circumstances pertain in the manned (static and mobile) guarding services industry, on the other hand, where ADT will remain as a strong competitor together with a diverse range of other capable national and regional competitors. Accordingly, the Commission’s conclusion above is even more justifiable in respect of this application.

**Table 1: Scope for co-ordinated market power**

<b>Feature</b>	<b>Comment</b>
<i>High seller concentration</i>	No: range of large, medium and small participants.
<i>Differentiated product</i>	No. But different delivery mechanisms possible (including sub-contracting)
<i>Static production technology</i>	Yes.
<i>Speed of new entry</i>	High.
<i>Fringe competitors</i>	Yes, numerous and diverse offerings.
<i>Acquisition of an unusually vigorous or effective competitor</i>	No.
<i>Price inelastic market demand</i>	No, as pricing is a key determinant of a customer's choice of supplier.
<i>History of co-ordinated conduct</i>	No.
<i>Countervailing power of acquirers</i>	Multi-regional customers have the resources, bargaining power and scale to exercise countervailing power, coupled with contractual transparency and sufficient choice of providers to make it effective. All other customers plainly also have sufficient choice of substitutes. Plus the role of monitoring companies (eg Signature Security, and Chubb NZ monitoring division post-acquisition will be independent of First Security), insofar as when they have the primary contract with customers and sub-contract to their choice of security provider.
<i>Existence of excess capacity</i>	Not excess, as such. Capacity (labour) is variable as circumstances require.
<i>Industry associations/fora</i>	NZ Security Association – Both Chubb NZ and First Security are members of this association.

## 24. CHARACTERISTICS POST-ACQUISITION AS TO MONITORING/ENFORCEMENT OF COORDINATED BEHAVIOUR

24.1. As follows:

**Table 2: Detection of deviation from co-ordination**

<b>Feature</b>	<b>Comment</b>
<i>Seller concentration</i>	No.
<i>Frequent sales</i>	No.



<i>Vertical integration</i>	No.
<i>Growth in demand</i>	Yes (movement from in-house, greater inclination to have security, or have better security)
<i>Cost similarities</i>	Yes.
<i>Multi market contact</i>	No.
<i>Price transparency</i>	Yes, if just manned services, but less where integrated services provided (eg, together with cleaning).

**Table 3: Ability to retaliate**

<i>Credibility of threats to abandon collusion</i>	Theoretically expansion could occur quickly (e.g. take on more labour and vans) but not swift retaliation in the sense contemplated by this question (it would depend on what contracts are coming up for tender in competition with the assumed “deviating” party).
<i>Availability of excess capacity</i>	More (or less) labour can be taken on or put off, as business demands, but not “excess” capacity as such.
<i>Profit incentive from collusion</i>	No: It would be too difficult to maintain a cartel. Providers in the market have diverse business models and varying scales of operations. Further, a provider’s main method of increasing profit is to secure more revenue (i.e. market share).
<i>Ability to disadvantage by dumping in deviator’s allocated section of market</i>	As above.

25. **EVIDENCE OF PAST OR CURRENT COORDINATION**

25.1. The applicant is not aware of any.

26. **CONCLUSIONS ON CONSTRAINT BY EXISTING COMPETITION ON COORDINATION**

26.1. There is no evidence to suggest that the markets, which presently are not co-ordinated in these terms, will become so post-acquisition.

PART IV: CONSTRAINTS ON MARKET POWER BY POTENTIAL COMPETITION
---

27. Due to the fact that the markets are already well-populated, that de novo entry is more likely by way of small operations and that constraint on the merged entity will continue to be from ADT and the many medium sized businesses (which are able to expand by increasing output, forming contractual alliances or merging themselves), it is not proposed to respond to the remainder of the prescribed form at this stage (except in respect of constraint from acquirers).

<b>PART V: OTHER POTENTIAL CONSTRAINTS</b>
--

**39. ACQUIRERS**

39.1. Examples of multi-regional customers include:

39.1.1. Banks

39.1.2. Property companies (Jones Lang, CBRE, ING, Ropaki Group)

39.1.3. Vodafone/Telecom

39.1.4. Fonterra

39.1.5. DHL

39.1.6. Westfield

Some of these firms engage a single provider for all sites – but others do not. Appendix 3 contains a sample list.

**40. OWNERSHIP OF ACQUIRERS**

40.1. These companies are owned by a range of large, listed and unlisted companies.

**41. CONSTRAINTS ON MARKET POWER BY THE CONDUCT OF ACQUIRERS**

41.1. Guarding services is an input cost which national customers are able to, and do, manage along with all their other costs. National multi-site customers have the resources, bargaining power and scale to exercise countervailing power, coupled with contractual transparency and sufficient choice of providers to make it effective.

**This Notice is given by:**

ISS Holdings NZ Limited

The company hereby confirms that:

- all information specified by the Commission has been supplied;
- all information known to the applicant/s which is relevant to the consideration of this application/notice has been supplied; and
- all information supplied is correct as at the date of this application/notice.

The company undertakes to advise the Commission immediately of any material change in circumstances relating to the application/notice.

Dated this 29th day of September 2008

Signed by ISS Holdings NZ Limited

---

Lars Hoff

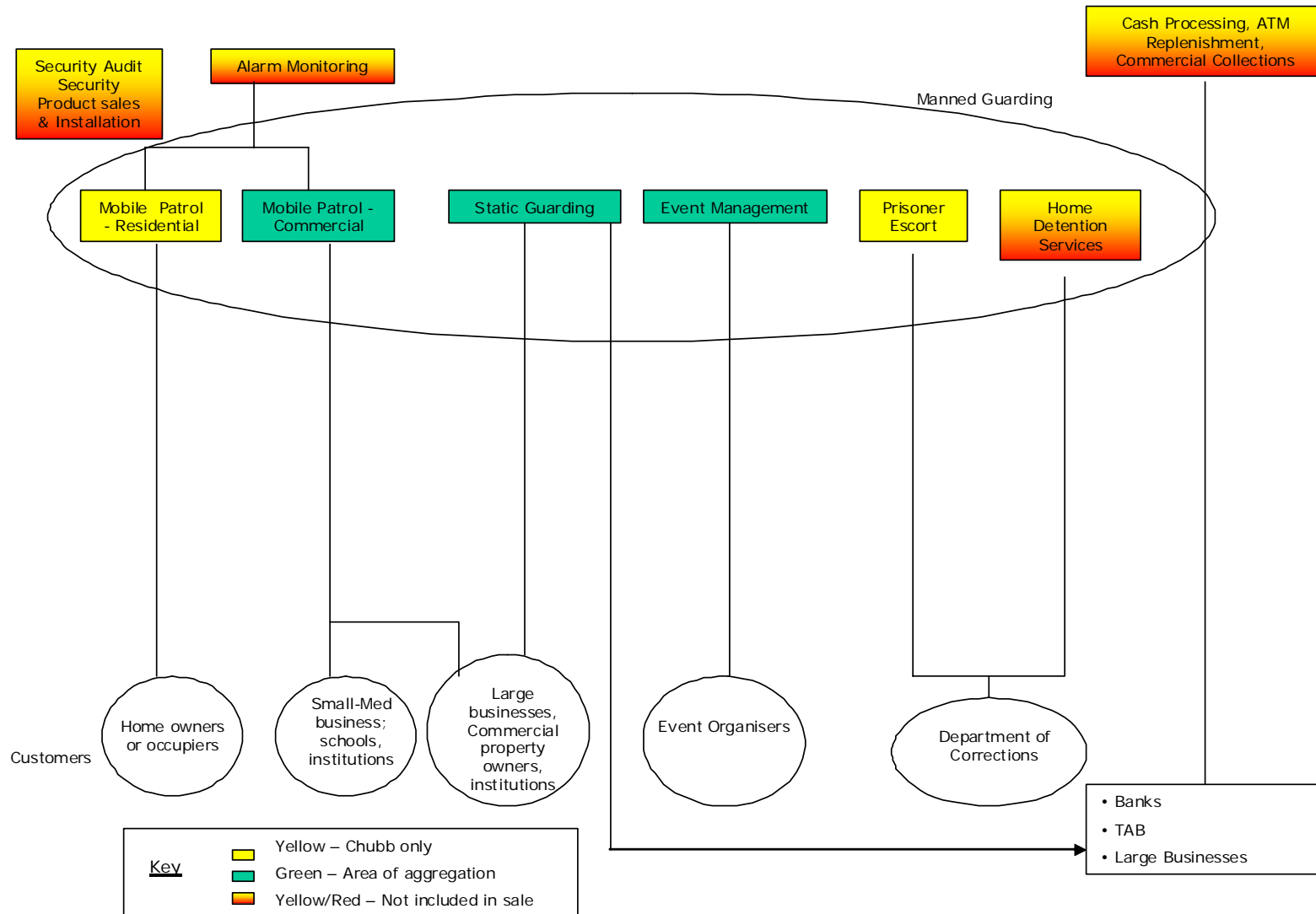
I am a director of the company and am duly authorised to make this application/notice.

**APPENDIX 1**

**Manned guarding services**

See attached diagram

## Security Services



1264880

**APPENDIX 2**

[ ]

## APPENDIX 3

## Multi-regional customer examples

	Auckland	Wellington	Rest of Nth Island	Christchurch	Rest of Sth Island
<b>Tegal</b>	Allied Security		Allied Security	Allied Security	Allied Security
<b>Fonterra</b>	Allied Security		Allied Security		Allied Security
<b>Ministry of Social Development, Guards</b>	ADT	ADT	ADT	ADT	ADT
<b>Ministry of Social Development, monitoring and response services</b>	Signature Security	Signature Security	Signature Security	Signature Security	Signature Security
<b>NZ Rugby Union</b>	RedBadge	RedBadge	RedBadge	RedBadge	Allied Security
<b>VTSNZ (Vehicle Testing)</b>	Signature Security	Signature Security	Signature Security	Signature Security	Signature Security
<b>United States of America Embassy</b>	First Security	First Security		First Security	
<b>P&amp;O Shipping</b>	Allied Security	Allied Security		Allied Security	
<b>Telecom</b>	ADT	ADT	ADT	ADT	ADT
<b>Westfield</b>	Guard Force	Chubb NZ	Various	Sub5 Security	Various
<b>ASB (includes cash services)</b>	ADT	ADT	ADT	ADT	ADT
<b>ANZ/National (includes cash services)</b>	Chubb NZ	Chubb NZ	Chubb NZ	Chubb NZ	Chubb NZ
<b>Westpac (includes cash services)</b>	Chubb NZ	Chubb NZ	Chubb NZ	Chubb NZ	Chubb NZ
<b>Kiwibank (includes cash services)</b>	Chubb NZ	Chubb NZ	Chubb NZ	Chubb NZ	Chubb NZ
<b>Progressive Group</b>	ADT	ADT	ADT	ADT	ADT
<b>Briscoe Group</b>	ADT	ADT	ADT	ADT	ADT