

Joint Committee on Business, Enterprise and Innovation Competition and Consumer Protection Commission (CCPC) Opening Statement by Isolde Goggin

I would like to thank the Committee for the opportunity to speak to you today about the proposal for a Directive to empower competition authorities to be more effective enforcers. I am joined by Patrick Kenny, Member of the Commission, and Úna Butler, Director of Legal Services.

The CCPC's vision is for open and competitive markets where consumers are protected and businesses actively compete. To that end we are currently active across a large number of sectors, with investigations ongoing in the motor insurance and ticketing sectors, studies in the waste and car finance sectors and a public consultation into contracts for long-term residential care for older people.

This proposed Directive aims to ensure that national competition authorities have the appropriate tools to enforce EU competition law in a harmonised manner.

The CCPC needs to have the right enforcement tools to perform our statutory duties. It is within this context that the CCPC strongly supports the proposed Directive and we are supporting our parent Department, where appropriate, as the text of the Directive is considered by the Council of the EU and the European Parliament.

Competition law

Consumers and businesses benefit from competition through greater choice, lower prices and better quality goods and services. Open and dynamic markets, where there are strong incentives to be more efficient and innovate, help drive competitiveness.

When competition laws are broken not only do consumers suffer, but so do other businesses who have lost out due to illegal practices. Breaches of competition law can limit the ability of businesses to sell their products or services. Such breaches can also increase the cost of doing business or restrict them from entering a new market.

The current enforcement regime

Our role is to investigate potential criminal and non-criminal breaches of competition law across all sectors of the economy. To date we have investigated and challenged criminal breaches of the law in several sectors including cartels in home heating oil and the motor sector. Last year we secured Ireland's first bid-rigging conviction in contracts for commercial flooring. We have worked well with our parent Department over the years to ensure that our powers and resources are sufficient in this area.

We also investigate other types of breaches of competition law such as information sharing (including price signalling), restrictive agreements and abuse of dominance cases. It is in this area that we believe our current powers limit our ability to detect, deter and take effective enforcement action.

At present Ireland is one of a very small number of European countries that will only allow for a company to be fined if a Court finds that there has been a criminal breach of competition law. We use all of our powers and resources to investigate anti-competitive practices, however, in contrast to our European counterparts we are currently prevented from securing significant enforcement outcomes for non-criminal breaches. If an investigation does not reach a criminal standard, at present, the most the CCPC can achieve through the Courts is to seek commitments from a business that they will cease the practice and obtain an injunction against them doing the same action again. However, financial sanctions cannot be imposed. This, in our view, is not an effective deterrent to practices that harm consumers, business and taxpayers. The proposed Directive requires Member States to ensure that non-criminal fines can be imposed for breaches of EU competition law.

Ireland is the only country in the EU that cannot introduce a leniency programme. This is a vital mechanism in the detection of competition law breaches as it allows competition authorities to offer immunity or reductions in fines if a business comes forward with evidence of a breach of competition law. The proposed Directive also requires leniency programmes in all Member States.

Conclusion

From experience, we know that our enforcement powers need to provide a meaningful deterrent and that the threat of enforcement must be real - and go beyond reputational damage. This Directive presents an opportunity to not only bring Ireland's competition enforcement regime in line with the rest of Europe, but also to bring the CCPC in line with other Irish regulators, many of whom have fining powers, including appropriate appeal mechanisms. Having the ability to impose financial penalties would enable us to deter, detect and investigate more "white collar" breaches. The CCPC is very strongly supportive of the proposed Directive as it would ultimately mean that we can more effectively deliver our core objective of protecting Irish consumers and businesses. And in doing so ensure Ireland is a more open, attractive and competitive place to do business.

We are happy to take any questions and explain further our rationale for supporting this Directive in more detail.