



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

Economics in the Competition and Consumer Protection Commission

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Agenda

- ✓ The Competition and Consumer Protection Commission (CCPC)
- ✓ Competition
- ✓ Consumer Protection
- ✓ Cartels
- ✓ Mergers
- ✓ Advocacy





Chairperson: Isolde Goggin



**Patrick
Kenny**

- Criminal Enforcement
- Legal Services
- Business Regulation



**Fergal
O'Leary**

- Consumer Enforcement
- Advocacy
- Communications & Market Insights
- International & Policy Development



**Brian
McHugh**

- Competition Enforcement & Mergers
- Corporate Services

Functions of interest to Economists



Consumer Enforcement

Criminal Competition Enforcement (Cartels)

Civil Competition Enforcement

Mergers

Advocacy

What informs the CCPC's work?

**Information from consumers:
40,000+ contacts
annually**

**Anonymous letters
&
Whistle Blowers**

**Immunity applicants:
Cartel immunity number:
087 763 1378**

**Information received from
State bodies i.e.
An Garda Síochána
Revenue Commissioners
Procurement Agencies**

**Co-operation with
European Commission and
other competition and
consumer protection agencies**

Recent Highlights

Consumer Protection
Guidelines for Mobile
Phone Traders

Flooring cartel
convictions

Custodial sentence
for car crime

Insurance providers
undertakings
Re-information
exchanges

Mortgages Options
Paper

PCP Car Finance
Study

Residential Care
Services for the
Elderly

Ticketing
investigation

Competition



Why is competition important ?

Competition is the process of rivalry between firms seeking to customers business.

Strong competition incentivises businesses to give customers what they value (lower price, better quality or service ect.)

Perfect
Competition



Monopoly

- Competition minimises dead weight loss (Allocative efficiency)
- Competition means a strong incentive to cut costs (Productive efficiency)
- Competition means a strong incentive to innovate, to make profit (Dynamic Efficiency)

What is competition Policy ?



It is one way to regulate production in an economy



Markets are in ascendancy

- Socialist systems have fallen
- Liberalisation and privatisation in 80's & 90's
- Trade barriers are low
- Competition introduced to Utilities



Over 130 countries now have Competition Policy regimes


What is Consumer Enforcement?



Both are responses to market failures

Market power	Preventing firms merging to lessen competition/ to Monopoly (Merger control)
	Preventing agreements that restrict competition (i.e., Cartels and Comp Enf)
	Preventing abuses by firms with market power (Comp Enf)
	Advocating on competition and consumer matters to the government (Advocacy)
Imperfect information & misinformed consumers	Enforcement of Consumer rights (Consumer Enf.)
	Penalising misinformation (Consumer Enf.)
	Financial education (Online Resources and FE officer)

The European Dimension

- 
- **Competition law is supra-national EU law**
 - **Enforced by the European Commission**
 - Take cases with size to impact union/many member states
 - Appeals go to GC,
 - Points of law go to ECJ
 - **Single Market is a key goal of this law**
 - **EC provide guidance through ECN**



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Consumer Protection



Consumer protection and it's importance

44% of consumers have experienced detriment in past year (known detriment not as yet unknown)

Cost of known detriment –

- €500m pa.
- 5% have detriment over €750.

Structure of detriment

- few with large detriment (white goods, TVs, cars).
- Many with smaller detriment (mobile/broadband, financial services)

Ipsos MRBI

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CONSUMER DETRIMENT SURVEY 2014

Consumer Protection Enforcement



First custodial sentence for selling clocked car,
Jonathan McSherry, July 2017

- On 17 July 2014, a consumer purchased a car from Jonathan McSherry
- Car was advertised on carzone.ie with 135,000 km
- Enquiries by the CCPC found the mileage on the 28 February 2014 had been 175,629 km
- Jonathan McSherry was convicted of the offence of a misleading commercial practice and was sentenced to a prison term of three months

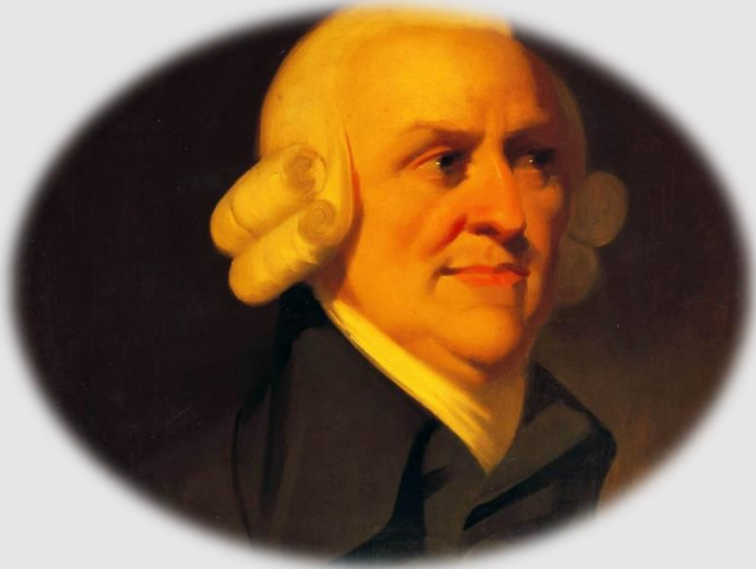


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Competition Enforcement





“People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices”

– Adam Smith, The Wealth Of Nations

Firms have strong incentives to collude, (Increases profits, reduces competitive stress)

But game theory shows us there are always incentives to cheat on any cartel agreement.

Cartels

	Collude	Defect
Collude	100,100	25,120
Defect	120,25	80,80

$$\text{Payoff of Colluding} = \frac{100}{(1-d)}$$
$$\text{Payoff of Defecting} = 120d + \frac{80d^2}{(1-d)}$$

... So collusion is NE if $d > .67$

In one round, it can be modelled as a Prisoners dilemma.

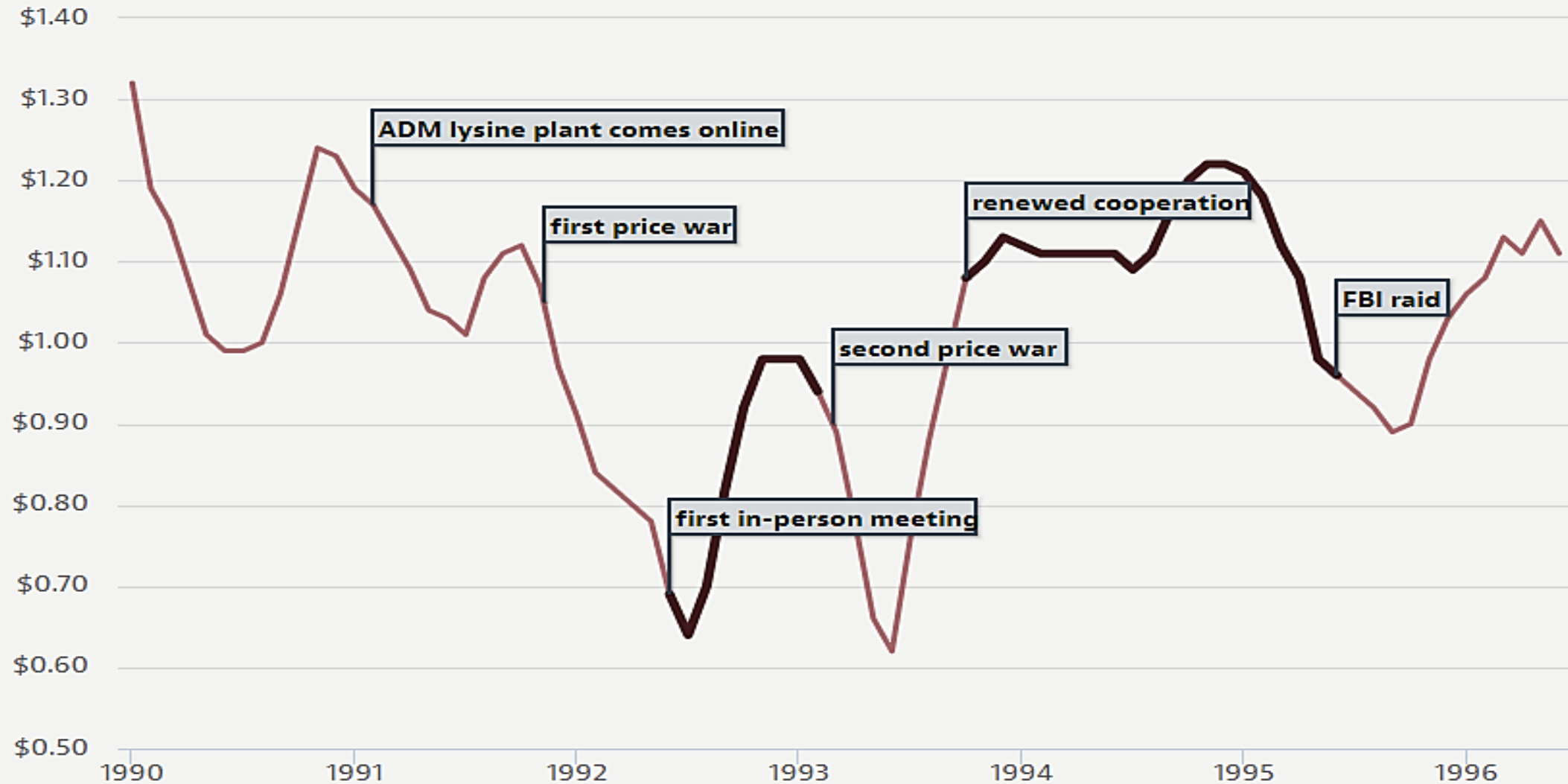
- If Player1 produces the agreed amount (1/2 monopoly quantity), what is Player2 best response?
- <<< What is the Nash Equilibrium for this games?

However over many rounds collusion can be sustained, as the payoff in future periods outweighs the short term gain ... but the incentive to defect remains. See OPEC

Porter and Green gave a theoretical underpinning for more realistic cartels, coming up with a model where actors alternate between high prices (collusive periods) and low prices (price wars).

Cartel Instability

lysine price per pound



Source: adapted from Figure 2 of de Roos (2006)

Competition Authorities
make the most of this
instability

- Reward cartelists that help/turn themselves in.
- Leniency in fines, or Immunity.
- Cartel Immunity Programme: Best terms to the first company to confess + Provide evidence.

Cartels cases are very
long and complex

- **Analysis:** How does the market work? What was the harm?
- **Investigation:** Highlight targets, individuals, what to look for, prepare investigators for interviews, Dawn Raids, etc.
- **Prosecution:** Assist Senior Counsel in bringing across case to jury.
- **Follow on cases:** for damages

Detection is difficult.

- Perfect crime: as victims will not even realise it has happened.
- Surveillance (good for stable cartels)
- Screening data (good for bid rigging)
- Anonymous informant scheme (provides safety)
- Reward for informants (provides “security” (a.k.a €€€))

Aston Carpets: Ireland's first conviction for bid-rigging



- Brendan Smith fined for engaging in and implementing an anti-competitive agreement contrary to the Competition Act 2002
- Handed a three-month prison sentence, suspended for two years, for attempting to impede a prosecution, contrary to the Criminal Law Act 1997
- Aston Carpets was fined for engaging in and implementing an anti-competitive agreement contrary to the Competition Act 2002

Cartels



18 convictions on indictment – fines totalling €150,000

2 individuals sentenced to 6 months and two years in prison (suspended)



15 convictions on indictment – fines totalling €479,000

Civil Competition Enf. - Agreements

Agreements other than cartels that restrict competition are analysed as either

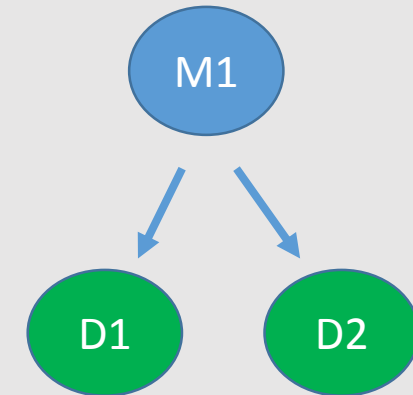
Horizontal “Agreements”

- Agreements on co-operation, R&D, ect.
- This can include guidance on coordinated conduct (such as prices) by trade associations.



Vertical Agreements

- Have to weigh up costs and benefits.
- RPM (manufacturer setting retail price) is a case that is considered bad.



Evolutionary arms race here.

Recent cases on price-fixing by algorithms in UK.

Civil Competition Enf. -Abuse of Dominance



**Martin Shkreli American businessman,
former hedge fund manager, and
convicted felon**

Dominant position means being free of competitive constraints

- Most dominant firms are in regulated industries w/ networks (Telecoms, Utilities, Rail ect.)
- Virtual networks increasingly featuring in cases now

Dominance itself is not illegal ...

- Why does almost everyone you know use Amazon/Google/Facebook?
- The incentive to achieve such power spurs innovation

..... abusing dominance to exclude competitors or rip off customers is illegal

- Exclusion (predation, refusal to supply)
- Tying of products in different markets
- Excessive Pricing

Cases are rare and usually controversial

- Google, for abuse of search market
- Excessive Pricing of cancer drugs

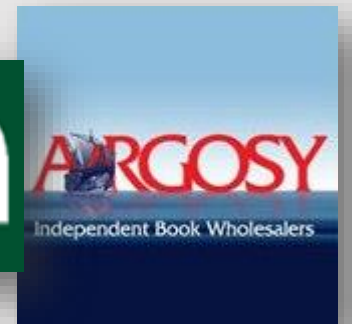
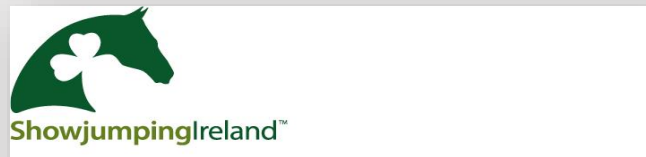
Civil Enforcement – court cases



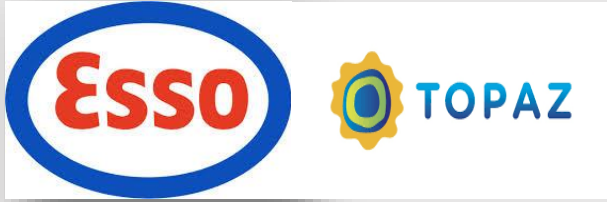
BIDS



Civil Enforcement – Non Court Cases



Mergers



Mergers can help business to restructure in order to compete and prosper
.... But can also allow firms to get rid of competitors
(2-to-1 or 3-to-2 merger)



Consumer welfare test – “Substantial lessening of competition”



If concerns are identified then CCPC may prohibit merger, or require remedies to concerns (divestment/behavioral commitments)



Reliance on economics, and in difficult cases econometrics



Market studies (own initiative or on ministerial request)

- Mortgage Options Paper (CCPC w/ CB)(Post-crash only two banks) (DO MORE ON THIS)
- PCP car finance study



Submissions on legislation or regulation being drafted

- Legal Professions Study
- Central Bank on Mortgage measures
- CRU on review of competition in retail electricity markets

Both can be a great tool for highlighting sources of market failures to policymakers

Require a deep understanding of competition in the market, articulating concerns, identifying options



Thank
You

www.ccpc.ie



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