

EN

***Case No COMP/M.6506 -
GROUPE AUCHAN /
MAGYAR
HIPERMARKET***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION

Date: 18/04/2012

***In electronic form on the EUR-Lex website under document
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EUROPEAN COMMISSION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

Brussels, 18.04.2012
C(2012) 2682

PUBLIC VERSION

MERGER PROCEDURE

To the notifying party:

Dear Sir/Madam,

**Subject: Case No COMP/M.6506 - GROUPE AUCHAN / MAGYAR
HIPERMARKET
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

1. On 9 March 2012, the European Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which Auchan Magyarország Kft (Hungary), belonging to the Groupe Auchan SA ("Auchan", France) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of Magyar Hipermarket Kereskedelmi Kft. ("Magyar Hipermarket", Hungary) by way of purchase of shares.² Auchan is designated hereinafter as the "Notifying Party", Auchan and Magyar Hipermarket together as the "Parties".

¹ 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.

² Publication in the Official Journal of the European Union No C 81, 20.03.2012, p.3

(1) THE PARTIES

2. Auchan is an international retail group that is primarily active in the market for retail of daily consumer goods in several countries. In addition to its core retail business, Auchan also has limited activities in real estate, banking and other areas such as ecommerce and petrol stations. In Hungary, Auchan operates 12 hypermarkets and it is also active in other secondary activities, such as banking (through its subsidiary Banque Accord) and real estate (through its subsidiary Immochan). Auchan also operates 8 petrol stations located next to the premises of its hypermarkets in Hungary.
3. Magyar Hipermarket is a Hungarian company active in the retail of daily consumer goods, which operates 7 hypermarkets³ under the Cora brand in Hungary (as a licensee of Cora France). Outside of the retail industry, Magyar Hipermarket has some negligible activities as a credit and insurance broker and operates a single petrol station in Budapest. Magyar Hipermarket has no activities whatsoever outside of Hungary. Since 2007, further to the clearance of the European Commission⁴, Magyar Hipermarket belongs to the group Louis Delhaize S.A. ("Louis Delhaize", Belgium).

(2) THE OPERATION AND THE CONCENTRATION

4. On 19 December 2011, Auchan and the Louis Delhaize signed a Sales and Purchase Agreement by which Auchan will acquire all the shares of Magyar Hipermarket and the real estate property related to the 7 hypermarkets operated by Magyar Hipermarket. The agreement provides that [...]. The value of the transaction as stipulated in the Sale and Purchase Agreement amounts to approximately [...].
5. The transaction was publicly announced by the Parties in a press release of 28 December 2011. The Sale and Purchase Agreement provides for a Long Stop Date of [...], by which time the conditions necessary to closing the agreement need to be fulfilled.
6. In view of the above, the proposed transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

(3) EU DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million⁵ (Auchan: EUR 42 billion, Magyar Hipermarket: [...]). Each of them has an EU-wide turnover in excess of EUR 250 million (Auchan: 33 billion, Magyar Hipermarket: [...]). Whereas Magyar Hipermarket generated more than two-thirds of its 2010 Communitywide turnover in Hungary, Auchan did not generate more than two-thirds of its 2010 aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension.

³ Magyar Hipermarket's hypermarkets are located in Budapest (Törökbálint, Budakalász, and Fót), Szeged, Miskolc, Debrecen and Szolnok.

⁴ Comp/M.4686 – Louis Delhaize/Magyar Hipermarket Kft.

⁵ Turnover calculated in accordance with Article 5 of the Merger Regulation.

(4) COMPETITIVE ASSESSMENT

(a) *Relevant Market*

Relevant product market

8. The Commission has recognised in a number of decisions that there is a distinct relevant product market for the retail sale of daily consumer goods mainly carried out by outlets such as supermarkets, hypermarkets and discount chains (the so-called “modern distribution channels”).⁶ The question of whether shops of other formats (such as cash & carry stores, neighbourhood stores and petrol service stations) should also be included in this market was instead left open.⁷
9. The Notifying Party submits that due to the specific characteristics of the Hungarian market, in addition to the modern distribution channels, also cash & carry stores shall be included in the market for the retail of daily consumer goods. In particular, the Notifying Party indicates that cash & carry stores compete with hypermarkets, supermarkets and discount chains not only for so-called “business customers” (such as companies, self-employed persons, customers with a liberal profession, etc.), which are in principle the target customers of cash & carry stores, but also for private end consumers.
10. The market investigation has confirmed that supermarkets, hypermarkets and discount chains are in direct competition with each other and therefore the modern distribution channels constitute a distinct relevant market.
11. On the other hand, with regards to the broader market definition proposed by the Parties, which would include the modern distribution channels and cash & carry stores, the market investigation was not conclusive.. In fact, the vast majority of the respondents to the market investigations indicated that the modern distribution channels are in direct competition with cash & carry. Moreover, the majority of consumers' associations considered that customers could easily buy from cash & carry and that their offer is comparable in terms of prices, range of products and facilities services to modern channels. However, some respondents to the market investigation claimed that some specific requirements have to be fulfilled in order to buy from cash & carry.
12. For the purposes of this decision, the precise product market definition can be left open, since the transactions does not give raise to serious doubts with respect to its compatibility with the internal market under the narrow market definition (i.e. modern distribution channels) or the broad market definition (i.e. modern distribution including cash& carry).

Relevant geographic market

13. In previous cases, the Commission defined the geographic market for the retail sale of daily consumer goods by the boundaries of a territory where the outlets can be reached easily by consumers (radius of approximately 20 to 30 minutes driving time).⁸

⁶ Comp/M.5176 – CVC/Schuitema, par. 8.; Comp/M.4590 - Rewe/Delvita, par. 12; Comp/M.3905 - Tesco/Carrefour, par. 15, Comp/M.1832 - Ahold/ICA Forbudnet/Canica, 06/04/2000; IV/M.784, Kesko/Tuko, 20/11/1996.

⁷ Comp/M.4686 – Louis Delhaize/Magyar Hipermarket Kft.; Comp/M.5134 – SPAR/Plus Hungary.

⁸ Comp/M.5112 - REWE PLUS /DISCOUNT.

14. The Commission also recognized that the market for the retail sale of daily consumer goods can be broader (regional or national) if different local areas are connected in such a way that they result in overlapping circles.⁹ In other cases, whereas the Commission indicated that the delineation of each local area can only be done on a case-by-case basis by taking into account the specific local circumstances, the geographic market definition was left open.¹⁰
15. The Notifying Party submits that from the supply-side perspective, there are strong indications that the scope of the geographic market is national. In fact, the Notifying Party maintains that most modern distribution channels in Hungary operate nationwide networks that cover large parts of Hungarian territory and they make purchasing and pricing decisions at national level.
16. For the sake of completeness, the Notifying Party has also provided information on the basis of the assumption that the market shall be narrowly defined as the local customer catchment areas within 20- and 30- minute driving time around each of the Auchan and Magyar Hipermarket' stores.
17. The market investigation confirmed that all competitors operate at national level and most of them decide about prices, product range, advertising campaigns and assortment at national level. From the demand side, no final conclusion can be obtained from the market investigation since half of the consumers' associations indicated that the average driving time to reach their outlets is 20 minutes and the other half indicated 30 minutes. The majority of consumers' associations also argued that Hungarian customers are willing to drive 30 minutes to reach their shopping outlets
18. For the purpose of the present case, the precise geographic market definition can be left open as the transaction does not give rise to serious doubts under any plausible alternative.

Market structure

19. The market for the retail sale of daily consumer goods in Hungary is characterized by strong players such as Tesco, CBA, Coop and Spar, which have a widespread and strong presence in the territory, and a number of smaller players.
20. Tesco is a major international retailer, headquartered in the United Kingdom, which entered the Hungarian market in 1995 and, by now, is the leader in the Hungarian retail market. Tesco currently operates 205 stores (115 hypermarkets and 90 smaller stores) under the Tesco brand in Hungary.
21. CBA is a Hungarian-owned retailer established in 1992. It currently operates 3 072 stores in Hungary. In addition, through association agreements concluded with food traders in seven other European countries, there now are a total of 3,895 food stores operated under the CBA brand outside of Hungary (i.e., in Bulgaria, the Czech Republic, Croatia, Romania, Serbia-Montenegro, Slovakia and Slovenia).
22. Coop is a network of Hungarian retailers, established in 1995. Currently, there are approximately 3 000 Coop stores in Hungary, operated under four distinct sub-brands in

⁹ Comp/M.1221-721Rewe/Meinl par. 18 and COMP/M.1684-Carrefour/Promodes par. 25.

¹⁰ Comp/M.4686 – Louis Delhaize/Magyar Hipermarket Kft.

accordance with their respective size: “Coop Mini”, “Coop”, “Coop Maxi” and “Coop Szupermarket”.

23. Spar is a major international retailer, headquartered in the Netherlands. SPAR Hungary Ltd. opened its first supermarket in 1991 and as a result of the continuous dynamic growth, it has now become one of the largest food retail chains in the country. At the end of 2011 the Hungarian SPAR-group operated 388 stores of three different formats all over the country (INTERSPAR hypermarkets, SPAR supermarkets, City SPAR stores).
24. Metro is a cash & carry brand of the German Metro Group. Metro entered the Hungarian market in 1993 and currently operates 13 outlets in Hungary as the only cash & carry operator.
25. Aldi is a major international discounter, headquartered in Germany. Aldi entered the retail market in Hungary in 2008. In only three years, Aldi has already almost doubled its number of stores in Hungary, from 42 to 78.
26. Lidl has been present on the Hungarian market since 2004 and currently operates 152 stores.
27. Reál is a network of Hungarian retailers, established in 2001. Currently, there are approximately 2 320 Reál stores in Hungary, operated under two distinct sub-brands: “Reál Élelmiszer” for stores above 100 m² floorspace and “ReálPONT” for smaller stores.

(b) Assessment

28. Auchan is currently the fifth largest retailer of daily consumer goods in Hungary, lagging in terms of market shares far behind from the market leader Tesco ([10-20]%) and other major players such as CBA ([5-10]%), Coop ([5-10]%) and Spar ([5-10]%).
29. On the basis of a national geographic market definition, the transaction would not give rise to any horizontally affected market as the combined market shares of the Parties would be around [5-10]% under both proposed market definition (including and excluding cash & carry). Auchan accounts for an estimated [0-5]% of the market and Magyar Hipermarket for only around [0-5]%.
30. As a result, post-transaction the merged entity would continue to face competitive pressure from Tesco, CBA and Coop and a number of new competitive players.
31. On the basis of a local geographic market definition, the transaction would give rise to 13 (mutually overlapping) horizontally affected markets identified as overlaps between the catchment areas (within 20 and 30 minutes driving distance) of Auchan and Magyar Hipermarket stores.
32. In particular, the Parties retail networks overlaps mainly in the great Budapest area, where the Parties operate 12 hypermarkets¹¹.

¹¹ Magyar Hipermarket operates 3 stores in the great Budapest area (Törökbálint, Budakalász, and Fót) and 4 stores in other Hungarian cities (Szeged, Miskolc, Debrecen and Szolnok). Auchan operates 9 stores in the great Budapest area (Budaörs, Soroksár, Dunakeszi, Csepel, Csömör, Óbuda, Albertfalva, Solymár and Maglód) and 3 stores in other cities (Székesfehérvár, Kecskemét and Miskolc).

33. The Parties' combined market shares under the two possible product market definitions and within 20 and 30 minutes driving distance from the stores are illustrated in the tables below.

Market Shares (in value) on 30-minute drive-time basis (2010)						
Catchment area	Market Shares including cash & carry(%)			Market Shares excluding cash & carry (%)		
	Auchan	Magyar Hipermarket	Combined	Auchan	Magyar Hipermarket	Combined
Dunakeszi	[10-20]%	[0-5]%	[20-30]%	[20-30]%	[5-10]%	[20-30]%
Budaörs	[10-20]%	[0-5]%	[10-20]%	[10-20]%	[0-5]%	[10-20]%
Csömör	[10-20]%	[0-5]%	[20-30]%	[20-30]%	[0-5]%	[20-30]%
Obuda	[20-30]%	[0-5]%	[20-30]%	[20-30]%	[0-5]%	[20-30]%
Solymár	[10-20]%	[5-10]%	[20-30]%	[10-20]%	[5-10]%	[20-30]%
Albertfalva	[10-20]%	[0-5]%	[20-30]%	[20-30]%	[0-5]%	[20-30]%
Maglód	[10-20]%	[0-5]%	[20-30]%	[20-30]%	[0-5]%	[20-30]%
Csepel	[10-20]%	[0-5]%	[20-30]%	[20-30]%	[0-5]%	[20-30]%
Miskolc	[10-20]%	[5-10]%	[10-20]%	[10-20]%	[5-10]%	[20-30]%
Fót	[10-20]%	[0-5]%	[20-30]%	[10-20]%	[0-5]%	[20-30]%
Budakalász	[10-20]%	[0-5]%	[20-30]%	[10-20]%	[0-5]%	[20-30]%
Törökbálint	[10-20]%	[0-5]%	[20-30]%	[20-30]%	[0-5]%	[20-30]%
Miskolc	[10-20]%	[5-10]%	[20-30]%	[10-20]%	[10-20]%	[20-30]%

Market Shares (in value) on 20- minute drive-time basis (2010)						
Catchment area	Market Shares including cash & carry (%)			Market Shares excluding cash & carry (%)		
	Auchan	Magyar Hipermarket	Combined	Auchan	Magyar Hipermarket	Combined
Dunakeszi	[20-30]%	[5-10]%	[30-40]%	[30-40]%	[5-10]%	[30-40]%
Budaörs	[20-30]%	[0-5]%	[20-30]%	[20-30]%	[5-10]%	[20-30]%
Csömör	[10-20]%	[5-10]%	[20-30]%	[20-30]%	[5-10]%	[20-30]%
Obuda	[10-20]%	[5-10]%	[20-30]%	[20-30]%	[5-10]%	[20-30]%
Solymár	[20-30]%	[5-10]%	[30-40]%	[30-40]%	[5-10]%	[40-50]%
Albertfalva*	-	-	-	-	-	-
Maglód*	-	-	-	-	-	-
Csepel	[30-40]%	[0-5]%	[30-40]%	[30-40]%	[0-5]%	[40-50]%
Miskolc	[10-20]%	[10-20]%	[20-30]%	[10-20]%	[10-20]%	[30-40]%
Fót	[20-30]%	[5-10]%	[30-40]%	[20-30]%	[5-10]%	[30-40]%
Budakalász	[10-20]%	[5-10]%	[20-30]%	[20-30]%	[5-10]%	[30-40]%
Törökbálint	[20-30]%	[5-10]%	[30-40]%	[20-30]%	[5-10]%	[30-40]%
Miskolc	[10-20]%	[10-20]%	[20-30]%	[10-20]%	[10-20]%	[30-40]%

**The Notifying Party indicates that there is no Cora outlet within the 20 minutes radius.*

34. Under the broad geographic market definition (i.e. 30 minutes driving), the market shares stay below 30% in all catchment areas. Under the narrow geographic market (i.e. 20 minutes driving), the combined market share would only reach marginally above 40% in Csepel and Solymár catchment areas, and only if cash & carry were excluded from the market.¹² Furthermore, when cash & carry is included in the market, it is possible to

¹² In 2010, the main competitors were: Tesco ([30-40]%), SPAR ([10-20]%) and Lidl ([0-5]%) in Csepel; SPAR ([10-20]%), CBA ([10-20]%) and Tesco ([10-20]%) in Solymár. In addition, in both areas, smaller competitors, such Lidl are planning to open new stores.

conclude that each catchment area – even the narrow 20 minutes – remain relatively unconcentrated (HHI below 2500).

35. The wide majority of the respondents to the market investigation do not expect any effects on the retail market of daily consumer goods post-transaction.
36. According to the market investigation, competitors do not fear that the transaction might have anti-competitive effects on the retail market in Hungary. In particular, it emerged that the Parties are perceived as minor competitors on the national market. However, some of the competitors pointed out that post-transaction the Parties will have a strong position in the area around Budapest.
37. The market investigation showed that, even under the narrow geographic market where the Parties reach 40%, customers have multiple possibilities to switch to suppliers such as Tesco, Lidl, Penny, Spar, Match, Aldi and CBA. Moreover, one consumers' associations indicated that customers are extremely price sensitive and they consider all possibilities for their purchases. On the other side, some competitors confirmed that there is strong price competition in Hungary, customers follow the prices and this influences their buying choices.
38. Finally, the investigation has confirmed that the retail market in Hungary is currently highly dynamic in particular because of the relatively recent entry of new players, such as Aldi, Lidl and Real, which are large operators (Aldi and Lidl) active in adjacent geographic areas. In particular, the market investigation also suggested that competitors such as Lidl already have plans for further expanding their presence in Csepel and Solymár catchment areas. Therefore, it can be expected that post-transaction competition will remain strong in all the concerned areas.
39. In view of the above, it is concluded that the transaction does not raise serious doubts in as to its compatibility with the internal market and the functioning of the EEA Agreement in relation to the market for the retail sale of daily consumer goods.

(5) CONCLUSION

40. 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 functioning of 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*