

Mr Cathal Hanley
Executive Office
Competition and Consumer Protection Commission
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Dublin 1

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27th February 2015

Dear Mr Hanley,

Thank you for inviting IFA to contribute to the Competition and Consumer Protection Commission's Strategy Statement.

An objective of CCPC must be to improve its relations with the farming community

As previously communicated to you, IFA represents 88,000 farm family businesses who are constantly challenged by their weak bargaining position in the food supply chain.

In the first place, it is important for the new Competition and Consumer Protection Commission (CCPC) to take on board the fact that the two bodies which merged to form it, the Competition Authority and the National Consumer Agency, had unfortunately lost the confidence of the farming community as a result of their difficult engagement with farmers over many years, with most seeing those organisations as unfair and hostile to their interests.

The Commission's mission is "to make markets work better for consumers and businesses". The farming community and the individual sectors within it are made up of thousands of small and vulnerable family businesses which have contributed substantially to the recovery of the Irish economy and the growth of exports in recent years. However, farmers have not seen the benefit of this growth in their incomes, and rising input costs together with the dominant position of retailers in the food supply chain are major factors in this.

As a new organisation, the CCPC needs to work hard to win back the respect of the farming community and this should one of its objectives in its Strategy Statement. It can do this by demonstrating respect and understanding for the difficulties that family farm businesses face and impartiality in analysing and acting on issues.

Consultation question 1

How should we prioritise sectors of the Irish economy that would benefit most from intervention to increase competition and promote overall economic welfare?

Since 2005 expenditure by farmers on inputs has increased from €2.6bn to €3.8bn (45%). Increases in key inputs including feedingstuffs, fertilisers and energy (electricity, fuel oil and gas) are mainly responsible for the rising costs of inputs to farmers.

The CCPC needs to take a direct interest in the farm inputs area. For example, at European level, IFA has called on the EU Commission to break up the cartel-like structure which is keeping fertiliser prices excessively high. The CCPC therefore needs to advocate both at home and in Europe for measures to dismantle the fertiliser industry structure in order to introduce real competition and bring forward other measures to increase competition and reduce costs in the inputs area generally.

We wish to respond to the following questions together.

Consultation Question 2

How should we prioritise our enforcement activities?

and

Consultation Question 3

How should the Commission encourage compliance with competition and consumer law?

In responding to these questions, we wish to highlight the following points.

- **Dominance of Five Retailers**

The retail market in Ireland is characterised by the concentration of 95% of buying power in the hands of five retail groups, i.e. almost 80% market share controlled by Tesco, SuperValu / Centra and Dunnes, and a further 15% by Aldi and Lidl.

- **Imbalance of power in the Food Supply Chain**

Both in Ireland and at EU level, it is widely recognised and accepted that there is a major imbalance of power in the food supply chain between retailers as price dictators at the top of the chain and primary producers as price takers at the bottom. This imbalance of power in the food supply chain has resulted in a situation where farmers are sometimes compelled to accept unreasonable conditions and prices that do not cover their costs or provide an economic return.

- **Retailer Legislation**

The Competition and Consumer Protection Act 2014 is a first attempt by Government to improve the functioning of the food supply chain. While IFA believes that the legislation does not go far enough, the new Grocery Regulations¹ currently under consultation and due to be commenced this year, will be judged by suppliers and farmers on their effectiveness in rebalancing power in the food supply chain.

It is critical that the CCPC takes a proactive role in ensuring full compliance by retailers with their obligations under the new Regulations. The CCPC will need to demonstrate its willingness to take on board complaints made by suppliers and primary producers in confidence, and initiate its own investigations into retail behaviour. The CCPC must set the tone for rigorous

¹ Consumer Protection Act 2007 (Section 63B) (Regulations of Aspects of the Commercial Relationships Between Suppliers and Relevant Grocery Goods Undertakings) Regulations 2015

implementation of the Regulations by issuing contravention notices and naming and shaming retailers found in breach of the Regulations, as well as taking legal proceedings when necessary.

Consultation Question 4

How should we go about empowering consumers to be in a better position to make the right choices and assert their rights?

We acknowledge the role of the CCPC in helping consumers make informed decisions and empowering consumers through information and education. However, the new CCPC must be responsible in its commentary. A particular instance of a one-sided assessment was when a number of retailers offered vegetable giveaways at 5c/kg in the lead up to Christmas 2013 and the National Consumer Agency (NCA) described this as "great for consumers". It was unacceptable for the NCA to endorse retailers' irresponsible behaviour at a highly important time in the marketing year for Irish vegetable growers.

The CCPC needs to ensure that it makes a fair and objective assessment of market realities for primary producers, in particular when commenting on so-called promotions or other activities by retailers, which have the effect of seriously destabilising markets for producers by offering products at prices below the cost of production or imposing unreasonable conditions on producers.

Mergers and Acquisitions

In the livestock sector the IFA has for a long time expressed concern over the need for strong competition for finished stock in order for farmers to realise the best possible price and return from the market place. In this context, active competition among the meat factories and between the meat factories and live export outlets is essential.

IFA would be concerned that any proposed mergers or takeovers must be subject to rigorous investigation in order to ensure competition in this important sector.

Conclusion

As previously indicated in our letter on January 15th to your Chairperson Ms Isolde Goggin, we would welcome the opportunity to meet with your Chairperson and other officials to discuss this submission further and how the CCPC can make a positive and balanced contribution within its remit.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Eddie Downey', with a long, sweeping horizontal line extending to the right.

Eddie Downey