



EUROPEAN COMMISSION  
DG Competition

***Case M.11085 – FRASERS / GO SPORT***

Only the English text is available and authentic.

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

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Article 4(4)  
Date: 05/04/2023



EUROPEAN COMMISSION

Brussels, 5.4.2023  
C(2023) 2539 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 Where possible the information omitted has been replaced by ranges of figures or a general description.

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France

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France

**Subject: Case M.11085 – FRASERS / GO SPORT**  
**Commission decision following a reasoned submission pursuant to Article 4(4) of Regulation No 139/2004<sup>1</sup> for referral of the case to France and Article 57 of the Agreement on the European Economic Area<sup>2</sup>**

**Date of filing:** 30 March 2023

**Legal deadline for response of Member States:** 25 April 2023

**Legal deadline for the Commission decision under Article 4(4):** 11 May 2023

<sup>1</sup> 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.

<sup>2</sup> OJ L 1, 3.1.1994, p. 3 (the ‘EEA Agreement’).

Dear Sir or Madam,

## 1. INTRODUCTION

- (1) On 30 March 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 the transaction cited above. The parties request the operation to be examined in its entirety by the competent authorities of France.
- (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 presents all the characteristics of a distinct market.
- (3) A copy of this Reasoned Submission was transmitted to all Member States on 30 March 2023.
- (4) By letter of 31 March 2023, the French Competition Authority ('FCA'), as the competent authority of France informed the Commission that France agrees with the proposed referral.

## 2. THE PARTIES

- (5) **SPORTSDIRECT.COM France SA** (France) (the 'Notifying Party'), a fully owned company of the Frasers Group (United Kingdom), is active in the retail trade market of sports goods and operates seven Sports Direct stores in France.
- (6) **GO Sport Les Halles SNC** (France), the real estate companies **SAS les Buissières** (France) and **SAS Grand Large Sport** (France) as well as 74 out of 81 GO Sport stores selling sports goods in France, currently owned by SAS GO Sport France, all controlled by Groupe Go Sport SAS, are the targets of the transaction (the 'Target'; together with the Notifying Party, the 'Parties'). The Target is mainly active in the retail distribution of sports and camping goods and real estate with its main operations in the EEA. Within the EEA, the Target is active only in France.

## 3. THE OPERATION AND CONCENTRATION

- (7) Subject to the positive outcome of the judgement scheduled for 18 April 2023 of the Commercial Court of Grenoble (France) regarding the offers submitted to acquire the Target, the Notifying Party intends to acquire within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the Target (the 'Proposed Transaction').
- (8) The Proposed Transaction therefore constitutes a concentration with a Union dimension within the meaning of Article and 3(1)(b) of the Merger Regulation.

#### **4. EU DIMENSION**

- (9) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million (Frasers Group: EUR 5 637 million and the Target: EUR [...] million). Each of them achieved Union-wide turnover in excess of EUR 250 million (Frasers Group: EUR [...] million and the Target: EUR [...] million). Frasers Group does not achieve two thirds of its EU-wide turnover within one Member State. The notified operation therefore has an EU dimension within Article 1(2) of the Merger Regulation.

#### **5. ASSESSMENT**

- (10) On the basis of the information submitted in the Reasoned Submission, the Proposed Transaction leads to horizontal overlaps (i) in the market for the online retail of sports and camping goods in France and (ii) in the markets for the brick-and-mortar retail of sports and camping goods in the catchment areas around the Notifying Party's stores.<sup>3</sup>

##### **5.1. Relevant product markets**

- (11) In its decisional practice, the Commission distinguished the non-food retail markets by product families, recognising “*sports goods and camping*” as a separate category.<sup>4</sup> The Commission has also considered, but ultimately left open, whether the market for retail of sports and camping goods could be further segmented into apparel, footwear, and equipment, or even narrower into categories, by brands or type of sports.<sup>5</sup>
- (12) The Commission previously also considered a possible segmentation between sales channels, but ultimately left open whether the market for retail of sports and camping goods could be further segmented into brick-and-mortar shops and online sales.<sup>6</sup>
- (13) For the purpose of this decision and without prejudice to the FCA's assessment, since there are affected markets already for the overall sports and camping goods market, no further segmentation will be assessed.

##### **5.2. Relevant geographic market**

- (14) In its decisional practice, the Commission has considered that the geographic market for online retail of sports and camping goods was national in scope.<sup>7</sup>

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<sup>3</sup> The Notifying Party operates seven Sport Direct stores in France in the following areas: Herblay-sur-Seine, Roissy-en-France, Le Mans, Sainte-Geneviève-des-Bois, Fresnes, Claye-Souilly, and Coquelle.

<sup>4</sup> Case M.5721 – Otto/ Primondo Assets, paragraph 19.

<sup>5</sup> Case M.8710 – JD / Sonae MC / Balaiko / JDSH / Sport Zone, paragraph 37.

<sup>6</sup> Case M.5721 – Otto/ Primondo Assets, paragraph 30.

<sup>7</sup> Case M.5721 – Otto/ Primondo Assets, paragraph 32.

- (15) Regarding the possible brick-and-mortar retail of sports and camping goods market, the Commission left open whether the market should be local or wider, and assessed catchment areas of 30-minute drive from each of the Parties' stores.<sup>8</sup>

### 5.3. Assessment of the referral request

#### 5.3.1. Legal requirements

- (16) According to the Commission Notice on case referral,<sup>9</sup> in order for a referral to be made by the Commission to one or more Member States pursuant to Article 4(4) of the Merger Regulation, 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,<sup>10</sup> and
  - (b) the market(s) in question must be within a Member State and present all the characteristics of a distinct market.<sup>11</sup>
- (17) Based on the information submitted in the Reasoned Submission, the Parties' activities overlap at national and local level in France, but in no other country in the EEA. The Proposed Transaction leads to affected markets for the sale of sports and camping goods in all six catchment areas around the Notifying Party's current seven stores.

**Table 1 – Estimated market shares**

Zone	Large multisport stores	All multisport stores
Le Mans	[20-30]%	[20-30]%
Sainte-Geneviève	[30-40]%	[30-40]%
Fresnes	[60-70]%	[20-30]%
Claye	[30-40]%	[20-30]%
Herblay	[30-40]%	[20-30]%
Aéroville	[50-60]%	[40-50]%

Source: Form RS and case team calculations based on Annex 15 to the Form RS

- (18) As shown in Table 1, depending on the segmentation considered, the Parties' combined market share may be significantly high (up to [60-70]%) in the sale of sports and camping goods in certain catchment areas when considering only large multisport retailers rather than all multisport stores.

<sup>8</sup> Case M.8710 – JD / Sonae MC / Balaiko / JDSH / Sport Zone, paragraph 41.

<sup>9</sup> OJ C 56, 5.3.2005, p. 2–23, ('Notice on Case Referrals').

<sup>10</sup> Further developed in point 17 of the Commission Notice on Case Referrals.

<sup>11</sup> Further developed in point 18 of the Commission Notice on Case Referrals.

- (19) In particular, the combined market shares of the Parties are close to [60-70]% in [...] of the catchment areas, exceeding [30-40]% in [...] and just below [30-40]% [...] of the catchment areas. Such market structures are a plausible indication that the Proposed Transaction may significantly affect competition in a number of catchment areas.
- (20) Therefore, the first legal requirement set forth in Article 4(4) of the Merger Regulation is met.
- (21) All of the abovementioned catchment areas and any plausible geographic market definitions are located within the territory of France and, therefore, they present all the characteristics of distinct markets.
- (22) In view of the foregoing, the second legal requirement set forth by article 4(4) of the Merger Regulation is also met.

### 5.3.2. *Additional factors*

- (23) In addition to the verification of the legal requirements, point 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 they are contemplating requesting the referral of the case is the most appropriate authority for dealing with the case*”.
- (24) Point 20 of the Notice on Case Referrals states that: “*Concentrations with a Community dimension which are likely to affect competition in markets that have a national or narrower than national scope, and the effects of which are likely to be confined to, or have their main economic impact in, a single Member State, are the most appropriate candidate cases for referral to that Member State*”. The Commission considers, on the basis of the information submitted in the Reasoned Submission, that the principal impact on competition of the concentration is liable to take place on distinct markets within France, and that the requested referral would be consistent with point 20 of the notice.
- (25) In addition, point 23 of the Notice on Case Referrals states that “*Consideration should also, to the extent possible, be given to whether the NCA(s) to which referral of the case is contemplated may possess specific expertise concerning local markets, or be examining, or about to examine, another transaction in the sector concerned*”. Based on previous decisions, the FCA has experience and expertise in examining the relevant markets described above.<sup>12</sup>
- (26) In this regard, the Commission considers that, first, the effects of the Proposed Transaction will be confined to France, as each of the potentially affected markets/catchment areas mentioned above are located in France. Therefore, the FCA is well placed to examine the case.
- (27) Second, the Proposed Transaction takes place within a receivership procedure open in relation to the Target. Several of the Target’s competitors are likely to submit a

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<sup>12</sup> Décision n° 21-DCC- 73 du 20 mai 2021 relative à la prise de contrôle exclusif de 128 fonds de commerce exploités par La Halle SAS par Chaussea SAS.

bid to take over some of the Target's assets. The Commission understands that at least two competing bidders would be bound to submit a notification to the FCA in line with the national merger legislation. Referring the Proposed Transaction also to the FCA would not only streamline the assessment process from the procedural point of view by avoiding a duplicate assessment of similar concurring transactions by two different authorities but would also provide all the competitors submitting a takeover bid with the same procedural rights and timelines within the same jurisdiction. In this regard, a referral of the Proposed Transaction to the FCA satisfies the need to preserve the benefit of a "one-stop-shop" as there are no affected markets outside France.

### 5.3.3. *Conclusion on the referral*

- (28) On the basis of the information provided by the parties in the Reasoned Submission, 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 a market(s) within a Member State which presents all the characteristics of a distinct market.
- (29) The Commission's Notice on Case Referrals (point 17) indicates that, in seeking a referral under Article 4(4), "*the requesting parties are ... required to demonstrate that the transaction is liable to have a potential impact on competition on a distinct market within a Member State, which may prove to be significant, thus deserving close scrutiny*", and that "*such indications may be no more than preliminary in nature [...]*".
- (30) The Commission considers, on the basis of the information submitted in the Reasoned Submission, that the main impact on competition of the concentration is liable to take place on distinct markets within France, and that the requested referral would be consistent with point 20 of the Notice on Case Referrals.

## 6. CONCLUSION

- (31) For the above reasons and given that France has expressed its agreement, the Commission has decided to refer the transaction in its entirety to be examined by the French Competition Authority. 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*