

***Case No COMP/M.4686 -  
LOUIS DELHAIZE /  
MAGYAR  
HIPERMARKET KFT***

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: 09/07/2007

***In electronic form on the EUR-Lex website under document  
number 32007M4686***



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09/07/2007

SG-Greffe (2007) D 204325

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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. 4686 – LOUIS DELHAIZE / MAGYAR HIPERMARKET KFT.**  
**Notification of 04/06/2007 pursuant to Article 4 of Council Regulation (EC) No. 139/2004<sup>1</sup>**

## I. INTRODUCTION

1. On June 4th, 2007, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking Louis Delhaize S.A. ("Louis Delhaize", Belgium), acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking Magyar Hipermarket Kft ("Magyar Hipermarket", Hungary) by way of purchase of shares.

## II. THE PARTIES AND THE CONCENTRATION WITH A COMMUNITY DIMENSION

2. **Louis Delhaize** operates through its subsidiaries supermarkets, hypermarkets and discount stores in various countries, including Hungary. In Hungary, Louis Delhaize is active through Csemege-Match Kereskedelmi Rt. ("**Csemege**") and Profi Magyarország Kereskedelmi Rt. ("**Profi**"). While Csemege operates Match and Smatch supermarkets, Profi operates discount stores under the brand Profi. Louis Delhaize is, through its subsidiary Cora France, the owner of the Cora hypermarket franchise.

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<sup>1</sup> OJ L 24, 29.1.2004 p. 1

3. **Magyar Hipermarket** is active in the same sector and, as a franchisee of Cora France, operates 7 hypermarket stores under the brand name Cora in Hungary.
4. Through its wholly-owned company Delparned BV, Louis Delhaize acquires 72.9% of the share capital of Magyar Hipermarket Kft. 27.1% of the latter is already owned by BM Hungary, Delparned's wholly owned subsidiary. The transaction therefore constitutes a concentration within the meaning of Art. 3(1)(b) of the Merger Regulation.
5. The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 billion<sup>2</sup> (Louis Delhaize: EUR 11.1 billion; Magyar Hipermarket: EUR 0.4 billion). The aggregate Community-wide turnover of each of at least two of the undertakings concerned is more than EUR 250 million (Louis Delhaize: EUR 11,125 million; Magyar Hipermarket: EUR 393 million) for 2006. While Magyar Hipermarket achieves more than two third of its Community-wide turnover in Hungary, Louis Delhaize achieves more than two thirds of its Community wide turnover in France. The notified transaction therefore has a Community dimension.

### III. ASSESSMENT

#### *1. Product market*

##### *Retail sale of daily consumer goods*

6. Both Louis Delhaize and Magyar Hipermarket are active in the food and non-food retail sector in Hungary. The parties have proposed as the relevant product market the retail sale of daily consumer goods. These sales should include not only sales in the so-called modern distribution channels (supermarkets, hypermarkets and discount chains) but also smaller formats' sales, such as Cash&Carry<sup>3</sup>, petrol service stations, neighbourhood stores, kiosks and open markets. In this respect, the notifying party submits that the proximity of the store is the most important criteria to Hungarian customers.
7. The parties provide a large range of consumer goods including food and so-called near-food goods, i.e. products such as toiletries, cleaning products and other hygienic products bought by customers on a regular basis. In addition, they also provide non-food products such as cloths, sport equipment, household electronic appliances, etc. Concerning the selling of non-food products the parties also submitted that specialist stores exert a significant competitive constraint on hypermarkets.
8. The Commission has in previous cases considered that there is a separate product market for the retail of daily consumer goods mainly carried out by retail outlets such as supermarkets, hypermarkets and discount chains<sup>4</sup> (the so-called modern distribution channels). Previous

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<sup>2</sup> Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25).

<sup>3</sup> Large floor-space stores very similar to hypermarkets except that they are designed to serve wholesalers in addition to end consumers.

<sup>4</sup> Whether discounters are to be included in the product market was left open in COMP/M.1684-Carrefour/Promodes par. 12 and COMP/M.1221-Rewe/Meinl par. 17. In case COMP/M. 3905 Tesco/Carrefour the market investigation confirmed that with regard to the pricing policy hypermarkets seem to be closer to discount stores than supermarkets, par.12.

decisions argue that these retailers are active in different markets than other retailers such as specialised outlets, service stations and others<sup>5</sup>.

9. The market investigation confirmed that the retail market for daily consumer goods through modern distribution channels should be considered as the relevant product market for the purpose of this transaction. The parties' competitors indicated in their answers that modern distribution channels compete only to some extent with other shop formats, while hypermarkets, supermarkets and discounters compete with each other fully or at least for most products.
10. The question if modern distribution channels and other shop formats are part of the same relevant product market can, ultimately, be left open since under all alternative definitions considered, effective competition would not be significantly impeded.

#### *Procurement*

11. The Commission has in previous cases considered that the market for the procurement of daily consumer goods comprises the sale of these goods to customers such as wholesalers, retailers and other firms. Given the limited supply-side substitutability of producers, the Commission has in previous decisions found that the procurement market for daily consumer goods has to be defined with reference to different product groups.<sup>6</sup>
12. Since 2003, the parties coordinate their procurement activities through their joint venture Provera Kft,<sup>7</sup> with the exception of some products. For a majority of products the market share of the parties on the procurement market will not increase at all.
13. In respect of the products not procured jointly (e.g. meat), the parties submit that their market shares in the procurement market should be lower than their market share in the market for the retail trade of daily consumer goods in Hungary because in addition to retail traders, other types of buyers are also present on the procurement market such as hotels and restaurants.
14. The exact definition of the procurement market for daily consumer goods can be left open as under all alternative definition considered effective competition would not be significantly impeded.

## **2. Geographic market**

### *Retail market for daily consumer goods*

15. In previous cases the Commission delineated the geographic market for the retail sale of daily consumer goods according to demand side arguments, by the boundaries of a territory where the outlets can be reached easily by consumers (radius of approximately 20 to 30

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<sup>5</sup> E.g. Commission's decisions in cases IV/M.784 Kesko/Tuko par. 19, 20; COMP/M.1221-Rewe/Meinl par. 12, 16; COMP/M.1684-Carrefour/Promodes par. 9 and M.3646 Kesko/ICA/JV par.10 et seq in which the product market definition was left open.

<sup>6</sup> COMP IV/M.784 – Kesko/Tuko, par. 33; COMP/M.1221 – REWE/Meinl, par. 75.

<sup>7</sup> Provera Kf twas established before Hungary's accession to the E.U. the joint venture was, however, notified to and authorised by the Hungarian Competition Office in 2003 (decision no. vj-162\2003 Magyar Hipermarket-Provera).

minutes driving time)<sup>8</sup>. This territory may also be larger (e.g. regional or national) if different local areas are connected in such a way that they result in overlapping circles<sup>9</sup>. The delineation of each local area can only be undertaken on a case by case basis by taking into account specific local circumstances.

16. The parties operate nationwide networks (Csemege and Profi) that cover almost the entire territory of Hungary. The parties' competitors also operate nationwide networks. In this respect, and also because the catchment areas of the shops in these areas clearly overlap, the parties submit that the territory of Hungary consists of one single geographic market.
17. The parties further support their conclusion by underlying that they, as well as their competitors, tend to price their products and purchase them on a national basis. The market investigation conducted by the Commission confirmed that most competitors define the market as local from demand side point of view, but consider the market to be of national dimension particularly due to the possible overlaps covering the whole country and the operating policy. The pricing policy, promotions, product range, customer services, branding, advertising, capital investment and even recruitment are conducted on a national basis.
18. For the sake of completeness, the notifying party has also provided information on the basis of the assumption that each of the seven catchment areas where an overlap exists, constitutes a separate relevant geographic market. The seven catchment areas refers to each of the seven Cora hypermarkets operated by Magyar Hipermarket and are located in the following areas: (i) Budapest/Törökbálint ; (ii) Budapest / Budakalász ; (iii) Budapest/ Fót ; (iv) Szeged ; (v) Miskolc ; (vi) Debrecen and (vii) Szolnok.
19. In the case at hand, the definition of the geographic market can, ultimately, be left open, since irrespective of the geographical definition of the markets, effective competition would not be significantly impeded.

### ***3. Competitive analysis***

#### *Retail market of daily consumer goods*

20. On the basis of a national market definition, the combined market shares of the parties would be around [5-15]%. The parties would continue to face numerous competitors, among others Tesco (18%), Coop (15 %), Reál (10%) and Spar (10 %).
21. Therefore, the transaction does not lead to non-coordinated effects resulting in a significant impediment of effective competition in Hungary, in particular through creation or strengthening of a dominant position.
22. At local level there are seven markets where the activities of the parties overlap. The combined market shares on this level are the following: Budapest/Törökbálint [10-15]%, Budapest/Budakalász [15-20]%, Budapest/Fót [10-15]%, Szeged [25-30]%, Miskolc [25-30]%, Debrecen [20-25]% and Szolnok [20-25]%.

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<sup>8</sup> E.g. decision in cases IV/M.1085-Promodes/Catteau par. 14, COMP/M.1221-Rewe/Meinl par. 18 and COMP/M.1684-Carrefour/Promodes par. 24.

<sup>9</sup> E.g. see COMP/M.1221-721Rewe/Meinl par. 18 and COMP/M.1684-Carrefour/Promodes par. 25.

23. There is strong competition in each of these areas even if only the hypermarket segment of the market is considered. In particular, Tesco and Lidl have a strong presence in each of the seven areas.
24. Competition is intense in the *Törökbálint*, *Budakalász* and *Fót* areas, in all of which Auchan is the market leader with more than 23%. Tesco has also greater market shares than the parties in Törökbálint and Fót.
25. Within the catchment area of the *Szeged*, *Miskolc*, *Debrecen* and *Szolnok* Tesco is the major competitor of Cora (with market shares between 14-24%), and a new entrant, Lidl, competes aggressively. It shall also be noted that the overlap between the activities of the parties is minimal, with Csemege and Profi accounting for only 1-4% of these local markets.
26. The market investigation broadly confirmed the parties' estimates. For the reasons stated above, the concentration does not raise serious doubts as to its compatibility with the common market in any of the local markets mentioned above.

## VI. CONCLUSION

27. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EC) No 139/2004.

For the Commission

*signed*

Neelie KROES  
Member of the Commission