

DETERMINATION OF MERGER NOTIFICATION M/24/008 – COMPASS/CH&Co

Section 21 of the Competition Act 2002

Proposed acquisition by Compass Group UK and Ireland Limited of sole control of CH&Co Catering Group Limited

Dated: 19 March 2024

Introduction

1. On 8 February 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 Compass Group UK and Ireland Limited (“Compass”) would acquire the entire issued share capital, and thus sole control, of Orchestra Topco Limited (“Orchestra”), the holding company of CH&Co Catering Group Limited (“CH&Co” and, together with Compass, the “Parties”) (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction will be implemented pursuant to the terms of a share purchase agreement dated 22 January 2024, which involves Compass acquiring the entire issued share capital of Orchestra from Equistone General Partner VI S.à.r.l. (the “SPA”). Following implementation of the Proposed Transaction, Compass will acquire sole control of Orchestra and its subsidiaries including CH&Co.

The Undertakings Involved

The Acquirer – Compass

3. The Compass Group plc is a British contract foodservice company that operates across a range of different sectors in 40 countries and is listed on the London Stock Exchange. Compass is a wholly owned indirect subsidiary of the Compass Group plc and operates within the State.

4. In the State, Compass is active in the provision of contract catering services to companies and organisations across the business and industry (“B&I”), education and healthcare sectors under two brands:
 - **Compass Ireland**; and
 - **Glanmore Foods** – which was acquired by Compass in July 2023 following CCPC approval,¹ and is active in the manufacture and supply of a range of different food options to over 400 primary and secondary schools throughout the State.
5. Compass is also active in the provision of concession foodservices in the State under two brands:
 - **Levy** – which is Compass’s sports and hospitality arm in the UK and the State. Levy’s primary concession foodservice contract in the State relates to the Aviva Stadium; and
 - **Fitzers Catering** – which was acquired by Levy in March 2022 and now represents the main brand of Levy’s sports and conference operations in the State. Fitzers Catering has a number of concession foodservice contracts in the sports and events sector, including with Leopardstown Racecourse, the Convention Centre Dublin, the Law Society of Ireland, the [...], Fairyhouse Racecourse and the Curragh.
6. In addition to its contract catering services and its concession foodservices, Compass provides ancillary cleaning services, such as facility management and cleaning services. [...].
7. For the financial year ending 30 September 2023, Compass Group plc’s total worldwide turnover was approximately €35.99 billion, of which approximately €[...] million was generated in the State.

The Target – Orchestra / CH&Co

8. Orchestra is the ultimate UK parent company of CH&Co.

¹ M/23/023 – *Compass/Glanmore*, accessible at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2023/05/M.23.023-Determination-Public-Version.pdf>.

9. CH&Co provides contract catering services and concession foodservices in the State via its wholly owned subsidiary, Gather & Gather Ireland Limited, to companies and organisations across the B&I and education sectors. CH&Co is active in the State through the brands Gather & Gather Ireland and, to a limited extent, Vacherin.
10. For the financial year ending 31 December 2022, CH&Co's total worldwide turnover was approximately €[...] million, of which approximately €[...] million was generated in the State.

Rationale for the Proposed Transaction

11. In the Merger Notification Form, the Parties stated the following:

“Compass considers it is well placed to realise the potential of CH&Co’s portfolio of complementary brands. Through increased focus and investment, the brands will continue to bring high quality, high value and consistent services to customers and consumers, as well as new experiences. Compass also considers that the Proposed Transaction enables greater opportunities for further investment in innovation and solutions development to enable the Parties to compete with innovative new entrants in the market, such as Deliveroo for Work and Uber for Business. As part of the Compass group, CH&Co employees will also have enhanced access to broader career opportunities, learning and development, and Compass will seek to accelerate CH&Co’s sustainability plans in line with its own ambitious agenda to deliver climate net zero by 2030.”²

Third-Party Submissions

12. No third-party submissions were received.
13. At paragraph 29 of the Merger Notification Form, the Parties stated that “[a] briefing paper on the Proposed Transaction has been submitted to the Competition and Markets Authority of the United Kingdom.” The Commission contacted the Competition and Markets Authority in respect of the Proposed Transaction on 28 February 2024, with the latter stating that it did not consider that the Proposed Transaction gave rise to any serious competition concerns in the UK.

² Merger Notification Form, paragraph 27.

Industry Background

14. Bord Bia, in its Irish Foodservice Market Insights Report 2023 (the “Bord Bia Report”), defines foodservice as *“the term used to describe all food and drink consumed and prepared out of the home. It includes everything from restaurants, pubs, hotels and coffee shops to workplace, hospitals and education catering.”*³
15. Contract catering services form part of this sector and involve the provision of food and drink to customers (usually organisations) for a specified period. This involves purchasing, preparing, cooking, and serving food and drink to private and public business customers operating in various fields, for whom that service is not the primary reason for the customer’s presence on the premises.⁴ Contract catering services are often provided to businesses, wherein the caterer will operate a workplace canteen. Contract catering services are also provided to education institutions or at sporting and leisure events.⁵
16. Concession foodservices concern the provision of foodservices to the public in travel locations, such as airports, railway stations, ferries and roadsides, as well as retail-related locations such as department stores, sports stadia and leisure venues.⁶
17. At paragraph 15 of Case M.9455 *Compass / Fazer Food Services*, the European Commission (the “EC”) stated the following:

“Most of the contract foodservices are procured through calls for tender, both by public bodies and private companies. The market for contract foodservices is a bidding marketplace, where competitors are invited to bid for tenders in order to win a contract with a customer. The majority of customers procure contract foodservices through tenders either as a food-only contract or as part of a multi-service contract. Tenders are structured according to the wishes and requirements of the customer tendering. While some contract renewals are done on a bilateral basis, the customer

³ Bord Bia Report, provided as Annex 3.3 to the Merger Notification Form, page 7.

⁴ Case M.9455 *Compass / Fazer Food Services*, paragraph 10, accessible at: https://ec.europa.eu/competition/mergers/cases1/202111/m9455_838_3.pdf.

⁵ M/23/023 – *Compass/Glanmore*.

⁶ Case M.9455 *Compass / Fazer Food Services*, paragraph 27.

would almost always have the possibility to open a foodservices contract for retendering if unsatisfied with the terms offered by the existing supplier.”⁷

Competitive Analysis

Horizontal overlap

18. There are horizontal overlaps between the Parties in respect of: (i) the provision of contract catering services in the State, specifically in relation to the provision of contract catering services to the B&I and education sectors; and (ii) the provision of concession foodservices in the State.

Relevant Markets

Product market

19. The Commission has previously considered the provision of contract catering services in its determination in M/23/023 - *Compass/Glanmore*.⁸ In that determination, while ultimately leaving the precise product market definition open, the Commission assessed the proposed transaction by reference to the provision of contract catering services in the State. The Commission also assessed the proposed transaction with reference to a particular market segment, namely the provision of contract catering services to the education sector in the State.

20. The Commission has also considered the provision of contract catering services in its determination in M/20/004 – *WSH Investments/Hesscroft*.⁹ In that determination, while ultimately leaving the precise product market definition open, the Commission assessed the competitive impact of the proposed transaction by reference to the provision of contract catering services.¹⁰

21. The EC has also previously considered the provision of contract foodservices. In Case M.9455 *Compass / Fazer Food Services*, the EC, while ultimately leaving the precise product market

⁷ Case M.9455 *Compass / Fazer Food Services*.

⁸ M/23/023 – *Compass/Glanmore*.

⁹ M/20/004 – *WSH Investments/Hesscroft*, accessible at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2020/02/M-20-004-WSH-Investments-Hesscroft-Public-Determination.pdf>

¹⁰ M/20/004 – *WSH Investments/Hesscroft*, paragraph 14.

definition open, assessed the likely effects of the transaction on “*the narrowest plausible relevant product market segments, that is to say on each identifiable relevant sector, namely the sectors in which customers operate*” which included: (i) B&I (staff canteens in both private and public sectors); (ii) education; (iii) healthcare & welfare; and (iv) defence.¹¹

22. While the Commission has not previously considered the provision of concession foodservices, the EC has considered the provision of concession foodservices in several cases. In Case M.1972 *Granada / Compass*, the EC considered that contract catering services and concession foodservices constituted separate product markets due to barriers to entry into concession foodservice being higher in terms of investment, reputation and access to established brands.¹² Furthermore, while considering that it was not necessary to decide whether concession foodservices or some segmentation thereof constituted the relevant product market,¹³ the EC assessed the likely effects of the transaction by reference to the concession catering market.¹⁴

23. This decisional practice, whereby the EC considered that contract catering services and concession foodservices constituted separate product markets, is also adopted in cases such as Case M.2373 *Compass / Selecta*,¹⁵ Case M.2977 *Compass / Onama SpA*,¹⁶ Case M.4202 *Charterhouse/Elior*,¹⁷ and Case M.9455 *Compass / Fazer Food Services*.¹⁸ Furthermore, the EC did not need to divide the concession foodservice market into segments in any of these cases.

24. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, insofar as contract catering services are concerned, it is not necessary for the Commission to define the precise relevant product

¹¹ Case M.9455 *Compass / Fazer Food Services*, paragraph 43.

¹² Case M.1972 *Granada / Compass*, paragraph 16, accessible at: https://ec.europa.eu/competition/mergers/cases/decisions/m1972_en.pdf.

¹³ Case M.1972 *Granada / Compass*, paragraph 15.

¹⁴ Case M.1972 *Granada / Compass*, paragraph 17.

¹⁵ Case M.2373 *Compass / Selecta*, paragraph 23, accessible at: https://ec.europa.eu/competition/mergers/cases/decisions/m2373_en.pdf.

¹⁶ Case M.2977 *Compass / Onama SpA*, paragraph 15, accessible at: https://ec.europa.eu/competition/mergers/cases/decisions/m2977_en.pdf.

¹⁷ Case M.4202 *Charterhouse/Elior*, paragraph 12, accessible at: https://ec.europa.eu/competition/mergers/cases/decisions/m4202_20060519_20310_en.pdf.

¹⁸ Case M.9455 *Compass / Fazer Food Services*, paragraph 30.

markets because, regardless of whether the potential product market is defined broadly (i.e. the provision of contract catering services generally) or narrowly, (i.e. the provision of contract catering services to the B&I or education sector), doing so will not alter the Commission's assessment of the competitive effects of the Proposed Transaction. Similarly, insofar as the provision of concession foodservices is concerned, it is not necessary for the Commission to define the precise relevant product market because doing so will not alter the Commission's assessment of the competitive effects of the Proposed Transaction. For the purposes of its competitive assessment, the Commission has assessed the Proposed Transaction by reference to the following potential product markets:

- The provision of contract catering services;
- The provision of contract catering services to the B&I sector;
- The provision of contract catering services to the education sector; and
- The provision of concession foodservices.

Geographic market

25. In its determinations in M/23/023 – *Compass/Glanmore*¹⁹ and M/20/004 – *WSH Investments/Hesscroft*,²⁰ while ultimately leaving the precise geographic market definitions open, the Commission assessed the competitive impact of the transactions by reference to the provision of contract catering services in the State. Similarly, in Case M.9455 *Compass/Frazer Food Services*, the EC stated that “*the geographic market for contract foodservices is national in scope.*”²¹

26. In each of Case M.1972 *Granada / Compass*,²² Case M.2373 *Compass / Selecta*,²³ and Case M.2977 *Compass / Onama SpA*,²⁴ the EC concluded that the concession foodservice market

¹⁹ M/23/023 – *Compass/Glanmore*, paragraph 19.

²⁰ M/20/004 – *WSH Investments/Hesscroft*, paragraph 16.

²¹ Case M.9455 *Compass / Frazer Food Services*, paragraph 69.

²² Case M.1972 *Granada / Compass*, paragraph 20.

²³ Case M.2373 *Compass / Selecta*, paragraph 25.

²⁴ Case M.2977 *Compass / Onama SpA*, paragraph 17.

was national in scope. In Case M.4202 *Charterhouse/Elior*, the EC did not consider it necessary to define the geographic market but nonetheless acknowledged that it was at least national if not wider.²⁵

27. 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 geographic markets because doing so will not alter the Commission's assessment of the competitive effects of the Proposed Transaction. For the purposes of its competitive assessment, the Commission has assessed the Proposed Transaction on a national basis.

Conclusion on relevant markets

28. For the purposes of carrying out its competitive assessment of the Proposed Transaction, the Commission has assessed the Proposed Transaction by reference to the following potential relevant markets:

- The provision of contract catering services in the State;
- The provision of contract catering services to the B&I sector in the State;
- The provision of contact catering services to the education sector the State; and
- The provision of concession foodservices in the State.

Competitive Assessment

29. The Parties have provided market share estimates for each of the potential relevant markets with reference to consumer spending figures in the Bord Bia Report. The Parties explained at paragraph 94 of the Merger Notification Form that the figures in the Bord Bia Report reflect consumer spending at the till only, and are not intended to capture a large proportion of the revenue generated by operators for the provision of contract catering services, such as:

- management fees paid by customers (such as offices, schools and hospitals) for the provision of contract catering services to those customers;

²⁵ Case M.4202 *Charterhouse/Elior*, paragraphs 19, 20.

- payments in respect of ‘free serve’²⁶ and subsidies²⁷ paid by customers (such as offices, schools and hospitals);
- government funding towards the provision of food services to primary and secondary schools in the State; and,
- in-house supply, where an institution provides its own catering services and does not engage a third party to do so.

30. As such, in order to take account of these additional sources of revenue, the Parties have calculated market shares in each of the potential relevant markets on the following bases:

- **All Revenue Estimates** - in order to estimate market shares on the basis of the full revenue of contract caterers (not just revenue from consumer spending), the Parties have “grossed up” the Bord Bia consumer spending figures to estimate segment sizes that reflect the full revenue streams of contract caterers; and
- **Consumer Spending Only Estimates** - this approach uses the Bord Bia consumer spending figures for each segment and the Parties’ respective consumer spending revenue only to estimate their shares of supply. For this purpose, each of the Parties has broken down its contract catering revenue in the State between revenue paid at the till by consumers of food and drink (i.e., consumer spending) and other revenue streams, such as those listed above.

The provision of contract catering services in the State

31. In order to estimate the total size of the market for the provision of contract catering services in the State, the Parties added together their “grossed up” spending figures for each market segment (i.e., the B&I sector, the education sector, the healthcare sector, and the “other” sector, which includes defence). The Parties noted that this estimate does not fully reflect

²⁶ The Parties explained at paragraph 94 of the Merger Notification Form that ‘free serve’ is where food and drink are not paid for by individuals who consume them but rather by the customer of the contract catering service (such as the office, school or hospital). Therefore, there is no payment at the till by the individuals who consume the food and drink.

²⁷ The Parties explained at paragraph 94 of the Merger Notification Form that subsidies are where the cost of the food and drink that is consumed by individuals is partly paid for by the customer of the contract catering service (such as the office, school or hospital). Therefore, the individuals who consume the food and drink do not pay in full for it.

total revenue generated by operators in the provision of contract catering services and therefore over-estimates the Parties' respective shares of supply.

32. In the Merger Notification Form, the Parties provided share estimates for the provision of contract catering services in the State based on their revenue, the Irish Foodservice Market and Consumer Insights Report 2022, and the Bord Bia Report, as shown in Table 1.

Table 1: Estimated shares for the provision of contract catering services in the State in 2022 and 2023

ALL-REVENUE				
SUPPLIER	2022		2023	
	VALUE (€, M)	SHARE	VALUE (€, M)	SHARE
Compass	[...]	[10-15]%	[...]	[10-15]%
CH&CO	[...]	[0-5]%	[...]	[0-5]%
Combined	[...]	[10-20]%	[...]	[10-20]%
Others	[...]	[80-90]%	[...]	[80-90]%
TOTAL	668.1	100%	781.4	100%
CONSUMER SPENDING ONLY				
SUPPLIER	2022		2023	
	VALUE (€, M)	SHARE	VALUE (€, M)	SHARE
Compass	[...]	[0-5]%	[...]	[5-10]%
CH&CO	[...]	[0-5]%	[...]	[0-5]%

Combined	[...]	[5-10]%	[...]	[5-15]%
Others	[...]	[90-95]%	[...]	[85-95]%
TOTAL	437	100%	493.1	100%

Source: Parties' estimates, based on the Irish Foodservice Market and Consumer Insights Report 2022 and the Bord Bia Report, Tables 5.1 and 5.2 of Merger Notification Form.

33. The Parties have submitted at paragraph 114 of the Merger Notification Form that, according to Bord Bia's Irish Foodservice Directory for 2023, there are at least 18 providers of "institutional" foodservices active in the State.²⁸ These providers include Aramark Ireland Holdings Limited, Sodexo Ireland Limited, ISS Ireland Limited, WSH International Investments Limited, Corporate Catering Services Limited and KSG Catering Limited. The Parties have further submitted at paragraph 114 of the Merger Notification Form that these competitors are "well-resourced, sophisticated and experienced in the provision of contract catering services."

34. The Parties' estimated combined share in the provision of contract catering services in the State was approximately [10-20]% in 2022 and [10-20]% in 2023.

35. Further, the Parties have submitted that they are not each other's closest competitors in the State in respect of the provision of contract catering services. Compass competed for [...] tenders for contract catering in the State in 2023. Of these [...] tenders, CH&Co was successful in tendering for [...] which Compass previously held, while Compass was successful in tendering for [...] which CH&Co previously held. [...] of these tenders were in relation to the provision of contract catering services to the [...] in the State.

36. Following implementation of the Proposed Transaction, the merged entity will continue to face competition from a range of service providers such as Aramark Ireland Holdings Limited, Sodexo Ireland Limited, ISS Ireland Limited, WSH International Investments Limited, Corporate Catering Services Limited, KSG Catering Limited and the Mount Charles Group

²⁸ Irish Foodservice Directory 2023, accessible at <https://www.bordbia.info/FoodServices-2023/>.

(MCG Facilities Management Ireland Limited). These competitors will continue to exert a competitive constraint on Compass in the provision of contract catering services.

37. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in respect of the provision of contract catering services in the State.

The provision of contract catering services to the B&I sector in the State

38. In order to calculate the market shares of each of the Parties in relation to the provision of catering services to the B&I sector, the Parties assumed “on a very conservative basis” that total contract catering revenue in the B&I segment as a whole is split 50-50 between consumer spending and other revenue.²⁹ The consumer spending figures in the Irish Foodservice Market and Consumer Insights Report 2022 and the Bord Bia Report were therefore doubled to reflect the other revenue streams of contract caterers that are not captured by the Bord Bia Report.³⁰

39. In the Merger Notification Form, the Parties provided share estimates for the provision of contract catering services to the B&I sector in the State based on their revenue, the Irish Foodservice Market and Consumer Insights Report 2022, and the Bord Bia Report, as shown in Table 2.

Table 2: Estimated shares for the provision of contract catering services to the B&I sector in the State in 2022 and 2023

ALL-REVENUE				
SUPPLIER	2022		2023	
	VALUE (€, M)	SHARE	VALUE (€, M)	SHARE
Compass	[...]	[10-15]%	[...]	[15-20]%
CH&CO	[...]	[5-10]%	[...]	[5-10]%

²⁹ Merger Notification Form, paragraph 96.

³⁰ Merger Notification Form, paragraph 96.

Combined	[...]	[15-25]%	[...]	[20-30]%
Others	[...]	[75-85]%	[...]	[70-80]%
TOTAL	326	100%	388	100%
CONSUMER SPENDING ONLY				
SUPPLIER	2022		2023	
	VALUE (€, M)	SHARE	VALUE (€, M)	VALUE (€, M)
Compass	[...]	[10-15]%	[...]	[10-15]%
CH&CO	[...]	[0-5]%	[...]	[0-5]%
Combined	[...]	[10-20]%	[...]	[10-20]%
Others	[...]	[80-90]%	[...]	[80-90]%
TOTAL	163	100%	194	100%

Source: Parties' estimates, based on the Irish Foodservice Market and Consumer Insights Report 2022 and the Bord Bia Report, Tables 5.3 and 5.4 of Merger Notification Form.

40. The Parties' estimated combined share in the provision of contract catering services to the B&I sector in the State was approximately [15-25]% in 2022 and [20-30]% in 2023.

41. The Parties have submitted that they are not each other's closest competitors in respect of the provision of contract catering services to the B&I sector in the State. As stated above, in the B&I sector in 2023, Compass [...] previously held by CH&Co, and CH&Co [...] previously held by Compass.

42. Following the implementation of the Proposed Transaction, there will remain a number of competitors to Compass in the provision of contracting catering services to the B&I sector in the State. In addition to the competitors listed in paragraph 36 above, local operators and large national service providers, such as Artizan Catering Limited, Carroll Food Services Limited, FoodSpace (Apleona Ireland Limited), O.C.S. Group (Ireland) Limited, The Q Café Company Limited and Neylons Facility Management Limited, will continue to exert a competitive constraint on Compass in the provision of contract catering services to the B&I sector in the State following implementation of the Proposed Transaction.
43. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in respect of the provision of contract catering services to the B&I sector in the State.

The provision of contract catering services to the education sector in the State

44. It should be noted that the “consumer spending” figures in the Irish Foodservice Market and Consumer Insights Report 2022 and the Bord Bia Report exclude revenue generated by contract caterers in schools in the State from government funding of school meals or from any revenue streams of contract caterers other than consumer spending (such as contract catering management fees, free serve or subsidies).³¹
45. The Parties stated that they are not in a position to estimate the amount of non-consumer spending revenue at third level education. The Parties have therefore “grossed up” the consumer spending figures for the education sector in the Irish Foodservice Market and Consumer Insights Report 2022 and the Bord Bia Report to include the publicised figures for government funding for school meals in 2022 (EUR 68.1 million)³² and 2023 (EUR 94.4 million).³³ The Parties have submitted that this is a conservative estimate as non-consumer spending makes up a larger proportion of revenue at primary and secondary schools than at third level education.

³¹ Note that the exact sources of Bord Bia’s estimates are not available in the Bord Bia Report. However, the Parties have submitted at paragraph 96 of the Merger Notification Form that Bord Bia has confirmed to Compass that the figures in the report relate to consumer spending only.

³² Houses of the Oireachtas 2022, *School Meals Programme*, accessible at: [School Meals Programme – Tuesday, 29 Nov 2022 – Parliamentary Questions \(33rd Dáil\) – Houses of the Oireachtas](#)

³³ Houses of the Oireachtas 2023, *School Meals Programme*, accessible at: [School Meals Programme – Tuesday, 3 Oct 2023 – Parliamentary Questions \(33rd Dáil\) – Houses of the Oireachtas](#)

46. In the Merger Notification Form, the Parties provided share estimates for the provision of contract catering services to the education sector in the State based on their revenue, the Irish Foodservice Market and Consumer Insights Report 2022, and the Bord Bia Report, as shown in Table 3.

Table 3: Estimated shares for the provision of contract catering services to the education sector in the State in 2022 and 2023

ALL-REVENUE				
SUPPLIER	2022		2023	
	VALUE (€, M)	SHARE	VALUE (€, M)	SHARE
Compass	[...]	[10-15]%	[...]	[10-15]%
CH&CO	[...]	[0-5]%	[...]	[0-5]%
Combined	[...]	[10-20]%	[...]	[10-20]%
Others	[...]	[80-90]%	[...]	[80-90]%
TOTAL	159.1	100%	196.4	100%
CONSUMER SPENDING ONLY				
SUPPLIER	2022		2023	
	VALUE (€, M)	SHARE	VALUE (€, M)	SHARE
Compass	[...]	[0-5]%	[...]	[0-5]%
CH&CO	[...]	[0-5]%	[...]	[0-5]%

Combined	[...]	[0-10]%	[...]	[0-10]%
Others	[...]	[90-100]%	[...]	[90-100]%
TOTAL	90.9	100%	102	100%

Source: Parties' estimates, based on the Irish Foodservice Market and Consumer Insights Report 2022 and the Bord Bia Report, Tables 5.5 and 5.6 of Merger Notification Form.

47. The Parties' combined share in the provision of contract catering services to the education sector in the State was approximately [10-20]% in 2022 and [10-20]% in 2023.
48. The Parties have submitted that they are not each other's closest competitors in the State in respect of the provision of contract catering services to the education sector. In the education sector in 2023, Compass [...] tenders for contracts previously held by CH&Co, [...] contracts to CH&Co.
49. Following the implementation of the Proposed Transaction, there will remain a number of competitors to Compass in the provision of contracting catering services to the education sector in the State. In addition to the competitors listed in paragraph 36 above, providers such as Ashdale Catering Limited, Irish School Meals, The Carambola Limited, FreshToday Catering Wexford Limited, The Lunch Bag Limited and The School Food Company Limited will continue to exert a competitive constraint on Compass in the provision of contract catering services to the education sector in the State following implementation of the Proposed Transaction.
50. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in respect of the provision of contract catering services to the education sector in the State.

The provision of concession foodservices in the State

51. The Parties have submitted that the revenue generated by operators in the provision of concession foodservices is largely "spend at the till".³⁴ Therefore, the Parties have relied on

³⁴ Merger Notification Form, paragraph 97.

the consumer spending figures in the Irish Foodservice Market and Consumer Insights Report 2022 and the Bord Bia Report to estimate the size of the concession foodservices market in the State.

52. In the Merger Notification Form, the Parties provided share estimates for the provision of concession foodservices in the State based on their revenue, the Irish Foodservice Market and Consumer Insights Report 2022, and the Bord Bia Report, as shown in Table 4 below.

Table 4: Estimated shares for the provision of concession foodservices in the State in 2022 and 2023

SUPPLIER	2022		2023	
	VALUE (€, M)	SHARE	VALUE (€, M)	SHARE
Compass	[...]	[5-10]%	[...]	[10-15]%
CH&CO	[...]	[0-5]%	[...]	[0-5]%
Combined	[...]	[5-15]%	[...]	[10-20]%
Others	[...]	[85-95]%	[...]	[80-90]%
TOTAL	251.1	100%	294	100%

Source: Parties' estimates, based on the Irish Foodservice Market and Consumer Insights Report 2022 and the Bord Bia Report, Table 5.7 of Merger Notification Form.

53. The Parties' combined share in the provision of concession foodservices in the State was approximately [5-15]% in 2022 and [10-20]% in 2023.

54. The Parties have submitted that they are not each other's closest competitors in respect of the provision of concession foodservices in the State. In the provision of concession foodservices in 2023, Compass [...] tenders for contracts previously held by CH&Co, [...] contracts to CH&Co.

55. Following the implementation of the Proposed Transaction, there will remain a number of competitors to Compass in the provision of concession foodservices in the State including a range of large service providers such as Aramark Ireland Holdings Limited, Sodexo Ireland Limited, WSH International Investments Limited, KSG Catering Limited and The Mount Charles Group (MCG Facilities Management Ireland Limited). In the Merger Notification Form, the Parties stated that they believe that Aramark Ireland Holdings Limited has a larger share of the provision of concession foodservices in the State than Compass or CH&Co.

Vertical Overlap

56. The Parties stated in the Merger Notification Form that there is no vertical relationship between Compass and CH&Co. The Commission has not identified any actual or potential vertical relationship between the Parties. Therefore, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion of Competitive Analysis

57. 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

58. Clause 16.1(a) of the SPA contains non-compete and non-solicitation obligations on the Covenantors.³⁵ The Commission notes that these obligations are limited in scope and do not exceed the maximum duration acceptable to the Commission.³⁶ Therefore, the Commission considers Clause 16.1(a) of the SPA to be directly related to and necessary for the implementation of the Proposed Transaction, insofar as the obligations contained in that clause relate to the State.

³⁵ [...], [...], [...] and [...].

³⁶ In this respect, the Commission follows the approach adopted by the European Commission in paragraphs 20 and 26 of its “Commission Notice on restrictions directly related and necessary to concentrations” [2005] OJ C56/24, available at [c_05620050305en00240031.pdf](https://eur-lex.europa.eu/eli/reg/2005/670/20050305en00240031.pdf) (europa.eu)

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 Compass Group UK and Ireland Limited would acquire the entire issued share capital, and thus sole control, of Orchestra Topco Limited, the holding company of CH&Co Catering Group 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