

Completed acquisition by Menzies Aviation (UK) Limited of part of the business of Airline Services Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6746/18

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 7 August 2018. Full text of the decision published on 21 August 2018.

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

SUMMARY

1. On 4 April 2018, Menzies Aviation (UK) Limited (**Menzies**) acquired part of the business of Airline Services Limited (**Airline Services**) (the **Merger**). Menzies and Airline Services are together referred to as the **Parties**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Menzies and Airline Services is an enterprise, that these enterprises have ceased to be distinct as a result of the Merger, and that the share of supply test is met. The four-month period for a decision, as extended, has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
3. The Parties overlap in the supply of:
 - (a) De-icing services at Edinburgh airport (**EDI**);
 - (b) De-icing services at Glasgow airport (**GLA**);
 - (c) De-icing services at London Heathrow airport (**LHR**);

- (d) Ground handling services¹ at London Gatwick airport (**LGW**);
 - (e) Ground handling services at Manchester airport (**MAN**); and
 - (f) Internal presentation services at MAN.
4. The CMA examined whether the Merger raises competition concerns as a result of horizontal unilateral effects for each of the overlaps above. In relation to the overlaps for de-icing and ground handling services (ie those set out at paragraphs 3(a) to 3(e) above), the CMA found that the Parties compete closely and there will be few credible providers remaining at these airports post-Merger. Evidence received by the CMA also indicates that providers not currently present at each of these airports would not exert a sufficient constraint on the Parties post-Merger. For these reasons, the CMA believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in relation to each of these overlaps.
5. The CMA found that competition concerns did not arise in relation to the supply of internal presentation services at MAN, in particular because the increment to Menzies' share of supply brought about by the Merger is small, the Parties do not compete closely and there are a number of credible competitors remaining post-Merger.
6. The CMA also examined whether there may be a loss of actual potential competition for the supply of ground handling services at other airports and examined, in particular, each of EDI and GLA, as Airline Services told the CMA that it had plans to enter these airports absent the Merger and Menzies currently has a significant position as a ground handler at these airports. The CMA believes that there is a realistic prospect that Airline Services would enter EDI and GLA for the supply of ground handling services absent the Merger and that such entry would lead to greater competition, given that customers have a very limited choice of ground handlers at these two airports. However, the CMA found that competition concerns did not arise at these airports, as evidence received by the CMA indicates that there are other credible potential entrants who are at least as well placed as Airline Services to enter these two airports.
7. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). Menzies has until **14 August 2018** to offer an undertaking to the CMA that might be accepted by the CMA.

¹ See paragraph 33 for an explanation of the product frame of reference for ground handling services.

If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 22(1) and 34ZA(2) of the Act.

ASSESSMENT

Parties

8. Menzies is a provider of ground handling, de-icing, aircraft presentation, cargo handling and cargo forwarding services to airlines at various airports in the UK. Menzies operates at 16 airports in the UK.² Menzies is wholly owned by John Menzies plc. In total, John Menzies plc operates at approximately 213 airports in 35 countries. John Menzies plc is a public company listed on the London Stock Exchange and reported worldwide turnover of £2,517.7 million and UK turnover of £[redacted] for the year ended 31 December 2017.
9. The target business, Airline Services, is primarily a provider of de-icing, ground handling and aircraft presentation services. It operates at 16 airports in the UK and generated turnover of around £[redacted] in the UK for the year ended 30 April 2017.
10. Prior to the Merger, Airline Services was owned by Airline Services Limited (**ASL**). ASL's ultimate controlling entity was Lloyds Development Capital (**LDC**), the private equity division of Lloyds Bank plc. LDC is active in the private equity mid-market and provides funds for buyouts and development capital transactions in UK unquoted companies.

Transaction

11. Menzies acquired Airline Services for approximately £[redacted] (subject to certain adjustments) by means of an asset purchase agreement entered into between ASL and Menzies on 4 April 2018, pursuant to which Menzies acquired all the relevant assets, contracts and employees relating to Airline Services. The Merger completed on 4 April 2018.
12. Menzies stated that the rationale of the Merger is to expand its de-icing and aircraft presentation offerings, expand its geographical coverage in the UK and [redacted].³ ASL stated that, as a private equity owned business, its strategy was to grow Airline Services and increase the value of the business, with the

² [redacted]

³ See Annexes 9.2 and 9.3 to the Merger Notice submitted by Menzies on 11 June 2018 (the **Merger Notice**).

ultimate aim of realising this increase in value through the sale of Airline Services.⁴

Procedure

13. The Merger was considered at a Case Review Meeting.⁵

Jurisdiction

14. Each of Menzies and Airline Services is an enterprise. As a result of the Merger, these enterprises have ceased to be distinct.
15. The Parties overlap in the supply of de-icing, ground handling and aircraft presentation services. Their combined share of supply exceeds 25% for either de-icing services or ground handling services at several airports. This includes, for example, the supply of de-icing services at EDI where the Parties' combined share of supply by number of aircraft 'turns'⁶ is approximately [70-80]% and the increment from the Merger is approximately [20-30].⁷ The CMA therefore believes that the share of supply test in section 23 of the Act is met.
16. The Merger completed on 4 April 2018 and was first made public on 5 April 2018. The four-month deadline for a decision under section 24 of the Act is 7 August 2018, following extension under section 25(2) of the Act.
17. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
18. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 13 June 2018 and the statutory 40 working day deadline for a decision is therefore 7 August 2018.

Counterfactual

19. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers, the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where,

⁴ Call with the Chairman of ASL on 29 May 2018.

⁵ See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, from paragraph 7.34.

⁶ Turns (or turnarounds) refers to the process of loading, unloading, and servicing an aircraft.

⁷ See Tables 2 to 6 below.

based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.⁸

Financial constraints on Airline Services

20. Menzies submitted that the counterfactual should take into account that Airline Services would have been constrained from expanding due to [REDACTED].⁹ For example, the Parties noted that:
- (a) [REDACTED]; and
 - (b) [REDACTED].
21. Internal documents and board minutes from ASL note, however, that [REDACTED] and that ASL's strategy absent the Merger involved growing the ground handling business of Airline Services in the UK.¹⁰ The board minutes also note the possibility of [REDACTED].¹¹ This position was confirmed by the Managing Director of Airline Services, by the Chairman of ASL and by LDC in evidence provided orally to the CMA.¹² In particular:
- (a) The Managing Director of Airline Services noted that Airline Services planned, absent the Merger, to continue growing its ground handling and de-icing businesses, including seeking to open ground handling operations at a third airport by [REDACTED];
 - (b) The Chairman of ASL noted that ASL's strategy was to grow the ground handling business of Airline Services and that LDC was supportive of this strategy; and
 - (c) LDC noted that [REDACTED].

⁸ *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).

⁹ See paragraphs 57 to 59 of the Merger Notice and paragraph 4.5 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

¹⁰ See Annexes 9.06 and 9.07 to the Merger Notice - AS' Board Minutes, November and December 2017 updates, page 3. See also Annex 9.01 to the Merger Notice – Investment Overview - November 2017, pages 5 and 11.

¹¹ See Annex 9.05 to the Merger Notice - AS' September 2017 update, page 2.

¹² Calls with the Managing Director of Airline Services on 9 May 2018, the Chairman of ASL on 29 May 2018 and LDC on 23 July 2018.

22. The CMA notes, in addition, that the sales process for Airline Services indicates that there were alternative purchasers to Menzies.¹³ For example, ASL noted that [redacted] made the second most attractive bid for Airline Services and its contingency plan (if the sale to Menzies did not proceed) would have been to approach the other bidders.¹⁴
23. Therefore, the CMA believes the pre-Merger conditions of competition to be the relevant counterfactual, with such pre-merger conditions including Airline Services seeking to grow its ground handling business.

Menzies' operations at [redacted]

24. Menzies also submitted that the counterfactual should take into account that its operations at [redacted].¹⁵ In particular, Menzies noted that:
 - (a) [redacted];¹⁶
 - (b) [redacted]; and
 - (c) [redacted].¹⁷
25. Internal documents provided by Menzies indicate that Menzies has [redacted].¹⁸ The CMA notes that the acquisition of Airline Services is not mentioned in these internal documents as [redacted].
26. As Menzies has plans [redacted] to compete for customers at [redacted] absent the Merger, the CMA believes that it is not sufficiently certain that [redacted]. Therefore, the CMA believes the pre-Merger conditions of competition to be the relevant counterfactual, with such pre-merger conditions including Menzies [redacted].

Frame of reference

27. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant

¹³ See Annex 9.08 to the Merger Notice – PWC: Overview of Offers Received – 13 March 2018, paragraphs 12 to 14.

¹⁴ Call with the Chairman of ASL on 29 May 2018.

¹⁵ See paragraph 60 of the Merger Notice, paragraphs 4.2 to 4.4 of the Parties' response of 20 July 2018 to the CMA's Issues Paper and paragraph 4 of Menzies' response of 23 July 2018 to the CMA's fourth request for information.

¹⁶ See paragraph 4 of Menzies' response of 23 July 2018 to the CMA's fourth request for information.

¹⁷ See paragraph 4.4 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

¹⁸ See: (i) Annex 11.1 to the Merger Notice – [redacted]; and (ii) Annex 11.2 to the Merger Notice – [redacted].

market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.¹⁹

28. The Parties overlap in the supply of certain ground handling services and associated services to airlines at EDI, GLA, LHR, LGW and MAN. Ground handling is the general term for the servicing of an aircraft while it is on the ground at an airport.

Product scope

29. Menzies submitted that the product frames of reference should be:²⁰
- (a) de-icing services to all airlines (including self-supply by airlines);²¹
 - (b) internal presentation services to all airlines (including self-supply by airlines); and
 - (c) ground handling services, comprising baggage handling, passenger handling, ramp handling (with the exception of de-icing and presentation services) and airside cargo transport services to all airlines (including self-supply by airlines).
30. In accordance with its proposed frame of reference, Menzies provided a table showing in which services and at which airports the Parties operate and overlap (see Table 1).

¹⁹ [Merger Assessment Guidelines](#), paragraph 5.2.2.

²⁰ See paragraph 70 of the Merger Notice.

²¹ Self-supply is where an airline services its own requirements internally, rather than using a third party supplier (such as the Parties).

Table 1: Airport and service overlaps between Menzies and Airline Services

			Baggage handling	Passenger handling	Ramp handling	Airside cargo transport	De-icing	Internal presentation
Aberdeen	ABZ	Menzies	✓	✓	✓	✓	✓	✗
		AS	✗	✗	✗	✗	✗	✗
Birmingham	BHX	Menzies	✗	✗	✗	✗	✗	✗
		AS	✗	✗	✗	✗	✓	✓
Bristol	BRS	Menzies	✓	✓	✓	✗	✗	✗
		AS	✗	✗	✗	✗	✓	✓
Cardiff	CWL	Menzies	✗	✗	✗	✗	✗	✗
		AS	✗	✗	✗	✗	✗	✗
Edinburgh	EDI	Menzies	✓	✓	✓	✓	✓	✗
		AS	✗	✗	✗	✗	✓	✓
Exeter	EXE	Menzies	✗	✗	✗	✗	✗	✗
		AS	✗	✓	✓	✗	✓	✓
Glasgow	GLA	Menzies	✓	✓	✓	✓	✓	✗
		AS	✗	✗	✗	✗	✓	✓
Isle of Man	IOM	Menzies	✓	✓	✓	✓	✓	✗
		AS	✗	✗	✗	✗	✗	✗
Liverpool John Lennon	LPL	Menzies	✗	✗	✗	✗	✗	✗
		AS	✗	✗	✗	✗	✓	✓
London City	LCY	Menzies	✗	✓	✗	✗	✗	✗
		AS	✗	✗	✗	✗	✗	✗
London Gatwick	LGW	Menzies	✓	✓	✓	✓	✗	✗
		AS	✓	✓	✓	✓	✓	✓
London Heathrow	LHR	Menzies	✓	✓	✓	✓	✓	✓
		AS	✗	✗	✗	✗	✓	✗
London Luton	LTN	Menzies	✓	✓	✓	✓	✗	✗
		AS	✗	✗	✗	✗	✓	✗
London Stansted	STN	Menzies	✗	✗	✗	✗	✗	✗
		AS	✗	✗	✗	✗	✓	✓
Manchester	MAN	Menzies	✓	✓	✓	✓	✗	✓
		AS	✓	✓	✓	✓	✓	✓
Newcastle	NCL	Menzies	✗	✗	✗	✗	✗	✗
		AS	✗	✗	✗	✗	✓	✓
Newquay ²⁰	NQY	Menzies	✗	✗	✗	✗	✗	✗
		AS	✗	✗	✗	✗	✗	✓
Southend	SEN	Menzies	✗	✗	✗	✗	✗	✗
		AS	✗	✗	✗	✗	✗	✓

31. The European Commission (**EC**), the CMA and the Office of Fair Trading (**OFT**) have considered the provision of ground handling services and associated activities on a number of occasions, including in Menzies/ASIG,²² Aviator/Swissport,²³ Swissport/Servisair²⁴ and Servisair/Aviance.²⁵

²² ME/6639/16, Anticipated acquisition by Menzies Aviation plc and Menzies Aviation Inc. of ASIG Holdings Limited and ASIG Holdings Corp, CMA, 3 March 2017 (**Menzies/ASIG**).

²³ ME/6578/15, Completed acquisition by Aviator LGW Limited of the assets of Swissport Limited's ground handling business at London Gatwick, CMA, 5 February 2016 (**Aviator/Swissport**).

²⁴ Case No COMP/M.7021, SWISSPORT / SERVISAIR, 18 December 2013 (**Swissport/Servisair**).

²⁵ ME/4429/10, Completed acquisition by Servisair UK Limited of the regional ground handling business of Aviance UK Limited, OFT, 15 June 2010 (**Servisair/Aviance**).

32. As discussed in those decisions, ground handling encompasses a number of different services which may be provided together by one supplier or by different suppliers, including:
- baggage activities: loading and unloading of baggage from an aircraft, handling baggage in the sorting area, sorting, preparing for departure, and transporting baggage from the sorting area to the reclaim area;
 - ramp activities: loading and unloading of aircraft, baggage and freight, push-back and towing of the aircraft, passenger debarkation via steps, aircraft safety checks upon arrival and departure, and traffic operation (including flight documentation and planning, crew briefing, weight and balance, load planning, ground to air communication and flight supervision);
 - passenger management activities: check-in, passenger assistance landside, gate management airside, air bridge connection and disconnection, and passenger security checks;
 - airside cargo handling activities; and
 - other services, including de-icing, fuelling, aircraft cleaning and landside cargo transport.²⁶
33. On the basis of the evidence received by the CMA from the Parties and third parties, and consistent with the previous decisional practice noted above, the CMA believes that the appropriate starting point for the product frame of reference should encompass the supply of baggage, ramp, passenger and airside cargo handling services (**Ground Handling Services**).
34. In light of the Parties' overlapping services and Menzies' submissions, the CMA then assessed whether it was appropriate to expand the product frame of reference to include other services, specifically:
- (a) Whether Ground Handling Services, de-icing services and internal presentation services, or a combination of these services, should be assessed within the same product frame of reference; and

²⁶ The CMA understands that the terms 'above wing' or 'front-of-house' services and 'below wing' or 'back-of-house' services are commonly used in the industry. Above wing or front-of-house services refer to passenger-facing services which do not require access to the tarmac and aircraft, such as reservation, ticketing and check-in services. Below wing or back-of-house services refer to non-passenger-facing services which do require access to the tarmac and aircraft, such as aircraft towing and pushback and baggage handling.

- (b) In each case, whether self-supply by airlines should be included in the product frame of reference.

De-icing and internal presentation services

35. As well as Ground Handling Services, the Parties overlap in the supply of de-icing services and aircraft presentation services:
- (a) De-icing services consist of the storage and use of de-icing fluid to remove ice from the wings and engines of aircraft. De-icing fluid is stored in storage tanks located at an airport and then dispensed to de-icing rigs which are used to spray aircraft; and
 - (b) Aircraft presentation services are split into internal presentation and external presentation services. Internal presentation services include interior cleaning, seat cover changing, carpet fitting, leather seat cover cleaning and maintenance and disinfection. External presentation services include exterior washing and polishing. Menzies does not supply external presentation services in the UK, and therefore external presentation services are not considered further in this decision.
36. Menzies submitted that, consistent with the evidence received by the CMA in Aviator/Swissport, de-icing and internal presentation services fall within different (and separate) product markets because:²⁷
- (a) They are often tendered on a separate basis to Ground Handling Services; and
 - (b) They are provided by a different set of competitors.
37. The CMA contacted a range of ground handling, de-icing and internal presentation providers. The responses from these providers indicated that:
- (a) There is a significant variation in the supplier set for these services. Although some larger providers provide a combination of these services at some airports (eg Menzies and Swissport), other providers specialise in offering one service across all the UK airports at which they operate. For example, some providers offer Ground Handling Services in the UK but not de-icing and internal presentation services (eg Azzurra and Premiere), while other providers offer de-icing services in the UK but not Ground Handling Services and internal presentation services (eg AeroMag);

²⁷ See paragraphs 67, 68 and 113 of the Merger Notice.

- (b) Different services may require different assets to be deployed, which means, for example, that a ground handling provider might not be able to switch readily to supply de-icing services (at least in the short-term). In particular:
 - (i) While there can be some cross-use of workforce, each service requires different equipment; and
 - (ii) At some airports, different licences are needed for different services; and
 - (c) Several providers sub-contract de-icing and internal presentation services, indicating that not all ground handling providers are well placed to supply these services.
38. The CMA also contacted a range of airline customers. Many airlines stated that, while they will sometimes tender for Ground Handling Services, de-icing services and aircraft presentation services together (ie “bundled contracts”), they typically procure de-icing and presentation services separately from Ground Handling Services. Even where airlines procure such services through bundled contracts, the CMA notes that the airlines often retain the flexibility of accepting bids for individual services if they consider it preferable to do so.
39. This evidence from third parties was supported by tender data from Menzies. The CMA found that, while different elements of Ground Handling Services (eg baggage activities, passenger activities, ramp activities and airside cargo handling activities) were often tendered together, Ground Handling Services were tendered together with de-icing and internal presentation services less frequently.
40. On the basis of the evidence above, the CMA has considered the impact of the Merger within separate frames of reference for Ground Handling Services, de-icing services and internal presentation services.

Self-supply by airlines

41. Menzies submitted that airlines which service their own ground handling, de-icing or internal presentation requirements (ie self-supply) form part of the same product frame of reference as third party providers of these services, in particular because:²⁸

²⁸ See paragraphs 186 to 190 of the Merger Notice and paragraphs 3.11(g) and 5.4 of the Parties’ response of 20 July 2018 to the CMA’s Issues Paper.

- (a) Airlines can switch or credibly threaten to switch to self-supplying these services;
 - (b) Since Menzies/ASIG, there have been significant examples of airlines switching from third party suppliers to self-supply (such as British Airways self-supplying at LGW via its subsidiary entity Gatwick Ground Services); and
 - (c) Self-supplying airlines are often willing and able to provide their services to third party airlines.
42. The majority of airlines responding to the CMA's investigation stated, however, that they had not self-supplied Ground Handling Services, de-icing services or internal presentation services previously, and that they were unlikely to switch to self-supply in response to a significant increase in the price of these services from third party providers. Some airlines also noted that it would typically not be cost-effective for airlines other than very large airlines to self-supply Ground Handling Services. Of the self-supplying airlines that responded to the CMA's investigation, only one airline stated that it would consider providing these services to other airlines.
43. The CMA received very limited evidence of airlines self-supplying de-icing services. The CMA also found that the propensity of airlines to consider self-supplying Ground Handling Services may vary by airport. In particular, the CMA found that there is currently limited self-supply of Ground Handling Services by airlines at MAN, but more self-supply by airlines at LGW (with, for example, some airlines turning to self-supply after Aviator exited LGW).²⁹
44. On the basis of the evidence above, the CMA does not believe that self-supply is a viable alternative for the majority of airlines and, even if a minority of airlines would consider the option of self-supplying, this would not protect other airlines from price increases or a worsening of quality. Therefore, consistent with previous decisional practice, the CMA has excluded self-supply from the relevant product frames of reference. The CMA has, however, taken the constraint from self-supply (where there is evidence of such constraint) into account, to the extent relevant, within its competitive assessment.

²⁹ As the CMA found that there were no competition concerns in relation to the supply of internal presentation services at MAN, the CMA has not assessed in detail the propensity of airlines to consider self-supplying internal presentation services.

Conclusion on product scope

45. For the reasons set out above, the CMA has considered the impact of the Merger within the following product frames of reference (in each case excluding self-supply by airlines):
- the supply of Ground Handling Services;
 - the supply of de-icing services; and
 - the supply of internal presentation services.

Geographic scope

Airport-level

46. Menzies submitted that the appropriate geographic market in which the CMA should assess the Merger should be at least national in scope and possibly EEA-wide, as there are no entry barriers for existing providers active in the UK to bid for contracts at any UK airport and airlines will sometimes conduct tender processes for multiple airports.³⁰
47. The CMA contacted a range of airlines that are active at the airports where the Parties operate:
- (a) Almost half of the airlines that responded to the CMA's investigation said that they tender for Ground Handling Services, de-icing services and internal presentation services by airport. While a quarter of the airlines that responded to the CMA's investigation said that they tendered on a multi-airport basis (ie through "network contracts"),³¹ some of these airlines also noted that they would still accept bids for single airports.
- (b) The majority of airlines that responded to the CMA's investigation also stated that, for Ground Handling Services and de-icing services, it was important for the supplier to be present at the airport already. While the CMA notes that airlines can (and sometimes do) procure Ground Handling Services and de-icing services from providers not currently active at the airport in question, the available evidence indicates that airlines are more likely to procure Ground Handling Services and de-icing services for a particular airport from providers already active at the airport.

³⁰ See paragraphs 135 to 142 of the Merger Notice.

³¹ Network contracts are those that involve a supplier providing services for an airline across multiple airports.

48. Consistent with Menzies/ASIG, the CMA also found that, while it is possible for providers to bid for contracts at airports where they are not currently active, they would need to obtain a licence to operate at the new airport and they typically require equipment and staff dedicated to that particular airport. Given the additional investment required, many providers told the CMA that they would be generally reluctant to bid for small contracts at an airport where they are not already active (see further paragraph 68 below).
49. In line with submissions made by Menzies,³² the CMA also found that de-icing services for certain airports (eg EDI and GLA) are often tendered as part of “network contracts”, rather than on a single airport basis. However, the CMA also found that airlines may be willing to accept bids for single airports where it is advantageous to do so.
50. On the basis of this evidence above, and consistent with previous decisional practice, the CMA has considered the impact of the Merger at an airport-level. As some airlines procure services through “network contracts” for certain airports (particularly for de-icing services), the CMA has also taken into account the constraint from suppliers not currently active at an airport where there is evidence of such constraint in its competitive assessment.

LHR – terminal-level

51. In Menzies/ASIG, the CMA assessed Ground Handling Services at a terminal-level at LHR, given the barriers to moving ground handling equipment and staff between certain terminals (eg between Terminals 2/3 and Terminal 4 of LHR).³³ However, for de-icing services, Menzies submitted that the relevant geographic market at LHR is airport-wide rather than being further segmented by different terminals (or groups of terminals) because:³⁴
- (a) All providers active at more than one terminal service these terminals from a single location at LHR;
 - (b) Terminals 2 and 3 are adjacent geographically with no practical restrictions to deploying equipment across the two terminals;
 - (c) While Terminals 2 and 3 are separated from Terminal 4 by a runway, they are linked by a tunnel through which de-icing equipment regularly passes (as de-icing equipment is more mobile than ground handling equipment); and

³² See paragraphs 24 to 26 of the Parties’ response of 23 July 2018 to the CMA’s fourth request for information.

³³ See paragraph 55 of the CMA’s Phase 1 decision in Menzies/ASIG.

³⁴ See paragraph 263 of the Merger Notice and paragraphs 5.5 to 5.7 of the Parties’ response of 20 July 2018 to the CMA’s Issues Paper.

(d) De-icing equipment can also be easily deployed between Terminals 2/3 and Terminal 5, as there are no barriers preventing the movement of equipment.

52. The CMA asked competitors how easy it was to move de-icing equipment and staff between terminals at LHR. Three competitors confirmed that it is not difficult to do so and de-icing equipment can be readily deployed between terminals. In addition, the CMA found that some de-icing providers currently active at LHR are able to utilise their de-icing equipment and staff to provide de-icing services across terminals at LHR.

53. In light of this evidence, the CMA has considered the impact of the Merger at LHR at an airport-level for de-icing services.

Conclusion on geographic scope.

54. For the reasons set out above, the CMA has considered the impact of the Merger within an airport-wide geographic frame of reference for each of EDI, GLA, LHR, LGW and MAN.

55. The CMA has also taken into account the constraint from suppliers not currently active at an airport (where there is evidence of such constraint), to the extent relevant, within its competitive assessment.

Conclusion on frame of reference

56. For the reasons set out above, the CMA has considered the impact of the Merger within the following frames of reference:

(a) the supply of de-icing services at each of: (i) EDI; (ii) GLA; and (iii) LHR;

(b) the supply of Ground Handling Services at each of: (i) LGW; (ii) MAN; (iii) EDI; and (iv) GLA; and

(c) the supply of internal presentation services at MAN.

Competitive assessment

Horizontal unilateral effects

57. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and

without needing to coordinate with its rivals.³⁵ Horizontal unilateral effects are more likely when the merging parties are close competitors.

58. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in each of the frames of references outlined above. The CMA assessed airports where the Parties had existing operations pre-Merger (**loss of existing competition**) and airports where, based on evidence of Airline Services' entry plans, the Parties could have competed absent the Merger (**loss of actual potential competition**).
59. The CMA first, by way of background and as a basis for the individual analyses that follow, provides an overview of the market dynamics relevant for the purposes of assessing the competitive effects of the Merger within each of the frames of reference identified above.³⁶

Factors important to airlines when choosing ground handling and de-icing providers

60. The CMA found, both in previous decisional practice and based on third party responses to this merger inquiry, that:
- (a) Ground handling is a relatively undifferentiated service, although several airlines told the CMA that the importance of quality and an established reputation for good service delivery has grown in recent years; and
 - (b) De-icing is also a relatively undifferentiated service. However, given the safety implications involved, a provider's reputation for good service delivery is a key factor when airlines choose a de-icing provider.
61. For this reason, the CMA believes that an assessment of the competitive constraint from existing providers and potential entrants should focus not only on a given provider's interest and capability to serve new customers, but also on the extent to which the provider has an established reputation for providing the relevant service in the UK and the extent to which providers are rated highly in terms of service delivery.
62. The CMA also found, both in previous decisional practice and based on third party responses to this merger inquiry, that existing suppliers of a service at an airport are most likely to be considered by other airlines for that service at that airport (see further paragraph 47 above). Therefore, the CMA's starting

³⁵ [Merger Assessment Guidelines](#), from paragraph 5.4.1.

³⁶ This background section focuses on Ground Handling Services and de-icing services, as the CMA found that there were no competition concerns in relation to the supply of internal presentation services at MAN since the Parties are not close competitors for this service and there is a sufficient constraint from internal presentation providers that *already* operate at MAN.

point for considering competition in the supply of a service at an airport is to look at the existing suppliers of that service at that airport.

63. While the CMA has interpreted tender data from the Parties and third party airlines with caution (given that the data available to the CMA is not complete), this data does provide some insight into the providers that are regularly bidding for and winning contracts at particular airports, and therefore provides an indication of the competitive constraint that existing providers impose on the Parties at a given airport. The CMA understands, based on third party responses received in this merger inquiry (and consistent with its findings in *Menzies/ASIG*),³⁷ that bidders have little or no visibility about the identity, number or bids of rivals in any given tender process.
64. The CMA recognises that share of supply and tender data may not capture the effects of any recent changes or the strength of new entrants. The CMA has therefore also assessed the competitive constraint imposed by recent entrants and potential entrants, as well as other evidence on the competitive strengths of suppliers.

Countervailing constraints

65. Menzies submitted that the Parties also face constraints from:³⁸
- (a) Suppliers not currently active at an airport, or in that service, who could start supplying that service (ie new entry); and
 - (b) Countervailing buyer power from airlines.
66. The CMA has assessed the strength of these countervailing constraints. The following section provides overarching evidence and an explanation of the CMA's approach to assessing these constraints. Evidence relating to countervailing constraints at specific airports is considered in the relevant sections for the competitive assessment for each frame of reference.

New entry

67. When the CMA evaluates the potential constraint from new entry, it considers whether such entry would be timely, likely and sufficient to prevent any SLC.³⁹
68. Providers of de-icing and Ground Handling Services told the CMA consistently that for the purposes of entry, in order to achieve economies of scale and profitability, they target customers with a significant level of activity at an

³⁷ Paragraph 69 of the CMA's Phase 1 decision in *Menzies/ASIG*.

³⁸ See section 3 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

³⁹ [Merger Assessment Guidelines](#), paragraph 5.8.3

airport. For this reason, they are generally reluctant to bid for small contracts at an airport where they are not already active. Smaller airlines also told the CMA that it was difficult for them to attract new entrants to an airport. The CMA found little evidence of providers not active at a particular airport bidding for contracts of smaller airlines at that airport.

69. Conversely, several large airlines told the CMA that they do sometimes invite new entrants to tenders. The CMA also found that new entrants have bid for tenders involving large airlines, as a large contract provides a viable way for a provider to enter an airport. The CMA notes that there are some recent examples of new entry at certain airports in relation to Ground Handling Services: for example, Stobart entered Stansted airport in 2017 and DHL entered LGW in 2018,¹ in both cases after winning a tender for Ground Handling Services by easyJet, which has significant operations at both airports. However, the CMA received little evidence from the Parties and third parties of new entry in relation to de-icing services.
70. The CMA also found that having an existing relationship with an airline in relation to the service being procured is an important consideration for airlines procuring Ground Handling Services and de-icing services (and therefore an important factor when assessing whether new entry is likely). In particular:
 - (a) Many large airlines told the CMA that, consistent with a focus on quality, when considering a ground handler that was not already active at a current airport, a good track record of delivering Ground Handling Services well was important. While newer or untested ground handlers might be invited to bid, any bids received from such ground handlers would typically receive more detailed scrutiny;
 - (b) Several airlines told the CMA that, as de-icing services and Ground Handling Services are considered by them to be 'core' services, they would be less likely to consider a provider who was 'unknown'. Airlines said that, if the provider was already well-established as a provider of this service at other airports, and especially if the airline was already using the provider for the service at a different airport, the airline would be more likely to consider the provider for the service at a new airport; and
 - (c) Some airlines also said that, if the provider was already supplying a different service at an airport and providing a good service (eg in de-icing), the airline might be more likely to consider the provider for a supplementary service (eg Ground Handling Services).
71. Based on the evidence set out above, the CMA believes that suppliers of either de-icing services or Ground Handling Services not currently active at an

airport are less likely to be perceived as a significant constraint by other bidders for most airline contracts. This is particularly the case where the provider is unknown to the airline.

72. Therefore, when assessing whether new entry would be timely, likely and sufficient to prevent any SLC in relation to an individual frame of reference, the CMA has considered the following factors:
- (a) whether the potential entrant has existing operations and customer relationships in the UK (see paragraphs 62 and 70 to 71 above);
 - (b) whether the potential entrant could be considered a viable alternative based on their service delivery in the UK or elsewhere (see paragraph 60 above);
 - (c) whether the potential entrant has any plans to enter new airports and the timeframe around any expansion plans (see paragraph 177 below);
 - (d) whether the potential entrant has sought or bid for business at the relevant airport in the past (see paragraph 177 below); and
 - (e) whether there are any restrictions on the potential entrant's ability to service new customers (such as exclusivity arrangements with airlines).

Countervailing buyer power

73. Menzies submitted that airlines have significant buyer power and are able to impose countervailing constraints on both pricing and quality. Menzies said that airlines are able to exercise their buyer power in a number of ways, including the use of highly sophisticated procurement teams that can combine or break up individual services in a tender process to procure the best options, acting as an 'anchor' customer or offering network contracts to attract a new entrant to an airport or multiple airports, and threatening to self-supply services.⁴⁰
74. While the CMA has taken into account any specific evidence of countervailing buyer power in its competitive assessment, the CMA has placed limited weight on countervailing buyer power, in particular because:
- (a) While the CMA recognises that certain larger airlines may have some degree of countervailing buyer power (particularly in light of their ability to encourage new entry at an airport and use bundled or network contracts), the CMA found limited evidence of smaller airlines being able to exercise

⁴⁰ See paragraphs 3.11 to 3.12 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

buyer power in this way (see, for example, paragraphs 42 and 68 above). The CMA notes that, even if some customers were to have some degree of countervailing buyer power, since prices are negotiated individually, this would not protect other customers;⁴¹ and

- (b) The CMA notes that customers can only exercise buyer power if they have good alternatives.⁴² The CMA has assessed the alternative providers available to customers in its competitive assessment below.

Loss of existing competition

- 75. For each frame of reference in which the Parties had existing operations pre-Merger, the CMA examined a range of evidence, including:
 - (a) Shares of supply;
 - (b) Closeness of competition between the Parties;
 - (c) Competitive constraints from alternative suppliers, including existing suppliers operating at the airport and potential entrants; and
 - (d) Third party views.

De-icing services at EDI

Shares of supply

- 76. Table 2 shows the shares of supply by number of aircraft ‘turns’ for de-icers active at EDI for the last two years.

Table 2: Shares of supply for de-icing services at EDI based on aircraft turns

	2016	2017	2018 (year to May)
Airline Services	[50-60]%	[50-60]%	[40-50]%
Menzies	[20-30]%	[20-30]%	[20-30]%
Swissport	[20-30]%	[20-30]%	[20-30]%

Source: Parties’ data and CMA analysis of data from third parties

- 77. As shown by Table 2, Airline Services is the largest provider of de-icing services at EDI and the Parties’ combined share of supply is high, at around [70-80]%, with a significant increment in share ([20-30]%) being brought about

⁴¹ [Merger Assessment Guidelines](#), paragraphs 5.9.1 to 5.9.7.

⁴² [Merger Assessment Guidelines](#), paragraphs 5.9.2 to 5.9.3.

by the Merger. The only other competitor currently active at EDI, Swissport, has a share of supply of [20-30]%.

78. The CMA notes that, while shares of supply may not always be indicative of current competitive conditions in bidding markets, the Parties' shares of de-icing services at EDI have not varied greatly over time. This indicates that competitive conditions have been stable, so the CMA believes that more weight may be placed on the Parties' very high combined share of supply.

Closeness of competition

79. At a relatively advanced stage in the Phase 1 merger inquiry (ie at the Issues Meeting), Menzies submitted that the Parties are not close competitors as they do not bid for the same de-icing contracts and neither Party has bid against each other for de-icing services at EDI since July 2016.⁴³ The Parties said that this is because Menzies bids [X] for bundled contracts (ie where airlines tender for Ground Handling Services and de-icing services together), whereas Airline Services bids [X] for network contracts (ie where airlines tender for de-icing services only across more than one airport). The Parties also submitted tender data intended to support this position.
80. The CMA has interpreted this evidence provided by the Parties with caution. As this point was first raised at an advanced stage of the Phase 1 merger inquiry, it was not possible for the CMA to take reasonable steps to test properly the competitive significance of any differences in the contractual models offered by the Parties. The Parties also provided limited evidence to substantiate the extent to which airlines operating at EDI tender (or retain the flexibility to tender) for de-icing services other than through bundled contracts or network contracts. As noted above, when airlines procure services as part of bundled or network contracts, they may ultimately choose to accept bids for the provision of one type of service at one airport where they consider it preferable to do so. In any case, to the extent that airlines are able to choose between different contractual models when procuring de-icing services, the CMA believes that the Merger is liable to bring about a loss in the competitive tension between the contractual options available for customers at EDI, as the two remaining competitors post-Merger for each type of contractual model would be Swissport and Menzies.
81. Moreover, as set out at paragraphs 180 to 181 below, Airline Services has been growing its ground handling business in the UK and had plans to enter EDI for the provision of Ground Handling Services absent the Merger. In

⁴³ See paragraphs 6.5 to 6.10 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

addition, as noted at paragraph 87 below, the CMA received limited evidence from the Parties or third parties that other potential entrants for Ground Handling Services at EDI would [§<]. The CMA therefore believes that Airline Services may be better placed to compete for bundled contracts at EDI going forward, which means the Parties may have competed against each other in tenders more frequently in the future absent the Merger.

Competitive constraints from existing providers

82. The CMA also assessed the extent to which there are existing de-icing providers at EDI that would provide a competitive constraint on the combined entity post-Merger.
83. Swissport is the only alternative to the Parties for de-icing services currently operating at EDI. Third parties indicated that Swissport is a strong competitor to the Parties, which is supported by the tender data submitted by the Parties.
84. However, the CMA does not believe that a single competitor for de-icing services at EDI would be sufficient to constrain the Parties post-Merger. In particular, the CMA understands that bidders have little or no visibility about the identity, number or bids of rivals in any given tender process (see paragraph 63 above), and therefore expects that losing one of a small number of existing providers is likely to mean that each remaining provider perceives that its chances of winning any bid increases, which in turn means that the remaining providers may not bid as keenly.

Potential entry

85. The CMA also assessed the extent to which providers could enter EDI and provide a competitive constraint on the combined entity post-Merger.
86. Menzies submitted that there are providers that could enter EDI and provide de-icing services, namely IDS (which currently provides de-icing services at Luton airport) and Aero Mag (which currently provides de-icing services at LHR) for network contracts and Stobart, DHL, WFS and Aviapartner for bundled contracts.⁴⁴
87. However, the available evidence is mixed and does not adequately support the position that entry by providers not currently active in the provision of de-icing services at EDI would be timely, likely and sufficient. In particular:

⁴⁴ See paragraphs 6.11 to 6.13 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

- (a) Based on evidence obtained from third parties, the CMA found that de-icing providers active at other UK airports [redacted];
- (b) The CMA received limited evidence from the Parties or third parties that ground handling providers active at other UK airports or outside the UK, such as [redacted], would [redacted]; and
- (c) The CMA notes that many of the potential entrants mentioned by the Parties do not have existing de-icing operations and customer relationships in the UK and/or do not have an established reputation for good service delivery in relation to de-icing services. As noted at paragraphs 60 to 62 above, these are important factors for airlines when choosing a de-icing provider.

88. Therefore, based on the available evidence, the CMA found that the Parties would not face a sufficient competitive constraint post-Merger from providers not currently active in the provision of de-icing services at EDI.

Other considerations

89. Menzies also submitted that, given the size of EDI, it is unrealistic to expect a large number of de-icing providers to be present and operating profitably at EDI.⁴⁵
90. As noted at paragraphs 57 to 58 above, the CMA's competitive assessment is based on whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects. In this respect, the CMA found that:
- (a) There are currently three de-icing providers operating at EDI and this has been the case for the last three years; and
 - (b) It is not sufficiently certain that any of these existing de-icing providers would exit EDI absent the Merger. As noted at paragraph 25 above, [redacted].
91. The CMA therefore assessed whether sufficient competition would remain for de-icing services at EDI post-Merger. For the reasons set out at paragraphs 82 to 88 above, the CMA believes that existing de-icing providers at EDI and any potential entrants would not impose a sufficient competitive constraint on the combined entity post-Merger.
92. While there are some airports in the UK with only one or two de-icing providers present, the CMA notes that there are a range of factors that affect

⁴⁵ See paragraph 219 of the Merger Notice.

the profitability of a de-icing provider at an airport, including the business model of the de-icing provider, the types of airlines serviced, the service schedule and changes to the operating conditions at the airport since the contract was awarded. The CMA therefore believes that an assessment of the number of providers at other airports is of limited relevance as to whether the Merger raises competition concerns as a result of horizontal unilateral effects in relation to the supply of de-icing services at EDI.

Conclusion

93. For the reasons set out above, the CMA believes that the Parties are competitors in the supply of de-icing services at EDI and that there will be insufficient competition from other providers to constrain the Parties post-Merger.
94. Accordingly, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to the supply of de-icing services at EDI.

De-icing services at GLA

Shares of supply

95. Table 3 shows the shares of supply by number of aircraft ‘turns’ for de-icers active at GLA for the last two years.

Table 3: Shares of supply for de-icing services at GLA based on aircraft turns

	2016	2017	2018 (year to May)
Airline Services	[70-80]%	[70-80]%	[70-80]%
Menzies	0%	[10-20]%	[10-20]%
Swissport	[20-30]%	[10-20]%	[10-20]%

Source: Parties’ data and CMA analysis of data from third parties

96. As shown by Table 3, Airline Services is the largest provider of de-icing services at GLA and the Parties’ combined share of supply is high at around [80-90]%, with a significant increment in share ([10-20]%) being brought about by the Merger. The only other competitor currently active at GLA, Swissport, has a share of supply of [10-20]%.

97. The CMA notes that Menzies only recently entered GLA in 2017 and internal documents state that Menzies intended to grow its de-icing business in GLA.⁴⁶ As such, the CMA believes that Menzies' current share of supply at GLA may understate its competitive position and the extent to which Menzies will compete for new customers post-Merger.

Closeness of competition

98. As with EDI, Menzies submitted, at a relatively advanced stage in the Phase 1 merger inquiry (ie at the Issues Meeting), that the Parties are not close competitors as they do not bid for the same de-icing contracts and neither Party has bid against each other for de-icing services at GLA since July 2016.⁴⁷
99. As Menzies has only recently entered GLA, and for the reasons stated at paragraph 80 above, the CMA has placed limited weight on this evidence. Moreover, as set out at paragraphs 193 to 194 below, Airline Services has been growing its ground handling business and had plans to enter GLA for the provision of Ground Handling Services absent the Merger. In addition, as noted at paragraph 105 below, the CMA received limited evidence from the Parties or third parties that other potential entrants for Ground Handling Services at GLA would [redacted]. The CMA therefore believes that Airline Services may be better placed to compete for bundled contracts at GLA going forward, which means the Parties may have competed against each other in tenders more frequently in the future absent the Merger.

Competitive constraints from existing providers

100. The CMA also assessed the extent to which there are existing de-icing providers at GLA that would provide a competitive constraint on the combined entity post-Merger.
101. Swissport is the only alternative to the Parties for de-icing services at GLA. Third parties indicated that Swissport is a strong competitor to the Parties, which is supported by the tender data submitted by the Parties.
102. However, as with EDI, the CMA does not believe that a single competitor for de-icing services at GLA would be sufficient to constrain the Parties post-Merger.

⁴⁶ See Annex 15.2M to the Merger Notice – IAG Tender: CIP (De-icing) – July 2016, page 2: [redacted]

⁴⁷ See paragraphs 6.18 to 6.22 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

Potential entry

103. The CMA also assessed the extent to which providers could enter GLA and provide a competitive constraint on the combined entity post-Merger.
104. Menzies submitted that there are providers that could enter GLA and provide de-icing services, namely IDS and Aero Mag for network contracts and Stobart, DHL, WFS and Aviapartner for bundled contracts.⁴⁸
105. However, the available evidence is mixed and does not adequately support the position that entry by providers not currently active in the provision of de-icing services at GLA would be timely, likely and sufficient. In particular:
 - (a) Based on evidence obtained from third parties, the CMA found that de-icing providers active at other UK airports [redacted];
 - (b) The CMA received limited evidence from the Parties or third parties that ground handling providers active at other UK airports or outside the UK, such as [redacted], would [redacted]; and
 - (c) The CMA notes that many of the potential entrants mentioned by the Parties do not have existing de-icing operations and customer relationships in the UK and/or do not have an established reputation for good service delivery in relation to de-icing services. As noted at paragraphs 60 to 62 above, these are important factors for airlines when choosing a de-icing provider.
106. Therefore, based on the available evidence, the CMA found that the Parties would not face a sufficient competitive constraint post-Merger from providers not currently active in the provision of de-icing services at GLA.

Other considerations

107. Menzies also submitted that, given the size of GLA, it is unrealistic to expect a large number of de-icing providers to be present and operating profitably at GLA.⁴⁹
108. However, as with EDI, the CMA believes that existing de-icing providers at GLA and any potential entrants would not impose a sufficient competitive constraint on the combined entity post-Merger. In addition, the CMA notes that Menzies recently entered the supply of de-icing services at GLA even though there were already two de-icing providers present at GLA. Internal documents

⁴⁸ See paragraphs 6.23 to 6.24 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

⁴⁹ See paragraph 243 of the Merger Notice.

relating to its bid to secure its first customer at GLA do not refer to any difficulties or risks from launching de-icing services at GLA due to two providers already being present and instead show that Menzies had plans to expand its de-icing business at GLA.⁵⁰

Conclusion

109. For the reasons set out above, the CMA believes that the Parties are competitors in the supply of de-icing services at GLA and that there will be insufficient competition from other providers to constrain the Parties post-Merger.
110. Accordingly, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to the supply of de-icing services at GLA.

De-icing services at LHR

Shares of supply

111. Table 4 shows the shares of supply by number of aircraft ‘turns’ for de-icers active at LHR in the last two years.

Table 4: Shares of supply for de-icing services at LHR based on aircraft turns (excluding self-supply)

	2016	2017
Airline Services	[50-60]%	[50-60]%
Menzies	[10-20]%	[10-20]%
Aero Mag	[20-30]%	[20-30]%
Cobalt	[0-5]%	[0-5]%

Source: Parties’ data

112. As shown by Table 4, Airline Services is the largest provider of de-icing services at LHR, the Parties’ combined share of supply at LHR is high at around [60-70]%, and the increment brought about by the Merger ([10-20]%) is significant. The only other competitors currently active at LHR, Aero Mag and Cobalt, have shares of supply of [20-30]% and [0-5]% respectively.
113. In relation to de-icing services at Terminal 5, the CMA notes that only British Airways (**BA**) operates at this terminal and it currently self-supplies de-icing

⁵⁰ See Annex 15.2M to the Merger Notice – IAG Tender: CIP (De-icing) – July 2016.

services. Therefore, the CMA's competitive assessment of de-icing services at LHR is not impacted by the inclusion of Terminal 5 in the frame of reference, as third party providers do not currently provide de-icing services at Terminal 5 and the CMA received no evidence that [X].

Closeness of competition

114. Menzies submitted that the Parties are not close competitors as they have submitted bids against one another in only two tenders since July 2016.⁵¹
115. While the Parties have competed against each other in only a few tenders since July 2016, the CMA found that they compete for the same types of de-icing contracts at LHR. This was supported by tender data from third parties.
116. Therefore, the CMA believes that the Parties are actively competing against each other for de-icing contracts at LHR.

Competitive constraints from existing providers

117. The CMA also assessed the extent to which there are existing de-icing providers at LHR that would provide a competitive constraint on the combined entity post-Merger.
118. Menzies submitted that Aero Mag's spare capacity means that it will likely compete aggressively for new contracts.⁵² The CMA found that Aero Mag has been bidding for new contracts at LHR and therefore will exercise a competitive constraint on the combined entity post-Merger.
119. The only other de-icing provider that is currently operating at LHR is Cobalt. The CMA believes that Cobalt would not impose a sufficient competitive constraint on the combined entity post-Merger as:
 - (a) Cobalt currently has a small presence in the supply of de-icing services at LHR relative to the Parties and Aero Mag. Indeed, it operates only at LHR Terminal 4;
 - (b) Few airlines that responded to the CMA's investigation listed Cobalt as a potential alternative for de-icing services at LHR; and

⁵¹ See paragraph 6.38 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

⁵² See paragraph 6.39 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

(c) Tender data submitted by third parties shows that Cobalt is bidding for de-icing tenders less frequently than [redacted]. The CMA also understands that Cobalt was [redacted].

120. Therefore, the CMA does not believe that the remaining competitors for de-icing services at LHR would be sufficient to constrain the Parties post-Merger. As noted above, losing one of a small number of existing providers is likely to mean that each remaining provider perceives that its chances of winning any bid increases, which in turn means that the remaining providers may not bid as keenly.

Potential entry

121. The CMA also assessed the extent to which providers could enter LHR and provide a competitive constraint on the combined entity post-Merger.

122. Menzies submitted that at LHR the combined entity would face the threat of potential entry post-Merger both from IDS and from ground handling providers who could decide to provide de-icing services.⁵³

123. However, the available evidence is mixed and does not adequately support the position that entry by providers not currently active in the provision of de-icing services at LHR would be timely, likely and sufficient. In particular:

(a) The CMA understands that [redacted]. However, the CMA believes that there may be constraints on the ability of [redacted] to enter and expand in LHR as: [redacted];

(b) The CMA received limited evidence from the Parties or third parties that ground handling providers active at LHR or other UK airports or outside the UK would [redacted]. For example, the CMA understands that [redacted]; and

(c) The CMA notes that many of the potential entrants mentioned by the Parties do not have existing de-icing operations and customer relationships in the UK and/or do not have an established reputation for good service delivery in relation to de-icing services. As noted at paragraphs 60 to 62 above, these are important factors for airlines when choosing a de-icing provider.

124. In addition, one de-icing provider noted that the provision of de-icing services at LHR requires a higher investment compared to other UK airports, primarily due to specific requirements of the LHR airport operator.

⁵³ See paragraph 6.40 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

125. Therefore, based on the available evidence, the CMA found that the Parties would not face a sufficient competitive constraint post-Merger from providers not currently active in the provision of de-icing services at LHR.

Conclusion

126. For the reasons set out above, the CMA believes that the Parties are close competitors in the supply of de-icing services at LHR and that there will be insufficient competition from other providers to constrain the Parties post-Merger.
127. Accordingly, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to the supply of de-icing services at LHR.

Ground Handling Services at LGW

Shares of supply

128. Table 5 shows the shares of supply by number of aircraft ‘turns’ for ground handlers active at LGW in the last two years.

Table 5: Shares of supply for Ground Handling Services at LGW based on aircraft turns (excluding self-supply)

	2016	2017	2018 (year to May)
Menzies	[40-50]%	[70-80]%	[20-30]%
Airline Services	[5-10]%	[10-20]%	[10-20]%
DHL	0%	0%	[60-70]%
Aviator	[40-50]%	0%	0%
Swissport	0%	[0-5]%	[0-5]%
dnata	0%	[0-5]%	[0-5]%

Source: Parties’ data and CMA analysis of data from third parties

129. As shown by Table 5, Menzies and Airline Services are the second and third largest ground handlers at LGW (based on aircraft turns) and the Parties’ combined share of supply is significant at around [20-30]%, with an increment of [10-20]% as a result of the Merger. There are three other ground handlers operating at LGW currently, although Swissport and dnata have a minimal share of supply.
130. Shares of supply have varied materially over recent years due to the award of major contracts and the exit of Aviator from LGW (for financial reasons). For

example, the competitor with the largest share of supply at present is DHL, although this is based solely on Ground Handling Services provided to one customer (easyJet). The CMA has therefore interpreted shares of supply in any particular year with caution for the purposes of its competitive assessment at LGW.

Closeness of competition

131. Airline Services entered LGW for the supply of Ground Handling Services in 2014 and has grown its presence organically to attain a significant presence. Airline Services currently has around [X] customers for Ground Handling Services, which is more than all other ground handling providers at LGW (other than Menzies, which has around [X] customers). Airline Services' internal documents show that it was aiming to grow its presence at LGW and secure additional contracts absent the Merger.⁵⁴
132. Menzies acknowledged to the CMA that it competes with Airline Services at LGW.⁵⁵ This position is consistent with: (i) tender data from the Parties and third parties, which shows that the Parties bid frequently for Ground Handling Services at LGW (and they have bid against each other on several occasions); and (ii) Menzies' internal documents, which show that Menzies expects to win new contracts at LGW in 2019.⁵⁶
133. Moreover, the majority of airlines operating at LGW that responded to the CMA's investigation stated that the Parties are close competitors for Ground Handling Services at LGW. Several airlines told the CMA that Airline Services offers an attractive and high quality offering, which means it is a strong competitor at LGW.
134. The CMA therefore believes that the Parties are close competitors in the supply of Ground Handling Services at LGW and the Parties exercise a strong competitive constraint on each other.

⁵⁴ See Annex 9.01 to the Merger Notice - Investment Overview - November 2017, page 17. See also the minutes of Airline Services & Components Group Limited's board meeting on 24 October 2017.

⁵⁵ See paragraphs 7.3 and 8.7 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

⁵⁶ See, for example, Annex 9.02 to the Merger Notice – Deal Overview and Integration Plan – February 2018, page 32.

Competitive constraints from existing providers

135. The CMA also assessed the extent to which there are existing ground handling providers at LGW that would provide a competitive constraint on the combined entity post-Merger.
136. Menzies stated that customers will have the option of four existing ground handling providers at LGW post-Merger.⁵⁷
137. However, the CMA believes that these existing providers may not provide a sufficient constraint on the combined entity post-Merger:
- (a) due to the scale of DHL's relationship with easyJet and [X], DHL will not impose a material competitive constraint on the Parties for Ground Handling Services at LGW, at least in relation to short-haul airlines (a significant proportion of business at LGW), in the short-term;
 - (b) Swissport and dnata currently have a small presence at LGW and appear to be targeting only certain types of aircraft.ⁱⁱ The CMA therefore believes that these two providers are not close competitors to the Parties and may not be competing against the Parties for many customers operating at LGW. This is supported by tender data from third parties, which indicates that Swissport and dnata are [X]; and
 - (c) The CMA received no evidence that airlines which currently self-supply at LGW are planning to supply other airlines in competition with third party providers.
138. The limited nature of the constraint from existing providers is consistent with third party responses received by the CMA, as some airlines operating at LGW raised concerns that there were a lack of alternative providers to the Parties, particularly for smaller airlines.

Potential entry

139. The CMA also assessed the extent to which providers could enter LGW and provide a competitive constraint on the combined entity post-Merger.
140. Menzies submitted that competition concerns do not arise because, in addition to the other reasons discussed above, there are no barriers to

⁵⁷ See paragraph 8.3 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

entering the supply of Ground Handling Services and there is a strong possibility of new entrants at LGW.⁵⁸

141. However, the available evidence is mixed and does not adequately support the position that entry by providers not currently active in the provision of Ground Handling Services at LGW would be timely, likely and sufficient. In particular:
- (a) Based on evidence obtained from third parties, the CMA found that some potential entrants suggested by the Parties [redacted];
 - (b) While a few potential entrants have participated in a very small number of tenders at LGW previously (namely, [redacted]), the CMA found that these potential entrants were interested in entering LGW primarily to serve a specific type of customer (in particular, [redacted]). The CMA therefore believes that these potential entrants would not be a credible alternative for many airlines operating at LGW. In addition, as tenders for the types of customers that these few potential entrants are targeting arise relatively infrequently, the CMA does not believe that any potential entry would be timely; and
 - (c) The CMA notes that some of the potential entrants mentioned by the Parties do not have existing ground handling operations and customer relationships in the UK. As noted at paragraphs 60 to 62 and 70 to 71 above, this is an important factor for airlines when choosing a ground handling provider.
142. Therefore, based on the available evidence, the CMA found that the Parties would not face a sufficient competitive constraint post-Merger from providers not currently active in the provision of Ground Handling Services at LGW.

Conclusion

143. For the reasons set out above, the CMA believes that the Parties are close competitors in the supply of Ground Handling Services at LGW and there will be insufficient competition from other providers to constrain the Parties post-Merger.
144. Accordingly, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal

⁵⁸ See paragraph 8.3 of the Parties' response of 20 July 2018 to the CMA's Issues Paper and slide 16 of the Parties' slide deck presented at the Issues Meeting of 18 July 2018.

unilateral effects in relation to the supply of Ground Handling Services at LGW.

Ground Handling Services at MAN

Shares of supply

145. Table 6 shows the shares of supply by number of aircraft ‘turns’ for ground handlers active at MAN for the last two years.

Table 6: Shares of supply for Ground Handling Services at MAN based on aircraft turns (excluding self-supply)

	2016	2017	2018 (year to May)
Menzies	[40-50]%	[50-60]%	[30-40]%
Airline Services	0%	0%	[20-30]%
Swissport	[40-50]%	[30-40]%	[30-40]%
Aviator	[5-10]%	[5-10]%	[5-10]%
Dnata	0%	[0-5]%	[0-5]%
Premiere	0%	0%	[0-5]%
ASIG	[0-5]%	0%	0%

Source: Parties’ data and CMA analysis of data from third parties

146. As shown by Table 6, Menzies and Airline Services are the second and third largest ground handlers at MAN (based on aircraft turns) and the Parties’ combined share of supply at MAN is high at around [50-60]%, with an increment of [20-30]% as a result of the Merger. Post-Merger, the combined entity will be the largest ground handler at MAN. There are four other ground handlers operating at MAN currently,⁵⁹ although dnata and Premiere have a minimal share of supply.
147. Shares of supply have varied materially over recent years due to the award of major contracts and the acquisition of ASIG by entities owned by John Menzies plc. Moreover, Airline Services’ recent entry into MAN means that its current share of supply may understate the competitive constraint it is imposing on Menzies. As such, the CMA has interpreted shares of supply in any particular year with caution for the purposes of its competitive assessment at MAN.

⁵⁹ ASIG was purchased by entities owned by John Menzies plc in 2017.

Closeness of competition

148. Menzies submitted that the significance of Airline Services' presence in MAN for Ground Handling Services is limited, as Airline Services has only one ground handling customer (Flybe), it has bid for very few ground handling contracts at MAN and it has not been invited to bid for many tenders.⁶⁰
149. Tender data from Menzies shows that it frequently participates in ground handling tenders at MAN. While Airline Services has tendered for only a small number of contracts at MAN, the CMA has placed limited weight on this observation, as Airline Services has only entered MAN very recently by winning the Flybe contract, for which it competed against Menzies (the incumbent provider). Moreover, the CMA found that the Parties have already bid against each other in a few tenders at MAN despite Airline Services having only recently entered.
150. Airline Services was aiming to grow its presence at MAN and secure additional contracts,⁶¹ which means it would have continued to compete with Menzies for customers absent the Merger. This is supported by Menzies' internal documents, which indicates that Menzies views Airline Services as imposing a strong competitive constraint at MAN.⁶²
151. In addition, some airlines (operating at MAN) said that the Parties are close competitors for Ground Handling Services at MAN. As noted above, several airlines also told the CMA that Airline Services offers an attractive and high quality offering for Ground Handling Services.
152. The CMA therefore believes that the Parties are close competitors in the supply of Ground Handling Services at MAN and Airline Services exercises a competitive constraint on Menzies, which the CMA believes would have increased absent the Merger as Airline Services sought to grow its ground handling operations at MAN.

Competitive constraints

153. The CMA also assessed the extent to which there are existing ground handling providers at MAN that would provide a competitive constraint on the combined entity post-Merger.

⁶⁰ See paragraph 9.9 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

⁶¹ See Annex 9.01 to the Merger Notice - Investment Overview - November 2017, page 27. See also Annex 15.3A to the Merger Notice - Flybe (MAN): Board Paper – November 2016.

⁶² See, for example, Annex 9.02 to the Merger Notice - Deal Overview and Integration Plan - February 2018, page 31: [x<]

154. Menzies stated that MAN is a competitive airport and customers will have the option of five existing ground handling providers post-Merger.⁶³
155. Swissport has a significant presence at MAN and provides Ground Handling Services to a large number of airlines. The CMA found that Swissport has been bidding for new contracts at MAN frequently and third parties told the CMA that Swissport is a credible alternative for Ground Handling Services at MAN.
156. While Swissport would continue to impose some constraint on the combined entity at MAN, the CMA believes that other existing providers would not in aggregate provide a sufficient constraint on the combined entity post-Merger for the following reasons:
- (a) Aviator entered into financial problems in 2016 and exited its operations at UK airports other than MAN. No airlines (operating at MAN) that responded to the CMA's investigation considered Aviator [redacted]. The CMA also understands that Aviator has [redacted];
 - (b) dnata currently has a small presence at MAN. Dnata appears to be targeting only certain types of aircraft and customer based on its current customers at MAN and [redacted].ⁱⁱⁱ This means it may not be a credible alternative for many airlines operating at MAN;
 - (c) Premiere has a minimal presence at MAN and the CMA has received insufficient evidence that it would be able to bid credibly for the supply of Ground Handling Services to larger airlines with more significant requirements. In addition, only a few airlines (operating at MAN) that responded to the CMA's investigation considered Premiere [redacted]; and
 - (d) The CMA received no evidence that airlines which currently self-supply at MAN are planning to supply other airlines in competition with third party providers.
157. The insufficient constraint from existing providers is supported by third party responses received by the CMA, as some airlines operating at MAN raised concerns that there was a lack of alternative providers to the Parties, particularly for smaller airlines.

⁶³ See paragraph 9.12 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

Potential entry

158. The CMA also assessed the extent to which providers could enter MAN and provide a competitive constraint on the combined entity post-Merger.
159. However, the available evidence is mixed and does not adequately support the position that entry by providers not currently active in the provision of Ground Handling Services at MAN would be timely, likely and sufficient. In particular:
- (a) Based on evidence obtained from third parties, the CMA found that a few of the potential entrants suggested by the Parties, [X];
 - (b) While a few potential entrants have participated in a very small number of tenders at MAN previously (such as [X]), some of these potential entrants withdrew part way through the relevant tender process and at least one potential entrant submitted a bid for a tender that [X]. As with LGW, the CMA also found that these potential entrants were interested in entering MAN primarily to serve a specific type of customer (in particular, [X]). The CMA therefore does not believe that these potential entrants would be a credible alternative for many airlines operating at MAN or that any potential entry would be timely; and
 - (c) The CMA notes that some of the potential entrants suggested by the Parties do not have existing ground handling operations and customer relationships in the UK. As noted at paragraphs 60 to 62 and 70 to 71 above, this is an important factor for airlines when choosing a ground handling provider.
160. Therefore, based on the available evidence, the CMA found that the Parties would not face a sufficient competitive constraint post-Merger from providers not currently active in the provision of Ground Handling Services at MAN.

Conclusion

161. For the reasons set out above, the CMA believes that the Parties are close competitors in the supply of Ground Handling Services at MAN and there will be insufficient competition from other providers to constrain the Parties post-Merger.
162. Accordingly, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to the supply of Ground Handling Services at MAN.

Internal presentation services at MAN

Shares of supply and closeness of competition

163. Table 7 shows the shares of supply by number of aircraft ‘turns’ for internal presentation providers active at MAN for the last two years.

Table 7: Shares of supply for internal presentation services at MAN based on aircraft turns (excluding self-supply)

	2016	2017
Airline Services	[20-30]%	[10-20]%
Menzies	[5-10]%	[0-5]%
Swissport	[60-70]%	[60-70]%
CCS	0%	[5-10]%
OCS	[0-5]%	[5-10]%

Source: Parties’ data

164. As shown by Table 7, the Parties’ combined share of supply at MAN is around [20-30]%. The CMA notes that the increment arising from the Merger is limited (around [0-5]%), since Menzies has a small share of supply that is comparable to two other providers at MAN.
165. Tender data from the Parties and third parties shows that the Parties compete against each other rarely at MAN. In addition, airlines did not generally consider the Parties to be close alternatives and [X] did not even list Menzies as a competitor for internal presentation services at MAN.
166. Accordingly, the CMA does not believe that the Parties are particularly close competitors for the supply of internal presentation services at MAN.

Competitive constraints

167. The CMA also assessed the extent to which there are existing internal presentation providers at MAN that would provide a competitive constraint on the combined entity post-Merger.
168. Swissport is by far the largest provider of internal presentation services at MAN. Tender data and responses from third parties show that Swissport will exert a strong competitive constraint on the Parties post-Merger. OCS and CCS have a similar scale to Menzies and tender data from third parties indicates that OCS and CCS are [X].

169. Based on the evidence set out above, the CMA believes that there will be sufficient competition from other internal presentation providers to constrain the Parties post-Merger.

Conclusion

170. Accordingly, for the reasons set out above, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of internal presentation services at MAN.

Loss of actual potential competition

171. Unilateral effects may also arise from the elimination of potential competition. One way in which this can occur is where the merger involves an incumbent supplier and a potential entrant that could have increased competition against the incumbent.⁶⁴
172. Airline Services started offering Ground Handling Services in the UK in 2014 when it secured a contract to supply Ground Handling Services at LGW. In a short period of time, it has grown organically at LGW and now has the second highest number of ground handling customers at LGW (after Menzies). Airline Services has established itself as a strong competitor for Ground Handling Services and several airlines told the CMA that Airline Services offers an attractive and high quality offering. Some airlines, in particular, noted that Airline Services' [redacted] meant it was better able to assure an attractive quality of service offering at a particular price point compared to other providers. As part of its strategy to expand its ground handling business, Airline Services successfully launched ground handling operations at a second airport (MAN) in 2018 by winning a tender against (among others) the two largest ground handling providers (Swissport and Menzies) for the Flybe contract. Flybe is one of the largest airlines in the UK (by turns).
173. The CMA found that Airline Services had plans to grow its ground handling business absent the Merger:
- (a) The Managing Director of Airline Services told the CMA that Airline Services planned, absent the Merger, to continue growing its ground handling business, including seeking to open ground handling operations at a third airport by [redacted].⁶⁵ The Managing Director noted that Airline Services had a shortlist of [redacted] airports which it was considering for

⁶⁴ [Merger Assessment Guidelines](#), paragraphs 5.4.13 to 5.4.15.

⁶⁵ Call with the Managing Director of Airline Services on 9 May 2018.

expanding its ground handling operations, namely [REDACTED]. The Managing Director explained that one factor behind choosing these airports as primary targets for expansion was that [REDACTED].

(b) Internal documents from the Parties provide further details on these expansion plans. In particular, the information memorandum or 'investment overview' relating to Airline Services confirm its expansion plans.⁶⁶ For example, this internal document notes:

(i) [REDACTED]; and

(ii) [REDACTED].

(c) Evidence from airlines that responded to the CMA's investigation indicates that Airline Services' reputation and relationships with key airlines would have made it well placed to grow absent the Merger. In particular, the CMA believes that winning the Flybe contract has made Airline Services well placed for further expansion both at the existing airports where it operates and at new airports, given the importance of the Flybe customer relationship.⁶⁷

174. The CMA notes that the available evidence indicates that Airline Services' business model is primarily based on long-term organic growth, [REDACTED] (eg seeking to open ground handling operations at a third airport by [REDACTED]), rather than [REDACTED]. The CMA's investigation focused on a loss of actual potential competition at a local level at those airports where Airline Services had specific plans to enter and Menzies is either a significant provider or regular active bidder for Ground Handling Services (rather than a loss in potential competition at the national level).

175. The CMA identified two airports where there may be competition concerns due to a loss of actual potential competition for Ground Handling Services, namely EDI and GLA. The CMA notes that at both of these airports:

(a) Airline Services told the CMA that it had plans to enter absent the Merger and evidence from Airline Services' internal documents confirms its plans to enter and its capability to do so; and

(b) Menzies had a significant position as a ground handler.

⁶⁶ Annex 9.01 to the Merger Notice - Investment Overview - November 2017.

⁶⁷ This is supported by Menzies' internal commentary at Annex 15.21 to the Merger Notice - Flybe (MAN): CIP - October 2017, which notes: [REDACTED]

Framework for assessing loss of actual potential competition at a local level

176. Consistent with its guidelines,⁶⁸ in assessing whether the Merger leads to horizontal unilateral effects from a loss of actual potential competition for the supply of Ground Handling Services at a local level, the CMA considered:⁶⁹
- (a) whether Airline Services would be likely to enter EDI and GLA in the absence of the Merger; and
 - (b) whether such entry would lead to greater competition?
177. The CMA has assessed Airline Services' likelihood to enter EDI and GLA by reference to:
- (a) Its stated plans; and
 - (b) Evidence of its capability to enter, including, as relevant:
 - (i) Evidence from internal documents and statements by Airline Services regarding its capability for entry;
 - (ii) Evidence from third parties indicating Airline Services' active engagement in entering; and/or
 - (iii) Evidence of Airline Services having a strong position to enter, either because of good relationships with significant airlines operating at the airport and/or because customers stated that they would have sought to facilitate Airline Services' entry. As set out above, the CMA understands that good relationships with key customers play an important role in the award of contracts.
178. In determining whether the Merger raises competition concerns as a result of a loss of actual potential competition, the CMA has also considered whether there are other potential entrants. Consistent with the approach set out in the guidelines,⁷⁰ the CMA has considered whether entry by these other potential entrants would be timely, likely and sufficient, taking into account the capabilities, plans and intentions of these players in comparison to Airline Services, to prevent an SLC.⁷¹

⁶⁸ [Merger Assessment Guidelines](#), paragraphs 5.4.13 to 5.4.15.

⁶⁹ [Merger Assessment Guidelines](#), paragraphs 4.3.5, 4.3.19 and 5.4.15.

⁷⁰ [Merger Assessment Guidelines](#), paragraph 5.4.15 and Section 5.8.

⁷¹ [Merger Assessment Guidelines](#), paragraph 5.4.15, as well as paragraph 1.21 of the CMA's [Retail Mergers Commentary](#). See also: Anticipated combination of Pure Gym Limited and The Gym Limited, CMA, 26 June 2014; and ME/3535/08, Completed acquisition by Air France Finance S.A.S. / City Jet Ltd of VLM Airlines N.V, OFT, 9 May 2008.

Ground Handling Services at EDI

Likelihood of entry by Airline Services

179. In relation to the likelihood of Airline Services entering EDI for the supply of Ground Handling Services, the Parties submitted that Airline Services had rarely been invited to tender against Menzies at EDI and Airline Services has [redacted].⁷²
180. The CMA found that Airline Services had plans and expressed intentions to enter EDI absent the Merger. In particular:
- (a) As noted above, the Managing Director of Airline Services told the CMA that Airline Services planned, absent the Merger, to continue growing its ground handling business, including seeking to open ground handling operations at a third airport by [redacted]. The Managing Director of Airline Services included EDI in the shortlist of airports for opening ground handling operations;
 - (b) Airline Services noted that it has, on occasion, had informal discussions with airlines regarding Ground Handling Services at EDI;⁷³
 - (c) Recent board minutes provided by ASL note that a significant opportunity is under discussion at EDI “*along with Ground Handling for an FBO*”;⁷⁴ and
 - (d) The ‘investment overview’ relating to Airline Services notes a specific growth strategy at EDI: [redacted].⁷⁵
181. The likelihood of Airline Services entering EDI is supported by the following evidence relating to its capability to enter:
- (a) An airline indicated that it would have actively encouraged Airline Services to bid for its contracts at all airports, including EDI;
 - (b) A third party, [redacted], told the CMA that Airline Services had [redacted]; and
 - (c) As indicated by the response from the airline above, Airline Services has positive existing relationships with airlines operating at EDI, either through providing Ground Handling Services for them at other airports (eg Flybe

⁷² See paragraphs 10.7 to 10.8 of the Parties’ response of 20 July 2018 to the CMA’s Issues Paper and paragraph 1 of Menzies’ response of 23 July 2018 to the CMA’s fourth request for information.

⁷³ See paragraph 2 of Menzies’ response of 23 July 2018 to the CMA’s fourth request for information.

⁷⁴ See minutes of Airline Services & Components Group Limited’s board meeting on 20 June 2017

⁷⁵ See Annex 9.01 to the Merger Notice – Investment Overview - November 2017, page 29.

and TUI) or through providing de-icing services for them at EDI. In this context, the CMA notes that Airline Services' relationship with Flybe could provide opportunities for growth at EDI. Flybe is one of the largest airlines operating at EDI and a Menzies' internal document indicates that Flybe can act as a 'anchor customer' at a number of UK airports.⁷⁶

182. On the basis of the evidence set out above, the CMA believes that, absent the Merger, there is a realistic prospect that Airline Services would likely have entered EDI for the supply of Ground Handling Services.

Impact of entry on competitive conditions

183. Table 8 shows the shares of supply by number of aircraft 'turns' for ground handlers active at EDI for the last two years.

Table 8: Shares of supply for Ground Handling Services at EDI based on aircraft turns

	2016	2017	2018 (year to May)
Menzies	[40-50]%	[40-50]%	[50-60]%
Swissport	[50-60]%	[50-60]%	[40-50]%

Source: Parties' data and CMA analysis of data from third parties

184. As shown by Table 8, Menzies has a significant share of supply at EDI (around [50-60]%) and the only other competitor currently active at EDI is Swissport. Only Menzies and Swissport have provided Ground Handling Services at EDI for at least the past three years.
185. The CMA understands that [X] recently won the [X] tender for Ground Handling Services at EDI, which means a third ground handler will start operating at EDI in late 2018 and will have a significant share of supply. However, due to [X].
186. The CMA therefore believes that the supply of Ground Handling Services at EDI is highly concentrated and entry by Airline Services absent the Merger would substantially increase competition at EDI by introducing a new competitive constraint on the incumbent providers. This is supported by third party views, as some airlines operating at EDI told the CMA that they were concerned about the lack of alternative ground handling providers.

⁷⁶ See Annex 15.21 to the Merger Notice - Flybe (MAN): CIP - October 2017.

Other potential entry

187. The CMA assessed the likelihood and effect of entry by other potential entrants at EDI.
188. Menzies submitted that other potential entrants were more actively targeting airports in the UK (such as, Stobart, DHL, Aviapartner, WFS and Azzurra) and that these were more credible potential competitors at EDI in comparison to Airline Services.⁷⁷
189. As noted at paragraph 137 above, the CMA believes that, due to [X], DHL is unlikely to seek to enter EDI for the supply of Ground Handling Services in the short-term.
190. However, the CMA found that some potential entrants, namely [X], are actively seeking to enter or expand their presence in the UK and have recently tendered for a contract at EDI. This indicates that these potential entrants are seeking to enter EDI for the supply of Ground Handling Services. The CMA believes that these potential entrants are, in the round, at least as well placed as Airline Services to enter EDI, given their existing relationships with airlines currently operating at EDI, their experience in providing Ground Handling Services and their financial resources.

Conclusion

191. Accordingly, in light of the likelihood and impact of entry by other potential entrants (namely [X]), the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the loss of actual potential competition for the supply of Ground Handling Services at EDI.

Ground Handling Services at GLA

Likelihood of entry by Airline Services

192. In relation to the likelihood of Airline Services entering GLA for the supply of Ground Handling Services, the Parties submitted that Airline Services had rarely been invited to tender against Menzies at GLA and Airline Services has not submitted any formal tenders for Ground Handling Services at GLA in the last two years.⁷⁸

⁷⁷ See paragraphs 10.9 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

⁷⁸ See paragraphs 10.7 to 10.8 of the Parties' response of 20 July 2018 to the CMA's Issues Paper and paragraph 1 of Menzies' response of 23 July 2018 to the CMA's fourth request for information.

193. The CMA found that Airline Services had plans and expressed intentions to enter GLA absent the Merger. In particular:
- (a) As noted above, the Managing Director of Airline Services told the CMA that Airline Services planned, absent the Merger, to continue growing its ground handling business, including seeking to open ground handling operations at a third airport by [X]. The Managing Director of Airline Services included GLA in the shortlist of airports for opening ground handling operations;
 - (b) Airline Services noted that it has, on occasion, had informal discussions with airlines regarding Ground Handling Services at GLA;⁷⁹ and
 - (c) The 'investment overview' relating to Airline Services notes a specific growth strategy at GLA: "*Winning one large customer will spark growth in the GH business*".⁸⁰
194. The likelihood of Airline Services entering GLA is supported by the following evidence relating to its capability to enter:
- (a) An airline indicated that it would have actively encouraged Airline Services to bid for its contracts at all airports, including GLA; and
 - (b) As noted above, Airline Services has positive existing relationships with airlines operating at GLA. The CMA notes that Airline Services' relationship with Flybe could provide opportunities for growth at GLA, as Flybe is one of the largest airlines operating at GLA.
195. On the basis of the evidence set out above, the CMA believes that, absent the Merger, there is a realistic prospect that Airline Services would likely have entered GLA for the supply of Ground Handling Services.

Existing shares of supply and competitive conditions

196. Table 9 shows the shares of supply by number of aircraft 'turns' for ground handlers active at GLA for the last two years.

⁷⁹ See paragraph 2 of Menzies' response of 23 July 2018 to the CMA's fourth request for information.

⁸⁰ See Annex 9.01 to the Merger Notice – Investment Overview - November 2017, page 29.

Table 9: Shares of supply for Ground Handling Services at GLA based on aircraft turns

	2016	2017	2018 (year to May)
Menzies	[60-70]%	[60-70]%	[60-70]%
Swissport	[30-40]%	[30-40]%	[30-40]%

Source: Parties' data and CMA analysis of data from third parties

197. As shown by Table 9, Menzies has a significant share of supply at GLA (around [60-70]%) and the only other competitor currently active at GLA is Swissport. Only Menzies and Swissport have provided Ground Handling Services at GLA for at least the past three years.
198. The CMA therefore believes that the supply of Ground Handling Services at GLA is highly concentrated and entry by Airline Services absent the Merger would substantially increase competition at GLA by introducing a new competitive constraint on the incumbent providers. This is supported by third party views, as some airlines operating at GLA told the CMA that they were concerned about the lack of alternative ground handling providers.

Other potential entry

199. The CMA assessed the likelihood and effect of entry by other potential entrants at GLA.
200. Menzies submitted that other potential entrants were more actively targeting airports in the UK (such as Stobart, DHL, Aviapartner, WFS and Azzurra) and that these were more credible potential competitors at GLA in comparison to Airline Services.⁸¹
201. As noted above, the CMA believes that DHL is unlikely to seek to enter GLA for the supply of Ground Handling Services in the short-term (unless [X]).
202. However, the CMA found that some potential entrants, namely [X], are actively seeking to enter or expand their presence in the UK and that their strategy involves targeting certain types of airlines (which are key airlines that operate at GLA). The CMA believes that these potential entrants are, in the round, at least as well placed as Airline Services to enter GLA, given their existing relationships with airlines currently operating at GLA, previous

⁸¹ See paragraph 10.9 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

experience in providing Ground Handling Services and their financial resources.

Conclusion

203. Accordingly, in light of the likelihood and impact of entry by other potential entrants (namely [X]), the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the loss of potential competition for the supply of Ground Handling Services at GLA.

Conclusion on horizontal unilateral effects

204. Accordingly, for the reasons set out above, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to:

- (a) the supply of de-icing services at EDI;
- (b) the supply of de-icing services at GLA;
- (c) the supply of de-icing services at LHR;
- (d) the supply of Ground Handling Services at LGW; and
- (e) the supply of Ground Handling Services at MAN.

205. The CMA also believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to:

- (a) the supply of internal presentation services at MAN;
- (b) the supply of Ground Handling Services at EDI; and
- (c) the supply of Ground Handling Services at GLA.

Barriers to entry and expansion

206. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.⁸²

⁸² [Merger Assessment Guidelines](#), from paragraph 5.8.1.

207. For the reasons set out above in the competitive assessment for each frame of reference, the CMA believes that it cannot rely on entry or expansion being sufficient, timely and likely to prevent a realistic prospect of an SLC as a result of the Merger.

Countervailing buyer power

208. In some circumstances, an individual customer may be able to use its negotiating strength to limit the ability of a merged firm to raise prices, lower quality, reduce the range of its services and/or reduce innovation. The existence of countervailing buyer power is a factor in making an SLC finding less likely. The CMA will assess whether all or some customers have sufficient countervailing buyer power and/or the extent to which some customers can rely on the buyer power of others to protect all customers.⁸³

209. For the reasons set out above at paragraph 74, in particular the insufficient evidence of smaller airlines being able to exercise buyer power and the lack of alternative providers available to airlines in the frames of reference assessed above, the CMA does not believe that countervailing buyer power is sufficient to prevent a realistic prospect of an SLC as a result of the Merger.

Third party views

210. The CMA contacted airline customers and competitors of the Parties, as well as a number of airport operators.

211. Several airlines and some competitors expressed concerns about the supply of Ground Handling Services and de-icing services in the UK. In particular, several airlines said that the high concentration at certain airports was driving reduced competition, higher prices and fewer options for change when performance did not meet expectations.

212. Third party comments have been taken into account where appropriate in the competitive assessment above.

Conclusion on substantial lessening of competition

213. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to:

⁸³ [Merger Assessment Guidelines](#), paragraph 5.9.1.

- (a) the supply of de-icing services at EDI;
- (b) the supply of de-icing services at GLA;
- (c) the supply of de-icing services at LHR;
- (d) the supply of Ground Handling Services at LGW; and
- (e) the supply of Ground Handling Services at MAN.

Exceptions to the duty to refer

214. Where the CMA's duty to refer is engaged, the CMA may, pursuant to section 22(2)(b) of the Act, decide not to refer the merger under investigation for a Phase 2 investigation⁸⁴ if any relevant customer benefits in relation to the creation of the relevant merger situation concerned outweigh the SLC concerned and any adverse effects of it.
215. Under section 30(1) of the Act, the benefits must accrue to customers in the form of lower prices, higher quality or greater choice of goods, or greater innovation. For the CMA to consider exercising its discretion, the evidence in support of relevant customer benefits must be compelling. In other words, the parties must produce detailed and verifiable evidence of any anticipated price reductions or other benefits.⁸⁵
216. Menzies submitted that the combined entity will be able to allocate resources more efficiently as a result of the Merger and therefore provide a better service to customers at times when the de-icing service is critical. Menzies also submitted that the Merger will lead to greater innovation and product development, in particular by allowing features of Ground Handling services, de-icing services and internal presentation services to be integrated and offered to customers as a package, and will result in benefits to customers (in particular from the spreading of fixed costs, economies of scale and single point of contacts).⁸⁶
217. However, the CMA does not believe that the evidence provided by Menzies constitutes compelling, detailed and verifiable evidence of relevant customer

⁸⁴ Menzies submitted that the CMA should exercise its discretion not to refer the Merger for a Phase 2 investigation on the basis that the de-icing markets concerned are not of sufficient importance to justify the making of a reference (the **de minimis exception**). However, the CMA found that the Merger raises competition concerns in relation to the supply of Ground Handling Services, as well as the supply of de-icing services. As Menzies did not provide any submissions to the CMA in relation to the application of the de minimis exception to the markets for Ground Handling Services at each of LGW and MAN (and, in any event, the CMA understands that the size of the markets concerned exceeds £15 million), the CMA believes that the markets concerned in this Merger are together of sufficient importance to justify the making of a reference.

⁸⁵ [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#), paragraph 4.9.

⁸⁶ See paragraphs 11.7 to 11.10 of the Parties' response of 20 July 2018 to the CMA's Issues Paper.

benefits. The CMA notes that it has found that the Merger may bring about potentially significant price rises (or degradations in quality) for some customers.

218. The CMA therefore does not have sufficient evidence that the claimed relevant customer benefits will outweigh the competition concerns it has identified to exercise its discretion not to refer the case.

Decision

219. Consequently, the CMA believes that it is or may be the case that (i) a relevant merger situation has been created; and (ii) the creation of that situation has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom.
220. The CMA therefore believes that it is under a duty to refer under section 22(1) of the Act. However, the duty to refer is not exercised whilst the CMA is considering whether to accept undertakings under section 73 of the Act instead of making such a reference.⁸⁷ Menzies has until **14 August 2018**⁸⁸ to offer an undertaking to the CMA.⁸⁹ The CMA will refer the Merger for a phase 2 investigation⁹⁰ if Menzies does not offer an undertaking by this date; if Menzies indicates before this date that it does not wish to offer an undertaking; or if the CMA decides⁹¹ by **21 August 2018** that there are no reasonable grounds for believing that it might accept the undertaking offered by Menzies, or a modified version of it.
221. The statutory four-month period mentioned in section 24 of the Act in which the CMA must reach a decision on reference in this case expires on 7 August 2018. For the avoidance of doubt, the CMA hereby gives Menzies notice pursuant to section 25(4) of the Act that it is extending the four-month period mentioned in section 24 of the Act. This extension comes into force on the date of receipt of this notice by Menzies and will end with the earliest of the following events: the giving of the undertakings concerned; the expiry of the period of 10 working days beginning with the first day after the receipt by the CMA of a notice from Menzies stating that it does not intend to give the undertakings; or the cancellation by the CMA of the extension.

⁸⁷ Section 22(3)(b) of the Act.

⁸⁸ Section 73A(1) of the Act.

⁸⁹ Section 73(2) of the Act.

⁹⁰ Sections 22(1) and 34ZA(2) of the Act.

⁹¹ Section 73A(2) of the Act.

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7 August 2018

ⁱ Paragraph 69: This sentence should read “Stobart entered Stansted airport in 2018 and DHL entered LGW in 2017”.

ⁱⁱ Paragraph 137(b): This sentence should read “appear to be targeting primarily certain types of aircraft and customer”.

ⁱⁱⁱ Paragraph 156(b): This sentence should read “appears to be targeting primarily certain types of aircraft and customer”.