



DETERMINATION OF MERGER NOTIFICATION M/24/062 – MUSGRAVE / HEALY SUPERMARKETS

Section 21 of the Competition Act 2002

Proposed acquisition by Musgrave Limited of sole control of Healy Supermarkets Limited

Dated 25 November 2024

Introduction

1. On 17 October 2024, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed acquisition whereby Musgrave Limited (“Musgrave”) would acquire sole control of Healy Supermarkets Limited (“Healy Supermarkets”) (together the “Parties”) (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a share purchase agreement, dated [REDACTED], between Musgrave [REDACTED] [REDACTED]¹ (the “SPA”). Under the terms of the SPA, Musgrave will acquire 100% of the issued share capital, and thus sole control, of Healy Supermarkets.

The Undertakings Involved

The Acquirer – Musgrave

3. Musgrave Ltd is a wholly owned subsidiary and the main operating entity in the state of the Musgrave Group PLC which is the holding company of the Musgrave Group (the

¹ The shareholders of Healy Supermarkets.



“Musgrave Group”). The Musgrave Group is a food retail, wholesale and food-service group active on the island of Ireland and in Spain.

4. The Musgrave Group owns a number of brands across the food retail, wholesale and foodservice sectors in the State, including *SuperValu*, *Centra*, *Daybreak*, *DayToday*, *Donnybrook Fair*, *Musgrave Marketplace*, *Musgrave Foodservice*, *La Rousse Foods*, *Frank and Honest* and *Italicatessan*. The Musgrave Group also operates cash and carry retail outlets² on the island of Ireland and in Spain.
5. Musgrave is principally a wholesaler-franchisor and operates through franchise agreements with independently owned retail stores and also directly owns and operates its own retail stores. Its main retail brands include:
 - **SuperValu:** There are 222 *SuperValu* stores in the State, ■ of which are directly owned and operated by the Musgrave Group. The remainder are franchise stores.
 - **Centra:** There are 502 *Centra* stores in the State, ■ of which are directly owned and operated by the Musgrave Group. The remainder are franchise stores.
 - **Donnybrook Fair:** There are 5 *Donnybrook Fair* stores in the State, all of which are directly owned and operated by the Musgrave Group.
6. For the financial year ending 31 December 2023, Musgrave Group’s worldwide turnover was approximately €5.023 billion, of which approximately €4.1 billion was generated in the State.

The Target – Healy Supermarkets

7. Healy Supermarkets owns and operates two retail stores:
 - A *SuperValu* retail grocery store, as a Musgrave Group franchisee, in Dunshaughlin, Co. Meath (“Healy’s SuperValu”); and

² Self-service wholesale stores.



- A newsagent, under the trading name ‘Tara News’, in Dunshaughlin, Co. Meath (“Tara News”) (together, the “Target Stores”).
8. For the financial year ended 30 September 2023, Healy Supermarkets’ worldwide turnover was approximately [REDACTED],³ all of which was generated in the State.

Rationale for the Proposed Transaction

9. In the merger notification form, the Parties stated that:

“From the perspective of the sellers of [Healy Supermarkets], the Proposed Transaction represents an opportunity to realise a fair valuation for their interests in [Healy Supermarkets].”

Third-Party Submissions

10. No third-party submissions were received.

Industry Background: The grocery sector

11. The Commission previously considered the grocery sector in detail in its Phase 2 determination in M/21/071 - *Tesco Ireland/Joyce’s Supermarkets (“Tesco/Joyce’s”)*⁴. In that determination, the Commission defined groceries and general merchandise as:

“food, pet food, drinks (alcoholic and non-alcoholic), toiletries, cleaning products, and other household goods. Other non-food items, such as clothing, kitchenware, electricals, DIY, furniture, CDs and DVDs which are also provided by some grocery retailers are included within the definition of “general merchandise.”

12. In *Tesco/Joyce’s*, the Commission broadly categorised grocery retail outlets into four distinct types of stores:

1. Hypermarkets (greater than 2,500 square metres);

³ [REDACTED] of which is attributed to Healy’s SuperValu and [REDACTED] of which is attributed to Tara News.

⁴ M/21/071 - *Tesco Ireland/Joyce’s Supermarkets*.



2. Large supermarkets (1,000 to 2,500 square metres) (“Large Supermarkets”);
3. Small supermarkets (400 to 1000 square metres) (“Small Supermarkets”);
and
4. Convenience shops (up to 400 square metres).

Musgrave-owned SuperValu stores and SuperValu franchises

13. Most *SuperValu* stores in the State are operated by franchisees. In *M/22/065 – Musgrave Limited/Caulfield Supermarket UC*,⁵ the Commission considered the nature of Musgrave’s agreements with its *SuperValu* franchisees in detail. In that case, the Commission concluded that Musgrave-owned *SuperValu* stores and *SuperValu* franchise stores:

- operate very similarly to each other, and do not compete in a manner that retail grocery stores which are not part of a franchise group would be expected to; and
- do not differ substantially in terms of pricing, product offering or promotions.

14. Consequently, in its determination, when assessing local markets within which there was both a Musgrave-owned *SuperValu* and a *SuperValu* franchise, the Commission concluded that:

“the franchise relationship which exists between the Target and Musgrave means that Supervalu [franchise] and the [Musgrave-owned SuperValu], do not compete closely with each other. Supervalu [franchise] and [Musgrave-owned SuperValu] do not differ substantially in terms of the price of the grocery goods, the products they offer, and their promotional activity. The Commission is of the view that, following the implementation of the [proposed transaction], the competitive landscape for consumers in this local market will not change. The number of fasciae [premises] under each supermarket brand

⁵ *M/22/065 - Musgrave Limited/Caulfield Supermarket UC.*



will not change following implementation of the [proposed transaction]; there will only be a change in ownership.”

Competitive Analysis

Horizontal Overlap

15. There is a horizontal overlap between the Parties as both are active in the retail sale of grocery goods through their respective stores.

Relevant Markets

Product Market

Parties' views

16. In the merger notification form, the Parties provided information regarding the Proposed Transaction by reference to the retail sale of grocery goods and the associated market for the wholesale supply of grocery goods.

Previous determinations of the Commission

17. The Commission has considered acquisitions in the grocery retail sector in several previous determinations.⁶ In these previous determinations, the Commission has considered: (i) the downstream retail grocery sector; and (ii) the upstream wholesale grocery sector.

Downstream retail grocery sector

18. The Commission considered the retail sale of grocery goods in detail in its Phase 2 determination in *Tesco/Joyce's*.
19. In particular, the Commission considered the market for the retail sale of grocery goods and general merchandise in Large and Small Supermarkets.

⁶ M/21/071 – *Tesco Ireland /Joyce's Supermarkets* and M/22/065 - *Musgrave Limited / Caulfield Supermarket UC*.



20. This market was defined as including: (i) Large Supermarkets (1,000-2,500 square metres); and (ii) Small Supermarkets (400-1,000 square metres). This market did not include convenience stores (up to 400 square metres), service stations or kiosks.
21. The Commission's approach in *Tesco/Joyce's* was followed by the Commission in *M/22/065 – Musgrave/Caulfield*,⁷ which considered the downstream retail grocery market.

The Commission's view

22. The Commission is of the view that the approach taken in *Tesco/Joyce's* is the most appropriate basis to assess the downstream retail grocery sector in respect of the Proposed Transaction.
23. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define the precise relevant market, as doing so will not alter the Commission's assessment of the horizontal competitive impact of the Proposed Transaction.
24. However, for the purposes of the Commission's assessment of the horizontal overlap between the Parties, the Commission has followed the approach taken in *Tesco/Joyce's*, and has assessed the Proposed Transaction by reference to the following two potential relevant product markets:

- The retail sale of grocery goods and general merchandise in Large and Small Supermarkets; and
- The operation of convenience stores.

Upstream wholesale sector

25. The Commission considered the upstream wholesale grocery sector in several previous determinations.⁸ In *M/23/010 – BWG/Tuffy Wholesale*, its most recent determination

⁷ *M/22/065 - Musgrave Limited/Caulfield Supermarket UC.*

⁸ *M/23/010 - BWG/Tuffy Wholesale and M/22/055 - Musgrave/Italicatessen.*



in relation to the upstream wholesale grocery sector, the Commission assessed that transaction by reference to the wholesale supply of grocery goods in the State.

The Commission's view

26. The Commission has found no reason to depart from the Commission's most recent approach to the upstream wholesale grocery sector. Therefore, the Commission has assessed the vertical relationship between the Parties by reference to wholesale supply of grocery goods.⁹

Geographic market

Parties' views

27. In the merger notification form, the Parties provided information regarding the Proposed Transaction by reference to the retail sale of grocery goods within a 10-minute drive time around the Target Stores. The Parties provided information in relation to the wholesale supply of grocery goods on national basis.

The Commission's views

28. In light of the receipt of proposals from the parties in *Tesco/Joyce's*, it was not necessary for the Commission to come to a firm conclusion as to the relevant geographic market(s). Therefore, the Commission ultimately left the precise geographic market open in that case. However, for the purposes of its assessment of that transaction, the Commission used a catchment area of 10-minutes' drive time from the targets' large and small stores. The Commission applied a 5-minutes' drive time when assessing convenience stores in *Tesco/Joyce's*. However, as the Commission did not identify competition concerns in relation to convenience stores, it did not consider convenience stores in detail in its determination.

⁹ While it is likely that there are different segments within the wholesale supply of grocery goods, the Proposed Transaction does not raise vertical competition concerns. Consequently, the Commission considers that it is not necessary to consider these segments in detail in relation to the Proposed Transaction.



29. For the purposes of the Commission's assessment of the horizontal overlap between the Parties, the Commission has followed the approach taken in *Tesco/Joyce's*, and has assessed the Proposed Transaction by reference to the following two potential relevant geographic markets:

- The retail sale of grocery goods and general merchandise in Large and Small Supermarkets within a drivetime of 10 minutes from Healy's SuperValu; and
- The operation of convenience stores within a drivetime of 5 minutes from Tara News.

30. Furthermore, the Commission has found no reason to depart from the Commission's most recent approach to the upstream wholesale grocery sector, and has assessed the vertical relationship between the Parties by reference to wholesale supply of grocery goods in the State.

Commission's conclusion on relevant markets

31. The Commission has assessed the competitive effects of the Proposed Transaction by reference to the following potential relevant markets:

- The retail sale of grocery goods and general merchandise in Large and Small Supermarkets within a drivetime of 10 minutes from Healy's SuperValu (the "10-minute catchment area");
- The operation of convenience stores within a drivetime of 5 minutes from Tara News (the "5-minute catchment area"); and
- The wholesale supply of grocery goods in the State.

Competitive assessment

Horizontal effects

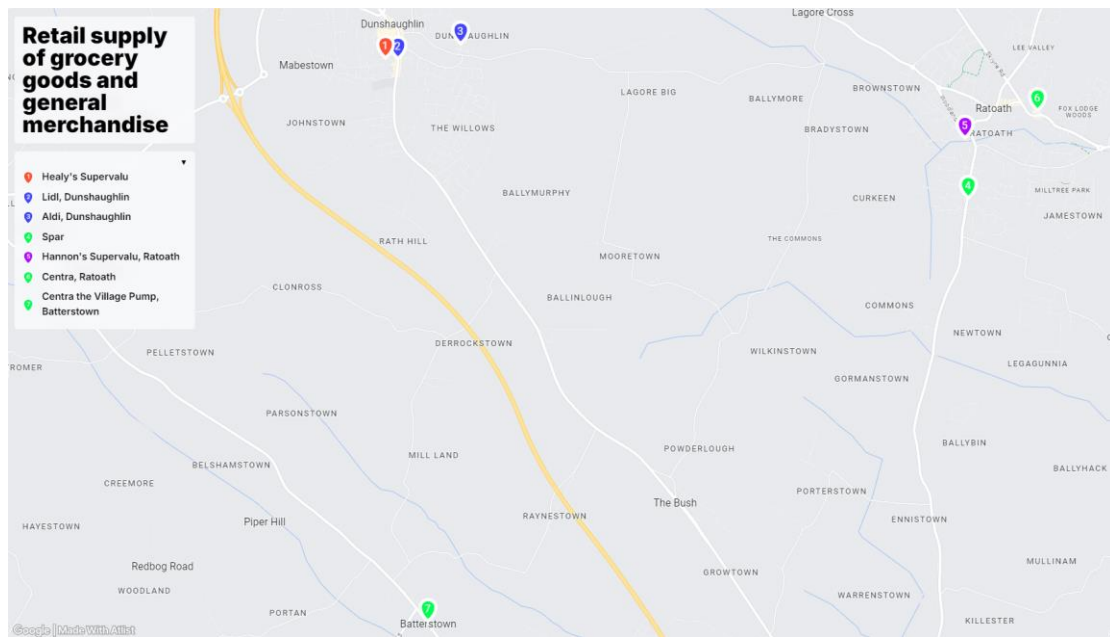
32. As noted above, the Parties are both active in the retail sale of grocery goods and general merchandise.



The retail sale of grocery goods and general merchandise in Large and Small Supermarkets within the 10-minute catchment area

33. As shown in Figure 1 below, Healy's SuperValu is located in the centre of Dunshaughlin in Co. Meath.

Figure 1: Large and Small Supermarkets within a 10-minute drivetime of Healy's SuperValu



Source: The Commission

Table 1: Large and Small Supermarkets distance from Healy's SuperValu

Name of Competitor	Distance from Healy's SuperValu	Drive time from Healy's SuperValu
Lidl, Dunshaughlin	0.35km	2 min
Aldi, Dunshaughlin	0.55km	2 min
Hannon's SuperValu, Ratoath	6.4km	9 min
Centra, Ratoath	6.9km	10 min
Spar, Ratoath	7km	10 min
Centra the Village Pump, Batterstown	10km	10 min

Source: The Commission



34. Musgrave does not own a large or small supermarket within the 10-minute catchment area. However, there is a *SuperValu* franchise (Hannon's SuperValu Ratoath, number 5 on Figure 1) within the 10-minute catchment area.
35. The Commission considers that the Proposed Transaction is unlikely to give rise to competition concerns in the retail sale of grocery goods and general merchandise in Large and Small Supermarkets within the 10-minute catchment area for the reasons set out below.
36. **First**, as shown in Figure 1 and Table 1, there is a range of large and small supermarkets within the 10-minute catchment area which will exert a competitive constraint on Musgrave following the implementation of the Proposed Transaction. These include *Lidl* and *Aldi*, which each operate a large supermarket within a two-minute drive of Healy's SuperValu.
37. **Second**, the Proposed Transaction will not materially alter the competitive landscape in the 10-minute catchment area. As noted above in paragraphs 13 and 14, the Commission has previously considered that Musgrave-owned *SuperValu* stores and *SuperValu* franchises do not compete with one another or to the extent expected of other retail stores. In that case, the Commission did not identify any competition concerns in local areas where there was a Musgrave-owned *SuperValu* and a *SuperValu* franchise. Instead, the Commission concluded that: (i) the competitive landscape for consumers in the relevant local market would not change; (ii) the number of premises under each supermarket brand would not change; and (iii) the transaction would only result in a change in ownership.
38. In this case, there will be one *SuperValu* franchise (Hannon's SuperValu Ratoath) and one Musgrave-owned *SuperValu* (Healy's SuperValu) in the 10-minute catchment area following the implementation of the Proposed Transaction. In light of the Commission's conclusion in respect of the relationship between Musgrave-owned *SuperValu* supermarkets and franchisee-owned *SuperValu* supermarkets in *M/22/065-Musgrave/Caufield Supermarket*, the Commission considers that it is unlikely that Healy's SuperValu and Hannon's SuperValu Ratoath currently compete in a manner expected of grocery stores that are not part of the *SuperValu* franchise group (i.e. stores



that are not Musgrave franchisees). Given the relationship between Musgrave and its franchisees, the Proposed Transaction would not result in the loss of a competitor in the 10-minute catchment area. In the Commission's view, Musgrave is acquiring legal ownership and control of a store which is currently in a franchise relationship with Musgrave. Therefore, the Proposed Transaction will not result in a change in the competitive dynamic between these two stores, or in the catchment area more generally.

39. Therefore, for the reasons outlined above, the Commission considers that the Proposed Transaction does not raise horizontal competition concerns in the retail sale of grocery goods and general merchandise in Large and Small Supermarkets in the 10-minute catchment area.

The operation of convenience stores within the 5-minute catchment area

40. Tara News is located in the centre of Dunshauglin, Co. Meath. Musgrave does not own and operate a convenience store within the 5-minute catchment area. There is no Musgrave franchise convenience store located within the 5-minute catchment area. The only other convenience store within a 5-minute drivetime of Tara News is a forecourt convenience store operated by *Go Fuels*.
41. For completeness, the Commission also considered the operation of convenience stores within an extended catchment area of a 10-minute drivetime from Tara News. Within this extended area, there are two Musgrave franchise convenience stores, both of which operate under the *Centra* brand (*Centra Batterstown* and *Sweeney's Centra Ratoath*). There is also a range of alternative convenience stores, including a *Circle K* service station, a *Daybreak*, and a *Spar Express*.¹⁰ Given the presence of these competitors, the Commission has not identified any competition concerns on the basis on this extended catchment area.
42. The Commission considers that the Proposed Transaction does not raise competition concerns in the operation of convenience stores within the 5-minute catchment area.

¹⁰ There are 5 convenience store competitors within a 10-minute drive time of Tara News namely: Independent Convenience Euro 2, *Spar Express*, *Circle K*, *Daybreak* Brady's Ratoath and Independent Convenience Store.



Conclusion on horizontal effects

43. For the reasons outlined above, the Commission considers that the Proposed Transaction does not raise horizontal competition concerns in the State.

Vertical Overlap

44. There is a vertical relationship between the Parties, as Musgrave supplies grocery goods to Healy's SuperValu.
45. As a *SuperValu* franchisee, Healy's SuperValu sources the vast majority of its goods from Musgrave. For the financial year ended 30 September 2023, Healy's SuperValu sourced approximately [REDACTED] (by value) of its goods from Musgrave.¹¹ Musgrave does not currently supply Tara News.

The wholesale supply of grocery goods in the State

46. The Commission considers that the Proposed Transaction is unlikely to give rise to vertical foreclosure concerns in relation to the wholesale supply of grocery goods in the State for the following reasons:
- **Input foreclosure:** The Commission considers that the Proposed Transaction is unlikely to give rise to input foreclosure in relation to the supply of wholesale grocery goods in the State. Musgrave's share in the wholesale supply of grocery goods in the State will not materially change as a result of the Proposed Transaction, as it is acquiring an additional two stores, one of which it already supplies as a *SuperValu* franchise store. Furthermore, over [REDACTED] of Musgrave's wholesale sales in 2023 were to its franchise stores or its directly-owned stores. The Commission considers that Musgrave will not gain the ability and/or incentive to engage in input foreclosure (in the State or locally) as a result of the Proposed Transaction.
 - **Customer foreclosure:** The Commission considers that the Proposed Transaction is unlikely to give rise to customer foreclosure. Musgrave is

¹¹ The remaining [REDACTED] is supplied through small local and national independent suppliers. Some goods sold by Tara News are sourced from Healy's SuperValu. Tara News is a newsagents and it sells cards, newspapers and other products which cannot be sourced from Musgrave.



acquiring two stores as part of the Proposed Transaction, one of which already sources most of its products from Musgrave.¹² Therefore, the Proposed Transaction will have a minimal effect on Musgrave's share in the retail sale of grocery goods and general merchandise in large and small supermarkets, either nationally or on a local basis. The Commission considers that Musgrave will not gain the ability and/or incentive to engage in customer foreclosure (in the State or locally) as a result of the Proposed Transaction.

Conclusion on vertical relationship

47. Therefore, the Commission is of the view that the Proposed Transaction does not raise vertical competition concerns in relation to the wholesale supply of grocery goods in the State.

Conclusion on Competitive Analysis

48. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

22. No ancillary restraints were notified.

¹² Healy's SuperValu currently buys ██████ of its supplies from Musgraves, the remaining 9 suppliers of Healy's SuperValu each individually supply less than ██████ to Healy's SuperValu.



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed acquisition whereby Musgrave Limited would acquire sole control of Healy Supermarkets Limited will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Úna Butler

Member

Competition and Consumer Protection Commission