



The Consumer Council's Response to the Competition and Markets Authority (CMA's) Issue Statement on the anticipated merger between J Sainsbury PLC and Asda Group Ltd.

25 October 2018

1. Introduction

- 1.1 The Consumer Council is a non-departmental public body established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.
- 1.2 The Consumer Council welcomes the opportunity to contribute to the CMAs Issues Statement on the anticipated merger between J Sainsbury PLC and Asda Group Ltd. The Consumer Council believes it is uniquely placed to respond to this review from a Northern Ireland consumer perspective. This is because of daily interaction with consumers alongside in-house research which closely examines the spending behaviours of consumers.

2. Trends, perspectives and needs of different groups

- 2.1 Firstly, there are considerable differences between the consumer inertia/spending in Northern Ireland as opposed to the population of Great Britain that should be considered during this investigation. This section of The Consumer Council's response will highlight explore these differences. The Consumer Council believes that these differences should be considered not just in the CMA's investigation, but more widely by institutions, regulators and policy makers.
- 2.2 The ONS ranked the weekly family food shop of Northern Ireland at £63¹ a week, £6 more than the UK average and nearly £14 more than people in the North East and Yorkshire.
- 2.3 Consumer spending as a percentage of GDP within Northern Ireland is 74%, 12% higher than UK at 66%. Even though those in Northern Ireland have the highest weekly shop value in the UK, they have a significantly lower weekly discretionary income of £107, in comparison to £201 in the UK¹.
- 2.4 Alongside differences in consumer spending and incomes, Northern Ireland has a high rate of vulnerable consumers, with 1 in 2² showing potential features of vulnerability. The extent of Northern Ireland's vulnerability can be seen below:

Figure 1: 'Vulnerability' - NI v GB'

Issue	NI	UK	Difference	Source
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¹ The Consumer Council – GB vs Northern Ireland 2018

² FCA Financial Lives: <https://www.fca.org.uk/publication/research/financial-lives-consumers-across-uk.pdf>

Disability claimants (DLA or PIP)	11.3%	6.0%	+88%	DSD 2015
No cash savings under £5,000	56%	50%	+12%	FCA 2018
Adults with savings less than £100	57%	44%	+30%	Money Advice Trust 2017
Over-indebtedness	20%	15%	+33%	FCA 2018
Low understanding of financial issues	24%	17%	+41%	FCA 2018

High confidence in managing money	26%	37%	-30%	FCA 2018
Households in Mortgage Arrears	6%	3.4%	+76%	FCA 2018
People without Bank Account	10%	4%	+150%	The Consumer Council 2016
Average Personal loan (adult)	£1,109	£745 (GB)	+49%	UK Finance 2017

2.5 According to figures released by the Office of National Statistics in 2017, Northern Ireland is the highest spending UK region on clothing and footwear, spending over 50% more than the UK average. The UK average weekly spend was £22.60, the Northern Ireland figure was £35⁴.

2.6 The Office of National Statistics also found that amongst clothing and footwear, Northern Ireland ranked in the top spots for meat, potatoes, bread, rice and cereal spends – all goods of which supply both online and in physical stores could be adversely affected by the merger.

2.7 So whilst Northern Ireland is home to some vulnerable consumers, they do have a higher spending propensity, meaning they will be more sensitive to price shocks or effects of the merger. This suggests that if there are negative effects (such as a lack of supply, higher prices and availability issues), consumers in Northern Ireland will be most affected. This combined with the fact that some major supermarkets do not operate in the region could lead to adverse effects for the population, vulnerable consumers especially.

3. Answers to questions

Q1: Whether the removal of one Party as a competitor to the other Party could allow the Parties nationally, or in some local areas, to increase prices, lower the quality of products or services, reduce the range of products or services available and/or reduce innovation following the merger, in relation to:

- I. The supply of groceries in physical stores;*
- II. The supply of groceries online;*
- III. The supply of fuel; or*
- IV. The supply of different categories of general merchandise, with a focus on toys, certain categories of electricals and childrenswear*

Figure 2: ‘Different Markets’

Issue	NI	UK	Source
Supermarkets	<ul style="list-style-type: none"> • Tesco: 34.4% • Sainsbury: 17.7% • Asda: 17.6% • Lidl: 5.2% • Other: 25.1% <p>(Aldi/Waitrose/Morrisons do not operate in NI)</p>	<ul style="list-style-type: none"> • Tesco: 27.9% • Asda:16.4% • Sainsbury:16.6% • Morrisons: 10.8% • Other: 28.3% 	Statistica 2017

3.1 Figure 2 above details supermarket shares in both Northern Ireland and GB, the graph demonstrates; the difference in market share of supermarkets and the difference in what is available to Northern Irish customers. Currently, Aldi, Waitrose and Morrisons do not operate within the region, suggesting that the UK has more choice for their weekly/monthly grocery shop.

In relation to the points highlighted by the CMA, please see below:

4. Supply of groceries in physical stores:

- 4.1 As the details (distribution, purchasing patterns and so on) of the merger are not yet known, it is difficult to come to a conclusion on whether or not the supply of groceries will be affected within Northern Ireland as a result of the merger.
- 4.2 Open source research into the investigation has detailed that the companies will aim to generate £500 million³ in cost savings through sharing some back-room operations such as purchasing and distribution. However, due to the nature and geographical location of Northern Ireland, it may be the case that consumers here may have a reduced supply of groceries in their local store, this may be due to changes suppliers as a result of the merger. A change in supplier may lead to increased prices of delivery or distribution, all things that can potentially impact the supply of groceries in physical stores. Northern Ireland is also home to a large population of rural dwellers – who are very likely to be affected by supply issues, if any occur.
- 4.3 According to research undertaken by the Northern Ireland Assembly, Northern Ireland has an increasing ageing population with 39%⁴ of pensioners living in rural Northern Ireland. The effects of the merger can have a massive effect on this segment of the population as this group are more likely to be predisposed to a range of associated health conditions (such as dementia) and long-term chronic conditions (such as diabetes). These conditions will impact on the extent to which consumers in rural areas are affected by any changes post-merger.
- 4.4 The impacts of the merger within Northern Ireland are further called into question with Brexit, it's likely that stores, and therefore consumers, near the border will be affected too. This can be through reduced supply in physical stores, or even due to a lack of stores.

5. Supply of groceries online:

- 5.1 Linking in with the above, if suppliers are struggling to supply groceries to physical stores in Northern Ireland post-merger, it's likely that these effects will be passed onto the supply of groceries online.
- 5.2 Northern Ireland also have issues with providers of goods and services misleading consumers with 'free UK delivery' but charging extra to deliver items to Northern Ireland. The surcharging issue often happens when items are being sent from Great Britain, The Consumer Council have been told it is due to the postal operator surcharges the retailer to send items to Northern Ireland, the retailer then passes on this surcharge to its customers.
- 5.3 Although this behaviour has not been typically in the grocery delivery segment of the market as they are sent from local supermarkets (meaning that if there is no physical supply in stores,

³ <https://www.thesun.co.uk/money/6164744/asda-sainsburys-merge-supermarket-shares-value/>

⁴ <https://www.thesun.co.uk/money/6164744/asda-sainsburys-merge-supermarket-shares-value/>

consumers will be affected by a lack of supply of their needed goods/services), it is important to The Consumer Council that delivery costs do not rise in this market as NI customers already experience retail surcharges, so this type of outcome must be avoided.

- 5.4 Theoretically if supermarkets do close as a result of the merger (more likely to occur in rural areas), this may lead to increased delivery costs for customers. So whilst this is not directly related to the supply of the groceries online, it sits well within the online grocery shopping process, and is something that should be looked into further and considered during this investigation.

6. Supply of fuel:

- 6.1 The presence of petrol stations within supermarkets in Northern Ireland is not as widespread as it is in Great Britain, in 2013 only 7% of sites in Northern Ireland were supermarkets compared to the 15%⁵ in Great Britain. According to a study by the RAC Foundation on the proximity of car-owning households to supermarket fuel stations, only 82.5% of households with a car in Northern Ireland live within 10 miles of a supermarket, compared to 97.3% in Great Britain.
- 6.2 The Office of National Statistics found in 2013 that the average Northern Ireland household spends more each week on fuel than households in any other region of the UK. The average fuel spend in Northern Ireland stood at a weekly £34.40 compared to the UK average of £23.70.
- 6.3 As the details of the merger are not fully known, it's unclear what the effects of fuel supply may be. However, Northern Ireland is dependent on product shipped to three terminals in Belfast and one in Derry/Londonderry, therefore much like above, new workers, and suppliers and so on may prohibit or cap the supply of fuel to Northern Ireland, this may then lead to higher prices.
- 6.4 Alternatively the merger may result in stores closing down, this will inevitably decrease the supply of fuel and will result in consumers in Northern Ireland having to travel further to find their local fuel station, and this is likely to be more problematic for those living in rural areas of Northern Ireland.
- 6.5 Effects however will differ based on location – consumers in rural areas tend to travel further by private transport – and as such, fuel costs will account for a larger proportion of their expenditure than consumers in urban areas. This has been well evidenced in responses to The Consumer Council Fuel Survey which found that 25% of respondents living in a rural area spent over £70 per week on fuel, equating to 19% of the average weekly income in Northern

⁵ http://www.consumerCouncil.org.uk/sites/default/files/original/MP_and_MLA_Briefing_Paper_-_OFT_Report_on_UK_Petrol_and_Diesel_Sector.pdf

Ireland of £360 compared to 11% of respondents living in an urban area who spent a similar proportion of their income on fuel⁶.

- 6.6 Historically fuel prices in Northern Ireland have been higher than that of Great Britain, with diesel prices being 0.5p per litre higher than Great Britain average and petrol prices 0.8p per litre higher on 15 August 2012⁷. This price difference was attributed to the lack of widespread presence of supermarkets. Evidence collated by the OFT for their report indicated that supermarkets charge lower prices and apply competitive pressure to rival retailers.
- 6.7 Econometric analysis carried out by the OFT also highlighted that a higher volume of sales at a site is associated with lower prices. Sites in Northern Ireland had an average of 1.6 million litres per year, compared to an average of 4.3 million litres per year in Great Britain⁸. The conclusion made by the OFT at the time was that retailers in Northern Ireland are, on average, more likely to be operating at low levels of volume that fail to exploit economies of scale. This volume difference alone was said to have accounted for a 0.5p litre difference in both diesel and petrol pump prices. The report concluded that once other factors influencing local pump prices, such as the number of competitors, presence of supermarkets and volumes that sites sell were taken into account, pump prices in Northern Ireland were in line with those in other areas of the UK.
- 6.8 With Northern Ireland's small pool of supermarkets, supply and prices of fuel is likely to be impacted by the merger.
- 6.9 'Fuel tourism' close to the border with the Republic of Ireland is another factor that makes the Northern Ireland road fuel sector different to the rest of Great Britain. Differences in the tax regimes of Northern Ireland and the Republic of Ireland have historically led Northern Ireland consumers that live close to the border to cross the border to buy road fuel. According to the data compiled by the European Commission, over the past three years, diesel in the Republic of Ireland has been between 10p and 19p per litre cheaper than the UK. While petrol has been between 1p more expensive and 9p per litre cheaper during the same period⁹. In the last five years retailers along the border (particularly along the main roads into the Republic of Ireland) have gone out of business because they cannot compete with the prices offered south of the border. Fuel tourism will certainly be impacted by the merger, and later down the line, Brexit.

⁶ http://www.consumerCouncil.org.uk/sites/default/files/original/MP_and_MLA_Briefing_Paper_-_OFT_Report_on_UK_Petrol_and_Diesel_Sector.pdf

⁷ http://www.consumerCouncil.org.uk/sites/default/files/original/MP_and_MLA_Briefing_Paper_-_OFT_Report_on_UK_Petrol_and_Diesel_Sector.pdf

⁸ http://webarchive.nationalarchives.gov.uk/20140402182540/http://oft.gov.uk/shared_oft/markets-work/oft1475.pdf

⁹ http://www.consumerCouncil.org.uk/sites/default/files/original/MP_and_MLA_Briefing_Paper_-_OFT_Report_on_UK_Petrol_and_Diesel_Sector.pdf

7. The supply of different categories of general merchandise, with a focus on toys, certain categories of electricals and childrenswear:

- 7.1 In regards to the supply of general merchandise, Sainsbury's recent acquisition of Argos has created one of the UK's largest food and non-food retailers. The merger does have some benefits and has meant that people have been able to benefit from convenience, flexibility, fast delivery and being able to shop whenever and wherever suits them best.
- 7.2 However, as touched upon above the Northern Ireland retail market is quite different to that of the UK, consumers tend to support local businesses more and take pride delivering positive impacts to their local community through their shopping choices. The merger of Asda and Sainsbury's is likely to lead to fierce competition between retailers and result in the closure of local businesses/SMEs within Northern Ireland as they cannot benefit from economies of scale like their larger competitors.
- 7.3 With Sainsbury's acquisition of Argos, and the merger between Asda and Sainsbury's, it is likely that the new companies will be able to benefit from monopolistic gains (such as economies of scale and so on), however what is not yet known is if these benefits will be passed onto consumers in Northern Ireland through reduced prices and increased choice.

Q2: Whether the Merger may lead to so-called 'coordinated effects' in the supply of groceries in store or online. That is, whether the Merger may create conditions where it is more likely that grocery retailers will coordinate or align their behaviour – for example through coordinated price changes – or whether the Merger may make any such coordination more stable or effective where it already exists, without the need for an explicit agreement between those retailers.

- 8.1 From an economic theory perspective, anything that enhances competition is inherently good for a market, however economic theory has identified that markets and consumers do not always behave rationally, or as expected and therefore outcomes can be different to what is anticipated.
- 8.2 Whilst the merger may create some coordinated effects, it is very likely that the coordination will be between both Asda and Sainsbury's and is unlikely to involve other supermarket retailers as ultimately economic theory suggests that firms will act in ways to maximise their own profits.
- 8.3 Coordination effects between Asda and Sainsbury's could be used in the form of predatory pricing and may then result in competitors being driven out of the market. When taking factors such as average wages, levels of vulnerability and current spending all within Northern Ireland into account, coordination in aid of profit maximisation at the expense customers could prove detrimental to the supermarket segment of Northern Ireland.

8.4 There is however the possibility that these coordinated effects may create conditions where grocery retailers align their prices, which through the concept of competition will lead to positive outcomes for customers.

Question 3: Whether the Merger may increase the Parties' buyer power towards grocery suppliers, to the extent that the Merger may distort competition in the groceries market and result in adverse effects on grocery customers.

- 9.1 The merger between Asda and Sainsbury's however could put pressure on Northern Ireland's small businesses. Retail NI Chief Executive Glyn Roberts has claimed that the merger could signal big changes for Northern¹⁰ Ireland's shoppers, his research has unveiled that if the merger goes ahead, £1 in every £3 spend will be spent at the new giant.
- 9.2 The merger may result in monopolistic behaviour and significant changes to Northern Ireland's supermarket industry. The Consumer Council echoes Retail NI's worries about the impact this would have on squeezing many smaller suppliers and the new business will have a higher buying power. This increase in buyer power could potentially distort competition through tactics such as collusion, predatory pricing and general other market shifts.
- 9.3 Another way in which the merger could distort competition in Northern Ireland's groceries market over time is through barriers to entry, which may mean that consumers in Northern Ireland will be forced to shop at larger, more expensive supermarkets that have not been driven out of the market. This could potentially change the way in which customers in Northern Ireland shop.

Thank you for giving us the opportunity to respond to this call for evidence. The Consumer Council consents to this response being reproduced by the CMA.

Should you wish to discuss this response further please contact Nazia Ali on 028 9025 1796 or via email on Nazia.Ali@consumercouncil.org.uk

Yours sincerely

Nazia Ali

¹⁰ <https://www.belfasttelegraph.co.uk/business/northern-ireland/sainsburysasda-merger-could-hurt-northern-irelands-small-businesses-36858140.html>



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