



July 30, 2018

Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12th St S.W., Room TW-A325  
Washington, D.C. 20554

**Re: Ex Parte Comment for WC Docket No. 18-193, Application for Transfer of Control of Inmate Calling Solutions to Securus Technologies, Inc.**

Dear Commissioners and Staff,

The Corrections Accountability Project respectfully submits this Comment to respond to several misleading statements in the Consolidated Joint Reply Comments submitted by TKC Holdings, ICSolutions, and Securus Technologies.

There are four particularly inaccurate points from Securus' reply to our Comment that we would like to refute.

1. **Securus states there are “ample competitors” for facility contracts, so this transaction will not reduce competition even in “larger facilities” and that “[n]one of the comments contain any analysis of recent bidding in the marketplace to support this assertion.”**

Just two recent examples completely refute these claims and illustrate why the purchase will end competitive bidding.

In 2010, Harris County, Texas issued a request for proposals for telephone services in its facilities. The bid offered a four-year contract with three, three-year renewal options, creating essentially a thirteen-year contract.<sup>i</sup> The county received proposals from five vendors: Evercom Systems (now known as Securus), Value Added Communications (now owned by GTL), Public Communication Services (now owned by GTL), GTL, and ICSolutions. If the Securus/ICSolutions purchase is approved, Securus and GTL would likely be the only two companies competing for this contract in the future.

In 2017, New York State issued a request for proposals for telephone services in its facilities. It received just three bids: a joint bid between Unisys and GTL, Securus, and CenturyLink. If the Securus/ICSolutions purchase is approved, Securus will have a stake in CenturyLink through its “exclusive partnership” with ICSolutions.<sup>ii</sup> In fact, CenturyLink's bid described ICSolutions as their “software partner,” “technology partner,” and “billing partner,” demonstrating that ICSolutions is responsible for a substantial portion of CenturyLink's day-to-day operations in correctional facilities.<sup>iii</sup> Thus, after the purchase, Securus and GTL would again be the only independent companies competing for this contract.

**2. Securus states that this purchase is its “first acquisition of a provider of [inmate telephone services].” Securus goes on to deny that it has used acquisitions and the threat of patent litigation to gain a stake in its competitors.**

This statement conflicts with Securus’ own statements announcing the acquisitions of companies in the correctional telecommunications industry. Here are just three examples:

- JLG Technologies (acquired in 2014): Provides software for call monitoring and voice identification “over inmate telephone systems.”<sup>iv</sup>
- Telerus (acquired in 2014): Provides voice recognition and automated information to “inmates’ friends and families... through a telephone IVR system.”<sup>v</sup>
- Cottonwood Creek (acquired a “substantial investment” in 2015): Manufactures hardware and software for secure telephones.<sup>vi</sup>

This statement also conflicts with a 2016 press release, in which the company threatened to “outspend” competitors on patent litigation and explained the reach of its licensing agreements in stating, “Since 1996, we have negotiated and executed 19 different patent license agreements with 17 different competitors – a group that represents over 95% of the revenue generated in the outbound inmate calling sector.”<sup>vii</sup>

Finally, this statement deliberately attempts to obfuscate clear developments in the telephone industry over the past decade. Like the wider telecommunications industry, correctional telephone companies are increasingly expanding into video calling. These video calls constitute a key part of the industry not separate in nature. Securus has also made several acquisitions in this sector, for example:

- Primonics (acquired in 2012): Provides “audio and video” calling for the “inmate outbound calling” sector.<sup>viii</sup>
- JPay (acquired in 2015): Provides video calling for facilities.<sup>ix</sup>

**3. Securus claims that “ICS has no patents relating to its ITS platform... the Transaction will have no net effect at all on the holdings of patents within the ITS industry.”**

Once again, Securus’ own press releases refute their argument. In 2016, Securus issued a press release challenging ICSolutions to a contest to determine “Who Has The Largest AND BEST... Patent Portfolio.”<sup>x</sup> The company went as far as to engage outside counsel to do an analysis of the two patent portfolios “in the inmate communications/product sector.”<sup>xi</sup> If ICSolutions had no patents in the ITS space as the company suggested, this challenge would have been unnecessary and wasteful.

In addition, there is clear proof that ICSolutions has been assigned at least four patent applications, including “Method and system to detect a multi-party telephone call” and “Method and system to process a request for communication between a calling device and a called device.”<sup>xii</sup> Furthermore, in its proposals, ICSolutions brags that its employees have “numerous” patents in telecommunications,<sup>xiii</sup> which would supplement the company’s own portfolio.

**4. Securus claims that “[T]here will be no changes in ICS’s rates, terms, and conditions under the contracts that ICS currently has in place... any changes in such rates would be in accordance with applicable Federal or state requirements.”**

With this statement, Securus intends to deliberately mislead reviewers about the argument in our initial Comment. Entirely off point, Securus has simply reiterated a fundamental premise of contract law: the terms of a contract are legally binding. This empty statement fails to address the actual concern presented in our Comment that the acquisition will impact the terms of *future* contracts, contract renewals, and renegotiated contracts. Without any accountability, the Commission, the market, and consumers are expected to merely trust Securus.

Yet, Securus’ response avoids the market failure that this acquisition presents. ICSolutions, on average, offers calling rates that are significantly lower than what Securus offers.<sup>xiv</sup> Understanding that cost is a key procurement factor, Securus chose to buy out a competitor that would underbid it. With ICSolutions in its control, Securus can more comfortably charge exorbitant rates and, over time, raise the rates ICSolutions’ charges customers to its own levels. Without market forces to stop it from doing so, it is rational to conclude that Securus’ self-interest will drive it to do so.

Furthermore, Securus has already shown that it scoffs at federal and state law. As noted by The Wright Petitioners, Securus has been the subject of “three separate public rebukes”<sup>xv</sup> by the FCC. This acquisition is just Securus’ latest attempt to flout federal antitrust laws and FCC regulations.

Additionally, Securus routinely seeks to undermine state law to avoid regulation. Massachusetts Attorney General Maura Healey aptly described how Securus claims that the state “does not have authority to regulate its intrastate calling rates.” Attorney General Healey concluded that competitive bidding is “one of the few constraints on Securus’s ability to impose contract provisions that are squarely against Massachusetts’ public policy interests.”<sup>xvi</sup>

For the reasons stated above, the Commission should reject this Application.

Sincerely,



Bianca Tylek  
Director, Corrections Accountability Project

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- <sup>i</sup> (Exhibit A), Harris County Purchasing Agent, Proposals Received, (Nov. 2, 2010).
- <sup>ii</sup> CenturyLink, Request for Proposals for State of Nebraska,  
<http://das.nebraska.gov/materiel/purchasing/5289/5289%20centurylink%20proposal%20%20alternate.pdf#page=11>.
- <sup>iii</sup> (Exhibit B), CenturyLink, Technical Proposal for New York State DOCCS, (Jan. 23, 2017), p. 8, 70, 234.
- <sup>iv</sup> Press Release, Securus Techs., *Securus' JLG Technologies Releases Investigator Pro* (Sept. 7, 2016),  
<https://securustechnologies.tech/securus-jlg-technologies-releases-investigator-pro-4-0/>.
- <sup>v</sup> Cowlitz County, Master Services Agreement,  
[https://www.prisonphonejustice.org/media/phonejustice/2012\\_Cowlitz\\_County\\_Securus\\_Agreement.pdf](https://www.prisonphonejustice.org/media/phonejustice/2012_Cowlitz_County_Securus_Agreement.pdf).
- <sup>vi</sup> Press Release, Securus Techs., *Securus Invests in High Tech Firm Cottonwood Creek Technologies* (Mar. 2, 2015), <https://www.prnewswire.com/news-releases/securus-invests-in-high-tech-firm-cottonwood-creek-technologies-300043711.html>.
- <sup>vii</sup> Press Release, Securus Techs., *Securus' Bilateral Patent License Agreements Allow Facilities To Share Technology Developed And Bring More Products To Corrections/Law Enforcement Quicker* (Sept. 29, 2016),  
<https://www.prnewswire.com/news-releases/securus-bilateral-patent-license-agreements-allow-facilities-to-share-technology-developed-and-bring-more-products-to-correctionslaw-enforcement-quicker-300336813.html>.
- <sup>viii</sup> Press Release, Securus Techs., *Securus Technologies, Inc. Announces Acquisition of Primonics, Inc.* (March 19, 2012), <http://castleharlan.com/component/k2/item/193-securus-technologies-inc-announces-acquisition-of-primonics-inc>.
- <sup>ix</sup> JPay, *Video Visitation*, <https://www.jpays.com/PVideoVisit.aspx>.
- <sup>x</sup> Press Release, Securus Techs., *Securus Challenges ICSolutions (ICS, a Keefe Company) to Technology Bake Off* (Nov. 18, 2016), <https://www.prnewswire.com/news-releases/securus-challenges-icsolutions-ics-a-keefe-company-to-technology-bake-off-300365858.html>.
- <sup>xi</sup> Press Release, Securus Techs., *Securus Technologies Granted Additional Eight (8) Patents for Law Enforcement and Corrections* (Oct. 18, 2017), <https://www.businesswire.com/news/home/20171018006633/en/Securus-Technologies-Granted-Additional-8-Patents-Law>.
- <sup>xii</sup> Google Patents, ICSolutions,  
[https://patents.google.com/?assignee=Inmate+Calling+Solutions+Llc+D%2fB%2fA+Icsolutions&oq=assignee:\(Inmate+Calling+Solutions+Llc+D%2fB%2fA+Icsolutions\)](https://patents.google.com/?assignee=Inmate+Calling+Solutions+Llc+D%2fB%2fA+Icsolutions&oq=assignee:(Inmate+Calling+Solutions+Llc+D%2fB%2fA+Icsolutions)).
- <sup>xiii</sup> ICSolutions, *Application to West Virginia Public Service Commission* (Feb. 16, 2011),  
<http://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=315169&NotType=>
- <sup>xiv</sup> See *analysis in and Exhibit A to Comments of the Wright Petitioners, et al.*, WC Docket 12-375; GN Docket 13-111 (Jan. 11, 2017),  
<https://ecfsapi.fcc.gov/file/10113804521853/Comments%20of%20ICS%20Advocates%20-%20As%20Submitted.pdf>.
- <sup>xv</sup> The Wright Petitioners et al., *Petition to Deny* (July 16, 2018),  
[https://ecfsapi.fcc.gov/file/10716906619340/Petition%20to%20Deny%20ICS-Securus%20Transaction%20FINAL%20\(01213902-2xB3D1E\).pdf](https://ecfsapi.fcc.gov/file/10716906619340/Petition%20to%20Deny%20ICS-Securus%20Transaction%20FINAL%20(01213902-2xB3D1E).pdf).
- <sup>xvi</sup> Massachusetts Office of the Attorney General, Reply Comments,  
<https://ecfsapi.fcc.gov/file/10723098426958/Mass%20AG%20Reply%20Comments%20Securus%20ICSolutions%20Transfer%20WC%20Dkt%20No%2018-193.pdf>.