



USDAW SUBMISSION

The Competition and Markets Authority – Phase 1 Results

Following our recent letter, Usdaw welcomes the invitation to provide a written submission to the CMA regarding the proposed Sainsbury's and Asda merger. Usdaw is the UK's fifth largest trade union and operates solely within the private sector. The Union has over 432,000 members across many sectors including Food and Drink Manufacturing, Home Shopping and Road Transport/Distribution. However, the majority of our members work in retail and related trades therefore we have a direct insight into this sector and the challenges it is facing in regards to competition. We have well-established relationships with a number of top retailers including Tesco, Sainsbury's, Morrisons and the Co-op.

Usdaw understands that based on the findings from the Phase 1 investigation, the CMA believes the merger gives rise to a realistic prospect of a Substantial Lessening of Competition (SLC) in 463 local areas - which equates to 225 Sainsbury's stores and 238 Asda stores. In the recent letter to Usdaw from Stuart McIntosh dated the 12 November, it was stated that the fast-track process allows for the CMA to achieve "a procedural efficiency in cases where the merging parties acknowledge that a phase 2 investigation is required" and that it is focused solely on the legal test. Whilst Usdaw acknowledge the technicalities and benefits for the CMA of the fast track investigation, this is of no comfort to the staff who work across both businesses who are now extremely worried for their jobs in light of the Phase 1 findings.

The limited remit of the CMA in regards to the question of workforce impact, should not mean that stores can be disposed of and thousands of jobs lost without a detailed and accurate investigation. Given the potentially devastating impact on the individuals who work in one of the 463 local areas identified as a realistic prospect of SLC, any investigation into the matter needs to be credible. Usdaw is concerned that there are fundamental flaws in the investigation so far and these need to be acknowledged and addressed before the Phase 2 Investigation findings are announced.

As a Union with a direct insight into the retail sector, we are deeply concerned that the current scope being used by the CMA in reaching its judgement does not fully reflect the reality of competition in today's modern day retail market, particularly in regards to the growth of online shopping which undoubtedly gives consumers a clear competitive advantage when it comes to price.

Consumers are now overwhelmed with choices due to the incredibly competitive nature of the food retail sector which has been widely acknowledged. This is based on the existing market but when growing competition, from the likes of Amazon, is taken into account it is clear that many food retailers are unsure of what's next for the industry and for their business. Amazon is causing a ripple effect in the retail industry which is undergoing a significant evolution and Usdaw is concerned that an attempt to investigate 'the competitive interaction between groceries sold online and those sold in-store' would not be viable without a full scale investigation into the retail market taking into account automation/technology and the evolving/fluid nature of the sector.

Udaw is also concerned that in the Phase 1 investigation the CMA has applied a limited view of competition; big stores versus big stores (One Stop Stores) and mid-sized versus mid-sized stores (MSS). In Usdaw's experience, there are significant constraints imposed by listing and comparing stores in regards to their size. Usdaw believes this is a limited view of a complex retail market where a convenience store can and does in many cases provide a credible alternative/competitive option for consumers. For example, in the five years to the end of 2015 the number of convenience stores rose by 21% to 16,426 with a distinct trend in people moving away from the 'big weekly shop'.

Convenience stores have created a huge change and encouraged people to fragment their shopping habits. In the past few years we have seen a reduction in the number of convenience stores, but this is not due to a return to the 'big weekly shop' but rather a further fragmentation of the market in regards to the growth of discount retailers.

In light of this, we believe the exclusion of Lidl and Aldi is a huge oversight – at any stage of the investigation. The CMA has stated that 'the Parties may overstate the extent to which Aldi and Lidl should be considered to be close competitors' but there is no clear detail on how this conclusion has been made other than reference to them not selling tobacco. While we recognise that this may be explored in more detail throughout the Phase 2 investigation, the nature of the above statement seems to indicate a position, viewpoint or judgement before the necessary steps have been taken to make an informed decision.

From Usdaw's experience, it is clear that Lidl and Aldi do provide direct competition for the bigger food retailers including both Sainsbury's and Asda. In fact the significant impact of the rise of the discounters and the erosion of the 'big 4's' market share has been widely documented. This is evident in the fact that both Aldi and Lidl have increased market share this year, while Tesco, Sainsbury's and Asda have reduced, with Morrisons staying the same. Interestingly the only 'big 4' retailer to increase their market share is the Co-op, who have a larger number of smaller stores than their main counterparts; thus highlighting the changing trends within the sector.

It should also be noted that given the current climate in retail, it is unlikely that many of the large retail units potentially disposed of in this merger would be picked up by other large food retailers. Therefore a mass closure of stores could result in a number of empty stores which would devastate local communities. A recent report by PwC has found that around 14 shops are closing every day on the UK's high streets; with an estimated 2692 shops shut across the UK in the first half of 2018 and only 1569 stores opened. Any decision by the CMA to close stores would only serve to intensify the situation. Alternatively if store closures do take place they could be picked up by those food retailers who are growing their estate and market share, including the very discounters that have been dismissed as 'competition'.

Usdaw is optimistic that a more detailed analysis as part of the Phase 2 investigation will bring down the number of SLC areas from the current 463. It must be noted that this figure is equivalent to nearly 40% of the combined groups 1210 supermarkets (not including convenience) - which, if retained, could mean thousands of job losses across stores nationwide.

As already stated we recognise the limited remit of the CMA but given the potential for thousands of job losses, we are calling on the CMA to ensure a credible investigation before any decisions are made. Such a credible investigation should include conducting a full review of the current retail market and landscape, truly taking into account the changing dynamics and evolving nature of the sector.

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