



# Decision

Proposed acquisition of certain assets of Savory & Moore (Jersey), operating as Lloyds Pharmacy, by Channel Islands Co-op (C-061)

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Jersey Competition Regulatory Authority  
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## 1. Summary

1.1 The Channel Islands Co-operative Society Limited (the **Purchaser**) is proposing to acquire four pharmacies and their assets (currently trading as **Lloyds Pharmacy**) from Savory & Moore (Jersey) Limited.

1.2 The proposed transaction was notified to the Jersey Competition Regulatory Authority (**the Authority**) for approval pursuant to Article 21 of the Competition (Jersey) Law 2005 (**the Law**). The Authority has determined the proposed transaction will not lead to a substantial lessening of competition in any relevant market in Jersey and hereby approves the notified transaction.

## 2. The Application

2.1 The Notice of Application with respect to the proposed transaction was published by the Authority on 11 October 2023, with a deadline for comments of 25 October 2023. The application was also notified to the Jersey Gazette<sup>1</sup> and in addition, local media provided extensive coverage of the proposed transaction.<sup>2</sup>

2.2 Related to the proposed transaction, an application was also made to the Guernsey Competition and Regulatory Authority, regarding related assets, held by a separate company, in Guernsey.<sup>3</sup>

2.3 No submissions or comments were received from the Authority's consultation process.

## 3. The Parties

### The Purchaser

3.1 The Purchaser is the Channel Islands Co-operative Society Limited and operates across Jersey and Guernsey. It is incorporated in England, registered with the Financial Conduct Authority, with company number 14672R. It is owned locally, by its 128,269 members and shareholders across the Channel Islands.

3.2 It is principally a grocery retailer (82% of turnover) but also retails road fuels (11% of turnover), pharmacy products and services (6% of turnover) and funerals (1% of turnover). The Purchaser also operates post office counters in certain stores on behalf of Jersey and Guernsey Post and lets concession space. Alongside this it also receives rental income from its extensive investment property portfolio comprising a mixture of commercial and residential units.

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<sup>1</sup> [Notice of Application: Co-op, Savory & Moore \(Lloyds Pharmacy\) \(gov.je\)](#)

<sup>2</sup> For example see: [Three chemists to close as Lloyds Pharmacy sells Channel Islands stores to the Co-op | ITV News Channel](#) and [CI Coop buys four Lloyds pharmacies in Jersey | Jersey Evening Post](#)

<sup>3</sup> See: [GCRA Case M1668G](#)

3.3 In terms of its pharmacy business, the Purchaser currently operates four pharmacies in Jersey. The locations of these pharmacies are St Helier Grand Marche, St Helier Bath Street, St Clements branch and St Peter branch. The pharmacies offer the following services:

- Prescriptions;
- Services (various health services, e.g., vaccinations); and
- Retail (sales of medicines, alongside other toiletries).

3.4 For the Purchaser the reason for the transaction is to enhance the provision of pharmacies services to its members in Jersey by growing its successful pharmacy division.

#### The Seller

3.5 The Seller is Savory & Moore (Jersey) Limited, a firm registered in Jersey with registration number 25809. [Redacted] It operates retail pharmacies in Jersey only, and all turnover was related to Jersey.<sup>4</sup>

3.6 The Seller is wholly owned by Admenta Holdings Limited. The ultimate parent undertaking and controlling party of the Seller is Aurelius European Opportunities GP S.a.r.l. which is registered in Luxembourg. [Redacted]

3.7 For the Seller the reason for the transaction is to allow the company to exit the Channel Islands as part of new owner strategic direction to divest and streamline its business. The transaction will also allow for customers to continue to receive pharmacy services from a local expert provider.

#### The Target Businesses

3.8 The target businesses are four pharmacies, with their corresponding operating assets. These pharmacies are The Parade, Red Houses, Quennevais and Gorey Village. The employees will be transferred as part of the transaction. The Purchaser will also offer employment to the employees from the Seller's three other branches in Jersey, which are to close prior to the completion of the merger.<sup>5</sup>

## 4. Requirement for Authority approval

4.1 Under Article 2(1)(b) of the Law, a merger or acquisition (referred to in this paper as a 'merger') occurs where a person who controls an undertaking acquires direct or indirect control of the whole or part of another undertaking. On completion of the proposed transaction, the Target

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<sup>4</sup> The pharmacies in Guernsey are run by a separate company (Stephen Smith Limited)

<sup>5</sup> The three branches which are to close prior to completion are Units A&B Red Houses Parade, David Place and Indigo House. The remaining stock of these branches is also included in the proposed transaction.

Businesses will be owned and controlled by the Purchaser. The proposed transaction, therefore, constitutes a merger as defined by the Law.

4.2 According to Article 20(1) of the Law, a person must not execute certain mergers or acquisitions except and in accordance with the approval of the Authority. In particular, in relation to this transaction, Article 2 of the Competition (Mergers and Acquisitions) (Jersey) Order 2010 (**the Order**) provides that if the merger or acquisition would create an undertaking with a share of 25% or more of the supply or purchase of goods or services of any description supplied to or purchased from persons in Jersey, or enhance such a share held by an undertaking, then the merger must be notified to the Authority for approval under Article 20(1) of the Law.

4.3 According to information provided by the parties the merged entity will control greater than 25% of the Jersey market for retail pharmacy services (based on the number of branches in Jersey). Therefore, the proposed transaction requires the approval of the Authority prior to its execution.

## 5. Market definition

### Approach

5.1 Under Article 22(4) of the Law, the Authority must determine if the merger would substantially lessen competition in Jersey or in any part of Jersey. As an initial step, the Authority will identify the markets which are likely to be affected by the merger since market definition provides a framework within which the competitive effects of a merger can be assessed.

5.2 When defining a market, the Authority may take note of its own previous decision-making practice and/or market definitions applied by other competition authorities. These previous decisions are not precedents and are not binding, either on the merging parties or on the Authority. Competition conditions may change over time, changing the market definition, and market definition will always depend on the prevailing facts.<sup>6</sup>

### Views of the Parties

5.3 The notifying Parties' view is that the relevant market for the purpose of assessing the competition effects of the proposed transaction is the pharmacy market in Jersey. This market can be further divided into prescriptions, services and retail.

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<sup>6</sup> This approach is consistent with that taken under EU law – see, for example, Joined Cases T-125/97 and T-127/97 [2000] ECR II-01733, paragraphs 81-82. Article 60 of the Law requires the Authority to attempt to ensure that so far as possible questions arising in relation to competition are dealt with in a manner that is consistent with the treatment of corresponding questions arising under European Union law in relation to competition within the European Union.

5.4 With respect to the geographic market, the Parties suggest the relevant geographical market should be smaller than island wide. This is due to the role that pharmacies fulfil within local communities. Therefore, the Parties have considered the parish level as an arbitrary way of segmenting the geographic market, noting that generally each parish normally has a town/community and each parish which has a pharmacy has at least one General Practitioner (GP) surgery.

### Authority consideration

5.5 The relevant product market is defined primarily by reference to the likely response of consumers and competitors.<sup>7</sup> It will comprise products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of the product's characteristics, prices and intended use. An undertaking cannot have a significant impact on the prevailing conditions of a market if customers can easily switch to other service providers.

5.6 The Authority notes the established broad distinction between different types of pharmacy products in considerations by other competition authorities of mergers and acquisitions in the pharmacy sector. However, a key factor taken into consideration informing these assessments is supply-side considerations and this has led to a broader definition than by reference to demand-substitution alone.

5.7 For example, in the Competition Market Authority's assessment of acquisition by Celesio AG of Sainsbury's Pharmacy Business<sup>8</sup>, the Parties argued for separate markets for prescription medicine, pharmacy medicines and services. However, the CMA's view was that the narrow relevant markets should be aggregated into a broader one on the basis of supply-side considerations. For example, prescription medicine, pharmacy medicines and services are only or predominantly supplied by pharmacies and the set of competitors supplying each product in any local area will largely be the same. Therefore, the CMA considered it appropriate to aggregate the markets for prescription medicine, pharmacy medicines and services and assess retail competition at the level of the pharmacy.<sup>9</sup> The Authority's view is similar reasoning will also apply to Jersey though notes the precise market definition can be left open since, for the reasons set out below, the proposed transaction would not lead to a substantial lessening of competition on any plausible basis.

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<sup>7</sup> JCRA Guideline 7 – Market Definition.

<sup>8</sup> Available at: [Celesio AG and Sainsbury's Supermarkets Limited: A report on the anticipated acquisition by Celesio AG of Sainsbury's Pharmacy Business](#)

<sup>9</sup> See discussion in paragraphs 5.4 to 5.7 of the CMA report referenced above.

5.8 With respect to the geographic market, the CMA carried out detailed analysis on the catchments of different pharmacies, by type of area (i.e. distinguishing between city/town and rural/very rural). This showed different catchment areas of between one to five miles and the individual pharmacies were considered on this basis.<sup>10</sup>

5.9 The Authority is mindful that the geographic market definition previously adopted in the UK may not be appropriate in the context of Jersey. This in the context of the relative difference in size between the two jurisdictions, the greater differences in geography and the potential level of concern around the impact on competition. Therefore, for the purposes of this Decision, although the Authority considers it is not necessary to define the geographic market precisely, it will assess the likely impact of the merger on the basis of two plausible geographic market definitions; by parish (the geographic market put forward by the Parties) and on an island wide basis.

5.10 In line with this reasoning, and on a pragmatic basis, the Authority has assessed this transaction on the following frames of reference:

- retail competition at the level of the pharmacy (combining prescriptions, services and retail); and
- Assess this at both the parish level and on an island wide basis.

## 6. Effect on Competition

### Approach

6.1 After defining the relevant market, the Authority considers the respective market shares of the competitors in that market, both before and after the proposed transaction. These shares can be used as an indication of the overall level of market concentration which will be brought about as a result of the merger.

6.2 The analysis will consider whether the merger creates or enhances the ability or incentive to exercise market power, either unilaterally or in co-ordination with competitors, and whether other market forces (such as the entry of new competitors or countervailing power of customers) will eliminate this risk. The assessment will also consider any pro-competitive effects or efficiencies that may result from the merger.

6.3 For horizontal mergers, such as this proposed transaction, the Authority can assess two potential types of anti-competitive effects – unilateral effects (i.e., the ability of the merged entity to raise

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<sup>10</sup> See discussion in paragraphs 5.12 to 5.15 of the CMA report referenced above.

prices unilaterally) and coordinated effects (i.e., the ability of the merged entity to raise prices with either the implicit or explicit co-operation of other competitors).

6.4 When assessing mergers, the Authority will have regard to the guidelines produced by the European Commission. It may also consider the substantive merger guidelines applied by the Competition and Markets Authority in the UK, as well as those of other competition authorities.

## Views of the Parties

6.5 The Parties present views on the impact of the merger on competition on their proposed sub-markets for retail pharmacy services. The Parties note that for a number of areas (such as general medicines and retail sales) significant competition is faced from other retail stores, such as supermarkets. With respect to pharmacy only medicines which can only legally be purchased from a pharmacy, the Parties note both the relatively small size of this market (relative to overall pharmacy sales), standing at circa 5% of turnover, and that post-merger a number of different pharmacies will still be available.

6.6 With respect to consumer and their preferences, the Parties present consumer research from the CMA's assessment of the acquisition by Celesio AG of Sainsbury's Pharmacy Business, which found:

*"Convenience of location is the most important driver of pharmacy choice for both Parties' customers. However, there are a number of other drivers of choice which customers of both Parties also value, including quality and speed of service, opening hours, stocking levels and waiting times. Customers take these elements of the offering into account when choosing which pharmacy to visit"*<sup>11</sup>

6.7 This is supported by data from a Co-op survey undertaken in 2013, which aligns with this and shows that location is not the only factor driving consumer decisions.

6.8 Supporting this, the Parties present analysis on the retail pharmacy market by parish, which shows the limited impact on competitive conditions post-merger. The Parties also identify customer benefits from the proposed transaction. For example, the levels of service within the pharmacies will improve and customers will benefit from the ability to receive Co-op dividend on retail purchases. Alongside this there are operational efficiencies and financial benefits, such as improved staffing, shared resources and enhanced wholesale buying terms.

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<sup>11</sup> Paragraph 7.42

## Authority consideration

6.9 The Authority concludes that the proposed transaction will not substantially lessen competition in Jersey or any part of Jersey. The Authority's considerations that support this conclusion are set out in this sub-section and include:

- Market shares;
- Non-coordinated effects;
- Coordinated effects; and
- Barriers to entry

### *Market shares*

6.10 Market shares and concentration levels provide useful first indications of the market structure and of the competitive importance of both the merging parties and their competitors. Information submitted by the Parties identifies a number of competitors in the retail pharmacy market at the Jersey level. The estimates for the current market shares, by number of pharmacies, is set out in Table 1, for pre- and post-merger on both an island wide and parish basis (for the three parishes affected by the merger).<sup>12</sup>

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<sup>12</sup> The Authority notes this approach is consistent with the considerations of the CMA, referenced above, which considered market shares by number of pharmacies.



Table 1: Estimates of market share in Jersey

	CI-Coop	Lloyds	Total market	Further information
<b>Island wide basis</b>				
Pre-merger	4 (12%)	7 (21%)	33	Aside from CI-Coop and Lloyds, the largest competitors (with a Jersey presence) have been identified as: - Reids Pharmacy Limited (four branches), 13% market share post-merger - Boots PLC (four branches), 13% market share post-merger - Sandpiper Limited (three branches), 10% market share post-merger All other companies (19 – 37% of the market) have only one pharmacy branch. Out of this remaining group, six are GP owned.
Post-merger	8 (27%)	-	30*	
<b>Parish basis (for the three parishes affected by the merger)</b>				
Grouville pre-merger	0	1 (100%)	1	There will be no change in competitive conditions post-merger as pre-merger the Purchaser is not active in this parish.
Grouville post-merger	1 (100%)	0	1	
St Brelade pre-merger	0	3 (75%)	4	There will be no change in competitive conditions post-merger as pre-merger the Purchaser is not active in this parish.
St Brelade post-merger	2 (67%)	0	3*	
St Helier pre-merger	2 (12.5%)	3 (18.75%)	16	The Purchasers market share increases by circa 9% post-merger.
St Helier post-merger	3 (21%)	0	14*	

\* As set out above, prior to the competition of the proposed transaction, three pharmacies will be closed, this includes two in St Helier and one in St Brelade.

6.11 The Authority note the Parties to the merger overlap in the retail pharmacy market in Jersey, with a post-merger combined market share of 27%. This is marginally above 25%, which is the concentration that may be presumed not to lead to a significant lessening of competition under European Guidelines. Further the Authority notes that the analysis on market shares by parish of the affected pharmacies show that there is no significant change in competitive conditions by parish. The largest impact being in St Helier (at 9%), which is the area with the largest number of competitors, including the larger chains of pharmacies.

6.12 There are two main ways in which horizontal mergers may substantially lessen competition, in particular by creating or strengthening a dominant position<sup>13</sup>:

- (a) By eliminating competitive constraints on one or more firms, which would have increased market power without resorting to coordinated behaviour (non-coordinated effects).
- (b) By changing the nature of competition in such a way that firms that previously were not coordinating their behaviour, are now significantly more likely to coordinate, and raise prices or otherwise harm effective competition (coordinated effects).

6.13 Therefore, the Authority has considered whether either of these effects is likely to occur with the proposed transaction, alongside considering barriers to entry.

#### *Non-coordinated effects*

6.14 A number of factors may influence whether significant non-coordinated effects are likely to result from a merger. A key factor is where the merging parties have large market shares, with the larger the market share, the more likely a firm is to possess market power. As set out in Table 1 the combined market share is 27%, which is marginally above the “safe harbour” threshold of 25%.

6.15 Another factor is the extent to which the merging firms are close competitors, as the level of substitutability between the parties may have an impact on the ability to, for example, raise prices. In this case, given the consistency in products across pharmacies, there is relatively high substitutability.

6.16 However, co-ordinated effects are more likely where customers have limited possibilities of switching provider, which can increase the overall market power of the merged entity. In this case, there are a number of alternative service providers as shown by the large number of pharmacies in the market post-merger (there will be 22 alternative pharmacies). Consumers will retain the ability to seek pharmacy services from a variety of different providers across Jersey. This is consistent with the presented consumer research, which highlighted that location is not the only factor driving consumer decision making on what pharmacy to use.

6.17 Further, across the retail pharmacy markets there will remain a wide range of alternative firms, who will continue to provide direct competition. This includes both larger grouping of pharmacies, for example, Reids Pharmacy Group, Boots and Sandpiper, and smaller pharmacies, for example those tied to GP surgeries.

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<sup>13</sup> Guidelines on the assessment of horizontal mergers under Council Regulation 139/2004, section IV

### *Coordinated effects*

6.18 A merger may change the nature of competition in such a way that firms that previously were not co-ordinating their behaviour are now significantly more likely to co-ordinate and raise prices or otherwise harm competition. For example, this may occur if the merger makes collusion easier, more stable or more effective. However, no factors which suggest this may occur are present in relation to this transaction. For example, post transaction there will still be a significant number of competitors, of different sizes, across the retail pharmacy markets as noted above.

### *Barriers to entry*

6.19 In addition to these points, barriers to entry in the retail pharmacy market are relatively low, and primarily driven by the market, as opposed to regulation, which should also act as a source of constraint. While there are legal requirements to open a pharmacy<sup>14</sup>, these do not include an explicit approval process, such as that used in the United Kingdom.<sup>15</sup> Further Jersey does also not put requirements on core business opening hours for pharmacies, as would be case for a UK pharmacy license.

## 7. Decision

7.1 On this basis, the Authority concludes that the proposed transaction will not substantially lessen competition in Jersey or any part of Jersey; and are therefore approved under Article 22(1) of the Law.

**9 November 2023**

**By Order of the Jersey Competition Regulatory Authority**

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<sup>14</sup> The key legal requirement being to register a pharmacy premises, which must meet certain specified criteria, see [Registering pharmacy premises \(gov.je\)](https://www.gov.je/legislation/legislation-act/legislation-act-2018-01-10-001)

<sup>15</sup> In the United Kingdom a new pharmacy requires a Pharmaceutical Needs Assessment application to a Health & Wellness board that considers other pharmacies (including services & opening hours) within the vicinity and population health needs before granting approval for an NHS dispensing contract.