

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM THALMHAÍOCHT, BIA AGUS MUIR

## JOINT COMMITTEE ON AGRICULTURE, FOOD AND THE MARINE

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*Dé Céadaoin, 6 Iúil 2022*

*Wednesday, 6 July 2022*

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Tháinig an Comhchoiste le chéile ag 5.30 p.m.

The Joint Committee met at 5.30 p.m.

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Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Martin Browne,	Victor Boyhan,
Matt Carthy,	Paul Daly,
Michael Collins,	Tim Lombard.
Michael Fitzmaurice,	
Paul Kehoe,	
Michael Ring.	

Teachta / Deputy Jackie Cahill sa Chathaoir / in the Chair.

## **General Scheme of the Agricultural and Food Supply Chain Bill 2022: Discussion**

**Chairman:** I remind members and witnesses in the Public Gallery to turn off their mobile phones.

The purpose of today's meeting is to continue pre-legislative scrutiny of the general scheme of the agricultural and food supply chain Bill 2022. The committee will hear from representatives of the Consumer and Competition Protection Commission and Retail Ireland.

On 28 February, legal requirement for mask-wearing in all settings was removed. However, it is still good practice to use face coverings, particularly in crowded areas. The service encourages all members of the parliamentary community to wear face masks when moving around the campus or in close proximity to others.

Witnesses giving evidence from within the parliamentary precincts are protected by absolute privilege in respect of the evidence they give to the committee. This means that witnesses have full defence in any defamation action for anything said at a committee meeting. However, witnesses are expected not to abuse this privilege and may be directed by the Chair to cease giving evidence on an issue. Witnesses should follow the direction of the Chair in this regard and are reminded of the long-standing parliamentary practice to the effect that, as is reasonable, no adverse commentary should be made against an identifiable third person or entity. Witnesses who are giving evidence from a location outside the parliamentary precincts are asked to note they may not benefit from the same level of immunity from legal proceedings as witnesses giving evidence from within the parliamentary precincts and may consider it appropriate to take legal advice on this matter. Privilege against defamation does not apply to the publication by witnesses, outside the proceedings held by the committee, of any matter arising from the proceedings.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against any person outside the Houses or an official, either by name or in such a way as to make him or her identifiable. Parliamentary privilege is considered to apply to utterances of members participating online in this committee meeting when their participation is from within the parliamentary precincts. There can be no assurance in relation to participation online from outside the parliamentary precincts and members should be mindful of this when they are contributing.

In the first session, we will hear from representatives of the Competition and Consumer Protection Commission. I welcome Mr. Brian McHugh, member of the commission, Mr. Seán Murphy, director of the consumer protection division, and Ms Síona Ryan, director of policy and international division. I invite Mr. McHugh to deliver his opening statement.

**Mr. Brian McHugh:** My colleagues and I are glad to have the opportunity to brief the committee on our recent submission on the general scheme of the agricultural and food supply chain Bill 2022 and to share the views of the Competition and Consumer Protection Commission, CCPC, on the proposed role and functions of the office for fairness and transparency in the agrifood supply chain. Based on our experience as an enforcement agency, we will share our observations on the proposed approach to complaints, prohibitions and enforcement with regard to unfair trading practices, UTPs.

The CCPC welcomes the establishment of the office and believes that the Bill as proposed in the general scheme would enable the effective implementation of the UTP directive and some

of the measures in the now revoked grocery goods regulations. The CCPC welcomes that a key function of the office will be to make available analysis of information on price and market data in the agricultural and food supply chain in Ireland, and that the office will report and advise the Minister based on its analysis and research. This will enable the new office to track market trends as they develop and identify issues arising in the agrifood sector, including any presence of systemic UTPs with wider impacts throughout the supply chain. In turn, this will strengthen the office's ability to support and advise the Minister and make recommendations on any legislative or policy change it considers necessary based on that evidence. This will allow for a more comprehensive picture of the supply chain than is currently available.

The CCPC also welcomes the emphasis placed on the importance of the office engaging with stakeholders and its empowerment to co-operate and consult with farmers, primary producers and buyers of agricultural and food products. This will assist the office in the execution of its functions. In addition, establishing strong relationships with such stakeholders will facilitate effective communication channels and encourage suppliers to come forward and engage with the office, on a confidential basis if required, allowing complaints to be brought to the attention of the new office.

Suppliers must have confidence that they would not face repercussions if they were to make a complaint. It will be essential to ensure that robust confidentiality measures are put in place. For this reason, the CCPC recommends that the provisions relating to confidentiality for complaints should be strengthened. We suggest that similar provisions to the UK's groceries code regarding confidentiality, are considered. In particular, the UK's groceries code sets out that the Groceries Code Adjudicator may not make an unauthorised disclosure of information that it thinks might cause someone to believe that a particular person has complained about a large retailer failing to comply with the code.

The CCPC welcomes the provisions of the Bill that will allow flexibility for the Minister to maintain or introduce national rules designed to combat UTPs that are not currently within the scope of the directive. The approach also allows for the Minister to consider the reintroduction of the obligations of the grocery goods regulations on grocery businesses. It is important that any such regulations be appropriate and evidence-based. In this context, the CCPC very much welcomes the provisions set out in head 43 of the general scheme, where the office is mandated to review the regulations made under the Bill and to assist in the preparation of relevant draft legislation. The CCPC also welcomes the provision under which the office will consult relevant persons before submitting proposals to the Minister or to any other Minister of the Government.

The CCPC notes that the UTP directive's list of prohibited UTPs are separated in two different categories, commonly referred to as the grey list and the blacklist. The blacklist sets out the UTPs which are prohibited in any circumstance and the grey list sets out the UTPs which are prohibited unless they have been previously agreed in clear and unambiguous terms in the supply agreement or in a subsequent agreement between the supplier and the buyer. It will be important for any regulations to clearly communicate the type of prohibition applicable to provide certainty to suppliers and buyers. Having an adequate and robust enforcement framework will be key to the effectiveness of the office and the Bill's success for several reasons. In the first instance, there may be a significant imbalance between the parties concerned in terms of bargaining power, expertise, resources and information. Therefore, regulatory intervention will be necessary and appropriate. The enforcement model must be capable of deterring traders from engaging in the prohibited practices concerned and the CCPC suggests that the office have a suite of interventions available to it which will address breaches at different times and

with different effects.

The CCPC notes that, under head 50, a prosecution for an offence under the proposed Bill may be brought at any time within two years after the date of the alleged commission of the offence. The CCPC recommends that this time limit be extended to three years to cater for a potential delay on the part of complainants, or their representatives, to bring a complaint to the office in the first instance. Furthermore, the time limit should also allow for the office to conduct its investigations, especially given the potential complexity of some of the supply channels or trading environments which might be involved.

The CCPC welcomes the content of the general scheme. It will provide a basis on which relationships in the agrifood supply chain can be strengthened and poor practices can be dealt with effectively.

**Chairman:** I thank Mr. McHugh. Senator Boyhan was the first to indicate.

**Senator Victor Boyhan:** I thank the CCPC for its detailed submission and opening statement. I wish to go through this enforcement area it is concentrating on. It is the area I am interested in. Ultimately, if this proposed legislation is to be effective, it must be enforced. Mr. McHugh stated:

Having an adequate and robust enforcement framework will be key to the effectiveness of the Office ... In the first instance, there may be a significant imbalance between the parties concerned in terms of bargaining power, expertise, resources and information.

Will Mr. McHugh tease out each of those aspects of bargaining power, expertise, resources and information? There is a lot involved and it has been encapsulated in that sentence. It is a big ask but an important one. Regarding enforcement, we will have to have the right powers, capacity, expertise and resources to make this undertaking a success. All that, however, must be based on the appropriate and applicable information. I ask Mr. McHugh to tease out how he envisages that working. What is he asking of this committee? In real terms, what is he saying there regarding some key and simple messages concerning recommendations to the committee?

**Mr. Brian McHugh:** I will ask Mr. Murphy to speak about the issues Senator Boyhan raised and the enforcement aspect. We broadly welcome the general scheme of the legislation. We have made some recommendations, including on confidentiality, for example. We have an understanding of the issues and imbalances in this industry. We have engaged, and we will continue to engage, with the new office in the context of our operational experiences in this area. Therefore, it is not necessarily that we are recommending significant changes to the enforcement powers. I ask Mr. Murphy to speak about those powers in the proposed Bill and our experience of the industry.

**Mr. Seán Murphy:** Our comments in this regard are generally based on our experience to date of enforcing similar provisions in the consumer protection field. There is a suite of remedies. Which one we use depends on the nature of the breach encountered. We like to use what we call a quadrant, whereby we look at the intent and the information behind the breach itself. To give an example, well-intentioned and well-informed traders will not appear on our radar because they are doing things properly. Those instances, then, involving well-intentioned but ill-informed traders could be cases where those concerned do not realise they are engaging in something to that effect. This is why we would deploy something like a compliance notice in that type of instance where we have identified something that is an offence and could be prose-

cuted in itself. We will, however, make a call based on the intent behind the practice concerned and if those involved knew what they were doing. Moving on, the third quadrant concerns those traders who are ill-informed and ill-intentioned. These situations just go to prosecution. The intent was there in the first place and those involved had a paucity of information regarding what they were doing. The final quadrant then is the one that is probably the most problematic, namely, those who are well-informed but ill-intentioned. Traders in this area might know what they are doing and be very aware strategically of it. This requires us to have the robust framework we referred to in respect of having a suite of interventions available.

This is not necessarily just about enforcement. Particular breaches that emerge might be examined. The office would be in a position to advise the Minister that it has encountered certain practices that are not necessarily called out as prohibited in themselves. This is a minimum harmonisation directive, which sets out ten blacklist and six grey list provisions. They are not finite lists. As the office develops in the years to come and gets to grips with the markets, which are complex, and the relationships in this area, it must have several interventions available to it. This is what we welcome in that sense. Examples would be a compliance notice, where an officer would identify an issue, make a judgement call, in consultation with whatever internal processes the office might have, and then deploy a compliance notice to address the issue and to bring it back on track. That type of process is for those lower-level breaches. In cases of other types of breaches, however, it would obviously not be appropriate or suitable to deal with them in that way and that is why criminal provisions are also needed to address those issues. This is the complexity we are referring to in this context.

**Senator Victor Boyhan:** On the suite of interventions spoken of, does the CCPC have a schedule of them? The witnesses might not have it with them today, but it would be helpful to us and to our understanding. There is clearly a scale and a hierarchy or matrix of interventions in this regard. Mr. Murphy referred to the quadrant and I understand what he means by that. Regarding what is an appropriate action in response to a particular type of circumstance, the suite of interventions is important. The need for it has been referred to. Has the CCPC worked out the level of responses in respect of the suite of interventions it considers appropriate? I ask this because it is going to be important in respect of the overall review of this issue undertaken by this committee.

**Mr. Seán Murphy:** Sure. When we look at the proposed legislation as currently presented, there are the compliance notices, which I referred to, the summary prosecutions and the indictable prosecutions, which are filed with the Director of Public Prosecutions, DPP. References also made to alternative dispute resolution processes. Where the office would deem a particular issue amenable to being resolved in that alternative manner, such an approach would also be possible. This is what I mean in respect of the interventions. It concerns the approaches available and then making the relevant judgement in the context of the practice, the intent and what is to be delivered in this sense in respect of interventions. It is not that the interventions are listed in a sort of chronological order. When we read through the heads of this legislation, we see those as forming part of this suite. Hopefully, this clarifies the position for the Senator.

**Senator Victor Boyhan:** Are the interventions adequately covered in the proposed legislation?

**Mr. Seán Murphy:** Absolutely, with the rider that as this develops and as the office engages with the existing markets, based the complaints it receives and on the practices pointed out to it, the office can either satisfy itself that those interventions are appropriate and sufficient or it can advise the Minister that perhaps something else is required. Again, however, this is an aspect

that will develop over time.

**Senator Victor Boyhan:** Turning to the dispute resolution mechanism, that is a positive move. Ultimately, this is about continuing on, people learning lessons and moving on from them. It is about having an appropriate response to an issue. Does Mr. Murphy see greater potential for dispute resolution in this area at a certain level, clearly?

**Mr. Seán Murphy:** It is very much dependent on, let us say, the first cases that might be referred to it and if there is confidence in that system. I think the head addressed it appropriately and adequately where, in the office's opinion, an alternative dispute resolution, ADR, would be suitable for it and then making sure that whoever is conducting the ADR is impartial, independent and proficient in that respect as well. Again, part of our statutory function generally is that we promote the use of ADR so we would welcome something along these lines. Again, however, people would have to have confidence in that system and it very much depends on how the office would administer that. We would see it as a positive development, however, particularly having that function available.

**Senator Victor Boyhan:** Okay. I thank Mr. Murphy.

**Senator Paul Daly:** I welcome the witnesses this evening from the CCPC. As Senator Boyhan said, I thank them for their submission and opening statement. I have no doubt we will be taking their suggestions on board when we draw up our final report. I have enough information in that regard.

I will ask the witnesses do that which is somewhat impossible - to look into the future for the purposes of debate and assume that the office of fairness and transparency in the agrifood supply chain is up and running. According to what we have in front of us now, there may be some tweaks before that happens. How do the witnesses see the new office's role align with the CCPC's role? How will they complement each other? Are there going to be any grey areas between?

I will use an example for the purposes of debate. Prior to the new office's inception, if I or anyone else reckoned there was a cartel in the beef industry, which has happened in the past because we have had the CCPC here before, I would go to the CCPC. I assume I would be sent to the new office once it is up and running. Would the CCPC send me to the new office? Basically, what I am simply trying to get at is how the CCPC can see its role changing. Will it enhance or inhibit its role? How does it see that marriage? The CCPC will still be in existence. The new office will be taking some of the work, such as the example I just gave that would have gone to the CCPC. How do the witnesses see the relationship between the CCPC and this new body going forward? Do they think they will be helpful to each other or that it could cause some conflict or issues for the CCPC going back as a form of identity of its role within the whole system in agriculture and in the competition side of it? I know the CCPC will still probably be dealing with the consumer but from farmer to retailer, that whole competition side, will the CCPC then be losing that role? Has anybody told the CCPC what its new role will be in it? Has it any vision of how it will work with the new body? How does it see that working?

Call it naivete or whatever I had before I read any of the CCPC's documentation, but I had an impression that it would have perhaps come here almost opposing this because the new office was going to be taking the CCPC's clothes and that the commission would be circling the wagons. I was a bit taken aback by the positivity in its documentation. That triggered to me the question of how these people see this working with them post its enactment.



**Mr. Brian McHugh:** We very much welcome this proposed legislation. I think there is real clarity between the different roles of the CCPC and the new office. We previously had responsibilities under the grocery goods regulation. Those are now ended and the new office will take on responsibilities largely coming out of the UTP directive, which is much wider in terms of the issues it is dealing with compared to the grocery goods regulation. However, there are some learnings we will have. We have and will continue to engage with the Department and the new office on our learnings from that specific area around the supply chain and the relationship between retailers and primary producers, for example. We have done that already but we will continue to do that with the new office. Over time, we expect that we will continue to engage with it and discuss matters of common interest.

One thing that is very clear, as is the new office, is that we remain responsible for enforcing breaches in competition law, which would include any cartels. We will retain that responsibility. That is very clear. We strongly encourage anyone who has any evidence or concerns around potential cartel behaviour in the agricultural industry or, indeed, any other industry, to approach us. We have a number of routes and avenues under which individuals and companies can do that. We will also be getting new powers under the legislation on the European competition network directive, ECN+, directive, which has just passed the Oireachtas. It will be really welcome. There is, therefore, a clear differentiation between our different roles. We would expect that in terms of the new office being an expert in that industry and understanding the market and collecting data and evidence, we would engage with it, as we do with other agencies that are experts in areas, about its views and what it sees in the market. In terms of the powers, however, there is a very clear difference and there are very clear different roles we will both retain.

**Senator Paul Daly:** In conclusion, to go back over that again, the CCPC is maintaining responsibility for perceived or actual cartels?

**Mr. Brian McHugh:** Yes, we will investigate potential breach of the competition law, including cartels.

**Senator Paul Daly:** If somebody perceives a cartel in an agricultural supply chain, whatever the product might be, and I do not want to name individual areas because that can lead to outside debate, it will bypass the new body and still will go to the CCPC. Even though it is in the agriculture sector and has almost definitively been identified in layman's terms that it is 100% obvious there is a cartel, it will go to the CCPC. Does Mr. McHugh not think this will complicate matters as this new body is agrifood-related? That was my question. How does Mr. McHugh see that situation evolve? Were I to go to the CCPC with blinding evidence of a cartel within the agrifood sector, what is the CCPC's relationship with this new body in dealing with that? Mr. McHugh is telling me that the CCPC has to deal with that.

**Mr. Brian McHugh:** Yes. We will do the investigation. We are empowered to do that under the legislation. If it was to be considered a criminal matter, for example, we would send the file to the Director of Public Prosecutions, DPP, and we would have the investigation teams in place to be able to handle a criminal investigation, very similar to An Garda Síochána. We would have those teams in place. We are empowered to do those investigations in all industries for cartels and breaches in competition law.

We would engage with many other agencies in many other industries if there were to be allegations or investigations to get their views on the market and what they see. We have strong relationships with many agencies in the State, depending on what particular industry we were looking at at the time. We would expect with the new office, again, that where appropriate and

where we are looking into the agricultural industry, we would have discussions with it on what it sees, what evidence it has and potentially what data it has. We encourage anyone with evidence of cartels to come to us and engage with us. We would certainly welcome and encourage this new office, if it identifies any particular issues around cartels, to come and speak to us and engage with us. We want to get evidence. We strongly believe there are cartels out there in the State. We have put much effort into encouraging people to come forward whatever the source might be. We would very much do that with the new office as well.

**Senator Paul Daly:** I will finish on this. Does Mr. McHugh not think people watching the debate this evening would almost assume even by virtue of its title that the office for fairness and transparency in the agrifood supply chain, and Mr. McHugh keeps using the cartel example, that this will come under that umbrella?

**Mr. Brian McHugh:** Again, we have regulators for utilities with which we have a close relationship. We do gas, electricity and water. If someone was to approach the new office, he or she would be well aware of our role in terms of breaches of competition law. We would expect to have established a relationship and understanding with the new office whereby if anyone approached it with that type of information, it would pass it on to us.

**Senator Paul Daly:** Does Mr. McHugh not see how, as I said, people watching this debate now can already say there is going to be duplication? We deal with bureaucracy as public representatives on a daily basis. I can almost envisage examples where somebody is sent to the new office and six months later, he or she will get an email saying it is actually the CCPC with which he or she should be dealing. There is an opening here for people to wonder to where they should go, which will prolong their inquiries.

**Mr. Brian McHugh:** That is why we speak to agencies about our role and the facilities we have available for people to approach us, whether directly or confidentially. We have cartel lines and the WhistleB platform programme for people to approach us. We speak to other agencies about those avenues. If a person approaches one of a variety of agencies with that type of allegation, supported by evidence, the agency will recognise its urgency and significance and be able to point to the CCPC as the body that has that role and does that job. The alternative is to put in place criminal investigation teams in lots of different agencies. It is a specific role. To bring a file to the DPP to the level of criminal standard that is needed requires a specific set of skills. One needs to build a team that is experienced in doing it. It would not be efficient to have different teams across the State to do that because they may only do one case every few years.

**Senator Tim Lombard:** I welcome the witnesses and thank them for their presentation and submissions. I will be brief because there may be a vote coming up in the Seanad shortly. Mr. McHugh referred to the gathering of data being a major part of the proposed new office. In the witnesses' unique experience, will that be feasible? Are those data out there? How much access is there to those data? Will the office get appropriate data on which to make conclusions in respect of what is happening in the agrifood market?

**Mr. Brian McHugh:** I will ask Mr. Murphy to speak to our experience in terms of the data that is out there. A benefit of having this new office is that it will be particularly focused on the industry and, through the years, will build up a data set. We see it with other agencies and regulators that have a significant amount of knowledge, information and understanding of a market. We find that really useful. Going from where we are now and the narrow role we have under the grocery goods regulations, GGRs, to this new office will involve a step change in terms of



the amount of data and knowledge the office will have on the market. Without trying to define exactly how much data it will hold or where it will end up, having that evidence base will be very helpful in terms of arriving at the decisions we will need to make on whatever the matter might be. I will ask Mr. Murphy to speak to our experience.

**Mr. Seán Murphy:** The heads of Bill as currently presented refer to publicly available information in the first instance. There is a lot of information out there. I note that the office will be empowered to retain the services of consultants to gather and consider that information in order to analyse what the information is showing in terms of market trends and so on, for example. From our perspective, there was a requirement under the GGRs which is mirrored in the heads of Bill for regulated entities to submit an annual compliance report, ACR. The ACR set out certain matters that had to be reported back to the commission. That gives an insight. The regulated undertaking is required to provide that information. We set out what was required to be submitted in terms of the format and the timing of it. That very much influenced how we conducted our compliance and monitoring inspections in the following year. Once a system such as that, which allows data to be collected, is put in place, those data sets will build up through the years and provide information that will point to certain areas and developments. Mr. McHugh referred to the expertise and the general engagement the office will have in the context of the many sectors, traders and complexity involved. Once it develops that aspect, it will know which data to mine. I am confident in that regard but it will take time, a level of proficiency and efficient resources to carry through on that.

**Senator Tim Lombard:** In the context of the CCPC as it currently stands compared with what is proposed, is there a fee pertaining to making observations or submissions in respect of issues? At a previous meeting, the Minister stated that there might be a fee pertaining to submissions made to this new entity. Do our guests believe a fee is appropriate when it comes to making an observation or should it be free? What is the set-up with regard to people making observations to the CCPC?

**Mr. Seán Murphy:** In the context of the recently revoked GGRs, there was no fee. We met individuals and organisations that wished to offer observations. We did not charge a fee for that because there was no provision within the regulation in that regard. I note there is provision for a fee in the general scheme of the Bill. That may refer to complaints rather than observations.

**Senator Tim Lombard:** Yes, complaints.

**Mr. Seán Murphy:** It is a matter for the office and the Minister to consider.

**Senator Tim Lombard:** The CCPC receives complaints. Has there ever been a fee pertaining to complaints it received?

**Mr. Seán Murphy:** In my experience, we have not had such a fee. There was no provision within the regulation for a fee.

**Senator Tim Lombard:** In terms of the CCPC in its current form compared with what is proposed, how big a workforce for the proposed new entity will be required in order to service the directive? It is a significant body of work, given the amount of data that will be collected. Mr. Murphy referred to a requirement to bring in consultants. How big will the office be in terms of manpower and its associated budgets? It seems like a significant body of work compared with that of the CCPC. What should be the staffing levels or the budget?

**Mr. Brian McHugh:** What we can speak to is the type of work we did, which was different

and narrower, in a different organisation where there were support divisions in place. We are not expert enough to give the exact number, but Mr. Murphy will speak about the type of work we did and the teams that did it.

**Mr. Seán Murphy:** As Mr. McHugh stated, we had many supports, such as corporate and communication supports, which were deployed in other areas that were functions of ours. It is difficult to see how that will align. What I can say is that once the compliance, monitoring and enforcement was passed to the consumer protection division, we had staff dedicated to this issue. At different times, they performed this function in addition to their other tasks. The consumer protection division has significant experience in conducting compliance, monitoring and supervision on issues such as pricing and misleading commercial practices in the retail sector. We have experience in the front-of-house area, let us say. We then had to pivot to the back office and headquarters area to go through the contracts and what kind of pricings there were in terms of promotions, marketing, wastage, shrinkage and all of that. It is a lot of work, particularly given that we were only dealing with direct suppliers to a number of large wholesalers and retailers-----

**Senator Tim Lombard:** That is my point.

**Mr. Seán Murphy:** -----that had more than €50 million in worldwide turnover. That was just one aspect of the supply chain. The UTP directive has many links along the supply chain, with many more actors and stakeholders involved. It is difficult to answer the Senator's question at this time. We can offer observations on the inputs required from us in terms of administering the grocery good regulations but this will be an expanded field with more suppliers and different complexities. Members will have noticed there are graded steps in terms of the relationships between turnovers. The office will probably have to decide where its priorities lie in terms of where its initial focus will be. There is a body of work there but I am not in a position to state that it will require X full-time equivalents to carry out the functions. There is a significant amount of work involved.

**Senator Tim Lombard:** That is the point I was trying to make. The amount of work required compared with that which the CCPC was restricted to before is significant. I am still trying to get a handle on what the budget should be to run this entity and what manpower is needed for a suitably staffed organisation to apply the directive. I am at a loss in finding that answer. What is the manpower and budget of the Competition and Consumer Protection Commission, just to put it into context or would it be hard to compare like with like?

**Mr. Brian McHugh:** Yes, it would be. We have a very wide remit in competition, consumer protection, and financial education. Our budget is about €18 million, but it includes a variety of areas that would not be relevant. What we can and will do is engage with the office in terms of the type of work we used to do. We have a legal department that helped out with legal advice from time to time. We can talk about the type of work and resources we required. We had inspection teams that went out to retailers and those teams needed to be trained to do that and write reports. We had a structure whereby the commission members were involved and had discussions. At the start, we set up an event to engage with the industry. Advertisements were placed in trade journals which our communications department helped with. It is very hard to translate all of what I have just set out into one number. In helping the new office to understand the type of work that is required, it would be useful to say that while it was different, it certainly had some similarities so it can begin to put together a resource plan.

**Chairman:** I call Deputy Martin Browne. As we cannot hear him, I will call Deputy

Fitzmaurice and we will go to Deputy Browne again later. This technology is not all it is cracked up to be. As we cannot hear Deputy Fitzmaurice, I call Deputy Carthy by default.

**Deputy Matt Carthy:** I am sorry to disappoint the Chair.

**Chairman:** I am only coddling. I do not mean that.

**Deputy Matt Carthy:** I thank our guests for being here. Did the CCPC have engagements with the Department with a view to being the body that would be responsible for the UTP legislation?

**Mr. Brian McHugh:** We made submissions stating we did not think it was appropriate for the CCPC to be the body responsible for the UTP legislation. The background to the UTP legislation is very different and is based on the Common Agricultural Policy, CAP, and standard of living of farmers, which is an important element. Our remit is around consumer welfare for all consumers. That was one of the issues in terms of how we could focus on one-----

**Deputy Matt Carthy:** Mr. McHugh referred to the Common Agricultural Policy.

**Mr. Brian McHugh:** Yes.

**Deputy Matt Carthy:** What is the relationship between the Common Agricultural Policy and the UTP legislation?

**Mr. Brian McHugh:** The basis of the legislation is around the CAP and protection of the living standards of farmers.

**Deputy Matt Carthy:** That would not be my reading. I know the answer to this but does the CCPC see the need to establish a new UTP enforcement authority as a signal by the Government that the CCPC failed to protect the market chain in relation to food?

**Mr. Brian McHugh:** We very much welcome the new office. As I said, we made submissions that it should be a new office and that it should not be with the CCPC. We think this is very welcome. The UTP directive and what it is trying to achieve is important and it is also important that there is an office to enforce it. In terms of who should be responsible, as we said in our submissions, we very much welcome this.

**Deputy Matt Carthy:** Does Mr. McHugh see any potential for the new body to encroach on the work that the CCPC is currently responsible for?

**Mr. Brian McHugh:** No. The grocery goods regulations, which we touched on, have been revoked. We have engaged with the new office and continue to do so in terms of what we learned about the sector. As we are all aware, the new body has a much wider set of responsibility regarding UTPs. Some lessons that we learned particularly from an operational point of view, will be relevant to the new body and it is important that we pass them on.

**Deputy Matt Carthy:** UTPs are practices carried out by retailers or processors that discriminate against their suppliers in terms of the price they receive or the conditions attached. Is Mr. McHugh saying that up until this point, those practices never came within the remit of the CCPC?

**Mr. Brian McHugh:** I will ask Mr. Murphy to speak in detail about the grocery goods regulation, the work we did and the specific areas we were responsible for in that regard.

**Mr. Seán Murphy:** The GGRs dealt with suppliers who were supplying directly to large retailers and wholesalers. The GGRs were designed to address particular practices, aspects of contracts such as what was prohibited or what was allowed but only with the agreement of the parties. In terms of fair trading, it involved avoiding unilateral variation clauses and late payments. The GGRs predated the UTP directive. The directive is built much more on that. There is some crossover between what was prohibited, but there are more specific aspects to the UTP directive and it covers a much wider area. It deals with many more actors along that chain than the CCPC dealt with. The CCPC was only involved at the end of the chain where the supplier dealt directly with the retailer or wholesaler. This goes back a lot more. On the consumer protection side, we still only deal with business to consumer, B to C, transactions. A lot of what we look at here is business to business, B to B, transactions. By definition, these suppliers are traders so it did not fall within our previous remit.

**Deputy Matt Carthy:** I ask that we keep answers as brief as possible. The Chair often criticises me for speaking for too long but it is usually the answers that are very long.

**Chairman:** I would never be as bold as to criticise Deputy Carthy.

**Deputy Matt Carthy:** I knew that would excite the Chair. I ask this because we have to attend a vote. Are there any current functions of the CCPC that could be transferred to the new body at some point?

**Mr. Brian McHugh:** No. The next stage after the new body gets up to speed and sees how the current UTPs operate, how the market operates and what the issues are, is whether new regulations are needed for further UTPs. That relates to the structures set up in the new Bill and we think that makes sense.

**Deputy Matt Carthy:** I will conclude on this, although I have a number of other questions so we will see if we have time.

**Chairman:** We may suspend the meeting because the time to vote in the Chamber is very tight. We will suspend the meeting to allow us to attend the vote.

**Deputy Matt Carthy:** Will the Chair allow me back in to contribute when we return?

**Chairman:** Yes. When we reconvene, Senator Lombard may take the Chair. Is that okay?

**Senator Tim Lombard:** Yes.

**Chairman:** Okay. The meeting is now suspended. I am sorry about this.

*Sitting suspended at 6.20 p.m. and resumed at 6.39 p.m.*

*Senator Tim Lombard took the Chair.*

**Vice Chairman:** We are back in public session. I invite Deputy Carthy to resume.

**Deputy Matt Carthy:** We were talking about the distinctions between the new office for transparency and fairness and the CCPC. The witnesses will know that one of the criticisms of this committee, and we have spoken about it previously, relates to allegations of either price fixing or cartel-like behaviour. Essentially, the position of the CCPC is that it does not have the evidence to follow that through. However, it can decide to initiate investigations into a particular set of circumstances. To my mind, it has never carried out a comprehensive investi-

gation into what are now consistent and sustained allegations dating back several years that the meat processing sector is essentially operating a position where there is collaboration, to put it mildly. Why has that been the case?

**Mr. Brian McHugh:** As the Deputy will be aware, we carried out a process of screening these complaints. We had well over 100 complaints from various parties, including allegations of cartel in this sector. We looked into it carefully and spoke to a number of parties about what evidence there was. We put quite an amount of resource into it and spent nearly a year looking at all aspects of the quite varied complaints. There was not just one. We then set out and published the reasons we did not open a formal investigation. They are still on our website in terms of what we found and that the evidence we had did not justify opening a full investigation.

Cartels by their nature are secret. The norm in a cartel would be to have the evidence of a form of a contract and an agreement between those parties to fix prices, for example. One of the very common steps one would do in investigating a cartel is carry out raids. We would need a warrant to do raids. In order to get a warrant one must go to a judge. There is due process and one needs an element of evidence to be able to do that, and rightly so. We all would agree with that. We did not have that level of evidence to open an investigation into a cartel on the back of the complaints and the work we did. We set that out and the reasons for it.

As I have said previously and I will say again today and in the future, we welcome evidence from anyone with regard to a cartel. We will look at any evidence we get. During the process of the complaints we spoke to multiple parties across the industry and-----

**Deputy Matt Carthy:** I have another question. I am conscious of time and that there are others who wish to speak. We could get called for a vote at any stage. Did the CCPC carry out an analysis of the prices that were being offered weekly by the various meat factories?

**Mr. Brian McHugh:** We did look at prices-----

**Deputy Matt Carthy:** What did the CCPC find?

**Mr. Brian McHugh:** There is a commonality among prices. One of the things we looked at was how much trade there was where farmers or producers would look at prices and move, which happens in Ireland, so it is not surprising to see that prices would be very similar where that happens. The prices level up so-----

**Deputy Matt Carthy:** Regarding the CCPC's engagement, Mr. McHugh spoke about multiple parties. How many meat processors did the CCPC engage with at that time?

**Mr. Brian McHugh:** We do speak and have spoken to meat processors-----

**Deputy Matt Carthy:** How many did the CCPC sit down with as part of that investigation?

**Vice Chairman:** We are doing the pre-legislative scrutiny, Deputy.

**Deputy Matt Carthy:** It relates to this legislation and how it pertains to the work the CCPC is currently doing. I am coming to the substantive point.

**Mr. Brian McHugh:** We have spoken to meat processors in the past as part of our role.

**Deputy Matt Carthy:** However, as part of this investigation.

**Mr. Brian McHugh:** The allegation was that there was a secret cartel. It would not be nor-



mal in a cartel to look for the party to provide one with information about the secret cartel. As I said, when one is doing an investigation that would not be a normal approach.

**Deputy Matt Carthy:** To summarise, essentially what happened is the CCPC received numerous complaints, mostly from individuals, expressing the belief that factories were operating in a collaborative manner outside the law. As they could not provide the CCPC with evidence of that collaboration, the CCPC was not in a position to pursue it. However, it did not even go to the factories and ask why their prices were so similar to each other.

**Mr. Brian McHugh:** As I said, we would have spoken to a number of parties, including parties such as Teagasc and Bord Bia, to understand the industry, to understand how prices worked and to understand whether farmers and others when they see prices will move to a different processor. They do. We did that type of work and spent some time on it. I know I am repeating myself but-----

**Deputy Matt Carthy:** Mr. McHugh is, and he is not answering the question I am asking. To be clear, as part of the investigation into the allegations that factories are operating in a collaborative manner, and some would argue a cartel-like manner, the CCPC did not actually engage with the factories or their representative organisation.

**Mr. Brian McHugh:** We would have had the information that we needed and collected the evidence. Again, the idea that we ask somebody who is alleged to be in a cartel, “Are you in a cartel?”, would not be a normal step to take.

**Deputy Matt Carthy:** For any investigative body, it would not be unusual for it to go and ask a person regarding whom allegations had been made to answer to those allegations, but the CCPC did not.

**Mr. Brian McHugh:** We have engaged with meat processors. We are aware of their views on the market and how the market works. In order to make our decision, we have to be sure that we have a basis for doing an investigation. We have very strong powers, which we have argued for, but we cannot just start an investigation without some basis for there to be a positive outcome.

**Deputy Matt Carthy:** However, Mr. McHugh said the CCPC did start an investigation and had a year-long investigation.

**Mr. Brian McHugh:** No, we had a year-long review. Once we open a formal investigation our powers kick in.

**Vice Chairman:** Time is being lost here, Deputy.

**Deputy Matt Carthy:** I am coming to the point. Head 38 of the new Bill on the UTP enforcement body in Part 1 says the office may initiate and conduct investigations on its own initiative or on the basis of a complaint. That is very similar to the remit the CCPC has. Is that right? There is very similar language used.

**Mr. Brian McHugh:** We have a remit to enforce competition law.

**Deputy Matt Carthy:** Yes, but in terms of the language that is used, it is very similar.

**Mr. Brian McHugh:** Yes, but the new office would have a remit to conduct them in respect of its functions regarding the UTPs. It would not have the power to conduct an investigation

into enforcing competition law and bring a file to the Director of Public Prosecutions, DPP.

**Deputy Matt Carthy:** Mr. McHugh is saying it is his view that if a complaint is made in respect of cartel-like behaviour, collaboration or any of these issues to this new body, it will have no authority to initiate an investigation on the basis of that complaint.

**Mr. Brian McHugh:** In terms of under competition law-----

**Deputy Matt Carthy:** No, in terms of the question I have put to Mr. McHugh.

**Mr. Brian McHugh:** The Deputy spoke about investigating a complaint that there has been a breach of competition law. The body does not have the power to investigate a complaint that there has been a breach of competition law. It will have the power to investigate UTPs and potential breaches of UTPs, and rightly so. However, as I mentioned previously, to investigate a complaint of a breach of competition law means potentially one will be giving a file to the DPP so one needs the resources and expertise, equivalent to the Garda Síochána, to be able to do that. Those are very specific skills, and this new office quite rightly is not empowered to do that.

**Deputy Matt Carthy:** That appears to be different from the interpretation the Minister had in response to the same question last week. We might follow up on that.

Will Mr. McHugh outline how the chair and the members of the CCPC board are appointed at present?

**Mr. Brian McHugh:** They are appointed by the Department. It is a ministerial appointment.

**Deputy Matt Carthy:** There are no criteria other than-----

**Mr. Brian McHugh:** The criteria are set out in the legislation for the chair and members and in terms of competition and consumer protection experience. I do not have it with me, but there are requirements.

**Mr. Seán Murphy:** That is set out in the 2014 Act.

**Deputy Matt Carthy:** The CCPC advocated in its submission that it believes the window for prosecution, for want of a better term, should be expanded from two to three years. Will Mr. McHugh indicate how strongly the CCPC feels about that and why?

**Mr. Brian McHugh:** I will ask Mr. Murphy, who has experience in that area, to speak to our experience of investigations, how long they take and the issues they raise.

**Mr. Seán Murphy:** By way of information, the consumer rights Bill that is going through at present is advocating for a three-year limitation period for the initiation of summary prosecutions. We are making the point here because obviously this is a complex sector, as we have said, with many links in the chain and many stakeholders involved. I have no doubt there will be challenges in gathering evidence as there always are to get to a criminal standard. Also, we are reliant upon an individual making a complaint with respect to having been under either the receiving end of a breach or identifying the fact that there is a breach of the UTPs and the timing as to when he or she would actually come to the office. It can be the case where somebody discovers that there is a breach and either does not realise that it is a breach or does not come forward straight away with it. Time passes and by the time that then gets to the office, the clock has already started running. In addition, there also are other limitation periods that provide for

complexity and we believe that, given our experience on this, it would be best if the timeframe was expanded to three years.

**Deputy Matt Carthy:** I am conscious that others want to get in. I can come back in at the end if there is time.

**Vice Chairman:** I call Deputy Martin Browne. Hopefully we have our technical issues sorted.

**Deputy Martin Browne:** Hopefully we do this time. I again thank the witnesses for coming. Coming back to what Deputy Carthy was speaking about, have concerns been raised about cartel-like behaviour with the CCPC? Has it been brought to the attention of the CCPC? If so, how did it act? What evidence does it require to investigate these allegations? Previously, the CCPC more or less demanded that farmers should come up with that evidence. I do not think the onus should be on the farmers, individuals or groups to find the evidence and come forward. The CCPC seems to be putting all the onus on others to come up with something that it can investigate. Have cases come before the CCPC that it has acted on and if so, how did it act on it?

**Mr. Brian McHugh:** We received a number of complaints in 2019 or thereabout from a number of parties and spent about a year looking into them, including engaging with the complainants and relevant industry parties such as Teagasc and Bord Bia to understand the market and what was going on. There were a number of complaints, including about cartel-like activity in beef processing, foreign imports of beef, the offal market and how the in-spec system worked in terms of pricing. There were quite a few complaints; it was not just one.

We worked through those issues for about a year, engaging with different parties. We then produced a note on our website going through what the complaints were, the work that we had done, what our conclusion was in terms of the issues we saw in the market and whether there was a potential breach of competition law. That is on our website. Again, I am happy to share it and forward it on if that is appropriate. Our conclusion was that we did not have the evidence to open an investigation.

We understand that concerns exist and they are real because we engaged with and spoke to quite a number of parties. A breach of competition law is a criminal matter for which one can be brought to court and imprisoned for up to ten years. It is a very serious matter. In terms of investigating it, getting warrants and doing raids, which would be the norm for a cartel investigation, we did not have the evidence to do that. That is not to say that therefore, we then claim there is nothing to see here. We are not saying that. We understand the frustration and engage with those parties.

**Deputy Martin Browne:** Roughly, how many complaints or allegations did the CCPC get?

**Mr. Brian McHugh:** I think, off the top of my head, it was about 160. It was certainly well over 100.

**Deputy Martin Browne:** If that many people and stakeholders involved in this are coming forward with complaints and allegations, and Mr. McHugh said there was not enough evidence there to take it further, the CCPC staff must be the only people in the country that think that.

**Mr. Brian McHugh:** I understand the frustration. I have been in those meetings with farmers and their representative bodies. Again, I refer to what we can do. We have these very strong powers. We must look at what the outcome might be of an investigation. Just because

a significant number of people have concerns about an industry, for example, is not enough to get a warrant to do raids on offices.

We are not saying that therefore, this or any industry does not have cartel activity. We believe there are cartels out there in Ireland in different industries. We are very keen and put much effort into creating channels whereby parties can come forward with evidence. One of the new things we will have under ECN+, thanks to the legislation that has just passed through the Oireachtas, is a leniency. For the first time, the CCPC can now make findings of breaches of competition law and we can fine companies. What that brings is us being able to offer reductions in fines to companies. This has been a very successful tool elsewhere in Europe in identifying cartels. Most cartels are identified by parties coming forward with evidence. We now have that leniency tool and we hope that will make a difference.

**Deputy Martin Browne:** However, more than 100 people came forward-----

**Vice Chairman:** Deputy, stick to pre-legislative scrutiny.

**Deputy Martin Browne:** The CCPC cannot fine a company if it is not investigating it in the first place. The CCPC cannot just go in and fine a company without actually investigating it.

Mr. McHugh said the office must have a suite of interventions available to it that will address breaches at different times and have different effects. What does he have in mind that may not be included? Can he expand on his reference to addressing different breaches at different times?

**Mr. Brian McHugh:** I will address UTPs but we have had convictions for cartels. When we have the evidence, we will take action. We will take action against anyone in any industry where that evidence is. It is important to note that in the beef industry development, we took action in this sector around beef processing, which resulted in the fining of activities that were prohibited under competition law. There is currently a case before the courts in terms cartels as a result of a file that we sent to the Office of the Director of Public Prosecutions, DPP. We found cartels in home heating oil. We are the first country in Europe to have a criminal conviction for cartels. Again, we are here to investigate, fine and put an end to cartels. Again, I would encourage anyone with any evidence to come and engage with us, because we will engage with them. Where there is evidence, we will take action.

I will let Mr. Murphy answer the question on UTPs.

**Mr. Seán Murphy:** The observations we made are with respect to the Bill itself. We welcome that there is a suite of interventions available ranging from alternative dispute resolution, compliance notices, summary prosecution to prosecution on indictment. In our experience and opinion, having that available gives the office that flexibility to put in place a proportionate response to breaches that it may come across. For example, it not a case that for somebody with a hammer, every problem is a nail. It is a case of the office satisfying itself as to what the breach was, the intent behind it and then having something other than, let us say, something straight through to a prosecution, because in many of these relationships, it is often the case that parties will have to continue to trade with each other. Therefore, we want to maintain relationships if at all possible, which might be difficult following a criminal prosecution. I suggest that have an ADR facility certainly would encourage something such as that. A lesser intervention, but an intervention no doubt, is that compliance notice where the office is of the opinion that there has

been a contravention, puts it to the party that offended and the party has an opportunity to either accept it or appeal it. Ultimately, it then ends up before the Circuit Court, which can either accept it, vary it or vary conditions. We welcome those. It indicates a good regulatory model. It is one that we have had much success with over the years and one that we would advocate for.

**Deputy Martin Browne:** I have two more questions and then I will let others in. I ask the witnesses for their views on head 38(4)(a) which states “where the complainant so requests, the Office shall take the necessary measures ... for the appropriate protection of any other information in respect of ... [the] members or suppliers ... [etc.]”. Rather than the reference to requesting, should confidentiality not be the default position? Is the CCPC concerned that the way the text is structured could leave room for interpretation that may have an adverse effect on what may be the assumption of confidentiality?

**Mr. Brian McHugh:** Part of our submission is that the confidentiality sections could be looked at and strengthened, because complaints are a key source of information. In this industry, with regard to the supply chain, ensuring that there is confidential information is very important. We have proposed and referenced the approach in the UK, which is a stronger approach in terms of confidentiality. The adjudicator, as it is in the UK, may not make an unauthorised disclosure of information that it thinks might cause someone to think that a particular person has complained about a large retailer. Given our experience of the industry, about which I am happy to let Mr. Murphy talk, we think this is a very important area that could do with some strengthening.

**Mr. Seán Murphy:** I echo what Mr. McHugh has said. One of the challenges we face under the grocery good regulations, GGRs, and I expect it might be the same for the office going forward, is securing what I have described as robust and actionable information. That information is, ultimately, what informs either investigations, attitudes towards, or aspects of what might be going on in the markets for very understandable reasons. In fact, the UTP directive, which provides much of the genesis for what we see in the Bill, identifies that and calls out that there is a fear of retaliation. Suppliers might not wish to come forward or, certainly, might not be forthcoming, because of a possible fear of de-listing or an equivalent. We welcome the fact that there are provisions in the Bill that deal with that, in that if there is evidence to show that somebody suffered as a result of making a complaint the office has an enforcement role in that regard.

From the GGR experience, we were always at pains to stress that we would need useful information. In circumstances where there was a feeling that there was non-compliance with some aspects of regulations, we did not find that a formal complaint was forthcoming. Where the current Bill, as laid out, encourages engagement, co-operation and interaction with the various stakeholders, this could be developed and in some way assuage the fear that might be out there of coming forward with a complaint. In reality, unless one has actionable information, it is very difficult to move on it and to form a basis for an investigation. That is the background to our observation.

**Vice Chairman:** Is there any way that Deputy Browne could come down to the committee room to take over the Chair for a period? We have been called to a vote in the Seanad and we need a member to take over the Chair.

**Deputy Martin Browne:** I will come straight down.

**Vice Chairman:** I apologise to the witnesses. We are having an issue with regard to votes. Deputy Browne will now come down to take over the Chair. Senator Daly and I will go to vote



in the Seanad and will return afterwards. I ask the witnesses to bear with us.

**Deputy Michael Fitzmaurice:** The witnesses are welcome. With regard to the new body that is being set up and the CCPC, is there any change at present? Our understanding, from talking to the Minister last week, is that the body is not allowed to talk about price. It can compare with other places in Europe, for example, what cattle are making in the beef sector. It is basically nearly trying to embarrass someone, rather than being able to put the foot down with regard to price. I note that when the farming organisations to which the CCPC referred earlier met in the task force, it was very quick to send a letter that nobody could talk about price. Is that still the case from the CCPC's reading of the new regulator that will be set up, in that, basically, a farmer is no better off when it comes to talking about price?

**Mr. Brian McHugh:** Our understanding is that the UTP directive, in terms of the rules that it sets on unfair trading practices, does not include practices around the setting of prices and that the parties are free to engage in contract and agree to their prices. With regard to the discussion of prices, the point we make about them is that it is important that parties which are in competition with one another do not discuss and come to an agreement on prices to, effectively, fix them. That would be a breach of competition law. I am not sure if the Deputy is referring to that issue. In terms of our role, however, we would have an obvious concern about businesses discussing pricing among themselves, in that it would have the potential to be cartel-like activity.

**Deputy Michael Fitzmaurice:** Under competition law, is there anything to protect the-----

*Deputy Martin Browne took the Chair.*

**Acting Chairman (Deputy Martin Browne):** I am sorry. We will have to suspend. A vote has been called in the Dáil. I apologise to the witnesses. We have been called away again.

*Sitting suspended at 7.07 p.m. and resumed at 7.51 p.m.*

*Senator Tim Lombard resumed the Chair.*

**Vice Chairman:** I welcome Mr. Arnold Dillon. Witnesses giving evidence from within the parliamentary precincts are protected by absolute privilege in respect of the evidence they give to a committee. This means that witnesses have full defence in any defamation action for anything said at a committee meeting. However, they are expected not to abuse this privilege and may be directed by the Chair to cease giving evidence on an issue. Witnesses should follow the direction of the Chair in this regard and are reminded of the long-standing parliamentary practice to the effect that, as is reasonable, no adverse commentary should be made against an identifiable third person or entity.

I invite Mr. Dillon to make his opening statement. I apologise to him because he was kept waiting for an hour waiting. This has probably been one of the busiest sittings of the Dáil and Seanad. There are votes happening in both Houses at the same time. I apologise to Mr. Dillon for the delay.

**Mr. Arnold Dillon:** Retail Ireland thanks the committee for the opportunity to present the views of retailers as part of the pre-legislative scrutiny process of the general scheme of the agricultural and food supply chain Bill 2022. Retail Ireland is the representative body for the entire retail sector in Ireland. Our members include Ireland's main retail brands, including a wide range of grocery retailers, department stores, DIY, electrical retailers, clothing and fashion retailers, symbol groups, forecourts, and independent stores.

Retail is Ireland's largest private sector employer, with a presence in every city, town and village across the country. The sector directly employs over 300,000 people and supports many thousands more jobs throughout the supply chain, often in small, family run businesses. Unlike many other sectors, retail jobs are evenly spread across the country. In every region, it is either the largest or second largest employer, with its share of employment typically ranging from 12% to 15.5%. However, the positive impact of retail goes far beyond the economic benefits of the jobs it creates. Retail plays a crucial role in developing its people and improving the local communities in which it operates. It contributes to the vibrancy and prosperity of localities, and plays a major role in supporting sport clubs, community groups and charities. The grocery sector supports a vibrant and dynamic food supply chain and works with its suppliers to sustain hundreds of thousands of jobs, and provide quality, choice, and value to Irish consumers.

There is a long history of Irish law to ensure fairness in how the supply chain operates. In recent years, retailers worked closely with the Competition and Consumer Protection Commission and their suppliers to embed the grocery goods regulations introduced in 2016. More recently again, we have actively worked with the interim Unfair Trading Practice Enforcement Authority to ensure members are fully aware of their obligations under the recently introduced regulations. This has involved various briefing sessions with the enforcement authority and the provision of training on unfair trading practice, UTP, rules, in addition to the direct engagement that individual companies have with the authority. As such, retailers have done extensive work to comply with the UTP rules and prepare for the introduction of this legislation. This includes large retailers, but also many smaller grocery retailers, that are subject to the rules due to the relatively low turnover threshold.

Retail Ireland and its members recognise and appreciate the need to ensure fairness and sustainability in the agrifood supply chain. It is also important to note, particularly given the context of rising inflation and increases to the cost of living, that robust competition throughout the food supply chain is vital in delivering value for money, choice and quality to Irish consumers. Working with partners across the supply chain, the retail sector has demonstrated its ability to do this over the last decade. It is crucial that nothing is done to undermine its ability to do the same over the course of the next ten years.

Our submission sets out some specific observations regarding the legislation currently under consideration. These include a range of issues, first among which is the collection of market information. Recently, Retail Ireland has engaged with the Department of Agriculture, Food and the Marine over separate EU market transparency requirements to report on the price paid for mince and butter. In particular, to overcome issues around the sharing and management of market sensitive data and the need to ensure the collection of comparable information from different market participants. It is important that the new office for fairness and transparency engages with the retail sector on these issues into the future.

The second issue is the balance on the board. To represent all parts of the supply chain fairly and ensure balance, it is important that the board of the new office has experienced representatives from a diverse range of backgrounds. We suggest that a representative of the retail sector should constitute at least one of the ordinary members of the board. It is also important that the voice of the consumer is represented. There is strong precedent for this proposal in other State-appointed boards. In addition, to ensure balance, we would suggest that a quorum should need to include at least one independent member. In other words, the chairperson and two primary producers should not constitute a quorum. The third issue is the turnover threshold. The purpose of the UTPs and the associated enforcement authorities is to afford greater protections

to smaller suppliers and primary producers, not larger multinational corporations that have significant bargaining power in the market. As such, we believe there is no justification to increase the qualifying supplier turnover thresholds beyond the current €350 million level.

The fourth issue is the definition of grey and black UTPs and the prospect of future changes. It is important to note that the UTP rules are still relatively new having only come into force in April of last year and, as highlighted in the research presented to the UTP seminar hosted by the Department of Agriculture, Food and the Marine on 5 April, awareness of them is low. Only 50% of primary producers are aware of the existence of UTP rules and only 14% are familiar with the 16 UTPs. This rises to only 19% when all business-to-business suppliers are included in the results. Given this context, it is vital that current UTP obligations are afforded the necessary time to bed in and that this is done in a way that is not too onerous for smaller retail businesses with limited resources. If there is to be any consideration given to changing the UTP list in the future, this should be done only when it can be fully informed by an appraisal of the effectiveness of the established regulatory obligations and with adequate time for a full consultation with all relevant stakeholders. It was encouraging to hear the Minister last week confirm that the plan is not to change the current list of UTPs at this time but rather to implement and assess the effectiveness of the current system in the first instance.

Before concluding, I want to stress that the general observations of the retail sector are limited to the substance of the Bill as presented. Retail Ireland and its members take their obligations under competition rules very seriously and as such, Retail Ireland does not engage with members, or facilitate engagement between members, on matters that are in any way commercially sensitive. Members of Retail Ireland do not discuss, communicate, or exchange any market-sensitive information, including non-public information relating to prices; marketing and advertising strategies; costs and revenues; trading terms and conditions with third parties, including purchasing strategy; terms of supply; trade programmes; or distribution strategies. In this context, Retail Ireland as an association does not have an insight, and as such does not have a position, on many pricing and wider commercial issues relating to the food supply chain.

In conclusion, I would again thank the committee again for the opportunity to share the view of retailers on this piece of legislation. I am happy to take any questions on this position and if there are any areas where I do not have the relevant information to hand, I am happy to follow up afterwards.

**Vice Chairman:** I thank Mr. Dillon for his very detailed and comprehensive presentation.

**Senator Paul Daly:** I thank Mr. Dillon for his detailed submission. At the moment, Retail Ireland would be working with the CCPC. How does it envisage the working relationship when the new office of fairness and transparency in the agrifood supply chain comes into being by virtue of the fact that Retail Ireland will probably still be dealing with the CCPC? We have just heard from the CCPC. From listening to its deliberation and reading its submission, I can see there will be a lot of crossover between the new body and the role currently played by the CCPC when it comes to agrifood supply, a role that apparently will be maintained. How does Retail Ireland envisage that affecting its relationship with either organisation or both?

**Mr. Arnold Dillon:** Certainly retailers would have had a lot of contact with the CCPC in the context of the grocery code and individual members would have direct relationships with the CCPC in this regard. With the revoking of those provisions, that engagement has shifted to engagement with the interim enforcement authority, which is part of the Department and will in turn be part of this office of fairness and transparency when it gets up and running on foot of

the legislation. In terms of our role as a trade association, we would not directly engage with the CCPC on market-related issues. That would be for individual companies to do. However, we have already been working with the enforcement authority around the bedding in of the regulations around UTPs, which will flow into the activity of this new office. We have been working with the authority in terms of making people aware of the provisions. Recent surveys have highlighted that there is a lack of awareness. I do not think this is necessarily the case when it comes to retailers. We have held a number of briefings with the authority and put in place a range of training provisions. In that respect, we would be very supportive of the role of the new office in terms of promoting its activities and enforcement role in respect of UTPs. I think it will have a role in reaching out to many other participants in the supply chain to try to improve awareness of that. This is somewhat in the context of my comments about the existing list of UTPs. It is important that those are afforded an opportunity to bed in and that the office is afforded an opportunity to do that piece of work before any consideration is given to expanding that list.

What is new in terms of the functions and role of the office is the role it will play in terms of collecting data and reporting on the activities in the food supply chain. We are very happy and willing to participate in that and work with and support the office in that regard. Certain data that is market-sensitive will probably will not feature in the work of the office but it can play a valuable role in terms of informing a better understanding of the various relationships that exist in the supply chain. That will help support policy decisions into the future.

**Senator Paul Daly:** I will not hold Mr. Dillon to definitive numbers but approximately what percentage of Retail Ireland's membership would have direct dealings with the primary producer, particularly in the agriculture sector? I would imagine that the majority of the products that would be on the shelves of Retail Ireland's members would come via processors or larger outlet units. Would Retail Ireland have a very large percentage of members with direct dealings with the primary producer - in this instance, the farmer?

*Deputy Jackie Cahill resumed the Chair.*

**Mr. Arnold Dillon:** I do not have a particular percentage figure but it would be very low. That is an important point to make in the context of this discussion and a discussion around UTPs. Given that the majority of significant grocery retailers in this country would not deal directly with primary producers, in this regard, they would not have active commercial relationships with those so they would deal with food processors, suppliers and wholesalers. Some of the data that came up in that survey material in terms of people's awareness of UTPs and what relationships are subject to those new rules.

**Senator Paul Daly:** If Retail Ireland had one request regarding a change to the Bill it would like to see, what would it be?

**Mr. Arnold Dillon:** I have already mentioned that I think the UTPs should be allowed to bed in. Another issue that comes up repeatedly in conversations with members is the board. A chairperson and a board constituted of five individuals or ordinary members are envisaged. It has already been designated that two of these will be from the primary producers. There is certainly a sense that if that is to have a governance role in terms of oversight over the enforcement authority, which will obviously have very important roles in terms of monitoring activity, reporting on UTPs and potentially prosecuting parties that are in breach, there should be a broad swathe of representation on that board representing different actors in the supply chain. That is what our recommendation would be in terms of a retail representative on that board along with

a voice of the consumer.

**Senator Tim Lombard:** I have a question about the bedding-in process over the past 18 months. Mr. Dillon might give me a flavour of where he thinks the bedding-in process has happened with these UTPs and what he thinks is required to make sure there is an uptake of information. In his presentation does it state that it is the primary producer or the retailer that has the issue with knowledge of this? Where does Mr. Dillon think the deficiency is at the moment?

**Mr. Arnold Dillon:** At a recent seminar hosted by the Department a survey was presented looking at awareness of the UTP rules. It demonstrated very low awareness, particularly, I think, among primary producers but also among other actors in the supply chain and other suppliers. The larger businesses and retailers are probably very plugged into this. The UTPs are legislative obligations that have been in discussion for many years at a European level and are very much on the radar of the main players. An awful lot of work will have been done already to ensure their businesses are compliant. The challenge in respect of awareness of this falls to the smaller processors and operators in the retail sector, like in a food chain. The threshold to be subject to these rules is very different from those in the grocery code. The annual turnover threshold is only €2 million. As for the awareness campaign that has been discussed and is envisaged by the interim authority, that is probably where its targeted audience needs to be.

**Senator Tim Lombard:** That is the issue. Where does this campaign go? For the new authority, taking into consideration the lack of knowledge at primary level of the legislation brought in 18 months ago, what does Mr. Dillon envisage will be the drive to make sure we get that knowledge base for the new legislation down to the primary producer?

**Mr. Arnold Dillon:** As the representative body of the retail sector, we have been engaging directly with the interim authority in respect of outreach to our members and doing everything we can. Other associations representing other parts of the supply chain will play a key role in communicating with their members. From the comments made last week, I suspect there will be a need for a much wider campaign in that regard and, potentially, a wider media and communications campaign to make people aware of this new office and of these UTP rules.

**Senator Tim Lombard:** One of the big issues with the new forum that has been set up is the gathering of data and how that is done. I asked the previous witnesses about this issue. These are publicly available data. Does Mr. Dillon think there will be an issue with the gathering of these data? Does he think there will be a sensitivity, to say the very least, around this issue? Does he think there will be buy-in from Retail Ireland's membership in respect of these data?

**Mr. Arnold Dillon:** I do not envisage any issues with retailers when it comes to the fulfilment of that remit by the new office. In certain circumstances there are already obligations on retailers when it comes to disclosure of certain pricing information. A lot of information on relationships with suppliers is commercially sensitive and I do not envisage it being covered by the work of this office, but there is already a raft of information available publicly, and the CSO collates data regularly. We have had experience working with the Department over the past year on recently introduced new EU transparency measures on the collection of data for mince and butter, as I cited. Members had certain concerns about how those data were collected and how they would be used to ensure they were presented in a way that accurately reflected what was going on in the market. Those data were going to the European Commission, so there were also concerns that the data collected in Ireland would be comparable to the similar data that were being collected in other member states. There are therefore sometimes specific issues that



need to be looked at when it comes to how data are collected and used. I would be very keen to be engaged with the office in representing the retail perspective in that discussion.

**Senator Tim Lombard:** The key for this new organisation to be successful is the gathering of these data. Does Mr. Dillon think Retail Ireland's membership feels threatened by that issue, or will there be buy-in at a local level in that regard? Having spoken to retailers, I think they are generally concerned about this legislation. They have a view that it might be a little heavy-handed.

**Mr. Arnold Dillon:** I have not heard of those specific concerns. I repeat the point I made earlier about the constitution of the board of the office and ensuring the work of the office is done in a fair and even-handed way and with regard to fairness across the different players in the supply chain. That would be a concern of retailers, I suppose, and that would potentially feed into concerns about the sort of remit the office would have.

**Deputy Martin Browne:** I wish to ask a couple of questions about head 8. In the absence of a ban on below-cost selling, an analysis of costs and margins along the supply chain may be needed to compare profits with the amount for which the product was purchased from the supplier. What is Retail Ireland's view on doing that? If the office took that approach, would it encounter resistance from the sector? What is Mr. Dillon's view on taking that kind of approach to this?

**Mr. Arnold Dillon:** The legislation refers to information that is already publicly available, so I guess it would depend on the nature of the information being gathered. There would be sensitivities, I think, for any player at the various stages of the supply chain and concerns about market-sensitive information being disclosed and how that would be used and how other parties would be subject to similar requests. To reiterate the point I made during my opening statement, when it comes to commercially sensitive issues of profit margins and relationships between retailers and their suppliers, it is not a subject we engage our members on at all and not an area on which we facilitate engagement between members. In that respect, that is an issue we have not discussed with members. When it comes to disclosing profit margins, there may be an issue with company law as to what information is available. When it comes to publicly available information, however, we envisage the office operating on that basis.

**Deputy Martin Browne:** On a related question, which Mr. Dillon has probably just answered, what kind of information does Retail Ireland foresee retailers refusing to give the office? Would that information be of a significantly sensitive nature and would it be considered inappropriate to furnish the office with it?

**Mr. Arnold Dillon:** I fully appreciate the question. That, I suppose, is one of the outstanding questions retailers have of this office, and there is not really yet clarity on the type of information and how it would be used. Without that clarity and without a clear statement of intent from a new office, it is very hard to answer that question.

**Deputy Martin Browne:** The ICMSA has said in its submission, in respect of the food retail sector, that there should be specific reporting requirements on food retail firms that exceed certain thresholds to supply information and data on the profit margins they obtain on specific food items. That obligation should apply to large-scale food retailers where the scale of activity is above certain thresholds. Will Mr. Dillon give us a comment on that?

**Mr. Arnold Dillon:** We have not engaged on that and I have not canvassed the opinion of

members on it. As I said, the issue of margins and information in that regard is not something on which we engage with members.

**Chairman:** I call Deputy Carthy, to be followed by Deputy Fitzmaurice.

**Deputy Matt Carthy:** I thank Mr. Dillon for being here. I am trying to get a sense of the context in which Retail Ireland has approached the Bill. Does the organisation accept or believe there was a need in the first place for UTP legislation as has been enacted at EU level?

**Mr. Arnold Dillon:** It is not that the association has a view on whether or not it is needed. This is something that has been coming down the track in terms of the debate in Europe. We as a retail association and our umbrella body in Brussels, EuroCommerce, have always been actively engaged in this debate. Our primary objective in these discussions has not really been about being in favour or against it but that if this is the line of travel, we want to make sure the rules as constituted fairly reflect the concerns of retailers. This is the purpose of this conversation today. As the rules manifest in domestic law and expand to include the creation of this new office, our objective is that retail concerns are taken into consideration in the process.

**Deputy Matt Carthy:** Is it fair to say the organisation would consider its role to be to ensure the powers and scope of the new enforcement authority are limited?

**Mr. Arnold Dillon:** I do not think that is a fair characterisation. We have raised a number of issues about the UTP list but there are very good reasons for the position we set out in terms of not expanding the current list of ten black UTPs and six grey UTPs. This is not simply due to retail interest. There are other supplier interests, for example, when it comes to the grey UTPs, that see such activity as being commercially beneficial to both parties. There is also compelling consumer interest in this regard. I do not see the perspectives that we bring to the debate as being exclusive to retail but broadly, they are supported by other parties in the supply chain.

**Deputy Matt Carthy:** I will ask the question in a different way. Is there any area in the powers and scope outlined in the proposed legislation we are discussing regarding the heads of the Bill where Retail Ireland sees scope or space for expansion at this time?

**Mr. Arnold Dillon:** No. In our engagement with members we have not set out any proposal to expand the role of the office.

**Deputy Matt Carthy:** Essentially Retail Ireland's role in engaging with us and with the Bill is to limit it to within the parameters of EU law within which we are bound to operate.

**Mr. Arnold Dillon:** The starting point is different. The Bill in itself is a significant expansion of the rules that already existed. The primary objective of retailers in engaging in this discussion is to ensure the interests of retail, which is a very important sector and employs an awful lot of people, as well as of consumers, are reflected in how it is constituted. I do not think it is necessarily seen to be characterised as representing a vested interest in the supply chain.

**Deputy Matt Carthy:** Mr. Dillon does not believe Retail Ireland is a vested interest?

**Mr. Arnold Dillon:** The points set out in our submission are points that are shared and would be to the benefit of other actors in the supply chain.

**Deputy Matt Carthy:** The office will be called the office for transparency and fairness. As a result of the legislation, as Mr. Dillon reads it, where will Retail Ireland's members as retailers be obliged to provide more transparency?

**Mr. Arnold Dillon:** Certainly the office will have a significant function in terms of data gathering. Clearly there will be a significant new remit for the office that did not previously exist.

**Deputy Matt Carthy:** This is with regard to the data that will be gathered. What data will become available to the body that have not been available heretofore?

**Mr. Arnold Dillon:** I do not have any insight on this. It will really be a matter for the office once it has been established.

**Deputy Matt Carthy:** Earlier Mr. Dillon quoted a reference to publicly available data.

**Mr. Arnold Dillon:** That is a reference from the legislation.

**Deputy Matt Carthy:** As Mr. Dillon sees it, that is with regard to data that is publicly available at present. He does not see new data being made publicly available for the use of or by the new body.

**Mr. Arnold Dillon:** That is my understanding from my reading of it.

**Deputy Matt Carthy:** Retail Ireland's submission is strong on seeking assurances that what it describes as market-sensitive data will not become available to the new body.

**Mr. Arnold Dillon:** Clearly there are market-sensitive data. I do not see the legislation as it is constituted affording the office new powers for information gathering.

**Deputy Matt Carthy:** Neither do I. It is one of the problems I have with it. Beef is something this committee discusses. There is the end where the farmer is selling the product, which is either at a mart or to a factory, by and large. The prices received by farmers are publicly available. When I go into my retailer and purchase the product the prices are publicly available. The difficulty is everywhere else in between and what Retail Ireland's members pay the processors. Does Mr. Dillon consider this to be market-sensitive data that should not be divulged?

**Mr. Arnold Dillon:** There is a range of information out there that the new office will be able to draw from. Some of this does include new EU transparency rules on the disclosure of, for instance, the price of mince. Some of this is publicly available information the office will have at its disposal for its market analysis. To go back to my previous point-----

**Deputy Matt Carthy:** Does Retail Ireland have a difficulty with this in respect of mince?

**Mr. Arnold Dillon:** No, and we have been actively engaging with the Department. Retailers take their legal obligations very seriously. Compliance is very important. We have been working with our members to ensure awareness and compliance with the UTP rules.

**Deputy Matt Carthy:** Would Retail Ireland have an objection if there were transparency obligations in respect of meat cuts?

**Mr. Arnold Dillon:** That falls outside the parameters of the proposed Bill. In this respect, it is it is not an issue on which I have engaged with members. We do not-----

**Deputy Matt Carthy:** For clarity, we are engaging with the Bill to see whether the committee might propose amendments to expand it. It is in this context I am asking the question. Beyond meat cuts, if we are speaking about fresh food products and having transparency along the supply chain, would Retail Ireland have a difficulty with it?

**Mr. Arnold Dillon:** It is an issue on which I am happy to engage with members. As I have said, we do not routinely discuss with members policy on supply chain issues. We have gathered positions on the specific Bill as it is in front of us. I am very happy to take it back to members.

**Deputy Michael Fitzmaurice:** I thank the witnesses for coming before the committee. If the committee decided, as Deputy Carthy pointed out, to recommend amendments because it believed the Bill should stop below-cost selling which, unfortunately, happens in many of the supermarkets, what would be the reaction of Retail Ireland?

**Mr. Arnold Dillon:** The issue of below-cost selling is not a feature of the legislation as currently proposed. As such-----

**Deputy Michael Fitzmaurice:** No, Mr. Dillon did not listen to me. The committee, as has been pointed out by Deputy Carthy, has the right to propose amendments. If these amendments were accepted, what would be the views of Retail Ireland?

**Mr. Arnold Dillon:** We have not canvassed members recently on their position on below-cost selling. I will make a number of observations because I appreciate that committee members are anxious to hear the perspective of retailers on this. When it comes to below-cost selling, the first point to make is that such promotions are paid for by retailers and they are of enormous value to consumers. It is important to make this point, particularly in the context of the significant cost of living increases we have seen. There is also the desire of the retail sector, which is very competitive, to continue to be able to deliver value for money to its consumers. When the debate took place on the groceries order, some of the most strident advocates for its abolition were consumer advocates. We should be very careful about taking any steps that are likely to lead and push up the cost of food to Irish consumers. I also refer to the Minister's comments last week, with which we would concur, that there were very limited data to suggest it actually had the desired effect with the objectives of the ban. If that issue arises again and becomes a live and active debate, we would be happy to engage with members on that and come back to the committee to reflect those views.

**Deputy Michael Fitzmaurice:** I presume Mr. Dillon would agree that nobody should have to produce something below the cost of production.

**Mr. Arnold Dillon:** I feel it is very important that everyone on the food supply chain gets a fair margin. Obviously, Irish retailers value enormously the relationship with their suppliers. One only needs to go into any grocery store to see the value and the promotion that is placed on quality Irish produce. Certainly, Irish retailers are very anxious to continue on and have a sustainable relationship with suppliers in the future. At the same time, individual retailers must also compete in a very competitive market to make sure that they can sustain their own market share and in turn be able to deliver that quality, choice and value to Irish consumers. I reiterate the point that we are entering a phase where there is acute pressure on many consumers due to cost-of-living rises. It is very important that the retail industry is still allowed to play its role in delivering value to Irish consumers in that context.

**Deputy Michael Fitzmaurice:** This new body will be monitoring European prices and monitoring a lot of other different things. Does Mr. Dillon think it would raise an eyebrow that up to one year ago, retailers and factories had a lot of different specifications around the 30-month rule, the movements and all of the other stuff around Bord Bia quality assured specs? I assume it is the same people eating the same food in the last year so it is funny then to see all

of a sudden, when the volume was not around, that the specification of 30-month rule changed, and the four movements could then be five or eight, and the quality assurance did not matter and you got a flat price. How come the retailers could adjust to that overnight when it was alleged that it was them who required these specs for their consumers when they were giving the same stuff out to the consumers the last year?

**Mr. Arnold Dillon:** In answer to that, as a trade association we have not to date engaged with members around the specifications issues-----

**Deputy Michael Fitzmaurice:** Hold on now. Retail Ireland represents these retailers and the specifications have been here for three, four and five years, and in the last year. Nothing has changed. I am asking the question. Did the housewife or the person who buys the food decide? How come it changed all of a sudden when the numbers got tight? Is it the processor or is it the retailer? Who is it that decided that nothing could be said at present because the numbers were not there? What is the cause? With the new legislation coming in we will be monitoring what we can put into it in the line of amendments. It raises an eyebrow for anybody that in 2019, the retailers needed a list of stuff as long as a copybook to have with an animal when it was going for sale but this year they would grab your hand for an animal. How come that happens when over three and four years ago, it was put out that we had to have X, Y, and Z or the animals would not be accepted? Is it the retailers group, which Mr. Dillon represents, or is it the middle person between the retailers and the farmer that is deciding a lot of this?

**Mr. Arnold Dillon:** I reiterate that is an issue on which we do not engage with members. I will make some general observations on the issue.

**Deputy Michael Fitzmaurice:** Would it surprise Mr. Dillon that an animal for eating had to be under 30 months old, with less than four movements, and be Bord Bia quality assured, and then Retail Ireland members decided that the animals could be more than 30 months old, with five movements and did not have to be Bord Bia assured? Would that surprise Mr. Dillon?

**Mr. Arnold Dillon:** We do not engage with members on these specific issues but members are actively engaged with the beef task force on a whole range of issues.

**Deputy Michael Fitzmaurice:** The beef task force is gone. The beef task force has been gone for a long time.

**Mr. Arnold Dillon:** Those are not specific issues we engage with members on, so unfortunately I cannot answer the Deputy's question on the specifics but I will make an observation on the beef market from a retail perspective. When it comes to pricing of beef, the Deputy will be aware that 90% of beef produced in Ireland is exported. The domestic market only constitutes some 10% of beef production. Of that, only 6% ends up in the retail sector with the other percentage ending up in food services. Prices for beef are largely set by export markets. That is just a point to inform the discussion around pricing of beef and the retailers' role in that.

**Deputy Michael Fitzmaurice:** The competition authority was in here earlier and there was more stuff we could have done with asking them. In any event, does Mr. Dillon find a lot of overlap between the CCPC and this new body?

**Mr. Arnold Dillon:** There certainly were concerns last year when the Competition and Consumer Protection Commission had a role over the grocery code, and in parallel the unfair UTP regime was being set up. With the revoking of those, I do not envisage there being an issue in terms of an overlap of the current mandates of this new authority versus the role of the CCPC.



There are probably quite clear lines around competition law that the CCPC has oversight over and the UTP rules that the currently interim authority and the new office will have responsibility over into the future.

**Deputy Michael Fitzmaurice:** With regard to retail at the moment, under the circumstances of inflation and so on how is it performing in relation to the food sector? We hear that in parts of Europe certain things are not as much in demand. What is the situation here in Ireland?

**Mr. Arnold Dillon:** There are the obvious inflationary pressures in the first order, which is before we get into the consumer reaction. These pressures are obviously having an acute effect on every business operating in this country but retail is no different to that. Energy and transport costs are a significant factor in overheads. There is pressure right throughout the supply chain. While we do not engage with members on price and market-sensitive issues, one only needs to look at the data from the Central Statistics Office that suggest prices increases have clearly moved through the supply chain. From a groceries perspective, the objective of members is to try to limit the impact of that inflationary pressure on their consumers. It is a very competitive market out there, and businesses are anxious to ensure they retain their market share in that context also. There is also the wider issue of consumer spending and how it will be affected. We have line of sight on a whole category of retail rather than just grocery retail. Some elements are much more exposed to discretionary spending than others. Some are a little bit more insulated. There is a definitely a concern that there will be a fall-off in the discretionary spending that goes into certain parts of retail. If the cost-of-living squeeze continues, there will obviously be an impact as everyone tightens their belt a little bit more. Needless to say, that will feed into all operators in the market.

**Deputy Michael Fitzmaurice:** With regard to unfair trading practices, is Mr. Dillon concerned that, if an analysis of credit offered to the retail sector by the agricultural sector is carried out, some retail outfits might be shown up as requiring long periods of credit in respect of the produce they buy from those who grow it?

**Mr. Arnold Dillon:** Again, Retail Ireland does not engage with its members on specific issues in respect of individual companies' relationships with the supply chain. When it comes to payment dates-----

**Deputy Michael Fitzmaurice:** I am sorry but unfair trading practices could mean knocking a long distance out of someone who is supplying stuff that might not survive. I cannot understand why Retail Ireland does not engage with many of the issues I have asked about. You would imagine there would be unanimous agreement among retailers that they need the producers of their products.

**Mr. Arnold Dillon:** Retail Ireland provides a forum in which retailers exchange views. Due to competition law, these sorts of issues are never on the association's agenda. We do not engage with members on such issues nor do we facilitate conversations between members about them. The regulations on unfair trading practices are currently in force. The first two refer to payment thresholds of 30 days and 60 days. Retailers are in compliance with those laws. This legislation, which reinforces those regulations and the role of this new office, provides greater safeguards for primary producers and offers them recourse for any breaches.

**Chairman:** I do not think anyone else is indicating.

**Senator Paul Daly:** Deputy Ring was indicating.

**Chairman:** I only see his office on the screen. There is no one there. I thank both sets of witnesses, including Mr. Dillon, for participating in today's meeting. The next public meeting of the committee will take place on Wednesday, 13 July, at 5.30 p.m. when the committee will continue with its prelegislative scrutiny on the Agricultural and Food Supply Chain Bill 2022. The witnesses for that meeting will be representatives of the agricultural sector.

The joint committee adjourned at 8.44 p.m. until 5.30 p.m. on Wednesday, 13 July 2022.