



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

Proportionality and Consumer Regulation

Irish Society for European Law

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Chairperson, CCPC

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About the CCPC

- Competition and Consumer Protection Act, 2014
- CCPC replaced the CA and NCA
- Enhanced investigative powers
- New thresholds for notifiable mergers
- New provisions for the grocery goods sector
- New procedures for media mergers



Consumer role

- **Enforcement**
 - Breaches of consumer legislation
 - Product Safety
 - Mixed e.g. vehicle crime
- **Advocacy**
 - Studies and surveys
 - Consultation submissions
 - Observations on legislative proposals
- **Consumer information and empowerment**
 - Advice and help via website and helpline
 - Specific role in financial services

How to achieve proportionality?

- Develop a sound evidence base
- Prioritise appropriately
- Select the right enforcement tool and remedies
- Respect rights of defence
- Engage consumers in regulation



Need for a sound evidence base

- Consumer issues all-pervasive: every sector, every (B2C) transaction
- Numerous media “consumer champions”; single-issue and broad-brush representative associations
- Recency effect: SVR mortgages, car insurance, medical treatments, petrol prices, “defeat devices” ...
- What really matters to Irish consumers?



Sources of evidence

- Website: 1.3m hits per annum
- Helpline: 45,000 calls per annum
- Major consumer detriment study in 2015
- Annual report: sectors, practices, firms



Sources of evidence (contd)

- Market research:
 - Online markets
 - Insurance
 - Toy safety
 - Contactless transactions and mobile banking
 - Budgeting, income and expenditure
 - Mortgage holding and switching
- Interactions with sectoral regulators, including behavioural economics research



Prioritising appropriately

- Can't do everything for everybody
- Prioritisation Principles:
 - Level of harm
 - Likely impact of action
 - Strategic significance
 - Risks, resources and costs



Prioritisation principles (contd)

- Level of harm: economic or physical, actual or potential, direct or indirect, one or many, one-off issue or pattern of behaviour ...
- Likely impact of action: on individual case and on wider market, whether CCPC or a sectoral regulator is best placed to act, possibility of private action, role of Commission ...



Prioritisation principles (contd)

- Strategic Significance: fit with Mission, Vision and Values; public interest issues; precedent value ...
- Risks, resources and costs: likely effects of conduct, impact of actions, timing and resource requirements, impact on other projects ...

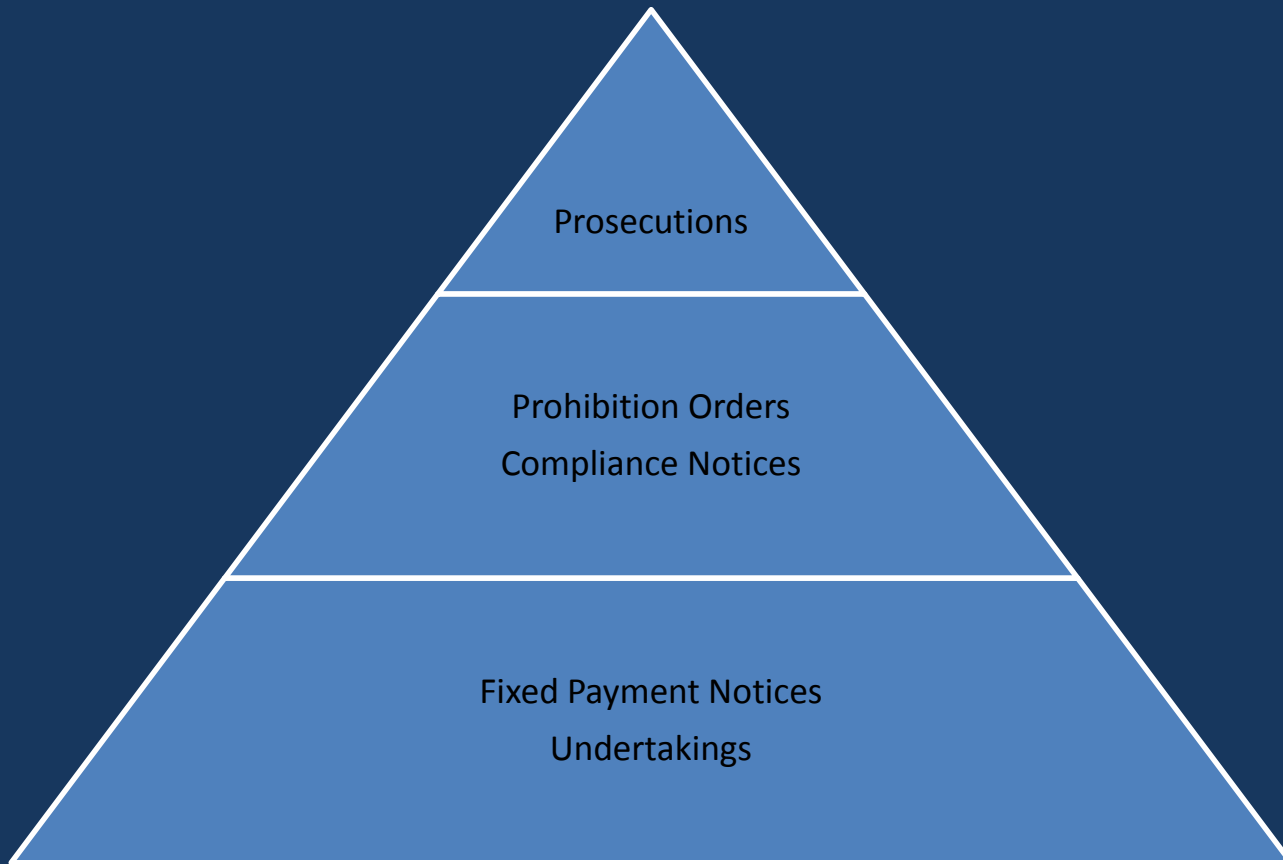


Selecting the right enforcement tool & remedies

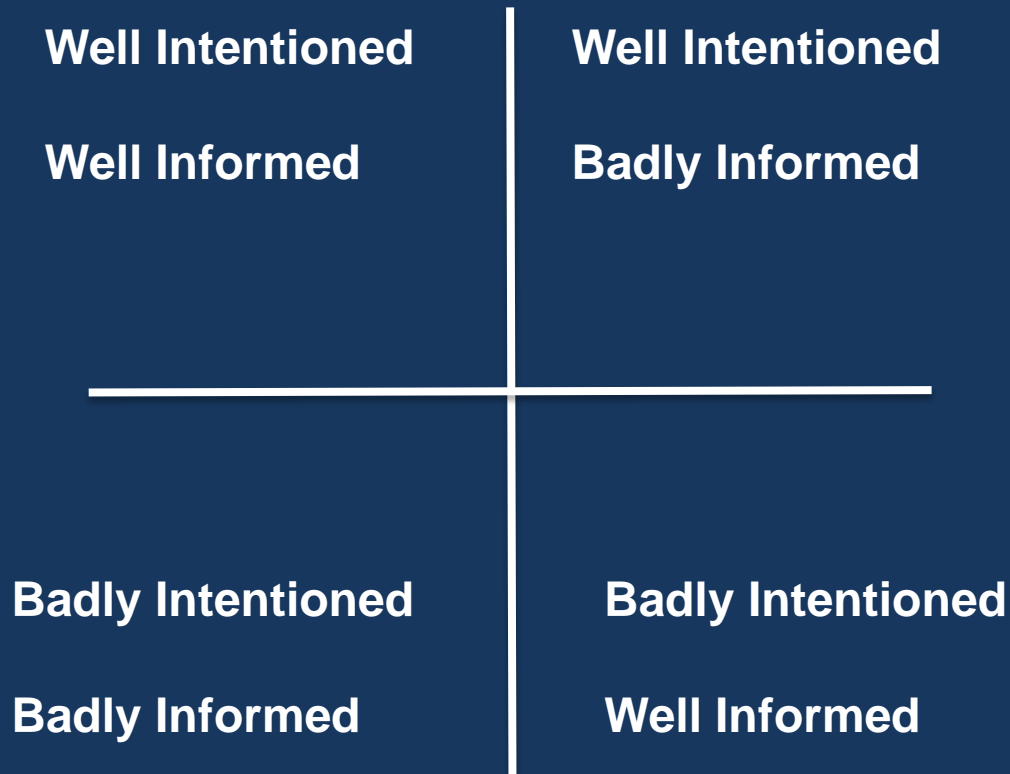
- Undertakings
- Fixed Payment Notices
- Compliance Notices
- Prohibition Orders
- Prosecutions



The Enforcement Pyramid?



The Enforcement Matrix: Categorisation of offenders



Private enforcement

- Prohibition Order mechanism in CPA 2007 can be used by traders (usually large)
- CPA requires CCPC to be afforded opportunity to hear and adduce evidence if it wishes to do so



Consumer engagement in developing regulation

- Advocacy role
- Limited resources
- Complicated landscape
 - Institutions
 - Content
- Increased use of behavioural economics
 - Response to complexity
 - Assistance in decision-making



How to measure success?

- Output measures
 - Number of CNs, FPNs, prohibition orders, prosecutions etc
 - Measures of consumer contacts
- Outcome measures
 - Repeat of detriment study – baseline
 - Changes in “Top 10” – sectors, issues, companies





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Thank You

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