

**COMMERCE ACT 1986: BUSINESS ACQUISITION**

**SECTION 66: NOTICE SEEKING CLEARANCE**

Date: 21 August 2013

The Registrar  
Mergers and Authorisations  
Commerce Commission  
PO Box 2351  
Wellington  
[registrar@comcom.govt.nz](mailto:registrar@comcom.govt.nz)

Pursuant to section 66(1) of the Commerce Act 1986, notice is hereby given seeking clearance of a proposed business acquisition.

**EXECUTIVE SUMMARY**

1. This is an application under section 66(1) of the Commerce Act 1986 for clearance for Menzies Aviation (New Zealand) Limited (**Menzies New Zealand**) to acquire 100% of the shares in Skystar Airport Services NZ Pty Limited (**Skystar New Zealand**) from Skystar Airport Services Holdings Pty Limited (**SASH**). The proposed acquisition is part of the acquisition by Menzies Aviation Holdings (Australia) Pty Limited (**Menzies Australia**) of Skystar Airport Services Pty Limited (**SAS**) in Australia.
2. Menzies New Zealand and Skystar New Zealand both provide ground handling services at airports in New Zealand. The proposed acquisition will result in aggregation in the markets for the provision of ground handling services at Christchurch airport and Dunedin airport. Menzies New Zealand and Skystar New Zealand compete with Air New Zealand as providers of ground handling services at Christchurch and Dunedin airports.
3. Despite the aggregation in the relevant markets, the proposed acquisition of Skystar New Zealand by Menzies New Zealand will not have the effect or likely effect of substantially lessening competition in a market. This is because Menzies New Zealand will be constrained post-acquisition by near and potential competitors in the relevant markets, and by the countervailing power of its customer airlines.

## PART 1: TRANSACTION DETAILS

### 1. Person giving notice

1.1 This notice is given by Menzies Aviation (New Zealand) Limited.

Registered office: C/- Buddle Findlay  
Level 18, PricewaterhouseCoopers Tower  
188 Quay Street  
Auckland

Physical address: 276 Sixth Street  
Sydney Domestic Airport  
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Australia

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Telephone: +61 2 8337 9500

Facsimile: +61 2 9700 9469

Website: [www.menziesaviation.com](http://www.menziesaviation.com)

1.2 The contact person at Menzies Aviation is:

Darren Masters

Vice President Finance (Oceania & SE Asia), and Director of Menzies New Zealand

Telephone: +61 2 8337 9521

Email: [darren.masters@menziesaviation.com](mailto:darren.masters@menziesaviation.com)

1.3 Correspondence and inquiries should in the first instance be addressed to:

Buddle Findlay  
PO Box 2694  
Wellington 6140

Attention: Tony Dellow / Anna Parker

Telephone: 04 498 7304 / 09 358 7007

Facsimile: 04 499 4141 / 09 363 0707

Email: [tony.dellow@buddlefindlay.com](mailto:tony.dellow@buddlefindlay.com) / [anna.parker@buddlefindlay.com](mailto:anna.parker@buddlefindlay.com)

### 2. Other merger parties

2.1 The other merger party is Skystar Airport Services NZ Pty Limited.

Registered office: Minter Ellison Rudd Watts  
88 Shortland Street  
Auckland Central  
Auckland 1010

Physical address: Christchurch International Airport  
30 Durey Road  
Christchurch

New Zealand  
Postal address: PO Box 14119, Christchurch International Airport  
Telephone: +64 3 358 6951  
Facsimile: +64 3 358 6952  
Website: [www.skystarairportservices.com.au](http://www.skystarairportservices.com.au)

2.2 The contact person for Skystar New Zealand is:

Ian Stevens  
Group Manager Business Services  
Address: Monadelphous Group Limited  
Level 3, 59 Albany Highway  
Victoria Park  
Western Australia 6100  
Telephone: +61 8 9315 7378  
Facsimile: +61 8 9316 6272  
Email: [istevens@monadel.com.au](mailto:istevens@monadel.com.au)

3. **Other relevant companies**

- 3.1 The purchaser of the shares in Skystar New Zealand is Menzies New Zealand, which is wholly owned by Menzies Aviation Services (Asia Pacific) LLC and ultimately owned by Menzies Aviation Plc and John Menzies Plc (registered in the United Kingdom). The acquisition of Skystar New Zealand is part of the acquisition of shares by Menzies Australia (which is also ultimately owned by Menzies Aviation Plc and John Menzies Plc) of SAS in Australia.
- 3.2 Menzies New Zealand provides some of its services through a subcontract with Planebiz Limited. Planebiz provides the labour and performs the handling work on behalf of Menzies New Zealand for its work with Virgin Australia, Singapore Airways, and Emirates at Christchurch airport, and Virgin Australia at Dunedin airport. There is no ownership connection between Menzies New Zealand and Planebiz Limited or any other relationship other than the subcontract.
- 3.3 The seller of the shares in Skystar New Zealand is SASH. Skystar New Zealand is the wholly-owned subsidiary of SASH. In turn, SASH is a wholly-owned subsidiary of Monadelphous Group Limited (**Monadelphous**). Monadelphous is also the seller of the shares in SAS to Menzies Australia.
- 3.4 Organisational diagrams for both the Menzies group of companies and the Skystar group are attached at Appendix 1, to demonstrate the relationships between the different relevant companies.
- 3.5 Menzies Australia and SAS have an unincorporated joint venture agreement to provide services at Perth airport. Outside of the joint venture, Menzies Australia has no ground handling services at Perth airport, while Skystar has no cargo operations.
- 3.6 Menzies New Zealand, Planebiz, and Skystar New Zealand occasionally lease equipment to each other or assist with certain services (such as de-icing) on an ad hoc basis where this is required. However, in those cases the party being assisted pays for the services in the same manner as a normal customer.

3.7 There are no other links, formal or informal, between the merger parties and their interconnected bodies corporate.

#### 4. **Details on what is to be acquired**

4.1 Menzies New Zealand seeks clearance to acquire 100% of the shares in Skystar New Zealand. The details of the acquisition are set out in the Share Sale and Purchase Agreement attached at Appendix 2.

#### 5. **Commercial rationale for the proposed merger**

5.1 The commercial rationale for the acquisition is for Menzies Australia to expand its operations in Perth (to include ground handling services), and benefit from the operations that SAS has in other parts of Australia where Menzies Australia does not currently operate (which provide overhead synergies). [

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5.2 From Monadelphous' perspective, the sale of Skystar New Zealand and SAS will allow Monadelphous to concentrate on its core business of engineering services to the resources and energy sectors. The Skystar business is currently the only aviation business in its structure. Accordingly, Monadelphous is seeking to divest the non-core part of its business. Monadelphous will not sell its Australian Skystar business on its own and therefore the Skystar New Zealand business must form part of the divestment.

5.3 The proposed acquisition of Skystar New Zealand is part of an international merger, as Menzies Australia is proposing to acquire 100% of the shares in SAS in Australia. Skystar New Zealand is wholly owned by SASH, and SAS and SASH are wholly owned by Monadelphous.

#### 6. **Documents**

6.1 The Share Sale and Purchase Agreement for the proposed acquisition is attached at Appendix 2. The agreement is conditional on clearance being obtained from the New Zealand Commerce Commission and covers both the acquisition by Menzies Australia of SAS in Australia, as well as Menzies New Zealand's acquisition of the shares in Skystar New Zealand.

#### 7. **Competition agencies in other jurisdictions**

7.1 The Australian Competition and Consumer Commission (**ACCC**) has been notified of the proposed merger, in a letter dated 14 August 2013. However, clearance has not been sought from the ACCC, because the proposed acquisition will not increase concentration in any of the relevant markets in Australia.

**PART 2: THE INDUSTRY****8. Services supplied by the merger parties**

8.1 The Menzies Aviation group provides ground handling, cargo handling, and cargo forwarding services at 132 stations in 30 countries. In New Zealand, Menzies New Zealand provides ground handling and cargo handling services for commercial aircraft at Auckland, Wellington, Christchurch, Queenstown, and Dunedin airports. Menzies New Zealand provides services for narrow bodied aircraft operated by Virgin Australia, and also provides services for wide bodied aircraft.

8.2 The services typically involved in ground handling in Australia and New Zealand include:

- Ticketing
- Check-in
- VIP lounges
- Load control
- Aircraft loading and unloading
- Cabin cleaning
- Toilet and water services
- Aircraft to ground power and start-up
- De-icing
- Push back and towing
- Customer complaints handling.

8.3 The services typically involved in cargo handling include:

- Ramp transfer to and from aircraft
- Receiving and break up/down of cargo
- Real time track and trace facilities
- Electronic communication with airline and forwarders.

8.4 SAS and Skystar New Zealand provide a similar range of ground handling services to those provided by the Menzies Aviation group at 8 airports in Australia and New Zealand. In New Zealand, Skystar New Zealand provides ground handling services for narrow bodied commercial aircraft (operated by Jetstar) at Christchurch and Dunedin airports. Skystar New Zealand also provides transfer services for cargo from aircraft to cargo terminal operators, but does not provide any of the other services typically involved in cargo handling. Such services are generally included in ramp contracts, which are part of ground handling.

## 9. Industry affected by the proposed acquisition

- 9.1 The industry affected by the proposed acquisition is the aircraft ground handling industry.
- 9.2 The ground handling industry distinguishes between "ground handling services" (being ramp, passenger, and baggage handling services) and "cargo handling services" (comprising cargo handling services). Ground handling services are provided to airlines by third party providers (such as Menzies New Zealand and Skystar New Zealand) or are provided by the airline itself. Cargo handling services are provided to freight forwarders and airlines.
- 9.3 Customers (i.e. airlines) generally contract jointly for the ramp, passenger, and baggage services that comprise ground handling services. Some airlines (such as Air New Zealand) provide the ground handling services themselves rather than contracting with third parties. There are occasionally circumstances in which a contract is combined for the ramp and baggage services, but is separate for passenger services (although there are no examples of this in New Zealand currently). In limited circumstances, airports may provide some ground handling services to airlines. However, there is only one airport in Australia that provides such services, and no airports in New Zealand currently provide them.
- 9.4 Customers generally contract separately for cargo handling services and ground handling services. In the past, airlines would contract jointly. However, it is now recognised that contracting separately allows the airlines to focus on the different needs of each service. The majority of airlines now contract separately (although it depends on the procurement services and structure within the airline). Generally, cargo handling contracts and ground handling contracts will be negotiated by different procurement divisions of airlines, with separate contracts and at different times depending on the respective termination dates of the contracts. For example, at Auckland airport, Thai Airways contracts with Menzies New Zealand for cargo handling services, but not ground handling services, and Cathay Pacific contracts with Menzies New Zealand for ground handling services, but not cargo handling services. However, there are still some airlines that contract jointly, in which case one contract may be used by the airline to incentivise (i.e. get the lowest price for) the other.
- 9.5 The circle of customers of ground handling services does not generally completely coincide with that of cargo handling services, as cargo handling services are also provided to full-freight airlines and freight forwarders. However, there are pure freight airlines such as UPS, DHL, and Atlas Global that operate freighter cargo services. There are also a number of airlines that operate pure freighter services, in which case the contract will be different from the pure ground handling contracts for passenger aircraft.
- 9.6 The average contract length for both ground handling and cargo handling services is three years. It is becoming more common for all contracts (including fixed term contracts) to contain termination clauses with a required notice period of only 60 days.
- 9.7 There is a tendency for larger airlines to negotiate for contracts on the basis of more than one location (and even more than one country) in order to provide benefits of scale to the airlines. It is common for larger service providers to compete with a business in one location while supplying services to that business in another location. For example, Menzies competes with Air New Zealand in New Zealand but is a service provider for Air New Zealand in the United Kingdom.

9.8 Fixed base operators (**FBOs**) also provide ground handling services at airports in New Zealand, primarily for private/corporate jets and charter flights.

10. **Current industry trends and developments**

10.1 A major industry development is the development of automatic check-in processes using kiosks and "smart" passports. Another trend is that the divide between ground handling and cargo handling continues to expand (as described in section 9 above).

10.2 Other industry trends include that prices in the industry are decreasing overall, and accordingly there is an increasing tendency towards a greater level of standardisation in operating procedures and the creation of larger companies in order to maintain standards and leverage synergies.

11. **Other relevant mergers**

11.1 Menzies New Zealand understands that an Australian company called Aero-Care Pty Limited may have agreed to purchase a 25% interest in SkyCare Airline Services Limited (**SkyCare**) in New Zealand. Menzies New Zealand is not aware of any other relevant mergers that have occurred in the ground handling industry in New Zealand in the last three years.



## PART 3: MARKET DEFINITION

### HORIZONTAL AGGREGATION

#### 12. Relevant markets

12.1 The relevant markets affected by the proposed acquisition are the local markets (Christchurch airport and Dunedin airport) for the provision of ground handling services (comprising ramp, passenger, and baggage handling services).

#### *Product dimension*

12.2 The relevant product market is the market for the provision of ground handling services (comprising ramp, passenger, and baggage handling services).

12.3 In a previous decision, the Commission has identified a market for the provision of terminal/ground handling services (see *Decision 278: Air New Zealand/Ansett Holdings*, April 1996).

12.4 We submit that ground handling services and cargo handling services are separate product markets. This is based on the way the services are purchased and supplied in New Zealand, and is consistent with the recent decision by the European Commission in relation to the acquisition of Aviapartner Holding NV by WFS Global Holding SAS in 2012. The European Commission distinguished between ground handling and cargo handling services based on the following factors:

- (a) ground handling services necessitate different expertise, personnel, and equipment to those required for cargo handling services;
- (b) customers generally contract separately for ground handling services and cargo handling services. Those two contracts (ground handling on the one hand and cargo handling on the other hand) are generally negotiated by different procurement divisions of airlines, with separate contracts and at different times, depending on their respective termination dates; and
- (c) the circle of customers of ground handling services is not completely congruent with that of cargo handling services given that the latter are also provided to full-freight airlines and freight forwarders.

12.5 As Skystar New Zealand does not provide cargo handling services (except transfer services for cargo from aircraft to cargo terminal operators that are generally included in ground handling ramp contracts), the market for the provision of cargo handling services is not relevant to this application.

12.6 We have considered whether the product dimension of the market for the provision of ground handling services may also be divided into separate markets for the provision of services to airlines operating wide bodied aircraft, and services to airlines operating narrow bodied aircraft. A narrow bodied aircraft is an aircraft that has a single aisle (typically with two to six seats per row). A wide bodied aircraft is an aircraft that has more than one aisle. The provision of services to wide bodied aircraft is more complex than the provision of services to narrow bodied aircraft, but a service provider who provides ground handling services for narrow bodied international aircraft can also likely provide services to wide bodied international aircraft with some extra equipment and training. For the purposes of this application, we do not consider that it is necessary to distinguish between

wide bodied and narrow bodied aircraft in the market definition. Skystar New Zealand does not provide services to wide bodied aircraft in New Zealand.

#### *Functional level*

12.7 The functional dimension is not relevant to the definition of the relevant markets for the purposes of the proposed acquisition.

#### *Geographic area*

12.8 The geographic dimension of the relevant markets is local (i.e. airport specific).

12.9 For the purposes of this acquisition, the relevant airports are Christchurch airport and Dunedin airport.

12.10 We have considered whether the geographic dimension of the market may be broader (e.g. a national market or a South Island market). However, the physical separation of each airport means that services provided at a particular airport cannot be substituted for services provided at another airport once an airline has opted to land at the particular airport.

12.11 Recent competition authority decisions in Europe relating to ground handling services have considered whether the geographic scope may be broader than a specific airport. For example, in 2010, the Office of Fair Trading (**OFT**) in the United Kingdom considered the acquisition by Serviceair UK of Aviance UK's ground handling business at 11 regional airports in the UK. The OFT noted that the market for ground handling services could be local or national, and considered both for the purposes of its competition analysis.

12.12 However, more recently in 2012, the European Commission considered the acquisition of Aviapartner by WFS. Although the Commission noted the possibility that the geographic extent of markets for ground handling services could be broader than specific airports, the Commission ultimately concluded that only the handlers that are active at a particular airport can assist the airline once the airline opts to land there and consequently that the market is a local market.

#### *Customer dimension and timeframe*

12.13 The customer and temporal dimensions are not relevant to the definition of the relevant markets for the purposes of the proposed acquisition.

### **13. Differentiated markets**

13.1 Services in the relevant markets are differentiated largely on the basis of price. Some customers value consistency of product delivery and accordingly prefer to have a single supplier over multiple different sites, though this is seldom valued above price. Quality of service delivery and the level of service standards are also important factors, but tend to be of more importance to full service international carriers relative to low cost carriers.

## **VERTICAL INTEGRATION**

### **14. Vertical integration that would result from the proposed merger**

14.1 The acquisition will not result in any creation or strengthening of vertical integration.

**PART 4: COUNTERFACTUAL**

**15. Counterfactual**

15.1 The relevant counterfactual is the status quo (i.e. that Menzies New Zealand and Skystar New Zealand will continue to operate as separate entities). However, it is likely that Monadelphous would still pursue a sale of SAS in Australia and Skystar New Zealand if the sale to Menzies did not proceed.

## PART 5: COMPETITION ANALYSIS

### EXISTING COMPETITORS

#### 16. Existing competitors

- 16.1 Menzies New Zealand and Skystar New Zealand compete with Air New Zealand as providers of ground handling services at Christchurch and Dunedin airports.
- 16.2 Air New Zealand provides ground handling services at Christchurch and Dunedin airports for Air New Zealand operated aircraft. The nature of the relationship between Jetstar and Air New Zealand is such that Air New Zealand may not be a real competitor in respect of the provision of services to Jetstar. However, Air New Zealand is a significant competitor in relation to the provision of services to other airlines. Given Air New Zealand's part-ownership of Virgin Australia and current alliance arrangement with Virgin Australia, Menzies New Zealand considers that Air New Zealand is a real competitor in respect of the provision of services to Virgin Australia.
- 16.3 Competition in the relevant markets is based on competition for contracts with airlines. Airlines usually undertake a request for proposal (RFP) process when beginning new operations or at the end of an existing contract. All interested parties are invited to submit a sealed proposal, which the airlines evaluate and choose from. A negotiation then takes place in which the airlines attempt to procure lower prices or other benefits from the parties submitting a proposal. The main competitors in respect of contracts for narrow bodied aircraft at Christchurch and Dunedin airports are Menzies New Zealand, Skystar New Zealand, Air New Zealand, and SkyCare (although, as noted above, Air New Zealand would be unlikely to compete for a Jetstar contract).
- 16.4 The ground handling businesses that operate at Christchurch and Dunedin airports and the airlines that those businesses serve are set out below.

Location	Airline served	Ground Handling currently performed by
Christchurch	Air NZ	Air NZ
	Qantas / Jet Connect	Air NZ
	Air Pacific	Air NZ
	Singapore	Menzies
	Emirates	Menzies
	Virgin Australia	Menzies
	Jetstar	Skystar
Dunedin	Air NZ	Air NZ
	Virgin Australia	Menzies
	Jetstar	Skystar

## 17. Market shares

17.1 An outline of the estimated market shares for 2011, 2012, and 2013 in terms of flights serviced per week of the merger parties and their competitors in the relevant markets is provided below. The information is based on Menzies' staff knowledge of the industry (in particular, flights numbers for 2013 are estimated based on known flight schedules, and the estimated market shares for 2011 and 2012 are based on known changes to the market).

### Estimated market shares:

Handler	Christchurch airport			Dunedin airport			NZ main ports (AKL, WGT, CHC, DUD)		
	2011	2012	2013	2011	2012	2013	2011	2012	2013
Air NZ	64%	63%	65%	85%	74%	70%	82%	81%	80%
Skycare	0%	0%	0%	0%	0%	0%	8%	8%	9%
Menzies / PlaneBiz	11%	10%	9%	15%	13%	13%	7%	7%	7%
Skystar	25%	26%	26%	0%	13%	17%	3%	4%	4%
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

### Estimated flights per week:

Handler	Christchurch airport			Dunedin airport			NZ main ports (AKL, WGT, CHC, DUD)		
	2011	2012	2013	2011	2012	2013	2011	2012	2013
Air NZ	170	172	175	28	28	28	1720	1700	1624
Skycare	0	0	0	0	0	0	160	170	201
Menzies / PlaneBiz	30	28	25	5	5	5	150	150	143
Skystar	65	72	69	0	5	7	65	77	76
<b>TOTAL</b>	<b>265</b>	<b>272</b>	<b>269</b>	<b>33</b>	<b>38</b>	<b>40</b>	<b>2095</b>	<b>2097</b>	<b>2044</b>

17.2 A table is included in Appendix 3 that sets out all of the ground handling contracts that Menzies New Zealand has bid for over the past five years, and the winners of those bids. Appendix 3 also includes a table showing the total revenue derived by Menzies New Zealand in 2013 from ground handling at each of the New Zealand airports at which it operates.

## 18. Constraints on merged entity by the conduct of existing competitors

18.1 Menzies New Zealand would continue to be significantly constrained post-acquisition by Air New Zealand, as outlined above.

18.2 The primary requirement for expansion or entry in the relevant markets is to secure a contract with an airline. The volume of work under contracts with either Jetstar or Virgin Australia is of a size that would allow an entity such as SkyCare to enter the relevant markets.

18.3 It is relatively easy for customer airlines to switch between ground handling service providers. The administrative cost of doing so is low, which is reflected in some cases by short termination clauses in provider contracts. For example, Skystar's current contract with Jetstar can be terminated by Jetstar at 60 days' notice.

- 18.4 For an existing ground handling service provider in New Zealand such as SkyCare to expand to provide services at Christchurch and Dunedin airports, it could take as little as two to three months to enter the markets. The estimated set up costs are approximately NZ\$200,000 to NZ\$300,000. The likely entry of potential competitors, and associated costs, are set out in section 19 below.
- 18.5 Such entry or expansion could be assisted by an airline. For example, costs could be subsidised by an airline if there was sufficient incentive to do so (e.g. in order to secure a lower cost ground handling service provider). This has been done in the past by Jetstar, in relation to the establishment of SkyCare and Skystar. In that situation, Jetstar was entering the New Zealand market for the first time itself, and therefore had significant lead-in time to be able to plan for the establishment of new ground handling services. It is estimated that the set up costs for Skystar and SkyCare were potentially around NZ\$200,000 to NZ\$500,000. However, the success of Jetstar's initiative in that respect shows that it is achievable for new entrants to enter the market, particularly if they have assistance from an airline.

## POTENTIAL COMPETITION

### CONDITIONS OF ENTRY

#### 19. Requirements for new entry

- 19.1 As discussed above, the primary requirement for a new entrant to enter the relevant markets is to secure a contract with an airline. Once a contract had been secured, the new entrant would need to begin recruiting staff and purchasing the equipment required for the work it was intending to undertake.
- 19.2 The cost of equipment and the number of staff required would be dependent on the type of customer. For example, to set up to supply services to Jetstar in Dunedin would likely cost approximately NZ\$300,000 to NZ\$400,000 and require approximately 10 to 12 unskilled staff, who would need no more than 2 weeks' training. By way of comparison, to set up to supply services to Emirates wide bodied flights in Christchurch would likely cost approximately NZ\$2 million to NZ\$3 million and require approximately 30 staff.
- 19.3 The timeframe for entering the relevant markets would depend on the scale of the work to be undertaken. For example, for an alternative (new) supplier to become established in Dunedin to supply Jetstar, it would likely take at least three to six months of planning. For an existing supplier in New Zealand (such as SkyCare) to expand, it could take as little as two to three months.
- 19.4 There are very few regulatory requirements associated with setting up a ground handling services business in New Zealand (other than standard regulatory requirements for setting up a business in New Zealand). Auckland airport is the only airport in New Zealand that requires ground handling providers to have an official licence. Other airports have operating and safety standards that must be adhered to, but do not have official licence requirements.
- 19.5 The above data and estimates are based on the knowledge of Menzies' staff of the industry, and their experience of setting up ground handling stations at airports and what is involved in that process.

## 20. Factors that could impede entry or prompt new entry

### 20.1 Factors that could impede entry into the markets include:

- (a) a lack of relationship with potential customers, which may prevent a new entrant from securing the essential contracts needed prior to investing in the set up costs;
- (b) a lack of performance and reputation in the industry, which may make it difficult for a new entrant to secure initial contracts;
- (c) the capital required for setting up – the equipment required (in particular for providing services to wide bodied aircraft) is expensive; and
- (d) the low volume of work available at New Zealand airports.

### 20.2 On the other hand, factors that could prompt entry into the relevant markets post-acquisition include:

- (a) a price increase for the services currently being provided;
- (b) extra flights being added to the market, which would increase the volume of work available; and
- (c) the exit of an existing service provider from the market.

### 20.3 In Commerce Commission Decision No. 278, the Commission noted that it had not identified any significant barriers to entry in the terminal/ground handling services market, and that barriers to entry appear low. Menzies New Zealand does not consider that there have been significant changes in the relevant markets since that decision that alter the barriers to entry.

## LIKELIHOOD, EXTENT AND TIMELINESS OF ENTRY (THE LET TEST)

### 21. Businesses likely to enter the market

#### 21.1 As discussed above, there are other ground handling service providers in New Zealand and Australia that could enter the relevant markets. Those providers include:

- (a) ground handling agents in New Zealand, such as SkyCare. SkyCare currently provides ground handling services for narrow bodied aircraft at other New Zealand airports (including for Jetstar at Queenstown Airport);
- (b) ground handling agents in Australia, such as Aero-Care Pty Ltd, Toll DNATA Airport Services, and Oceania Aviation Services Pty Ltd; and
- (c) fixed-base operators in New Zealand, such as Capital Jet Services Ltd or Air Center One Ltd. For example, SkyCare's ground handling business grew and developed out of its FBO business.

#### 21.2 As the barriers to entry in the relevant markets are relatively low, it is highly likely that such providers would enter the relevant markets, given sufficient incentive to do so.

21.3 In addition, self-handling by airlines is a real possibility. As discussed above, Air New Zealand already does almost all of its own ground handling services. Although Jetstar generally prefers to focus on its core business of flying, it is highly likely that self-handling would be considered if third party service providers became too expensive. Although the low frequency flight schedules of many of the international airlines coming to New Zealand do not lend themselves to self-handling (as it is generally more efficient in those circumstances to use external providers), the volume of work under contracts with an airline such as Jetstar is of sufficient size to mean that self-handling is a real possibility for Jetstar. Jetstar already self-handles in Cairns in Australia.

## 22. Potential entry as constraint on merged entity

22.1 Due to the relatively low barriers to entry and the presence of other service providers, potential entry would constrain Menzies New Zealand in the affected markets post-acquisition. Menzies New Zealand would be constrained in its ability to, for example, raise prices, because of the ability of other service providers to enter the relevant markets.

## 23. Timeframe for entry

23.1 As outlined in section 19 above, it would likely take at least three to six months of planning for a new entrant (such as an FBO or Australian ground handling agent) to enter the relevant markets.

23.2 For an existing supplier in New Zealand (such as SkyCare) to expand, it could take as little as two to three months. This is because SkyCare already provides services to Jetstar at Queenstown airport, so it understands Jetstar's business, would already have some equipment, and has trained staff that it could second for a period of time.

23.3 The above data and estimates are based on the knowledge of Menzies' staff of the industry, and their experience of setting up ground handling stations at airports and what is involved in that process.

## COUNTERVAILING POWER OF BUYERS

### 24. Constraints on merged entity by the conduct of buyers

24.1 Post-acquisition, Menzies New Zealand would continue to face a significant degree of countervailing power on the part of the purchasers of its services because of the large degree of bargaining power that its customer airlines have.

24.2 Airlines put significant pressure on service providers to keep costs down (given the strong competitive pressure between the airlines). Airlines are also readily able to switch from one supplier to another, and have the ability to foster new supply, by sponsoring a new provider to enter the relevant markets. As noted above in section 18, this has been done in the past by Jetstar. An airline with sufficient volume (such as Jetstar) would also have the ability to self-supply if there were sufficient incentives to do so.

### 25. Top buyers

25.1 The top buyers in the relevant markets are Jetstar, Air New Zealand, and Virgin Australia. Singapore Airlines and Emirates are also buyers in respect of services for wide bodied aircraft at Christchurch airport.



## COORDINATED MARKET POWER

### 26. Market characteristics facilitating or impeding competition

26.1 Although the proposed acquisition will increase concentration in the relevant markets, the low barriers to entry and presence of a number of near and potential competitors mean that the acquisition is very unlikely to result in increased coordination. Another market characteristic that is likely to facilitate competition is the ability of powerful customer airlines to contract with other suppliers.

## EFFICIENCIES

### 27. Efficiencies that acquisition could bring

27.1 The acquisition will enable a range of efficiencies to be realised post-acquisition. Menzies New Zealand anticipates that certain operations currently undertaken by both Menzies and Skystar will be able to be combined, reducing duplication of effort and cost. It is expected that the integration of the businesses would take approximately six months.

27.2 [

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27.3 Efficiencies of the kind outlined above would enable Menzies New Zealand to compete more effectively and would be likely to enable the company to further reduce prices for customers over time. It is unlikely that such efficiencies could be realised without the acquisition.

## OTHER FACTORS

### 28. Other features of the market that should be taken into account

28.1 To summarise, Air New Zealand is the dominant provider of ground handling services in New Zealand. Air New Zealand also now owns a 23% share in Virgin Australia, and together those companies operate a large domestic and international network in and out of New Zealand and Australia.

28.2 Air New Zealand is a strong and effective competitor to Menzies New Zealand (with the exception of the opportunities for providing services to Jetstar). Menzies New Zealand is a comparatively small handling agent in the New Zealand markets, and is subject to competitive tenders for the relevant work on a regular basis, which are decided largely on the basis of price. The barriers to entry to the relevant markets are relatively low and, if Menzies New Zealand failed to provide value for money to a customer such as Jetstar in Christchurch, Jetstar would have other options for providers, such as SkyCare, a new entrant, or self-handling.

28.3 Given the above, Menzies New Zealand submits that the acquisition of Skystar New Zealand will not have the effect or likely effect of substantially lessening competition in a market.

## PART 6: FURTHER INFORMATION AND SUPPORTING DOCUMENTATION

## 29. Contact details of relevant competitors, buyers and suppliers

29.1 Details of relevant competitors, buyers, suppliers, and other relevant market participants are set out in the table below. Menzies New Zealand does not hold full contact details or have information about the relevant contact person for all entities listed in the table below.

Name of company	Contact details	Relevant contact person
<b>COMPETITORS</b>		
Skycare Airline Services Ltd	SkyCare Corporate Terminal Walsh Bros Place Auckland International Airport Auckland, New Zealand  PO Box 73-151 Auckland International Airport 2150, Auckland, New Zealand  Tel: +64 9 256 1215  Fax: +64 9 256 2101  <a href="http://www.skycare.co.nz">www.skycare.co.nz</a>	Jason Gray  Chief Executive Officer
Aero-Care Pty Ltd	Aero-Care Corporate Office 3, No 5 The Circuit Brisbane Airport QLD 4007 Australia  Tel: +61 7 3107 1920  Fax: +61 7 3852 2146  <a href="http://www.aerocare.com.au">www.aerocare.com.au</a>	Glenn Rutherford  Chief Executive Officer  Tel: +61 4 1132 1777  <a href="mailto:glenn@aerocare.com.au">glenn@aerocare.com.au</a>
Oceania Aviation Services Pty Ltd	18 Lores Bonney Circuit Bilinga 4225 Gold Coast Airport Queensland, Australia  PO Box 737 Tugun Queensland  Tel: +61 7 5590 6999  Fax: +61 5599 5811  <a href="http://www.oceaniaaviation.com.au">www.oceaniaaviation.com.au</a>	Unknown
Toll DNATA Airport Services Pty Ltd	321 Link Rd Mascot NSW 2020  Tel: 1300 651 354 / (02) 9700 8210  <a href="http://www.tolldnata.com">www.tolldnata.com</a>	Unknown

Capital Jet Services Ltd	<p>91 Tirangi Road Lyall Bay Wellington</p> <p>PO Box 14-272 Kilbirnie Wellington New Zealand</p> <p>Tel: 64 4 388 8814</p> <p>Fax: 64 4 388 8833</p> <p><a href="http://www.capitaljetservices.com">www.capitaljetservices.com</a></p>	<p>Peter van Dyk</p> <p>Founder/owner</p>
Air Center One Ltd	<p>Hape Drive Auckland International Airport Auckland New Zealand</p> <p>P.O.Box 201-174 Auckland International Airport Auckland 2150 New Zealand</p> <p>Tel: +64 9 275 7167</p> <p>Fax: +64 9 275 7185</p> <p><a href="http://www.aircenterone.co.nz">www.aircenterone.co.nz</a></p>	<p>Robin D Leach</p> <p>Chief Executive</p> <p>+64 274 929 810</p>
Air New Zealand Ltd	<p>185 Fanshawe Street Auckland 1010 New Zealand</p> <p>Tel: +64 9 336 2400</p> <p>Fax: +64 9 336 2401</p> <p><a href="http://www.airnewzealand.co.nz">www.airnewzealand.co.nz</a></p>	<p>Christopher Luxon</p> <p>Chief Executive Officer</p>
Planebiz Ltd	<p>Aviation House Building 2, 12 Orchard Road Christchurch Airport Christchurch</p> <p>Tel: +64 (3) 357 3892</p>	<p>Guy Menzies</p> <p>Director</p> <p><a href="mailto:gmenzies@planebiz.co.nz">gmenzies@planebiz.co.nz</a></p>
<b>BUYERS / SUPPLIERS</b>		
Jetstar (Jetstar Airways Pty Limited and Jetstar Airways Limited)	<p>PO Box 4713 Melbourne Victoria 3001 Australia</p> <p>Tel: +61 3 8628 3400</p> <p>Fax: +61 3 8628 3422</p> <p><a href="http://www.jetstar.com">www.jetstar.com</a></p>	<p>David Hall</p> <p>Chief Executive Officer</p> <p>Tel: +61 3 8628 3905</p>

Virgin Australia (Virgin Australia Airlines Pty Limited and Virgin Australia Airlines (NZ) Limited)	56 Edmondstone Road Bowen Hills Queensland 4006 Australia  P O Box 1034 Spring Hill Queensland 4004 Australia  Tel: +61 7 3295 3000  <a href="http://www.virginaustralia.com">www.virginaustralia.com</a>	Mark Pitt  Chief Executive  +64 2 7573 7770  <a href="mailto:mark.pitt@virginaustralia.com">mark.pitt@virginaustralia.com</a>
<b>TRADE ASSOCIATIONS</b>		
N/A		
<b>ANY OTHER RELEVANT MARKET PARTICIPANTS OR INTERESTED PARTIES</b>		
N/A		

30. **Annual reports and financial statements**

- 30.1 A copy of the most recent annual report for Menzies New Zealand and Skystar New Zealand are attached as Appendix 4.

**PART 7: CONFIDENTIALITY**

**31. Request for confidentiality**

- 31.1 Confidentiality is sought for the information in this application included in square brackets and highlighted. A public version of this notice with the confidential information deleted will be provided to the Commission. In addition, a schedule of confidential information claimed is **attached**.
- 31.2 We request that we be notified of any request made under the Official Information Act for the information, and be given the opportunity to be consulted as to whether the information remains commercially sensitive at the time that the request is made.
- 31.3 These requests for confidentiality are made because the information is commercially sensitive and disclosure would be likely to unreasonably prejudice the applicants.

**THIS NOTICE is given by Menzies Aviation (New Zealand) Limited.**

Menzies Aviation (New Zealand) Limited confirms that:

- all information specified by the Commission has been supplied;
- if information has not been supplied, reasons have been included as to why the information has not been supplied;
- all information known to the applicant which is relevant to the consideration of this application/notice has been supplied; and
- all information supplied is correct as at the date of this application/notice.

Menzies Aviation (New Zealand) Limited undertakes to advise the Commission immediately of any material change in circumstances relating to the application/notice.

Dated this 21<sup>st</sup> day of August 2013.

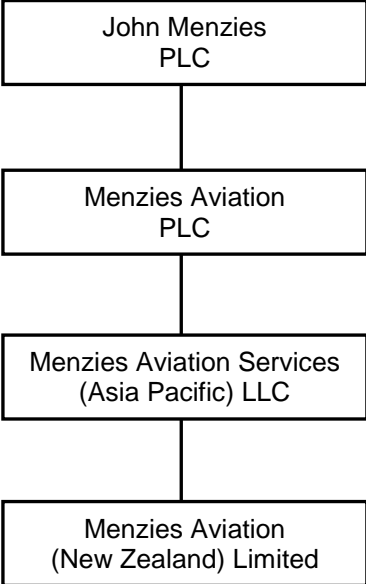
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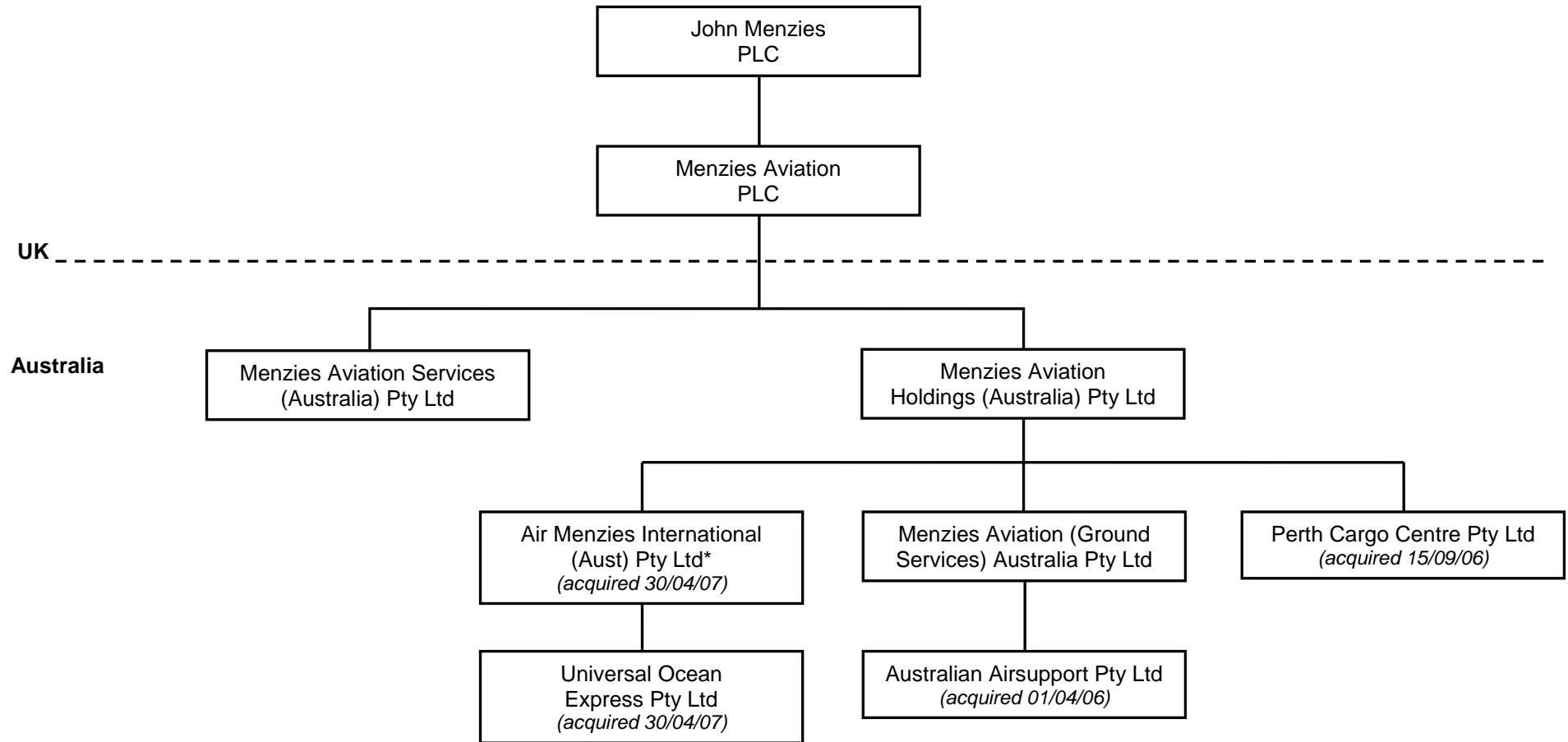
Signed by Darren Masters, Director, Menzies Aviation (New Zealand) Limited  
I am a director of the company and am duly authorised to make this application/notice.

Appendix 1: Organisational diagrams

Menzies New Zealand corporate structure



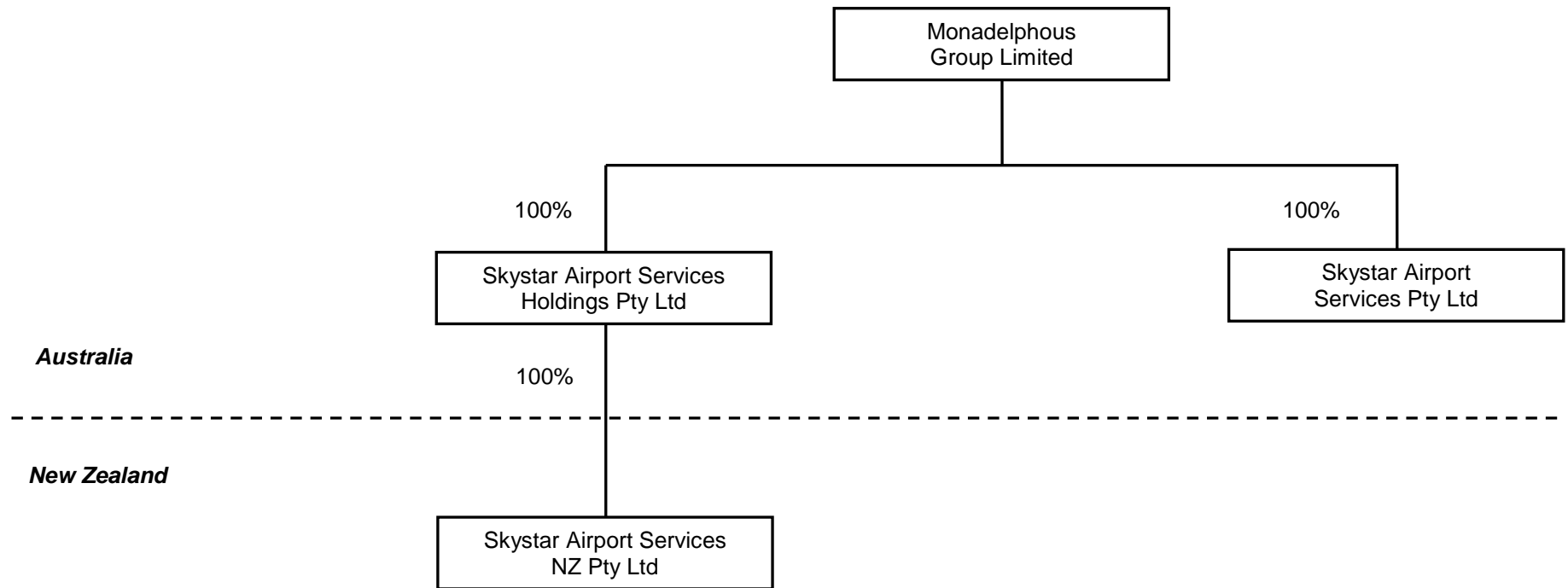
**Menzies Australia corporate structure**



\*Previously: Universal Air Cargo Pty Ltd



Skystar Airport Services corporate structure



**Appendix 2: Share Sale and Purchase Agreement**

**[Confidential]**

Appendix 3: Contracts and revenue information

[Confidential]

**Appendix 4: Annual reports / financial statements**