

EN

***Case No COMP/M.6037 -  
DNATA/ ALPHA FLIGHT  
GROUP***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 17/12/2010

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EUROPEAN COMMISSION

Brussels, 17.12.2010

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PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

**To the notifying party:**

Dear Sir/Madam,

**Subject: Case No COMP/M.6037 - Dnata/ Alpha Flight Group  
Notification of 12 November 2010 pursuant to Article 4 of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 12 November 2010, the European Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertaking Dnata ("Dnata"), controlled by the Investment Corporation of Dubai ("ICD", United Arab Emirates), acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of the undertaking Alpha Flight Group Limited ("Alpha", United Kingdom) by way of purchase of shares.

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<sup>1</sup> OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

## **I. THE PARTIES AND THE OPERATION**

2. **Dnata** is a wholly owned subsidiary of the Investment Corporation of Dubai ("ICD") which is in turn wholly owned by the Government of Dubai. Dnata is part of the Emirates Group (hereafter "**Emirates**", also belonging to the ICD and controlling Emirates airline) and is engaged in the provision of airline services, including passenger handling, cargo handling, ramp, maintenance and other technical services for airlines in a number of countries worldwide.
3. **Alpha** is active in the supply of in-flight catering services to international airlines. It is currently owned by the Autogrill S.p.A. Group.
4. According to the SPA of 8 October 2010, Dnata will acquire all Alpha shares via a special acquisition vehicle. Thus, the operation constitutes a concentration within the meaning of Article 3(1)(b) the Merger Regulation.

## **II. EU DIMENSION**

5. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million<sup>2</sup> (EUR [...] million for ICD and EUR 359 million for Alpha). Each of them has an EU-wide turnover in excess of EUR 250 (EUR [...] million for ICD and EUR 256 million for Alpha), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension.

## **III. RELEVANT MARKET**

6. Alpha provides in-flight catering services at 23 airports in the EEA. In-flight catering services involve the provision of meals and snacks served to passengers during flights, both short-haul and long-haul.
7. The transaction does not lead to horizontal overlaps. However, it leads to a vertical relationship, as Emirates, a sister company of Dnata, offers flights to/from eight EEA airports, namely: Amsterdam, Birmingham, Glasgow, London Gatwick, London Heathrow, Manchester, Newcastle, and Prague.

### *Relevant product market*

8. In its previous decisions the Commission has defined the relevant product market as comprising all in-flight catering services<sup>3</sup>, leaving open whether the in-flight catering market should be further segmented into traditional suppliers and so-called non-traditional suppliers

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<sup>2</sup> Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.04.2008, p1).

<sup>3</sup> See Case No IV/M.1269 – LSG/ONEXCorp/Sky Chefs/Caterair and Case No COMP/M.2190 -LSG/OFSI).

(for example, logistic companies acting in joint ventures with branded/non-branded food suppliers).<sup>4</sup>

9. The notifying party considers that such a further sub-segmentation is not appropriate, as both traditional and non-traditional suppliers are usually able to offer a full range of catering services (cold/hot/snacks, first/business/economy class meals) which meet all of the different needs of airline customers.
10. The market investigation has given indications that non-traditional in-flight caterers constrain traditional providers. Some respondents noted that airlines use offers of non-traditional caterers as a bargaining tool in negotiations with traditional caterers. This would be facilitated by the fact that it is often no longer necessary for a caterer to have a kitchen available at the airport in order to provide in-flight catering services.
11. Similarly, a majority of airlines noted that they would consider buying in-flight services from non-traditional suppliers in all categories of food (warm meals/sandwiches/pre-packed food). While very few airlines seem to source their catering for first and business class passengers with different providers than for economy class passengers, the majority of respondents to the market investigation indicated that they use one single provider for the catering of all classes of their planes.
12. However, for the purposes of the present decision, the product market definition can be left open, as the transaction would not raise any competition concerns under any possible segmentation.

#### *Relevant geographic market*

13. The Commission has in previous decisions also left open the geographic market definition for in-flight catering services, noting however that the geographic scope of the market was likely to be restricted to the area of a given airport.<sup>5</sup> The notifying party agrees with this approach. Consequently, the present case is assessed on this basis, considering each airport where the parties' activities overlap as a distinct market.
14. The market investigation confirmed this approach, with a majority of airlines indicating that they purchase all catering requirements at a given airport from one single supplier.
15. However, in the present case, the exact geographic market definition can be left open, since based on an assessment done on the narrowest market definition the transaction will not give rise to any competition concerns.

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<sup>4</sup> See Case No. COMP/M.4170 LSG Lufthansa Service Holding/Gate Gourmet Switzerland, Case No IV/M.1269 – LSG/ONEXCorp/Sky Chefs/Caterair and Case No COMP/M.2190 - LSG/OFSI).

<sup>5</sup> See Case No. COMP/M.4170 LSG Lufthansa Service Holding/Gate Gourmet Switzerland, 19/07/2006, para. 22.

#### IV. COMPETITIVE ASSESSMENT

16. Emirates is engaged in the provision of passenger air transport services in a product market which is downstream of the supply of in-flight catering services. Emirates offers flights to/from eight EEA airports at which also Alpha is active: Amsterdam, Birmingham, Glasgow, London Gatwick, London Heathrow, Manchester, Newcastle, and Prague.<sup>6</sup> Except for London Heathrow and for Amsterdam, Alpha's market shares are higher than 25%.

##### *Input foreclosure*

17. Emirates does not account for more than 25% of the purchases of in-flight catering at any of the above mentioned EU airport at which it provides passenger air transport services. The table below shows Emirates' share of purchases of catering services corresponding to each airport where Alpha has a market share above 25%.

**Table: Emirates' purchasing of in-flight catering services for 2009 in each affected market<sup>7</sup>**

<b>Airport</b>	<b>Alpha's market share Based on number of passengers</b>	<b>Alpha's market share Based on revenues</b>	<b>Number of competitors (including Alpha)</b>	<b>Emirates share of purchasing</b>
<b>Birmingham</b>	[60-70]%	[60-70]%	4	[10-20]%
<b>Glasgow</b>	[40-50]%	[40-50]%	4	[10-20]%
<b>London Gatwick</b>	[30-40]%	[40-50]%	4	[0-5]%
<b>Manchester</b>	[50-60]%	[50-60]%	4	[5-10]%
<b>Newcastle</b>	[20-30]%	[40-50]%	4	[10-20]%
<b>Prague</b>	[80-90]%	[70-80]%	2	[0-5]%

18. The parties submit that there is no risk of an input foreclosure strategy following the transaction.

19. Despite the relatively high market shares in the six airports where Alpha's market share exceeds 25%, as confirmed by the market investigation, there is at least one competitor offering in flight catering services, and three competitors in all airports except Prague.<sup>8</sup>

<sup>6</sup> Alpha currently provides in-flight catering services to Emirates at the following airports in the EEA: Birmingham, Newcastle, Amsterdam and Prague.

<sup>7</sup> All data in the table is based on market volumes that exclude so-called "back-catering" and own catering activities of airlines. If these data were included, market shares of Alpha would be 5-10 percentage points lower (for Prague around 30 percentage points lower due to high proportion of back-catering). Similarly, Emirates purchase shares would range between [0-5] and [10-20]% in a market including "back-catering"

20. During the market investigation, both competitors and airlines indicated that switching suppliers of in-flight catering services is relatively easy, noting among other things the short termination notice on contracts combined with the growth of non-traditional caterers not requiring an airport presence.<sup>9</sup>
21. As shown in the table above, Emirates account only for a small proportion of the total demand of in-flight catering services at the affected airports, remaining below [10-20]% of the total purchases in each of the six airports. The notifying party considers that any significant increase in the cost of catering to other airlines would both severely damage Alpha's profitability and have no impact on airlines who could readily switch to other suppliers.
22. In any event, the cost of in-flight catering services accounts for only a small share of the total cost of an airline. According to Emirates' estimates, in-flight catering costs accounted for approximately [5-10]% of the total costs (both fixed and variable) in the last financial year.
23. On the basis of the above, post-transaction, it is very unlikely that Alpha would have the ability or the incentive to restrict access to its in flight catering services in order to raise the costs of airlines competing with Emirates.

#### *Customer foreclosure*

24. In assessing the ability to foreclose access to downstream markets, the Commission has to verify whether the company involved is an important customer with a significant degree of market power in the downstream market.<sup>10</sup>
25. In the view of its low share (less than [10-20]%) in the total demand for in-flight catering services in all airports where Alpha is active, and given all the circumstances of the present case, Emirates cannot be considered an important customer in the downstream market that could be potentially lost by Alpha's rivals in supplying in-flight catering services.
26. Therefore, it is very unlikely that the new entity will be in a position to foreclose Alpha's competitors post-transaction.

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<sup>8</sup> Gastro Hroch is the competitor in Prague airport. Other competitors present in at least one or in several of the other airports include LSG Sky Chefs, Gate Gourmet, Commisaire, City Net, Newrest and Plane Catering.

<sup>9</sup> Theoretically, airline customer could also switch to back-catering activities where airplanes are loaded elsewhere. For example, at least one quarter of all flights departing from Manchester, Newcastle and Prague carry catering loaded at another airport.

<sup>10</sup> Non-Horizontal Merger Guidelines, paragraph 61.

## V. CONCLUSION

27. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

For the Commission,  
(signed)  
Joaquín ALMUNIA  
Vice-President