



Coimisiún um
Iomláocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

Call for Expressions of Interest - Chief Adjudication Officer

The Competition and Consumer Protection Commission (“CCPC”) invites expressions of interest from suitably qualified individuals with relevant expertise for consideration for nomination to the Minister for Enterprise, Trade and Employment for appointment to the position of Chief Adjudication Officer in accordance with section 150 of the Competition Act 2002 (as amended) and the Competition Act 2002 (Adjudication Officers) Regulations 2023 (S.I. No. 476/2023).

Closing date: 12 noon on Monday, 13th May 2024

CCPC Chair Foreword

The CCPC has a mandate to promote competition and consumer welfare across the whole of the economy with a mission to make markets work better both for consumers and businesses.

For many years the CCPC argued that the Irish competition regime needed increased enforcement powers in order to be able to deliver for consumers. The Competition (Amendment) Act 2022 gives greater powers to the CCPC. This means that, for the first time, the CCPC can impose administrative financial sanctions for breaches of Irish and EU competition law. The role of the Chief Adjudication Officer and the adjudication function is key to delivering this new regime.

It is important the function establishes itself as a core part of the CCPC that provides a strongly independent decision-making element on alleged infringements of competition law. The adjudication function will play its part in the collegiate approach of the CCPC in bringing high standards, a learning environment and an ambition to grow the organisation as a leading voice on competition matters at a national and international level.

The CCPC requires a talented and experienced person to establish and create a strong reputation for the adjudication function. The successful nominee for the position will be a senior leader with a demonstrable track record of making objective, proportionate and reasoned high-level decisions in a legal, regulatory and / or business environment. They will need to have the ability to create a collegiate team environment and have the capacity and credibility to engage and collaborate effectively with relevant senior stakeholders.

This is an important and exciting time to be involved in building the new adjudication function at the CCPC. The role of Chief Adjudication Officer will play a vital part in ensuring that the Irish competition regime delivers for the consumers and the whole economy.

Title of Position:	Chief Adjudication Officer
Location:	Bloom House, Dublin 1/ Agile/Hybrid
Remuneration:	Daily rate - €888.27 (exclusive of VAT, pro-rated for part days)
Tenure:	5-Year term, renewable once only
Working Pattern:	Flexible, with an anticipated range of 6 to 12 days per month
Contracting Authority:	Competition and Consumer Protection Commission (CCPC). The Chief Adjudication Officer will be appointed by the Minister for Enterprise, Trade and Employment on the nomination of the CCPC. The contractual relationship will be between the CCPC and the Chief Adjudication Officer
Contract Type:	Contract for Services

Key Purpose of the Role

The Chief Adjudication Officer (“CAO”) will be nominated by the Competition and Consumer Protection Commission (“CCPC”) for appointment by the Minister for Enterprise, Trade and Employment under section 15O(1) of the Competition Act 2002, as amended (the “2002 Act”) to make decisions on behalf of the CCPC under section 15X of the 2002 Act and otherwise to exercise functions under the 2002 Act.

CCPC Background

The CCPC is the statutory body responsible for enforcing competition and consumer protection law in Ireland. The CCPC’s broad mandate, covering all sectors of the economy, gives it a vital role in ensuring that markets work better for consumers.

The CCPC consists of a Chairperson and up to six (currently three) Members (together the “Commission”). The Commission is responsible for the strategic and operational management of the organisation to deliver on our mission and meet our statutory and regulatory objectives.

Each Division of the CCPC is overseen by a Member of the Commission, led by a Divisional Director and managed by a senior management team from within the Division. We are staffed with people from a wide range of technical backgrounds, including economists, lawyers, digital forensic specialists, investigators, communications professionals and more.

The Competition (Amendment) Act 2022 (the “2022 Act”) and the Consumer Rights Act 2022 have substantially strengthened the regulatory tools and enforcement powers at the disposal of the CCPC, and EU Regulations such as the Digital Markets Act and the Digital Services Act will enable the protection of consumer rights online and create fair, open online markets.

Our [strategy statement](#) outlines the vision, mission, values and goals of the CCPC. Further information on the work of the CCPC to be found at www.ccpc.ie.

Adjudication Function Overview

The 2022 Act, which transposes Directive (EU) 2019/1 (known as the ‘ECN+ Directive’), establishes a landmark new administrative enforcement regime in Ireland for breaches of EU and Irish competition law. Part 2D of the 2002 Act (as inserted by the 2022 Act) creates a new administrative adjudication regime under which the CCPC has the power, subject to court approval, to make decisions concerning alleged infringements of competition law and to impose administrative financial sanctions of up to €10 million or 10% of total worldwide turnover. The CCPC Commission will refer cases for adjudication following the conclusion of investigations by CCPC investigation teams.

Part 2D of the 2002 Act creates the role of Adjudication Officers (“AOs”) that are nominated by the CCPC and appointed by the Minister for Enterprise, Trade and Employment. Part 2D also provides for the role of Chief Adjudication Officer (CAO). The CCPC now intends to nominate one CAO (and, in the coming months, a panel of AOs) for appointment by the Minister for Enterprise, Trade and Employment. Section 15R of the 2002 Act also provides for the appointment by the CCPC of assistants to support the adjudication function. The legislation contains stringent requirements to ensure that the CAO, AOs and their assistants are independent in the performance of their functions.

The CCPC is establishing a Competition Adjudication Unit that will be responsible for supporting the set-up and operation of the new adjudication function under Part 2D of the 2002 Act. The Competition Adjudication Unit’s main role will be to provide support to the CAO and AOs in the exercise of their functions. The Competition Adjudication Unit will be led by a Director who will support the adjudication function and assist the CAO and AOs. Robust arrangements will be put in place to ensure clear separation between the CCPC’s investigative and adjudication functions in relation to breaches of competition law and to safeguard the independence of the adjudication regime. However, the Competition Adjudication Unit will nonetheless play a central role within the CCPC, and the CAO is a key part of this role.

Role Summary

The CCPC is seeking to nominate a suitably qualified individual to be appointed by the Minister for Enterprise, Trade and Employment as Chief Adjudication Officer in accordance with section 15O of 2002 Act and the Competition Act 2002 (Adjudication Officers) Regulations 2023 (S.I. No. 476/2023) (the “2023 Regulations”).

The Chief Adjudication Officer will play a key role in delivering on the CCPC’s mandate by making decisions on behalf of the CCPC in accordance with Part 2D of the 2002 Act. A referral for decision will be made by the CCPC in accordance with section 15M of the 2002 Act following the conclusion of an investigation by the CCPC’s investigation teams. Some of the detail around this decision-making role is set out in Appendix 3. A fundamental requirement of the 2002 Act is that there must be adequate separation between the CCPC’s investigative and

adjudicative functions: that is, between the individuals investigating a suspected infringement and the individuals deciding whether an infringement has, in fact, occurred and imposing a fine or other sanction. The 2002 Act contains stringent requirements to ensure that the adjudication function shall be independent, including a requirement that it shall not be accountable or answerable to any person when performing these functions.

The specific functions of the Chief Adjudication Officer are set out in Part 2D of the 2002 Act and Regulation 16 of the 2023 Regulations. These include:

- To make decisions on behalf of the CCPC under section 15X of the 2002 Act (as set out above);
- To act as an Adjudication Officer and to establish divisions of AOs for particular proceedings or type of proceedings;
- To direct an AO, or a division of AOs, to deal with a referral;
- Where the Chief Adjudication Officer considers it appropriate, to re-assign the matter to another AO officer or division of AOs;
- To oversee at a high-level the employees of the CCPC and external assistants and consultants who have been required to or appointed by the CCPC to assist AOs¹

Subject to the Chief Adjudication Officer's independence under section 15P of the 2002 Act, a Chief Adjudication Officer may also perform functions on behalf of the CCPC other than those provided for in Part 2C, 2D or 2E of the 2002 Act at the request of the CCPC. Therefore, the Chief Adjudication Officer may be requested to assist in tasks which fall under the competency of the CCPC which are outside the Adjudication Function, including in areas where the Chief Adjudication Officer's expertise and experience would be relevant.

These additional functions will not relate to specific enforcement actions or investigations of suspected breaches of relevant competition law and are expected to be accommodated within the anticipated work commitment of 6-12 days per month.

In practical terms, the CCPC expects that the Chief Adjudication Officer will, amongst other things:

- Allocate referrals/cases to AOs;
- Enable the AOs to take high quality, consistent, proportionate and fair decisions;
- Ensure that adjudication is conducted in accordance with the rules of procedure and guidelines outlined in the 2002 Act;
- Be available to sit in oral hearings;
- Provide effective leadership of the CCPC's Adjudication Function;
- Maintain an open and productive relationship with the Chairperson and Members of the CCPC;
- Provide input to the CCPC on the structure and functioning of the Adjudication Unit;
- Where appropriate, effectively communicate adjudication decisions and represent the CCPC in the media;

¹ The Chief Adjudication Officer will have no formal management responsibilities and will not be expected to act as a line manager or take a formal role in managing or governing the Adjudication Unit. Nonetheless, the CCPC anticipates that the views of the Chief Adjudication Officer in these matters may be sought from time to time.



Coimisiún um
Iomláocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

- Where appropriate, effectively represent the CCPC at domestic and international events;
- Oversee the performance of the decision-making function including ensuring best practice case management.

Eligibility Criteria

Candidates must satisfy the eligibility criteria set out in Regulation 14(1) of the 2023 Regulations. These are set out in Appendix 2 below.

Essential Criteria

The successful candidate must also demonstrate:

- A minimum of 10 years' experience acting as a senior leader making decisions at the highest level in one of the following areas:
 - Law – particularly competition, regulatory, administrative, litigation
 - Competition Economics
 - Regulation – particularly involving significant economic, competition and legal analysis.
- An understanding of the role the CCPC has in delivering better outcomes for consumers, businesses, and the Irish economy.
- Proven experience of communicating and effectively collaborating with others at the highest level.
- The ability to analyse complex legal and economic evidence and arguments to make reasoned and timely decisions taking into account EU competition jurisprudence.
- Experience of overseeing complex case management processes to deliver efficient and high-quality outcomes.
- The ability and skills to conduct on-site or remote hearings in accordance with the requirements of a fair hearing.

Please note: In order to satisfy the shortlisting panel, you must clearly highlight within your Expression of Interest Form and/or CV that you meet the essential criteria. If this is not clearly displayed, it may prevent your application progressing to future shortlisting stages.

How to apply

Expressions of interest should be submitted by email to recruit@ccpc.ie by 12 noon on Monday, 13th May 2024.

An expression of interest must include:

1. The accompanying expression of interest form outlining how the applicant meets the essential criteria for the role; and
2. A detailed CV.



Coimisiún um
Iomaíocht agus
Cosaint Torraitheoirí
Competition and
Consumer Protection
Commission

It is envisaged that the interviews for this position will take place in late May 2024. Please note, due to potential number of applications, not all who submit an expression of interest and meet the essential criteria will necessarily progress to the interview stage of this process.

Appendix 1

Process

Expression of Interest opens:	Friday, 26 th April 2024
Closing Date	12 noon Monday, 13 th May 2024
Shortlisting by Assessment Panel	Shortly after closing date
Semi-structured meeting with Members of the CCPC	Late May 2024
Panel Interview	Late May 2024
Applicants notified of Outcome	Early June 2024

Please note that these dates are approximate and may be subject to change.

General

Applicants should note that canvassing will disqualify them and will result in their exclusion from the process.

The appointment is subject to any relevant provisions of the Competition Act 2002, as amended (the “2002 Act”) and any subsequent amendments to or enactments made under the 2002 Act, including the Competition Act 2002 (Adjudication Officers) Regulations 2023 (S.I. No. 476/2023) (the “2023 Regulations”).

Contract Type

Contract for Services

Remuneration

€888.27 daily rate (exclusive of VAT)

Tenure

The Minister for Enterprise, Trade and Employment will appoint the Chief Adjudication Officer. The appointment will be for a fixed term of up to 5 years, renewable once only.

Location

The post will be located in Dublin but agile/hybrid working arrangements may be available to the successful applicant on appointment, in line with the CCPC's policies.

Working Pattern:

Flexible, with an anticipated range of 6 to 12 days per month

Independence of the Chief Adjudication Officer

A Chief Adjudication Officer shall not, during their term of appointment

- participate in an investigation, by the CCPC, of a suspected infringement of relevant competition law, or
- act as authorised officer under –
 - section 15G of the 2002 Act,
 - section 35 (insofar as it relates to investigations of suspected infringements of relevant competition law) of the Competition and Consumer Protection Act 2014, or
 - the Communications Regulation Act 2002.

Conflicts of interest and Registrable Interests

Candidates are directed to Regulation 9 of the 2023 Regulations, which provides that an adjudication officer (including the Chief Adjudication Officer) who receives remuneration from a source other than the competent authority that gives rise to a conflict of interest shall declare the remuneration and the conflict to the relevant Minister for Enterprise, Trade and Employment. This obligation applies at the time of nomination for appointment as an adjudication officer, upon renewal of appointment, and throughout the adjudication officer's term.

Health and Character

Candidates must be in good health, capable and competent of carrying out the work assigned to them, and they must be of good character. Those under consideration for the position will be required to complete a health and character declaration.

References will be sought.

Appendix 2

Criteria for appointment of Chief Adjudication Officer under Regulation 13 of the Competition Act 2002 (Adjudication Officers) Regulations 2023 (S.I. No. 476/2023)

14. (1) *A person shall be eligible for nomination under Regulation 13 if –*

(a) the person is a fit and proper person to perform the functions of Chief Adjudication Officer,

(b) the person satisfies at least one of the following criteria:

(i) subject to section 15P(3) of the Principal Act, the person is a member or employee of the [CCPC] or of the Commission for Communications Regulation;

(ii) the person has, for a period of no less than 5 years –

(I) practiced in the State as a barrister or as a solicitor,

(II) been a registered lawyer, having the same right of audience as a practising barrister or a solicitor qualified to practise by virtue of Regulation 10 of the European Communities (Lawyers' Establishment) Regulations 2003 (S.I. No. 732 of 2003), or

(III) lawfully practiced as a lawyer, in a manner equivalent to a barrister or a solicitor, in a jurisdiction other than a Member State;

(iii) the person has, in the opinion of the competent authority, demonstrated sufficient expertise in matters of competition law, competition economics or both, to merit such appointment;

(iv) the person has, in the opinion of the competent authority, demonstrated expertise in one or more markets, sectors or industries that are, or are likely to be, relevant to the competent authority's investigations of relevant competition law, and

(c) the person has not –

(i) been the subject of a finding of misconduct under section 81 of the [Legal Services Regulation Act 2015],

(ii) been disbarred by the Benchers of the Honorable Society of King's Inns (other than a person who has procured himself or herself to be disbarred with a view to being admitted as a solicitor),

(iii) had their name struck off the roll of practising barristers or the roll of solicitors by the High Court by an order which, at the time of nomination, remains in effect,

(iv) been the subject of disciplinary proceedings having a result comparable to any of clauses (i) to (iii) by a body with authority to make such decisions in any state other than the State,

(v) been convicted on indictment of an offence,

(vi) been convicted of an offence involving fraud or dishonesty, or

(vii) been the subject of a declaration under section 819 of the Companies Act 2014 or been deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act.

Appendix 3

This appendix sets out details of the decision-making role of Adjudication Officers (including the Chief Adjudication Officer) under Part 2D of the Competition Act 2002, as amended (the “2002 Act”). Adjudication officers will make decisions on behalf of the CCPC in respect of referrals made under section 15M of the Competition Act 2002, as amended (the “2002 Act”).

Referrals under section 15M(1) of the 2002 Act concern the making of an order on consent under section 15X(8) of the 2002 Act in respect of a settlement agreed in accordance with section 15L(5)(d) of the 2002 Act.

Referrals under section 15M(2) of the 2002 Act may concern:

- any alleged infringement of relevant competition law;
- breach of a procedural requirement;
- failure to comply with a structural or behavioural remedy;
- failure to comply with commitments entered into under section 15AE of the 2002 Act; or
- failure to comply with a prohibition notice.

Where the Adjudication Officer has received a referral under 15M(2) of the 2002 Act, the Adjudication Officer will be required to consider:

- the statement of objections (and any supplementary statement of objections) prepared by the CCPC;
- the full investigation report prepared by the CCPC;
- any written submissions made by the undertaking or association of undertakings concerned on the content of the statement of objections and the full investigation report;
- any submissions, statements, admissions, information, records or other evidence provided to the Adjudication Officer in the course of the proceedings;
- any prior relevant decision of an Adjudication Officer under the 2002 Act (except such a decision has not been confirmed by the High Court under section 15AY or 15AZ of the 2002 Act).

Having considered the above, the Adjudication Officer is empowered to make a decision pursuant to section 15X(2) of the 2002 Act:

- (a) as to whether, on the balance of probabilities–
 - (i) an undertaking or association of undertakings has or has not intentionally, recklessly or negligently committed an **infringement of relevant competition law**, and whether that infringement is continuing,
 - (ii) an undertaking or association of undertakings has or has not intentionally, recklessly or negligently **breached a procedural requirement or a hearing requirement**, and whether that breach is continuing,
 - (iii) an undertaking or association of undertakings has or has not intentionally, recklessly or negligently **failed to comply with commitments entered into under section 15AE of the 2002 Act**, and whether that failure is ongoing,

- (iv) an undertaking or association of undertakings has or has not intentionally, recklessly or negligently **failed to comply with a structural or behavioural remedy** imposed under this section in accordance with section 15Z of the 2002 Act, and whether that failure is ongoing, or
- (v) an undertaking or association of undertakings has or has not intentionally, recklessly or negligently **failed to comply with a prohibition notice** issued under section 15H of the 2002 Act, and whether that failure is ongoing,

and

(b) may, having made such a decision–

- (i) impose **structural or behavioural remedies** on the undertaking or association of undertakings concerned in accordance with section 15Z of the 2002 Act,
- (ii) impose an **administrative financial sanction** on the undertaking or association of undertakings concerned in accordance with section 15AA of the 2002 Act, or
- (iii) impose **periodic penalty payments** on the undertaking or association of undertakings concerned in accordance with section 15AD of the 2002 Act.

Decisions of the Adjudication Officer are required to be confirmed by the High Court under section 15AY or 15AZ of the 2002 Act.