





Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

The Grocery Regulations

Promoting a Culture of Compliance

Croke Park, 12th April 2016

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Background

- Legal basis for the Regulations is the Competition & Consumer Protection Act 2014 (Part 6 of which added a new section to the Consumer Protection Act 2007)
- Contains enabling provisions which give the Minister for Jobs, Enterprise and Innovation the power to introduce regulations to regulate certain practices in the grocery goods sector

Background (2)

- Consultation on *draft* Regulations - Dec 2014
- Minister signed the Regulations (SI No 35 of 2016) - Jan 2016
- Consultation on *draft* Guidelines - Feb 2016
- Department published Guidelines – Mar 2016

Overview

- Regulations effective for contracts entered into / renewed from 30 April 2016
- Relate to Grocery Goods (food / drink)
- Relevant grocery goods undertaking (RGGU) - worldwide turnover in excess of €50m
- Business relationship covered by Regulations is that between supplier and RGGU (either wholesaler or retailer)
- The wholesaler – retailer relationship is not within the remit of the Regulations

Summary of main provisions (1)

- Grocery Goods contracts must be in writing and in clear, understandable language
- Termination/variation/renewal of contracts not allowed, unless provided for in contract
- Suppliers can't be forced to deal with 3rd parties for goods / services
- *Force majeure* – parties can't be held liable for failure due to circumstances beyond reasonable control
- Forecasts of goods required, to be prepared in good faith, on request from suppliers

Summary of main provisions (2)

- Payment to suppliers within 30 days, unless otherwise provided for

Seeking payment from suppliers is prohibited for :

- stocking / displaying / listing grocery goods; promotions; marketing costs; retention / increased allocation / better positioning of shelf space; wastage; shrinkage - unless in specified circumstances and provided for in the contract
- advertising or display of grocery goods on RGGU premises

Compliance requirements (1)

- Appoint and train appropriate staff members to be responsible for compliance with the Regulations and for informing other staff about their implementation
- Retailers and wholesalers must appoint a “liaison officer” to deal directly with the CCPC

Compliance requirements (2)

- Annual Compliance Report
 - signed by Director / Company Secretary
 - submitted to CCPC by end March each year
 - 1st report covers the period from 30th April to 31st Dec 2016)
- Maintain records of specified dealings with suppliers etc. for inspection (contracts, payments to/from suppliers, forecasts, training records ...)

CCPC Role

- Responsible for public enforcement
- Compliance monitoring
 - inspection activity
 - preliminary enquiries
 - formal investigations
 - scrutiny of compliance reports
- Complaint handling
- Dealing with non-compliance

Enforcement options

Where CCPC of opinion that breach has occurred :

- Contravention Notice (setting out the circumstances and directing remedial action)
 - May be appealed within 21 days to Circuit Court
 - RGGU to confirm compliance to CCPC
- Criminal prosecution (summary / indictment)
 - where a Contravention Notice not adhered to
 - a provision of the Regulations is contravened

Prosecution

- Penalties are set out in CPA 2007
 - summary conviction : fine up to €3k / 6 months prison (€5k / 12 months) – also provision for daily fines
 - conviction on indictment : fine up to €60k / 18 months prison (€100k / 24 months)

Publication of Names

- CCPC must maintain a Grocery Goods Undertakings List, with details of traders where Contravention Notices have taken effect or convictions have been secured (akin to the CPL for breaches of consumer law)
- Details to be published at discretion of CCPC

Our Approach

- Culture of Compliance
- Proportionate & pragmatic
- Bilateral engagement with RGGUs
- Keen to encourage dialogue with all key stakeholders
- Ongoing relationship with Liaison Officers

Compliance Reporting

- Content
 - detailed and accurate account of compliance, incl. breaches / alleged breaches & steps taken
 - designated compliance staff / liaison officer details
 - details of training & staff communication
 - Suppliers' details
- Form & manner as may be specified by CCPC

Timeframes / Next Steps

- Today begins a process of engagement
- Staff to be designated / liaison notified asap to CCPC
- Bilateral meetings Q2/3
- Possible further Plenary meetings
- Compliance reporting requirements finalised by CCPC by end Q3
- Annual reports to CCPC by end March 2017
- Follow-up on reports as required



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Additional information

Compliance for Business section of www.ccpc.ie





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Thank You

Any Questions ???

