COMPLETED ACQUISITION BY RYANAIR HOLDINGS PLC OF A MINORITY INTEREST IN AER LINGUS PLC

COMPETITION AND MARKETS AUTHORITY

CONSULTATION RESPONSE SUBMISSION BY AER LINGUS

3 MARCH 2015
Aer Lingus is grateful for the opportunity to comment on Ryanair’s application to the CMA of 12th February 2015, provided to Aer Lingus on 24th February.

1. **A DEVICE FOR DELAY AND FURTHER LITIGATION**

1.1. In Aer Lingus’ respectful view, the application by Ryanair is transparently little more than a device to achieve further delay. As set out in this response, it is based on a deliberate mischaracterisation of the facts, and does not begin to provide a plausible basis for re-examining the Report of the Competition Commission. Rather, it is clearly Ryanair’s intent to manufacture the basis for yet another – fourth! – challenge in the CAT. As set out in further detail below, Aer Lingus urges the CMA to proceed quickly to the adoption of a Final Order: that indeed is the CMA’s duty under s41 of the Enterprise Act, there being no “material change of circumstances since the preparation of the report”.

2. **THE CC’S REPORT HAS BEEN VALIDATED: NO MATERIAL CHANGE IN CIRCUMSTANCES**

2.1. Contrary to Ryanair’s wilful misinterpretation and misrepresentation of the facts, the circumstances surrounding IAG’s bid fully bear out the assessment made by the CC in its Report. Far from inviting reconsideration of the Report, they confirm the good sense of the Report.

2.2. A first point, wholly neglected by Ryanair, is that IAG’s interest in Aer Lingus confirms the CC’s finding that Aer Lingus is an attractive merger partner. Ryanair has spent over a year litigating the issue of redactions in the Report, contending that – if only it had been given information as to the identity of Aer Lingus’ supposed M&A partners – it would have been able to undermine the credibility of such supposed suitors. But now that it has been handed the plain evidence that an identified and highly credible player, IAG, wishes to merge with Aer Lingus, it nevertheless contrives to submit a lengthy memorandum that entirely neglects to acknowledge the validation of this central plank in the CC’s reasoning.

2.3. A second point, and one wholly misrepresented by Ryanair, is the pretended irrelevance of Ryanair’s shareholding to the IAG offer. Inexplicably paragraph 18 of the memorandum states as follows:

> “There is no suggestion that Ryanair’s shareholding has played (or would play) any part in the prospects of IAG’s attempt to acquire Aer Lingus. To the best of Ryanair’s knowledge, neither IAG nor Aer Lingus has made any statement to this effect, nor is there any basis for doing so. Put bluntly, Ryanair’s position has been entirely irrelevant to the events currently unfolding”.

However Aer Lingus’ press releases of 26 and 27 January 2015 - which Ryanair has certainly read, since they are appended to Ryanair’s memorandum - state as follows:
“The Revised Proposal remains conditional on.... the receipt of irrevocable commitments from Ryanair Limited...”.

These statements amplify the reference to pre-conditions appearing in IAG’s press release of 27th January, also appended by Ryanair.

2.4. IAG’s pre-condition that Ryanair must provide an irrevocable was widely reported, not least by Davy, Ryanair’s advisers. See sample reports attached at Annex 1 (relevant passages have been highlighted).

2.5. [CONFIDENTIAL: IAG OFFER LETTER]

2.6. [CONFIDENTIAL COMMERCIAL CONSIDERATIONS]

2.7. IAG’s position now is thus entirely consistent with the evidence which it gave to the CC at the time and which is reflected in paragraph 7.30 of the Report and paragraph 22 of Appendix F:

“IAG told us that it would not usually contemplate buying a controlling interest in an airline with a significant ongoing minority shareholder”

2.8. Accordingly there is not the slightest basis, still less a plausible argument, for Ryanair’s claim that IAG’s approach to Aer Lingus demonstrates a willingness to proceed

“notwithstanding Ryanair’s presence as a minority shareholder”

In fact IAG has clearly stated that it is unwilling to acquire Aer Lingus if Ryanair continues as a shareholder. It is a simple untruth to assert, as Ryanair does, that “Ryanair’s position has been entirely irrelevant to the events currently unfolding”.

2.9. Accordingly IAG’s approach to Aer Lingus does not invalidate the evidence before the CC or the CC’s findings: it validates them. There is no change in circumstances.

2.10. Thirdly and for completeness, Aer Lingus adds that it was not the CC’s contention that Ryanair’s stake would definitively prevent all M&A, but only that it would be likely to

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1 In full: *The Revised Proposal remains conditional on, amongst other things, confirmatory due diligence, the recommendation of the Board of Aer Lingus and the receipt of irrevocable commitments from Ryanair Limited and the Minister for Finance of Ireland to accept the offer, all of which may be waived in whole or in part by IAG.* The same statement appears in Aer Lingus’ release of 13 February 2015, a day after Ryanair’s memorandum was submitted to the CMA.

2 Annex 1 – (i) Davy Analyst Report dated 26 January 2015 *“Amongst other things, the revised proposal remains conditional on... the receipt of irrevocable commitments from Ryanair and the Irish government to accept the offer”*, (ii) Reuters report dated 26 January 2015 *“Aer Lingus to recommend $1.5bln offer from BA-owner.”* (iii) The Telegraph 27 January, *“Irish government hires bankers to review Aer Lingus takeover.”*

3 Ryanair’s Memorandum to the CMA, para. 5.
impede and deter transactions. But it is not necessary to rely on or elaborate that point since there is hard evidence that IAG’s proposed transaction will stand or fall on Ryanair selling its shares to IAG.

2.11. Fourthly, there is much to be learnt from the timing of IAG’s bid approach to Aer Lingus. Aer Lingus notes that IAG made its approach to Aer Lingus in the period of weeks when Ryanair was confronted with the approaching reality of a compelled sell-down, with the imminence of the decision of the Court of Appeal.

2.12. This is of course history repeating itself: the Group will recall that the [CONFIDENTIAL] discussions with [CONFIDENTIAL] took place just at the time that the OFT was making its reference to the CC, bringing into focus the prospect that Ryanair would soon be obliged to exit (the negotiations were aborted, the Group will recall, as a result of the announcement of Ryanair’s third bid). See CC Report, Appendix F paragraph 57 and Aer Lingus’ understanding that [CONFIDENTIAL]’s willingness to engage reflected its expectation that Ryanair might be prepared to exit or see its involvement in Aer Lingus reduced.

2.13. In both instances, it was thus the expectation of Ryanair having to relinquish its stake in Aer Lingus which has brought forward a suitor. Once the impediment was removed, or rather as anticipation mounted that it was about to be removed, the latent potential for M&A became evident. Accordingly IAG’s approach to Aer Lingus is consistent with and validates the evidence that the CC was able to consider at the time, and in no way contradicts or detracts from it.

2.14. Fifthly, no weight should attach to Ryanair’s arguments as to the influence of the Irish Government over the outcome. It is true certainly that media attention is focused on the position of the Government, but it is certainly also true that, with a 25% holding, the Government enjoys material influence over Aer Lingus, just as Ryanair does. The Government and Ryanair each individually has the ability to impede the proposed transaction. The difference in their situations, however, is that Ryanair is under a pending process for a forced exit, of which the market is well aware, and which the market appears to take as a given. For that simple reason attention is more focussed on the Government’s intentions.

2.15. Ryanair’s influence is though, Aer Lingus respectfully notes, much the more important for the CMA’s purposes, since it is Aer Lingus’ main competitor.

3. NO REQUIREMENT TO RE-OPEN THE INVESTIGATION

3.1. Ryanair urges the CMA to look at the facts of the last fifteen months as a fresh basis for review: “hard evidence against which to test predictions and hypotheses”, including possibly returning to the stage of provisional findings. This would be, with respect, to make a nonsense

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4 The Final Report concludes that (…) “[Ryanair’s] shareholding would likely be a significant impediment to Aer Lingus’ ability to merge with, enter into a joint venture with or acquire another airline. This would be likely to act as a deterrent to other airlines considering combining with Aer Lingus.” (para. 7.80). (emphasis added)

5 See sample reports at Annex 2 (emphasis added).
of the CMA processes. There is no analogy with the BAA\textsuperscript{6} or Eurotunnel\textsuperscript{7} remittal cases: the CMA's conclusion has not been faulted by a court.

3.2. The implication of Ryanair’s argument is that parties to any implemented merger, by appealing and provoking delay, can then – simply because of the lapse of time – ask for the conclusions in the original Report to be validated against developments in the intervening period. There is no such process or requirement under the statute, but merely the requirement for consideration whether there has been a material change in circumstances. By consulting on Ryanair’s memorandum the CMA has already gone an extra step in reviewing the position, but it should not, with respect, allow itself to be dragged back into an early stage of the investigative procedure, in the plain absence of any material change in circumstances.

3.3. None of the legal precedents cited by Ryanair have any bearing on the duties of the CMA in this case:

i) \textit{Tesco}\textsuperscript{8} is about proportionate remedy implementation and appropriate timing considerations; the case contains no substantive or relevant guidance regarding material change of circumstances.

ii) The Healthcare case\textsuperscript{9} is taken completely out of context in Ryanair’s submission. The case does not prescribe the matters which the CMA must take into account as regards possible material changes. Rather, in the process of dismissing HCA’s application to remit the case to a new CMA inquiry group, the CAT was merely explaining why the existing Healthcare Inquiry Group should continue to handle the case after the appeal (and not a new case team). See in the footnote the text of the relevant passage for which Ryanair gave a bare citation.\textsuperscript{10}

iii) \textit{Skyscanner}\textsuperscript{11} bears no direct relevance to “material changes in circumstances” considerations either. Skyscanner was an irrationality Judicial Review application against the OFT. The OFT finding was quashed and remitted to the CMA after the

\textsuperscript{6} Competition Commission, “\textit{BAA Market Investigation: Consideration of possible material changes of circumstances}”, 19 July 2011.

\textsuperscript{7} Competition and Markets Authority, “\textit{Eurotunnel/SeaFrance merger inquiry remittal: Final decision on the question remitted to the Competition and Markets Authority by the Competition Appeal Tribunal on 4 December 2013 and consideration of possible material change of circumstances under section 41(3)}”, 27 June 2014.


\textsuperscript{10} “\textit{For similar reasons, it would be much more appropriate for the existing Healthcare Inquiry Group to have further carriage of all matters relating to the investigation, so that if appropriate it can perform the necessary overall reconsideration of remedy under section 138(3) of the Act before any final implementation of a divestment decision occurs. The Healthcare Inquiry Group is better placed than a new inquiry group would be to understand and take account of the impact of any material changes in circumstances upon the decisions that have been made (and are not disturbed by the quashing order now being made) or future decisions which may be made (in part by reference to existing reasoning in the Final Report).}”

\textsuperscript{11} Skyscanner v. CMA [2014] CAT 16.
OFT were found to have failed to properly consider a legitimate objection to proposed commitments by Skyscanner. The OFT also failed to acquaint itself with information needed to answer statutory questions posed to it. There is no such issue arising in the present case.

4. **NO INCOMPATIBILITY OF DT PROCESS WITH A PUBLIC BID PROCESS**

4.1. There is nothing in Ryanair’s over-complicated and laboured arguments, and those of Davy in the supporting Annex, regarding the **supposed incompatibility of a Divestiture Trustee appointment with the running of a public bid**. The simple reconciliation of the two is that the Group has the facility to extend time and give directions to the DT so as to allow alignment with a merger timetable and process (this is provided for in the draft Order’s definition of the “Trustee Divestiture Period”). The potential offer for Aer Lingus from IAG is in fact an unexpected boon for all concerned as it allows the DT to maximise the potential value which can be obtained for Ryanair in the divestiture.

4.2. In substance the DT, under the CMA’s direction, will simply be taking the **“upfront buyer” route**. What is critical is that a DT, appointed soon, will (in exercise of its other powers of a sale) be empowered to give an irrevocable undertaking in respect of the Aer Lingus shares which must be disposed of by Ryanair and then sell them into the offer, so preventing the risk of Ryanair impeding the IAG merger. The irrevocable undertaking which is being sought by IAG will only be required to be provided when the full terms and conditions of the IAG offer have been made known. Once this is the case, the Rules of the Irish Takeover Panel will require IAG to proceed with its offer and will not readily allow IAG to make any subsequent alteration to these terms and conditions.

4.3. The Davy contribution is confused and confusing in parts, notably where it appears to contemplate that IAG would separately acquire the Ryanair parcel of shares, in advance of any Offer or arrangement. Accordingly the supposed difficulties that it canvasses start from a false premise.

4.4. Similarly the annex appears to canvass a process in which the DT would enforce a market dispersal of the shares and this would somehow interact with and complicate a bid process. That indeed would not be a sensible approach, but matters would be unlikely to take that course. And if, for the sake of argument, there were to be such a dispersal before the bid is made, there would clearly no longer be a reason for IAG to seek an irrevocable from the new fragmented holders of the shares formerly held by Ryanair. It is thus a false problem that Davy seeks to present, when it points to a supposed difficulty in obtaining irrevocables from individual shareholders.

4.5. Ryanair’s memorandum and the Davy annex conjure various **supposed impediments** such as risks of insider trading and difficulty in finding a willing trustee. These are fanciful concerns which Aer Lingus does not intend to dignify with lengthy rebuttal. A risk of **insider trading** pre-supposes without basis that a divestiture trustee would be in receipt of inside information and separately want to trade in Aer Lingus shares, or lack proper internal safeguards should another branch of its organisation choose to do so. And any hypothetical insider trading risk would exist equally absent a pending public offer, whatever the method of divestiture followed.
4.6. And the world is full of **many candidate trustees**, both financial and non-financial institutions, who would be glad of the role and the associated income, and duly protected by the indemnity which Ryanair is (under the draft Order) required to give.

4.7. Davy alludes to a potential for several of the Irish Takeover Rules to be engaged and refers specifically to the General Principles and Rules 6, 8, 11 and 21, without explaining how this might be so or how this might have a negative impact on the sale of the shareholding by the DT.

4.8. **In relation to price**, the CMA will not require much support from Aer Lingus in blowing away the smoke-screen which Ryanair attempts to create. Ryanair stands to achieve a very full price for its shares through the mechanism of selling into IAG’s offer. Commentators view the proposed price favourably\(^{12}\), and if the offer succeeds that will be a market validation of the fairness of the price. It is also noted in commentary (and Davy acknowledge this much, see paragraph 1(b) of the Davy annex to Ryanair’s submission) that Aer Lingus’ share price is liable to fall back if the present bid does not proceed. The opportunity to sell into the offer is in fact an optimal price outcome for Ryanair.

4.9. It is also worth recalling that Ryanair itself, in its second and third offers for Aer Lingus, offered €1.40 and €1.30. IAG’s offer at €2.55 is clearly more than attractive by comparison.

4.10. Press reports show that IAG’s offer values Ryanair’s stake close to the total aggregate it has paid for its stake in Aer Lingus (€405 million and €407.2 million respectively).\(^{13}\)

4.11. And should other bids emerge for Aer Lingus – a prospect which Ryanair’s advisors happily contemplate, notwithstanding Ryanair’s longstanding contention that no-one would want Aer Lingus anyhow – the DT will be able, like any other shareholder, to evaluate offers and to determine how to proceed. The flexibility to accept a higher bid can also be accommodated within the terms of an irrevocable undertaking. It is nonsensical for Ryanair’s advisors to maintain that it is somehow improper or invidious for the CMA and DT to be put into the position of having to make such decisions.

4.12. It is entirely within the letter and spirit of the Report and the Act that CMA and DT, absent voluntary compliance from Ryanair, undertake the disposal process. In the course of doing so it will necessarily need to address and navigate the matters canvased by Davy. These do not represent serious impediments to the divestiture process. What would be inappropriate and invidious would be for Ryanair to be left to determine the fate of IAG’s approach to Aer Lingus. That indeed is why the CC determined that the sell-down of its holding should be taken out of Ryanair’s hands and entrusted to a DT.

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\(^{12}\) See Annex 3 for samples of commentator reports (emphasis added).

\(^{13}\) MLex Report 12 February 2015 “**Comment: Ryanair’s legal fight over Aer Lingus lacks merit, but has strategic rationale**”. See Annex 4 (emphasis added).
4.13. It may be useful to note that the commitments presently under discussion between IAG and the Government may require approval by other shareholders by an ordinary resolution in which the Government may not vote.\textsuperscript{14} [CONFIDENTIAL COMMERCIAL CONSIDERATIONS] \textsuperscript{15}

4.14. In any event, Aer Lingus submits that the CMA should, if Ryanair seeks consent\textsuperscript{16} to vote against any such resolution, refuse such consent in respect of the entire\textsuperscript{17} shareholding, so as to ensure that Ryanair cannot frustrate\textsuperscript{18} IAG’s offer for Aer Lingus, including IAG’s acquisition of the compulsorily divested 24.82% shareholding.

4.15. The concerns Ryanair claims to identify are not in fact concerns for it, but for IAG as bidder. The CMA may consider it useful to inquire of IAG whether it is in fact troubled by the prospect of the appointment of a DT.

5. **Comment on Draft Final Order**

5.1. We understand from past contact with CMA staff that Ryanair has until now withheld its comments on the draft Order, despite being invited to comment privately, as well as the opportunity to respond to the public consultation. In withholding its comments Ryanair is no doubt storing up another basis for potential legal challenge, should the Order be adopted without its comments. See footnote 19 to Ryanair’s memorandum.

5.2. Ryanair has though now commented on at least some aspects of the Order. The Group may wish to consider the need or value of inviting Ryanair to comment more fully on other aspects before proceeding, less perhaps in expectation that Ryanair will comment, but more to be in a position to demonstrate that the opportunity was again offered. **Ryanair cannot, by a simple refusal to engage, cause the CMA to stall its processes.**

5.3. This last invitation to comment might, if the Group considers it useful, be undertaken pending Ryanair’s possible PTA application to the Supreme Court. Aer Lingus respectfully recalls that the CC was willing, at the equivalent stage in the first litigation against the CC, to re-engage and advance its investigation pending the Supreme Court’s decision on PTA.

\textsuperscript{14} Rule 16 of the Rules of the Irish Takeover Panel may be triggered as the commitments may constitute an arrangement with an individual shareholder.

\textsuperscript{15} [CONFIDENTIAL].

\textsuperscript{16} Para 2.2(a) of the existing Interim Order prevents Ryanair from voting on such a resolution. Para 3.9 of the draft Final order explicitly continues that consent requirement in relation to the full 29.82% holding, until the divestiture has been effected.

\textsuperscript{17} Including therefore both the shares to be divested and the shares that Ryanair is entitled to retain.

\textsuperscript{18} Para 3.7 of the draft Order requires Ryanair not to take any steps to hinder the divestment and Section 8 imposes general duties of cooperation and facilitation.
6. **NEED FOR SPEED AND DETERMINATION: EARLY ADOPTION OF FINAL ORDER**

6.1. Aer Lingus argued unsuccessfully before the CC (before and after adoption of the Report) that the Group should proceed to **early adoption of an Order**, so that Ryanair’s inevitable challenge to the Report would have to run in parallel with a challenge to the Order. In the event that was not done, and the CMA is now likely faced with the prospect of a fresh round of litigation following the Court of Appeal’s judgment on the Report.

6.2. Learning from history, Aer Lingus **respectfully urges the Group to make**:

- a determination that there are no material changes in circumstances requiring reconsideration of the Report under Section 41, and
- at the same time (or in very short order thereafter) to proceed to adoption of the Order.

Otherwise CMA can anticipate not merely a **fourth** round of litigation in relation to a non-material-change determination, but then in a year or more’s time a **fifth** round of litigation, if an Order is only adopted at that stage.

6.3. **Ryanair has failed** in its arguments before the OFT, and then in the CC. It has failed three times before the CAT, and three times in the Court of Appeal. It has twice been rejected by the Supreme Court in its efforts to have its argument aired further there and/or in Luxembourg. [CONFIDENTIAL COMMERCIAL CONSIDERATIONS] since 2010 when the OFT first engaged with it in relation to the minority shareholding: it still holds nearly 30% of Aer Lingus.

6.4. No crystal ball is needed to see that Ryanair’s latest memorandum is no more than a **gambit designed to precipitate another challengeable ruling** allowing it to litigate – just as it tempted the OFT to give an interim ruling on the out-of-time issue, and the CC to give a ruling on the continuation-of-the-investigation issue.

6.5. While no obvious means exist to prevent Ryanair challenging a determination under s.41 that there has been no material change in circumstance, Aer Lingus submits, with a real depth of feeling, that the Group should couple that determination with the prompt adoption of an Order. That is indeed the concept of s.41, that the Report be enforced absent a change in circumstances. No change of circumstances has been demonstrated; rather the Report’s predictions have proved prescient. No court decision has undermined the Report.

6.6. Aer Lingus respectfully **asks the Group to move forward now with a sense of purpose and determination** towards Ryanair’s forced sell-down of its shares, in line with the Report. Early adoption of that Order, implementing a Report adopted as long ago as August 2013, is now more critical than ever. The success of the IAG offer, which is strongly supported by the Board of Aer Lingus as the optimal way forward for the airline, may depend on it.

6.7. Ryanair may litigate – experience shows that it will in any event – but it should find itself obliged to contest the Final Order itself.
Annex 1
Aer Lingus (AERL ID)

IAG revised offer of €2.55 per share

DAVY VIEW

Aer Lingus has received a revised offer of €2.55 per share from IAG, comprising an all-cash offer of €2.50 a share and a cash dividend of €0.05 a share. The board of Aer Lingus is considering the revised proposal – this looks to us like a holding statement as negotiations continue. We expect a recommended offer and believe that it is in the interests of both parties.

Aer Lingus receives revised offer from IAG of €2.55 per share

The board of Aer Lingus is considering the revised proposal of €2.55 per share, comprising an all-cash offer of €2.50 a share and a cash dividend of €0.05 a share. Amongst other things, the revised proposal remains conditional on confirmatory due diligence, the recommendation of the board of Aer Lingus and the receipt of irrevocable commitments from Ryanair and the Irish government to accept the offer.

This is the third bid from IAG. We expect a recommended offer and believe that it is in the interests of both parties.

Key financials (€m)

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Valuation

P/E 21.2 16.4 11.7
FCF Yld (pre div) (%) 6.8 4.9 8.1
Dividend Yield (%) 1.7 1.7 1.7
Price / Book 1.4 1.7 1.5
EV / EBITDAR 3.6 4.0 3.2
Group Int. Cover (x) 34.2 N/A N/A
Debt / EBITDAR (x) N/A N/A N/A

Financial Data

Aer Lingus: Financial model and valuation analysis

Euro network airlines Sector Review
UPDATE 3-Aer Lingus to recommend $1.5 bln offer from BA-owner - RTE

Mon, Jan 26 2015

* New bid worth 2.55 euros per share, up from 2.40 euros
* Needs backing of shareholders Ryanair, Irish government
* Opposition parties, unions urge government to reject bid (Adds RTE report on board set to recommend proposal)

By Padraic Halpin

DUBLIN, Jan 26 (Reuters) - Aer Lingus's board is set to recommend an improved 1.36 billion euro ($1.52 billion) takeover offer from International Consolidated Airlines Group (IAG), Irish national broadcaster RTE said.

The Irish airline said on Monday it was considering a third proposal in six weeks by the owner of British Airways. Without quoting any sources, RTE said it understood Aer Lingus would issue a statement when the stock exchange opens on Tuesday.

A spokesman for Aer Lingus said he was not able to confirm or deny the report.

The new proposal is worth 2.55 euros per share, up from a previous 2.40 euros, and includes a cash offer of 2.50 euros per share and a cash dividend of 0.05 euros per share.

For IAG a successful takeover would give it more of the highly valuable but scarce take-off and landing slots at London Heathrow, BA's home base and a major European hub for international flights.

But it is also conditional on irrevocable commitments from the Irish carrier's two largest shareholders, budget airline Ryanair and the Irish state.

But the government, which holds 25.1 percent, is facing mounting political pressure not to sell.

Dublin, which had sought to sell its stake in Aer Lingus as part of the country's bailout by the EU and IMF in 2010 before postponing the plan, has been urged by the two main opposition parties to rule out any sale, raising the stakes just over a year out from elections.

"The government must act to ensure that it does not allow Aer Lingus management to cave in to any bid from IAG. The fallout from any sale is being dramatically underplayed," Timmy Dooley, transport spokesman for the opposition Fianna Fail party, said in a statement.

Transport Minister Paschal Donohoe has said the government would take "huge care" in evaluating any offer for the 79-year-old former flag carrier, and examine how a merger would affect Aer Lingus workers, its brand and both connectivity and competition for air routes out of Ireland.

Aer Lingus's main trade union IMPACT said that a takeover could lead to the loss of up to 1,200 jobs, a quarter of the workforce.

Merriion Stockbrokers analyst David Holohan said IAG, whose Dublin-born chief executive Willie Walsh was previously head of Aer Lingus, where he started his career as a pilot, and is currently also chairman of Ireland's debt agency, would be able to satisfy the concerns.

Others were less certain.

"We are concerned about the politics of this deal and the potential for IAG to get dragged into prolonged and distracting negotiations," Cantor Fitzgerald analyst Robin Byde said in a note.

Shares in IAG rose as much as 3 percent to 554 pence in early trade on Monday, the highest level since the group was formed in January 2011. Aer Lingus closed 0.9 percent higher at 2.37 euros at 0930 GMT.

($1 = 0.8929 euros) (Additional reporting by Paul Sandle in London; Editing by Greg Mahlich and Dominic Evans)
Irish government hires bankers to review Aer Lingus takeover

British Airways owner’s third attempt wins over Aer Lingus board after raising offer to €1.36bn, but IAG still needs blessing from Irish state and Ryanair

By Ashley Armstrong, M&A Reporter
8:36PM GMT 27 Jan 2015

The Irish government has hired IBI Corporate Finance, part of Bank of Ireland, to advise it on whether to accept a sweetened €1.36bn (£1bn) takeover offer of Aer Lingus from British Airways owner IAG.

International Airlines Group

Despite taking a step closer to seizing control of Aer Lingus, political sensitivities are already threatening IAG’s chances.

The Irish airline said on Tuesday it would be willing to accept IAG’s €2.55 per share proposal, which includes a five cent ordinary dividend, and said the "financial terms are at a level at which it would be willing to recommend" to its shareholders. As a result, IAG has been granted access to Aer Lingus' books.

However, IAG has bigger hurdles to overcome as the bidder needs irrevocable support from rival Ryanair, Aer Lingus' biggest shareholder with 28.9pc of shares, and the Irish government, which owns a 25pc stake.

Irish transport, tourism and sport minister Paschal Donohoe said that the potential sale of the state’s "Aer Lingus shares will be given very careful examination before the government takes any decision on the issue”.

Mr Donohoe said that a committee with representatives from the transport and finance departments, as well as from the National Treasury Management Agency, were examining the issue and would then report to the government before any final decision was taken.

In an early effort to soothe a political backlash, IAG has committed to “continue to provide connectivity to Ireland” and operate Aer Lingus as a “separate business with its own brand, management and operations”.

http://www.telegraph.co.uk/finance/newsbysector/transport/11372865/READY-Aer-Lingus-deal-will-face-Irish-state-...
The British Airways owner, run by Willie Walsh, a former Aer Lingus pilot, said it "recognised the importance of direct air services and air route connectivity for investment and tourism in Ireland and intends to engage with the Irish government in order to secure its support for the transaction".

However, Aer Lingus’ trade union, Impact, and other tourism bodies have warned that a deal would significantly hurt Ireland’s connectivity.

Impact has also warned that up to 1,200 Aer Lingus jobs could be at risk if the airline was acquired by IAG, which would fly in the face of the Irish government’s efforts, announced just two weeks ago, to halve unemployment by 2018 and reduce the country’s jobless rate to 5pc.

There are also huge sensitivities as next year marks the 100-year anniversary of the 1916 Easter Rising. As a result the "idea of selling an Irish flagship business to an ostensibly British company, even one that is run by an Irish executive, might not be palatable to some in Dublin", one source said.

Ryanair's Michael O'Leary has called the Irish government's posturing around Aer Lingus' landing slots "political nonsense".

However, sources have said that IAG could seek to safeguard the landing slots further by rolling over Aer Lingus' articles of association, which state that shareholders must be consulted before slots are transferred to another owner.

Ryanair is still waiting for the outcome of a court of appeal competition ruling into its stake in Aer Lingus. Mr O'Leary has said that the stake is up for sale but he does not want to be forced to sell it and would challenge again any decision that would tell him to.

Last week Mr O'Leary said that Aer Lingus could not survive as an independent but stressed he thought that the best home for the airline was Ryanair, which would create a strong Irish company. He also hinted at the possibility that if IAG made a formal offer, Ryanair could bid again for Aer Lingus.

However, Ryanair's last three attempts over the past nine years to seize control of Aer Lingus have been blocked by regulators.
Annex 2
Dan White: Time to cop on, we won't get a better deal on Aer Lingus

Willie Walsh

26 February 2015 02:30 PM

THE GOVERNMENT has announced that the "cast-iron" guarantees offered by IAG on Aer Lingus’ Heathrow slots and its commitment to maintain Aer Lingus routes from Shannon and Cork Airports didn't go far enough.

As part of IAG's bid for the airline it says it will guarantee the slots and regional routes for five years. The Government wants the guarantees to run for longer.

Reading between the lines, it's not difficult to see that the Government parties are hopelessly split on the IAG takeover bid, with most of the Fine Gael ministers leaning in favour of acceptance while their Labour Cabinet colleagues remain adamantly opposed.

Transport Minister Paschal Donohoe, who before going into politics was the Irish commercial director for consumer products giant Procter and Gamble, must surely know that the jig is up for Aer Lingus.

At a time when the European aviation industry is consolidating around a "big five" of Ryanair, IAG, Air France, Lufthansa and EasyJet, each of whom fly between 60 million and 90 million passengers a year, the notion that Aer Lingus with annual passenger numbers of just 11 million can survive as a stand-alone airline is risible.

This is why after a period of haggling - IAG initially offered €2.30 a share, then €2.40 and finally €2.55 - the Aer Lingus board has come out in favour of the IAG bid.

reality
Aer Lingus chairman Colm Barrington, a vastly-experienced aviation industry veteran, is well aware of the challenges facing a small airline. In a rapidly changing European market, big is beautiful.

Unfortunately most of the Labour party seems determined to ignore the reality staring them in the face.

Labour ministers and TDs seem to think that if the Government refuses to accept the takeover offer for the State’s remaining 25.2pc shareholding in Aer Lingus, IAG will go away and things can go back to normal.

If only life were that simple.

Two weeks ago IAG chief executive, and former Aer Lingus boss, Willie Walsh (inset), offered "cast-iron guarantees" on the Heathrow slots, telling politicians that his offer for Aer Lingus was not an opening gambit and that his record showed that if he did make a second offer for something, it was often at a lower price.

The message to the Government should have been clear: don’t even think of messing around with me.

Unfortunately the message doesn’t seem to have got through to our politicians. Instead, in what CityJet chairman Pat Byrne has described as "gombeen politics at its worst", the Government has effectively rejected the IAG offer for Aer Lingus.

So what happens next?

If Mr Walsh walks away the Aer Lingus share price will collapse and the Government can quickly forget about a €340m windfall.

Having recommended the IAG offer it is also difficult to see how Mr Barrington and his fellow-directors could remain on the Aer Lingus board. Far more likely is that they too would walk away.

Of course, what most of our politicians don’t seem to realise is that they don’t have the final say on the future ownership of Aer Lingus.

The largest Aer Lingus shareholder is not the state but Ryanair, which has a 29.9pc stake.

hostile

There is nothing to stop Mr Walsh from buying the Ryanair shareholding and launching a hostile takeover bid for Aer Lingus.

While the State shareholding is just over the 25pc limit, up to which a bidder could compulsorily buy its shares, does the Government really want to end up with a minority stake in an IAG subsidiary whose shares aren’t traded on the stock exchange?

If IAG did go hostile then all of the promises made by Mr Walsh on the Aer Lingus jobs and slots would be null and void.

It’s high time Minister Donohoe stopped trying to be all things to all men and forcefully explained the economic facts of life to Labour.

Because the sooner the Government calls a halt to the messing and takes the €340m cash on offer from IAG the better for all.
Intl Consolidated Airlines (IAG LN)
Aer Lingus Consider Sweetened IAG Bid

Key Takeaway

Hurdles remain to Aer Lingus accepting IAG’s revised €2.55/share bid but on balance we think a deal will get done. The deal would be positive for IAG, adding further growth avenues to the already exciting outlook, and for Ryanair shareholders, who could rightly expect a cash windfall.

Raised €2.55 bid considered. The Board of Aer Lingus (not covered) has said it is considering IAG’s sweetened all cash bid of €2.50/share plus a dividend of €0.05/share, having rejected previous bids of €2.30 and €2.40. The revised proposal remains conditional on irrevocable commitments from Ryanair and the Minister for Finance of Ireland to accept the offer, as well as the Aer Lingus Board itself. On balance we sense this deal will get done although it may run for some time and “there can be no certainty that any offer will be made nor as to the terms of any offer”.

Now for the hard part? We expect institutional shareholders to be broadly supportive. Aer Lingus has rarely traded above its 2006 IPO price of €2.20 and, while operating/restructuring performance is improving, the IAG platform offers an attractive long-term home for an airline without a CEO and opportunity to extract significant value. The Irish Times report that institutional holders ‘with more than 20%’ are willing to accept a €2.50 offer. Ryanair (Buy, PT €11.0, c.30% interest) seems resigned to walk away from an Aer Lingus combination of its own after multiple failed takeover bids. The UK regulator has demanded Ryanair cut its Aer Lingus stake to 5%. We think Ryanair could be willing to accept this offer, which we understand is close to its average in price. If consummated this could crystallise a cash windfall to shareholders of up to €400m. Irish Government approval (c.25% interest) is perhaps the bigger hurdle with Dublin-London routes and long-haul routes from Ireland requiring preservation. Political wrangling could therefore drag the process on.

IAG rationale. Buying Aer Lingus will give IAG access to its 23 lucrative Heathrow slots, to significant hub-feeding traffic and to a Dublin base from which to increase its transatlantic operations. Aer Lingus is the fourth largest airline at Heathrow (after British Airways, Virgin Atlantic and Lufthansa). IAG currently operates c.50% of Heathrow’s constrained capacity. The integration of bmi slots (42 pairs) at Heathrow acquired from Lufthansa in 2012 has helped performance at British Airways. Folding Aer Lingus into the IAG group would add further growth avenues to the already exciting outlook.

Financials. A €2.55 bid (37% premium to €1.82 undisturbed price) implies a fully loaded EV of €2.0bn or 9x EBITDAR on consensus estimates. But synergies from network benefits and cost duplication would make the multiple more palatable compared to IAG’s own 6x multiple. On our 2014 estimates, IAG sits at 1.8x lease-adjusted net debt/EBITDAR. An all debt funded transaction would move this up to 2.5x (before synergies), which remains comfortable in a historical context.
Aer Lingus, €2.42

Reports of reluctance among politicians to support takeover should be overcome

There are media reports this morning that there are renewed political interests that would try and stop the sale of Aer Lingus to IAG. We believe that ultimately, the government will elect to sell its stake in the Irish airline to IAG and such a measure would be in the national interest of the country given the significant opportunities that the deal presents to grow aggregate passenger numbers that travel through Irish airports while also increasing Irish connectivity levels.

We continue to believe that the strategic rationale behind IAG’s intention to purchase Aer Lingus is strong and the benefits to Aer Lingus stakeholders are numerous. IAG will likely commit to maintaining the current Heathrow slots owned by Aer Lingus and the majority of routes used by the slots given their high profitability levels. With regards to connectivity between the UK and Ireland, they stand to be increased as a result of the IAG acquisition while there remains enormous potential to further develop Dublin airport as a leading connections hub for transatlantic travel. Given IAG’s strong market position on transatlantic routes, there is enormous possibilities for Aer Lingus to be able to tap in to and augment IAG’s business on those North American routes.

Invariably in a takeover, there is a level of job duplication which can lead to roles being made redundant but we believe that the absolute number of job losses would be significantly below numbers that have been mentioned in the media in recent days and these forecasts do not take in to account the significant potential to increase jobs in Ireland as a result of increased passenger flows through Irish airports, namely in Dublin.

The government will need to carefully consider its action with regards to a formal
bid for Aer Lingus. If the government votes to not accept the bid and IAG pursues Aer Lingus in any case, the government would be left with a minority stake in the latter airline that would likely limit any control that they could exhibit on Aer Lingus operations and would suffer from a curbing of further cash disbursements from the airline. This scenario would not be in the interest of the government and would leave it with a weakened position going forward.

If the government were to elect not to sell its stake in Aer Lingus which resulted in IAG removing itself from the bid process, the share price reaction would be extremely negative, damaging the value of the government’s stake while also leaving the shareholders of the airline in an untenable situation whereby yet another bid for Aer Lingus would have been spurned as result of political actions and would be in contrast to a multi-decade consolidation that has been occurring in the airline sector.

There have been two significant headwinds have weighed on the share price of Aer Lingus in recent years, namely the pension deficit at the airline and the complex shareholding structure. Given that the pension issue is now resolved and one of the airline’s largest shareholders, Ryanair, will likely be a willing seller, the IAG bid for provides a satisfactory ending to Aer Lingus’s time as a public company. Should this process be frustrated by the unwillingness of the government to sell its stake, the long term ramifications would likely see the discount that Aer Lingus has traded at in the past relative to other industry peers being re-established. That is a scenario that would not be in the interests of any Aer Lingus stakeholders.

Analyst: David Holohan - Head Of Research

Economics

December Irish retail sales data forecast to show healthy monthly increase

The official Irish retail sales data for December are due to be published this morning. Headline sales were up just 0.2% in the month in volume terms in November but this still gave a healthy annual rise of 4.7%. In the first eleven months of 2014, sales were 6.4% higher on average than the same period in 2013. Excluding motor trades, sales were up 0.1% in the month and 3.6% in the year. “Core” sales have posted a positive annual increase for thirteen months running now. In January-November there was an average volume increase on this basis of 3.5%.

Consumer spending still remains erratic on a monthly basis though on a year-on-year comparison it is well up on the same time of the previous year, which is encouraging. A key driver of personal spending going forward will be the state of the labour market, and the signs are positive on this front as we’ve seen with the most recent official employment and Live Register data. Having peaked in February 2012 at 15.1%, the unemployment rate has fallen steadily since and is down below the 11.0% level, at 10.6%. This bodes well for this year, especially with Budget 2015 having delivered some income tax relief (albeit modest) for hard-pressed workers which will help offset the introduction of water charges.

Overall personal expenditure on goods and services fell by 0.8% in real terms in 2013, the fourth annual decline in the past five years. But, buoyed by an improving labour market, consumer spending is in 2014 likely to have made a positive contribution to GDP/GNP growth for the first time since 2010, with an increase of around 0.8% forecast. A stronger rise, of 1.5%, is projected for 2015.
Aer Lingus (AERL ID)

IAG statement on possible cash offer

DAVY VIEW

The IAG proposal consists of an offer of €2.55 per share, structured as a cash payment of €2.50, payable upon completion, and an ordinary dividend of €0.05. The board of Aer Lingus has indicated to IAG that the financial terms of the proposal are at a level at which it would be willing to recommend it to shareholders, subject to being satisfied with the manner in which IAG proposes to address the interests of relevant parties. Accordingly, the board has granted IAG access to perform a limited period of confirmatory due diligence. We view this deal as in the strategic interest of both companies while the price is in the range we had expected.

IAG signals intentions under its ownership

IAG has indicated that Aer Lingus would operate as a separate business with its own brand, management and operations, continuing to provide connectivity to Ireland, while benefitting from the scale of being part of the larger IAG group.

It would join the Oneworld alliance, of which British Airways and Iberia are key members, and the joint business that IAG operates over the North Atlantic with American Airlines, leveraging the natural traffic flows between Ireland and the US and the advantageous geographical position of Dublin for serving connecting flows.

Engagement with Irish government to ensure support

IAG believes that the proposal would secure and strengthen Aer Lingus’s brand and long-term future within a successful and profitable European airline group, offering significant benefits to both Aer Lingus and its customers.

IAG recognises the importance of direct air services and air route connectivity for investment and tourism in Ireland and intends to engage with the Irish government in order to secure its support for the transaction.
**Intel Consolidated Airlines (IAG LN)**

**Aer Lingus Consider Sweetened IAG Bid**

**Key Takeaway**

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Comment: Ryanair’s legal fight over Aer Lingus lacks merit, but has strategic rationale

12 Feb 15 | 16:51 GMT
Author: Dafydd Nelson

IN BRIEF
Ryanair said today that merger talks between International Consolidated Airlines Group and Aer Lingus “totally undermined” a UK antitrust decision forcing it to sell down a 29.8 percent stake in its Irish rival. That argument is questionable at best, but it might help Ryanair secure the best price possible for its Aer Lingus shares.

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That argument is questionable at best, but it might help Ryanair secure the best price possible for its Aer Lingus shares.

It might also allow Michael O’Leary’s low-cost carrier to hang onto the stake by keeping the dispute in legal limbo.

Today, the Court of Appeal in London backed a UK Competition Commission order requiring Ryanair to sell its stake down to 5 percent, saying the shareholding was preventing Aer Lingus from doing business and making it an unattractive partner for mergers or alliances (see here).

Dublin-based Ryanair immediately said it would file an appeal.

The Irish carrier also said it had requested a formal review by the UK’s antitrust regulator of its Final Report ordering the divestment.

Ryanair said recent IAG offers for Aer Lingus “wholly disprove the [UK regulator’s] unsubstantiated claim that Ryanair’s shareholding somehow prevented other airlines from merging with or bidding for Aer Lingus.”

“Clearly the [authority’s] case has now been totally undermined by the IAG offers,” the statement said.

But rather than giving weight to this argument, IAG’s interest in Aer Lingus appears to back the UK authority’s assertion that Ryanair could prevent the sale of Aer Lingus. IAG has said it would make a formal offer for Aer Lingus only if Ryanair promised to sell its shareholding, and if certain other conditions are met.

IAG — which owns British Airways and Spain’s Iberia — specified late last month that its proposal was conditional on certain factors, including the receipt of an irrevocable commitment from Ryanair (see here).

But Ryanair’s executives and lawyers are savvy, and they could be attempting to extract a higher price from IAG for the stake. Ryanair’s hand in negotiations would be dramatically weakened if it was forced to sell down its shareholding.

The Irish carrier may also fret that IAG might pull out of a deal for Aer Lingus. In that event, Ryanair could receive a far inferior price for its shares.

By keeping its legal options open, Ryanair is protecting its investment in the stake, which cost it a total aggregate 407.2 million euros ($460.6 million at current rates), according to the company’s latest annual report.

On Jan. 26, IAG said it had made an improved bid for Dublin-based Aer Lingus, offering 2.55 euros a share, making the deal worth 1.36 billion euros. That offer values Ryanair’s stake at about 405 million euros, according to an MLex calculation.

In addition to a promise from Ryanair, IAG also wants an irrevocable commitment from the Irish government, which owns 25 percent of Aer Lingus, before making a formal bid.

Linked Case File(s)
Ryanair - Aer Lingus
IAG - Aer Lingus