

COMPLETED ACQUISITION BY MENZIES AVIATION (UK) LIMITED OF PART OF THE BUSINESS OF AIRLINE SERVICES LIMITED

Directions issued on 7 September 2018 pursuant to paragraph 10 of the Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72 of the Enterprise Act 2002 (the Act) on 19 April 2018.

On 4 April 2018, John Menzies plc (Menzies) through its subsidiary Menzies Aviation (UK) Limited (Menzies Aviation), acquired part of the business of Airline Services Limited (Airline Services) (together referred to as the Parties) (the Merger).

On 19 April 2018, the Competition and Markets Authority (CMA) made an Initial Enforcement Order (IEO) in accordance with section 72(2) of the Act for the purpose of preventing pre-emptive action.

On 14 August 2018, the CMA referred the Merger for a phase 2 investigation pursuant to section 22 of the Act (the Reference).

The Reference has not been finally determined within the meaning of section 79 of the Act.

The CMA now issues written directions under paragraph 10 of the Initial Enforcement Order that, for the purposes of securing compliance with the Initial Enforcement Order, John Menzies plc must appoint a monitoring trustee in accordance with the terms provided for in the Annex and shall comply with the obligations set out in the Annex.

Signed

James Waugh
Project Director
7 September 2018

Annex

Directions to appoint a monitoring trustee

Interpretation

In these Directions:

- (a) 'the Act' means the Enterprise Act 2002;
- (b) 'the AS Business' means the business and assets that were the subject of the transaction completed with ASL on 4 April 2018, including the de-icing, aircraft presentation and ground handling business under the name 'Airline Services' in the UK;
- (c) 'ASL' means Airline Services Limited (company number 01685094) whose registered office is Canberra House Robeson Way, Sharston Green Business Park, Manchester, M22 4SX;
- (d) 'business' has the meaning given by section 129(1) and (3) of the Act;
- (e) 'CMA' means the Competition and Markets Authority;
- (f) 'the Commencement Date' means 19 April 2018;
- (g) 'Directions' means these directions, issued under paragraph 10 of the Initial Enforcement Order;
- (h) 'Initial Enforcement Order' means the Initial Enforcement Order made by the CMA on 19 April 2018;
- (i) 'John Menzies plc' means John Menzies plc (company number SC034970) whose registered office is at 2 Lochside Avenue, Edinburgh Park, Edinburgh, Scotland, EH12 9DJ;
- (j) "the John Menzies plc business' means the business of John Menzies plc and its subsidiaries but excluding the AS business, carried on at the Commencement Date;
- (k) Menzies Aviation means Menzies Aviation (UK) Limited (registered number 03985080) whose registered office is at 2 World Business Centre Heathrow, Newall Road, London Heathrow Airport, Hounslow, TW6 2SF;
- (l) 'MT' means the monitoring trustee appointed in accordance with the Directions;

(m) 'subsidiary', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

(n) 'the transaction' means the transaction by which Menzies Aviation and the AS Business have ceased to be distinct within the meaning of section 23 of the Act;

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

(o) 'working day' means any day of the week other than a Saturday, Sunday or any other day that is a public holiday in England.

Terms and expressions defined in the Initial Enforcement Order have the same meaning in these Directions, unless the context requires otherwise.

Appointment

1. Menzies Aviation must appoint an MT in order to ensure compliance with the Initial Enforcement Order, in particular to:
 - (a) support the CMA taking any action which may be required to maintain the Menzies business and the AS business as going concerns; and
 - (b) monitor compliance by John Menzies plc and its subsidiaries, including Menzies Aviation, with the Initial Enforcement Order.
2. The MT must act on behalf of the CMA and be under an obligation to the CMA to carry out his or her functions to the best of his or her abilities.
3. John Menzies plc and its subsidiaries must cooperate fully with the MT, in particular as set out below, and John Menzies plc must ensure that the terms and conditions of appointment of the MT reflect and give effect to the functions and obligations of the MT and the obligations of John Menzies plc and its subsidiaries as set out in these Directions.

General

4. The MT must possess appropriate qualifications and experience to carry out his or her functions.
5. The MT must neither have nor become exposed to a conflict of interest that impairs the MT's objectivity and independence in discharging his or her duties under these Directions, unless it can be resolved in a manner and within a timeframe acceptable to the CMA.

6. John Menzies plc shall remunerate and reimburse the MT for all reasonable costs properly incurred in accordance with the terms and conditions of the appointment and in such a way so as not to impede the MT's independence or ability to effectively and properly carry out his or her functions.
7. John Menzies plc must appoint the MT as soon as is reasonably practicable and in any event by **11 September 2018** and the MT will continue to act either until the CMA has finally determined the reference (within the meaning of section 79 of the Act) or directs that the MT is no longer required.
8. The appointment of a MT by John Menzies plc is subject to the approval of the CMA as to the identity of the MT and the terms and conditions of appointment in their entirety and:
 - (a) the name of the proposed MT must be notified to the CMA as soon as is reasonably practicable and in any event by **11 September 2018** along with draft terms and conditions of appointment; and
 - (b) once the MT has been approved by the CMA and appointed, John Menzies plc must provide the CMA with a copy of the agreed terms and conditions of appointment.

Functions

9. The functions of the MT will be to:
 - (a) ascertain the current level of compliance by John Menzies plc and its subsidiaries with the Initial Enforcement Order;
 - (b) assess the arrangements made by John Menzies plc and its subsidiaries for compliance with the Initial Enforcement Order and what changes to those arrangements, if any, are necessary to preserve the possibility of the CMA taking any remedial action, if required;
 - (c) identify and supervise if necessary the arrangements made by John Menzies plc and its subsidiaries for ensuring compliance with the Initial Enforcement Order;
 - (d) monitor compliance by John Menzies plc and its subsidiaries with the Initial Enforcement Order; and
 - (e) without prejudice to the right of John Menzies plc, Menzies Aviation and the AS business to contact the CMA, respond to any questions which the John Menzies plc business or the AS business may have in relation to

compliance with the Initial Enforcement Order, in consultation with the CMA.

10. The MT must take such steps as he or she reasonably considers necessary in order to carry out his or her functions effectively, including the monitoring of communications within and between the John Menzies plc business and the AS business, such as written and electronic communications, telephone conversations and meetings as may be required.
11. The MT must comply with any requests made by the CMA for the purpose of ensuring the full and effective compliance by John Menzies plc and its subsidiaries with the Initial Enforcement Order.

Obligations of Menzies Aviation and Airline Services

12. John Menzies plc, its subsidiaries and their employees, officers, directors, advisers and consultants must cooperate fully with the MT, in particular by providing the MT with all cooperation, assistance and information as the MT may reasonably require in order to discharge his or her functions, including but not limited to:
 - (a) the provision of full and complete access to all personnel, books, records, documents, facilities and information of the John Menzies plc business and the AS business as the MT may reasonably require; and
 - (b) the provision of such office and supporting facilities as the MT may reasonably require.
13. If the John Menzies plc business or the AS business is in any doubt as to whether any action or communication would infringe the Initial Enforcement Order, it is required to contact the MT for clarification.
14. If John Menzies plc has any reason to suspect that the Initial Enforcement Order may have been breached, it must notify the MT and the CMA immediately.

Reporting functions

15. The MT is required to provide an initial report to the CMA no later than **26 September 2018** giving details of any arrangements which have been, or should be, put in place to ensure compliance with the Initial Enforcement Order, and including among other things:
 - (a) details of the current extent of compliance with the Initial Enforcement Order;

- (b) a description of the current arrangements made for the operation of the AS business and for the preservation of the assets required to operate the AS business; and
 - (c) recommendations as to what changes to those arrangements, if any, are necessary.
- 16. In addition to providing the initial report referred to in paragraph 15 above, the MT must provide [every two weeks] (or otherwise as required by the CMA) a statement to the CMA stating whether or not, in his or her view, John Menzies plc business and its subsidiaries have complied with the Initial Enforcement Order. At the same time, the MT must provide the CMA with a report setting out the following:
 - (a) the basis for the MT's view that the Initial Enforcement Order has or has not, as the case may be, been complied with and in particular whether:
 - (i) anything has caused him or her to be concerned as to whether John Menzies plc business and its subsidiaries have complied with the Initial Enforcement Order, and if it has, whether those concerns have been resolved and why;
 - (ii) he or she has any remaining doubts or uncertainties as to whether John Menzies plc business and its subsidiaries have complied with the Initial Enforcement Order; and
 - (iii) anything that causes him or her to be concerned about a possible future breach of the Initial Enforcement Order (whether deliberate or inadvertent);
 - (b) details of the performance of the AS business, including any factors that might indicate asset deterioration;
 - (c) whether appropriate steps are being taken to maintain the John Menzies plc business and the AS business as a going concern;
 - (d) the extent to which John Menzies plc and its subsidiaries have cooperated with the MT in his or her task of monitoring its compliance with the Initial Enforcement Order and details of any aspects of the cooperation of Menzies Aviation and Airline Services that he or she considers could be improved;
 - (e) the extent to which the MT considers that he or she is in an appropriate position to monitor the compliance of John Menzies plc and its

subsidiaries with the Initial Enforcement Order and if there is anything that the MT considers would assist him or her in monitoring compliance;

(f) any current or anticipated requests for consent to vary the Initial Enforcement Order; and

(g) the information he or she used to compile the report.

17. When providing reports to the CMA, the MT must ensure that he or she does not disclose any information or documents to the CMA which John Menzies plc and its subsidiaries would be entitled to withhold from the CMA on the grounds of legal privilege.
18. The MT must immediately notify the CMA in writing if he or she forms a reasonable suspicion that the Initial Enforcement Order have been breached, or if he or she considers that he or she is no longer in a position to effectively carry out his or her functions. In that situation, the MT must give reasons for this view, including any supporting evidence available (unless doing so would infringe the obligations referred to in paragraph 17 above).
19. All communications between the MT and the CMA (including the statements and reports referred to in paragraphs 15 and 16) are confidential and should not be disclosed to John Menzies plc or its subsidiaries, save with the prior written consent of the CMA. The MT shall not disclose such communications to third parties.