

COMPETITION AND CONSUMER PROTECTION ACT 2014

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COMPETITION AND CONSUMER PROTECTION ACT 2014

An Act to provide for the establishment of a body to be known in the Irish language as An

Coimisiún um Iomaíocht agus Cosaint Tomhaltóirí or in the English language the Competition and Consumer Protection Commission, to provide for the dissolution of the Competition Authority and the National Consumer Agency, to amend the law relating to media mergers and for that and other purposes to amend the Competition Act 2002 , the Central Bank Act 1942 , the Consumer Protection Act 2007 , the Criminal Justice Act 2011 and the Communications (Retention of Data) Act 2011 , and to provide for related matters. [28 th July, 2014] Be it enacted by the Oireachtas as follows:

PART 1 Preliminary and General

Short title, collective citations, construction and commencement

1. (1) This Act may be cited as the Competition and Consumer Protection Act 2014.
- (2) The Competition Acts 2002 to 2012 and Parts 3 and 4 may be cited together as the Competition Acts 2002 to 2014 and shall be construed together as one Act.
- (3) The Consumer Protection Act 2007 and Parts 5 and 6 may be cited together as the Consumer Protection Acts 2007 and 2014 and shall be construed together as one Act.
- (4) The Communications (Retention of Data) Act 2011 and section 89 may be cited together as the Communications (Retention of Data) Acts 2011 and 2014 and shall be construed together as one Act.
- (5) This Act, other than Part 4 , shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions, and for the repeal of different provisions effected by section 7 . (6) Part 4 shall come into operation on such day or days as the Minister for Communications, Energy and Natural Resources may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Interpretation

2. In this Act-

"Act of 2002" means the Competition Act 2002 ; "Act of 2007" means the Consumer Protection Act 2007 ; "authorised officer" shall be construed in accordance with section 35 ; "Commission" has the meaning assigned to it by section 9 ; "contravention" has the same meaning as it has in the Act of 2002;

"enactment" has the same meaning as it has in the Interpretation Act 2005 ; "establishment day" shall be construed in accordance with section 8 ; "dissolved body" has the meaning assigned to it by section 38 ; "financial year" means a period of 12 months ending on 31 December in any year and, in the case of the first financial year of the Commission, means the period commencing on the establishment day and ending on 31 December in the year in which the establishment day falls;

"goods" has the same meaning as it has in the Act of 2007;

"Minister" means the Minister for Jobs, Enterprise and Innovation;

"prescribed" means prescribed by regulations made by the Minister;

"recognised trade union or staff association" means a trade union or staff association recognised by the Commission for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees;

"relevant statutory provisions" means-

- (a) "relevant statutory provisions" within the meaning of the Act of 2007,
 - (b) the Act of 2002, and any instrument made under that Act for the time being in force, and
 - (c) this Act, and any instrument made under this Act for the time being in force;
- "services" has the same meaning as it has in the Act of 2007;
"undertaking" has the same meaning as it has in the Act of 2002.

Orders and regulations

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
- (3) Every order (other than an order under section 1 (5) or section 8 made by the Minister or an order under section 1 (6) made by the Minister for Communications, Energy and Natural Resources) and regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Time limit for institution of summary proceedings

4. Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act 1851 , summary proceedings for an offence under this Act may be instituted within 2 years from the date on which the offence was alleged to have been committed.

Expenses

5. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Transitional provisions relating to mergers

6. Where a merger or acquisition was notified under Part 3 of the Act of 2002 before the commencement of section 7 (1)(b) and Parts 3 and 4 , then, upon such commencement, the Act of 2002 shall apply to the merger or acquisition as if the amendments effected by section 7 (1) and Parts 3 and 4 had not been made. Repeals

7. (1) The following provisions of the Act of 2002 are repealed:

- (a) subsections (11B) and (11C) (inserted by section 2 (h) of the Competition (Amendment) Act 2012) of section 8; (b) sections 23 and 25;
- (c) Part 4;
- (d) Schedule 1.

- (2) Part 2 (other than sections 24A to 24E) of the Act of 2007 is repealed.

PART 2

Establishment of Commission and Dissolution of Bodies

Chapter 1

Establishment of Commission

Establishment day

8. The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

Establishment of Competition and Consumer Protection Commission

9. (1) There shall stand established on the establishment day, a body which shall be known, in the Irish language, as An Coimisiún um Iomaíocht agus Cosaint Tomhaltóirí or, in the English language, as the Competition and Consumer Protection Commission (in this Act referred to as the "Commission"), to perform the functions conferred on it by this Act.

(2) The Commission shall be a body corporate with perpetual succession and an official seal and shall have power to sue, and may be sued, in its corporate name, and shall, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, have power to acquire, hold and dispose of land or an interest in land, and shall have power to acquire, hold and dispose of any other property.

(3) The seal of the Commission shall be authenticated by-

(a) the signatures of 2 members of the Commission, or

(b) the signatures of both a member and a member of the staff of the Commission, authorised by the Commission to act in that behalf.

(4) Judicial notice shall be taken of the seal of the Commission and any document purporting to be an instrument made by, and to be sealed with the seal of, the Commission shall, unless the contrary is shown, be received in evidence and be deemed to be such instrument without further proof.

(5) Subject to this Act, the Act of 2002 and the Act of 2007 the Commission shall be independent in the performance of its functions.

Functions of Commission

10. (1) The Commission shall have, in addition to the functions assigned to it by any other provision of this Act, or of any other enactment, the following functions:

(a) to promote competition;

(b) to promote and protect the interests and welfare of consumers;

(c) to carry out an investigation, either on its own initiative or in response to a complaint made to it by any person, into any suspected breach of-

(i) the relevant statutory provisions, that may be occurring or has occurred,

(ii) Article 101 or 102 of the Treaty on the Functioning of the European Union, that may be occurring or has occurred, or

(iii) notwithstanding their repeal, the Competition (Amendment) Act 1996 and the Competition Act 1991, that has occurred; (d) to enforce the relevant statutory provisions;

(e) to encourage compliance with the relevant statutory provisions, which may include the publication of notices containing practical guidance as to how those provisions may be complied with;

(f) to set the strategic objectives for the Commission; and

(g) to ensure that appropriate systems and procedures are in place to achieve the Commission's strategic objectives and to take all reasonable steps available to it to achieve those objectives.

(2) This section and the other provisions of this Part are without prejudice to the Central Bank Act 1942 in relation to the concurrent vesting in the Central Bank of Ireland of certain functions under the Act of 2007.

(3) Without prejudice to the generality of subsection (1), in performing its functions under this Act, the Commission-

(a) may, and shall at the request of the Minister, advise and, as appropriate, make recommendations to the Government, the Minister, any other Minister of the Government, any

Minister of State, any public body or any prescribed body within the meaning of section 19 in relation to any matter concerning, or which the Commission considers would be likely to impact on-

(i) consumer protection and welfare, or

(ii) competition,

or both,

(b) shall foster and promote contacts, and co-operate and consult with consumer groups and such other persons or bodies as the Commission considers could assist in the promotion or development of consumer protection and welfare and competition matters,

(c) shall promote, where appropriate, the development of alternative dispute resolution procedures as a means of resolving disputes arising out of consumer transactions,

(d) shall promote public awareness and conduct public information campaigns for the purpose of educating and providing information to the public in relation to consumer protection and welfare,

(e) shall promote public awareness and conduct public information campaigns in relation to issues of competition,