



# DETERMINATION OF MERGER NOTIFICATION M/15/056- EXERTIS IRELAND (DCC) / ESPION DISTRIBUTION

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## Section 21 of the Competition Act 2002

### Proposed acquisition by DCC, through Exertis Ireland, of Espion Distribution

Dated 23 November 2015

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#### Introduction

1. On 13 October 2015, in accordance with section 18(1) of the Competition Act 2002, as amended<sup>1</sup> (“the Act”), the Competition and Consumer Protection Commission (“the Commission”) received a notification of a proposed transaction whereby DCC plc (“DCC”), through its wholly owned indirect subsidiary, Exertis Ireland Limited (“Exertis Ireland”), would acquire the entire issued share capital and thus sole control of Espion Distribution Limited (“Espion Distribution”).

#### The Undertakings Involved

##### *The Acquirer*

2. Exertis Ireland is an Irish private limited company and is a subsidiary company of DCC, an Irish incorporated public limited company whose shares are listed on the London Stock Exchange.
3. DCC is an international sales, marketing, distribution and business support services group, which is organised and managed in four separate divisions, each focused on specific market sectors: DCC Energy, DCC Technology, DCC Healthcare and DCC Environmental.
4. In the financial year ending 31 March 2015, DCC had worldwide turnover of €14.3 billion, of which approximately €717.1 million was generated in the State.
5. Exertis Ireland is a distributor of information technology (“IT”) and home entertainment products and, as such, is part of the DCC Technology division. Exertis Ireland distributes its products and technologies to approximately [...] customers throughout the island of Ireland and has a small customer base in Great Britain. Exertis Ireland’s turnover in the State from the distribution of IT products for the 2014 calendar year was approximately €[...], of which approximately €[...] was from the distribution of IT security and networking products.

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<sup>1</sup> It should be noted that the Competition and Consumer Protection Act 2014 made a number of important amendments to the merger review regime set out in the Competition Act 2002.



### **The Target**

6. Espion Distribution is an Irish private company limited by shares and is a subsidiary of Espion Group Limited (“Espion Group”).
7. Espion Distribution is a distributor of IT products (hardware and software) specialising in security products<sup>2</sup> and networking products<sup>3</sup> and focusing on ‘disruptive’ technologies<sup>4</sup> in four key areas; security, storage and virtualisation, networking and wireless technologies. Espion Distribution distributes its products/technologies to approximately [...] customers on the island of Ireland and approximately [...] customers in Great Britain.
8. In the financial year ended 31 December 2014, Espion Distribution’s worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State.

### **The Vendor**

9. Espion Group is an Irish registered private limited company which provides IT risk management services, information governance, e-discovery, cloud assurance, research and development, and training services.

### **Rationale for the Proposed Acquisition**

10. The notification states:

*“DCC/Exertis [Ireland] plans to acquire Espion Distribution to bring further expertise in the resale of ‘disruptive’ technologies, to widen its product portfolio and to access potential new customers.*

*The acquisition of Espion Distribution will allow DCC, through Exertis [Ireland], to compete more effectively and more efficiently in the resale of IT products. It will also allow DCC, through Exertis [Ireland] and Espion Distribution, to compete more effectively in the resale of IT security software in the UK.”*

### **Third Party Submissions**

11. No submission was received.

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<sup>2</sup> The phrase ‘security products’ refers to products which enhance information security by defending against intrusion (e.g. firewall products).

<sup>3</sup> The phrase ‘networking products’ refers to hardware and software which facilitate the use of a computer network, i.e. allow different terminals to exchange data.

<sup>4</sup> Disruptive technologies are described as innovative, emerging technologies which seek to cause a ‘paradigm shift’ from a technology, pricing and/or licensing perspective. For example, one of the brands distributed by Espion Distribution, Fortinet, was the first multi-functional IT security device. It ‘disrupted’ well-known security brands by combining multiple technologies on a single appliance and transforming the licensing model from a per-user fee to a throughput licence thereby lowering both capital and operating expenditure.



## Competitive Analysis

12. There is a horizontal overlap between Exertis Ireland and Espion Distribution as both are 'value added distributors'<sup>5</sup> of IT products to resellers in the State. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define precise relevant markets. However, since there is a horizontal overlap between the parties, the Commission has reviewed the competitive impact of the proposed transaction on the market for the sale of IT products by distributors to resellers in the State.
13. Exertis Ireland distributes a variety of IT products including: security software products; networking products; unified communications hardware and software; server and storage infrastructure; data analytics; large computer platforms; and information management and database software. Primarily, Exertis Ireland distributes the relevant products to retailers and other resellers who then sell to end-users.
14. Espion Distribution supplies security and networking products (both hardware and software) only to resellers, specialising in newer or 'disruptive' technologies.
15. The parties estimate the market shares as set out in Table 1 below:

**Table 1 – Market Share Estimates in respect of the sale of IT products by distributors to resellers in the State for 2014**

Distributor	Estimated Revenue/€ million	Estimated Market Share <sup>6</sup>
Exertis Ireland	[...]	[10-15]%
Espion Distribution	[...]	[0-5]%
Westcoast	[...]	[10-15]%
Tech Data	[...]	[10-15]%
E<C	[...]	[5-10]%
Microwarehouse	[...]	[5-10]%
Avnet	[...]	[5-10]%
TIS	[...]	[0-5]%
Comtech	[...]	[0-5]%
Arrow	[...]	[0-5]%
VM Ware	[...]	[0-5]%
Memory Bank	[...]	[0-5]%
Data Solutions	[...]	[0-5]%
Beaumex	[...]	[0-5]%
Others	[...]	[15-20]%
<b>Total</b>	[...]	

Source: The Parties<sup>7</sup>

<sup>5</sup> In this capacity, activities include additional services such as marketing and pre-sales advice to customers.

<sup>6</sup> Percentages rounded to nearest figure.

<sup>7</sup> Source: DCC/Exertis Ireland estimate, based on own market intelligence and publicly available information from the CRO and Dun & Bradstreet etc.



16. Apart from the fact that the proposed transaction will give rise only to a very small accretion of market share in respect of the sale of IT products by distributors to resellers in the State, the Commission is of the view that the proposed transaction is also unlikely to raise any competition concerns when looking at the specific segment on which Espion Distribution focusses i.e. the distribution of IT security and networking products to resellers/retailers only. The reasons for this are as follows:
- Espion Distribution focusses on newer technologies that are ‘disruptive’, convergent and redefine standards to simplify complexities in areas such as firewalling, content management, web acceleration etc. Exertis Ireland, on the other hand, distributes more established wireless networking and security software produced by larger vendors such as Cisco and IBM.
  - When looking specifically at the particular segment in which Espion Distribution operates, the parties estimate that total sales of all those companies providing IT security and networking products (excluding direct sales by vendors) in the State are approximately €[...] per annum. It is estimated that:
    - a. Exertis Ireland’s sales in this segment account for €[...] or [10-15]% of that total;
    - b. other large distributors, such as Tech Data, Westcoast and VM Ware, each has an estimated share of around [10-15]%;
    - c. Espion Distribution’s sales of products in this segment amount to approximately €[...]<sup>8</sup> and its estimated share of this segment is approximately [0-5]%.<sup>9</sup>
  - Post-merger, while Exertis Ireland will remain one of the largest distributors of IT products in the State in general, it will continue to face strong competition from the other distributors listed in Table 1 above. In relation to IT security and networking products specifically, the merged entity will also face competition from vendors such as EMC, HP Direct, Dell, Lenovo, NetApps, Cisco etc., who use other distributors and a number, such as Cisco and Dell for instance, who supply retailers/other customers directly.
17. There is no vertical overlap between the parties.
18. In light of the above, the Commission considers that the proposed acquisition will not substantially lessen competition in any market for goods or services in the State.

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<sup>8</sup> As noted above, Espion Distribution generated total turnover in the State in 2014 of approximately €[...]. The difference between this total turnover and the above turnover of €[...] (i.e. approximately €[...]) related to maintenance and support and renewals.

<sup>9</sup> The parties argue that it would be appropriate to include direct supply by vendors in this segment and that the parties’ segment shares will be reduced significantly as a result.



### Ancillary Restraints

19. The Share Purchase Agreement<sup>10</sup> between, *inter alia*, Exertis Ireland and Espion Group contains covenants restricting the vendor (i.e. Espion Group) and its individual shareholders<sup>11</sup> from carrying on any business in the sale, distribution and/or marketing of security, virtualisation and networking products<sup>12</sup> and from soliciting the custom of any existing customer or supplier and/or offering employment to any existing employee of Espion Distribution for a specified period.
20. The duration of the ancillary restraints does not exceed the maximum duration acceptable to the Commission<sup>13</sup> and the Commission considers the restrictions to be directly related and necessary to the implementation of the proposed transaction.

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<sup>10</sup> Dated 12 October 2015.

<sup>11</sup> Colm Murphy, Colman Morrissey and Jim Lehane.

<sup>12</sup> The covenant excludes the resale to end users of those products which are acquired from an authorised distributor.

<sup>13</sup> In this respect the Commission follows the approach adopted by the EU Commission in paragraph 20 of its "Notice on restrictions directly related and necessary to concentrations" (2005).

See [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=E](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=E).



## **Determination**

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed acquisition whereby DCC plc, through its wholly owned indirect subsidiary, Exertis Ireland Limited, would acquire the entire issued share capital and thus sole control of Espion Distribution Limited, will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

**Gerald FitzGerald**  
**Member**  
**Competition and Consumer Protection Commission**