



DETERMINATION OF MERGER NOTIFICATION M/15/073 - LSG/RIM

Section 21 of the Competition Act 2002

Proposed acquisition by LSG/Sky Chefs Europe Holdings Limited of sole control of Retail in Motion Limited

Dated 25 January 2016

Introduction

1. On 17 December 2015, in accordance with section 18(1)(a) of the Competition Act 2002, as amended¹ (“the Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed transaction whereby LSG/Sky Chefs Europe Holdings Limited (“LSG Europe Holdings”) would acquire 60% of the issued share capital, and thereby sole control, of Retail in Motion Limited (“RIM 1”).

The Transaction

2. The proposed transaction involves:
 - The acquisition by LSG Europe Holdings of 60% of the issued share capital of RIM 1 which is currently held by Cowcub Limited (“Cowcub”);
 - The acquisition by LSG Europe Holdings of 40% of the issued share capital of Retail in Motion (International) Limited (“RIM 2”)²;
 - The transfer by Cowcub of the business of AeroFi Limited (“AeroFi”) into MiM IFE Limited trading as Media in Motion (“MIM”);
 - Subject to the aforementioned acquisitions completing, the acquisition by RIM 1 of 100% of the issued share capital of MIM.³

¹ 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

² [...].

³ [...].



3. LSG Europe Holdings currently holds 40% of the issued share capital of RIM 1 and 60% of the issued share capital of RIM 2. Therefore, following implementation of the proposed transaction, LSG Europe Holdings will hold 100% of the issued share capital of RIM 1 and RIM 2.⁴ In addition, post-transaction RIM 1 will hold 100% of the issued share capital of MIM, which will in turn hold the business assets of Aerofi.
4. Cowcub, The Little Drinks Company Limited, Dr Elias, LSG Europe Holdings and LSG Lufthansa Service Holding AG (“LSG”) entered into a share purchase agreement in relation to the acquisition of RIM 1 and RIM 2 on 25 November 2015 (the “RIM SPA”). Subject to the RIM SPA being completed in accordance with its terms, Cowcub, RIM 1, Dr Elias and LSG will enter into a share purchase agreement in relation to the acquisition by RIM 1 of MIM, a draft of which has been submitted to the Commission (the “MIM SPA”).

The Undertakings Involved

LSG Europe Holdings

5. LSG Europe Holdings, a private limited company incorporated in England, is a subsidiary of LSG which, in turn, is a wholly-owned subsidiary of Deutsche Lufthansa AG and is part of the Lufthansa Group.⁵ LSG is divided into three divisions: integrated in-flight service solutions; convenient meal solutions; and complementary services dedicated to food solutions and related businesses for airlines companies. Its principal activity is the provision of airline catering and related activities under the brand name “LSG Sky Chefs”.⁶ In addition to LSG Sky Chefs, LSG operates a number of related brands including:
 - SPIRIANT which develops customer equipment such as meal-service products, commodities, comfort items and galley inserts.

⁴ LSG Europe Holdings already has sole control of RIM 2 and, therefore, the proposed transaction will not result in a change of control in respect of RIM 2.

⁵ The Lufthansa Group is a global aviation group with approximately 540 subsidiaries and equity investments, which in the financial year 2014 were organised into five business segments: passenger airline group; logistics; maintenance; repair and overhaul services; catering; and, up to the end of 2014, IT Services. For more information see <https://www.lufthansagroup.com/en/company.html>

⁶ In addition to its airline catering business LSG also provides services to rail operators and retailers which include retail capabilities, lounge management and food solutions, from traditional catering to frozen meals and packaged snacks. For more information see <http://www.lsgskychefs.com/>



- SkylogistiX is a joint venture with Kuehne + Nagel that designs strategies to streamline logistics and supply-chain management.
 - Oakfield Farm Solutions is involved in the provision of innovative and customised meal concepts covering all temperature options – frozen, chilled and ambient to customers in the UK, the US and Europe.
 - Ringeltaube is a retail chain, catering exclusively to airport and airline staff all across Germany that offers clothes, cosmetics, food, housewares, travel items and a broad international selection of wine, beer, soft drinks and spirits.
6. For the financial year ending 31 December 2014, the worldwide turnover of Deutsche Lufthansa AG was €30 billion, of which €[...] was generated in the State.

RIM 1

7. RIM 1, a private company limited by shares incorporated in Ireland, provides consumable and boutique products to airlines, in-flight retail full outsourcing contract management and in-flight retail technology solutions through “Vector”, its proprietary in-house airline in-flight retail IT platform.
8. RIM 1 is mainly active in three business areas:
- Product wholesale - the sourcing and distribution of food and beverage items as well as other categories such as jewellery and perfumes for sale on board airlines;
 - In-flight retail management - the management of airlines’ in-flight retail offering including definition of the product assortment, training and management of crews with regard to the sales process, provision of tools for the in-flight sales, selection and management of fulfilment partners etc.;
 - IT systems - designed to support in-flight sales activities, operational processes and related administrative processes.
9. For the financial year ending 31 December 2014, the worldwide turnover of RIM 1 was €30.6 million, of which €[...] was generated in the State.



MIM

10. MIM, which is currently a non-trading entity, is a single member private company limited by shares and incorporated in Ireland. Its registered owner is Dr Elias and its beneficial owner is Cowcub. Pursuant to the proposed transaction, Cowcub will transfer the business of Aerofoi into MIM prior to MIM being acquired by RIM 1 pursuant to the MIM SPA.

Aerofoi

11. Aerofoi, a private limited company incorporated in England, is active in the supply of end-to-end in-flight entertainment solutions to airlines.
12. For the financial year ending 30 September 2015, Aerofoi's worldwide turnover was approximately [...]. Aerofoi generated [...] in the State in the financial year ending 30 September 2015.

Rationale for the Proposed Transaction

13. The parties state in the notification:

“The commercial objectives sought to be achieved by LSG are:

- *By acquiring RIM 1 and RIM 2, to establish its own ‘Buy on Board’ (“BOB”) business in Europe with the option to extend the business to the U.S., Latin America and Asia.*
- *By acquiring MIM, to acquire a self-made in-flight entertainment system for low-cost carriers, that integrates in-flight shopping capabilities, thus providing an additional sales channel to passengers.”*

Third Party Submissions

14. No submission was received.

Competitive Analysis



15. There is a horizontal overlap between the parties' activities in the provision of in-flight catering services in the island of Ireland.⁷ Lufthansa Group provides in-flight catering services in the island of Ireland at Dublin and Shannon airports through a subsidiary of LSG, Oakfield Farms Limited. Another subsidiary of LSG, AlphaLSG, provides in-flight catering services at Belfast Airport. RIM 1 is active in the provision of product wholesale services to airlines, which is a form of in-flight catering services, at both Dublin and Shannon airports.
16. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. The Commission does not need to come to a definitive view on the precise relevant product and geographic market definitions in this instance. Given the small market shares of the parties and the relatively small increment in market share as a result of this transaction, the Commission's conclusion on the competitive impact of the proposed transaction will be unaffected whether:
 - the relevant product market is defined narrowly as the provision of in-flight catering services or more broadly to encompass the provision of in-flight catering together with catering management and logistic services; or
 - the relevant geographic market is defined narrowly by individual airport or more broadly to encompass all airports in the State.
17. Reviewing the proposed transaction with reference to the above narrow market definition, LSG will, post-merger, have a market share for the provision of in-flight catering services at each of Dublin and Shannon airports of [0- 5]%. Furthermore, post-merger a number of significant competitors will remain and will continue to act as a competitive constraint on the merged entity, including Gate Gourmet and Aer Lingus Flight Kitchen at Dublin airport and EFG Inflight at Shannon airport.
18. There is no vertical relationship between the parties and the proposed transaction does not raise vertical competition concerns.

⁷ While each of the parties are active in the provision of either in-flight retail management services, IT Services or in-flight media services, there is no horizontal overlap between the parties in the island of Ireland in relation to these activities.



19. In light of the above, the Commission considers that the proposed transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

20. In the notification, the parties provided copies of the RIM SPA and the MIM SPA, which contain a number of restrictive obligations on the sellers and seller Guarantors.⁸ These include non-compete and non-solicitation clauses. None of these restrictive obligations exceeds the maximum duration acceptable to the Commission.⁹ The Commission considers these restrictions to be directly related to and necessary for the implementation of the proposed transaction.

⁸ In the RIM SPA, non-compete and non-solicitation obligations are [...]. In the MIM SPA, non-compete and non-solicitation obligations are [...].

⁹ In this respect, the Commission follows the approach adopted by the EU Commission in paragraphs 20 and 26 of its “Commission Notice on restrictions directly related and necessary to concentrations” (2005). For more information see [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=EN)



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, has determined that, in its opinion, the result of the proposed transaction whereby LSG/Sky Chefs Europe Holdings Limited would acquire 60% of the issued share capital and thereby sole control of Retail in Motion 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