

**ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDER  
TO AID PUBLIC COMMENT**

*In the Matter of Koninklijke Ahold N.V. and Delhaize Group NV/SA  
File No. 151-0175*

**I.**

Delhaize is a Belgian company that operates in the United States through its principal U.S. subsidiary Delhaize America, LLC. As of June 24, 2015, Delhaize operated 1,291 supermarkets in the United States under the Food Lion and Hannaford banners, dispersed throughout Delaware, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Vermont, and West Virginia.

### **III. RETAIL SALE OF FOOD AND OTHER GROCERY PRODUCTS IN SUPERMARKETS**

The Merger presents substantial antitrust concerns for the retail sale of food and other grocery products in supermarkets. Supermarkets are traditional full-line retail grocery stores that sell food and non-food products that customers regularly consume at home—including, but not limited to, fresh produce and meat, dairy products, frozen foods, beverages, bakery goods, dry groceries, household products, detergents, and health and beauty products. Supermarkets also provide service options that enhance the shopping experience, including deli, butcher, seafood, bakery, and floral counters. This broad set of products and services provides consumers with a “one-stop shopping” experience by enabling them to shop in a single store for all of their food and grocery needs. The ability to offer consumers one-stop shopping is the critical difference between supermarkets and other food retailers.

The relevant product market includes supermarkets within “hypermarkets” such as Walmart Supercenters. Hypermarkets also sell an array of products not found in traditional supermarkets. Like conventional supermarkets, however, hypermarkets contain bakeries, delis, dairy, produce, fresh meat, and sufficient product offerings to enable customers to purchase all of their weekly grocery requirements in a single shopping visit.

Other types of retailers, such as hard discounters, limited assortment stores, natural and organic markets, ethnic specialty stores, and club stores, also sell food and grocery items. These types of retailers are not in the relevant product market because they offer a more limited range of products and s TJ 05l03.2(t)-3-4(t)-3(s)3.5(, e)-3.9 .ka6m3[hi)-3.2(n “)6.5( )Tj EMC /P <</MCI4.-3.2(t)7.(c)-3.



Merger will reduce the number of market participants from four to three in 18 markets, from five to four in ten markets, and from seven to six in one market.<sup>5</sup>

Massachusetts. Publix is a large supermarket chain with approximately 1,100 supermarkets in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee. Publix will purchase ten divested stores in Richmond, Virginia. Saubels is a small supermarket chain with three stores in Pennsylvania and Maryland. Saubels will purchase the York, Pennsylvania, store. Tops operates 165 supermarkets in New York, Pennsylvania, and Vermont. Tops will purchase five divested stores in New York and one divested store in Massachusetts. Supervalu is a wholesale food distributor that operates corporate-owned stores. Supervalu will purchase 18 divested stores in Maryland, Pennsylvania, Virginia, and West Virginia. Because Supervalu has in the past sold or assigned its rights in corporate-owned stores to independent operators, the Order requires Supervalu to seek prior approval for any such transfer of the divested stores for a period of three years. Weis is a regional supermarket operating 163 stores in Maryland, New Jersey, New York, Pennsylvania, and West Virginia. Weis will purchase 38 divested stores in Delaware, Maryland, and Virginia.

The proposed Consent Order requires Respondents to divest: (a) the Salisbury, Maryland, asset to Albertsons within 60 days of the date of Merger; (b) the Massachusetts (except Gardner) assets to Big Y within 90 days from the date of the Merger; (c) the Richmond, Virginia, assets to Publix in three groupings (the first within 180 days of the date of Merger, the second within 240 days, and the third within 360 days); (d) the York, Pennsylvania, asset to Saubels within 60 days of the date of Merger; (e) the Chambersburg and Waynesboro, Pennsylvania, assets, the Hagerstown, Maryland, assets, certain of the Virginia assets, and the West Virginia assets to Supervalu within 105 days of the date of the Merger; (f) the New York and Gardner, Massachusetts, assets to Tops within 60 days of the date of the Merger; and (g) the Delaware, Maryland (except Hagerstown and Salisbury), and certain of the Virginia assets to Weis in two phases (the first within 90 days of the date of the Merger, and the second within 230 days).

The variation in divestiture date deadlines is a function of the number of stores being acquired by each proposed buyer, as those acquiring a larger number of stores have requested and need a longer acquisition and transition period than those acquiring a smaller number of stores. In the case of Publix, the divestiture schedule is extended in order to give Publix sufficient time prior to the divestitures to secure permits and approvals needed for remodeling and construction work for the store locations it is acquiring. Publix is planning to make significant improvements to the acquired stores, including rebuilding several of them, in order to conform them to a typical Publix store. In addition, the extended divestiture schedule will reduce the time periods these stores will need to be closed before being reopened as Publix stores. The proposed Consent Order and the Order to Maintain Assets require Respondents to continue operating and maintaining the divestiture stores in the normal course of business until the date that each store is sold to the proposed buyer. If, at the time before the proposed Consent Order is made final, the Commission determines that any of the proposed buyers are not acceptable buyers, Respondents must rescind the divestiture(s) and divest

divestiture schedule with certain stores runs for an extended period of time (potentially up to 360 days following the Merger date), the proposed Consent Order appoints Brad Wise<sup>7</sup> as a Monitor to oversee the Respondents' compliance with the requirements of the proposed Consent Order and Order to Maintain Assets. Brad Wise has the experience and skills to be an effective Monitor, no identifiable conflicts, and sufficient time to dedicate to this matter through its conclusion. Lastly, for a period of ten years, Ahold is required to give the Commission prior notice of plans to acquire any interest in a supermarket that has operated or is operating in the counties included in the relevant markets.

The sole purpose of this Analysis is to facilitate public comment on the proposed Consent Order. This Analysis does not constitute an official interpretation of the proposed Consent Order, nor does it modify its terms in any way.

**Exhibit A**

<b>Area Number</b>	<b>City</b>	<b>State</b>	<b>Merger Result</b>	<b>HHI (pre)</b>	<b>HHI (post)</b>	<b>Delta</b>	<b>Divested Store(s)</b>
1	Lewes & Rehoboth Beach	DE	4 to 3	2,947	5,369	2,421	D2565 & D488

Area Number	City	State	Merger Result	HHI (pre)	HHI (post)	Delta	Divested Store(s)
26	Reisterstown	MD	4 to 3	3,423	4,169	746	D786
27	Salisbury	MD	3 to 2	3,976	5,029	1,053	A351
28	Sykesville	MD	5 to 4	3,012	3,732	720	D1324
29	Upper Marlboro	MD	3 to 2	3,645	5,328	1,683	D1535
30	Mahopac & Carmel	NY	5 to 4	2,940	4,352	1,412	D8325
31	New Paltz, Modena & Highland	NY	3 to 2	3,690	6,601	2,911	A515
32	Poughkeepsie & Lagrangeville	NY	4 to 3	3,269	5,786	2,517	D8368

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