



## DETERMINATION OF MERGER NOTIFICATION M/19/004 – STAR CAPITAL/ASL AVIATION

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### Section 21 of the Competition Act 2002

### Proposed acquisition by Star Throne Midco Designated Activity Company of 100% of the issued share capital of ASL Aviation Holdings Designated Activity Company

Dated 12 March 2019

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#### Introduction

1. On 13 February 2019, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (“the Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification (the “Notification”) of a proposed acquisition whereby STAR Capital Partnership LLP (“STAR”), through its wholly [controlled<sup>1</sup> company] Star Throne Midco Designated Activity Company (“Throne”), would acquire 100% of the issued share capital of ASL Aviation Holdings Designated Activity Company (“ASL”) (the “Proposed Transaction”).

#### The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a Share Purchase Agreement (“SPA”) dated 12 February 2019 between Compagnie Maritime Belge SA (“CMB”), 3p Air Freighters Limited (“3P”)<sup>2</sup>, and Throne.
3. Under the terms of the SPA, Throne will purchase 100% of the issued share capital of ASL from CMB and 3P. Following the implementation of the Proposed Transaction, Throne will have sole control of ASL.

#### The Undertakings Involved

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<sup>1</sup>[ STAR, manages the STAR III Fund (comprised of Star Strategic Assets III LP, Star Strategic Assets III-A LP and STAR III Executive Co-investment Partnership LP) which owns Star Throne Midco Designated Activity Company.]

<sup>2</sup> CMB and 3P are the legal and beneficial owners of ASL.



#### *The Acquirer – Throne*

4. Throne is ultimately controlled by STAR, a private equity fund manager established in 1999. STAR is focussed on developing strategic asset-based businesses in Western Europe. STAR manages and advises investments in a wide range of portfolio companies across the following sectors:
  - i. Healthcare and Public Services;
  - ii. Structured Finance;
  - iii. TMT;
  - iv. Transport; and
  - v. Utilities.
5. For the financial year ending 31 December 2017, STAR's worldwide turnover was approximately [...], of which approximately [...] was generated in the State.

#### *The Target – ASL*

6. ASL is a designated activity company, limited by shares, incorporated in Ireland<sup>3</sup>. ASL has its registered address at Aviation House, 3 Malahide Road, Swords, Co. Dublin and is a global aviation services group. ASL is involved in the provision of the following services:
  - i. Passenger - ASL owns airlines based in Europe, Africa and Asia and operates Aircraft Crew Maintenance and Insurance (“ACMI”) passenger services on scheduled transatlantic flights.
  - ii. Cargo - ASL operates ACMI cargo services for companies in the express package, postal and online retailer markets. These operations include an extensive European network as well as operations throughout Asia and intercontinental services linking Europe with Asia and North America.

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<sup>3</sup> Companies registration number 361394



- iii. Leasing - ASL owns several leasing entities that offer aircraft to ASL group airlines and for sale and lease to the general airline market. ASL currently has leased passenger and cargo aircraft in operation in Europe, Asia, Africa and South Africa.
- iv. Airline Services - ASL offers single and multiple aircraft passenger and cargo options to airlines to augment and support their own network operations. Services offered include:
  - seasonal and long-term ACMI;
  - network operations – new route proving;
  - urgent Aircraft on Ground cover; and
  - airline back-up (planned or unplanned requirements).

7. For the financial year ending 31 December 2017, ASL's worldwide turnover was approximately €957.8 million, of which approximately [...] was generated in the State.

#### **Rationale for the Proposed Transaction**

8. The parties state in the notification:

*“The commercial objective of the Proposed Transaction is to build value for shareholders and other stakeholders through supporting the management team in continuing its strategy of providing innovative, world class services and solutions to its customers.”*

#### **Third Party Submissions**

9. No submission was received.

#### **Competitive Analysis**

##### *Horizontal Overlap*

10. There is no horizontal overlap in the activities of the parties. None of the companies in the STAR portfolio which generated turnover in the State in 2017 are engaged in the same business activities as ASL, i.e., the provision of airline leasing, airline passenger,



airline cargo and airline services in the State. The Commission has not identified any horizontal overlap in the activities of the parties.

11. The Commission therefore considers that the Proposed Transaction does not raise any horizontal competition concerns in the State.

#### Vertical Relationship

12. The parties informed the Commission that there are no vertical relationships between ASL and any of STAR's portfolio of companies which generated turnover in the State in 2017. The Commission has not identified any vertical relationship between the parties.
13. The Commission therefore considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

#### **Conclusion**

14. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

#### **Ancillary Restraints**

15. Clauses 14.2 and 14.3 of the SPA contain non-compete and non-solicitation obligations. The duration of those obligations does not exceed the maximum duration acceptable to the Commission.<sup>4</sup> The Commission considers those non-compete and non-solicitation obligations to be directly related to and necessary for the implementation of the Proposed Transaction insofar as they relate to the State.

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<sup>4</sup> In this respect, the Commission follows the approach adopted by the EU Commission in paragraphs 20 and 26 of its "Commission Notice on restrictions directly related and necessary to concentrations" (2005). For more information see [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=EN)



### **Determination**

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, has determined that, in its opinion, the result of the proposed acquisition whereby STAR Capital Partnership LLP, through its wholly [controlled<sup>5</sup> company] Star Throne Midco Designated Activity Company, would acquire sole control of ASL Aviation Holdings Designated Activity Company will not be to substantially lessen competition in any market for goods or services in the State, and accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

**Brian McHugh**  
**Member**  
**Competition and Consumer Protection Commission**

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<sup>5</sup>[ STAR, manages the STAR III Fund (comprised of Star Strategic Assets III LP, Star Strategic Assets III-A LP and STAR III Executive Co-investment Partnership LP) which owns Star Throne Midco Designated Activity Company.]