



DÁIL ÉIREANN

AN BILLE UM CHOSAINN TOMHALTÓIRÍ 2007 CONSUMER PROTECTION BILL 2007

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM CHOSAINT TOMHALTÓIRÍ 2007 —ROGHCHOISTE

CONSUMER PROTECTION BILL 2007 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 9, subsection (1), line 19, after “Protection” to insert “and Unfair Commercial Practices”.

—Mary Upton.

SECTION 2

2. In page 10, subsection (1), to delete lines 13 to 15 and substitute the following:

““Consumer” means a natural person (whether in the State or not) who is acting for purposes unrelated to the person’s trade, business or profession, except where the person’s trade, business or profession, except where the person’s trade, business or profession is deemed to be a small enterprise under this Act in which circumstances the person, or their company shall be treated as a consumer;”.

—Phil Hogan.

3. In page 10, subsection (1), to delete line 33 and substitute the following:

““existing enactments” means the following enactments, to the extent to which those enactments confer functions on the Director which are transferred to the Agency pursuant to *section 37*”.

—An tAire Fiontar, Trádála agus Fostaíochta.

4. In page 10, subsection (1)(a), lines 35 to 37, to delete all words from and including “in” in line 35 down to and including “*section 37*,” in line 37.

—An tAire Fiontar, Trádála agus Fostaíochta.

5. In page 12, subsection (1), after line 42, to insert the following:

““Small enterprise” means a trade, business, or profession which either employs less than 5 people or has a turnover of less than €2m or such higher amount as may be prescribed under regulations made by the Minister under this Act;”.

—Phil Hogan.

SECTION 8

6. In page 15, subsection (1), between lines 19 and 20, to insert the following:

“(b) to assist individual consumers in enforcing their rights under this Act.”.

—Mary Upton.

7. In page 15, subsection (1), between lines 30 and 31, to insert the following:

[SECTION 8]

“(f) to report to the Oireachtas on an annual basis on the impact of actions or policies of the State or State agencies on consumers in Ireland and to suggest such changes, modifications or alterations as may be required in the interests of better protecting the interests of consumers.”.

—Phil Hogan.

8. In page 15, between lines 30 and 31, to insert the following subsection:

“(2) This section and the other provisions of this Part are without prejudice to *section 92** (respecting the concurrent vesting in the Central Bank and Financial Services Authority of Ireland of certain functions under this Act).”.

—An tAire Fiontar, Trádála agus Fostaíochta.

[* *This is the appropriate reference if amendment no. 73 is accepted.*]

9. In page 16, subsection (2), between lines 43 and 44, to insert the following:

“(m) shall promote and encourage the establishment by a trader or traders, whether generally or in respect of a particular service or services, of quality assurance schemes, that is to say schemes the purpose of which is—

(i) to maintain and improve the quality and reliability of the service or services provided to consumers, and

(ii) to enable consumers to identify traders who meet the requirements of the scheme concerned.”.

—An tAire Fiontar, Trádála agus Fostaíochta.

10. In page 16, subsection (2), between lines 46 and 47, to insert the following:

“(n) to advise, as necessary on the effectiveness of redress schemes available to consumers and in particular to review the jurisdictional limit of the Small Claims Court service in the District Court on an annual basis, and to make such recommendations on raising this limit, or related matters to the Minister for Justice and the Courts Services, or related bodies.”.

—Phil Hogan.

11. In page 16, subsection (2), between lines 46 and 47, to insert the following:

“(n) to liaise with groups or organisations representing consumers, business, trade unions and relevant stakeholders to advance the interests of consumer protection and welfare on a regular basis.”.

—Phil Hogan.

SECTION 10

12. In page 17, subsection (1)(b), line 34, after “members” to insert the following:

“at least 3 of whom shall be nominated by any body or bodies that appear to the Minister to be representative of consumers”.

—Mary Upton.

13. In page 17, lines 35 and 36, to delete subsection (2) and substitute the following:

“(2) The chief executive may attend meetings of the Agency.”.

—Mary Upton.

[SECTION 14]

SECTION 14

14. In page 21, between lines 41 and 42, to insert the following subsection:

“(9) Notwithstanding *subsection (8)*, a person who was the chief executive shall not be precluded from—

- (a) holding any office or employment in the Civil Service or any public body,
or
- (b) acting as a consultant to the Agency, the Minister or any other Minister of the Government,

during the period referred to in that subsection.”.

—An tAire Fiontar, Trádála agus Fostaíochta.

SECTION 16

15. In page 22, lines 45 to 48, to delete subsection (2).

—Mary Upton.

SECTION 17

16. In page 23, before section 17, to insert the following new section:

“Attendance of chief executive before other Oireachtas committees.

17.—The chief executive shall, whenever required to do so by—

- (a) a committee appointed by either House of the Oireachtas, the business of which committee includes examination of policy relating to consumer protection and welfare, or
- (b) a committee appointed jointly by both Houses of the Oireachtas, the business of which committee includes examination of such policy,

attend before such committee to discuss the general activities of the Agency.”.

—An tAire Fiontar, Trádála agus Fostaíochta.

[*Acceptance of this amendment involves the deletion of section 17 of the Bill.*]

17. In page 23, lines 1 to 4, to delete subsection (1) and substitute the following:

“17.—(1) The Chairperson or chief executive shall, at the request in writing of an Oireachtas Committee, attend before it to discuss the work of the Agency and general issues relating to consumer protection and welfare as may be required for by the Committee and for the purposes of such attendance, the Chairperson, chief executive or such other officer of the Agency shall be free to question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.”.

—Phil Hogan.

SECTION 20

18. In page 25, lines 1 to 5, to delete subsection (4) and substitute the following:

[SECTION 20]

“(4) As soon as practicable after a strategy statement has been submitted to the Minister under *subsection (1)*, the Agency shall cause a copy of the strategy statement to be presented to an Oireachtas Committee with responsibility for reviewing the Estimates of the Minister and the Department and shall take account of the observations, comments and views expressed.”.

—Phil Hogan.

SECTION 21

19. In page 26, subsection (3)(b), line 2, to delete “and”.

—An tAire Fiontar, Trádála agus Fostaíochta.

20. In page 26, subsection (3)(c), to delete line 9, and substitute the following:

“category specified in the co-operation agreement, and

(d) ensuring that no person is the subject of—

(i) proceedings (whether civil or criminal) under this Act or any other enactment, or

(ii) the exercise of any power under *section 71* or *73*,

in respect of an alleged contravention of a provision of this Act or any other enactment, by more than one of the parties.”.

—An tAire Fiontar, Trádála agus Fostaíochta.

21. In page 26, subsection (6), line 22, to delete “notice of its making,” and substitute “notice of its making”.

—An tAire Fiontar, Trádála agus Fostaíochta.

22. In page 26, to delete lines 45 and 46 and substitute the following:

“(11) (a) In this section “prescribed body” means each of the following:

(i) the Irish Financial Services Regulatory Authority;

(ii) a body prescribed by the Minister.”.

—An tAire Fiontar, Trádála agus Fostaíochta.

23. In page 27, between lines 7 and 8, to insert the following subsection:

“(13) It shall be a condition of each co-operation agreement between the Agency and the prescribed bodies that their primary objective in each fulfilling their statutory duties shall be the advancement of consumer protection and welfare in an effective, proportionate and efficient manner.”.

—Phil Hogan.

SECTION 22

24. In page 27, between lines 25 and 26, to insert the following subsection:

“(5) The Agency shall be entitled, at any stage, to bring concerns to the attention of a relevant Oireachtas Committee about any inadequacy in its funding or other resource requirements, matters concerning its relationship with the Minister or his Department or prescribed bodies or the Agency’s powers, work programme or related matters, where the Agency believes that such concerns need to be addressed if it is to fulfil its statutory mandate effectively.”.

—Phil Hogan.

SECTION 26

25. In page 29, between lines 40 and 41, to insert the following subsection:

“(2) Any consultant or advisor proposed to be retained by the Agency (and on an annual basis thereafter if subsequently retained) shall lodge with the Agency a full list of its clients and client matters before the engagement commences and shall identify (to the satisfaction of the Agency) measures necessary to ensure that no conflict of interest arises in relation to the consultant’s or advisor’s work for the Agency.”.

—Phil Hogan.

SECTION 30

26. In page 30, subsection (2), line 28, to delete “authorised” and substitute “appointed”.

—An tAire Fiontar, Trádála agus Fostaíochta.

27. In page 30, subsection (5)(a), lines 45 and 46, to delete “, place or vehicle,”.

—An tAire Fiontar, Trádála agus Fostaíochta.

28. In page 31, subsection (5)(a), line 3, to delete “, place or vehicle”.

—An tAire Fiontar, Trádála agus Fostaíochta.

29. In page 31, subsection (5)(a), line 4, to delete “place or vehicle,”.

—An tAire Fiontar, Trádála agus Fostaíochta.

30. In page 31, subsection (5)(b), line 6, to delete “or place or vehicle”.

—An tAire Fiontar, Trádála agus Fostaíochta.

31. In page 31, subsection (5)(d), line 18, to delete “place or vehicle,”.

—An tAire Fiontar, Trádála agus Fostaíochta.

32. In page 32, subsection (10), line 26, to delete “or place or in any vehicle”.

—An tAire Fiontar, Trádála agus Fostaíochta.

33. In page 32, subsection (10), line 32, to delete “place or vehicle,”.

—An tAire Fiontar, Trádála agus Fostaíochta.

34. In page 32, lines 49 and 50 and in page 33, lines 1 to 4, to delete subsection (13).

—An tAire Fiontar, Trádála agus Fostaíochta.

35. In page 33, subsection (14), line 6, to delete “*subsection (13)*” and substitute “this section”.

—An tAire Fiontar, Trádála agus Fostaíochta.

36. In page 33, subsection (17), to delete lines 27 and 28 and substitute the following:

“ “premises” means any place or vehicle;”.

—An tAire Fiontar, Trádála agus Fostaíochta.

37. In page 33, subsection (17)(iii), lines 46 and 47, to delete “reproductions.” and substitute the following:

[SECTION 30]

“reproductions;

“vehicle” means any conveyance in or by which any person or thing, or both, is transported which is designed for use on land, or in water or in the air, or in more than one of those ways, and includes—

- (a) part of a vehicle,
- (b) an article designed as a vehicle but not capable of functioning as a vehicle,
- (c) a skip or other container designed for use or used for carriage on a vehicle,
- (d) a trailer designed for use or used with a vehicle.”

—An tAire Fiontar, Trádála agus Fostaíochta.

SECTION 31

38. In page 34, subsection (1), line 6, to delete paragraph (d) and substitute the following:

“(d) an officer of the Revenue Commissioners,

(e) the Central Bank and Financial Services Authority of Ireland, or”.

—An tAire Fiontar, Trádála agus Fostaíochta.

39. In page 34, subsection (2), line 22, to delete paragraph (d) and substitute the following:

“(d) an officer of the Revenue Commissioners,

(e) the Central Bank and Financial Services Authority of Ireland, or”.

—An tAire Fiontar, Trádála agus Fostaíochta.

SECTION 41

40. In page 40, between lines 10 and 11, to insert the following subsection:

“(2) Commercial practices which are likely to materially distort the economic behaviour only of a clearly identifiable group of consumers who are particularly vulnerable to the practice or the underlying product because of their mental or physical infirmity, age or credulity in a way which the trader could reasonably be expected to foresee, shall be assessed from the perspective of the average member of that group. This is without prejudice to the common and legitimate advertising practice of making exaggerated statements or statements which are not meant to be taken literally.”.

—Mary Upton.

SECTION 48

41. In page 45, before section 48, to insert the following new section:

48.—(1) In this section—

“cash” means cash that is legal tender;

“relevant method”, in relation to payment, means each of the following methods of payment—

“Prohibition on surcharges where one method of payment chosen in preference to another.

[SECTION 48]

- (a) cash,
- (b) credit card,
- (c) direct debit,
- (d) any other method or methods of payment prescribed by the Minister.

(2) In this section a reference to a representation includes a reference to a representation made at any stage up to the time the trader accepts payment in respect of the product concerned.

(3) Where—

- (a) a trader makes a representation that the trader will accept payment in respect of a product by any one of 2 or more different relevant methods, or
- (b) it is the practice of a trader to accept payment in respect of a product by different relevant methods,

the trader shall not impose an additional charge on any person by reason of the person's making payment in respect of the product by one of the relevant methods (to which the foregoing representation relates or as regards which the foregoing practice exists) as distinct from another of them.

(4) For the purposes of *subsection (3)*—

- (a) without limiting any of the other means by which that subsection may be contravened, a trader shall be deemed to impose an additional charge, by reason of the person concerned making payment as mentioned in that subsection, if the price charged by the trader in respect of the product concerned is, where one of the relevant methods of payment is used by that person, greater than the price that would be so charged were that person to use another of them,
- (b) if the representation or practice referred to in that subsection relates not only to relevant methods of payment but to one or more other methods of payment as well, that fact is immaterial, and
- (c) it is immaterial that the trader can show that any expenses incurred by the trader in accepting payment by one of the relevant methods are greater than those incurred by the trader in accepting payment by another of them.

(5) A trader who contravenes *subsection (3)* commits an offence and is liable on summary conviction to the fines and penalties provided in *Chapter 4 of Part 5*.

(6) In proceedings for an offence under this section, where evidence is given that on a particular occasion the defendant accepted payment in respect of the product concerned by a relevant method which was different from that which the defendant accepted in respect of the product on another occasion in the period of 12 months preceding the first-mentioned occasion (and that previous method is also a relevant method), then it shall be presumed, until the contrary is proved, that a practice existed on the part of the defendant to accept payment in respect of the product by those foregoing methods.”.

—An tAire Fiontar, Trádála agus Fostaíochta.

[SECTION 57]

SECTION 57

42. In page 52, subsection (2), lines 19 to 21, to delete paragraph (b) and substitute the following:

“(b) allow any person purchasing or about to purchase, such food to weigh it or observe its weighing on the weighing scale or weighing machine in a manner that allows that person to calculate the cost of the food prior to purchase.”.

—Phil Hogan.

Amendment to Amendment No.42

1. In paragraph (b), lines 3 and 4, to delete all words from and including “that”, where it firstly occurs in line 3, down to and including “purchase.” in line 4 and substitute the following:

“that allows the person to see the reading of the weight provided by the scale or machine and to be informed of the resultant price before payment.”.

— An tAire Fiontar, Trádála agus Fostaíochta.

SECTION 59

43. In page 52, subsection (1), line 35, to delete “If the Government is” and substitute “If the Government are”.

—An tAire Fiontar, Trádála agus Fostaíochta.

44. In page 52, subsection (2), line 41, to delete “the Government thinks” and substitute “the Government think”.

—An tAire Fiontar, Trádála agus Fostaíochta.

45. In page 53, subsection (3)(a), lines 4 and 5, to delete “the Government thinks proper and specifies” and substitute “the Government think proper and specify”.

—An tAire Fiontar, Trádála agus Fostaíochta.

46. In page 53, subsection (4), line 8, to delete “the Government is” and substitute “the Government are”.

—An tAire Fiontar, Trádála agus Fostaíochta.

47. In page 53, subsection (5), lines 15 and 16, to delete “the Government is” and substitute “the Government are”.

—An tAire Fiontar, Trádála agus Fostaíochta.

SECTION 60

48. In page 53, subsection (2)(e), line 41, to delete “the Government considers” and substitute “the Government consider”.

—An tAire Fiontar, Trádála agus Fostaíochta.

SECTION 62

49. In page 54, before section 62, but in Part 3, to insert the following new chapter:

“CHAPTER 5

Price Surveys

Amendment of
Central Bank and
Financial Services
Authority of Ireland
Act 2003.

61.—The Central Bank and Financial Services Authority of Ireland Act 2003 is amended in Article 3 of Part 21 of Schedule 1 by the insertion of the following after section 7:

“Power of
Director to
conduct and
publish price
surveys.

7A.—(1) The Director may, in the interests of better informing consumers, conduct price surveys in order to—

- (a) make consumers aware of price discrepancies,
- (b) assess competitiveness or other practices under sections 4 and 5 of the Competition Act 2002, or
- (c) for such other reason as the Director may, from time to time, deem necessary.

(2) The Director shall not be limited by national or currency boundaries in carrying out a price survey referred to in subsection (1).

(3) The Director shall be empowered to—

- (a) (i) publish or part-publish all or any part of information,
 - (ii) create an electronic database containing data, gathered by him or her under this section,
- and
- (b) make any electronic database created under paragraph (a)(ii) publicly available on-line.

Codes of
Conduct.

7B.—The Director may compile and publish codes of conduct for service providers and retailers on such issues as he or she may, from time to time, deem appropriate, including the passing on of costs such as exchange rate movements.

Good Practice
Provider
Quality Mark.

7C.—(1) The Director may establish the ‘Good Practice Provider Quality Mark’.

(2) The Good Practice Provider Quality Mark shall be awarded to suppliers of goods and services who agree to be bound by a code of practice compiled and published under section 7B.”.”.

—Phil Hogan.

SECTION 65

50. In page 55, between lines 38 and 39, to insert the following:

“(b) any contravention of *section 48(3)**.”.

—An tAire Fiontar, Trádála agus Fostaíochta.

[* *This is the appropriate reference if amendment no. 41 is accepted.*]

[SECTION 66]

SECTION 66

51. In page 56, line 5, after “representation” to insert “, or on whose behalf the representation was made,”.

—An tAire Fiontar, Trádála agus Fostaíochta.

SECTION 67

52. In page 56, subsection (1)(b), between lines 15 and 16, to insert the following:

“or

(iii) relates to or includes any practice or representation that otherwise contravenes this Act.”.

—Mary Upton.

SECTION 68

53. In page 56, subsection (2), line 38, to delete “set out” and substitute “provided”.

—An tAire Fiontar, Trádála agus Fostaíochta.

SECTION 70

54. In page 58, line 44, to delete “or” and substitute “of”.

—An tAire Fiontar, Trádála agus Fostaíochta.

55. In page 58, line 45, to delete “of” and substitute “or”.

—An tAire Fiontar, Trádála agus Fostaíochta.

SECTION 72

56. In page 60, lines 15 to 20, to delete subsection (1).

—Mary Upton.

SECTION 73

57. In page 60, before section 73, but in Chapter 2, to insert the following new section:

“Amendment of Order 53A of the District Court Rules 1997.

73.—Order 53A of the District Court Rules, 1997 (S.I. No. 410 of 2001) is amended—

(a) in Rule 1, by the substitution in the definition of “small claim” of “€10,000” for “€1,269.74”,

(b) in Rule 3, by the substitution of “€10.00” for “€9.00”, and

(c) in Rule 7, by the substitution of “€10.00” for “€9.00”.”.

—Phil Hogan.

58. In page 61, lines 3 to 5, to delete subsection (1).

—Mary Upton.

59. In page 62, subsection (11), line 31, to delete “set out” and substitute “provided”.

—An tAire Fiontar, Trádála agus Fostaíochta.

[SECTION 75]

SECTION 75

60. In page 63, between lines 42 and 43, to insert the following subsections:

“(8) Where a person is subject to prosecution for an offence under this act, which may also give rise to prosecution for an offence under any other legislation by a prescribed body, or by the DPP following a complaint by a prescribed body, the prosecution by the Agency shall take precedence and no other prosecution shall be initiated in relation to the facts giving rise to the offence alleged to have been committed under this Act (or any other Act which the Agency has responsibility for enforcing) until after the Agency has confirmed to the prescribed body or the DPP as appropriate, that no prosecution will proceed, that a conviction has been secured or that an acquittal of the person has arisen.

(9) Where the Agency has secured a conviction against a person in relation to an offence under legislation which it is responsible for enforcing, a Court may take such a conviction into account as a mitigating factor in any subsequent proceedings taken by a prescribed body in relation to facts giving rise to the offence, but where a separate criminal liability arises under a different Act or regulation.”

—Phil Hogan.

SECTION 77

61. In page 64, subsection (4), line 42, to delete “32(3), 49(1) and (2)” and substitute “32(3), 48(5)*, 49(1) and (2)”.

—An tAire Fiontar, Trádála agus Fostaíochta.

[*This is the appropriate reference if amendment no. 41 is accepted.]

62. In page 64, subsection (4), lines 42 and 43, to delete “67(4) and 73(11).” and substitute “67(4), 73(11) and 98(5)*.”

—An tAire Fiontar, Trádála agus Fostaíochta.

[*This is the appropriate reference if amendment no. 78 is accepted.]

SECTION 85

63. In page 69, before section 85, to insert the following new section:

“PART 6*

ESTABLISHMENT OF A CONSOLIDATED REGULATOR

Establishment of Regulator.

85.—(1) On the establishment day there shall be established a body to be known as the National Regulator or, in the Irish language, An Rialaitheoir Náisiúnta, which shall perform the functions conferred on it by or under this Act.

(2) The Regulator shall be a body corporate with perpetual succession and a seal and power—

(a) to sue and be used in its corporate name,

(b) to acquire, hold and dispose of land or an interest in land, and

(c) to acquire, hold and dispose of any other property.

[SECTION 85]

(3) On the establishment day, the regulators listed under section 87(1) shall be dissolved.

(4) The Regulator shall be funded from such monies as are currently allocated to the running and administration of the several regulators listed in section 87(1) of this Act.”.

—Phil Hogan.

[*The proposed new Part comprehends the inclusion of amendment no's 63 to 71 inclusive.]

64. In page 69, before section 85, to insert the following new section:

“Seal of Regulator. 85.—(1) The Regulator shall, as soon as may be after its establishment, provide itself with a seal.

(2) The seal shall be authenticated by the signature of—

(a) a Chairman, or

(b) a member of the staff of the Regulator, authorised by the Regulator to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Regulator and every document—

(a) purporting to be an instrument made by and to be sealed with the seal of the Regulator, and

(b) purporting to be authenticated in accordance with *subsection (2)*, shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.”.

—Phil Hogan.

65. In page 69, before section 85, to insert the following new section:

“Functions and powers of Regulator.

85.—(1) The Regulator shall assume the powers of the following regulators:

(a) the Regulator of Premium Rate Telecommunications Services, the Independent Regulator of the content and promotion of Premium Rate Telecommunications Services in Ireland;

(b) the Regulator for Energy Regulation, as established by Electricity Regulation Act 1999 and expanded by the Gas (Interim) (Regulation) Act 2002;

(c) the Communications Regulator, established by the Communications Regulation Act 2002;

(d) the Taxi Regulator, established by the Taxi Regulation Act 2003;

(e) the Irish Financial Services Regulation Authority, as established by the Central Bank and Financial Services Authority of Ireland Act 2004 Act; and

(f) the Regulator for Aviation Regulation, as established by the Aviation Regulation Act 2001.

[SECTION 85]

(2) Any restriction in law that applies or applied to a regulator referred to in subsection (1) shall continue to apply to him or her as a member of the Regulator.

(3) (a) The Minister may, after consultation with the Regulator, by order, transfer to the Regulator such additional functions as the Minister considers appropriate, being functions that are incidental, supplemental or consequential to the functions conferred on the Regulator under this section.

(b) The Minister may, by order, amend or revoke an order under this subsection.

(4) The Regulator shall have all such powers as are necessary for or incidental to the performance of its functions under this Act.”.

—Phil Hogan.

66. In page 69, before section 85, to insert the following new section:

“Independence of Regulator.

85.—Subject to this Act, the Regulator shall be independent in the exercise of its functions.”.

—Phil Hogan.

67. In page 69, before section 85, to insert the following new section:

“Composition and procedures of the Regulator.

85.—(1) The Regulator shall consist of a board comprising—

- (a) a Chairman;
- (b) a Premium Rate Telecommunications Services Regulator;
- (c) an Energy Regulator;
- (d) a Communications Regulator;
- (e) a Taxi Regulator;
- (f) a Financial Services Regulator;
- (g) an Aviation Regulator;
- (h) a Chief Executive; and
- (i) not more than three other members.

(2) Each member of the Board of the Regulator shall be known as a Regulator and is in this Act referred to as “a Regulator”.

(3) Subject to this Act, the Regulator may regulate its own procedure.”.

—Phil Hogan.

68. In page 69, before section 85, to insert the following new section:

“Appointment of the Board of the Regulator.

85.—(1) The Chairman of the Regulator shall be appointed—

- (a) by the Minister, and

[SECTION 85]

(b) on such terms and conditions, including remuneration, as the Minister may fix, with the consent of the Minister for Finance.

(2) Each Regulator shall be appointed in the manner provide by law or the relevant statute.

(3) The three other members of the Board shall be appointed by the Minister under section 19(1)(h), on the approval of Dáil Éireann.”

—Phil Hogan.

69. In page 69, before section 85, to insert the following new section:

“Resignation and removal of Members of the Board of the Regulator.

85.—(1) A Member of the Board of the Regulator may resign by giving notice in writing to the Minister of his or her intention to resign and any such resignation shall take effect as of the date upon which the Minister shall have received notice of the resignation.

(2) A Member of the Board of the Regulator may be removed from office by the Minister—

(a) if, in his or her opinion, the Member of the Board has become incapable through ill health of effectively performing his or her duties, or

(b) for stated misbehaviour.

(3) In removing a Member of the Board of the Regulator, the Minister shall give a statement of the reason or reasons for the removal to that Member and the statement of reasons shall be laid before each House of the Oireachtas.”

—Phil Hogan.

70. In page 69, before section 85, to insert the following new section:

“Power of Oireachtas to order quarterly review of end-user charges in a regulated area.

85.—The Oireachtas shall have the power to order the Regulator to lay before it, a quarterly review of all end-user charges in a regulated area.”

—Phil Hogan.

71. In page 69, before section 85, to insert the following new section:

“Accountability of Regulator to Oireachtas.

85.—(1) The Regulator shall be accountable to the Oireachtas and its committees for

(a) its budget, and

(b) its policy remit.

(2) The Regulator shall inform the Oireachtas of any change it intends to make in its policy on regulation.”

—Phil Hogan.

SECTION 88

72. In page 71, subsection (1), between lines 43 and 44, to insert the following:

“(c) the establishment, form and operation of quality assurance schemes referred to in *section 8(2)(m)**.”

—An tAire Fiontar, Trádála agus Fostaíochta.

[SECTION 88]

[*This is the appropriate reference if amendment no. 9 is accepted.]

SECTION 92

73. In page 73, before section 92, to insert the following new section:

“Amendment of
Central Bank Act
1942.

92.—(1) In this section “Act of 1942” means the Central Bank Act 1942, as amended by, amongst other enactments, the Central Bank and Financial Services Authority of Ireland Act 2003 and the Central Bank and Financial Services Authority of Ireland Act 2004.

(2) Section 2(1) of the Act of 1942 is amended by inserting, before the definition of “Appeals Tribunal”, the following:

“ ‘Agency’ means the National Consumer Agency established by the *Consumer Protection Act 2007*;”.

(3) Section 5A of the Act of 1942 is amended by inserting the following subsections after subsection (3):

“(3A) The functions of the Agency specified in subsection (3B) are, in so far as they relate to a financial service provided by a regulated financial service provider, also functions of the Bank and subsections (3C) to (3F) have effect for the purposes of this subsection.

(3B) The functions of the Agency referred to in subsection (3A) are the following functions of it under the *Consumer Protection Act 2007*, namely, functions under—

(a) *section 8(1), (4), (5) and (6)** of that Act in relation to—

(i) *sections 41 to 54* (other than *section 48*) of that Act, and

(ii) the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 and 2000 (S.I. No. 27 of 1995 and S.I. No. 307 of 2000),

and

(b) *sections 30, 69, 70, 71, 73, 79, 80, 82, 84, 86 and 88* of that Act.

(3C) Subsection (3A) operates to vest in the Bank, concurrently with the vesting in the Agency of those functions by the *Consumer Protection Act 2007*, the functions specified in subsection (3B).

(3D) Accordingly—

(a) the functions so specified are, subject to any relevant co-operation agreement entered into under *section 21* of the *Consumer Protection Act 2007*, capable of being performed by either the Agency or the Bank, and

(b) subject to subsection (3F), references to the Agency in the provisions of that Act specified in subsection (3B) are to be read as including references to the Bank and those provisions otherwise apply.

[SECTION 92]

(3E) Subject to subsection (3F), sections 78, 83 and 85 of the *Consumer Protection Act 2007* apply to the Bank as they apply to the Agency and, accordingly, references to the Agency in those sections are to be read as including references to the Bank.

(3F) Where any section of the *Consumer Protection Act 2007* specified in subsection (3B) or (3E) provides for anything to be done in relation to the Agency (whether the giving of notice to it, the submitting of a thing to it or the doing of any other thing) then, if a co-operation agreement entered into under section 21 of that Act so specifies, it is sufficient compliance with the section concerned if the thing is done in relation to the Agency or the Bank as is specified in that agreement.”.

(4) Section 33S(2) of the Act of 1942 is amended by substituting the following paragraph for paragraph (f):

- “(f) the *Consumer Protection Act 2007*;
- (g) the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 and 2000 (S.I. No. 27 of 1995 and S.I. No. 307 of 2000);
- (h) such other enactments and statutory instruments as are specified in the regulations.”.

(5) Section 33AK(3) of the Act of 1942 is amended, in paragraph (a), by inserting the following subparagraph after subparagraph (iv):

“(iva) the National Consumer Agency, or”.

(6) Schedule 2 to the Act of 1942 is amended—

(a) in Part 1, by inserting the following item after the item relating to the Investment Funds, Companies and Miscellaneous Provisions Act 2006:

“

No. - of 2007	Consumer Protection Act 2007	The whole Act
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”

and

(b) in Part 2—

(i) by inserting the following item after the item relating to the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994):

“

S.I. No. 27 of 1995	European Communities (Unfair Terms in Consumer Contracts) Regulations 1995	The whole instrument
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”

and

(ii) by inserting the following item after the item relating to the European Communities (Supplementary Supervision of Insurance Undertakings in an Insurance Group) Regulations 1999 (S.I. No. 399 of 1999):

“

[SECTION 92]

S.I. No. 307 of 2000	European Communities (Unfair Terms in Consumer Contracts) Regulations 2000 (Amendment)	The whole instrument
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””
—An tAire Fiontar, Trádála agus Fostaíochta.

[*This is the appropriate reference if amendment no. 8 is accepted.]

SECTION 95

74. In page 74, to delete lines 21 to 24 and substitute the following:

“6A.—(1) The Minister (following consultation with the Minister for the Environment, Heritage and Local Government) may prepare and issue to local authorities guidelines, in writing, regarding the performance by them of their functions under section 6 in relation to bye-laws.”

—Phil Hogan.

SECTION 97

75. In page 75, before section 97, to insert the following new section:

“Amendment to section 30 of the Competition Act 2002.

97.—Section 30 of the Competition Act 2002 is amended—

(a) in subsection (1)(b) by the insertion of the following after “occurred”:

“, and the Authority shall keep any complainant regularly informed of the progress of any investigation under this paragraph”,

and

(b) by the insertion of the following subsection after subsection (2):

“(3) The Minister shall introduce regulations to introduce defined time limits for different stages of investigations by the Authority, to address concerns about the length of time of investigations.””.

—Phil Hogan.

76. In page 75, before section 97, to insert the following new section:

“Amendment of section 42 of the Competition Act 2002.

97.—Section 42 of the Competition Act 2002 is amended—

(a) by the insertion of the following after subsection (2):

“(3) Within 2 months of the publication of a report under subsection (1), the Authority shall issue a report on the implications of State action for competition, including the identification of how the State has inhibited or prevented competition.

(4) All Government Departments and Agencies shall be obliged to respond to a report under subsection (3) within 30 days.”,

and

[SECTION 97]

(b) in subsection (3), by the substitution of “this section” for “subsection (1).”.

—Phil Hogan.

77. In page 75, before section 97, to insert the following new section:

“Amendment of Part 4 of the Competition Act 2002.

97.—The Competition Act 2002 is amended in Part 4 by the insertion of the following before section 32:

“Power to see accounts of large multiples.

31A.—(1) The Minister may, by regulation, provide for the power of the Authority to audit the accounts of such multiple retailers as it sees fit for the purposes of ensuring full transparency of the competition in the retail grocery market.

(2) The Authority shall be empowered to publish or part-publish such financial information pertaining to multiple retailers as it may, from time to time, deem appropriate for the purposes of comparison and the assessment of competitiveness or practices of such multiple retailers in terms of sections 4 and 5 of this Act.

(3) In this section—

‘multiple retailer’ means a grocery retailer with at least 3 distinct trading locations within the State, and shall not include a supplier or wholesaler;

‘retailer’ means any person who resells grocery goods to the public;

‘supplier’ means a manufacturer or importer of grocery goods for sale to wholesalers or retailers and includes any person who processes, blends, cans, packs or otherwise prepares grocery goods for sale to wholesalers or retailers and also includes any person who acts as the sole distributor of such goods to wholesalers or retailers;

‘wholesaler’ means any person who purchases from a supplier grocery goods for resale to retailers.”.

—Phil Hogan.

SECTION 98

78. In page 75, before section 98, to insert the following new section:

“Directions under certain instruments respecting product safety: actions of third parties.

98.—(1) In this section “relevant direction” means a direction, for the time being in force, given under any of the statutory instruments specified in *Schedule 7*, being a direction—

(a) prohibiting the placing on the market of one or more products or requiring one or more products to be withdrawn from the market, or

(b) imposing restrictions on the placing on the market of one or more products.

(2) In this section a reference to a product concerned is a reference to a product to which the relevant direction relates.

[SECTION 98]

(3) If a relevant direction is given to a person, being a direction to which *subsection (1)(a)* applies, any other person who knows of the direction shall not do any of the following things, namely:

- (a) distribute;
- (b) sell;
- (c) offer for sale;
- (d) supply in the course of providing a service;

a product concerned.

(4) If a relevant direction is given to a person, being a direction to which *subsection (1)(b)* applies, any other person who knows of the direction shall not—

- (a) in a case where the restriction concerned prohibits the doing of that particular thing in respect of the product — do any particular thing referred to in *subsection (3)* in respect of a product concerned, or
- (b) in a case where the restriction concerned does not prohibit the doing of that particular thing in respect of the product — do any particular thing referred to in *subsection (3)* in respect of a product concerned otherwise than in accordance with the terms of the restriction.

(5) A person who contravenes *subsection (3)* or *(4)* commits an offence and is liable on summary conviction to the fines and penalties provided in *Chapter 4* of *Part 5*.

(6) This section is in addition to the provision of any statutory instrument specified in *Schedule 7* that creates an offence in respect of a contravention of a direction given under that instrument.”

—An tAire Fiontar, Trádála agus Fostaíochta.

SCHEDULE 3

79. In page 80, to delete lines 19* to 27*, and substitute the following:

“

[SCHEDULE 3]

<p>Official Languages Act 2003 (No. 32 of 2003)</p>	<p>First Schedule</p>	<p>(a) in paragraph 1 of the Irish text—</p> <p>(i) in subparagraph (1), delete “Oifig an Stiúrthóra Gnóthnái Tomhaltóiri”, and</p> <p>(ii) in subparagraph (2), insert “An Gníomhaireacht Náisiúnta Tomhaltóiri”.</p> <p>(b) in paragraph 1 of the English text—</p> <p>(i) in subparagraph (1), delete “Office of the Director of Consumer Affairs”, and</p> <p>(ii) in subparagraph (2), insert “National Consumer Agency”.</p>
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—An tAire Fiontar, Trádála agus Fostaíochta.

[* Note: A printing error has resulted in incorrect line references in page 80 of the Bill. The line references in this amendment relate to the actual number of lines of text contained in page 80 of the Bill.]