

**COMPETITION COMMISSION NOTICE OF MAKING OF INTERIM ORDER  
PURSUANT TO SECTION 81 OF THE ENTERPRISE ACT 2002**

**In the matter of a reference to the Competition Commission of the Completed  
Acquisition by Ryanair Holdings PLC of a minority shareholding in Aer Lingus  
Group PLC**

On 15 June 2012, the Office of Fair Trading (OFT) made a reference to the Competition Commission (CC) under section 22 of the Enterprise Act 2002 (the Act) concerning the completed acquisition by Ryanair Holdings PLC (Ryanair) of a minority shareholding in Aer Lingus PLC (Aer Lingus) (the Reference).

On 19 June 2012, Ryanair launched a public bid for the remainder of shares in Aer Lingus which it did not already own, which gave rise to a possible concentration with a community dimension under Regulation 139/2004/EC, the European Union Merger Regulation (EUMR) and accordingly was notified to the European Commission on 24 July 2012.

The CC has concluded that the European Commission has exclusive jurisdiction under Article 21(3) EUMR in relation to the public bid but that Article 4.3 of the Treaty on European Union (TEU) does not prevent the CC at this time from pursuing the reference relating to the minority shareholding.

On 29 August 2012, the European Commission announced that it had initiated proceedings in relation to the public bid under Article 6(1)(c) EUMR and as a result, under the terms of Ryanair's formal offer, the public bid automatically lapsed on 29 August 2012.

The CC wishes to ensure that no action is taken pending final determination of the Reference which might prejudice the Reference or impede the taking of any action by the CC under Part 3 of the Act which might be justified by the CC's decisions on the Reference.

The reference has not been finally determined in accordance with section 79(1) of the Act.

Now, pursuant to section 81(2) of the Act for the purpose of preventing pre-emptive action, the CC makes the interim order set out in Annex A below and accordingly the interim order comes into force in accordance with section 81(5) of the Act.

Signed by authority of the CC.

SIMON POLITICO  
*Deputy Chairman*  
27 September 2012

**COMPLETED ACQUISITION BY RYANAIR HOLDINGS PLC OF A MINORITY  
SHAREHOLDING IN AER LINGUS GROUP PLC**

**Interim Order made by the Competition Commission pursuant to  
section 81 of the Enterprise Act 2002**

Whereas:

- (a) on 15 June 2012, the OFT made the reference to the CC under section 22 of the Act concerning the completed acquisition by Ryanair of the minority shareholding;
- (b) on 19 June 2012 Ryanair launched the public bid, which gave rise to a possible concentration with a community dimension under the EUMR and accordingly was notified to the European Commission on 24 July 2012;
- (c) the CC has concluded that the European Commission has exclusive jurisdiction under Article 21(3) EUMR in relation to the public bid but that Article 4.3 of the Treaty on European Union (TEU) does not prevent the CC at this time from pursuing the reference relating to the minority shareholding;
- (d) on 29 August 2012 the European Commission announced that it had initiated proceedings in relation to the public bid under Article 6(1)(c) EUMR and as a result, under the terms of Ryanair's formal offer, the public bid automatically lapsed on 29 August 2012;
- (e) the CC notes that under the Rules of the Irish Takeover Panel, Ryanair is prohibited from acquiring shares which would take its minority shareholding in Aer Lingus to the level of 30 per cent (or more) within a 12-month period beginning on 29 August 2012 without the Irish Takeover Panel's consent;
- (f) the CC wishes to ensure that no action is taken pending final determination of the reference which might prejudice the reference or impede the taking of any action by the CC under Part 3 of the Act which might be justified by the CC's decisions on the reference;
- (g) the reference has not been finally determined in accordance with section 79(1) of the Act; and
- (h) nothing in this Order shall compromise (or be construed as compromising) a decision or possible decision by the European Commission under the EUMR in relation to the public bid.

Now for the purpose of preventing pre-emptive action in accordance with section 81 of the Act the CC makes the following order addressed to Ryanair.

**Interpretation**

The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.

For the purposes of this Order:

**‘the acquisition’** means the acquisition of a 29.82 per cent minority shareholding in Aer Lingus by Ryanair, between 27 September 2006 and the present;

**‘the Act’** means the Enterprise Act 2002;

**‘Aer Lingus’** means Aer Lingus Group PLC;

**‘the CC’** means the Competition Commission;

**‘confidential information’** means business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature;

**‘control’** includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

**‘the decisions’** means the decisions of the CC on the questions which it is required to answer by virtue of section 35 of the Act;

**‘the EUMR’** means the European Union Merger Regulation (Council Regulation Number EC 139/2004)

**‘the minority shareholding’** means the 29.82 per cent shareholding in Aer Lingus which Ryanair has acquired in increments since 2006;

**‘the OFT’** means the Office of Fair Trading;

**‘the public bid’** means Ryanair’s formal offer dated 17 July 2012 to purchase the remaining issued share capital of Aer Lingus which it does not already own;

**‘the reference’** means the reference made on 15 June 2012 by the OFT to the CC under section 22 of the Act concerning the completed acquisition by Ryanair of the minority shareholding;

**‘Ryanair’** means Ryanair Holdings PLC and its subsidiaries (including Coinside Limited);

**‘the specified period’** means the period beginning on the date of this Order and terminating when the reference is finally determined in accordance with sections 79(1) and (2) of the Act;

**‘subsidiary’**, unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006; and

unless the context requires otherwise, the singular shall include the plural and vice versa.

## **1. Title, commencement, application and scope**

1.1. The title of this Order is the Interim Ryanair Order 2012.

1.2. This Order commences on 28 September 2012.

1.3. This Order applies to Ryanair.

## **2. Obligations of Ryanair**

2.1. Except with the prior written consent of the CC Ryanair shall not during the specified period take any action which might prejudice the reference or impede the

taking of any action under the Act by the CC or other party which may be justified by the CC's decisions on the reference, including but not limited to any action which might impair the ability or incentive of Aer Lingus to compete independently of Ryanair in any of the markets affected by the acquisition.

- 2.2. In particular, without prejudice to paragraph 2.1, at all times during the specified period Ryanair shall not, without the prior written consent of the CC:
  - (a) exercise voting rights attached to any shares that it holds in Aer Lingus except to maintain its proportion of Aer Lingus's issued share capital;
  - (b) dispose of any of its shares or otherwise transfer control in Aer Lingus (or any part thereof) or enter into any agreement or arrangement in relation to such a disposal or transfer;
  - (c) seek to have any person appointed as a director of Aer Lingus, or to procure any other shareholder in Aer Lingus to seek to do so;
  - (d) seek to obtain from Aer Lingus any confidential information about the company save that which is generally made available by Aer Lingus to its shareholders.

### **3. Compliance**

- 3.1. Ryanair shall procure that each of its subsidiaries complies with this Order.
- 3.2. Ryanair shall forthwith provide to the CC such information or statement of compliance as the CC may from time to time require for the purposes of monitoring compliance by Ryanair and its subsidiaries with this Order. In particular, on 20 October 2012 and subsequently on the 20<sup>th</sup> day of each month, (or, where the 20<sup>th</sup> does not fall on a working day, the first working day thereafter) the Chief Executive Officer of Ryanair shall provide a monthly statement to the CC on behalf of Ryanair confirming compliance with Order in the form set out in the Appendix to this Order.

### **4. General**

- 4.1. (1) The CC may give directions falling within paragraph (2) to:
  - (a) a person specified in the directions; or
  - (b) a holder for the time being of an office so specified in any body of persons corporate or unincorporated.

(2) Directions fall within this paragraph if they are directions:

  - (a) to take such steps as may be specified or described in the directions for the purpose of carrying out, or ensuring compliance with, this Order; or
  - (b) to do, or refrain from doing, anything so specified or described which the person might be required by this Order to do or refrain from doing.

(3) The CC may vary or revoke any directions so given.
- 4.2. Ryanair shall comply in so far as it is able with such written directions as the CC may from time to time give to take such steps as may be specified or described in

the directions for the purpose of carrying out or securing compliance with this Order.

- 4.3. At all times, and as soon as is reasonably practicable, Ryanair shall actively keep the CC informed of any material developments which may have an impact on the reference.
- 4.4. If Ryanair has any reason to suspect that this Order might have been breached it shall immediately notify the CC and any monitoring trustee that Ryanair may be directed to appoint under Article 4.1
- 4.5. To the extent that this Order is addressed to a person's conduct outside the UK, it shall apply if that person is carrying on business in the UK.

SIMON POLITICO  
*Group Chairman*  
27 September 2012

### **Compliance statement for Ryanair**

I [insert name] confirm on behalf of Ryanair that:

- (a) Ryanair has complied with the Interim Ryanair Order ('the Order') in the period from [insert date] to [insert date].
- (b) Ryanair's subsidiaries have also complied with the Order in the period from [insert date] to [insert date].
- (c) No action has *been taken* by Ryanair in the period from [insert date] to [insert date] that will impede the taking of any action by the CC which may be justified by its decision on the reference.
- (d) Ryanair and its *subsidiaries* remain in full compliance with the Order.

FOR AND ON BEHALF OF RYANAIR

Signature .....

Name .....

Title .....

Date .....