



Proposed acquisition of Aviation Beauport
Holdings Ltd by Gama Aviation (Engineering)
Ltd

Case M1195J

Decision

Document No: CICRA 16/05

15 February 2016

Jersey Competition Regulatory Authority

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Summary

1. Gama Aviation (Engineering) Ltd (“Gama”) intends to acquire 100% of the shares of Aviation Beauport Holdings Ltd (“ABP”). As a result, ABP will merge with Gama. The transaction has been notified to the Jersey Competition Regulatory Authority (the “JCRA”) for approval pursuant to Article 21 of the Competition (Jersey) Law 2005 (the “Law”).
2. The JCRA has determined that the proposed acquisition will not lead to a significant lessening of competition in any relevant market and hereby approves the acquisition.

The Notified Transaction

3. On 11 January 2016, pursuant to Article 21 of the Law, the JCRA received an application for approval of Gama’s acquisition of 100% of the shares of ABP.
4. The JCRA registered its receipt of the application by posting a notification on its website on 11 January 2016. It invited comments by 5pm on Monday 25 January 2016. No submissions were received.

The Parties

5. Gama is a limited company, incorporated and registered in England and Wales. It is a wholly owned subsidiary of Gama Aviation Plc, which is an aviation services provider. Gama Aviation Plc is also incorporated and registered in England and Wales and is listed on the London Stock Exchange.
6. Gama is a UK based provider of maintenance and ground support services to the private aviation sector. It operates at a number of locations within the UK (Glasgow, Aberdeen, Oxford, Farnborough and Fairoaks) and Europe (Geneva and Nice).
7. ABP is a registered private company incorporated and registered in Jersey. It is wholly owned by A.B. Group Holdings Ltd, which is a company incorporated and registered in the British Virgin Islands.
8. ABP’s principal activities are in the provision of fixed based operator (“FBO”) services to private aircraft and passengers at Jersey airport. These services include aircraft handling, ramp services and hangarage. ABP charters and operates private aircraft for passengers wishing to travel to and from Jersey airport and also provides charters for

customers outside the Island. It is also active in the provision of commercial office space in Jersey.

Requirement for JCRA Approval

9. Under Article 2(1)(b) of the Law, a merger occurs where a person who controls an undertaking acquires direct or indirect control of the whole or part of another undertaking.
10. On completion of the notified transaction, Gama will acquire 100% of the shares in, and as a result direct control over, the business of ABP. The transaction therefore constitutes a merger as defined by the Law.
11. According to Article 20(1) of the Law, a person must not execute certain mergers or acquisitions except with and in accordance with the approval of the JCRA. Article 4 of the Competition (Mergers and Acquisitions) (Jersey) Order 2010 (the "Order") provides that if one or more of the parties to a proposed merger or acquisition has an existing share of 40% or more of the supply or purchase of goods or services of any description supplied to or purchased from persons in Jersey, then that merger must be notified to the JCRA under Article 20(1) of the Law¹.
12. On the basis of the information submitted by the parties to the transaction, the JCRA has concluded that ABP's share of the supply of groundhandling services to private aviation users in Jersey will exceed 40%.

Market Definition

13. Under Article 60 of the Law, the JCRA must attempt to ensure that, as far as possible, it interprets Jersey competition law consistently with the interpretation given to corresponding issues by the European Commission.
14. In considering the provision of services to aviation users generally, and without looking specifically at the relevant markets for the supply of such services to private aviation users, the Commission has previously found that:

¹ Subject to two limited exceptions, neither of which apply in this case.

- a. There is a single market for the provision of groundhandling services to airlines (which includes ramp, passenger and baggage handling services and airside cargo services)²; and
- b. There is a distinct market for the into-plane sale of aviation fuel³.

In each case the geographic scope of the market was found to be airport-wide.

15. This approach is broadly in line with that of the notifying parties, who have identified the groundhandling of private aircraft on Jersey with a maximum take off weight of three metric tonnes and above and the provision of fuelling services to 'handled aircraft' at Jersey airport as relevant economic markets for the purposes of this transaction. The parties have further stated that they consider:

- a. The charter of private aircraft with a maximum take off weight of three metric tonnes and above provided to persons in Jersey;
- b. The parking/hangarage of aircraft at Jersey airport;
- c. The provision of commercial office space within commuting distance of Jersey airport,

to be relevant markets.

16. For the reasons set out below, the transaction will not raise concerns either on the basis of the market definitions as proposed by the notifying parties or on any other basis considered. Therefore, for the purposes of the present decision, the precise product and geographic market definitions can be left open.

Effect on Competition

17. Pursuant to Article 22(4) of the Law, the JCRA must determine if the proposed acquisition would substantially lessen competition in Jersey or any part of it.

Provision of commercial office space

18. According to the information supplied by the notifying parties, neither Gama nor any entity within its corporate group is active either on the market for the provision of

² Case No COMP/M.7021 – Swissport/Servisair, paragraph 18.

³ Case No COMP/M.7270 – Cesky Aeroholding/Travel Service/Ceske Aeroline, paragraph 46.

commercial office space in Jersey or in any market up or downstream of it. No Gama group company has any customers in Jersey. On that basis, the proposed merger will not lessen competition substantially on the market for the provision of commercial office space in Jersey (or any part of it).

Charter of private aircraft

19. The notifying parties state that both ABP and entities within the Gama group provide the charter of private aircraft. However, no Gama group company currently provides these services to any customer in Jersey. Therefore, the proposed merger will not lead to horizontal anti-competitive effects in Jersey in respect of these activities.
20. Gama is active on the aircraft line maintenance and heavy maintenance markets, which may be considered to be upstream of the charter market⁴. However, the JCRA considers it unlikely the proposed merger will give rise to vertical anti-competitive foreclosure, since Gama does not currently have any customers in Jersey.
21. For the above reasons, the proposed merger will not lessen competition substantially on the market for the provision of the charter of private aircraft in Jersey (or any part of it).

The provision of groundhandling services for private aircraft

22. According to the information supplied by the notifying parties, ABP considers that it may have 100% of the market for the provision of groundhandling services for private aircraft with a maximum take off weight of three metric tonnes and above. However, neither Gama nor any entity within its corporate group is active on the market for the provision of groundhandling services for private aircraft in Jersey. No Gama group company has any customers in Jersey. On that basis, the proposed merger will not lessen competition substantially on the market for the provision of groundhandling services for private aircraft in Jersey (or any part of it).

The provision of parking/hangarage facilities for private aircraft at Jersey airport

23. In determining whether a merger may lead to a substantial lessening of competition, the JCRA must compare the prospects for competition with the merger against the competitive situation without the merger (the so-called “counterfactual”).

⁴ The European Commission has previously found that line maintenance and heavy maintenance of aircraft are distinct markets: e.g. Case No COMP/M.5440 – Lufthansa/Austrian Airlines

24. In most cases the relevant counterfactual will be the competitive conditions existing at the time of the merger. However, where the purchaser and the target are potential competitors, the JCRA will also consider whether the removal of the potential rivalry between the two that results from the merger may lead to a substantial lessening of competition.
25. The parties do not currently compete for the provision of parking/hangarage for private aircraft at Jersey airport since no entity in the Gama corporate group is currently active in that market.
26. However, in their merger application form, the parties noted that in 2012 Hangar8, entered into Heads of Terms (“HoTs”) with the States of Jersey. These HoTs related to the provision by Hangar8 of the hangarage and aircraft maintenance at Jersey airport. The Purchaser’s ultimate parent merged with Hangar8 in 2015.
27. Given this, there is overlap between the activities of ABP and the proposed activities of Gama at Jersey airport in the provision of hangarage. The JCRA notes the following:
 - a. Ports of Jersey Limited, which is the company responsible for the operation of Jersey airport, has confirmed that further capacity is under consideration. It has identified a further three potential sites at the airport for the construction of large hangars. In its view, there is strong demand from customers for extra hangar space and this capacity will be brought into the market through either a competitive process for the development or by its own investment. It is therefore reasonably likely that other potential competitors to Gama/ABP might enter the market in the medium term and capacity will not be restricted to the merger parties;
 - b. Gama states that its negotiations with Ports of Jersey Limited have not yet progressed beyond the agreement of HoT and the completed hangar development is unlikely to be operational before late 2017 at the earliest; and
 - c. Evidence from ABP indicates that its own hangarage is at or near full capacity.
28. The JCRA therefore concludes that the likelihood that Gama could have entered the parking/hangarage market at Jersey airport in competition with ABP in the short term is low and given the reasonable likelihood of additional capacity becoming available it does not consider that this overlap is a basis for considering the merger is likely to give rise to substantial anti-competitive effects.

29. For the above reasons, the JCRA concludes that the proposed merger will not lessen competition substantially on the market for the provision of parking/hangarage of private aircraft in Jersey (or any part of it).

The provision of fuelling services at Jersey airport

30. The provision of fuelling services at Jersey airport was identified as an affected market by the notifying parties.

31. Physical refuelling of aircraft is carried out by a third party fuel operator⁵. Therefore, to the extent that ABP supplies fuelling services, this amounts to an arrangement with the third party fuel operator that that operator will refuel aircraft already being handled by ABP. Since ABP supplies refuelling services only to its “own” aircraft, the JCRA considers the refuelling services identified by the notifying parties should be considered to be part of the groundhandling services offered by ABP at Jersey airport. For the reasons set out above, the JCRA concludes that the proposed merger will not give rise to a substantial lessening of competition on the market for the provision of groundhandling services to private aircraft in Jersey (or any part of it).

Third Party Views

32. Ports of Jersey Limited responded to a request by the JCRA to provide further information in respect of this merger. No third party concerns were raised.

Conclusion

33. Based on the preceding analysis, the JCRA hereby approves the proposed acquisition under Article 22(1) of the Law.

15 February 2016

By order of the JCRA Board

⁵ Currently ATF Holdings Ltd, previously FSCI/Rubis.