



EUROPEAN COMMISSION
DG Competition

***Case M.11165 – CARREFOUR /
ROMANIA HYPERMARCHE***

Only the English text is available and authentic.

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

Article 4(4)
Date: 10/07/2023



EUROPEAN COMMISSION

Brussels, 10.7.2023
C(2023) 4786 final

PUBLIC VERSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

Carrefour Netherland B.V.
Overschiestraat 186-D
1062 XK Amsterdam
The Netherlands

Romanian Competition Council
1, Piata Presei Libere
013701 Bucharest
Romania

Subject: Case M.11165 – CARREFOUR / ROMANIA HYPERMARCHE
Commission decision following a reasoned submission pursuant to
Article 4(4) of Regulation No 139/2004¹ for referral of the case to the
Romania and Article 57 of the Agreement on the European Economic
Area²

Date of filing: 16.06.2023

Legal deadline for response of Member States: 07.07.2023

Legal deadline for the Commission decision under Article 4(4): 24.07.2023

Dear Sir or Madam,

1. INTRODUCTION

- (1) On 16 June 2023, the Commission received by means of a Reasoned Submission a referral request pursuant to Article 4(4) of the Merger Regulation with respect to

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 OJ L 1, 3.1.1994, p. 3 (the ‘EEA Agreement’).

the transaction cited above. The parties request the operation to be examined in its entirety by the competent authorities of Romania.

- (2) According to Article 4(4) of the Merger Regulation, before a formal notification has been made to the Commission, the parties to the transaction may request that their transaction be referred in whole or in part from the Commission to the Member State where the concentration may significantly affect competition and which present all the characteristics of a distinct market.
- (3) A copy of this Reasoned Submission was transmitted to all Member States on 16 June 2023.
- (4) By letter of 27 June 2023, the Romanian Competition Council ('RCC') as the competent authority of Romania informed the Commission that Romania agrees with the proposed referral.

2. THE PARTIES AND THE PROPOSED TRANSACTION

- (5) **Carrefour Nederland B.V.** ('Carrefour') is a Dutch subsidiary of the Carrefour Group, a world-leading retailer of food and non-food products operating modern trade stores (mainly hypermarkets and supermarkets, but also other type of retail stores) in Europe and Latin America in more than 40 countries. The Carrefour Group operates in Romania retail stores including (i) hypermarkets, under the 'Carrefour' brand, (ii) supermarket stores under the 'Carrefour Market' brand, (iii) convenience stores under the 'Carrefour Express' brand, (iv) discount stores under the 'Supeco' brand; and (v) an online marketplace under the 'Bringo' brand.
- (6) **Romania Hypermarche S.A.** ('Romania Hypermarche' or the 'Target') operates the retail business (i.e. hypermarkets and proximity stores) in Romania of the Louis Delhaize Group, under the brand names 'Cora' and 'Cora Urban'. The Target also offers (i) home delivery services for online orders which can be placed on its website, *cora.ro*,³ and (ii) delivery services to business customers under the brand 'Cora Pro'.
- (7) Carrefour will hereinafter be referred to as the 'Notifying Party' and, together with Romania Hypermarche, as the 'Parties'.
- (8) According to a share purchase and sale agreement signed on 27 April 2023, Carrefour will acquire 100% of the shares in the Target from the Louis Delhaize Group (the 'Proposed Transaction').

3. EU DIMENSION

- (9) The Proposed Transaction has an EU dimension within the meaning of Article 1(2) of the Merger Regulation. The Parties have a combined aggregate turnover of more than EUR 5 000 million (the Carrefour Group: EUR 81 385 million; and the Target: EUR [...] million). Each of the Parties achieved Union-wide turnover in excess of EUR 250 million (the Carrefour Group: EUR [...] million; and the Target: EUR [...] million). The Carrefour Group does not achieve two thirds of its EU-wide turnover within one Member State.

³ These services are delivered under the Cora Express brand and through the Cora application which offers home deliveries for online orders.

4. ASSESSMENT

(10) The Proposed Transaction gives rise to horizontally affected markets in the procurement and retail sale of daily consumer goods in Romania. The Proposed Transaction does not give rise to any other affected markets in Romania or any other affected markets outside of Romania.

4.1. Relevant Markets

4.1.1. Procurement of daily consumer goods

4.1.1.1. Product market definition

(11) In previous decisions, the Commission defined a separate market for the procurement of daily consumer goods, comprising the sale of daily consumer goods to customers such as wholesalers, retailers and other firms.⁴

(12) The Commission considered, but left open, the question of whether a further distinction should be made between different sales channels, such as food-retailing, specialised trade, delicatessen, cash-and-carry stores and other wholesalers, drugstores and export trade.⁵ The Commission also considered, but left open, the question of whether the market for the procurement of daily consumer goods should be further segmented into the following product categories: (a) Meat and sausages; (b) Poultry and eggs; (c) Bread and pastry; (d) Dairy products; (e) Fresh fruit and vegetables; (f) Beer; (g) Wine and spirits; (h) Non-alcoholic beverages; (i) Hot beverages; (j) Confectionery; (k) Basic foodstuffs; (l) Canned food; (m) Frozen food; (n) Baby food; (o) Pet food; (p) Personal care items (e.g., creams, lotions) and cosmetics (e.g., makeup and fragrances); (q) Detergents and cleaning agents; (r) Other drugstore products; and (s) Other non-food products commonly found in supermarkets (e.g., newspapers, magazines, entertainment).⁶

(13) The Parties submit that the market for the procurement of daily consumer goods should not be further segmented based on product category.⁷

(14) In light of the above, the Commission considers that the market for the procurement of daily consumer goods can plausibly be further segmented by

⁴ Commission decision in Case M.10631 – *ITM/Mestdagh*, (2022), paragraph 13; Commission decision in Case M.9495 – *Fortenova Grupa/Poslovni Sistemi Mercator*, (2020), paragraph 77; Commission decision in Case M.8374 – *Uab Rimi Lietuva/Uab Palink*, (2017), paragraph 16; Commission decision in Case M.7933 – *Carrefour/Billa Romania and Billa Invest Construct*, (2016) paragraph 16; Commission decision in Case M.7920 – *Netto/J Sainsbury/Dansk Supermarked/New Edlington/Hedon/Roundhay Road*, (2016), paragraph 19; Commission decision in Case M.7702 – *Koninklijke Ahold/Delhaize Group*, (2016), paragraph 15; Commission decision in Case M.7224 – *Koninklijke Ahold/Spar CZ*, (2014), paragraph 10; Commission decision in Case M.5122 – *Rewe/Plus Discount*, (2008), paragraph 16; Commission decision in Case M.1684 – *Carrefour/Promodes*, (2000), paragraph 14; and Commission decision in Case M.1221 – *Rewe/Meinl*, (1999), paragraph 75.

⁵ Commission decision in Case M.8374 – *Uab Rimi Lietuva/Uab Palink*, (2017) paragraph 16; Commission decision in Case M.7920 – *Netto/J Sainsbury/Dansk Supermarked/New Edlington/Hedon/Roundhay Road*, (2016), paragraph 19; Commission decision in Case M.7933 – *Carrefour/Billa Romania and Billa Invest Construct*, (2016), paragraph 16; Commission decision in Case M.1221 – *Rewe/Meinl*, (1999), paragraphs 79-81.

⁶ Commission decision in Case M.10631 – *ITM/Mestdagh*, (2022), paragraph 14; Commission decision in Case M.9495 – *Fortenova Grupa/Poslovni Sistemi Mercator*, (2020), paragraph 78; Commission decision in Case M.9847 – *Aldi/FPLPH Assets*, (2020), paragraph 20; Commission decision in Case M.7702 – *Koninklijke Ahold/Delhaize Group*, (2015), paragraph 16.

⁷ Form RS, paragraphs 58.

(i) different sales channels and (ii) product categories. However, the Commission considers that the precise scope of the product market can be left open, as the first condition of Article 4(4) of the Merger Regulation is met under one plausible product market definition (i.e. by product category).

4.1.1.2. Geographic market definition

- (15) In previous decisions, the Commission defined the market for the procurement of daily consumer goods as national in scope, as consumer preferences relate to national products and suppliers generally negotiate at a national level.⁸
- (16) The Parties consider that the geographic scope of the market for the procurement of daily consumer goods is national.⁹
- (17) For the purposes of the Commission's assessment under Article 4(4) of the Merger Regulation, the Commission considers that, in line with its precedents, the market for the procurement of daily consumer goods and its plausible sub-segmentations are national in scope.

4.1.2. Retail sale of daily consumer goods

4.1.2.1. Product market definition

- (18) In previous decisions, the Commission considered that the sale of daily consumer goods carried out by retail outlets such as hypermarkets, supermarkets and discount chains 'modern distribution channels') constitutes a distinct market, different from the sale of consumer goods carried out by other types of retailers such as specialised outlets (butchers or bakers, for instance) and service stations.¹⁰ These modern distribution channels offer consumers a basket of fresh and dry foodstuffs and non-food household consumables sold in a supermarket environment.¹¹

⁸ Commission decision in Case M.10631 – *ITM/Mestdagh*, (2022), paragraph 15; Commission decision in Case M.8374 – *UAB Rimi Lietuva/UAB Palink*, (2017), paragraph 19; Commission decision in Case M.7933 – *Carrefour/Billa Romania and Billa Invest Construct*, (2016) paragraph 19; Commission decision in Case M.7920 – *Netto/J Sainsbury/Dansk Supermarked/New Edlington/Hedon/Roundhay Road*, (2016), paragraph 21; Commission decision in Case M.7224 – *Koninklijke Ahold/Spar CZ*, (2014), paragraph 12; Commission decision in Case M.5112 – *REWE/Plus discount*, (2008), paragraph 23.

⁹ Form RS, paragraph 65.

¹⁰ Commission decision in Case M.10631 – *ITM/Mestdagh*, (2022), paragraph 15; Commission decision in Case M.8374 – *UAB Rimi Lietuva/UAB Palink*, (2017), paragraph 13; Commission decision in Case M.7933 – *Carrefour/Billa Romania and Billa Invest Construct*, (2016), paragraph 14; Commission decision in Case M.7920 – *Netto/J Sainsbury/Dansk Supermarked/New Edlington/Hedon/Roundhay Road*, (2016), paragraph 15; Commission decision in Case M.7224 – *Koninklijke Ahold/Spar CZ*, (2014), paragraph 9; Commission decision in Case M.5112 – *Rewe/Plus Discount*, (2008), paragraph 15; and Commission decision in Case M.5047, *REWE/Adeg*, (2011), paragraph 24; Commission decision in Case M.4590 – *Rewe/Delvita*, (2007), paragraphs 9-14; Commission decision in Case M.4686 – *Louis Delhaize/Magyar Hipermarket Kft.*, (2007), paragraph 8; Commission decision in Case M.2604 – *ICA Ahold/Dansk Supermarked*, (2001), paragraphs 10 and 11; and Commission decision in Case M.3905 – *TESCO/Carrefour*, (2005), paragraph 10.

¹¹ Commission decision in Case M.10631 – *ITM/Mestdagh*, (2022), paragraph 15; Commission decision in Case M.8374 – *UAB Rimi Lietuva/UAB Palink*, (2017) paragraph 13; Commission decision in Case M.7933 – *Carrefour/Billa Romania and Billa Invest Construct*, (2016), paragraph 14; Commission decision in Case M.7920 – *Netto/J Sainsbury/Dansk Supermarked/New Edlington/Hedon/Roundhay Road*, (2016), paragraph 15; Commission decision in Case M.5677 – *Schuitema/Super de Boer Assets*, (2010), paragraph 18; Commission decision in Case M.6847 – *Triton/Suomen Lähikauppa*,

Supermarkets, hypermarkets and discount chains compete with respect to their food and non-food product range, marketing strategy and customer approach, and each offers consumers the possibility to purchase all their daily groceries in one shop.¹²

- (19) Moreover, the Commission generally considered that the other types of retailers such as specialised outlets, kiosks, cash & carry stores and service stations ('traditional distribution channels') do not belong to the relevant market, in view of the fact that they fulfil a specialist or convenience function.¹³
- (20) The Commission has generally left open the question of whether a further distinction should be made according to the total surface of the stores.¹⁴
- (21) The Parties consider that, in line with RCC's decisional practice, the market should be defined as the market for modern distribution channels, comprising hypermarkets, supermarkets, discount stores, and proximity stores.¹⁵
- (22) In light of the above, the Commission considers that the market for the retail sale of daily consumer goods can plausibly be further segmented by (i) sales channels (modern and traditional sales channels); and (ii) surface of the stores. However, the Commission considers that the precise scope of the product market can be left open, as the first condition of Article 4(4) of the Merger Regulation is met under at least one plausible product market definition (i.e. market for the retail sale of daily consumer goods through modern distribution channels, without any further segmentation).

4.1.2.2. Geographic market definition

- (23) In previous decisions, the Commission has considered that the geographic market for the retail sale of daily consumer goods is local in nature, the exact geographical scope corresponding to a catchment area around each store, based on travel distance to the store. In previous decisions, the Commission has considered a zone of 10, 20, or 30 minutes¹⁶ of travel time by car to the store.¹⁷
- (24) In its previous decisional practice, the RCC has considered catchment areas of approximately (i) 10 minutes of travel by car in respect to retail stores with a

(2013), paragraph 11; and Commission decision in Case M.784 – *Kesko/Tuko*, (1997), paragraphs 18-20.

¹² Commission decision in Case M.10631 – *ITM/Mestdagh*, (2022), paragraph 15; and Commission decision in Case M.5677 – *Schuitema/Super de Boer Assets*, (2010), paragraph 18.

¹³ M.8374 – *UAB Rimi Lietuva/UAB Palink*, paragraph 14.

¹⁴ Commission decision in Case M.10631 – *ITM/Mestdagh*, (2022), paragraph 17; Commission decision in Case M.9847 – *Aldi/FPLPH Assets*, paragraph 15; Commission decision in Case M.7345 – *Carrefour/53 magasins de Billa en Italie*, paragraph 12.

¹⁵ Form RS, paragraphs 75.

¹⁶ In general, hypermarkets, defined as stores with a surface of more than 2500 square meter, have a larger catchment area (20 to 30 minutes) than smaller stores such as supermarkets (catchment areas of 10 to 20 minutes).

¹⁷ Commission decision in Case M.10631 – *ITM/Mestdagh*, (2022), paragraph 20; M.8468 – *Norgesgruppen/Axfood/Eurocash*, paragraph 24; M.8374 – *Uab Rimi Lietuva/Uab Palink*, paragraph 15; M.7702 – *Koninklijke Ahold/Delhaize Group*, paragraph 17; M.6506 – *Groupe Auchan/Magyar Hipermarket*, paragraph 13; M.6822 – *Groupe Auchan/Real/Real Hypermarket Romania*, paragraph 11; M.5790 – *Lidl/Plus Romania/Plus Bulgaria*, paragraph 14; M.5176 – *CVC/Schuitema*, paragraph 12; M.7920 – *Netto/J Sainsbury/Dansk Supermarked/New Edlington/Hedon/Roundhay*, paragraph 17.

surface above 400m²; and (ii) 10 minutes walking distance, for stores with a surface below 400m².¹⁸

- (25) The Parties claim that the geographic scope of the market for the retail sale of daily consumer goods through modern distribution channels should correspond to a catchment area of (i) 10, 20 or 30 minutes of travel time by car around each Cora hypermarket; and (ii) 10 minutes of travel time by car or walk time around each Cora proximity store.¹⁹
- (26) In light of the above, for the purpose of this case the Commission considers that the precise scope of the product market can be left open, as the first condition of Article 4(4) of the Merger Regulation is met under several plausible geographic market definitions (for example: (i) a radius of up to 20 or 30 minutes' drive time around each hypermarket; (ii) a radius of up to 10 minutes' drive time around each proximity store).

4.2. Assessment of the referral request

4.2.1. Legal requirements

- (27) According to the Commission Notice on case referrals,²⁰ in order for a referral to be made by the Commission to one or more Member States pursuant to Article 4(4), the following two legal requirements must be fulfilled:
- (a) there must be indications that the concentration may significantly affect competition in a market or markets,²¹ and
 - (b) the market(s) in question must be within a Member State and present all the characteristics of a distinct market.²²
- 4.2.1.1. The Proposed Transaction may significantly affect competition in a market or markets
- (28) According to paragraph 17 of the Notice on Case Referrals, the existence of an affected market is generally considered sufficient to meet the requirement set forth in Article 4(4) of the Merger Regulation.
- (29) In light of the information submitted by the Parties in the Reasoned Submission, the Proposed Transaction results in several horizontally affected markets in Romania.

¹⁸ For instance, RCC Decision No. 88/10.12.2019 on the economic concentration related to the acquisition by Profi Rom Food SRL of sole control over the trade funds related to a number of eighteen commercial premises belonging to PRAM MAYA SRL [decizie profi-maya neconfidentializata.pdf \(consiliulconcurentei.ro\)](#); RCC Decision No. 46/14.11.2014 on the economic concentration related to the acquisition of sole control by Mega Image SRL over assets (i.e. supermarket stores) of Angst Retail SRL: [decizia mega cu angst angaj site2.pdf \(consiliulconcurentei.ro\)](#). This approach is also confirmed in a report from 2017 published by the RCC in respect to the market for retail sale of consumer foods: [raport izocroni retail.pdf \(consiliulconcurentei.ro\)](#).

¹⁹ Form RS, paragraph 74-75.

²⁰ See the Commission's Notice on Case Referral in respect of concentrations (OJ C 56, 5.3.2005, p. 2) (the "Notice on Case Referrals").

²¹ Further developed in point 17 of the Commission Notice on Case Referrals.

²² Further developed in point 18 of the Commission Notice on Case Referrals.

- (30) On the market for the procurement of daily consumer goods, the Proposed Transaction would give rise to an affected market in Romania if it were to be segmented by product category (i.e. a combined market share of [20-30]% on the market for the procurement of baby food).²³
- (31) On the market for the retail sale of daily consumer goods through modern distribution channels, the Proposed Transaction would give rise to:²⁴
- (i) Eight affected markets, with combined market shares based on value ranging from [20-30]% to [50-60]%, within a radius of 20 or 30 minutes' drive time around each Cora hypermarket;
 - (ii) Twelve affected markets, with combined market shares based on value ranging from [20-30]% to [40-50]%, considering a radius of up to 10 minutes' drive-time around each Cora hypermarket²⁵ or around each Cora proximity store.
- (32) In view of the above, the presence of affected markets with market shares up to [50-60]%, constitutes a plausible indication that the proposed transaction may significantly affect competition in several local markets in Romania.
- (33) Therefore, the first legal requirement set forth in Article 4(4) of the Merger Regulation is met.

4.2.1.2. The market(s) in question must be within a Member State and present all the characteristics of a distinct market

- (34) According to paragraph 18 of the Notice on Case Referrals, the second requirement set forth by Article 4(4) of the Merger Regulation is satisfied if the geographic scope of the markets where competition is affected is national or narrower than national.
- (35) As indicated above, the market for the procurement of daily consumer goods and the market for the retail sale of daily consumer goods through modern distribution channels contain local elements and are defined as national or narrower than national in scope by the Commission.
- (36) Therefore, the second legal requirement set forth by article 4(4) of the Merger Regulation is also met.

4.2.2. *Additional factors*

- (37) In addition to the verification of the legal requirements, paragraph 19 of the Notice on Case Referrals provides that it should also be considered whether referral of the case is appropriate, and, in particular, whether the competition authority or authorities to which the Parties are contemplating requesting the referral of the case is the most appropriate authority for dealing with the case. Paragraph 23 of the Notice on Case Referrals also states that consideration should also, to the extent possible, be given to whether the national competition authority to which the

²³ Form RS, Tables 14 and 15.

²⁴ Form RS, paragraphs 99.

²⁵ The radius used under this scenario is consistent with the RCC's well-established practice, adjusted to the local realities.

referral of the case is contemplated may possess specific expertise concerning local markets.

- (38) *First*, the Romanian NCA has specific expertise in the assessment of markets in the sector concerned. Indeed, the RCC has recently reviewed several concentrations in the retail sale of daily consumer goods. In addition, the RCC is actively monitoring the retail market for food products and regularly publishes reports assessing the conditions of competition in this sector.²⁶
- (39) *Second*, in light of the information submitted in the Reasoned Submission by the Parties, the Commission considers that the effects of the Proposed Transaction are confined to Romania either at a national or sub-national level, where geographic markets take the form of catchment areas. Thus, the case may require investigative efforts at local level for which the RCC seems better placed to conduct.
- (40) *Third*, a referral of the Proposed Transaction to the RCC satisfies the need to preserve the benefit of the ‘one-stop-shop’ in line with paragraph 11 of the Notice on Case Referrals as there are no affected markets outside Romania. The case would thus be referred in its entirety to a single competition authority (i.e., the RCC), which is an important factor of administrative efficiency.
- (41) *Fourth*, the Commission regularly refers cases concerning the retail sales of daily consumer goods to national competition authorities²⁷, including to the RCC.²⁸

4.2.3. *Conclusion on the referral request*

- (42) In the light of the foregoing and on the basis of the information provided by the Parties in the Reasoned Submission, the Commission concludes that the case meets the legal requirements set out in Article 4(4) of the Merger Regulation in that the concentration may significantly affect competition in markets within a Member State which present all the characteristics of distinct markets.
- (43) Moreover, the requested referral would be consistent with paragraphs 19-23 of the Notice on Case Referrals, in particular because the Romanian NCA appears to be the most appropriate authority to examine the Proposed Transaction.

5. CONCLUSION

- (44) For the above reasons, and given that Romania has expressed its agreement, the Commission has decided to refer the Proposed Transaction in its entirety to be examined by Romania. This decision is adopted in application of Article 4(4) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Olivier GUERSENT
Director-General

²⁶ See footnote 18.

²⁷ See for instance Commission decision in Case M.10631 – *ITM/Mestdag*; Commission decision in Case M.8374 – *Uab Rimi Lietuva/Uab Palink*; Commission decision in Case M.7702 – *Koninklijke Ahold/Delhaize Group*; and Commission decision in Case M.6822 – *Groupe Auchan/Real/Real Hypermarket Romania*.

²⁸ Commission decision in Case M.6822 – *Groupe Auchan/Real/Real Hypermarket Romania*.