

Joint Oireachtas Committee on Enterprise, Trade and Employment
Meeting on: fuel cost issues and pricing practices relating to fuel
23 March 2022

Good morning, Chair and members of the Committee. My colleagues and I welcome the opportunity to brief the Committee about the CCPC's role and actions in relation to petrol and diesel prices. First let me introduce myself and my colleagues. I am Jeremy Godfrey. I joined the CCPC as its Chairperson on 1 January. Brian McHugh has been a Member of the CCPC for almost five years. Seán Murphy and Gráinne Griffin are the Directors of our Consumer Protection and Communications Divisions respectively.

The war in Ukraine has exacerbated pressures on the cost of living. It has led to further increases in global commodity prices, notably for crude oil and for wheat. These increases can add to upward pressure on prices paid by consumers for essential items such as petrol and diesel. This affects all consumers and has a particular effect on vulnerable members of society. We fully appreciate the anxiety and concern that they feel.

We are also conscious that the recent concern about fuel pricing may be replicated in relation to prices of other products that are affected by the war and by the economic sanctions that have followed.

For this reason, it might be helpful if I start by briefly outlining the general role of the CCPC in relation to pricing. Then I will describe the complaints we have received about fuel pricing and the actions we are taking.

I might summarise the CCPC's mandate in relation to pricing as ensuring that prices are set independently by competing businesses, and those prices are then prominently displayed at the point of sale thereby enabling consumers to make informed choices about which supplier offers the best value.

We do not tell businesses what prices to charge, but we enforce laws that mean there is competitive pressure on businesses to set prices at a level that will attract customers.

Let me set out the main ways that the laws we enforce are relevant to pricing.

First, it is illegal for competing businesses to form a cartel – an agreement to fix prices, or to agree a common pricing policy, or to carve up a market so they don't have to compete. It is also illegal for businesses to share information about their future pricing intentions. And wholesalers may not dictate the retail prices charged for their products by independent retailers. However, as long as businesses do not collude, they are free to set their own prices and they may observe their competitors' prices and adjust their own prices accordingly.

Second, excessive pricing may be illegal if a business is in a dominant position where it faces little competition and its customers have little bargaining power. When a business is dominant, it is not allowed to abuse its position. However, most businesses are not in a dominant position, and their pricing decisions are constrained by the need to compete rather than by any legal obligation.

Third, businesses must be transparent about their pricing and display accurate pricing information to consumers who may be considering buying their product. In the case of filling stations this means they must have large scale roadside pricing displays so that drivers can consider the price before

they enter a forecourt and drive to an alternative business if they are not happy with the prices offered.

Fourth, businesses must not engage in illegal unfair commercial practices in relation to pricing. For instance, they cannot claim to be offering a discount unless they have really been selling at a higher price. However, selling at a high price is not defined by law as an unfair commercial practice as long as the price is accurately displayed and the consumer is not coerced into paying it.

When we receive complaints on pricing, we assess them to see if they indicate a possible breach of one of these areas of competition or consumer protection law. We can also take action on our own initiative when we suspect there may have been a breach. However, we cannot investigate behaviour which a consumer regards as unethical unless the behaviour may breach the law.

Where appropriate, we investigate suspected breaches of competition or consumer protection law and we can take enforcement action if the investigation uncovers sufficient evidence of a breach. The nature of enforcement action depends on the type of the breach and the nature of the evidence we have. It can range from referring a file to the Director of Public Prosecutions for a criminal prosecution on indictment in the case of the most serious cartel behaviour, through to fixed penalty notices or compliance notices for some breaches of consumer protection law.

Let me now outline the complaints we have received regarding fuel pricing and the actions we have taken.

Over the past two weeks, we have received almost 200 complaints from the general public and from public representatives about fuel pricing. In general, these complaints allege that filling stations failed to pass on the excise duty reduction in a timely manner, or that they have exploited the current economic situation to raise fuel prices and increase profits. Some complaints include allegations of collusion and a few contain information about price movements at particular filling stations. We have also received a number of complaints relating to allegations of filling stations turning off roadside pricing displays.

We urge anyone who has specific information about collusion or any breach of competition or consumer protection law to provide it to us. Whistle blowers who have information about cartels can provide us with information anonymously at report.whistleb.com/ccpc. Separately, a business or individual that is the first cartel member to provide us with information about a cartel can apply for immunity from criminal prosecution. Penalties for other cartel members found guilty of breaching competition law include large fines and a maximum of 10 years' imprisonment for individuals involved.

We continue to assess the complaints we have received in relation to fuel prices at the pump. As part of this process, we are engaging with complainants and the industry and will assess any evidence that might indicate the possibility of collusive practices.

We will be as transparent as possible about our work in this area. However, we will not be able to disclose commercially sensitive information, nor can we disclose details about any investigation until it is complete. We are unable to say at this point when we will be in a position to give an update.

There are a number of other actions we have taken in relation to fuel pricing:

- We have written to one trade association and two fuel companies about the competition law risks of making public statements about future increases in fuel prices, and we're continuing to monitor public statements;

- We have updated our website to provide consumers with relevant information on price increases and our role;
- We have written to fuel retailers' representatives to remind them of their members' obligations under consumer protection law and we will be continuing compliance checks in relation to pricing displays.

Irish consumers are not alone in suffering from increases in the price of fuel, and we have engaged with our European colleagues to discuss shared competition and consumer protection issues arising from the war in Ukraine.

As in Ireland, concerns have been raised in other EU Member States about pricing changes and the resulting impact on consumers and business. Across the EU, competition and consumer protection are just one area of law and policy that is pertinent to the impact of price rises on consumers: taxation and social policies are also very relevant, with tax changes being implemented or considered in a number of Member States. Political leaders in the EU have also called for proposals for reducing energy dependence on Russia and have declared they will consider concrete options for dealing with the impact of rising energy prices on consumers and businesses, especially vulnerable consumers and SMEs.

In conclusion, may I say that the economic and geopolitical situation is putting pressure on both consumers and businesses. We cannot insulate consumers from the effects of the global upheaval but we will work tirelessly within our mandate on their behalf. We will continue to protect the interests of consumers by monitoring compliance with competition and consumer protection law, by reminding businesses that they must continue to abide by their obligations, and by taking action when we see evidence of such breaches.