Submission - Future of the Beef Sector in the context of Food Wise 2025,
International Small Business Alliance (ISBA),
10-04-19

From: Seamus Maye [mailto:sfmaye@isba.eu.com]
Sent: 10 April 2019 14:22
To: Agriculture Food and the Marine; Josie Briody
Cc: Pat Deering
Subject: Submission to Oireachtas Committee on Agriculture Food and the Marine

Request that the Committee accept the attached submission, Beer Beef Bread as it is fundamental to any analysis of the current Beef Crisis and contains several recommendations:-

Dear Ms. Briody,

I might firstly apologise for being late with this submission but I have only just become aware of your Committee's invitation. The attached report, titled ***"Beer Beef Bread"***, completed in September 2015, which was part funded by Luke Ming Flanagan MEP, offers an in depth macro assessment of the three sectors. We are of course only dealing with the beef sector in this instance. The report looks at the Structure and Behaviour of the entire Beef production chain and finds that Beef farming in its (then) current state is entirely unsustainable.

The report finds ***"very significant imbalances in market power in the Beef sector as between primary producers and processors / supermarket multiples, coupled with a somnambulant regulatory environment…".*** The report looks at the background to the sector, the beef tribunal, beef supply chain, how the value chain works, efficiency and profitability in beef production, allegations of anti-competitive practices, the potential in "Fifth Quarter", margin squeeze, regulatory developments in Australia, UK and Ireland, rationalisation / consolidation of the beef sector (Beef Industry Development Society – BIDS) and likely effects of TTIP (CETA).

The report goes on to make seven key recommendations and concludes that ***"the migration of revenues / profits from the farming community to downstream corporate interests is and has been a major contributor to the decline of rural communities…….we have raised several macro-economic and politically sensitive issues that will be fundamental to the future of the Irish beef sector going forward…..In order to compete for new markets, the Irish beef sector will have to become much more competitive. This will mean vigorously attacking the cost base across the board. Furthermore, if the present Structures and Behaviour within the sector is maintained , then beef farming as traditionally carried out in Ireland will largely disappear thus further contributing to rural decline…….These developments must be viewed in the round, along with the lack of investment in rural infrastructure and the very real emerging threat to the survival of our Post Offices."***

Kind Regards,

Seamus F. Maye

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IRISH BEER BEEF BREAD SECTORS

Boosting Ireland's Indigenous Economy
whilst
Revitalising Rural Ireland

Private and Confidential Report
Author Seamus F. Maye

September 2015

Sed quis regula ipsos regulatorum?
Who regulates the regulators?

About the Author:

Seamus Maye is highly respected for his work in the area of competition economics, competition law, company law, banking and white collar crime. He works tirelessly in the area of political reform and is an outspoken critic of corrupt practises and Legal Corruption . He blames Legal Corruption in large part, for Ireland's banking collapse and for the disparity in market power between SME's / Farmers and large corporations. He runs his own consultancy business specialising in these areas.

Seamus is also a Director of Brussels based Cartel Damage Claims SA, a subsidiary company of CDC Group. CDC specialises in the recovery of damages for individuals and companies that have suffered losses arising from the activity of corporate price fixing / market sharing cartels and abuse of dominance. Seamus also works as a consultant to CDC Group.

In addition, he is competition consultant to the British Aggregates Association [BAA], the body representing independent quarry, concrete and asphalt producers, throughput the UK and has represented BAA at the UK Competition Commission and at the E.U.'s Directorate General for Competition.

For more than 20 years, Seamus's family business Framus Ltd has been engaged in competition litigation against eight major cement / concrete companies, including CRH Plc, Roadstone, Readymix Plc (CEMEX) and Kilsaran Concrete. The case concerns allegations of price fixing, market sharing, abuse of dominance and predatory pricing.

Seamus is founder of International Small Business Alliance and has regularly spoken publicly, most recently at a Moscow conference in May 2015, where he spoke on Competition Regulation and the Structures and Behaviour of the Global Quarry, Concrete, Asphalt and Cement sector. He is a long-time member of Transparency International Ireland and of the Public Banking Forum of Ireland.

Seamus holds a Batchelor of Commerce Degree from University College Dublin together with a National Certificate in Agriculture and he has studied Competition Economics at Kings College London.

Seamus lives in county Sligo, Ireland, with his family.

Abstract:

Our commission was to examine the Beer, Beef and Bread sector with a view to establishing how best the respective sectors can be promoted towards boosting local / regional and the national economy.

We are struck by the wide variation of dynamics that apply to each sector.

Globalisation has come in for sustained criticism from so many socio-economic platforms, with much justification in our view. It is our experience that citizens and indeed governments are increasingly forced to play second fiddle to global corporations at every turn, at the behest of a body politic that has lost its way amid unprecedented corporate lobbying and vested interest controlled media.

It seems that there are no answers to the globalisation tsunami!

Yet in one stroke of a pen, the E.U. Commission has effectively undermined globalisation, at least in one sector: - craft beer production.

It has been uplifting to visit so many craft breweries and speak to so many within the sector. The Irish Craft Beer sector is buzzing with entrepreneurial flair, new start-ups, development of new products and new export markets together with significant potential for tourism development. The E.U. has encompassed a 50% excise rebate that affords small Craft Brewers a significant competitive advantage over global brewing giants. The fact that, in our view, Irish publicans are already paying excessively high prices for beer to established suppliers, creates an attractive additional margin for Craft Beer producers entering the market.

The challenge is to replicate this scenario within the beef and bread sector. There is no simple solution but we have attempted to make a start by identifying the particular issues that pertain to each sector. We have looked at the economic and political dynamics that drives each sector and the results thereof.

We have found very significant imbalances in market power in the beef sector as between primary producers and processors / supermarket multiples coupled with a somnambulant regulatory environment that, while espoused as being independent from government, is effectively controlled by government.

We have shown that there are avenues open, even in Ireland, to tackle the imbalance in market power but this is countered by a complete apathy on the part of political parties to interfere with the status quo. We detail the extraordinarily inane politically led approach to the problem of over-capacity in the beef processing sector. We take the view that the approach was contrived and did not adequately, if at all, take into account the best interests of primary suppliers and final consumers alike. No consideration appears to have been given to alternatives such as the creation of a thriving farmer owned or controlled cooperative processing sector such as exists in Denmark.

Throughout the three sectors, there are cultural, economic, health and moral issues in play. Our overview of Beer, Beef and Bread brings all of these into focus with quite diverse dynamics applying to each individual sector.

With regard to bread, we suggest that it is a staple diet throughout Europe and other jurisdictions. Consequent to this, we focus on diverse views as to whether we are eating healthy bread or whether there are more healthy alternatives available.

We conclude that, on balance, there are healthy alternatives available but these would have consumer cost implications and would also markedly alter the structure of the sector.

However, obesity and associated health issues must be taken into account in providing balanced recommendations. We also look at lobbying in the bread sector.

End.

Beer Sector

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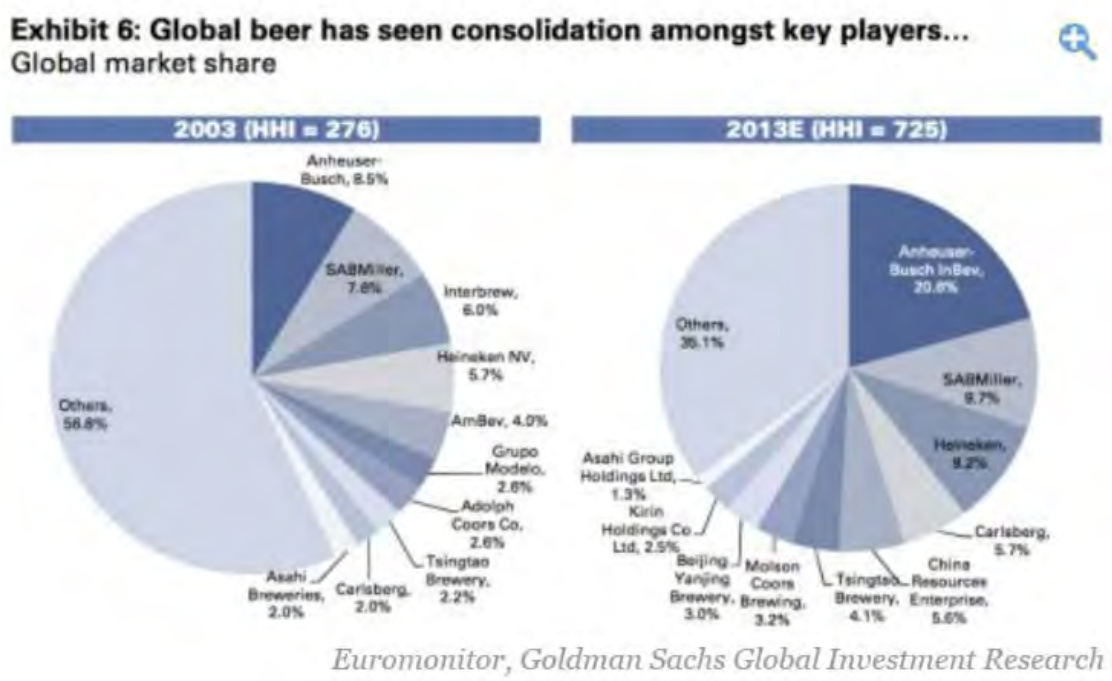
Contents:

1. Irish Craft Beer Sector

1.1 Overview: International Beer Market

The global beer market is going through a period of rapid consolidation. In 2004, Anheuser-Busch was world leader with just 8.5% market share. Later in 2004, Interbrew acquired AmBev to create a new market leader InBev, with 11% market share. Then in 2008 Anheuser-Busch and InBev entered a $60bn merger and the new group (AB InBev) now has a 25% share of the global beer market. Shortly afterwards, Heineken took over Mexico's FEMSA. In 2012, Heineken acquired Asia Pacific Breweries for $24bn. The top five global brewers now have more than 50% of the world market, up from 32% in 2003[1]. At present there is much market speculation that AB InBev is set to acquire either Diageo or SABMiller.

Figure 1: Market Share positions in 2013; Goldman Sachs illustration:



Beer consumption has been stagnating or falling in most developed markets e.g. beer consumption in Germany has fallen by one-third since 1976. Between 2007 and 2014, consumption in Germany, France and the UK has declined by 10% and the US market has stagnated since 2007. Product innovation has proved to be the avenue to growth. In 2014, in the US, overall beer production grew by .5% but output from Craft brewers grew by 18%. This brought Craft brewers market share in the US to circa 11% by volume of the €100bn beer market[2].

[1] Goldman Sachs analyst Robert D. Boroujerdi
[2] Mc Kinsey & Company, German Estevez Rutishauser, Stefan Rickert and Frank Sanger

There is a similar trend in Europe, further boosted by the European Council Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages (more on this in 1.6 below). In Italy there were eight times more new beer products on retailers' shelves in 2012 than in 2007; there was a five-fold increase in the Czech Republic, four-fold increase in Spain and threefold increase in France. There were twice as many beer products on sale in the UK in 2014 than in 2013[3].

More recently, a trend has emerged whereby global brewing giants are acquiring competing Craft Beer producers or setting up own brand Craft beer divisions. Since 2011, AB InBev has purchased four US craft breweries; Goose Island Brewing, Blue Point Brewing, 10 Barrel Brewing and Elysian Brewing.

1.2 Overview: Irish Beer Market:

The Irish alcohol sector contributes more than €2bn to the Irish economy and supports over 35,000 jobs in brewing, agriculture and more; over 850 million litres of beer are produced per year and €400m is spent purchasing goods and services in Ireland annually, according to ABFI (Alcohol Beverage Federation of Ireland), a constituent of IBEC. ABFI further estimates that the beer industry supports 3000 farmers and purchases 180,000 tons of barely each year. By any standard, the industry is a major player in the Irish economy.

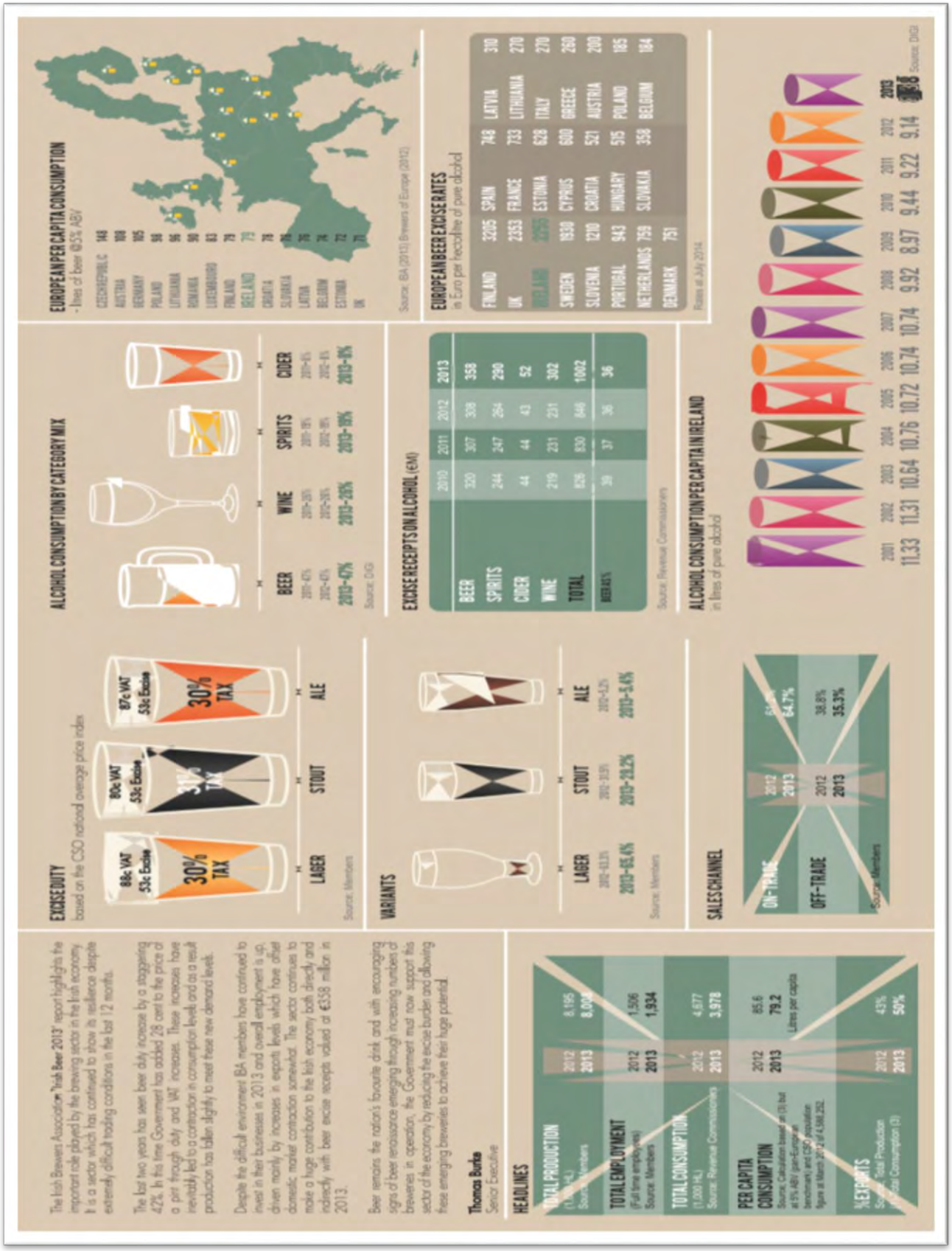
At the beginning of the 19th century there were over two hundred breweries operating in Ireland but the number of breweries plummeted until there were only a dozen or so left by 2007. The two major brewery operators in Ireland are Diageo (which traditionally held up to 70-75% of the beer market) and Heineken. Between them, these two brewers brew or supply the vast bulk of beers that have traditionally been consumed in Ireland:-

Diageo brews or distributes Guinness, Smithwicks, Harp, Kilkenny, Carlsberg, Budweiser and its new range of Craft beers. Heineken brews or distributes Heineken, Murphys, Beamish, Orchard Thieves (its new Cider brand) and Cute Hoor (it's new Craft Beer brand). The ABFI illustration on the following page summarises the Irish alcohol sector statistics for 2013.

Following the U.S. trend, Molson Coors has set up a specialist Craft brewing division covering both the UK and Ireland and in January 2013, it purchased Irish Craft brewer, Franciscan Well which operates a 2,000hl facility in Cork. Franciscan Well is currently developing a new 75,000hl[4] (150,000 keg) facility in Cork. Also in Ireland, Diageo is introducing its growing Brewmaster Product Range and since late last year has launched Hop House 13, Blonde, Dublin Porter and West Indies Porter. This strategy whilst clearly defensive is perfectly legitimate. It will go some way towards stemming the Craft beer revolution as there are only so many tap spaces available in pubs. However, it is likely to fuel the argument as to when a Craft beer is not a Craft beer that is currently raging in the U.S.

[3] Ibid
[4] Hectolitres: 1 Hectolitre = 100 litres

Figure 2: ABFI IBA Beer Market Report Summary Page Ireland 2013



1.3 The Craft Beer Industry in Ireland

(i) Description of the Emerging Craft Beer Sector:

a) Standalone Craft Breweries:

These make up the vast majority of Craft Beer operations around the country, some bottling by hand, some automated, several now also supply draft in kegs; some produce exclusively for the home market, some are exporting some or all of their production. Galway Hooker was established in 2006 and produces a range of beers both bottled and draft. Distribution is outsourced for the bottle market but draft is distributed by the company so as to ensure that beer is presented to the costumer with due regard for quality control. Galway Hooker has so far concentrated mainly on developing the home market.

b) Integrated Multi-Pub model:

There are a multiplicity of business models in existence, for example Galway Bay Brewing Company operates nine of its own pubs, two in Galway and seven in Dublin and compliments its own product range by importing many of the world's best known Craft beer brands. In addition, Galway Bay Brewing is developing export markets in London, Russia, Sweden and Spain. Distribution of Galway Bay products throughout Ireland is almost all carried out in house.

Another variant on this model is The Porterhouse Brewing Company. It started out selling imported Craft beers in 1989 and then opened Ireland's first Brew Pub in Temple Bar, Dublin in 1996. Nowadays, Porterhouse has moved its brewing operation to a single site at Blanchardstown, Dublin, where it brews a large range of beers for sale in its six strong chain of Porterhouse pubs in Dublin, Bray, Cork, London and New York. Side by side with this integrated operation, Porterhouse has a large export trade with markets all over Europe.

c) Integrated Brew Pubs:

In contrast, the model used by Wicklow Brewery / Mickey Finn's Pub in Redcross is very much a vertically integrated model, with a bar, lounge, restaurant and special brew pub which houses an ultra- modern brewery, all under the one roof. The brewery produces a range of beers and the complex almost exclusively sells its own production supplemented by one Guinness tap in the entire complex. Outside sales are confined to Co's Wicklow, Dublin and Wexford. The complex has its own caravan / glamping park with a capacity for twelve hundred people and benefits from a very large passing tourist trade owing to its proximity to Glendalough and Brittas.

Carlow Brewing Company operates a hybrid model in that it has developed a large range of beers (in excess of fourteen) and distributes throughout Ireland and also exports. It has now opened its first pub, Brewery Corner, in Kilkenny where is sells its own produce along with a selection of international brands of Craft Beer.

d) Contract Brewing:

Some Micro Brewing companies contract out the brewing process either in the short to medium term while a stand-alone brewery is being constructed or long term where the operator concentrates on marketing and brand building. Crowdfunded **Craftworks Contract Brewery** in Dublin specialises in brewing for small micro-brewery start-ups and **Muckish Mountain Brewery** in Donegal contracts out its brewing requirements to the **Eight Degrees** brewery in Co. Cork, while it constructs its own brewery. **Carlow Brewing Company**, brewers of the O'Hara range of beers also brew the O'Shea's range exclusively for Aldi. Craft beer expert Aidan Sweeney has estimated that there are now fourteen contract brewers in Ireland[5].

(ii) Surge in Craft Brewing in Ireland:

The huge surge in Craft Beer production in Ireland has been underpinned by the introduction, in 2005, of a 50% excise duty rebate for independent breweries producing less than 20,000 hl.[6] At that time there were circa five Craft Brewers in Ireland. Most recent estimates put the number of Craft Breweries in Ireland at around 70. In 2012, there were two Craft Brewers in Cork and by the end of 2015, there will be at least fourteen. There were a number of earlier attempts to establish Craft Brewery's in Ireland in the 1990's, which for the most part failed, the notable exceptions being Franciscan Well, Porter House and O'Hara's (the Carlow Brewing Company).

In 2014, Craft Beer accounted for circa 1% of the overall beer market. This figure is rising rapidly and estimates of current market share vary between 1.5% and 3.4% per year[7] with this figure is set to grow to at least 10% by 2017[8]. We believe that the discrepancy in the figures arises from the sheer pace of growth that the sector is experiencing. At present, even a month is a long time in the Craft beer sector. It should be borne in mind that Craft Beer still accounts for a very small percentage of the overall beer market though it punches considerably above its weight in terms of marketing and media exposure. A recent report estimates craft beer production in the table below for the years 2011 - 2014.[9]

[5] RTE – The Business, May 9th 2015
[6] This was increased to 30,000 hl in 2014
[7] The Feeney report estimated 1.5% market share for 2015 whilst Neilson International suggest the current market share is 3.4%
[8] Molson Coors & Others
[9] Feeney (2014)

Figure 3: Estimated Production of Micro-Breweries (hl):- Source: Feeney (2014)

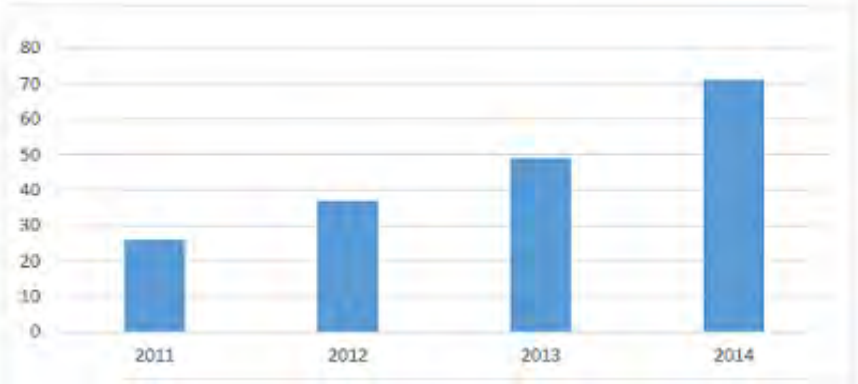


Table 1: Estimated Irish craft beer production and growth - Source: Feeney (2014)

	Craft Beer Production (hl)	% Growth
2011	26,000	
2012	37,000	42
2013	49,000	32
2014	71,000	45

The above tables illustrate the recent growth pattern in the Craft beer market. Feeney (2014) estimates that the value of Irish Craft beer production in 2013 was €10.5m and €15.1m for 2014 which would suggest that the value of Craft beer output can easily grow to €150m pa. Our interaction with a large number of stake holders suggests that these figures are somewhat conservative and don't fully account for the rapid expansion. Evidence from the US Craft beer industry suggests that achieving a market share of 10 -15% in Ireland is attainable.

(iii) Marketing

The exponential growth of the Irish Craft Beer sector should be turned into an International case study in marketing. In a very compressed space of time, a practically non-existent sector has firmly established itself in a traditionally very conservative Irish market for beer. For such a tiny sector, it took both mainstream and social media by storm, to an unprecedented level. The style and thrust of the marketing campaign has been refreshing and indeed exhilarating. From a standing start, the sector has swept through the Irish pub and off trade on the one hand and has opened up export markets all over the world. In general, the quality of web-sites across the sector is outstanding. Other industries should take stock of the marketing phenomenal that is Irish Craft Beer. Market development is set to receive a further significant boost with the launch of the government's Food Wise 2025 strategy document (see conclusion).

1.4 Craft Beer Production is Labour Intensive:

Producing craft beer in micro-breweries is considerably more labour intensive than large scale beer production. Feeney (2014) estimates that large scale beer production employed an average of 184 full time employees per million hl stating that the equivalent figure for the Irish craft beer sector would be over 8.5 times more labour intensive at approximately 1,600 full time employees per million hl.

By being naturally more labour intensive, growth in the craft beer industry will continue to create more jobs and if current trends continue, the industry could employ over 500 people directly in 6 or 7 years. Further substantiating this claim, Feeney (2014) predicts that a five-fold increase in production could be achieved in approximately six years stating that given those increases, one would expect the total number of direct employees to increase similarly.

Even when allowing for brewers to realise economies of scale, the number of people directly employed is expected to be well in excess of 500 by 2020. This will inevitably create many more indirect jobs contributing further to the local and national economy.

1.5 Driving the Craft Beer Sector Forward:

Pivotal to the success of the Irish craft beer industry will be ensuring that costs are controlled and that enough new entrants reach an economical size where benefits can be derived from economies of scale. We identify below a number of policies / recommendations that would significantly benefit the Craft beer sector and create follow on benefits for local economies (1.6 – 1.11).

1.6 The Excise Duty Rebate

The European Council Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages "the Directive" stipulates that Member States must apply a minimum rate of excise duty on the sale of beer in the European Union.

Member States are free to set their own rates as long as they are over the outlined minimum rates. Each Member State may choose whether their respective rates are fixed by reference to either the number of hectolitre (hl) per degree Plato or to the number of hl / degree of actual alcoholic strength by volume of finished product. In the case of the former the minimum rate is €0.748 per hl/degree Plato of finished product and if choosing the latter option, the minimum rate is €1.87 per hl/degree of alcohol of finished product.[10]

Ireland currently calculates its rate by the number of hl/degree of alcohol of finished product and has the third highest rate of excise duty on beer in Europe, behind only Finland and the UK.[11] The current

[10] Situation as at 01 July 2014
[11] http://ec.europa.eu/taxation_customs/resources/documents/taxation/excise_duties/alcoholic_beverages/rates/excise_duties-part_i_alcohol_en.pdf

rate of excise duty on beer in Ireland is €22.55 hl/degree of alcohol of finished product.[12] That is just over 12 times the minimum rate for the EU.

Under the Directive, Member States are empowered to apply reduced rates of duty to beer which is brewed by independent breweries and these reduced rates of duty may be differentiated in accordance with the annual production of the relevant breweries.

Recommendation 1: Replace Rebate with Upfront Excise Credit

However, there are a number of restrictions which apply in respect of these reduced rates. Firstly, in order to avail of reduced rates the concerned breweries must not produce more than 200,000 hl of beer annually. Secondly, the concerned breweries must be small independent breweries in that they are economically and legally independent of any other brewery. There is however a clause which allows two or more breweries who cooperate with each other to be treated as a single independent small brewery provided their combined annual production does not exceed 200,000 hl.
A further stipulation of the Directive is that the reduced rates may not be set more than 50% below the standard national rate of excise duty. In Ireland's case that means that as and from January 2015 reduced rates cannot be set below €11.275 which still happens to be over six times the minimum rate in the EU.

Currently Ireland operates a rebate scheme where there is provision for repayment of 50% of the excise duty paid by breweries producing no more than 30,000 hl per annum. While this scheme is a considerable benefit to the craft beer industry in Ireland, it would be substantially more beneficial if a number of changes were made to its current structure.

For example given the reluctance of banks in Ireland to provide funds for small and medium enterprises, the introduction of the reduced excise rate directly rather than on a rebate basis would significantly improve the availability of funds / cash flow, particularly for new entrants to the craft beer industry.

Recommendation 2: Replace Rigid Rebate Cut Off with a Tapered System and increase the Production Ceiling

The Irish model is crude when compared to the system of reduced excise duty employed in other Member States. For example as soon as a brewery in Ireland reaches an annual production level of 30,000 hl, the reduced excise duty rebate is completely withdrawn. This constitutes a significant and

[12] http://www.revenue.ie/en/tax/excise/duties/excise-duty-rates.html

real disincentive for breweries to increase production and deliver strong growth and produces a follow on inhibiting effects on local economies.

For example, Belgium, a country world renowned for the quality and variety of its beers, operates a gradual removal of the reduced rate of excise duty based on different levels of production all the way up to the EU limit of 200,000 hl. Germany, Denmark, Czech Republic, Poland, Finland and Austria all operate similar withdrawal systems albeit at different individual excise rates. While it may be attractive for Irish breweries to expand and export to countries that have such systems in place benefitting from their lower rate of excise duty, the current system in Ireland only rewards success up to a certain point i.e. 30,000 hl.

If Ireland was to operate a scheme in line with best practice in other European countries then a gradual withdrawal of the reduction in excise duty might look somewhat like that in Table 2 below. New entrants and small producers would benefit from the greatest reduction in the excise duty and as businesses expanded; the percentage of excise duty reduction will diminish. This would ensure that breweries are not unreasonably inhibited in terms of production and growth while also guaranteeing a known, if diminishing level of support which can be used to bring the facility to a level where significant economies of scale kick in.

We provide an example table on phased withdrawal on the following page.

Table 2: Example of phased excise duty withdrawal:

Table 2: Example of excise duty withdrawal

Production (hl)	% Reduction
<= 50,000	50%
<= 75,000	40%
<= 100,000	30%
<= 125,000	20%
<= 150,000	10%
<= 175,000	7.5%
<= 200,000	5%

1.7 Low Alcohol content Beer:

Currently Ireland does not charge excise duty on beer with an alcoholic content exceeding 0.05% but not exceeding 1.2% in volume. A duty of €11.27 hl/degree of alcohol is then charged on beers with an alcohol content of between 1.2% and 2.8%.

Under the Directive, Member States are allowed to apply reduced rates for beer with an actual alcoholic strength by volume of 2.8% or below. In fact, rates charged by Member States are even permitted to fall below the minimum EU rate. Denmark for example does not charge any excise duty on beer with an alcohol content of 2.8% or below.

Recommendation 3: Reduce or Eliminate Excise Duty / Vat on Craft Beers with Alcohol content lower than 2.8%.

Very little beer in Ireland is sold with an alcohol content of between 1.2% and 2.8%. If Ireland eliminated the duty on beer with an alcohol content below 2.8%, it would encourage the production and consumption of low alcohol beer. A move such as this could well bring far reaching socio-economic benefits to Ireland.

In countries such as Australia and the USA, low to mid strength beers have become increasingly popular. Many social drinkers opt for the lowest percentage of alcohol content available when choosing their beer in a pub or restaurant. However, for most pubs in Ireland, beers with the lowest percentage of alcohol are
either alcohol free beers or those with more than 4% alcoholic content. There is no apparent in-between. Dropping excise duty and / or vat for beers with low alcohol content would almost certainly create a new market for low to mid-strength beers and promote more responsible drinking across Irish society.

Recommendation 4: Reduction in the overall level of Excise Duty on Alcohol Sector

Indeed, there is ample scope for a reduction in the overall level of excise duty to bring Irish rates more in line with those of our European counterparts.

1.8 Reform of Licensing Laws

The Irish Craft beer industry is in urgent need of reform of the licensing laws. Ireland's licencing legislation dates back to the time of British rule in Ireland. The current laws state that under manufacturing licences, brewers cannot sell quantities less than approximately 20 litres. In effect, that

law precludes breweries from selling their own produce to beer enthusiasts during or after tours of the brewery. If breweries are unable to sell their own produce on site, it makes it very difficult to attract tourists to come and visit the brewery.

Recommendation 5: Reform Licencing Laws to allow Breweries to sell product on Site as part of Tourist Development Initiative

Tourists will want to experience the whole package. They want to be able to tour the brewery from start to finish, then end up in the bar afterwards and sample a few different varieties and then possibly buy the beers that they would like to take home with them along with perhaps a t-shirt and other available merchandise i.e. the complete experience.

In contrast to the tours available in French wineries and Belgian beer monasteries for example, Irish craft brewery tours are missing that vital component, the real bonding experience. Being able to sell own produce on-site would give Irish craft breweries an additional source of income whilst greatly enhancing the experience for tourists.

Clearly defined legislation is required to enable breweries sell their own produce on site (tap licence) and also off site at Craft beer and Food festivals. The introduction of a "farm brewery licence," somewhat similar to that in the United States, could provide the required solution.

Any legislation changes would have to be sensitive to hard pressed vintners in general and indeed existing Brew Pubs that have spent heavily in purchasing liquor licences, providing state of the art health and safety, sanitary services etc. A curtailment on opening hours, to include shutting at 9.00pm could perhaps constitute part of the package but it will need to be well thought out.

Currently, the only alternative for breweries is to buy a pub licence which, because of the restriction of supply under the current Irish licencing system tend to be prohibitively expensive. Licences are currently valued at between €50k and €55k[13]. However the value is subject to the law of supply and demand and any boost in demand would see prices rising beyond what small Craft brewers could afford. In any case, Craft brewers are better to invest their resources in developing new export markets and product development.

[13] The Cost of purchasing a pub licence peaked at around €250,000

1.9 Tourism

In 2013, there were approximately 6.7 million overseas visitors to Ireland.[14] This increased to 7.3 million in 2014[15]. The ever increasing tourist numbers visiting Ireland provide a massive opportunity to promote the Craft beer sector. Tourists are captivated by the culture of the countries / regions that they visit. They come to Ireland to celebrate everything Irish, such diverse offerings as food, dance, music, theatre, literature, comedy and sports / leisure.

Recommendation 6: Craft Brewers should work closely with Fáilte Ireland, Irish Tourist Industry Federation and Local & National Festival Committees to ensure that Craft beer becomes an intricate part of the Irish experience.

The development of the Wild Atlantic Way has been an unprecedented success and tourists are flocking to take part in some or all of the activities to be found along the route. Fáilte Ireland has quickly followed with the development of "Ireland's Ancient East Route". This new tourism promotion starts at Newgrange and the Boyne Valley and takes in Trim Castle, Clonmacnoise, Glendalough, Wicklow Goal, Rock of Cashel, Dunbrody Famine Ship, Hook Head Lighthouse, Waterford's Viking Quarter and Cork.

This sustained growth in tourism presents a very significant opportunity for the Craft beer sector to seamlessly integrate into a rapidly growing sector of the economy, whilst at the same time developing further export opportunities from tourism exposure. A recent article in the New York Times highlighted the growth of the Irish craft beer industry and the potential of Dublin as a destination for tourists interested in culture, great food and an excellent selection of craft beers to choose from.[16]

Clearly, the Irish government has recognised the huge potential of tourism and after the success of "The Gathering", more and more festivals are now on the drawing board, including next year's Centenary celebrations. All of these activities provide invaluable opportunities to showcase Irish Craft beer and indeed a host of other Irish produce with huge spin-offs for local economies.

Guinness is world renowned as a quality Irish beer and many people abroad both Irish and non-Irish alike drink it, some because of its taste, some because of its reputation, some because it's a Veblen good and others because its Irish and they feel drinking it somehow maintains their connection with their Irish roots.

The Irish Craft beer sector can piggyback on the Guinness model and develop uniquely Irish beer brands through sophisticated tourism related marketing strategies, such as Best Beer competitions run at

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[14] http://www.failteireland.ie/FailteIreland/media/WebsiteStructure/Documents/3_Research_Insights/3_General_SurveysReports/Tourism-facts-2013.pdf?ext=.pdf

[15] Irish Tourist Industry Federation

[16] http://www.nytimes.com/2014/11/16/travel/things-to-do-in-36-hours-in-dublin-ireland.html?_r=2

various festivals throughout the country, e.g. All Ireland Fleadh Cheoil. Co-ordination of the various festivals could in itself be marketed under an Irish Festival Umbrella.

1.10 Funding Initiatives

Many craft brewers have cited access to funds as a concern going forward because of the ongoing problem faced by small businesses in that the banks are currently reluctant to provide loan capital to SMA start-ups. Some new entrants to the market have sought a way around that problem by obtaining funds via crowd funding and other novel schemes. However, this situation is far from satisfactory, particularly in a rapidly growing industry which needs funding to support sustainable expansion.

Recommendation 7: Setting up of a Dedicated Unit within the SBCI to advise, promote and lend to the Craft Beer sector with a view to the long term sustainable development of the sector.

The Strategic Banking Corporation of Ireland [SBCI] does not appear to have any sector specific unit to deal with the burgeoning Craft beer sector. This is surprising given that SBCI was set up *"to ensure flexible funding for Irish SME's"* by creating *"a more competitive and dynamic environment for SME funding".*

At time of writing we are awaiting further engagement with SBCI to clarify the situation. We see the setting up an industry specific fund whereby new entrants and incumbents alike would be able to receive start up loans or expansion loans at reasonable rates as a central plank in securing the long term survival and growth of the sector. Moreover, as stated above the amending of the current excise duty relief scheme to a non-rebate basis would provide much needed additional cash flow for Irish craft brewers.

Recommendation 8: Government should support the creation of a Public Banking System similar to the German Sparkasse-Finanzgruppe to promote competition for Pillar banks and to foster Regional / Rural Development.

We see the establishment of regional public banks along the lines of the 200 year old German Savings Banks (Sparkasse-Finanzgruppe) as a key requirement if Ireland is to introduce real and badly needed competition into the banking sector and to foster the development of regional indigenous business.

1.11 Education

Successful industry sectors are usually clustered around appropriate educational institutions, e.g. the success of Silicon Valley owes much to Stanford University. Ireland does not have a beer sector

specific education program. There is a UK City and Guilds program run by the UK's IBD (Institute of Brewing and Distilling) which is available on line to Irish based students with tutorials available in Ireland.

Recommendation 9: Develop Third Level and Masters' Courses in Brewing and Distilling at some third level Irish Colleges

However, the sector would benefit greatly if a tailored third level and Master's program were available from some Irish third level institutions. Numerous countries around the world offer college courses specifically designed for the beer industry. For example the Heriot Watt University in Edinburgh offers a Bachelor of Science in Brewing and Distilling. It is a Bachelor of Science Degree where students specialise in brewing and distilling in the third and fourth year. In second year, students also take business and management modules in order to roundly prepare for entry into the brewing business. The University also offers a Master's programme.[17] Germany, Belgium, and the US all have comprehensive educational programs in brewing.

There is ample demand for at least one of Ireland's third level institutions to initiate a Bachelor of Science in Brewing degree course. This would ensure a supply of highly qualified brewers are available than can bring the Irish Craft brewing sector to the next level.

1.12 Summary of proposals

- The introduction of a gradual removal of the reduced rate of excise duty based on different levels of production all the way up to the EU limit of 200,000 hl.

- The elimination of excise duty on beer with an alcoholic volume of less than 2.8% in order to encourage low alcohol beer production and socially responsible drinking.

- As Ireland operates Europe's third highest excise duty rate on beer, a reduction in the actual excise duty on beer would have a significant benefit to the Irish craft beer industry.

- Reform of Ireland's licensing law to allow craft beer producers sell their produce on site and at festivals and fairs. In addition, a change in restaurant wine licenses to include craft beers.

- The establishment and strategic marketing of an *'International Irish Festival'* showcasing Ireland's food, drink, dance, singing, music, theatre, storytelling, literature, comedy and sport all in one festival with prizes awarded for each category.

[17] http://www.undergraduate.hw.ac.uk/programmes/C980/

- Ensuring that the craft beer industry is securely financed by the setting up of a specific fund for the sector whereby breweries would be able to borrow money at reasonable rates and / or the introduction of Public banking to Ireland.

- The introduction of a specific educational programme similar to a Bachelor of Science in brewing and distilling or a professional degree in brewing.

1.13 Conclusion:

The rapid emergence of the Irish Craft Beer sector over the past few years has been truly staggering. This is especially so when viewed against an extremely difficult economic background where austerity has severely hit disposable incomes and fund raising has been very challenging. The single most important factor that underpins what amounts to a whole new industrial sector in Ireland, is the European Directive that provides for the excise rebate.

As of 2015, there is no sign of a slowdown in the sector's growth pattern. There is widespread agreement that the sector will continue to grow and flourish, at least to a level of ten per cent of the market. As with any fledgling sector, there remains much twigging and fine tuning to ensure that the sector grows in a sustainable manner and imbeds itself in Irish culture whilst playing a significant role in the revival of Ireland's socio-economic fortunes.

We have identified a number of areas where we believe moderate adjustments can significantly underpin the sector going forward. The Craft Brewing sector can take enormous encouragement from the launch, on July 2nd 2015 of the government's Food Wise 2025 strategy document which specificly highlights the Whiskey and Craft Brewing Sector and notes that there are *"huge opportunities for growth in the whiskey and craft beer sector with plans to double whiskey exports and increase the number of microbreweries to 100"*. The central theme of Food Wise 2025 is *"Local Roots Global Reach"*.

The Department of Agriculture, Food and the Marine together with the Department of Enterprise, Trade and Innovation and a host of government agencies such as Enterprise Ireland and Bórd Bia in collaboration with many industry stake holders are set to enhance their level of co-operation in order to strengthen market positions in existing developed markets such as UK, Europe and US, in addition to developing new markets in China, South East Asia, Middle East and Africa:- *"Government Departments and State Agencies to enhance co-operation on promoting Ireland's positioning in emerging markets"* and to *"build on the success of marketing Irish whiskey and beers internationally by demonstrating the linkages of these products to the wider agri-food sector"*.

Ireland's Craft beer sector looks well set to flourish and to drive economic activity across all of the regions whilst adding to Ireland's already rich culture in food and drinks.

Ends.

Beef Sector

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Contents

2. Irish Beef Sector

2.1 Introduction

Teagasc estimates[18] that the Irish cattle and beef sector accounts for 30% of gross agricultural output with a value of €2.1 billion in 2013. Total beef output was 518,000 tonnes of which 90% was exported, valued at €1.8 billion. There were 6.9 million cattle in Ireland (2013) of which 1.1 million were suckler cows with over 90,000 farms involved in beef production. Ireland was ranked 20th in terms of global beef producers in 2013 whilst net Irish exports of beef were the 5th largest in the world (surpassed only by Brazil, India, Australia and New Zealand)[19].

Clearly, the beef sector is a substantial contributor to the Irish economy. Teagasc, however highlighted the problem of poor farm gate prices for beef and concludes that[20] *"the lack of profitability at farm level continues and this profitability problem is the principle challenge in developing a sustainable Irish beef industry and economically sustainable beef production".*

In compiling this report, interviews were conducted with circa 35 stakeholders, including beef farmers, small abattoir operators, cattle dealers / marts, butchers, farm sales direct outlets, organic farmers and industry representative bodies. Whilst the sample that we have interviewed is relatively small, we are confident that the views evinced are balanced and representative of the various stakeholders throughout the sector. The IFA (Irish Farmers Association) comes in for hefty criticism as farmers see its performance as benign in the face of ongoing threats to their very survival. This is further borne out by recent media reports[21] on the formation of a new national farming organisation:- Irish Natura and Hill Farmers Association.

The new organisation intends to represent "marginalised low income farmers". Spokesperson for the new organisation, Colm O' Donnell said that "the priority of a new organisation will be to protect farm incomes which continue to fall especially in the more marginalised areas. The focus must now be on protecting the future viability of the family farm[22]".

Against this background and following the well documented "beef crisis" of autumn 2014, we believe that a brief analysis of the structure and behaviour of the sector is necessary to identify the issues and attempt to put forward solutions.

2.2 Beef Production:

The year 2014 proved to be an extremely difficult one for Irish beef farmers. Farmers allege that downstream operators have been manipulating beef prices and that in 2014, processors went too far in forcing down farm gate prices, to well below breakeven. Many farmers have expressed concern that they will be unable to recover from last year's crisis.

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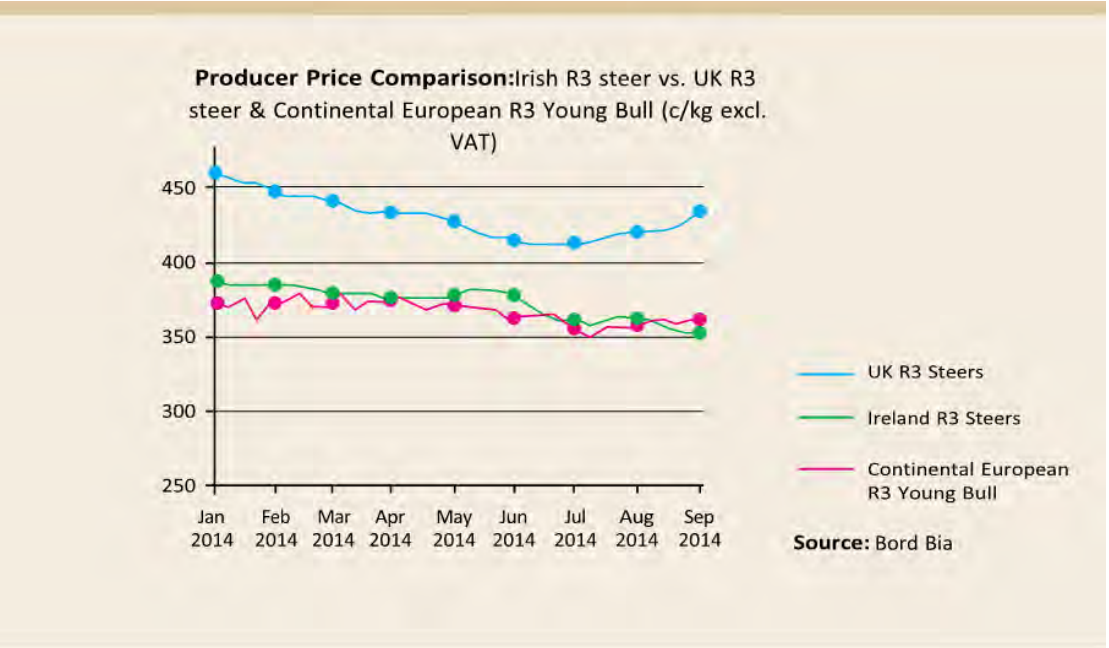
[18] Teagasc's (Irish Agricultural and Food Development Authority) Beef 2014 report, "The Business of Cattle"
[19] Ibid
[20] Ibid
[21] Agriland, February 3rd 2015 https://www.agriland.ie/farming-news/name-announced-new-farmingorganisation/
[22] Ibid

There are well founded claims that in 2014, beef farmers did not make a sustainable, let alone modest income and that many earned less than the national minimum wage. Many beef farmers claim to have lost €150 per head on cattle offered for slaughter during 2014.

As can be seen from the graph below, average farm gate cattle prices fell to €3.50 per kilo in Ireland last year. This contrasts with UK prices which were up to €1.00 per kilo higher or circa 30%. See graph[23] below.

Graph 1



The corollary to unsustainably low farm gate prices for beef is the prohibitive capital investment costs necessary to meet both a multiplicity of EU statutory compliance rules and arduous standards for Bord BIA approval; exacerbated by unsociable hours and in more and more cases, farmers having to take up supplementary employment.

When high variable costs are taken into account, it becomes clear that the Irish beef sector has fallen victim to a unique form of margin squeeze. We deal with the margin squeeze effect further in Section 2.9 below.

2.3 Background to the Beef Sector:

Before the Lemass / Whittaker industrial revolution of the 1960's, farming was the main driver of the Irish economy. The beef sector had a longstanding tried and tested model; cattle were bred and reared in Ireland for sale as "stores", i.e. typically reared to within one year of slaughter. Shippers then bought the stores at fairs and marts and shipped them to big finishing lots / yards in the UK. In those days, there were no "dominant" players anywhere along the supply chain so the risk of price / market manipulation was low and the model worked well for farmers, shippers and finishers alike. The UK has traditionally been Ireland's biggest beef market.

[23] Bord Bia Meat and Livestock Market Outlook 2014

There was a major glitch in the Anglo / Irish beef trade when the Economic War erupted in 1931 after the Taoiseach at the time, Eamon De Valera refused to pay punitive Land Annuities to the British Crown.
The UK placed an embargo on Irish produce, of which cattle was the mainstay; prices plummeted by 50% in one year, causing enormous hardship for Irish farmers and threatening the entire Irish economy. Lessons should have been learned about over dependence on a single market. Many farmers compare the 2014 beef crisis to 1931.

The 1960's saw huge growth in Ireland's fledgling industrial base that sucked many farmers away from the land to higher paid industrial jobs. Mechanisation swept through virtually all sectors and it became clear that agriculture was no longer going to be the principle economic driver. Around this time, young entrepreneurs such as Goodman, Horgan, Dillon and the Purcell family recognised the opportunity to add value by slaughtering in Ireland, instead of exporting on the hoof. This new direction for the beef sector received wholesome government support as it boosted economic activity and added value and employment opportunities at home.

Government support to the new meat processing industry was unstinting as mass meat processing was seen as an integral part of Ireland's future development. History shows that State support was the making of the sector but this support was punctuated with political favouritism, cronyism, patronage and State capture which would eventually work to the detriment of primary beef producers and traditional abattoirs.

(i) Goodman Controversies: Beef Tribunal Allegations of Abuse of Export Credit Insurance Scheme[24]:

Government support was wide ranging, from policy initiatives to financial support. The controversial ECGI (Export Credit Guarantee Insurance) scheme was introduced to underwrite vulnerable or risky beef export contracts to countries such as Libya and Iraq in the late eighties. Under this scheme, taxpayers were to foot the bill in the event of Libyan or Iraqi default. Under the stewardship of then Minister Albert Reynolds, ECGI was dispensed in a discriminatory manner with many processors losing out whilst Goodman interests became the main beneficiary. Those who failed to obtain ECGI were forced to trade at their peril without the comfort of guaranteed payment. Nowadays, a scheme run in such a discriminatory manner would almost certainly be successfully challenged under European state aid legislation. Below is an abbreviated list of allegations made against Goodman interests in regard to ECGI. The allegations in regard to this aspect of the Beef Inquiry were made by Deputy Desmond O'Malley, Deputy Pat Rabbitte and Deputy Dick Spring and are summarised as follows:--

- The provisions by the State of Export Credit Insurance cover on the sale of beef to Iraq in 1987 and 1988 of an amount in excess of the amount actually exported was: (i) in breach of the leans of die Export Credit insurance Scheme: and (ii) constituted a substantial abuse amounting to a fraud on the taxpayer, the scale of the abuse and of the potential liability of the State being unprecedented, made by Deputy Desmond O'Malley on 10 May 1989.
- The provision in 1987 and 1988 of between one fifth and one third of all Export Credit Insurance cover available with over 80% going to Goodman: (i) amounted to abuse of the scheme, and (ii)

[24] Tribunal of Inquiry into the Beef Processing Industry (9 August 1994).

excluded fair competition from within the State which aggravated the scandal, made by Deputy Desmond O'Malley on 10 May 1989.

- Allowing just two companies, of which by far the larger and more substantial was Goodman, cover, under the Export Credit Insurance scheme for beef exports to Iraq, so considerably in excess of their actual exports to that country, was an act of blatant favouritism and had the effect of strengthening further the already strong position of Goodman (to whom members of the Government were extremely personally close) as the dominant group within the beef processing and allied trades, contrary to the interests of farmers and employees and of exporters in other business sectors, made by Deputy Desmond O'Malley on 10 May 1989.
- The decision taken in 1987 by the Fianna Fáil Government to reinstate Export Credit Insurance was taken against the best professional advice available to the Government, made by Deputy Dick Spring on the 28 August 1990 and reported on by him on 15 May 1991 and by Deputy Pat Rabbitte on 24 May 1991.
- In respect of Goodman's Export Credit Insurance Policy, declarations were made that only beef with its origins in the Republic of Ireland would be covered, nevertheless very large quantities of non-Irish beef were included in shipments purporting to be covered by that policy, made by Deputy Desmond O'Malley on 28 August 1990.
- Conscious decisions were taken to give one conglomerate (Goodman) more than 80% of the available cover in that market, disadvantaging rivals and exporters in other products, made by Deputy Rabbitte on 24 May 1991.
- The granting of Export Credit Insurance was a political decision and depended on whether "you were a member of the club" and Mr Goodman, when he heard that Halal had been granted a slice of the Export Credit Insurance, intervened with the Taoiseach who caused the Minister for Industry and Commerce, Albert Reynolds TD, to cancel the allocation of such insurance and to inform the Chief Executive of Halal, made by Deputy Rabbitte on 15 May 1991.

(ii) Allegations of political influence made in Dail Éireann:

In addition to those set forth herein, further allegations were made in Dáil Éireann as follows:--

- The extraordinary recall of the Dáil and Seanad in August 1990 had as much to do with the integral link between Fianna Fáil and the Goodman organisation as it has with protecting a key Irish industry: made by Deputy Rabbitte on the 28th day of August 1990.
- The Companies (Amendment) Bill, 1990 represented only Goodman's third choice proposal, arising from meetings held with the Taoiseach, the first being a £300 million rescue package which Mr Goodman demanded the Government should underwrite, the second involving an approach by Mr Goodman's friends in Cabinet to the EC Commissioner, Mr Mac Sharry in an attempt to persuade him to bring forward an EC plan that would be of similar assistance to Mr Goodman but which would be cosmetically packaged as being in the interest of the total industry: made by Deputy Rabbitte on 28 August 1990 and repeated on 15 May 1991.

- Goodman successfully intervened with the Taoiseach to cause the Government to reverse a decision to increase the budget to be given to CBF the meat marketing board, in 1988, in order to shut out the prospect of markets being expanded for his competitors, made by Deputy Rabbitte on 25 October 1990.
- Charles Haughey publicly promoted Goodman. At the very time the Customs investigations were warning that Goodman's operations were strongly suspected of involvement in fraud, the Irish Prime Minister was endorsing Goodman for millions in Irish and European grants: made by Deputy Spring on 15 May 1991.
- There was political interference in the work of Agricultural Officers and Customs men in attempting to investigate suspected breaches of EC regulations: made by Deputy Pat Mc Cartan on 24 February 1988 and by Deputy Tomas Mac Giolla on 9 March 1989.
- It has been suggested that Goodman was subjected to a lesser degree of Customs inspection than other commercial operations (especially in regard to container loads going North) and that he was able to virtually close off the port of Greenore to other people when he was exporting meat: made by Deputy Rabbitte on the 15th day of May 1991.
- Goodman had been allowed to "cherry pick" the best of the ICC property portfolio, because he was on the "inside political track" before any other party became aware of these properties: made by Deputy Pat Rabbitte on 28 August 1990.
- Knowing the inside political track had enabled him to get access to exceptional lines of credit and to benefit from risky but profitable Middle East contracts, confident in the knowledge that he was guaranteed by the Government so long as Fianna Fáil remained in power: made by Deputy Pat Rabbitte on 28 August 1990.
- Fine Gael's attitude to Goodman was uncommonly acquiescent, a consideration affecting their attitude being the receipt of a donation of £60,000 from Goodman in 1988, made by Deputy Pat Rabbitte on 15 October 1990.

It is hard not to conclude but that this historical favouritism shown to Goodman interests has helped create the current industry structures and facilitated the current level of Goodman dominance of the processing sector together with the complete erosion of farmer market power.

2.4 Demise of the Local Abattoir:

Swathes of small local abattoirs have closed down over the past quarter century as a myriad of Irish and E.U. legislation / regulation was passed, e.g.

- Abattoirs Act 1988
- Abattoirs Regulations 1989
- Fresh Meat Directive 64/ 433/ EEC
- Council Directive 91/492 EEC
- Council Directive 91/497/EEC
- Council Directive 95/23/EEC

The final straw for small abattoirs came in 1997, when the Department of Agriculture decided that the 1989 regulations did not fulfil the requirements of Directive 91/497[25]. While successive governments understood the significant role played by small abattoirs, i.e. locally sourced product, traceability, quality and contribution to local economy, nevertheless promises to "introduce a package of measures

to assist local abattoirs to upgrade their premises to meet the demanding standards under the Abattoirs Act and EU Regulations" were reneged upon[26].

There is a widely held belief throughout the sector and particularly among butchers and abattoir / former abattoir operators that the labyrinthine regime of regulation effectively killed off competition in the sector (the market for finished animals) as well as destroying local economies throughout rural Ireland. Nowadays the meat processing sector is dominated by a few players amid wide-ranging allegations of political protection, cartel and market manipulation tactics and uncertainty over the beneficial ownership of key players in the processing sector.

Another significant impediment to local abattoirs is the near monopoly control of rendering by Goodman interests. A number of small abattoir owners have complained that the rendering monopoly has been used to discipline them in the market. For example, if a small abattoir pays a little above the going rate for its meagre requirement of cattle in a given week, maybe 5-10 animals, it may be threatened with or experience delays in having offal collected[27]. In addition, we are informed that it costs circa €120 per tonne, plus haulage to dispose of offal to the rendering plant. This cost appears especially penal when account is taken of "fifth quarter" value [see 2.6 (ii)] below.

2.5 Beef Industry Supply Chain:

(i) Farmer

The farmer breeds, rears, fattens and sells his cattle (or sheep) to the meat processor, either directly or through marts. In so doing, a myriad of "primary" production costs are incurred, both fixed and variable. To keep up with EU and Bórd BIA regulatory impositions, significant ongoing capital expenditure is required in terms of farm buildings, farm machinery, farm yards, roadways and slurry treatment whilst expensive machinery has to be serviced and eventually replaced. Variable costs are extensive, and include insurance, oil, animal feed, fertiliser, veterinary fees, veterinary pharmaceuticals, haulage, AI, rent and labour.

Included in this operating framework is a near infinite list of EC statutory compliance requirements, many of which are both necessary and welcome though others are seen as punitive, unnecessary and merely adding to the cost base. Some examples of EU regulatory controls are slurry spreading date restriction, fertiliser spreading restrictions, organic and non-organic nitrates regulations, ear tagging,

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[25] Council Directive 91/497 EEC

[26] Dear Colleague, You will have received a copy of the Fianna Fáil document, Food, blueprint for optimal development, which was launched yesterday. I would like to point out that Fianna Fáil, on assuming office will introduce a package of measures to assist local abattoirs to upgrade their premises to meet the demanding standards under the Abattoirs Act and EU regulations. Perhaps you would like to bring this provision to the attention of any family butchers in your constituency.
Yours sincerely,
Joe Walsh, TD, Fianna Fáil Spokesman on Agriculture and Food. (prior to 1997 General Election)

[27] A number of small abattoir operators / ex operators that wished to remain anonymous, made these observations to us.

land poaching, effluent management, dehorning, crop rotation, permanent and temporary grassland and grassland management.

Further onerous Irish regulatory standards also apply to enable beef farmers to become qualifying members of Bórd BIA and become Bórd BIA approved. Breaches of the regulatory framework have major cost implications for farmers e.g. the withholding of subsidies and difficulties in finding a processor to take cattle.
The ability of processors to manipulate beef supply prices is greatly enhanced, however inadvertently, by Bórd BIA rules and factory specifications that require animals presented for slaughter to be under 30 months of age and Quality Assured i.e. the animal must come from a Bórd BIA Quality Assured producing farmer. Animals exceeding 30 months incur very significant penalties in terms of price.

Farmers are paid per kilo on the kill out weight of the animal which approximates to around 55% of the live weight, depending on grade, confirmation, quality, breed and carcass trim (more on this later).

Farmers are subject to the same government fiscal, taxation and monetary policy as any other business with the exception of a range of reliefs / partial reliefs:-

- Stock Relief: Generally at 25% of increase in stock value but can be up to 100% for young farmers for the first three years of trading.
- Capital Allowance on Pollution Control can be used over 3 years.
- Income averaging over 3 years.
- Inheritance and Gift Tax Relief

In summary, beef farmers operate in a highly regulated EU / Bórd BIA regime; have very high fixed and variable costs but have no certainty or control over factory gate prices. Farmers are price takers, being completely at the mercy of processors / retailers.

(ii) Meat Processor

The Irish beef processing sector comprises circa 32 major slaughtering facilities supervised by DAFM[28] (a reduction from 57 in 1999[29]). These facilities are approved to export all over the world. There are another 195 low-volume slaughter houses supervised by the Local Authority Veterinary Service that may export within the E.U. There are also a significant number of standalone (i.e. no slaughtering) beef boning and beef added value processing businesses. In 2013, there were 1.5m cattle slaughtered averaging 28,800 per week[30].

The processor slaughters the animals under regulated conditions and tightly specified facilities and sells the meat to a) wholesalers either domestically or abroad, b) to butchers, c) to supermarkets direct or restaurants occasionally. Restaurant supplies are more usually routed through intermediaries such as Pallas Foods, a subsidiary of the giant food distributor Sysco[31].

[28] Department of Agriculture, Food and the Marine.
[29] Report of the Independent Group into anti-competitive practise in the Irish Beef Industry, September 2000
[30] Background Paper Meat – Beef Analysis 2025
[31] In the U.S., food giant Sysco is currently proposing to divest 11 food distribution centres to remedy antitrust concerns and secure Federal Trade Commission approval for the takeover of Performance Food Group. [15] See Section 2.8 on Previous Industry Investigation and Rationalisation Programme.

Processed meat is either sold as sides of beef, each animal having two sides, or more generally nowadays, boned out, packed and sold for individual selection, e.g. sirloin steak, rump steak, striploins, housekeepers, mince, fillet etc. In lamb or mutton the cuts are gigot chops, two racks, centre loin chops, two shoulders, two legs, liver and kidneys.

The main beef processors include[32]:-

- ABP
- Dawn Meats
- Kepak Group
- Liffey Meats
- Slaney Meats
- Kildare Chilling
- Dunbia

(iii) Wholesaler

The wholesaler (and sometimes the larger supermarkets) purchase from the processor and in turn sell to their own customers, e.g. restaurants, supermarkets, retail outlets, butchers etc.

(iv) **Restaurant, Butcher, Supermarket:** [See Section 2.10 for more on supermarket multiples].

The last person in the chain who deals with the final consumer.

(v) Domestic Consumer

In the case of retail meat purchases or the customer if purchased in a restaurant / food outlet.

2.6 How the Value Chain Operates:

The farmer produces the animal from birth to slaughter within the strict confines of E.U. / Irish and factory regulations and constraints. The farmer is paid for circa 55% of the animal weight; this is called the carcass weight and equates to the two sides of beef[33]. No payment is received for the remaining 45% of the animal which includes its hide, eyes, intestines, liver and kidneys. Very little is wasted in modern processing plants, the processor being in a position to convert to value virtually 100% of the animal.

As previously stated, the farmer (the primary producer) has effectively no bargaining power and is paid a price equating to the residue of the price obtained from the housewife, after allowing for the profit taking of the butcher or supermarket, the wholesaler and the meat processor. Apart from the primary producer or farmer, the other players along the value chain add on a profit to the cost price. If no margin is available, then these players have the option of not engaging in the trade.

[32] See Section 2.8 on Previous Industry Investigation and Rationalisation Programme.
[33] Carcass weight refers to the weight of the animal after slaughter and the removal of the head, hide, intestinal tract and internal organs.

In contrast, the farmer, on the other hand has incurred all the risk together with high fixed and variable costs but has no certainty or even say in farm gate prices. With the 30 month age limit applying, the farmer is forced to sell his stock at a predetermined time or see a dramatic fall off in its value. In addition, the farmer has to maintain his herd of cows in order to produce calves. Teagasc estimate that it costs €800 on average per year to maintain a cow allowing for average infertility rates within the herd. This means that the production cycle begins 39 months (3.25 years) prior to the animal being presented for sale. The option is simply not there for the farmer to abstain from putting his herd in calf. He has no way of estimating what prices will pertain in 39 months though there is some recent talk of a wider use of forward contracts.

2.7 Efficiency of Irish Beef Production Model:

There appears to be a chasm between efficiency levels in dairy production versus beef production with dairy farmers operating at up to three livestock units per hectare compared to suckler herds which operate at half this level. Beef producers maintain that there is simply not the return to allow the required investment in drainage, reseeding etc. It is difficult to comprehend the economic model that leads to such diverse levels of efficiency. (See recommendation No. 1).

Notwithstanding this background, there appears to be unwavering government support for education, innovation and efficiency through the Department of Agriculture, Bórd BIA and especially Teagasc. There is also considerable support from various farming associations such as ICSA [Irish Cattle and Sheep Association], ICMSA [Irish Creamery Milk Suppliers Association] Macra Na Feírme, ICBF [Irish Cattle Breeding Federation] and IFA [Irish Farmers Association].

It appears that no stone is left unturned in the combined efforts to improve farming practices such as:-

- Improving production systems.
- Increasing beef output per hectare.
- Improving genetics in order to create the most efficient strains of cattle.
- Improving soil fertility and pasture quality.
- Improved grazing management.
- Effective health planning.
- Disease Control including testing, vaccination and parasite control.
- Improving Cow Fertility: The Irish Cattle Breeding Federation last year stated that suckler herd fertility is showing steady improvement but still has a way to go[34].

[34] ICBF website November 9th 2013

ICBF has targeted a calf every 365 days. In 2013, the top 15% of herds had average calving interval of 360 days.

There is a requirement for a full economic analysis of the sector (beyond the scope of this report) to include an examination of farm subsidies such as single farm payment against a background of low prices and current productivity. It is however clear that some smaller beef farms are at best marginal operations. This has been acknowledged by Professor Gerry Boyle, Teagasc Director[35], who stated that "there is an underlying structural issue with many small beef farms".

2.8 Profitability along the Value Chain:

Exact figures on the breakdown of revenue streams along the supply chain are not easy to find; rather, various interests along the supply chain make various largely unsubstantiated claims. However, late last year, farm gate prices for finished beef fell as low as €3.50 per kilo, an unsustainably low price. Various media reports suggested that the average retail price of beef was €20 per kilo. We believe this estimate to be too high and suggest a figure of €15 per kilo as being more realistic, though many butchers estimate the figure to be closer to €12 per kilo. Farmers do not get paid for "Fifth Quarter" material, while processors do, but there is scant information available on fifth quarter revenues. Prices have now recovered to a level of circa €4.25 per kilo. Even allowing for this improvement, farm gate prices for beef are a mere 28-35% of retail price. This is the crux of the crisis facing farmers (more on this later).

An effective market investigation [see recommendation (i)] would at least establish:-

(a) If and where profitability lies along the value chain.

[35] Beef 2014 "The Business of Cattle" June 18th 2014

(b) Whether there are competition issues / abuses anywhere along the value chain.
(c) Whether final consumers are getting a good deal or not.

(i) Allegations of Cartel operating among Beef Processors

It is difficult to make an accurate assessment of how profits are divided between processors and the multiples. ABP, Dawn Meats and Kepak all have unlimited status and therefore do not file trading accounts. Unlimited status is normally only availed of by companies that are very strong financially and wish to keep profits / financial reserves secretive. Processors maintain that they work on very low margins[36] whilst farmers maintain that processors earn super-normal profits. In addition, there is a widespread view held across the agriculture sector that several processor operations are actually beneficially owned / controlled by Goodman interests.

Agriculture Commissioner Phil Hogan recently stated[37],

> *"There was widespread concern about the concentration of the beef market in Ireland and Britain in the hands of a few and that producers especially were concerned that there could be potential cartel issues".*

Commissioner Hogan also accused processors and supermarkets of "squeezing" beef prices, stating[38],

> *"My job as Commissioner for Agriculture is to ensure that producers are able to produce good quality raw material; that they survive this difficult financial situation and that supermarkets and meat processors will not squeeze them further".*

Last November, Sinn Fein also called upon the Competition Commissioner to investigate the beef processing sector. The ICSA [Irish Cattle and Sheep Association] had this to say[39],

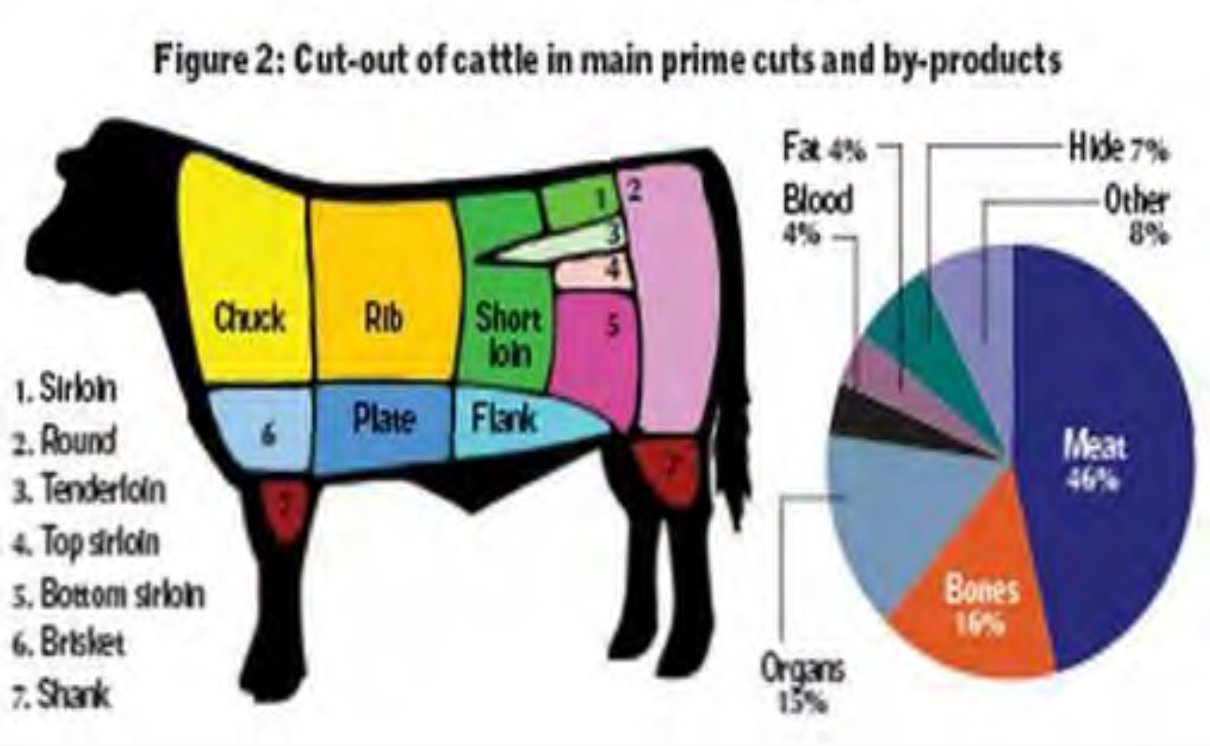
> *"Despite various denials, there is a firm belief among farmers that meat processors are operating a cartel, and ICSA welcomes the efforts by MEPs Matt Carthy and Marian Harkin to provide conclusive evidence to this effect,"* said Mr. Phelan*…….The similarity in quotes across the range of factories on a given day, the dominance of the 'big three' and the lack of transparency in relation to the 'fifth quarter' have all contributed to farmers' suspicions that a cartel exists, and it is high time this was investigated."*
>
> *"The control of rendering and, increasingly, feedlots must also be examined."*

[36] There is little information on profit breakdown, e.g. nothing is known about profits derived from the "fifth quarter" see 2.5 (ii)
[37] Irish Examiner, November 20th 2014
[38] RTE Television November 18th 2014
[39] ICSA Website, November 20th 2014

In addition, the Irish Farmers' Association has recently accused the new Competition and Consumer Protection Commission of protecting big business over farmers[40].

(ii) Fifth Quarter

Aside from the main beef cuts taken from the carcass, the remainder of the carcass is often described as the "fifth quarter". The fifth quarter amounts to circa 50% of the animal's live weight, see chart below[41].



The fifth quarter consists of the heart, liver, kidneys, tongue, stomach, skirt, tripe, intestine, tail, embryonic fluids, horns, head, ears, glands etc. The following EBLEX chart provides a more detailed breakdown and similar kill out percentages as the above in the case of a typical 600kg steer[42].

[40] November 19th 2014, IFA protest:- http://www.ifa.ie/ifa-accuses-competition-and-consumer-protectioncommission-of-protecting-big-business-at-expense-of-farmers/
[41] Source: Rabobank's Food and Agribusiness Research and Advisory Division 2012
[42] Source: EBLEX Beef Yield Guide – English Beef and Lamb Executive Ltd, a division of AHDB, Agriculture and Horticulture Development Board.

1	**Breakdown of a typical 600kg steer of average fatness R4L**				
2	**Live weight**			**KG**	**Percent of liveweight**
3	**Carcase**			**318.00**	**53%**
4	**Edible co-products, offal and animal by products**			**282.00**	**47%**
5	**Animal**			**600**	**100%**
6					
7	**After carcase (53%) is processed; bones and excess fat removed.**				
8	**Remaining edible meat**				**35-38%**
9					
10	**Fat, edible co-products, offal, bones and animal by products (harvested in the abattoir)**				
11			**Kg**	**%**	**% of carcase**
12	Hide		**42.49**	**15.07**	**7.08**
13	Lung fat		**1.57**	**0.56**	**0.26**
14	Caul fat	Fat [1]	**14.54**	**5.16**	**2.42**
15	KKCF		**11.18**	**3.96**	**1.86**
16	Cod fat		**4.49**	**1.59**	**0.75**
17	Skirt		**1.23**	**0.44**	**0.21**
18	Tail		**1.12**	**0.40**	**0.19**
19	Kidneys		**1.12**	**0.40**	**0.19**
20	Heart,	Red Offal [2]	**2.23**	**0.79**	**0.37**
21	Liver		**7.85**	**2.78**	**1.31**
22	Tongue incl trimmings		**2.24**	**0.79**	**0.37**
23	Head & cheek meat incl trimmings		**2.12**	**0.75**	**0.35**
24	Lips		**1.12**	**0.40**	**0.19**
25	Stomachs	ECP [3]	**15.65**	**5.55**	**2.61**
26	Feet		**11.18**	**3.96**	**1.86**
27	Lungs		**3.58**	**1.27**	**0.60**
28	Trachea (weasand) & trim	FHC [4] or	**1.11**	**0.39**	**0.19**
29	Pizzle & Testicles	Pet food	**1.32**	**0.47**	**0.22**
30	Oesophagus		**0.22**	**0.08**	**0.04**
31	Sweetbreads (thymus)		**0.34**	**0.12**	**0.06**
32	Spleen & pancreas		**1.27**	**0.45**	**0.21**
33	Gall bladder		**0.54**	**0.19**	**0.09**
34	Ears		**1.26**	**0.45**	**0.21**
35	Mandible		**1.55**	**0.55**	**0.26**
36	Remainder		**7.27**	**2.58**	**1.21**
37	Blood		**20.13**	**7.14**	**3.36**
38	Gut & intestinal contents	Category 2 [5]	**86.00**	**30.50**	**14.33**
39	Remainder head skull,tonsils, brain,eyes		**6.91**	**2.45**	**1.15**
40	Spinal cord		**0.18**	**0.06**	**0.03**
41	Intestinal fat	Category 1 [5]	**13.42**	**4.76**	**2.24**
42	Intestines inc fill		**16.77**	**5.95**	**2.80**
43	**TOTAL**		**282.00**	**100.00**	**47.00**

1	*Fat can be used directly with the meat e.g KKCF or can go as an edible co product to be rendered for human consumption, eg. Baking and frying, petfood, soap manufacture,pharmaceuticals or bio-fuel*
2	*There is normally a home market for all these products.*
3	*ECP are Edible co products are those products that require further processsing before they are fit for human consumption*
4	*FHC Fit for human consumption*
5	*See Regulation (EC) No 1069/2009 and https://www.gov.uk/dealing-with-animal-by-products*

Farmers get paid nothing for fifth quarter produce. Much of the fifth quarter is edible with tastes varying from country to country. Increasing affluence in developing countries such as China and cultural changes in others such as Japan has ensured a rapidly growing market for fifth quarter produce.

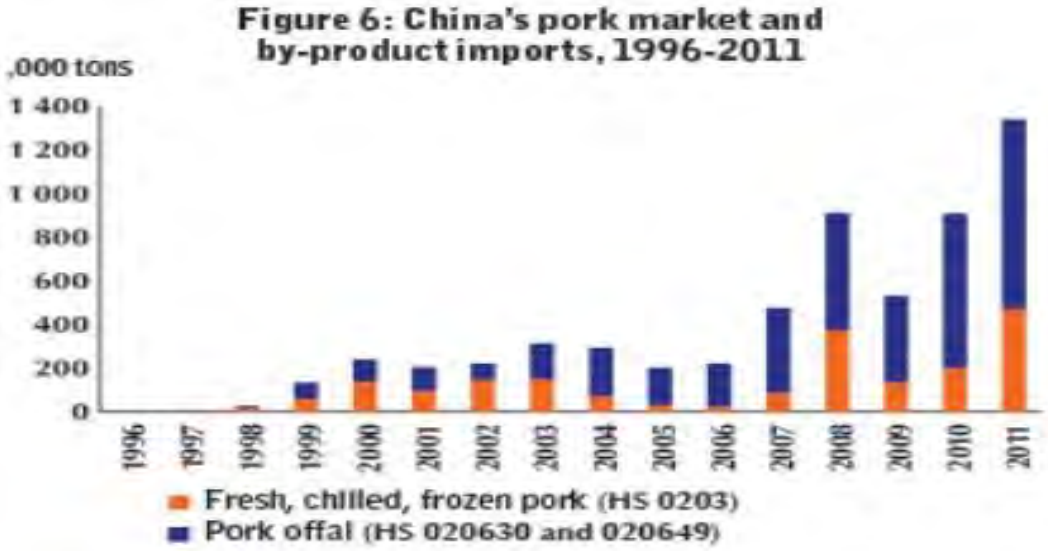
For example, whilst tongue is rarely consumed in the EU and US, it is considered a delicacy in Japan and as such fetches premium prices. In China, liver, kidney and tail prices are approximately five times higher than in the U.S.

In general, the export price of by-products (fifth quarter) from all the important beef and pork exporting countries has risen significantly since 2000. Fifth quarter prices for pork doubled between 2003 and 2011. Fifth quarter beef prices were affected by the economic crisis but have risen substantially since 2010[43].

Rabobank's Food and Agribusiness Research Division 2012 report found that "prime cuts are considered bland by Asian consumers and many traditional Asian dishes use strong-tasting fifth quarter products. With Asian consumers moving from grain-based to animal protein-based diets as

[43] Source: Rabobank's Food and Agribusiness Research and Advisory Division 2012

living standards rise, demand for animal by-products is growing rapidly. China's fast expanding fifth quarter pork products import market is evidence of this (see Figure 6)[44]



The fifth quarter is now used in the making of pharmaceuticals, cosmetics, household and industrial goods e.g. ointments, binders for plaster and asphalt, footballs, lubricants, soaps, lipsticks, face and hand creams and ingredients for explosives are produced from the inedible fats from beef.

In addition, fatty acids are used in the production of chemicals, biodegradable detergents, pesticides and floatation agents. Bones, horns and hooves are used to make buttons, bone china, piano keys, glues and fertiliser, also gelatine for photographic film, paper, wallpaper, sandpaper, combs, toothbrushes and violin string. More than one hundred individual drugs including insulin are derived from cattle[45]. The table below shows the dynamic growth in markets for fifth quarter produce between 2006 & 2011.[46]

Table 6.2: UK Export Statistics 2006 – 2011. Source: HMRC

Description	United Kingdom Export Quantity (tonnes) To World						% inc. '06 to '11
	2006	2007	2008	2009	2010	2011	
Fresh/ Ch edible bovine offal	826	2,651	7,373	13,812	17,724	19,354	2242%
Frozen bovine Tongues	22	5	7	74	518	44	96%
Frozen Bovine Livers	356	928	2,295	2,587	2,828	3,999	1023%
Offal Of Bovine Animals, Edible, Nesoi, Frozen	403	828	1,658	4,098	6,975	10,017	2386%
Offal Sheep, Goat, Horse, Ass, Mule/Hinny Edble Fr/Ch	1,447	1,175	1,625	2,383	2,630	2,495	73%
Froz Sheep Goats, Horses, Offal	173	296	663	1,159	1,450	1,112	543%
Fresh Or Chilled Swine Offal	10,519	8,189	15,091	9,846	13,191	14,346	36%
Frozen Livers Of Swine	591	391	574	558	517	1,045	77%
Frozen Swine Offal Exc. Livers	9,716	11,634	12,039	10,430	13,945	19,461	100%
Ed Offal, Bovine, Swine, Sheep,						71,872	199%

[44] Ibid.
[45] Source: http://www.cattle-empire.net/
[46] Source: HMRC (Her Majesty's Revenue Commissioners)

EBLEX, (English Beef and Lamb Executive) states that as a result of changes to ABP (Animal By-Product regulation) and increased export opportunities which has helped boost consumption of red offals and edible co-products (ECP) as well as soft bones and tendons, that the average percentage by weight of a live bovine animal being consumed by humans has increased from 38% in 2006 to 48% in 2012. EBLEX further states that UK exports of red bovine and bovine offal have increased in terms of both volume and value between 2009 and 2013. Beef fifth quarter export values increased from £880 per tonne to £1,230 per tonne during this period.

Another revenue source that is often, rightly or wrongly attributed to the fifth quarter is the vat reclaim that processors are entitled to. The reclaim amounts to 5.2% where the selling farmer is not vat registered and 4.8% where the farmer is vat registered.

2.9 Margin Squeeze:

Commissioner Phil Hogan recently announced his determination[47] *"to tackle the problems in the food supply chain which mean that consumers pay too much for groceries and farmers pay too much for inputs such as fertiliser, even at a time of falling prices".*

Whilst the characteristics of "margin squeeze"[48] as referred to in 2.2 above do not quite conform to the usual theories of margin squeeze espoused by economists, nevertheless beef farmers are caught in a unique margin squeeze trap. In this case, the squeeze comes about as a direct result of regulatory failure, in this case failure of the Competition Authority[49]. We have already highlighted the real competition concerns at processor level and will now focus on input costs.

(i) Veterinary Costs:

The Competition Authority[50] found that a host of restrictive practices permeated the veterinary profession including:-

- Unnecessary restrictions on vets advertising and recommended that the restrictions be removed.
- Regulations on touting (for business) were too restrictive and should be removed, as in practice the restrictions act as a barrier to entry for new veterinary surgeons.
- Prevention of incorporated veterinary practices is too restrictive and should be removed.
- Limited number of training places for veterinary practitioners in Ireland was a concern and the situation should be monitored.
- The Authority recommended the introduction of Para-Professionals to undertake tasks such as TB testing as is the practise in New Zealand.

[47] Dublin, January 6th 2015, IFA 60th Anniversary speech by Commissioner Hogan
[48] A margin squeeze is a form of exclusionary abuse where the accused firm is vertically integrated down through several levels of the supply chain.
[49] Now called Competition and Consumer Protection Commission [CCPC] since October 31st 2014.
[50] Competition in Professional Services Study – Veterinary Practitioners June 2008.

Most of the issues were dealt with in the Code of Professional Conduct for Veterinary Practitioners which was substantially changed in November 2009. However, it is difficult to measure the effectiveness of these measures on the ground.

(ii) Veterinary Pharmaceuticals:

Forfás / National Competitiveness Council, now subsumed into Department of Jobs, Enterprise and Innovation informed us that it has not carried out any research into animal pharmaceutical costs. The ESRI has conducted a good deal of research on pharmaceutical prices for human consumption and found prices in Ireland to be excessive, in fact extraordinary high but surprisingly has not looked into animal pharmaceuticals. Both the IFA and the Department of Agriculture have confirmed that neither has looked at pharmaceutical prices. We believe there is a strong likelihood that savings can be achieved through the use of generic drugs and group purchase schemes.

(iii) Construction Industry Supplies:

The farming sector is a significant purchaser of aggregate, concrete products and ground limestone. These markets have been cartelised for decades resulting in artificially high prices for farm construction inputs and ground-limestone. For example, despite CRH Plc having an already dominant position in the aggregate market, the State sold its (Sugar Company owned) ground limestone quarries at Mount Nugent and Barley Hill, in Leinster to CRH Plc in the early 1980's. The remaining sugar company quarries were then sold by Greencore to CRH Plc in 1996[51]. CRH Plc operations also account for most of the "super fines" used as fillers in animal feedstuffs and fertiliser. This sector has also been cartelised with animal feed and fertiliser companies paying artificially high prices for super fines[52].

(iv) Fertiliser and animal feedstuffs:

There is a considerable body of anecdotal evidence that for many years, these sectors have been cartelised resulting in farmers having to pay inflated fertiliser and feedstuff prices. In compiling this report, we have spoken to individuals that claim to have attended these cartel meetings in various different hotels.

2.10 Supermarket Multiples:

It was said to us a number of times that Goodman was the biggest price taker of all, in that multiples such as Sainsbury and Morrison freely dictate the price they are willing to pay to Goodman interests and other processors. We therefore had a cursory look at international developments in the grocery sector.

As supermarket multiples become larger and larger, their power and intent to dominate and manipulate producers has become a concern worldwide. Containing market abuse by multiples is

[51] At the time of sale, Mr. Anthony Barry was both a long time Director of CRH Plc and Greencore
[52] http://www.villagemagazine.ie/index.php/2012/11/the-cement-billionaires/
http://www.villagemagazine.ie/index.php/2012/11/a-history-of-scandal/

perhaps an even greater challenge than that posed by processors. The following table, taken from Consumers International Report, July 2012 gives an indication of global dominance by multiples[53].

The Concentration of National Food Markets

Country	Year	No. of major supermarkets	Their combined food market share
Australia	2011	2	71
Austria	2009	3	82
Belgium	2011	5	71
Canada	2011	5	75
Denmark	2009	5	80
Finland	2011	3	88
France	2009	5	65
Germany	2011	4	85
Greece	2009	5	50
Italy	2009	5	40
Netherlands	2010	5	65
Norway	2011	3	81
Portugal	2011	3	90
Spain	2009	5	70
Switzerland	2011	3	76
UK	2011	4	76
USA	2006	4	35

Consumers International concluded that; "*effective measures to prevent unfair commercial practices and the resulting detriments to both small-scale producers and consumers are urgently needed and that remedies should be based on a principle of fair dealing and should be enforceable and binding*"[54]

"Under EU competition law, the short-term interests of the consumer are to all intents and purposes paramount, and if those are satisfied in the most general terms, competition authorities are less concerned with problems upstream. The treatment of suppliers therefore slips down the priority list – and has done for decades. Recent and ongoing sector investigations in a number of countries (including Australia, Norway, Finland, Italy and Spain) illustrate that there is growing recognition of the problem. The Spanish National Competition Commission, for example, concluded in 2011- that the bargaining power of retailers may have negative effects on competition and on consumers and suppliers, and made specific reference to a slowing down in the rate of innovation in the food[55] sector".

(i) Regulatory Developments in Australia

The supermarket multiple model that has emerged in Australia[56] is perhaps a sign of where other national markets are heading. The Australian market is dominated by Coles and Woolworths whose combined share of the groceries market has now grown to circa 75% (90% in some areas). Coles has 3518 retail outlets generating AUD $53bn while Woolworths has 3660 generating AUD $58.5bn. Coles

[53] Consumers International Report July 2012 Catherine Nicholson, Consumers International & Bob Young, Europe Economics
[54] Ibid
[55] Ibid
[56] Supermarket Monsters by Malcolm Knox published in "The Monthly" August 2014 https://www.themonthly.com.au/issue/2014/august/1406815200/malcolm-knox/supermarket-monsters

and Woolworths dominate grocery, variety, hardware, alcohol / off licence, petrol and even own over 400 hotels between them.

The two have virtually crushed agribusiness in Australia. Lawyer and South Australian Independent Senator Nick Xenophon said; *"The end game is that they are pushing Australian farmers off the land. Farmers who have contracts with them become like medieval serfs. They stop investing in their business. More and more imported produce comes in and eventually prices go up".* There are numerous examples of the draconian measures used by the multiples to gain effected control over milk producers and meat processors[57].

To combat these and other market abuses, Australian Parliament amended the Trade Practices Act 1974, renamed it the Competition and Consumer Act 2010 and included robust legislation in relation to **"unconscionable business practise"** under Schedule 2 of the amended Act.

Not content with how competition was working in various markets, the Australian Prime Minister and Minister for Small Business initiated the Harper Review of Competition Law in December 2013[58]. The Review Group published its report and draft recommendations in September 2014. The final report was published on March 31st 2015. Among the recommendations are the following:-

- Collective Bargaining: The ACCC (Australian Competition and Consumer Protection Commission) should take action to enhance awareness of the exemption process for existing collective bargaining exemptions under the Competition and Consumer Act 2010 and how this process might be used to improve the bargaining position of small businesses in dealings with large businesses. Ordinarily, collective bargaining undertaken by competing businesses would be harmful to competition but where there is an imbalance in bargaining power, the result can in commercial terms be inefficient or unfair. This approach contrasts significantly with that of the Irish Competition Authority which has sternly rebuked any efforts by farmers to take any form of collective action.

- The panel recommends changes to the misuse of market power provisions of the Competition and Consumer Act and the introduction of a properly designed and effective [Supermarket] industry code to ensure that suppliers are able to contract fairly and efficiently.

Another recent development in Australia was the publication by Agriculture Minister Barnaby Joyce, of an agricultural competitiveness green paper in October 2014. The paper advocates a much harder line on supermarkets than does the Harper Review. The green paper advocates that supermarkets should face court-ordered divestments of their businesses if they abuse their market power. They may also have to negotiate prices with newly created farmer-owned co-operatives and industry marketing boards that would give farmers more bargaining power. The paper also proposes setting up an ombudsman with the authority to impose a mandatory supermarket code of conduct and hand out penalties.

Also, in December 2014 Coles agreed an out of court settlement of AUD $10M with ACCC in proceedings brought against the supermarket chain for unconscionable conduct towards its suppliers. Coles also entered into a court enforceable undertaking to establish a formal process overseen by an independent arbiter to assess the eligibility of more than 200 suppliers for refunds of unlawful payments demanded

[57] Ibid
[58] http://competitionpolicyreview.gov.au/draft-report/

by the supermarket chain. So far, Coles are reported to have made refunds of circa AUD $10M to suppliers under this arrangement. The Judge stated that Coles had "misused its bargaining power" and that its conduct was "serious, deliberate and repeated". The Judge added that its treatment of suppliers was not in line with acceptable business and social standards and merited severe penalty.

(ii) Regulatory Developments in UK

The UK has steadily being addressing the balance between large supermarkets and their suppliers, including farmers. In 2000, the Competition Commission published a report on supermarkets that concluded that the supermarkets were acting against the public interest. As a result, the UK Supermarket Code of Practice was introduced in March 2002 but subsequently came in for heavy and sustained criticism for being weak and ineffective.

In 2006, following public pressure, the OFT (Office of Fair Trading) once again referred the supply of groceries to the Competition Commission (CC). The CC looked, inter alia, at supplier issues, particularly whether the behaviour of grocery retailers towards their suppliers threatens the economic viability of suppliers or wholesalers, or effects competition in grocery retailing and / or effects competition among suppliers. The CC eventually found that supermarkets were guilty of transferring unnecessary risks and excessive costs onto their suppliers and ordered that the Supermarket Code of Practice be replaced by a new Grocery Supply Code of Practice (GSCOP) which came into force in February 2010[59].

To further strengthen the regulatory regime over supermarkets, the Groceries Code Adjudicator Act 2013 was enacted with the role of enforcing the Groceries Code. Then on March 16th 2015, the Secretary of State introduced the Groceries Code Adjudicator (Permitted Maximum Financial Penalty) Order 2015 which took effect from April 6th 2015. This order sets the maximum permitted penalty to be imposed by the Adjudicator at 1% of a large retailer's[60] turnover.

Several other jurisdictions, including Spain, Norway, Canada and Hong Kong are actively seeking to redress the imbalance in market power between suppliers and supermarket multiples.

(iii) Ireland

In 2009, then Tánaiste Mary Coughlan launched a public consultation in relation to the introduction of a voluntary Code of Practice for Grocery Goods Undertakings. This initiative did not succeed and in July 2011 the Department of Enterprise, Jobs and Innovation launched a public consultation on the introduction of a Statutory Code of Practice. The Code was to be introduced in late 2012 but is still in gestation. The new draft Grocery Regulations[61] were eventually published on December 22nd 2014 with a further consultation process up to February 27th 2015. It is expected that the new regulations will come into effect later in 2015[43].

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[59] The Order was made under the UK's Enterprise Act 2002:- The Groceries (Supply Chain Practices) Market Investigation Order 2009.

[60] Schedule 2 of the Groceries (Supply Chain Practice) Market Investigation Order 2009 lists the UK's top ten supermarket chains as designated under the order and under GSCOP.

[61] Link to Draft Grocery Goods Regulation http://www.djei.ie/publications/commerce/2014/ggu_draft_regs.pdf

[43] The new regulations are being introduced under the Consumer Protection Act 2007 (Section 63B) [Regulation of Aspects of the Commercial Relationships between Suppliers and Relevant Grocery Goods Undertakings]

2.11 Previous Industry Investigation and Rationalisation Program for Processing Sector:

A major rationalisation plan for the beef processing sector began in the late 1990's which would eventually lead to control of the processing sector falling into the hands of a few "beef barons" let by Goodman interests.

The initiative was politically driven, when in 1997, then Minister for Agriculture, Joe Walsh and John Malone, then Secretary General of the Department of Agriculture, engaged with the Chief Executive of Enterprise Ireland with a view to establishing a development programme for the Irish beef sector. Enterprise Ireland in turn tasked one of its most experienced agriculture executives Derek Breen to undertake the task of creating a *"blueprint for the development of the sector in its totality"*[62].

(i) Mc Kinsey Report

In the third quarter of 1997, Mr. Breen decided that: *"the movement of this project required external facilitation and after a process of consultation, the outside firm of Mc Kinsey and Company was engaged to carry out a study into the sector. This piece of work cost approximately Ir £300,000 and was financed, as to about 80% by Enterprise Ireland".*

"Work began on the project in January 1998 with Mr. Breen, then of Enterprise Ireland, being appointed as the fulltime Project Manager of the team. A steering committee, of about 13 persons, was established to work in harmony with the consultants. This committee had representatives from the industry, from IBEC, the Department of Agriculture and Food, the IFA, the ICOS and the Irish Meat Association. A draft report was available in April and the final report was published in September 1998. This report became known as the "McKinsey Report". It was to implement the rationalisation proposals of this report that fundamentally gave rise to BIDS" (Beef Industry Development Society).

Interestingly, as far back as 1998, McKinsey recognised the potential of "fifth quarter" produce when it estimated that if processing plant performance improved and better returns could be obtained from fifth quarter realisations, a further Ir£14m could be generated[63].

(ii) Setting up of Independent Group to report on Anticompetitive Practices in Beef Sector

Another report was commissioned by then Tánaiste and Minister for Enterprise, Trade and Employment Mary Harney, when on January 26th 2000, Ms. Harney convened an Independent Group to report on anti-competitive practices in the Irish Beef Sector.

According to the Department of Agriculture, the members of this Independent Group or "Beef Task Force" were drawn from senior levels within the production and processing sectors of the beef industry as well as from the relevant organisations servicing the industry.

The Group's membership were as follows: John Malone (Chairman), Secretary General, Department of Agriculture and Food; Tom Moran, Assistant Secretary, Department of Agriculture and Food; Tom Parlon, President IFA; Michael Berkery, General Secretary IFA; Raymond O'Malley, Chairman IFA Beef

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[62] Judgment of Mr. William M. Mc Kechnie, June 27th 2006, Competition Authority V Beef Industry Development Society Limited & Barry Brothers (Carrigmore) Meats Limited High Court Number 2003 7764p

[63] Ibid (Mc Kechnie Judgment)

Committee; Tom McAndrew, Chairman Irish Meat Association; John Smith, Chief Executive Irish Meat Association; Tom MacParland, Managing Director, Kildare Chilling; Dan Browne, Managing Director, Dawn Meats; Liam McGreal, Managing Director, Kepak; Frank Allen, President ICMSA; John Cunningham, ICOS — Dairygold; Michael Duffy, Chief Executive, An Bord Bia; Mike Feeney, Enterprise Ireland; John Kane, National Industrial Secretary, SIPTU; Donal Carey, Teagasc; Paddy Moore, Personal Adviser to Minister Walsh.

Executive Co-ordination-Secretariat: Derek Breen, (Enterprise Ireland); Aidan Cotter (An Bord Bia); Richard Healy and Jarlath Coleman (Department of Agriculture and Food).

The question arises as to why an unqualified task force was set up to investigate possible anticompetitive practices in the beef sector, when this was the primary function of the Competition Authority, the sole State body with responsibility for enforcing Competition Law.

The terms of reference of the Group were:-

- To examine allegations of anti-competitive practice in the beef industry.
- To establish why there is such a large differential between the producer price and the prevailing consumer price, and
- To make any appropriate recommendations in the matter.

(iii) Conclusions of the Independent Group:

Regarding Anti-Competitive Practice:

We have found no evidence of anti-competitive behaviour either in the pattern of cattle prices or in profits. On the contrary there is evidence from the various sources we have consulted that on average the industry is one of low profitability. At the same time some periods are favourable for processors, such as the second half of 1999, and some companies perform much better than average, as is the case in all businesses.

Regarding Price Gaps: Allegations about price gaps between the producer and consumer are based on simple comparisons between the level and movement of farm-gate prices and retail prices. Such comparisons are inadequate for two reasons: they do not take full account of the weight losses involved in converting the live animal into saleable beef and they totally ignore cost developments in the post farm-gate sectors of the food chain which account for half the value of the total chain. When these issues are properly considered the changes in retail prices are fully explained by the combined movement in farm-gate prices and post farm-gate costs.

There is no scope for alleged manipulation of prices by wholesalers and retailers. The analysis refutes the allegation that changes in farm-gate prices are not reflected in prices at retail level.

(iv) Recommendations of the Independent Group:

1. That an annual census of the economic performance of the food and drinks industry, as has been carried out in Northern Ireland since 1989, be initiated in the Republic.

2. That the Minister for Agriculture, Food and Rural Development should bring forward proposals designed to modernise the meat inspection system.

3. That the status of collective negotiations, as sought by the farming organisations in the dispute that led to our Inquiry, be clarified in the context of Section 4 (1) of the Competition Act 1991 and Article 81(1) of the Treaty of Rome.

4. That every means be used to promote integrated action in the food industry where farmer, processor and retailer work in harmony to meet consumer requirements. We support the efforts of An Bord Bia in this regard.

(v) **Wholly inappropriate approach to Competition Investigation:**

The Independent Group in turn sought submissions from various parties to assist in its deliberations. Among those consulted were the Competition Authority, BDO Simpson Xavier and Patrick Lyons, a former head of the Competition Authority.

In our view, this approach was wholly unsuitable as a vehicle to investigate allegations of anticompetitive behaviour in the sector. With respect to the Group, it appears that representation is heavily skewed toward processors and there does not appear to have been any competition economist or competition lawyer named in the Group.

The Competition Authority submitted a copy of its submission to the Joint Oireachtas Committee on Agriculture, Food and the Marine on March 1st 2000. It is clear from this submission that even the Authority itself was not in a position to carry out a meaningful investigation into the sector, despite the fact that it had received a large number of complaints from farming stake holders.

The submission states that at the time of receipt of the origional complaints, *"it was not possible to do more than carry out a very preliminary investigation which involved asking the complainants for any further information they might have".* There were insufficient economists and lawyers at the Authority to carry out enforcement investigations.

Against Mr. Pat Massey's (then head of the Competition Enforcement at the Competition Authority) clear advice that the Authority's investigation should remain confidential, the Minister for Agriculture, Joe Walsh publicised the investigation through a press statement. In response, Mr. Massey wrote to the Minister's private secretary indicating his concerns that this had harmed the possibility of a successful outcome to the investigation. Neither did it help that the case officer responsible for the case resigned from the Authority in August 1999.

Mr. Massey made several further references to the shortage of resources in the submission:- *"The reality of the situation, however, is that cartel investigations require considerable resources and take time…….the Authority has repeatedly indicated that further resources are required for such investigations. In particular it has proposed that Gardaí be seconded to assist the Authority with such*

investigations…..however, the Authority has not been provided with the additional resources which it sought and over the past few months most of the staff involved in investigations have resigned, mainly to take up jobs in public or private sector industry".

Moreover, Mr. Massey had already submitted his resignation as Director of Competition Enforcement to Minister Harney on February 27th 2000, just days before making the above submission. In his letter of resignation, Mr. Massey stated:- *"I believe it is no longer possible for me to continue as Director of Competition Enforcement due to the failure to provide adequate resources to enable me to do the job properly……..my experience over the last three and a half years has convinced me that price fixing cartels represent a serious widespread problem in this country……the resources available are wholly inadequate for carrying out the sort of complex and highly labour intensive investigations that are required to obtain evidence of secret conspiracies to overcharge customers".* (Mr. Massey finished his term with the Authority as an ordinary member).

BDO Simpson Xavier submitted a report, titled "Profit Margins Achieved by Irish Beef Processing Factories 1996-1999". However, this report was prepared for a vested interest group, IMA (Irish Meat Association). It is a short (4 pages) document, very scant on detail and could only have been of very limited assistance to the Independent Group.

Mr. Patrick Lyons declared in his letter to the Group (February 1st 2000) that recent activities by the IFA in negotiating the price to be paid for cattle to its members [collective setting of prices] and the organising of boycotts to secure such prices would appear to be infringements of Section 4 (1) of the Competition Act 1991 and stated that they would now be classified as criminal offences under the 1996 Competition Act as well as being in breach of Article 82 (1) of the Treaty of Rome[64]. However, he then states that *"the matter is further complicated by the fact that the unilateral imposition of purchase prices for cattle by meat factories, either individually or collectively, without negotiation with suppliers, might constitute the abuse of a dominant position, which is prohibited by Section 5 (1) of the 1991 Act". It is difficult to see how this contribution can be of any meaningful assistance to the Independent Group.* [See Recommendations, in particular No. 4]

(vi) **Origin of BIDS [Beef Industry Development Society]:**

Following publication of the Mc Kinsey report which recommended the rationalisation of the beef processing sector, BIDS was set up in May 2002.

The membership of BIDS was open to all beef processing companies in Ireland. At the time of its creation, 10 beef processing companies became members of BIDS. Within the umbrella of BIDS, a number of decisions were adopted in order to achieve a 25% reduction of capacity in the Irish beef processing industry. These decisions of BIDS, and/or the agreements between processor members of BIDS to reduce capacity, constitute the BIDS arrangements[65]. Under the BIDS arrangements, it was decided and/or it was agreed, that:-

- Some members of BIDS would leave the industry (the "goers") and some members would stay in the industry (the "stayers").

[64] See Recommendation 4, Page 34.
[65] The Competition Authority:- Notice on Agreements to Reduce Capacity N/11/001 16 June 2011

- The stayers would pay a €2 levy (per head of cattle slaughtered within their usual volume of production) and a €11 levy (per head of cattle slaughtered above their usual volume of production).

- The monies obtained from the levies would be used to financially compensate the goers.

- The goers would: (a) decommission their plants; (b) sell their equipment used for primary beef processing only to stayers (for use as back-up equipment or spare parts) or else to purchasers outside the island of Ireland; (c) refrain from using their lands for beef processing for five years; and, (d) enter a two year non-compete clause in relation to the processing of cattle on the island of Ireland.

Ultimately BIDS was challenged by the Competition Authority in 2003. In 2006 the High Court rejected the CA arguments. A subsequent appeal to the Supreme Court encompassed a referral to the EU Court of Justice. Following a ruling from the Court of Justice, the Supreme Court referred the case back to the High Court. However, so serious a view had the ECJ taken of the matter that the Commission lodged written observations with the High Court. The game was up for BIDS.

In January 2011, BIDS withdrew its claim before the High Court. As a consequence, the High Court did not reach any decision in relation to the BIDS agreement, the result being that the BIDS agreement remains prohibited, as it has the object of preventing, restricting or distorting competition. The ECJ had this to say regarding the BIDS arrangements:-

"An agreement with features such as those of the standard form of contract concluded between the 10 principal beef and veal processors in Ireland, who are members of the Beef Industry Development Society Ltd, and requiring, among other things, a reduction in the order of 25% in processing capacity has as its object the prevention, restriction or distortion of competition within the meaning of Article [101(1) TFEU]"..

Conclusion on BIDS: We conclude that the efforts in and around 2000 to "consolidate" the sector, while not without merit, bearing in mind the level of over-capacity in the processing sector, were crude and not in the long term interest of either beef suppliers or consumers. The entire thrust of the convoluted approach appears to have been to ensure that control of the processing sector was transferred into the hands of a few processors without regard for others in the value chain or ultimate consumers.

There appears to have been no consideration given to alternative ownership / control structures, for example, co-operative ownership of some or all of the processing sector [See Danish Crown cooperative example in Recommendation 3 below]. Had Ireland looked at the best interests of the farming sector as a whole and / or indeed primary producers and final consumers, much more creative thought would have gone into building a long term sustainable supply chain. Instead, what has emerged is that Ireland put huge resources into an attempt to circumvent E.U. Law.

In reviewing the historic behaviour of the body politic / beef sector and the evolution of BIDS, it is difficult not to resonate, at least to some degree with a quote from Transparency International's Ireland Country Report 2012:-

"The CPI [Corruption Perception Index] *does not account for what may be termed 'legal corruption' which takes many forms and includes cronyism, patronage and state 'capture' – when powerful groups manipulate policy formation to serve their own interests rather than the public interest*[66].

Present Position: - Has BIDS succeeded in any case?

Despite the "failure" of BIDS in strictly legal terms, it would appear that the aims and objectives of IMA have largely been achieved in that the industry has seen a sustained period of consolidation over the past fifteen years.

2.12 Live Trade:

Time constraints have curtailed our evaluation of the live trade. However, there are a few points that we might highlight, perhaps with a view to further elaborating at a later stage. There is an ongoing anomaly between cattle sourced North and South of the border for processing in Northern Ireland; processors in Northern Ireland pay considerably less for cattle sourced in the Republic (RoI) than for cattle sourced in Northern Ireland (NI). This practice exacerbated the beef crisis last year as would be NI purchasers of RoI weanlings / stores for fattening were effectively removed from the market through the imposition of what, on the face of it, is a discriminatory pricing structure. We understand however that the basis for the price difference is that the UK runs a number of quality assurance schemes with one of the requirements being that beef must be bred, reared, fattened and slaughtered in the one country to qualify for the assurance scheme. There are four such schemes as follows:-

- Red Tractor covers England
- QMS Quality Meat Scotland
- FAWL Farm Assured Welsh Livestock
- NIFQA Northern Ireland Farm Quality Assured

However, we believe a good deal of further work is required to examine the status of each of these brands in their own native country and in the other jurisdictions, viz a viz factory pricing arrangements and whether there exists discriminatory pricing practices or simple market forces from country to country.

2.13 Single Farm Payment Scheme:

Again time constraints meant that we have not been able to evaluate the economic effects of CAP / Single Farm Payment Scheme on the sector. Some believe that the whole practise of subsidies is ill-conceived and damaging to sector, in that it has an adverse effect on productivity. The CAP [Common Agricultural Policy] was first introduced as far back as the late fifties, just after the Treaty of Rome was signed. There have been various reforms throughout the years, the most important for Ireland being the Mac Sharry reforms in 1992 which linked payments (subsidies) to production. Further reforms saw the Single Farm Payment / Entitlement introduced in 2002. The CAP was again further renegotiated in 2013.

[66] Kaufmann, Daniel and Vicente, Pedro C., 2011,'Legal Corruption' Economics & Politics, 23 (2011):195-219

2.14 Likely effects of Cessation of Milk Quota:

For the past thirty one years, the milk quota regime dominated the Irish (and European) dairy production sector. The quota effectively capped milk production levels. Ireland's quota in the lead up to the end of the quota regime on March 31st 2015 was circa 5.4 billion litres, a slight increase from circa 5 billion litres in 1984. In contrast, milk output in New Zealand during the same period went from circa 6 billion to 19 billion litres.

Commenting on the abolition of the milk quota, Agriculture Minister, Simon Coveney stated: - *"this is the most fundamental change to Irish Agriculture in a generation. Since 1984, the industry has operated within a quota environment but now the shackles are off and the sector can start to realise its full potential. This is a great day for rural Ireland. The direct and indirect economic benefits will be felt all over the country. Quota abolition means the potential for increased employment, with Teagasc estimating that it could create 15,000 new jobs over the next five years".*

There is no doubting the optimism of Minister Coveney. The dairy and dairy produce sector looks set for a sustained period of growth over the coming years. The Minister and others estimate that dairy output will grow by up to fifty per cent between now and 2020. The Minister estimated that the current dairy herd of 1.1 million cows would increase by up to 350,000 in the next few years[67]. This expansion is likely to have a significant negative impact on the beef sector. To put each sector in prospective, estimates of the number of farmers involved in beef production vary from 80,000 to 100,000. The numbers of dairy farmers have declined from 63,000 to a current 17,000. This is suggestive of a "flight to scale" which is likely to accelerate with the abolition of the quota, though Minister Coveney rejects this proposition[68].

The challenges for beef farmers going forward are ominous. Minister Coveney tacitly acknowledges this when he flags the need to ensure that dairy calves make good beef and that we need to "*protect our quality beef sector and are working hard on it[69]".* Pending further analysis, it would appear that there is a huge risk of displacement within the beef sector as a result of the abolition of the milk quota which could well lead to the further decline of rural Ireland. Much will depend on the nature of the apportionment of future farm revenues as between farmers and processors (see RTE "This Week" debate below (Section 2.15).

A word of caution; Irish dairy farmers have relatively high borrowings and are investing in expansion based on future price predictions. However, future prices will be determined on a global supply / demand basis. Falling prices could catapult dairy farmers into financial crisis in the years ahead.

2.15 TTIP [Transatlantic Trade and Investment Partnership]

The Transatlantic Trade and Investment Partnership is presently being negotiated between Europe and America. Aspects of the proposed deal are hugely controversial, in particular the proposed investor state dispute mechanism, which, according to some, has the potential to make corporations more powerful then sovereign states. Also, there is universal concern that the proposed deal will prove damaging to Europe's and particularly Ireland's beef sector. The European Commissioner for Trade, Cecelia Malmstrom has acknowledged the threats to Ireland's beef sector and to some extent

[67] Newstalk Breakfast, April 1st 2015.
[68] Ibid
[69] Ibid

has countered the threat by talking up the prospects for opening beef markets in Japan, Viet Nam and China.

We agree that these are potentially new markets for Irish (and European) beef but would caution that Australia, New Zealand, Argentina and Brazil are also focusing on developing these markets. Successful market penetration will be a function of quality and price. Whilst we believe Ireland can put itself in pole position with regard to quality (which may also require the development of a brand – see Recommendation No. 6 below), price is down to competitiveness. In this regard, we refer back to Section 2.9 above on Margin Squeeze and also to Recommendation No.1 below.

The Irish Government recently commissioned a Danish firm, Copenhagen Economics to prepare an independent report on the impact of the proposed TTIP on Ireland[70]. The report was published on March 29th 2015. RTE carried extensive analysis of the proposed TTIP on its "This Week" program on Sunday March 29th, including an interview with EU Trade Commissioner, Cecelia Malmstrom and a debate with Pat Nevin, Head of E.U. and International Policy at IBEC, Tom Healy of the Nevin Economic Research Institute and Eddie Downey, President of the Irish Farmers Association. All four participants spoke of the real threat to Ireland's beef sector. We provide below, transcripts of this very timely and important broadcast, in terms of the future for Irish beef[71].

RTE quotes from Copenhagen Economics Report: "*If TTIP had been in place in 2013, our economy would have been around €2b bigger in GDP terms that year and it anticipates that a concluded deal would increase exports and create a further 5,000 to 10,000 jobs in the export sector".*

RTE: - *"But Copenhagen Economics is also cautionary on our valuable beef sector and there is some hesitancy around foreign direct investment. Outside Ireland TTIP critics have many concerns, among them the clout big corporates would have over sovereign governments and the flooding of EU grocery counters with U.S. food produced to different standards".*

E.U. Trade Commissioner Cecelia Malmstrom when asked about the downside of importing more U.S. produce into Europe says that: - *"we are not even discussing standards in areas where we have different viewpoints so there will be no lowering of standards, there will be no changes in European laws when it comes to GMO or hormone treated beefs. We have very strict regulations on that; that will not be changed at all. What we are looking at is to see if we can recognise each other's standards in different technical areas where there is a lot of red tape because you had to inspect certain factories twice, you have to do certain technical tests twice, you have to apply certain long lengthy bureaucratic procedures to get applications [sic approvals] in order to sell your product in the U.S. and in the E.U. so if we can find areas where we have high standards, both of us, similar but different but to recognise each other's and this is what we are looking at and that can save a lot of money especially for small companies".*

RTE:- *"So the net effects of TTIP, as far as the European Commission are concerned, the net effects are beneficial but looking at the micro picture, what are the vulnerable sectors in the European economy where the most disruption and displacement will be seen and where will those people who are displaced in this process ultimately find employment"?*

[70] http://www.enterprise.gov.ie/en/Publications/TTIP-Impact-in-Ireland-Study.pdf
[71] TTIP -Who will gain from it:-
http://www.rte.ie/radio/utils/radioplayer/rteradioweb.html#!rii=9%3A20754009%3A0%3A%3A

Cecelia Malmstrom: - *"Well ultimately there are huge benefits of this trade agreement and we also negotiate many other agreements as well and the strength and the vulnerabilities differ from country to country and that's why we welcome these kind of National reports. In Ireland, there are certain minor risks within the beef sectors, in other countries there could be others, so of course having those known well in advance that there is an agreement gives the possibility for each country to try to mitigate. The European Union, all the reforms we are trying to make in order to put the economy back on track, of course aims at creating new possibilities, aims at mitigating all these effects. We also have the globalisation fund that is there for short term negative effects of globalisation as such so lots of things are being done to mitigate but overall to try to create jobs and growth and new possibilities for European citizens".*

RTE: - *"Seeing as you touched on beef in the Irish Sector, you were asked a question on Friday's panel there of the head count in the beef sector, that the vast majority of Irish farmers are associated with the beef sector. One person asked you, as a farmer with four children who would like to see them grow up in his locality, not only is there a risk there identified in the report but he is extremely fearful. What reassurance is there I suppose particularly for that sector which may also be a vulnerability in other countries".*

Cecelia Malmstrom: - "*Yes but there are also potential possibilities in the whole agriculture sector for Ireland and for others and the report says so very clearly and as I said, we are negotiating other agreements, for instance with Japan, with Viet Nam, with China where I think that Irish agriculture, beef and others have great potential, so we have to see the whole picture. Then of course, the Irish government will have to engage and to see what possibilities is there to mitigate and to strengthen this and that is beyond trade policy, of course, but we are aware that beef is a very sensitive product in Europe and while we are aiming at eliminating basically all tariffs in this trade agreement, there will be some sensitive products that will be excluded and beef is one of them where we will seek to find solutions".*

RTE:- *"When you are talking about so many billions at stake in such a trade agreement, obviously vested interests and representatives of industry in various sectors of the economy will seek to bring to bear their own unique influence on those that are conducting the negotiations, what reassurance is there that this is being conducted absolutely transparently and that those that lobby on behalf of these various vested interests, that we know what influence they are bringing to bear so that we could identify perhaps cut and paste positions".*

Cecelia Malmstrom:- *"Well I have all my meetings with all kinds of lobbyists both from business, trade unions, environmental organisations, citizens organisations, all that on my agenda is on line and so is it for most of my cabinet members and also for the Director General of DG Trade and that's the policy in the whole commission so we are as transparent as possible and ultimately when there is an agreement, it will have to be agreed by governments and elected representatives of the people as well and while we are negotiating, we are showing the results, we are consulting with member states, with European Parliament before and after each negotiation round and we also have a vast network of an advisory body with stakeholders from all across the board, so they are following this very closely and they look at each other as well to make sure that their influence is more or less the same".*

Some of the key points arising in relation to the beef sector in the follow on debate are noted below:-

Eddie Downey IFA: - *"Agriculture is a cornerstone of this economy. We export 90% of what we produce from agriculture, €10.5bn and there is over 300,000 jobs in this economy reliant on it and when you take the multiplier effect on the value of money generated in agriculture, it multiplies out at 1.8 times its value, which is much higher than any other sector..... This is damaging to the beef sector".*

RTE: - *"Because the U.S. produces beef and beef products at a lower price than we do in Europe and therefore our market will be flooded by U.S. beef".*

Eddie Downey:- *"Absolutely and they have a whole set of different standards and as any industry will tell you, higher standards cost money and our beef sector, our whole agricultural sector in Europe has had to operate on a much higher standard base than anybody else".*

RTE:- *"Have you been reassured by anything Cecelia Malmstrom said in that report or indeed that event on Friday at which all three of you attended in relation to beef imports from the U.S. into the E.U. and the damage that that could do to our sector here".*

Eddie Downey: - *"We constantly argue the case, there must be equivalence of standard and any food product brought into Europe must be of the same standard as that produced within Europe. Are we reassured? To some extent, Ireland and the U.S. has a special place, we've always had a special trading relationship with America so from that point of view, a deal with America could have potential upsides for us, particularly in our dairy side but the problem is, as was pointed out earlier, jobs get displaced and this whole deal is about displacement of jobs. Well if you displace a job in the beef sector, there's eighty thousand beef farmers, there's only 17,000 dairy farmers, we can't all move towards the dairy side, so we need our negotiators to be very, very strong on the beef side and to make sure we protect Ireland's special place there".*

Tom Healy Nevin Economic Research Institute:- *"They (Copenhagen Economics) are assuming in the long run that labour markets clear, that everything will adjust so that workers and firms that may be displaced, that could be the case surely in beef, some other sectors as well, that they will find employment and business opportunities somewhere else in the economy".*

Pat Nevin IBEC: - *"Beef is one of the most difficult areas of negotiations of most trade deals and it's clear that it's a sensitive product area and we have to defend our interest vigorously in the beef sector and I think that we need to equip the government in order to do that. I think in terms of the quality questions, the Commissioner has reassured Ireland that hormone beef will not be imported as a result of TTIP. I think that that is a positive. I think we also need to look very carefully at the quota that's negotiated between the E.U. and the U.S. in terms of additional access to the E.U. market. We need to ensure that that quota is not focused simply on the most valuable cuts of meat but covers the whole carcass so there is detail in this negotiation where we can actively support our beef industry and we need to do that vigorously. There is also as Eddie has indicated very significant gains in the agricultural side as well, in terms of the dairy sector and in terms of the processed food sector and at a time when milk quotas are being abolished and Ireland is investing heavily in dairying and exporting, there is real potential here for us to export more dairy products to the United States".*

Eddie Downey:- *"We are going to increase our dairy output by 50% between now and 2020 and it's a huge opportunity when milk quotas are going this week after 30 years and not a day too soon as far as we are concerned".*
RTE: - *"People will wonder if we are selling into the U.S, is that going to benefit the Glanbia's of this world or will it benefit the farmers".*

Eddie Downey:- *"Well you will always have that debate, hopefully we are heading down the road of setting the agenda for agriculture for the next ten years and quite simply, we have done the hard work, it's getting the economy back up on the road now and we have created the output there but the problem is farm incomes haven't risen and so the agenda from now on within agriculture is quite rightly, as you say, the benefit cannot go to the Glanbia's, it must come back to farmers, into farmer's pockets and into farm families. That's how rural Ireland will recover and stay driving on this country and how we'll keep the urban rural divide, at least some equilibrium there".*

2.16 Recommendations:

Our study has produced a mix of factual and anecdotal evidence suggesting that Irish beef farmers and perhaps final consumers are poorly served by the current pattern of behaviour and structure of the sector. Government and EU action has both pre-empted and exacerbated the polarising of market power, to the extent that up to 100,000 beef farmers have effectively zero market power and processors / supermarkets control the value chain. Based upon our experience, we will make some recommendations; however the preeminent requirement is for a meaningful market study / market investigation to take place into the sector.

Recommendation 1: Market Study / Marketing Investigation of the Beef Sector under Competition Acts / Proposed New Enterprise Act aka UK' Enterprise Acts

We believe that a number of Market Studies / Market Investigations are required along the supply chain, specifically the areas we have identified in Section 2.9 (Margin Squeeze), beef processors and supermarket multiples to determine whether there are any conditions present that give rise to an Adverse Effect on Competition [AEC]. We detail below the various legal mechanisms available for carrying out such studies in Ireland, the wholly more effective U.K. competition / market study regime and finally we comment on the likelihood of having such investigations carried out in Ireland.

Irish competition law is embodied in the Competition Act 2002, the Competition (Amendment) Act 2006, the Competition (Amendment) Act 2012 and the Competition and Consumer Protection Act 2014. The Competition Act 2002 replaced the Competition Act 1991 and the Competition (Amendment) Act 1996.

Competition Act 1991:

Section 11. The Authority may, at the request of the Minister, study and analyse and, when requested by the Minister, report to him the results of any such study or analysis, any practice or method of competition affecting the supply and distribution of goods or the provision of services. A study or analysis may consist of, or include, a study or analysis of any development outside the State.

Competition (Amendment) Act 1996:

Section 11. (1) The Authority may and, at the request of the Minister, shall, study and analyse any practice or method of competition affecting the supply and distribution of goods or the provision of

services and which, in the case of a request by the Minister, is specified in the request. Such a study or analysis may consist of, or include, a study or analysis of any development outside the State.

(2) The Authority shall, at the request of the Minister, report to the Minister the results of
a study or analysis referred to in subsection (1).

Competition Act 2002:

The Competition Act 2002 repealed both the Competition Act 1991 and the Competition (Amendment) Act 1996.

Section 30 – (1) The Authority 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 study and analyse any practice or method of competition affecting the supply and distribution of goods or the provision of services or any other matter relating to competition (which may consist of, or include, a study or analysis of any development outside the State).

(2) The Minister may request the Authority to carry out a study or analysis of any practice or method of competition affecting the supply and distribution of goods or the provision of services or any other matter relating to competition and submit a report to the Minister in relation to the study or analysis; the Authority shall comply with such a request within such period as the Minister may specify in the request.

Competition (Amendment) Act 2006 (Groceries): No Change

Competition (Amendment) Act 2012 Effectively No Change

Competition and Consumer Protection Act 2014:

Considerable added powers of market investigation have been added:

Section 10. (1) The Commission shall have, in addition to the functions assigned to it by any other provision of this Act, or 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.
(iii) Notwithstanding their repeal, the Competition (Amendment) Act 1996 and the Competition Act 1991, that has occurred;

(d) To enforce the relevant statutory provisions
(g) To ensure that appropriate systems and procedures are in place to achieve the

Commission's strategic objectives and to take all reasonable steps to achieve those objectives.

(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.

(n) Shall, as it considers appropriate, conduct or commission research, studies and analysis on matters relating to the functions of the Commission and may publish, in the form and manner that the Commission thinks fit, such findings as it considers appropriate (which may consist of, or include, a study or analysis of any development outside the State).

(4) The Minister may request the Commission to carry out a study or analysis of –

(a) any issue relating to consumer protection and welfare,
(b) any practice or method of competition affecting the supply and distribution of goods or the provision of services, or
(c) any other matter relating to competition, and to submit a report to the Minister in relation to the study or analysis, and the Commission shall comply with such a request within such period as the Minister may specify in the request.

(5) The Commission shall have all such powers as are necessary or expedient for the performance of its functions and shall ensure that its functions are performed effectively and efficiently.

Clearly the law has existed for almost a quarter of a century to enable a thorough investigation into the beef sector to have been carried out. Why has the sector not been meaningfully examined heretofore? The Competition Authority's record has been abysmal in tackling anticompetitive behaviour; it has consistently failed to carry out its remit; rather, through its failure to act, it provides protection / immunity to a host of cartelised sectors of the Irish economy.

It is imperative that a market study / market investigation be carried out along the beef value chain in order to crystallise the behaviour and structures of the sector. However, the model of market study provided for in Irish legislation is purely aspirational and wholly inadequate. At best, the Competition and Consumer Protection Commission can only make recommendations.

In contrast, the U.K. has a much more effective legislature regime, consisting of:-

- Competition Act 1998
- Enterprise Act in 2002 which operates in tandem with the Competition Act 1998.

- Enterprise and Regulatory Reform Act 2013

The Competition Act 1998, mirrors the Irish Competition Acts and Articles 101 and 102 of the Treaty on the Functioning of the European Union. However, the Enterprise Acts provides for in depth market analysis procedures with **sweeping remedial powers**.

The first level of analysis in the U.K. is facilitated through Market Studies. These are examinations into the causes of why particular markets may not be working well, taking an overview of regulatory and other economic drivers and patterns of consumer and business behaviour. Various recommendations can be made arising from a market study. Alternatively, a market reference can be made or UIL (undertakings in lieu) of a market reference can be accepted.

When the findings of a market study give rise to reasonable grounds for suspecting that a feature or combination of features of a market or markets in the UK prevents, restricts or distorts competition, and a market investigation reference appears to be an appropriate and proportionate response, the CMA (Competition and Markets Authority) is able to make such a reference. If a market investigation reference is made, a full market investigation is carried out to establish whether an AEC (adverse effect on competition) exists. The CMA is equipped with immense powers to remedy, mitigate or prevent an AEC, including the power to order divestment.

The Enterprise and Regulatory Reform Act 2013 gives the CMA the power to make a cross-market reference which would, for example, allow the CMA to evaluate the conduct of both processors and multiples in the beef value chain.

Given current political ideology and the inadequate / ineffective regulatory regime in Ireland, there is little likelihood of any meaningful market analysis being carried out.

Recommendation 2: ODCE to Investigate Ownership / Beneficial Ownership / Control of Beef Processing Companies

In tandem with an in depth market investigation, the Office of the Director of Corporate Enforcement has sweeping powers to investigate any suspected breaches of company law. These powers would allow ODCE to ascertain whether there were any beneficial ownership or control arrangements in place in the beef processing sector that were not declared to regulatory authorities. The UK's then Mergers and Monopoly Commission described a "Fighting Company" as *"a company which is a member of a group, but whose membership thereof is concealed from the public; the fighting company can then be used to attack a competitor's customers by offering them favourable terms and conditions"* (or indeed to aid any other market manipulation technique such as price coordination).

It is widely suspected that several beef processing plants in Ireland are beneficially controlled in order to give the appearance of competition when, in fact, many whom we have spoken to claim that there is clear evidence of co-ordination in the market.

Recommendation 3: Opening up of the Beef Sector

There are several ways in which this could be achieved.

(a) An order for divestment of several strategically located beef processing plants would appear to be the most pragmatic step, as there is already significant over capacity[72] in the processing sector. However, this could only be precipitated by adverse findings following a full market investigation.

(b) Putting in place a support structure for small regional / local, state of the art abattoirs, this would mean unwinding or restructuring all of the protocols that effectively wiped out a processing structure that could easily have complied with E.U. / Government requirements in relation to health, safety, quality, traceability etc.

(c) Small to medium local processing facilities could be butcher, municipal or co-op owned or a mixture.

Danish Crown Example:

It is worth looking at the Danish processing model that includes a world renowned brand i.e. Danish Crown and is owned by a co-operative called Leverandorselskabet Danish Crown AmbA, in which there are 8,278 members[73]. It employs 26,000 people with a turnover of just under €8bn per year. Danish Crown operates globally with a presence in 131 countries. The co-op was formed by 500 farmers in 1887 and has grown from strength to strength ever since. The co-op owned company is Europe's largest pig processor and the second largest worldwide. Danish Crown, while best known for its pork products has very substantial beef interests and has just opened the E.U.'s largest and most modern cattle slaughterhouse in Holsted, Denmark.

Re-establish Farmer owned processing plants:

Re-establishing farmer owned processing plants (at least a significant share of the processing market, minimum of 25%) would invigorate local communities, boost local economies and ensure that farmers

obtained a fair return on investment. That coupled with the establishment of local / regional farm shops[74] would, we believe, be a massive boost to both beef producers, final consumers and local economies alike.

[72] There is much economic literature on the use / creation of excess capacity as a barrier or strategic deterrent to market entry.
[73] http://www.danishcrown.com/
[74] An excellent example of the emergence of such shops is Farm Factory Direct shop in Tullamore, Co. Offaly.

However, it is worth noting what the Report of the Independent Group into Anti-Competitive practice in the Irish Beef Industry had to say in September 2000 on page 18 (see Section 2.11 above):-

"Meanwhile the odd escapism, whereby each segment of the food chain goes on blaming the others for its failures, is continuing to stifle progress. The civil war between farmers and processors which led to our inquiry is just another example of this relationship. The reality is that farmers are located vulnerably towards the upper end of the food chain where they have little bargaining power. The only possibility of increasing their say is through joint action in co-ops, in producer groups or in purchasing groups. Cattle farmers have dabbled in these, but never approached them wholeheartedly. The record is striking: twenty five years ago farmers owned 55% of beef processing capacity; today they own 5%".

TTIP and CETA: There has been much speculation and commentary on the proposed TTIP[75] and CETA[76]. Any restructuring of the beef processing sector would have to be carefully construed as Governments are becoming more and more exposed to law suits, in which multinational corporations can sue the E.U. or individual member states if they believe they have suffered losses because of laws or measures introduced by the E.U. or individual member states.

Recommendation 4: Consider the Separation of Ownership / Control of Rendering from Beef Processing

Whilst the logistics of how this might be done would need to be carefully considered, a move such as this could be very effective in addressing the market power deficit and would dovetail nicely with our recommendation Number 5 below in regard to Fifth Quarter produce. A divestment of the rendering side from processors to possibly farmer co-ops would have huge benefits for farmers and final consumers alike.

Recommendation 5: Fifth Quarter Revenues: That some form of Retention of Title / Propriety Rights Mechanism be devised to Ensure Beef Farmers Receive a Fair Share of Fifth Quarter Revenue

It is our view that there is considerable and growing revenue potential from fifth quarter produce [see Section 2.8 (ii) Profitability along the Supply Chain]. As it stands, beef farmers receive nothing at all for fifth quarter produce. We accept that there are costs involved in converting raw product into high end finished product. However, there are more and more emerging markets for a variety of products derived from fifth quarter and farmers, as the primary producers should be in a position to negotiate for a fair share of these revenues.

[75] TTIP Transatlantic Trade and Investment Partnership (U.S. and Europe).
[76] CETA Comprehensive Economic and Trade Agreement (Canada and Europe).

Recommendation 6: A Collective Bargaining Mechanism for Beef Producers (and other agri business) should be Considered, Similar to that provided for under Australia's Competition and Consumer Act 2010 and the U.S. Capper-Volstead Act 1922

The provision of a mechanism under Irish Competition Law to redress the imbalance in market power between farmers and processors / supermarkets is essential.

Collective bargaining[77] occurs when two or more competitors in an industry agree to negotiate terms and conditions (which can include price) with a supplier or a customer (also known as the 'target'). In this context, a collective boycott occurs when a group of competitors agrees not to acquire goods or services from, or not to supply goods or services to, a business with whom the group is negotiating, unless the business accepts the terms and conditions offered by the collective bargaining group. By way of example, we take a brief look below, at how two example countries, Australia and U.S. set about countervailing excessive market power.

(i) Australia:

The Australian Competition and Consumer Act 2010 includes a Section under its Cartel Provisions whereby a group of traders, e.g. primary beef producers can serve a collective bargaining notice on the Commission, which, subject to the notice meeting with certain criteria, exempts the group from the cartel provisions of the Act.

The Act allows businesses to apply for immunity from legal action to collectively bargain and engage in collective boycotts through an authorisation process. The ACCC may 'authorise' businesses to collectively bargain and engage in collective boycotts when it is satisfied that the public benefit from the arrangements outweighs any public detriment.

An alternative avenue for small businesses seeking immunity to engage in collective bargaining and/or collective boycotts is to lodge a collective bargaining notification. Collective bargaining notifications offer small businesses, such as farmers, a process for obtaining immunity for collective bargaining arrangements.

Under Australian Competition Law, the primary purpose of authorising collective bargaining arrangements is to address situations where there is a serious imbalance in market power between two or more levels on the supply chain, which if left unchecked is likely to have an adverse effect on the public interest.

(ii) U.S.

[77] Australian Competition and Consumer Commission; Collective Bargaining Notifications:-A Summary http://www.accc.gov.au/system/files/Collective%20bargaining%20notifications-summary.pdf

The Capper-Volstead Act 1922 was enacted in order to place farmers on an equal footing with the large corporate buyers of their produce. One of the Act's instigators, Senator Capper stated that the purpose of the Bill *"is to give to the farmer the same right to bargain collectively that is already enjoyed by corporations".*

In essence, the Act allowed farmers to lawfully unite to collectively market their products. Under the Act, any particular group of producers may act together not only through their own association but also by joining with other associations of producers to have a common marketing agency thus availing of certain exemptions from the various Competition / Antitrust Laws, principally the Sherman Act 1890 and Clayton Act 1914. Those cooperatives or associations benefitting under the Capper-Volstead Act are themselves answerable under these existing laws[78].

The rationale behind the Act, according to Ralph B. Bunje[79], was that:-*"Farmers are price takers, not price makers. They are often in a position of having but one or two buyers for their production; rarely do several buyers compete for what they produce".*

(iii) Ireland in Contrast

The steps taken by other jurisdictions to countervail buyer market power contrast starkly with the approach taken by Ireland. In 2002, after farmers blockaded a shipment of grain at Drogheda port, the Competition Authority brought a case against six prominent farmers alleging that they had sought to distort the trade for wheat.

The Beef blockade in January 2000 lead to the High Court fining the IFA €100,000 per day for defying a Court order to cease the blockade. The blockade continued and the Court increased the fines to €500,000 per day. Eventually, farmers won reasonable concessions from the Irish Meat Association and the blockade came to an end.

Later in 2000, the High Court made further orders restraining farmers from picketing the premises of Natural Dairies Ltd at Convoy, Co. Donegal. More recently, in late 2014, the Competition and Consumer Protection Commission warned stakeholders in the beef sector to be vigilant in any talks taking place under the guise of the Beef Forum and to ensure that talks would not move into "competition-sensitive" areas, eg fixing of prices or anti-competitive collective action.

Recommendation 7: Developing an Irish Beef Brand

There appear to be two strands of thought on the need to develop a unique brand for Irish Beef. The IFA has recently called for the introduction of an Irish beef brand along the lines of the extremely successful "Kerrygold" brand introduced back in 1961. However, current Minister for Agriculture, Simon Coveney does not believe that a new brand is required.

[78] See United Potato Growers of America Antitrust Lawsuit:- http://www.andnowuknow.com/buysidenews/associated-wholesale-grocers-gains-access-105-documents-its-lawsuit-against/jessica-donnel/44923

[79] Cooperative Farm Bargaining and Pricing Negotiations by Ralph B. Bunje, U.S. Department of Agriculture Information Report Number 26, 40 (1980).

Speaking in the US earlier this month, Minister Coveney said that a move (to brand Irish Beef) which had been mooted by some in the agri-food sector is unlikely due to key fundamental differences between the products (dairy and beef).

Mr. Coveney stated: - *"Certainly the impression that I get is that most of the dairy products (in particularly butters) and* **beef** *are two different branded products, we are exporting a very high-end butter product on a Kerrygold label. We do that all over the world and the US is one of the fastest growing markets for that."* However, he said *"beef is a little bit different. Most Irish beef is sold business to business as Irish beef, it's only when it's in restaurants and sometimes in retailers as Irish beef that the consumer really interact with the brand. I think brand 'Ireland' is about the strongest brand we can develop,"* he said.

The Minister said that he will work with Bórd BIA and if the market feedback is that there is an appetite for a strong Irish brand product they will look into it. However, he said at the moment the brand for Irish beef is 'Ireland' as opposed to a Kerrygold or any other name.

IFA President Eddie Downey disagrees. In January 2015, Mr. Downey said *"the opening of the US market creates a unique branding opportunity for Irish beef, based on Ireland's grass-based Quality Assured production model. He said this is a real opportunity for the Irish beef sector to secure a premium price and position in the market".*

Mr. Downey called on Minister Coveney, Bórd BIA and the meat processors to pursue a strategy that delivers a worthwhile price premium back to farmers, saying that *"through the Bórd Bia Quality Assurance Scheme, Irish beef farmers have shown both the ability and leadership to develop initiatives to measure and demonstrate the quality and sustainability of Irish beef production. This initiative is key to prove in a transparent way that Irish beef production is unique, and is operating to higher quality, environmental and sustainability standards than our competitors…….the time has come to capture and deliver this through the development of a strong brand for Irish beef".*

On balance, we would share the views expressed by Mr. Downey, particularly when account is taken of the massive potential for Fifth Quarter produce throughout ASIA. We believe that clear and focused branding can catapult a wide variety of Irish beef products to the top of many markets worldwide.

2.17 Conclusion:

Clearly there are several dynamics at work in the Beef sector which ultimately affect all stakeholders from primary producers to final consumers. We are particularly struck by the remarks made by Lawyer and South Australian Independent Senator Nick Xenophon [see Supermarket Multiples, Page 19, Section 2.10]:-

"The end game is that they [Supermarket Multiples] are pushing Australian farmers off the land. Farmers who have contracts with them become like medieval serfs".

We have been informed by several sources that many Irish Beef farmers have effectively "thrown in the towel" and are now producing beef on their lands under contract from processors, in return for a salary. This development worryingly resonates with the view espoused by Senator Xenophon and is suggestive of a margin squeeze on beef farmers, so severe, that a modest salary is a more attractive proposition than traditional working of the land.

The migration of revenues / profits from the farming community to downstream corporate interests is and has been a major contributor to the decline of rural communities. During the course of our work, we sought to speak with a well-known and respected organic farming family in order to evince their views on reviving rural Ireland. The response was stark:-

"Unfortunately the multiples got the better of us trying to sustain ourselves from our small organic farm and we have recently thrown in the towel and moved to New Zealand".

There are other worrying developments for beef farmers such as the TTIP and CETA negotiations. One very well-known and respected agri-figure expressed the view to us that the Irish beef sector was set to be the sacrificial lamb in the TTIP / CETA negotiations. Whether or not this turns out to be the case, the warning signs must be heeded.

We have raised several macro-economic and politically sensitive issues that will be fundamental to the future of the Irish beef sector going forward. On the credit side, there are emerging markets in the Far East, China and Japan but other beef producing countries will be fighting tooth and nail to secure these new markets. In order to compete for new markets, the Irish beef sector will have to become much more competitive. This will mean vigorously attacking the cost base across the board. Furthermore, if the present structures and behaviour within the sector are maintained, then beef farming as traditionally carried out in Ireland will largely disappear thus further contributing to rural decline.

These developments must be viewed in the round, along with the lack of investment in rural infrastructure and the very real emerging threat to the survival of rural post offices.

The present economic structure of the beef sector makes little sense. No matter what financial assistance is provided to beef farmers, e.g. single farm payments, it appears that the financial benefits of such assistance migrates its way further down the supply chain and beef farmers are not any better off in real terms.

There is an ongoing failure on the part of the main farming organisation, IFA to deal effectively with all of these macro-economic issues facing the sector. There is a requirement for much further analysis and a broader approach to moulding the long term future of the sector.

ENDS

Bread Sector

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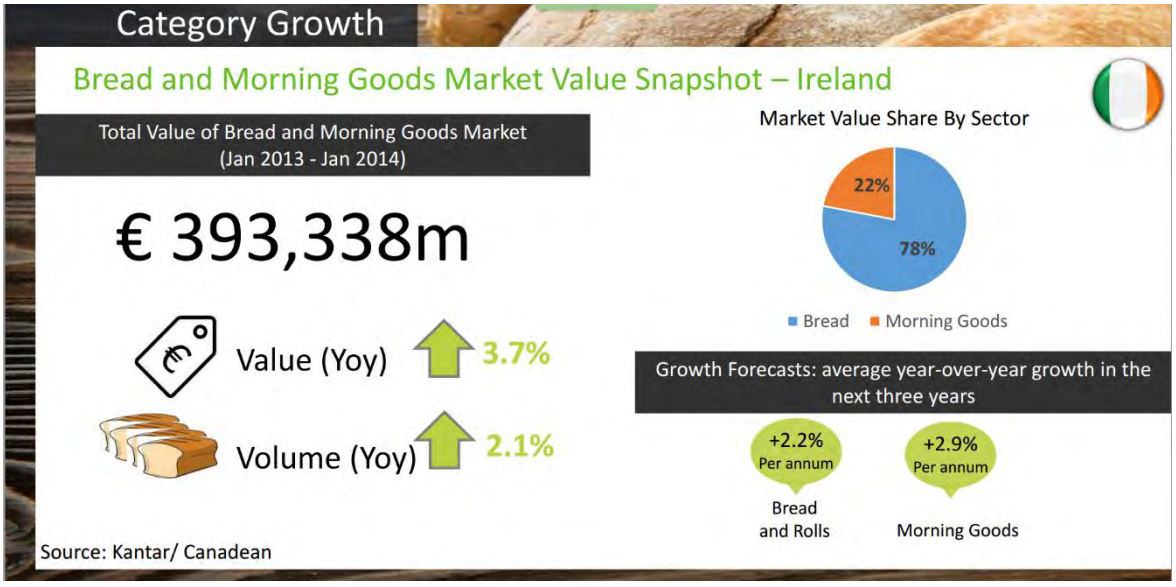
3. Bread Sector

3.1 Introduction:

Bread has been a staple diet throughout most of the western world for thousands of years. In Ireland, bread along with milk are probably the two best known consumables. Bread in some form or other is consumed in every household every day of the year. As a consequence, the bread sector is a significant player in the economy, valued at €393m in 2014 with circa 13,000 employed[80] and with modest but steady growth predicted.

Figure 1: Bord Bia Bakery Research June 2014 sourced from Kantar / Canadean



Like so many sectors, the structure of the bread industry has radically changed through the centuries and in particular sine the 1960's. In earlier days, bread making was as deep-rooted in every small village and town as wind / watermills and the place of worship. Grain was produced and milled locally and supplied to bakers. The economic activity generated through demand for bread benefitted each and every micro economy.

The industry today has become hugely industrialised with a very small number of operations supplying more than 80% of national demand. These structural changes within the bread sector have been a significant contributory factor in rural decline.

We will be looking at the structure of the sector and asking questions with regard to the most controversial aspect of bread production, i.e. how healthy is the current product? How does it compare with older

[80] Figures estimated by Flour, Confectionery and Bakers Association (FCBA) sponsored National Bread Week 2014

production methods? Can today's product be improved? Are there changes that can be implemented to boost local economies and if so, how viable might these changes be?

Undoubtedly, there are plausible health concerns linked to the current method of industrial bread production. Should any of these concerns substantiated, then solutions on the health side could also provide a much needed boost to rural economies.

We will also shed light on the difficulties posed by a lack of cohesive prescriptive labelling of bread products and the confusion arising from descriptive labelling such as "Craft", "Artisan", "Home Cooked", "Natural", "Freshly Baked", "Finest Ingredients" etc.

3.2 Structure of Bread Sector:

Broadly speaking, the bread sector can be separated into three main categories as follows:-

3.2.1 Plant Bakeries such as:-

(i) Brennan's Bread - Joseph Brennan Bakeries Ltd
(ii) Pat the Baker Ltd, Granard, Co. Longford.
(iii) Irish Pride, Taghmon, Wexford and Ballinrobe, Mayo
(iv) Johnston Mooney and O'Brien, Dublin (incorporating Buttercrust)
(v) O'Hara's Bakery Foxford
(vi) Gallagher's Bakery, Ardara, Co. Donegal

These bakeries are differentiated in that they each operate from very large modern production plants and typically distribute a host of products Nationwide. The major turning point in industrial bread production came in 1961 when the U.K. based Chorleywood Flour Milling and Bakery Research Association Laboratories developed a new industrial process for the rapid mass production of bread, which became known as the Chorleywood Bread Process [CBP].

The CBP sometimes known as the "no-time method", predominantly uses a lower quality wheat coupled with high speed mixers that do away with traditional overnight fermentation and enable bread to be manufactured complete to sliced and packaged form in three and a half hours. However, significantly CBP requires the use of a host of additives and processing aids including chemicals and enzymes which in turn has created a raging health controversy (more on this later).

The Plant or industrial bakery sector is a high volume, low margin business. In March 2012, the Competition Authority raided both Brennan's Bread and Irish Pride on suspicion of price fixing, though no further disclosures have been made in the three and a half years since. The industry has some form in the area of anti-trust infringements; in 2014, the Polish Competition and Consumer Commission fined bread producers €22m for price fixing infringements.

In June 2015, receivers were appointed to Irish Pride, Ireland's second largest bakery company. Initially, Britain's third largest bread maker Hovis looked set to acquire the business which would have been a good result for Irish consumers; however, in August 2015, Pat the Baker confirmed that it had purchased Irish Pride's main Wexford facility (its Ballinrobe bakery has been closed down with the loss of eighty jobs). The deal is currently the subject of an extended Phase 1 investigation by the Competition and Consumer Protection Commission.

3.2.2 Par-Baking:

Par-Baking has further revolutionised bread production. The process involves high volume production at a single plant, using predominantly the conventional baking process used at large scale bakery plants. However the bread is only baked to a certain point (circa 80%); it is then rapidly frozen and stored / delivered to "Hot Points", generally bakery shops, supermarkets, hotels and restaurants that have installed their own finishing ovens[81]. Par-Baked produce is normally marketed as "freshly baked" though this has led to much controversy, which again, we deal with later. There are several advantages with Par-Baked as it is claimed that waste is reduced to a minimum, as each outlet can closely estimate demand on a daily basis and more "fresh" bread can be produced in ten to fifteen minutes, if required. In addition, there are no professional bakers required and no preparation time[82].

The Par-Baking revolution has experienced massive international growth in recent years. Aryzta, a company formed through the merger of Irish company IAWS Group Plc and Hiestrand Holding AG, is a leading international player in the production and distribution of Par-Baked bread. The company describes itself as "*a global food business with a leadership position in frozen bakery, par-baked* ***artisan***[83] *breads as well as a wide range of speciality bakery products"*[84]. Well-known brand Cuisine De France is a part of Aryzta Group. The big breakthrough is that the raw material for Par-Baked bread, i.e. the 80% baked and now frozen loaves can be exported to global markets.

3.2.3 Craft / Artisan / Real Bread Bakeries:

The sector is somewhat difficult to definitely describe but in general refers to small bakeries with a small local distribution network or in many cases the bakeries are complimented by a café / restaurant or in some cases, a small chain of café / restaurants. These small businesses tend to be long established.

O'Connor's Bakery in Ennis was established in 1961 and nowadays its Ennis bakery supplies O'Connor bakery shops / cafés in Ennis, Limerick, Shannon, Gort, Galway and Salthill.

Mc Cluskey's are baking in Drogheda since 1940 and nowadays supply two bakery / cafés in Drogheda and one each in Navan and Kells.

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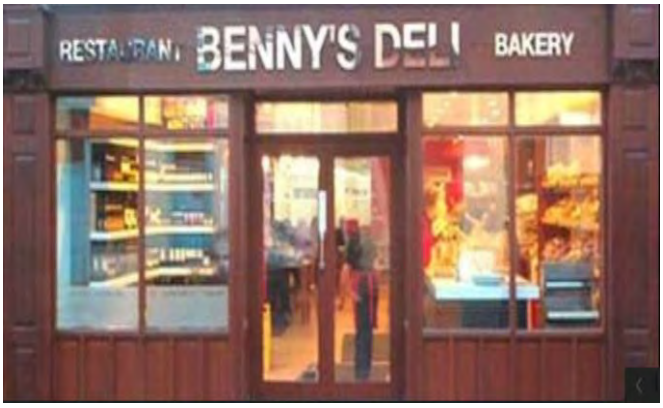
[81] Eveline Lopes Almeida, Caroline Joy Steel & Yoon Kil Chang (2014)
[82] Ibid
[83] Emphasis added
[84] www.arytza.com



Benny's was established in 1981 and operates from just one location at Castlerea, Co. Roscommon and mixes a very successful bakery with a deli and restaurant.

Another variation on the small bakery model is Cork based O'Keeffe's bakery established in 1984. Though O'Keeffe's has no retail bakery / café shop, it mixes the production of "Craft" or "Real Bread" with a par-baking division that has allowed it develop export markets.

3.3 Bread as a Healthy Food: Quality Issues

The key to formulating policy for future bread production lies in the quality of product, principally from a health perspective. The study of bread quality is extremely complex with a vast amount of academic research and industry players espousing polar opposite opinions. It is beyond the scope of this report to definitively pass judgment on the host of scientific arguments made by various stakeholders. For the purposes of our comment, we will categorise bread as either "real bread" or "industrially produced". This is an oversimplification but will suffice to lay out the issues.

3.3.1 Milling of Wheat:

Traditionally, grain was milled using stone ground mills. Stone ground milling is still quite common in the U.K. and France and to a lesser extent in Ireland. Nowadays mass produced bread is produced from industrially milled white flour. A kernel of grain has three main ingredients:-

- Bran which contains protein and vitamins and provides fibre.

- Germ which is one of the only natural sources of the full complement of B vitamins as well as essential fatty acids.
- Endosperm, the "white" bit which has starches and carbohydrates as well as protein, iron and B vitamins85.

With industrial rolled milling, both the bran and germ are removed during the process and what remains is white flower (endosperm) which is essentially the aim. Roller mills are metal and operate at high speed, getting very hot thus burning off much of the important nutrients. On the other hand, stone ground milling is a cold slower process that produces whole grain flour which holds onto all of the nutrients. To produce white bread using the stone ground milling process, the miller sieves the whole grain to separate the three parts of the kernel and collects the ground endosperm for white flour[86].

3.3.2 Chorleywood Bread Process:

According to the Alliance for Natural Health Europe [ANH][87], "*the character of the ingredients used in the CBP has changed markedly over time. Until the 1990s, a cocktail of chemicals was employed, including the powerful oxidiser potassium bromate, the 'flour improving' properties of which helped to form stronger and higher-rising dough. When potassium bromate was banned in the EU and elsewhere for being potentially carcinogenic, however, the BBRA changed tack and decided that another class of additives would do the job even better: enzymes".*

ANH go on to identify two issues with these enzymes

"First is a worrying lack of transparency in the supply chain: CBP enzymes are manufactured by a small number of global companies, which sell them on to a second set of companies that produce complex enzyme cocktails. These cocktails can be tailored according to each company's wishes for the finished product".

"Secondly, assiduous lobbying by bread manufacturers has ensured that enzymes and other additives, known by the bland phrase 'processing aids', do not have to be listed on product labels. Despite this, we do know that these enzymes include phospholipase A2, fungal alpha-amylase – a known allergen that can cause 'baker's asthma' and which has been detected in bread crust – maltogenic amylase, hemicellulase, transglutaminase and xylanase. Some additives may be innocuous or even beneficial, such as L-cysteine, a semi-essential amino acid (that is also produced within the body), originally derived for commercial use from human hair or feathers. By sleight of hand, because the European Union does not consider these 'processing aids" either as ingredients or additives, bread manufacturers are able to legally disguise their presence from the buying public.

Hidden genetically modified ingredients:

It gets worse. Even with all of the chemicals and enzymes involved in the CBP, yeast (Saccharomyces cerevisiae) remains indispensable to baking and there is a clear cost motive for industry to obtain massive

[85] Jane Mason of Virtuous Bread http://www.virtuousbread.com/
[86] Ibid
[87] http://anh-europe.org/

quantities of yeast as cheaply as possible. One way to do this is to create new strains of yeast that can grow on a huge variety of culture media. As a single-celled organism, yeast is ideally suited to genetic manipulation, and the bread industry has adopted a process known as protoplast fusion to develop new strains. As its name implies, the process involves fusing the naked genetic material, or protoplasm, of different yeast strains. And, since the CBP's rapid, high-temperature mixing process kills yeast more rapidly than under normal circumstances, CBP bread makers add excess yeast to compensate – meaning that GM yeast residues can easily find their way into the finished loaf. Enzymes and soya flour can also be of GM origin.

Manipulating public taste:

And what's the result of all this modern industrial wizardry? In short: huge, soft, squishy and very cheap loaves. Bread baked using traditional methods contains very little air and is consequently far smaller and denser than CBP loaves. It hasn't taken long for the public in countries that use the CBP to become conditioned to huge loaves, with long shelf lives, that can be checked for freshness using the 'squeeze test'.

There are two costs involved here. One is the very low cost to the public wallet of CBP-produced bread. The other, potentially far more expensive, is the cost to public health of basing its diet on an industrial product stuffed full of artificial and potentially dangerous ingredients. "Look what's happened since the Chorleywood Process was invented in the 1960s," points out our industry source. "We have rising obesity and a huge rise in coeliac disease, and there may be a link – people eat a lot of bread! It's just not possible to make something digestible from grains in 20 minutes. If you want to make bread from grains you have to ferment it. If you just do chemical leavening instead of natural fermentation, it's just not digestible. Frankly, the Chorleywood Process is bad for health, bad for jobs and bad for the high street because it's bad for the baker."

The views of ANH are replicated by many other groups including the Real Bread Campaign[88], Real Bread Ireland Campaign[89], Sustain[90], Bread Matters[91] and the Bread Makers Guild of America[92]. Andrew Whitley, a leading authority on organic baking and food issues is equally compelling in his views expressed in his book Bread Matters:-

"Enzymes are modern baking's big secret. A loophole classifies them as 'processing aids', which need not be declared on product labels. Additives, on the other hand, must be listed. Not surprisingly, most people have no idea that their bread contains added enzymes.

An enzyme is a protein that speeds up a metabolic reaction, and are extracted from plant, animal, fungal and bacterial sources. Chymosin, for example, is the enzyme used to curdle milk for cheese-making. It is either derived from rennet from a calf's stomach or synthesised by genetic engineering.

A whole host of enzymes are used in baking. Their status as processing aids is based on the assumption that they are 'used up' in the production process and are therefore not really present in the final product. This is

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[88] www.realbreadcampaign.org
[89] www.realbreadireland.org
[90] The Alliance for better food and farming www.sustain.org
[91] www.breadmatters.com
[92] http://www.bbga.org/

a deception that allows the food industry to manipulate what we eat without telling us. In their own trade literature, enzyme manufacturers extol the 'thermostability' of this or that product; in other words its ability to have a lasting effect on the baked bread.

Manufacturers have developed enzymes with two main objectives: to make dough hold more gas (making lighter bread) and to make bread stay softer for longer after baking. Many bakery enzymes are derived from substances that are not part of a normal human diet. Even if such enzymes are chemically the same as some of those naturally found in flour or bread dough, they are added in larger amounts than would ever be encountered in ordinary bread.

And now the safety of bakery enzymes has been radically challenged by the discovery that the enzyme transglutaminase, used to make dough stretchier in croissants and some breads, may turn part of the wheat protein toxic to people with a severe gluten intolerance. This development is important because it suggests that adding enzymes to bread dough may have unintended and damaging consequences. Surely no one can seriously suggest that bakery enzymes should be omitted from bread labels.

I think we should be suspicious of bakery enzymes for four additional reasons:

a) Enzymes can be allergens and should be identified on labels in the same way as the major allergen groups.

b) Failure to label enzymes prevents people from making informed choices about their diet.

c) There is a fundamental dishonesty in treating enzymes as though they had no effect on baked bread when this is patently why they are used.

d) Judgements about ingredients should take into account the whole food; an enzyme may be harmless in itself but may be used to make an undesirable product.

Modern baking is schizophrenic about time, on the one hand wanting to reduce it to nothing, on the other trying to extend it indefinitely. And it is also in two minds about its raw materials, torn between the desire to remove things that get in the way and the impulse to add things that will make the bread easier (for machine production), bigger, softer, cheaper, longer-lasting or more apparently healthy".

Renowned author, commentator and long-time health editor of Country Living, Barbara Griggs is equally scathing of the industrial bread baking process. She asks. *"Is it not significant that factory-made bread has extra gluten added and the western diet today is awash with gluten-containing wheat?* She points to *"exploding figures"* for IBS (Irritable Bowel Syndrome) and Crohns disease. She goes so far as to say that:- "*Hardly surprisingly, there's a growing school of opinion today that considers all grains toxic to human physiology, responsible for a whole slew of maladies from Coeliac disease through Autism, Diabetes and Cancer* to Alzheimer's".

Barbara Griggs asks further serious questions regarding the industrial process:- *"But like many others, I find it hard to believe that the most important food in all our recorded history, so highly revered, and so widely eaten, could have been quietly poisoning us all the time. Is it not rather the staggering amounts of unfermented gluten people are now consuming, unmodified by the long fermentation process of traditional bread making, that are responsible?"*

Clearly, modern bread production has evolved rapidly, particularly over the past half century. As a result of changes to the quality of grain used, the milling process and the introduction of the Chorleywood Bread Process, industrially produced bread has to be supplemented with processing aids and other artificial additives. Establishing the health of the bread we eat will be, or certainly should be core in developing a

future strategy for bread production. To drive this point home, we list a range of additives below, a mixture of which tend to be used in industrially produced bread as follows[93]:-

E 150 (a-d) Caramel used for colouring

E 260 Acetic acid - Preservative, sometimes natural ingredient Vinegar is used; E 261 Potassium acetate; E 262 Sodium acetates; E 263 Calcium acetate; E 270 Lactic Acid; E 280 Propionic acid; E 281 Sodium propionate; E 282 Calcium propionate; E 283 Potassium propionate – all preservatives.

E 300 Ascorbic acid; E 301 Sodium ascorbate; E 302 Calcium ascorbate; E 304 Fatty acid esters of ascorbic acid – all Antioxidants.

E 322 Lecithins; E 325 Sodium Lactate; E 326 Potassium lactate; E 327 Calcium lactate; E 452 Polyphosphates; E 471 Mono and diglycerides of fatty acids; E 472a Acetic acid esters of mono and diglycerides of fatty acids; E 472d; E 472e; E 472f; E 481 Sodium stearoyl-2-lactylate – all emulsifiers, stabilisers and thickeners.

E 920 L-cysteine hydrochloride – Improvers and bleaching agents but can also be used as a processing aids and therefore not declared on the label. It is obtained from chicken or duck feathers or pig bristle and some manufacturers in China also use human hair as a source though this is not permitted in the EU.

It should be noted that by law, a small number of additives are required to be used in baking, mainly for flour fortification and to replace the nutrients lost in the milling process e.g. calcium carbonate, iron, thiamin (vitaminB1) and nicotinic acid.

3.4 The Views of Industrial Bread Bakers:

However, the UK's Federation of Bakers which accounts for 80% of loaves purchased in the UK takes an entirely different view:-

"Additives are not new. Additions to food have been made since pre-historic times, mainly to help preserve food and make it safer to eat. Salt, vinegar and sugar are traditional methods of preservation. Before they can be used for food production, additives must pass rigorous approval procedures at national, European and international level. They must be shown to be both necessary and safe. Because they undergo such stringent testing, more is known about their biological, physiological and toxicological effects than about many of the natural foods we commonly eat. Consumers can therefore be confident that approved additives are safe and serve a useful purpose."

These views are mirrored by the Flour Confectioners and Bakers Association[94] of Ireland. FCBA organised National Bread Week in October 2014. The promotion was launched at Bord Bia headquarters and among the speakers was clinical nutritionist, Dr. Mary Mc Creery and well known chef Rachel Allen. Dr. Mc Creery's presentation was light on scientific facts and more of an opaque defence of industrially produced bread and the Chorleywood Bread Process – see below.

[93] http://www.sustainweb.org/realbread/
[94] www. fcba.ie

History of bread

- Early 20th century health experts said that industrially-baked bread was the responsible thing to serve, especially to children.

Energy Intake

- Bread was 30 % of caloric intake and industrial bakeries made it safe and plentiful
- Now only 10%

Nutritional content

- The kind of flour used and the addition of nutrients to restore those lost during milling, rather than the bread making process itself, have the most significant impact on total nutrient content of bread. Studies have not found significant differences in the nutrient content of bread made using the 'modern' CBP or more traditional methods.

Myths

Myth – Bread causes bloating and other digestive problems

- There have been media reports that bread and in particular bread made with the Chorleywood Bread Process (CBP), a process commonly used in modern bread making, can make us feel bloated. However, a recent review of this topic by the British Nutrition Foundation concluded that there is no scientific evidence that regular consumption of bread, whether produced by the 'modern' CBP or by traditional methods, causes bloating or gastrointestinal discomfort.

Celebrity chef, Rachel Allen once again anchors National Bread Week 2015 (October), again supported by FCBA. In what might be interpreted as opaquely defensive, the promotional literature states:-

"The week-long celebration, which is being supported by TV chef and author Rachel Allen, will highlight the heritage, value and versatility of bread, and dispel some of the myths about breads. Irish bread is steeped in history and tradition and has been part of our culture for hundreds of years – and is definitely something we should all be proud of".

Of more concern is the approach taken by An Bórd Bia in its Bakery Research 2014 Report (see below). Bord Bia appears to have taken a supportive position in relation to industrially produced bread. Again, the language used is that of opaque defence, this time shrouded in corporate speak. Clearly, PR campaigns using respected academics and household names are considered necessary in order to protect the position of industrial bakers.

Category Primed for Growth.....but

Bord Bia
Irish Food Board

- 2%+ value growth expected for the category but.....
- Issues around health and health perceptions of category will severely dent this if not managed.
- Disproportionate share of category and future growth likely to go towards unbranded/own label solutions if relevant solutions and dialogue are not championed by brands.

Settling the arguments around what is or is not healthy bread will be a difficult task. The fact is, there is little in the way of causal proof that industrially produced bread is unhealthy though a myriad of respected authorities point to widespread anecdotal evidence that at the very least creates serious doubts in the minds of ordinary consumers, regarding the health of today's industrially produced bread. Barristers would queue up to outdo each other in proving the respective arguments of each side.

Recommendation 1:
E.U. / National Funding for Independent Definitive Research into Bread Quality

Global health budgets account for an enormous portion of exchequer expenditure. With bread being a staple diet in so many parts of the world and with so much controversy around modern industrially produced bread, it is incumbent upon the E.U. and National Governments to invest whatever it takes to ascertain the true facts surrounding industrially produced bread.

3.5 Anomalies in Describing or Labelling of Bread:

Bread consumers should at the very least easily understand the nature of the product they are consuming. Consumers are constantly faced with more and more sophisticated marketing techniques and are daily faced with attractive branding claiming that various breads are *Craft, Artisan, Organic, Freshly Baked and Home Cooked".* The terms "*Traditional, "Natural" and "Finest Ingredients"* are used to saturation point. However, historically there has been no legal definition of these names that are so important to marketing people and yet so confusing to consumers [1]. Professor Stephen Kaplan[1] states "*there has been a hijacking of the word "artisanal*" in America, where "*style-conscious retailers have adopted the term artisanal, even if the bread hasn't been kneaded, fermented, fashioned and baked where it's sold. Without freezing, additives or extra yeast".*

The Real Bread Campaign was specifically set up to counter this confusion. Real Bread contains Flour, Water, Yeast and Salt. There are no processing aids or any other artificial additives. The problem is that some bakers using the term Craft, Artisan, Finest Ingredients etc use additives, whilst some do not[95].

In 1993, France introduced a decree that created the designation, *"The Bread of French Tradition".* To claim this status, the bread has to be made without any freezing during the fermentation process and without additives, amelioratives, improvers or technological help.

3.5.1 Food Safety of Ireland Guidance Note 29 – May 2015:

In May 2015, the Food Safety Authority of Ireland [FSAI] finally moved to provide some clarity for consumers and introduced Guidance Note 29:- *"The Use of Food Marketing Terms".* The background to the new guidance paper is described by FSAI as follows:-

"The labelling and advertising of food is governed by the main principle outlined in Regulation EC No 178/2002 on the general food law:-

[95] Ibid

"Without prejudice to more specific provisions of food law, the labelling, advertising and presentation of food or feed, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, shall not mislead consumers." Article 16

It is recognised that the marketing of food is essential for business development in the food industry and that marketing terms are designed to resonate with consumers. However, when marketing terms are used incorrectly they have the potential to mislead. Consumers should be confident that the foods they buy are accurately and truthfully described and labelled. Food businesses should also be confident that genuine descriptions of their food are not undermined by the use of undefined marketing terms by other food businesses".

The new guidance note encompass the requirements under Article 16 of the general food law (Regulation EC) No. 178/2002 and expanded in Article 7 of Regulation (EU) No 1169/2011 on the provision of food information to consumers. The guidance note brings about a good deal more clarity and is to be welcomed by consumers. The Guidance comes into effect in December 2016

(i) Responsibilities of Food Business Operators

When using marketing terms, food business operators should always bear in mind the general principles governing the provision of food information to consumers in Regulation (EU) No 1169/2011:

"1. Food information shall not be misleading, particularly:

a) as to the characteristics of the food and in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production;

b) by attributing to the food effects or properties which it does not possess;

c) by suggesting that the food possesses special characteristics when in fact all similar foods possess such characteristics in particular by specifically emphasising the presence or absence of certain ingredients and/or nutrients;

d) by suggesting, by means of the appearance, the description or pictorial representations, the presence of a particular food or an ingredient, while in reality a component naturally present or an ingredient normally used in that food has been substituted with a different component or a different ingredient." Article 7

(ii) Specific Guidelines on the use of certain Marketing Terms

a) Artisan/Artisanal

The terms 'artisan' or 'artisanal' or similar descriptions using these terms should only be used on foods or in advertising of foods that can legitimately claim to meet all of the following criteria:

1. The food is made in limited quantities by skilled craftspeople.

2. The processing method is not fully mechanised and follows a traditional method.

3. The food is made in a micro-enterprise at a single location.

4. The characteristic ingredient(s) used in the food are grown or produced locally, where seasonally available and practical.

b) Farmhouse

The term 'farmhouse' or similar terms that create an impression that a food originates on a farm should only be used on foods that can legitimately claim to meet all of the following criteria:

1. The food is made in a single location on a farm.

2. The food is made by a micro-enterprise.

3. The characteristic ingredient(s) used in the food are grown or produced locally.

c) Traditional

The term 'traditional' conveys a sense of continuity and an impression that a food is made in a time-honoured way or to a time-honoured recipe. The term 'traditional' or similar descriptions using this term should only be used on foods that can legitimately claim to meet at least one of the following criteria:

1. The food is made to an authentic recipe which can be proved to have existed without significant modification15 for at least 30 years and/or

2. The food has been made using a method of preparation that has:

- Existed for more than 30 years although automation and mechanisation of these methods is acceptable and
- Does not deviate substantially from the traditional food processing method associated with a certain type of food.

d) Natural

The use of the marketing term 'natural' or variations on this term, e.g. naturally better, natural goodness, gives the impression that a food exists in, or is formed by, nature. Food business operators are specifically reminded that such a term cannot be applied to a food when in fact all other similar foods are natural (Regulation EU No 1169/2011 Art 7 (1) (c)).

Single ingredient foods A minimally processed single ingredient food can be called 'natural', provided it differs in this characteristic from all similar foods. For such a food to be considered 'natural' it must meet the following criterion:-

1. The food is formed by nature and is not significantly interfered with by man.
   By way of example, consider a bag of peeled and cut carrot batons which is a single ingredient food (only carrots) that is not significantly interfered with by man (only washed, peeled and chopped. This product could use the marketing term 'natural' because it meets criterion 1 above but only if it differed in its characteristic from other similar product, i.e. it must also comply with Art 7 (1) (c) of Regulation EU No 1169/2011 on food information to consumers. For the example product to have different characteristics from other similar product as required by the legislation,

other similar products would then have to contain additives or be processed in such a way that it would be considered to have been significantly interfered with by man.

Whilst the new guidelines are a significant step forward for consumers, there is no mention of processing aids used in bread production. As the law stands, it appears that processing aids can be used without having to be declared on labels.

Recommendation 2:

Labelling of Bread should be wholly Prescriptive and Loopholes that deny Transparency to Consumers need to be eliminated.
All bread should be Labelled.

All bread including unwrapped should be clearly labelled with a comprehensive list of additives and preservation aids. In the case of unwrapped bread, it should be compulsory to provide a leaflet detailing the required information. We would go further and seek to have a comprehensive information leaflet provided with all bread products that not only lists the additives / preservation aids, but also explains the purpose, origin and ingredients in each and every additive. This would not be financially onerous on bakers, large or small and is the very least that consumers are entitled to.

3.6 Incentivising Small Bakeries producing Real Bread:

Unlike the beer sector which carries substantial excise charges enabling the E.U. to introduce the innovative 50% rebate for small craft beer brewers, the bread sector has no standout opportunity for incentivising small bakers of real bread. There is no duty or vat payable on basic bread products in Ireland. Vat rates are currently as follows:-

Standard Rate 23% Reduced Rate 13.5% Second reduced Rate 9%

Bread is rated zero: 0%

Bread, Cakes, Confectionery etc served in café / restaurants is subject to 9% vat (second reduced rate).

Maltana bread, crispbread, brioche, and croissants are liable at the reduced rate of 13.5%.

Cakes that are flour or egg based are also liable at the reduced rate of 13.5%.

Confectionery (Sweets/Chocolates) rate are standard: 23%

Reduced rate applies to cakes and non-chocolate covered biscuits.

Flapjacks incur standard vat rate of 23% accept where they are flour / egg based which are charged at the reduced rate of 13.5%.

Flapjacks such as a peanut and caramel confection type flapjack and all chocolate covered flapjacks are standard. Flapjacks are charged at the standard rate of vat, or if produced using flour / egg base the reduced rate applies.

(i) UK Vat Rates:

All bakery produce in the U.K. are zero rated for vat Including bread, rolls, baps, pitta bread, flapjacks, cakes including sponge and fruit cakes, meringues and commemorative cakes such as wedding, anniversary and birthday cakes.

(ii) Should Ireland broaden the product base entitled to vat exemption in line with the U.K.?

The argument could be made for Ireland to follow the U.K. model and to broaden the range of baking and confectionery products that avail of the zero vat rate exemption. However, there is an equally persuasive argument, on health grounds for charging vat as Ireland does. Bakers would welcome a reduction or elimination of vat across a much wider spectrum of their product range, as the benefit would go straight to their bottom line. However, the Minister for Health would presumably oppose a reduction in the vat rate on luxury products that could be seen as adding to the nation's obesity problem.

3.7 The Case for Incentivising the growth of High Quality Wheat, the revival of Stone Ground Milling and encouraging the development of Small Bakeries throughout cities, towns and villages.

The bread sector offers a massive opportunity to inject real life back into local and regional economies throughout rural Ireland, a policy espoused by virtually every member of Dail Eireann and most, if not all economic commentators. Structural change is both desirable and possible, if there is real political will.

Local farmers can be encouraged to grow a higher quality wheat for supply to local stone ground millers who in turn supply local bakeries. Getting a project such as this off the ground will require creative thinking to determine the framework of incentives required. Professor Stephen Kaplan has spoken about the success of *The Bread of French Tradition* designation. He suggests that an ordinary baguette costs 85c to 90c and 40c more for a baguette of *French Tradition.* He argues that bakeries all over France proudly proclaim their allegiance to "*French Tradition"* and claims that it is chic to buy *French Tradition "especially among the 28-48 year old bourgeois bohemians".*

A move to locally produced bread would considerably reduce the carbon footprint generated by industrial bakeries that operate countrywide depots and consequent long distance heavy haulage. There would be a significant boost to employment. Whilst FCBA claim the Irish bread sector provides 13,000 jobs, it is not immediately obvious how exactly these jobs are calculated. For example, Irish Pride has been rated the country's second largest baking company. When it went into receivership earlier this year, media reported there were 340 jobs, eighty of which were at the Ballinrobe bakery, which are snow et to be lost under the proposed acquisition by Pat the Baker.

3.7.1 Edinburgh: Artisan Bread Proposal in Figures[96]

Andrew Whitley of Bread Matters produced the following set of theoretical projections for the city of Edinburgh, were it to substitute industrial bread baking entirely with a network of craft bread bakeries.

[96] The following figures are © of Andrew Whitley of Bread Matters

The aspiration is not without merit. Since France introduced the Bread of French Tradition, there has been a surge in craft bakeries and bakery shops / cafes.

Bread for Edinburgh?

Scottish wheat crop (2014) 989,000 tonnes

What is it used for?

- Distilling (whisky & bioethanol)
- Some biscuits & cakes
- Animal feed
- Market failure?

Wheat required to make all Scotland's bread 135,000 tonnes (13.7% of wheat grown).

- Edinburgh population 486,000 (c.10% of Scottish population)
- Wheat required to make all Edinburgh's bread 11,000 tonnes per year
- Percentage of Scottish wheat crop needed to feed Edinburgh 1.45% (2.2% of wheat acreage.

Can it be done?

Edinburgh population c. 500,000

- Bread consumption (per week) 630 grams / person or 400,000 loaves
- Artisan baker can make 750 loaves in a (5-day week)
- Bakers needed (+25% for holidays etc) 666
- Number unemployed in Edinburgh 15,000
- % of Edinburgh unemployed retrained as community bakers 4.4%

© Andrew Whitley

3.7.2 Education

Baking education is not seen as an impediment to the development of the bread sector. Several colleges and private schools teach all levels of baking on both a full and part time basis. In some cases, content and emphasis might need to be adjusted in line with some of the issues we have raised. We list below some of the options available. There are several other private baking schools.

- Dublin Institute of Technology runs a three year BSc course in baking at Cathal Bruagh Street.
- The Dublin based Baking Academy of Ireland runs a number of short courses in bread, cake and pastry baking.
- Cork Institute of Technology runs a one year part-time course in Baking Techniques.
- Firehouse Bakery and Bread School, West Cork run by Patrick Ryan.
- Riot Rye Bake House and Bread school, Tipperary run by Joe Fitzmaurice.

Recommendation 3:

E.U. Commission and National Governments should work towards reinvigorating Local Economies through active promotion of Quality Wheat production, Stone Ground Milling and Local "Real" Bread bakeries.

3.8 Conclusion;

Bread has potentially a very exciting future. The sector can and should become a key part of rural revival. Changes are likely to be vigorously opposed by the strong industrial baking lobby which, as we have seen, is adept at lobbying and PR. As Bórd Bia put it, *"relevant solutions and dialogue will need to be championed by the brands"*. Presumably also, the very powerful political lobby in favour of TTIP will not be easily persuaded of the merits of our proposed structural change to the sector. The likelihood is that additive and enzyme manufacturers will also be opposed to any such change. In short, the power of corporate lobbying must not be underestimated.

Whilst we have highlighted the raging controversy in regard to health issues, we do not possess the necessary competence to prejudge any of the arguments. That said, we have dedicated a large part of the report to the arguments surrounding health, in order to draw attention to these potentially serious issues, an indication of just how serious we take them.

Clearly, should any health concerns be substantiated, then the case for a move away from industrial bread making to "real" bread making becomes even more persuasive. However, our proposals to move away from industrial production are not at all predicated on health grounds. There is a stand-alone case to be made for a return to traditional methods of bread production on the basis of the huge impetus that local economies would receive.

How this should be done and the type of incentives that might drive the proposal are a matter for further consideration. In reviewing beer, beef and bread, we have looked at how rural economies can arrest the staggering decline that has occurred over recent decades. We have also looked at some of the policies implemented by government that have contributed / caused this decline and conversely, how E.U. policy in relation to craft beer production has been a resounding success all over Ireland. The elimination of local

abattoirs was a fatal blow to the beef sector and we have suggested ways in which this government induced decline, can be at least partly reversed. The changes required will need to be politically driven, perhaps through a new and focused E.U. Rural Renewal Directive that would give weight to the type of actions required at National level.

Crucial to economic recovery and in particular to the type of changes we recommend across beer, beef and bread is a functioning banking sector that understands the needs of local communities and local enterprise. Propping up two and a half pillar banks is an accident waiting to happen. Indigenous business must not be held back because of the profit motives of a banking oligopoly whose allegiance to big business often coincides with a rationing of credit to small would be competitors.

There is an urgent need to introduce some variation of public banking to Ireland, a system of banking that takes deposits and lends money with a view to ploughing profits back into local lending and support of community based projects. Public banking models do not engage in any form of casino banking. In Germany, the epicentre of indigenous business, seventy per cent of SME funding comes from either public or co-operative banking.

The introduction of public banking is not merely an option, it is a prerequisite for rural revival. Local banking for local enterprise should be the cornerstone of an enterprise economy whether it be beer, beef, bread or a host of other potential initiatives.

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Sed quis regula ipsos regulatorum?
Who regulates the regulators?