



DÁIL ÉIREANN

AN BILLE UM CHOSAINN TOMHALTÓIRÍ 2007 CONSUMER PROTECTION BILL 2007

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM CHOSAINN TOMHALTÓIRÍ 2007 —AN TUARASCÁIL

CONSUMER PROTECTION BILL 2007 —REPORT

Leasuithe Amendments

1. In page 9, line 19, after “Protection” to insert “and Unfair Commercial Practices”.
—Mary Upton.
2. In page 14, line 15, after “regulation” to insert “or order”.
—An tAire Fiontar, Trádála agus Fostaíochta.
3. In page 15, between lines 25 and 26, to insert the following:
“(b) to assist individual consumers in enforcing their rights under this Act.”
—Mary Upton.
4. In page 18, line 6, 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.
5. In page 18, to delete lines 7 and 8 and substitute the following:
“(2) The chief executive may attend meetings of the Agency.”
—Mary Upton.
6. In page 23, to delete lines 23 to 26.
—Mary Upton.
7. In page 41, between lines 6 and 7, to insert the following:
“(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.
8. In page 47, between lines 17 and 18, to insert the following:

“Requirement that surcharge (where otherwise permissible) be stated as part of price.

49.—(1) Where it is the practice of a trader to accept payment in respect of a product—

(a) by only one relevant method and to impose a charge on a person for the person’s making payment in respect of the product by that method, or

- (b) by different relevant methods and to impose on a person the same charge for the person's making payment in respect of the product by any of those methods,

the trader shall ensure that any representation made by the trader, or on the trader's behalf, in relation to the price payable in respect of the product, states clearly that price as a single amount inclusive of the foregoing charge.

(2) For the purposes of *subsection (1)*, it is immaterial that the trader also accepts payment in respect of the product concerned by one or more methods of payment that are not relevant methods of payment and the reference in that subsection to the practice of a trader to accept payment in respect of a product by only one relevant method shall be read accordingly.

(3) A trader who contravenes *subsection (1)* commits an offence and is liable on summary conviction to the fines and penalties provided in *Chapter 4 of Part 5*.

(4) In a case falling within *paragraph (a) or (b) of subsection (1)*, nothing in that subsection prevents the inclusion in any representation referred to in that subsection of—

- (a) an indication that the single price stated is inclusive of a charge for making payment by the method concerned or, as the case may be, any of the methods concerned, or

- (b) an indication of the amount of such charge.

(5) In this section 'relevant method', in relation to payment, has the same meaning as it has in *section 48*."

—An tAire Fiontar, Trádála agus Fostaíochta.

9. In page 54, between lines 12 and 13, to insert the following:

"(5) This section is in addition to *section 49** (respecting certain surcharges being stated as part of price)."

—An tAire Fiontar, Trádála agus Fostaíochta.

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

10. In page 58, line 3, after "*48(3)*" to insert "*or 49(1)**".

—An tAire Fiontar, Trádála agus Fostaíochta.

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

11. In page 58, line 23, to delete "*or (3), or*" and substitute the following:

"*or (3),*

- (ii) in contravention of *section 49(1)*, or*".

—An tAire Fiontar, Trádála agus Fostaíochta.

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

12. In page 58, between lines 24 and 25, to insert the following:

"*or*

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

—Mary Upton.

13. In page 58, line 26, after “47,” to insert “49(3)*,”.
—An tAire Fiontar, Trádála agus Fostaíochta.

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

14. In page 58, line 30, after “42,” to insert “49(1)*,”.
—An tAire Fiontar, Trádála agus Fostaíochta.

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

15. In page 59, line 4, to delete “the offence” and substitute “an offence”.
—An tAire Fiontar, Trádála agus Fostaíochta.

16. In page 62, to delete lines 23 to 28.
—Mary Upton.

17. In page 63, between lines 8 and 9, to insert the following:

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

74.—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.

18. In page 63, to delete lines 11 to 13.
—Mary Upton.

19. In page 66, line 44, after “48(5),” to insert “49(3)*,”.
—An tAire Fiontar, Trádála agus Fostaíochta.

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

20. In page 69, after line 41, to insert the following:

“CHAPTER 5

Price Surveys

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

84.—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.

21. In page 69, after line 41, to insert the following:

“CHAPTER 5

Accounts of Large Multiples

Amendment of Part 4 of the Competition Act 2002.

84.—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.

22. In page 79, after line 44, to insert the following:

“Amendment of section 42 of the Competition Act 2002.

99.—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

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

—Phil Hogan.