

DÁIL ÉIREANN

AN ROGHCHOISTE UM FHIONTAR, TRÁDÁIL AGUS FOSTAÍOCHT

SELECT COMMITTEE ON ENTERPRISE, TRADE AND EMPLOYMENT

Dé Céadaoin, 6 Aibreán 2022

Wednesday, 6 April 2022

Tháinig an Romhchoiste le chéile ag 11 a.m.

The Select Committee met at 11 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies
Richard Bruton,
Joe Flaherty,
Paul Murphy,
Louise O'Reilly,
Matt Shanahan,
Robert Troy (Minister of State at the Department of Enterprise, Trade and Employment).*

* In éagmais / In the absence of Deputy Leo Varadkar.

Teachta / Deputy Maurice Quinlivan sa Chathaoir / in the Chair.

Business of Select Committee

Chairman: I thank the members for agreeing to the change of time to facilitate the address by President Zelenskyy to the joint sitting of the Houses of the Oireachtas this morning.

I remind members who are participating in the meeting remotely from within the Leinster House complex that should a division occur they will be required to make their way to the meeting room within the normal division time to vote before returning to their original location.

I must go through the public healthcare arrangements. The proceedings of Oireachtas committees are now conducted without the requirement for social distancing, with normal capacity in the committee rooms restored. However, committees are encouraged to take a gradual approach to this change. Members and witnesses have the option to attend meetings in the relevant committee rooms or online through MS Teams. All those attending in the committee rooms and their environs should continue to wear masks, continue to sanitise, wash their hands properly and often, avail of sanitisers outside and inside committee rooms, be respectful of other people's physical space and practise good respiratory etiquette. Members and all in attendance are asked to exercise personal responsibility in protecting themselves and others from the risk of contracting Covid-19. Those who have any Covid-19 symptoms, no matter how mild, should not attend the meetings.

Competition (Amendment) Bill 2022: Committee Stage

Chairman: The meeting has been convened for the purpose of considering the Competition (Amendment) Bill 2022, which was referred to the select committee by order of the Dáil on 9 February 2022. The purpose of this Bill is to give effect to Directive 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of member states to be more effective enforcers and to ensure the proper functioning of the Internal Market, ECN+. ECN+ is intended to ensure effective and consistent application of EU laws, with close co-operation by its member states. The Bill is also intended to strengthen the powers of the State in tackling white-collar crime, economic crime and corruption as part of the response to the Hamilton report, "Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption", which was published by the Minister for Justice, Deputy McEntee, in December 2020.

I welcome Deputy Troy, Minister of State at the Department of Enterprise, Trade and Employment, who is accompanied by his officials. There are 171 amendments tabled and groupings will apply to them. I propose that we try to complete our consideration of the Bill on Committee Stage today. Is that agreed? Agreed.

We will now proceed with our consideration of the Bill. I call on the Minister of State to deliver his statement.

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Robert Troy): I thank the Chair and members of the committee for facilitating Committee

Stage today, as well as for facilitating the time change. I thank all members for their support for the Bill at pre-legislative scrutiny and on Second Stage in the Dáil.

As members are all aware, this Bill is long, and it is complex legislation. The purpose of the Bill is to give effect to Directive 2019/1 of the European Parliament and of the Council of 11 December 2018, to empower the competition authorities of the member states to be more effective enforcers and to ensure the proper functioning of the Internal Market.

The ECN+ directive is intended to ensure effective and consistent application of the EU laws with close co-operation by its members. The ECN+ directive builds on the framework laid down in the EU regulation that sets up the ECN, namely, EU Regulation 1/2003 on the implementation of the rules and competition laid down in Articles 81 and 82 of the Treaty on the Functioning of the European Union.

This Bill will implement one item from the programme for Government when it puts in place a new legal regime that allows the Competition and Consumer Protection Commission, CCPC, and the Commission for Communications Regulation, ComReg, to use administrative financial sanctions when dealing with infringements of competition law. The Bill will strengthen the powers of the State in tackling white-collar crime, economic crime and corruption as part of the response to the Hamilton report, which was published by the Minister for Justice, Deputy McEntee, in December 2020.

Since the publication of the Bill, some small errors have emerged, as have places where more precision or technical language should be used. Also, other legislation that currently is being drafted by the Office of the Parliamentary Counsel, OPC, references similar terms. It is the view of the Office of the Attorney General and of my Department, that standardising language across legislation that deals with the same principles and subject matter is extremely important.

Undertakings are dealing with an increasing number of regulations and legislation. While this is better for society as a whole, it has never been the intention of my Department to introduce legislation that would needlessly hinder undertakings from operating. It does not make sense to have different terminology across legislation drafted at the same time, and dealing with many of the same issues, except where a case can be made for its necessity.

As these legislative items that deal with similar matters are at a more nascent stage than this Bill, the need to standardise terms only became apparent in recent weeks. I believe it is important to deal with these grammatical, technical and clarifying amendments in order that undertakings can better understand the rights and obligations that are being introduced in this legislation.

There are also more substantive amendments being introduced on Committee Stage. I will give more explanation for the reasons and rationales behind them when we reach them.

Chairman: We will now move on to the Bill itself and we will proceed section by section. If any member wants to come in on any section, they may indicate their intention to do so.

Sections 1 to 3, inclusive, agreed to.

SECTION 4

Deputy Robert Troy: I move amendment No. 1:

In page 7, line 33, to delete “Act of 2014” and substitute “Act of 2002 or the Act of 2014, as the case may be”.

This amendment relates to the definition of the breach of a procedural requirement. Authorised officers of ComReg have the powers to affix a seal on documents or premises as part of an investigation into potential breaches of competition law under the Communications Regulation Act 2002, while authorised officers of the CCPC have the same powers under the Competition and Consumer Protection Act 2014.

This amendment corrects an unintentional omission of ComReg from paragraph (b) of the definition by including the Communications Regulation Act 2002. It thus extends the definition of a breach of a procedural requirement to ComReg. This will then allow adjudication officers in ComReg, as well as in the CCPC, to impose an administrative financial sanction on the undertaking which has which has breached a procedural requirement.

Chairman: I thank the Minister of State. To clarify, if any member wants to come in on any section or amendment, they may indicate to me and I will bring them in. No member is indicating that they would like to come in on amendment No. 1.

Amendment agreed to.

Chairman: Amendments No. 2 and 3 are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 2:

In page 8, line 2, to delete “39(3)(c) or”.

Amendments Nos. 2 and 3 are to delete references to section 39(3) of the Communications Regulation Act 2002. Section 35 of the Bill clarifies that the existing section 39(3) of the Communications Regulation Act 2002, covering the powers of authorised officers of ComReg, does not apply to the competition powers being introduced through this Bill. Instead, two new subsections, (3A) and (3B), are included in section 39, which give the authorised officers of ComReg powers to mirror those of the CCPC when each is acting as a competition authority.

Because of the clarification in section 35 that section 39(3) of the Communications Regulation Act 2002 does not apply to authorised officers of ComReg in relation to competition matters, that subsection should not be included in the definition of what should be considered a breach of procedural requirements for competition investigation. The provisions already refer to the new subsection (3B), which is the correct reference for investigations into potential breaches of competition law. As a result, both amendments Nos. 2 and 3 are to delete section 39 from the definitions of breaking a seal and of giving false or misleading information in relation to what constitutes a breach of procedural requirement.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 3:

In page 8, line 7, to delete “section 39(3) or”.

Amendment agreed to.

Chairman: We will move on to amendment No. 4, which will be grouped with amendments Nos. 21, 28, 48 to 51, inclusive, 70, 86 and 117. These amendments are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 4:

In page 8, after line 36, to insert the following:

“ ‘commercially sensitive information’ means information the disclosure of which could reasonably be expected to—

(a) substantially and materially prejudice or harm the commercial, financial or industrial interests of the undertaking or person to which it relates,

(b) substantially prejudice or harm any other interests of a person in the conduct of the person’s business, profession or occupation, or

(c) substantially prejudice or harm the interests of the State or a public body (within the meaning of section 28N(5));”.

This grouping of amendments deals with commercially sensitive information. Amendment No. 4 introduces a definition for “commercially sensitive information” into the Bill. It is important that there is legal certainty surrounding the key terms that are used throughout this Bill. In the drafting of the Bill, which was published in February, it was felt that “commercial confidentiality” as a term was easily understood. In legislation, terms that are in common use in an industry are understood to take on the meaning that they would have within that industry. It was a concern that defining the term might be difficult and that if the definition was too narrowly defined, it may unnecessarily restrict the operation of sections of this Bill. However, after discussing the matter further, the Department is of the view that it is more important that there is certainty for undertakings in how the legislation operates. Therefore, a definition is now necessary.

The definition, as put forward in this amendment, clearly defines the term as it is understood to operate in competition law, that is, information that is disclosed would create substantial and material harm to undertakings. The intention is that the term “commercially sensitive information” will be used throughout this Bill. I believe that by including this amendment, we will clarify the legislation and make it easier for undertakings to understand and to navigate the provisions that are laid out in the Bill.

The remaining amendments in this group reflect the decision to replace the term “commercial confidentiality” with the term “commercially sensitive information”. The term “commercially sensitive information” is more widely used, particularly in relation to competition law matters. Therefore, using it would provide greater clarity for undertakings. This will work to ensure that the provisions of the Bill are clear and are easily understandable.

Amendment agreed to.

Chairman: Amendments Nos. 5, 27, 31 and 33 are related and may be discussed together by agreement. Is that agreed? Agreed.

Deputy Robert Troy: I move amendment No. 5:

In page 9, lines 5 and 6, to delete “a competent authority” and substitute “an adjudication officer”.

The amendments I am proposing are very straightforward. They are technical amendments - some deleting a word, some adding a word and some clarifying small typographical mistakes. These amendments are not policy driven; they are merely tidying up the draft. Amendment

No. 5 changes the words “a competent authority” to “adjudication officer”, because enforcement proceedings are heard by an adjudication officer specifically and not by any other function within a competent authority.

Amendment No. 27 clarifies that a referral is made to an adjudication officer in line with section 15M. Amendment No. 31 reflects that “settlement” is the more usual term used in respect of agreements reached with an undertaking in competition matters, and this is changed throughout the Bill.

Amendment No. 33 is intended to clarify that when making a referral to an adjudication officer, the competent authority has come to a preliminary opinion on foot of its investigation and reflects that it is only the adjudication officer who will make a decision on the outcome of the investigation. All of these amendments are aimed at clarifying the meaning of the sections and ensuring that the Bill reaches the high standards that this Government and the Houses of the Oireachtas are committed to upholding.

Amendment agreed to.

Section 4, as amended, agreed to.

Sections 5 to 7, inclusive, agreed to.

SECTION 8

Deputy Robert Troy: I move amendment No. 6:

In page 12, line 9, to delete “competing”.

This is another straightforward technical amendment. It is being tabled because undertakings do not always need to be competing with each other to operate as part of a cartel.

Amendment agreed to.

Section 8, as amended, agreed to.

Sections 9 to 11, inclusive, agreed to.

NEW SECTION

Deputy Robert Troy: I move amendment No. 7:

In page 15, between lines 4 and 5, to insert the following:

“Repeal of sections 13 and 14B of Principal Act

12. Sections 13 and 14B of the Principal Act are repealed.”.

This amendment repeals sections 13 and 14B of the principal Act. Section 13 of the Competition Act 2002 lays down rules on the admissibility of evidence. New rules on the admissibility of evidence are being put in place by means of the new section 15AW for inclusion in the Competition Act 2002. The new rules are required to fully transpose the ECN+ directive.

In the interests of removing the potential for any confusion or overlap of the provisions in the future, amendment No. 7 repeals section 13. Amendment No. 7 also repeals section 14B from the Competition Act 2002. This section deals with applications to the High Court for orders in relation to certain agreements. There is provision in the Bill to deal with these agreements, and again in the interests of removing the potential for overlap or confusion, section 14B

is being repealed.

Amendment agreed to.

SECTION 12

Chairman: Amendments Nos. 8 and 10 are related. Amendment No. 9 is consequential on No. 8 and amendments Nos. 8 to 10, inclusive, may be discussed together. Is that agreed? Agreed.

Deputy Robert Troy: I move amendment No. 8:

In page 15, to delete lines 13 to 26.

Some concern was expressed by stakeholders that the procedures involved section 15G(2) on the conduct of certain investigations was overly complex and put a large administrative burden on authorised officers submitting written reports on an investigation.

Section 15L outlines the detailed information and material that is required to be included in the “statement of objections” which an authorised officer submits to an adjudication officer when referring an investigation for decision. In order to reduce the administrative burden on authorised officers conducting investigations into potential infringements of competition law, it was considered that the additional written report provided for in section 15G(2) was unnecessary.

Amendments Nos. 9 and 10 are consequential to that deletion, being a renumbering of the remaining subsection and deletion of subsection (4) which refers to the report in subsection (2).

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 9:

In page 15, line 27, to delete “(3)” and substitute “(2)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 10:

In page 16, to delete lines 3 to 6.

Amendment agreed to.

Chairman: Amendments Nos. 11 to 15, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

Deputy Robert Troy: I move amendment No. 11:

In page 16, line 8, to delete “section 15G” and substitute “this Part”.

These amendments make some small technical amendments to the language dealing with prohibition notices in new sections 15H to 15G to be inserted into the Competition Act 2002 by the Bill. A prohibition notice can be used where there is a risk of serious and irreparable damage to competition law and may outline activities that an undertaking or undertakings may have to perform or cease in order to prevent this harm. Again, these amendments are aimed at clarifying the meaning of the sections and ensuring the Bill reaches high standards.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 12:

In page 16, lines 9 and 10, to delete “an ongoing infringement” and substitute “conduct which may give rise to an infringement of relevant competition law”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 13:

In page 18, line 15, to delete “inaccuracy” and substitute “error of fact or law”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 14:

In page 18, line 20, to delete “stage” and substitute “time”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 15:

In page 18, line 22, after “and” to insert “forms the view”.

Amendment agreed to.

Chairman: Amendments Nos. 16, 37, 56 to 59, inclusive, and amendments Nos. 71 to 73, inclusive, are related and may be discussed together by agreement? Is that agreed? Agreed.

Deputy Robert Troy: I move amendment No. 16:

In page 18, line 38, to delete “or 14B”.

The amendments that I am proposing are very straightforward. They are technical amendments - some deleting a word, some adding a word and, some clarifying small typographical mistakes. These amendments are not policy driven; they are merely tidying up the draft.

Amendment No. 16 also removes a reference to section 14B from section 15K, as a consequence of amendment No. 7 deleting section 14B. All of these amendments are aimed at clarifying the meaning of the sections and ensuring that the Bill is clear and unambiguous.

Amendment agreed to.

Chairman: Amendments Nos. 17, 18, 20, 23, 26, 32, 34 to 36, inclusive, 38, 44, 45, 60, 68, 74, 84, 85, 131, 134 and 135 are related. Amendment No. 135 is consequential on amendment No. 134. The amendments may be discussed together, by agreement. Is that agreed? Agreed.

Deputy Robert Troy: I move amendment No. 17:

In page 19, line 40, to delete “entered into under section 15Z” and substitute “imposed under section 15X in accordance with section 15Z”.

This amendment removes a section of the published Bill that allowed for an adjudication officer to impose a structural or behavioural remedy where the undertaking has consented. It is still possible for an undertaking to agree to a sanction but this is now to be done under section 15X with reference to section 15Z. This was done to reduce the complexity where an undertaking consents to implementing a structural or behavioural remedy. Adjudication officers

will still have the power to impose structural or behavioural remedies where they are necessary and the undertaking does not have to consent to take action without it being imposed. These will be subject to court approval in the same way as other sanctions, including administrative and financial sanctions imposed by a decision by an adjudication officer or approved by the court.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 18:

In page 20, to delete lines 5 and 6 and substitute the following:

“(c) structural or behavioural remedies under section 15Z;

(d) section 14A or 15C.”.

Amendment agreed to.

Chairman: Amendments Nos. 19, 22, 24 and 25 are related and may be discussed together.

Deputy Louise O'Reilly: It is like playing a very complicated game of bingo.

Chairman: We must get our two little ducks in line.

Deputy Robert Troy: I move amendment No. 19:

In page 20, lines 9 and 10, to delete “has, in accordance with section 15K(1),” and substitute “has”.

These amendments make small technical amendments to the language dealing with the statements of objections in the new subsection 15L to be inserted in the Competition Act 2002 by the Bill. Section 15L sets out the elements that must be included in a statement of objections and also the elements that must be present in an investigation report that is completed if a decision is made to refer the matter to an adjudication officer. These amendments, again, are aimed at clarifying the meaning of the sections to ensure the Bill is clear and unambiguous.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 20:

In page 20, line 20, to delete “ordered under section 15Z” and substitute “imposed under section 15X in accordance with section 15Z”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 21:

In page 20, lines 39 and 40, to delete “to protect commercial confidentiality, protect the rights of the parties or any other person” and substitute the following:

“to protect the rights of the parties or any other person, to protect commercially sensitive information”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 22:

In page 21, line 18, after “or” to insert “otherwise continue the”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 23:

In page 21, line 28, to delete “or 15Z(6)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 24:

In page 21, line 30, to delete “and” and substitute “for the purpose of considering whether to”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 25:

In page 21, line 42, to delete “and” and substitute “for the purpose of considering whether to”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 26:

In page 23, lines 5 and 6, to delete “or section 15Z(6)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 27:

In page 23, lines 7 and 8, to delete “determination or referral referred to in subsection (5) (e) or (6)(b)” and substitute “referral to an adjudication officer in accordance with section 15M”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 28:

In page 23, line 33, to delete “commercial confidentiality” and substitute “commercially sensitive information”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 29:

In page 24, to delete lines 9 to 12 and substitute the following:

“(12) A person who receives—

(a) a full investigation report and any submissions under subsection (9), or

(b) copies of material under subsection (2), shall not, without the prior authorisation of the competent authority, disclose the existence or the content of the material or report or submissions to any other person.”.

This amendment adds a clause to include additional material submitted relevant to the existing subsection regarding confidentiality of information with regard to the statement of objections. As materials relevant to the statement of objections may also be shared under subsection (2) of this section, it is important that any such materials are also kept confidential. There are provisions in many other areas of the Bill to ensure confidentiality of information received as part of investigations. This is intended to strengthen those provisions and to ensure that all material that should be kept confidential is dealt with in this provision.

Amendment agreed to.

Chairman: Amendments Nos. 30, 42, 43, 46, 47, 69, 132, 137, 138, 145 and 149 are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 30.

In page 24, line 19, to delete “7 days” and substitute “12 working days”.

These amendments change references from “days” to “working days”. When reviewing the Bill, we found there was an inconsistency with regard to how time was measured. Some time limits were quoted in “days” and others in “working days”. In the interests of clarity and consistency for all parties dealing with this legislation, I feel it would be better to use a uniform measure of time throughout the Bill. Specifically with regard to the period of time within the appeals on the imposition of a prohibition notice made by the courts, it was agreed to use “12 working days” as the equivalent to 14 days. This is in line with constitutional law advice on the basis of previous case law. This legislation is extremely complex and it is imperative that, where possible, it is coherent and simplified.

Deputy Louise O'Reilly: On a point of clarity, it is “12 working days” and 14 actual days. Is that the intention? Forgive my ignorance but would that bring it into line with other legislation?

Deputy Robert Troy: We are saying “12 working days” throughout because that is closest to 14 days, which brings it in line with constitutional law and also previous case law.

Deputy Louise O'Reilly: I thank the Minister of State.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 31:

In page 24, line 27, to delete “reached an agreement referred to in” and substitute “agreed a settlement in accordance with”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 32:

In page 24, line 33, to delete “or 15Z(6)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 33:

In page 24, line 38, to delete “an opinion” and substitute “a provisional opinion”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 34:

In page 25, line 5, after “section” to insert “15X in accordance with section”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 35:

In page 25, line 34, to delete “ or 15Z(6)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 36:

In page 26, line 2, to delete “or 15Z(6)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 37:

In page 26, line 25, after “necessary” to insert “for”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 38:

In page 27, lines 24 and 25, to delete “, or impose a behavioral or structural remedy under section 15Z(6),”.

Amendment agreed to.

Chairman: Amendments Nos. 39 to 41, inclusive, are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 39:

In page 28, to delete lines 27 and 28 and substitute the following:

“member of the competent authority, a member of staff of the competent authority, an authorised officer or an adjudication officer the performance”.

Amendments Nos. 39 to 41, inclusive, relate to the independence of adjudication officers with regard to sections 15P and 15Q. Section 15P, to be included in the Competition Act 2002, sets out the provisions around ensuring the independence of the adjudication officers, including that where a member of a competent authority is appointed to act as an adjudication officer, he or she may not undertake certain other duties while acting as an adjudication officer. For the sake of clarity and completeness, amendments Nos. 39 and 40 intend that this includes not undertaking such other duties that are required of an authorised officer.

Amendment No. 41, which is related to this, clarifies under section 15Q that an adjudication officer may not act as an authorised officer with regard to the relevant competition law. The original wording had, however, unintentionally precluded such an officer from acting as an authorised officer in relation to matters other than competition law. As section 35 of the Competition and Consumer Protection Act 2014 covers authorised officers in relation to both competition matters and consumer protection matters, this amendment clarifies that this only relates to competition law matters.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 40:

In page 28, to delete lines 35 and 36 and substitute the following:

“statutory duty, of the competent authority, a member of staff of the competent authority, an authorised officer or an adjudication officer the”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 41:

In page 29, line 7, after “35” to insert “(insofar as it relates to investigations of suspected infringements of relevant competition law)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 42:

In page 35, line 1, to delete “days” and substitute “working days”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 43:

In page 35, line 3, to delete “days” and substitute “working days”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 44:

In page 35, line 6, to delete “or section 15Z(6) as the case may be,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 45:

In page 35, lines 8 and 9, to delete “either section 15X(8) or section 15Z(6) as the case may be” and substitute “section 15X(8)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 46:

In page 35, line 9, to delete “days” and substitute “working days”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 47:

In page 35, line 11, to delete “days” and substitute “working days”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 48:

In page 35, lines 20 and 21, to delete “commercial confidentiality” and substitute “the protection of commercially sensitive information”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 49:

In page 35, line 32, to delete “commercial confidentiality” and substitute “the protection of commercially sensitive information”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 50:

In page 35, line 36, to delete “commercial confidentiality” and substitute “the protection of commercially sensitive information”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 51:

In page 35, line 38, to delete “commercial confidentiality” and substitute “the protection of commercially sensitive information”.

Amendment agreed to.

Chairman: Amendments Nos. 52 to 55, inclusive, are related and will be discussed together.

Deputy Robert Troy: I move amendment No. 52:

In page 36, line 17, after “witness” to insert “(including an authorised officer)”.

Section 15V relates to the admissibility of evidence and rules for oral hearings. Amendments Nos. 52 and 53 are to give clarity that as part of the power of an adjudication officer to call witnesses to an oral hearing, he or she may call an authorised officer as a witness.

Amendments Nos. 54 and 55 reflect that the adjudication officers are not given any direct budget from which to discharge expenses, as necessary, in their consideration of an investigation and making a decision. These amendments will allow for any necessary expenses incurred as a result of an oral hearing held by an adjudication officer as part of his or her consideration of the results of an investigation and making a decision, at the discretion of the adjudication officer, to be paid by the competent authority. It is important for governance of public finances purposes that the competent authority properly disburses the Estimate it receives from the Exchequer.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 53:

In page 37, lines 12 and 13, to delete “, or an authorised officer,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 54:

In page 37, lines 29 and 30, to delete “, out of moneys at the disposal of the adjudication

officer,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 55:

In page 37, line 32, after “officer” to insert “and such expenses shall be discharged by the competent authority”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 56:

In page 38, line 40, to delete “subsection” and substitute “section”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 57:

In page 39, line 14, to delete “does anything” and substitute “engages in any conduct”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 58:

In page 40, line 8, to delete “subsections” and substitute “subsection”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 59:

In page 41, line 5, after “of” to insert “the”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 60:

In page 41, line 28, after “under” to insert “this section in accordance with”.

Amendment agreed to.

Chairman: Amendments Nos. 61 to 67, inclusive, are related and will be discussed together.

Deputy Robert Troy: I move amendment No. 61:

In page 43, line 6, after “questioned” to insert “under section 15AY”.

These amendments relate to section 15X, which deals with decisions of an adjudicating officer. They are technical, grammatical and typographical amendments to clarify the language in section 15X, which outlines how an adjudication officer shall make his or her decision on the evidence of the investigation, decide whether there has been an infringement of competition law by an undertaking or association of undertakings, and subsequently decide what, if any, administrative financial sanction or other sanction will be imposed on the undertaking or association of undertakings involved.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 62:

In page 43, lines 12 and 13, to delete “according to” and substitute “in accordance with”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 63:

In page 43, line 21, after “15AY” to insert “where a final decision under subsection (2) has been made”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 64:

In page 44, lines 28 and 29, to delete “15M(1) seeking an order on consent in respect of an agreed settlement” and substitute “15M”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 65:

In page 44, line 32, to delete “sanction by order on consent” and substitute “sanction, a structural or behavioural remedy or both such sanction and such remedy,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 66:

In page 44, lines 34 and 35, to delete “the undertaking or association of undertakings concerned” and substitute “it”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 67:

In page 44, line 38, after “sanction” to insert “, the specific structural or behavioural remedy, or both, as the case may be”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 68:

In page 45, line 16, to delete “or an order under 15Z(6)” and substitute the following:

“(including, in respect of a decision under section 15X(2), both the decision under section 15X(2)(a) and, where applicable, the decision under section 15X(2)(b))”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 69:

In page 45, line 18, to delete “days” and substitute “working days”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 70:

In page 46, line 7, to delete “commercial confidentiality” and substitute “commercially sensitive information”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 71:

In page 47, line 18, after “competition” to insert “law”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 72:

In page 47, line 27, after “impose” to insert “a”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 73:

In page 47, to delete lines 30 to 38.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 74:

In page 48, line 16, after “under” to insert “section 15X in accordance with”.

Amendment agreed to.

Chairman: Amendments Nos. 75 to 83, inclusive, and 87 are related and will be discussed together.

Deputy Robert Troy: I move amendment No. 75:

In page 48, line 29, to delete “the respect” and substitute “respect”.

These amendments are general clarifications of language and some corrections of errors in the sections dealing with specific sanctions, including section 15AA, on administrative financial sanctions; section 15AB, on the calculation of administrative financial sanctions; section 15AD on periodic penalty payments; and section 15AE, on Commitments.

Amendment No. 76 clarifies how an administrative financial sanction can be imposed on a related undertaking to ensure the company structure of that undertaking does not prevent a proportionate, effective and dissuasive sanction being imposed upon the undertaking or those in control of the undertaking and that the sanction will be capable of being paid.

Amendment No. 83 is intended to expand the matters that should not prejudice an adjudication officer in deciding to impose a periodic penalty payment on an undertaking in order to compel that undertaking to comply with certain aspects of an investigation. This more fully reflect the various types of sanctions that can be imposed on an undertaking.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 76:

In page 49, to delete lines 7 to 41, and in page 50, to delete lines 1 and 2 and substitute

the following:

“(5) The adjudication officer may, having imposed an administrative financial sanction under this section on an undertaking (in this subsection referred to as the ‘sanctioned undertaking’), and where he or she considers that it is necessary to do so in order for that sanction to be effective, proportionate or dissuasive, impose the sanction (either jointly with or separately to the sanctioned undertaking) on one or more of the following:

(a) a person or undertaking that exercises direct or indirect control over the sanctioned undertaking;

(b) an undertaking of which the sanctioned undertaking is a subsidiary or parent undertaking;

(c) an undertaking the directors, shareholders or partners of which, or any other persons exercising control over which, knew or ought reasonably to have known about the matter in respect of which the administrative financial sanction was imposed on the sanctioned undertaking;

(d) a person, company, undertaking or any other entity forming part of the same economic unit as the sanctioned undertaking.”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 77:

In page 50, line 5, after “in” where it secondly occurs to insert “section”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 78:

In page 50, line 8, to delete “appropriate” and substitute “effective”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 79:

In page 53, line 9, to delete “the competent authority” and substitute “an authorised officer”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 80:

In page 54, line 8, to delete “the matter” and substitute “the matter, under section 15M,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 81:

In page 54, line 18, after “payment,” to insert “in accordance with subsection (1)(b)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 82:

In page 54, line 35, to delete “or within the specified period, within the specified period” and substitute “or within the specified period,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 83:

In page 55, between lines 35 and 36, to insert the following:

“(iii) a failure to comply with a structural or behavioural remedy, or

(iv) a failure to comply with a prohibition notice,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 84:

In page 55, line 36, after “section” to insert “15X in accordance with section”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 85:

In page 56, line 18, to delete “by an adjudication officer under section 15X,” and substitute “in criminal or civil proceedings (including proceedings under Parts 2C to 2H) under this Act,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 86:

In page 57, line 28, to delete “commercial confidentiality” and substitute “the protection of commercially sensitive information”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 87:

In page 58, line 1, after “Act” to insert “(whether criminal or civil proceedings, including proceedings under Parts 2C to 2H)”.

Amendment agreed to.

Chairman: Amendments Nos. 88 to 94, inclusive, are related. Amendments Nos. 90 to 92, inclusive, are consequential on amendment No. 89. Amendments Nos. 88 to 94, inclusive, will be discussed together.

Deputy Robert Troy: I move amendment No. 88:

In page 58, to delete lines 30 to 43 and substitute the following:

“15AF (1) The competent authority may, subject to this Act and any regulations made thereunder, and having regard to the fairness and efficiency of the procedures under this Part, Part 2C, Part 2E and Part 2G, prepare and make guidelines with respect to any matter provided for in or under this Part or Part 2C, 2E or 2G, including in relation to—

- (a) the conduct of oral hearings,
 - (b) the imposition of administrative sanctions (including the factors applicable to any order or administrative financial sanction to be imposed under section 15X and the method of calculation of administrative financial sanctions and periodic penalty payments),
 - (c) the conduct of investigations,
 - (d) the general policies of the competent authority, and
 - (e) any matter prescribed by the relevant Minister under this Part, Part 2C, Part 2E or Part 2G.
- (2) In making a decision under section 15X, an adjudication officer shall—
- (a) have regard to guidelines, if any, made and published by the competent authority under subsection (1), and
 - (b) apply guidelines made and published by the competent authority under paragraph (a) and (b) of subsection (1) unless the adjudication officer considers that, having regard to all the circumstances of the case, there is a reason not to do so.”.

These amendments relate to the conduct of investigations. Section 15AF provides that adjudication officers are bound by ministerial regulations when making decisions.

However, there was no obligation that adjudication officers should have regard to any regulations or guidelines that may be made by the competent authority. As adjudication officers are acting under the delegated authority of the competent authority, there are some guidelines of the competent authority that the adjudication officers should take into consideration in carrying out that delegated function while still maintaining their independence as an adjudicative function. One example is guidance, which the CCPC is preparing on foot of stakeholder consultations, on a methodology on how adjudication officers should go about calculating an administrative financial sanction they intend to impose on foot of a decision taken. In the interests of transparency and giving some legal certainty to undertakings, the use of a common methodology on matters to be considered and how such a calculation should be undertaken by adjudication officers is something that they should be bound to take into account. However, that methodology would not, in itself, lay down what level of administrative financial sanction should be imposed. This ensures that adjudication officers remain independent in their duties in that regard. There are also other guidelines an adjudication officer should have regard to, such as how an oral hearing should be conducted.

These amendments are intended to clarify that, while remaining independent in their function of considering the results of an investigation and making a decision on whether an infringement of relevant competition law has occurred, adjudication officers should have proper regard to relevant guidelines on how they should conduct their decision-making role. Amendment No. 88 clarifies the text in section 12(1). Amendment No. 89 deletes the existing subsection (3), with amendments Nos. 90 to 92, inclusive, being consequential renumbering of the remaining subsections. Amendment No. 93 expands the provision in section 15AG to allow authorised officers, as well as competent authorities, to follow such procedures for the conduct of an investigation as they consider appropriate, subject to the guidelines or other rules that may be in place regarding investigations. Amendment No. 94 is consequential to the inclusion of authorised officers within this provision.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 89:

In page 59, to delete lines 1 to 3.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 90:

In page 59, line 4, to delete “(4)” and substitute “(3)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 91:

In page 59, line 6, to delete “(5)” and substitute “(4)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 92:

In page 59, line 9, to delete “(6)” and substitute “(5)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 93:

In page 59, line 13, to delete “a competent authority” and substitute “competent authorities and authorised officers”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 94:

In page 59, line 14, to delete “it considers” and substitute “they consider”.

Amendment agreed to.

Chairman: Amendments Nos. 95 to 112, inclusive, are related and will be discussed together.

Deputy Robert Troy: I move amendment No. 95:

. In page 59, line 18, to delete “**Part 5**” and substitute “**Part 2E**”.

This relates to Part 2E, the leniency programme. These are mainly corrections of typographical errors and clarification of language relating to the establishment of a leniency programme in respect of administrative financial sanctions, as required under the directive. Amendment No. 100 clarifies how the CCPC and ComReg may co-operate together for the purposes of establishing a leniency programme and then co-ordinate the practicalities of operating such a leniency programme.

Section 15AP allows competent authorities to create leniency programmes in respect of infringements of competition law that are not cartels. This will allow an undertaking, when facing investigations or prosecutions relating to a possible infringement of competition law that relates to other matters, such as abuse of dominance, to apply for leniency if it discloses the

infringement and voluntarily co-operates with the competent authority's investigation concerning the application of relevant competition law. Amendment No. 112 clarifies the intention of a leniency programme under this section.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 96:

In page 59, to delete lines 23 and 24 and substitute the following:

“(a) in respect of civil proceedings under this Act, including proceedings under Parts 2C to 2H, the competent authority,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 97:

In page 59, to delete lines 32 to 35 and substitute the following:

“ ‘immunity from administrative financial sanctions’ means an exemption granted by a competent authority, in accordance with a leniency programme, from an administrative financial sanction that would otherwise be imposed on an undertaking for its participation in a cartel;”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 98:

In page 60, line 15, to delete “serious”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 99:

In page 60, line 26, after “first” to insert “undertaking in an alleged cartel”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 100:

In page 61, to delete lines 25 to 40, and in page 62, to delete lines 1 to 3 and substitute the following:

“(9) (a) The Commission and the Commission for Communications Regulation may, to the extent required for the purposes of this Part—

(i) cooperate, including by sharing information and evidence between them, in relation to a leniency statement submitted to either one of them,

(ii) co-ordinate their leniency programmes, in whole or in part,

(iii) take steps to agree procedures, or align their respective policies, as to how such programmes shall operate,

(iv) agree that either the Commission or the Commission for Communications Regulation, but not both, shall—

(I) assess a particular leniency statement, or a class of leniency statements, and

(II) decide whether to grant leniency to a particular applicant or to any other members of the alleged cartel of which the applicant is allegedly part,

(v) transfer a leniency statement, and all supporting documents or material relating to the statement, received by one competent authority under this Part to the other competent authority in order to allow the second-mentioned competent authority to assess the leniency statement, and

(vi) conclude cooperation agreements that will—

(I) facilitate the performance of their respective functions under this Part and in particular the assessment of leniency applications, and

(II) if necessary, provide for procedures for the transfer of leniency statements received by one competent authority under this Part to the other competent authority.”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 101:

In page 62, line 28, after “the” to insert “adjudication officer or”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 102:

In page 63, line 34, to delete “its leniency application” and substitute “the submission of its leniency statement”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 103:

In page 63, line 40, to delete “making” and substitute “reason of”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 104:

In page 64, line 16, to delete “applications” and substitute “statements”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 105:

In page 64, to delete lines 32 and 33 and substitute the following:

“content of, its leniency statement before the competent authority has issued a statement of objections in the enforcement proceedings”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 106:

In page 65, line 4, to delete “application” and substitute “statement”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 107:

In page 66, to delete lines 27 and 28 and substitute the following:

“be admissible in evidence in proceedings under this Act or otherwise, save in accordance with section 15AM(4).”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 108:

In page 67, line 12, after “leniency” to insert the following:

“in proceedings under this Act (whether criminal or civil, including proceedings under Parts 2C to 2H) or ”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 109:

In page 67, line 37, to delete “applications” and substitute “statements”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 110:

In page 69, line 24, to delete “application” and substitute “statement”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 111:

In page 69, line 37, after “programme” to insert “, whether as part of a leniency programme under section 15AI or as a separate programme,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 112:

In page 69, line 38, to delete “cartels.” and substitute the following:

“cartels to grant immunity from administrative sanctions to or to reduce administrative financial sanctions on undertakings in exchange for—

(a) disclosing that they have infringed relevant competition law other than by participating in a cartel, and

(b) voluntarily cooperating with an investigation by the competent authority concerning the application of relevant competition law.”.

Amendment agreed to.

Chairman: Amendments Nos. 113 to 115, inclusive, are related and will be discussed together.

Deputy Robert Troy: I move amendment No. 113:

In page 71, lines 11 and 12, to delete “a national competition authority (within the meaning of the Directive)” and substitute “a competition authority of another Member State”.

These are straightforward, technical amendments to tidy up the draft. Amendment No. 113 clarifies the language defining a competition authority in another member state. Amendment No. 114 includes a provision which had been unintentionally omitted in drafting to ensure that competition authorities in Ireland have the power to assist the European Commission conducting an inspection as required by both the ECN+ directive and EU Regulation 1/2003. Amendment No. 115 deletes a comma. All these amendments are aimed at clarifying the meaning of the sections and fully transposing the ECN+ directive.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 114:

In page 71, between lines 26 and 27, to insert the following:

“(5) Where the European Commission conducts an inspection in the State under Article 20 or 21 of Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, the competent authority shall, where requested to do so by the European Commission, assist the European Commission in carrying out such an inspection.”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 115:

In page 75, line 6, to delete “agree,” and substitute “agree”.

Amendment agreed to.

Chairman: Amendment No. 116 and Nos. 118 to 130, inclusive, are related. Amendment No. 127 is consequential on amendment No. 125. Amendments Nos. 116 and Nos. 118 to 130, inclusive, will be discussed together.

Deputy Robert Troy: I move amendment No. 116:

In page 77, line 9, to delete “section 18(4)(c), 37A or 35(8)(c) of the Act of 2014” and substitute the following:

“section 11(3)(d), 18(4)(c), 35(8)(c) or 36(6) of the Act of 2014, or an offence under section 50(5) of this Act,”.

Part 2G deals with the procedural provisions necessary for the new system of administrative financial sanctions. There are a number of amendments here. Some of them are technical to delete or add words and some clarify typographical mistakes. Amendment No. 116 corrects the reference to provisions where statements may be used in evidence in proceedings. Amendment No. 118 replaces subsection (6) to clarify the wording within it on how a leniency statement or settlement agreement may be shared. Amendments Nos. 119 and 120 include references back to subsection (6) in later subsections. Amendment No. 121 amends

the shoulder note of section 15AW on “Admissibility of evidence”.

Amendments Nos. 122 to 129, inclusive, expand the provisions in section 15AW to include all useful aspects of both the repealed section 13, which we have previously discussed, as well as applying the provisions of section 15AW to civil or criminal proceedings alike, and to the administrative sanctions proceedings that are being introduced through the Bill. Related to these amendments on evidence and in the interests of reducing the administrative burden on the competition authorities and also on undertakings involved in the proceedings, I am making provision in amendment No. 130 for Chapter 3 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 to apply to proceedings under the Bill. The effect of this amendment will be to make business records which have been used in an investigation to be admissible in such proceedings, without having to confirm such documents through oral testimony by way of exception to the rule against hearsay.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 117:

In page 77, to delete line 31 and substitute the following:

“(a) to protect commercially sensitive information,”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 118:

In page 77, to delete lines 37 to 40 and substitute the following:

“(6) Subject to this section, the competent authority shall not disclose, or otherwise grant access to, a leniency statement or a settlement submission to any person other than the undertaking or association of undertakings to which the statement or submission relates, other than where such disclosure or access is required to be provided to an undertaking or association of undertakings—

(a) that is a party to proceedings under Part 2D or 2E, or

(b) that is a party to proceedings under Part 2H, other than an undertaking or association of undertakings referred to in section 15AY(1)(b).”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 119:

In page 78, line 2, to delete “concerned” and substitute “referred to in subsection (6)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 120:

In page 78, line 6, after “undertakings” to insert “referred to in subsection (6)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 121:

In page 79, to delete line 16 and substitute “**Admissibility of evidence**”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 122:

In page 79, lines 18 and 19, to delete all words from and including “under” in line 18 down to and including “officer” in line 19 and substitute the following:

“under this Act (whether criminal or civil, including proceedings under Part 2 and Parts 2C to 2F before a court or an adjudication officer)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 123:

In page 79, line 22, to delete “subject to the following conditions:” and substitute “provided that the proof would be admissible before a court.”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 124:

In page 79, to delete lines 23 to 34 and substitute the following:

“(2) If a document contains a statement by a person referred to in subsection (3) asserting that an act has been done, or is or was proposed to be done, by another person, being an act (the ‘relevant act’) that relates to—

(a) the entry into or the making or implementation of an agreement or decision, or the engaging in of a concerted practice, the subject of proceedings under this Act, or

(b) the doing of the act or acts that constitute an abuse of a dominant position, the subject of proceedings under this Act,

then, subject to the conditions specified in subsection (4) being satisfied, that statement shall be admissible as evidence in the proceedings referred to in paragraph (a) or (b) that the relevant act was done by that other person or was proposed (at the time the statement was made or, as the case may be, at a previous time) to be done by him or her.

(3) The first-mentioned person in subsection (2) is a person who has done an act of the kind referred to in that subsection in relation to the agreement, decision, concerted practice or abuse of dominant position concerned (whether or not the same act which the second-mentioned person referred to in that subsection is alleged to have done or proposed to do).

(4) The conditions mentioned in subsection (2) are that the document referred to in that subsection—

(a) has come into existence before the commencement of the proceedings under this Act in which it is sought to tender the document in evidence, and

(b) has been prepared otherwise than in response to any enquiry made or question put by a member or officer of the competent authority, a member of the Garda Síochána, an officer of the European Commission, or an authorised officer relative to any matter the subject of those proceedings.

(5) In estimating the weight, if any, to be attached to evidence admitted by virtue of this section, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 125:

In page 79, to delete lines 35 and 36 and substitute the following:

“(6) Where the proof admitted in evidence by virtue of this section is comprised of a statement by a person—”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 126:

In page 79, line 41, after “the” where it secondly occurs to insert “court or”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 127:

In page 80, line 10, to delete “(4)” and substitute “(7)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 128:

In page 80, lines 13 and 14, to delete “of any rule of law or other enactment” and substitute “of this Act, any rule of law or any other enactment”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 129:

In page 80, lines 16 and 17, to delete “of any rule of law or other enactment” and substitute “of this Act, any rule of law or any other enactment”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 130:

In page 80, between lines 17 and 18, to insert the following:

“(8) The provisions of Chapter 3 of the
Civil Law and Criminal Law

(Miscellaneous Provisions) Act 2020 shall apply to proceedings under this Act (whether criminal or civil, including proceedings under Parts 2C to 2H of this Act).”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 131:

In page 81, line 6, after “imposed)” to insert “, other than section 15X(8),”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 132:

In page 81, line 8, to delete “days” and substitute “working days”.

Amendment agreed to.

Chairman: Amendments Nos. 133, 136, 139 to 144, inclusive, 146 to 148, inclusive, and 150 are related and will be discussed together.

Deputy Robert Troy: I move amendment No. 133:

In page 81, line 9, after “decision” to insert “under section 15Y”.

These amendments that I am proposing are straightforward. They are mainly corrections of typographical errors and clarification of language used in relation to Part 2H, which deals with appeals, court confirmation of decisions of an adjudication officer and judicial review provisions. There are also some technical amendments tidying up the draft in Part 2H.

Amendment No. 133 clarifies that a decision is made in section 15Y. Amendment No. 136 clarifies that a decision of an adjudication officer can only be appealed under the provisions of section 15AY. Amendment No. 141 also deals with clarifying the appeal provision.

Section 15AZ outlines how the court shall confirm the decisions of an adjudication officer to impose certain administrative sanctions. Amendment No. 144 deletes the existing section 15AZ(1)(b) and replaces it with a new subsection that allows for a competent authority to apply to the court on an *ex parte* basis for confirmation of the administrative sanction on foot of a decision of an adjudication officer, where the undertaking on whom the sanction will be imposed agrees to the application being *ex parte*. This is to allow for faster, less costly and less burdensome procedures for the competent authority and the undertaking involved. The application for confirmation of the decision of the adjudication officer can only be made after the time period for appeal of that decision has expired.

These amendments are aimed at clarifying the meaning of the sections and fully transposing the ECN+ directive, while ensuring that the Bill is clear and unambiguous.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 134:

In page 81, between lines 9 and 10, to insert the following:

“(ii) An undertaking or association of undertakings the subject of an order on consent under section 15X(8) may appeal to the Court against that decision not later than 12 working days after the undertaking or association of undertakings receives notice of such decision under section 15Y.”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 135:

In page 81, line 10, to delete “(ii)” and substitute “(iii)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 136:

In page 81, line 12, to delete “under this section.” and substitute the following:

“under this section, and no proceedings questioning such a decision (including an application for judicial review referred to in section 15AAA or otherwise) may be brought before the courts other than an appeal under this section or an application for confirmation under section 15AZ.”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 137:

In page 81, line 15, to delete “days” and substitute “working days”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 138:

In page 81, line 18, to delete “7 days” and substitute “12 working days”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 139:

In page 81, to delete line 36.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 140:

In page 82, line 1, to delete “an order of the Court” and substitute “rules of court”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 141:

In page 82, lines 37 and 38, to delete “could be raised by the undertaking in judicial review proceedings” and substitute “could have been raised by the undertaking in judicial review proceedings but for section 15AY(1)(a)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 142:

In page 85, line 38, to delete “15AY(1)(a)” and substitute “15AY(1)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 143:

In page 86, line 2, to delete “15AY(1)(a)” and substitute “15AY(1)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 144:

In page 86, to delete lines 4 to 11 and substitute the following:

“(b) The application under paragraph (a) may be made by the competent authority on an *ex parte* basis provided that the undertaking or association of undertakings to which the application relates informs the competent authority in writing that it agrees to the application being made *ex parte*.”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 145:

In page 86, line 20, to delete “days” and substitute “working days”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 146:

In page 87, line 13, before “order” to insert “where the application does not relate to an order under section 15X(8),”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 147:

In page 87, line 25, to delete “as to whether or not”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 148:

In page 89, line 19, after “Act” where it firstly occurs to insert “(including section 15AY(1))”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 149:

In page 89, line 40, to delete “days” and substitute “working days”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 150:

In page 92, to delete lines 25 to 29 and substitute the following:

“(b) Nothing in subsection (2) shall be construed as preventing or restricting a competent authority from bringing an appeal against a refusal of the District Court to issue a warrant under section 37 of the Act of 2014 or section 39, 40 or 40A of the Act of 2002.”.

Amendment agreed to.

Section 12, as amended, agreed to.

Section 13 agreed to.

SECTION 14

Deputy Robert Troy: I move amendment No. 151:

In page 97, line 28, to delete “retaining” and substitute “terminating the employment of”.

Where a merger has been notified to the CCPC and the CCPC has a concern that the merger may have an effect on competition in the market, the CCPC may impose interim measures on an undertaking involved in that merger. In defining these interim measures, it was intended that an undertaking could not terminate the employment of key staff when putting a merger into effect but this was included in reverse in the original Bill as published, preventing the retention of key employees. This amendment corrects that error in section 18B being included in the Competition Act 2002.

Amendment agreed to.

Section 14, as amended, agreed to.

Sections 15 to 21, inclusive, agreed to.

NEW SECTION

Deputy Robert Troy: I move amendment No. 152:

In page 103, between lines 26 and 27, to insert the following:

“Non-applicability of limitation periods to certain actions

22. The Principal Act is amended by the insertion of the following section after section 55:

“55A.(1) The matters referred to in subsection (2) may be brought, made or taken, as the case may be, by the competent authority at any time, notwithstanding—

(a) any provision (other than section 11A) of the
Statute of Limitations

Act 1957, and

(b) any provision of the
Statute of Limitations (Amendment) Act 1991

.

(2) Subsection (1) applies to the following matters:

(a) an action under section 14A;

(b) issuing a prohibition notice under section 15H; (c) a referral under section 15M.”.

This is the insertion of a new section relating to the Statute of Limitations. The CCPC brought to the attention of the Department the fact that there is little guidance in how limitation periods apply in cases of civil enforcement proceedings. The Statute of Limitations Act 1957 contains a six-year limitation period for actions for breach of statutory duty. In the absence of any express limitation period under the Competition Act 2002, the general six-year limitation period for actions for breach of statutory duty could be applied by analogy to civil enforcement actions brought by the CCPC.

To date, the CCPC’s practice has been to adopt a six-year time limit for initiating legal proceedings under section 14A of the 2002 Act in order to reduce the risk that any proceedings could be found by a judge to be time-barred. However, whether civil enforcement actions brought by the CCPC are subject to any statutory limitation period is an issue that has not yet been considered and adjudicated upon by the Irish courts. Legal proceedings taken by the CCPC could potentially be characterised as a public enforcement action, for which there is no statutory limitation period.

With respect to the new administrative regime, the CCPC considers that it would be very helpful for the primary legislation to clarify that there is no statutory limitation period for the CCPC to initiate administrative proceedings. Investigations into potential breaches of competition law are normally complex and can take a long time. For example, the recent investigation into price signalling in the motor insurance sector was started in 2015 and only concluded in 2021. It is not intended to allow the CCPC to delay in taking proceedings, where those are necessary, but it is also important the CCPC is afforded sufficient time to undertake its investigations and gather all the evidence necessary for proceedings, and that those proceedings do not then fail due to timing issues. I consider this to be a useful clarification for the CCPC to enable it to be more effective as it undertakes investigations and enforces competition law in the future in the public interest.

Amendment agreed to.

SECTION 22

Chairman: Amendments Nos. 153 to 155, inclusive, and 157 to 159, inclusive, are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 153:

In page 103, line 30, to delete “definition” and substitute “definitions”.

Amendments Nos. 153 and 154 include a new definition needed for section 10 of the Competition and Consumer Protection Act 2014 on relevant competition law.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 154:

In page 103, to delete lines 31 and 32 and substitute the following:

“ “ ‘Regulation of 2003’ means Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty;

‘relevant competition law’ has the same meaning as it has in the Act of 2002;”.”.

Amendment agreed to.

Section 22, as amended, agreed to.

SECTION 23

Deputy Robert Troy: I move amendment No. 155:

In page 103, between lines 34 and 35, to insert the following:

“(a) in paragraph (c) of subsection (1), by the substitution of “on its own initiative, in response to a complaint made to it by any person, or to assist with an investigation conducted by the European Commission or a competition authority of another Member State in accordance with the Regulation of 2003,” for “either on its own initiative or in response to a complaint made to it by any person,”.

Amendment agreed to.

Chairman: Amendments Nos. 156 and 160 are related and may be discussed together.

Deputy Louise O'Reilly: I move amendment No. 156:

In page 103, between lines 34 and 35, to insert the following:

“(a) in subsection (3) by the insertion of the following paragraph after paragraph (j)—

“(ja) shall promote the interests of consumers by providing information in relation to price increases in the energy and fuel sectors,”.”.

I am hopeful the spirit of agreement which has broken out recently will continue. We shall see. I submitted amendments Nos. 156 and 160 to enable me to converse with the Minister of State on the need for the CCPC to promote the interests of consumers by providing information on price increases in the energy and fuel sector. This is a topical subject. The CCPC already undertakes this type of activity in respect of the financial services sector and promotes the interests of customers by providing information concerning financial services. The CCPC does great work, but what I am interested in hearing the Minister of State comment on is if he thinks that work could be expanded slightly to cover the energy and fuel sector. In the context of the current energy and fuel crisis, consumers would be open to receiving easily understood and digestible information regarding price increases in the sector.

Turning to amendment No. 160, during the past 18 months when energy and fuel costs were rising and international experts and analysts were predicting further rises, little by way of information was provided for consumers. Often, the information consumers get is that the price has gone up, after that has happened. With that in mind, consideration should be given to tasking the CCPC with undertaking analyses, studies and surveys on energy and fuel cost increases and publishing the information, which will only benefit customers.

Deputy Robert Troy: I thank Deputy O'Reilly for her proposed amendment. I genuinely and fully understand the spirit in which it is being tabled. We are all at one in this area. We are all aware of the present volatility in electricity, gas and fuel prices. In part, this is being driven by geopolitical factors and the war in Ukraine, which we all heard about earlier during President

Zelenskyy's address to the Houses of the Oireachtas. When we hear what the Ukrainian people are dealing with, we are fortunate we are in a position where we have an operating democracy. While we can disagree, we do it respectfully.

The CCPC has publicly confirmed, and representatives from the organisation have appeared before this committee, that it is assessing a significant number of complaints received concerning fuel prices at the pumps, including in the context of the excise rate cut brought into effect on 10 March 2022. As part of this process, the CCPC is engaging with the complainants and the industry and will obtain any additional information required. The CCPC has publicly committed to providing an update on that work in due course. When I met the chair of the body, I asked him to do that as quickly as possible. The CCPC is conducting that work under its existing powers and in response to many complaints in the context of unusual market conditions.

The proposed amendment to section 11 of the Competition and Consumer Protection Act 2014 encompasses several markets, covering electricity, gas and oil. Several relevant State bodies already have responsibilities for these sectors. Electricity and gas markets are interlinked in several ways and come within the scope of the sectoral regulator, which is the Commission for Regulation of Utilities, CRU. The CRU conducts market monitoring and publishes regular reports on conditions in the electricity and gas markets, including information on average prices, switching and renegotiations and changes in the market shares of suppliers and generators. The Department of the Environment, Climate and Communications provides data to the European Commission on consumer prices for the weekly oil bulletin, including home heating oil-gas oil, unleaded 95, and diesel and heavy fuel oil. The Central Statistics Office, CSO's, monthly consumer price index, CPI, includes the component "Housing, Water, Electricity, Gas & Other Fuels" and is another way in which prices in these markets are tracked. I believe the proposed amendment to section 11 of the 2014 Act is therefore not required as the CCPC's existing functions and powers under that Act are sufficient to permit it to undertake a study or analysis of any market, which may include energy and fuel markets.

I must also consider how the proposed amendment to section 11 of the 2014 Act could seriously impact on the ability of the CCPC to carry out its primary functions. There is a risk that the proposed amendment could lead to an expectation that the CCPC would become a price monitor or regulator for the energy and fuel sectors. This would be a significant change to the role of the CCPC and would create difficulties in the ability of the CCPC to deliver coherently on its primary functions. Therefore, while I thank the Deputy for her proposed amendment, unfortunately, we are unable to accept it.

Deputy Louise O'Reilly: The CCPC already does something similar concerning financial services. Representatives from the CCPC attended this committee and I met them separately as well. It struck me that the volume of correspondence received on this subject indicates there is a view among people that perhaps the CCPC should have a role in this regard. The work the agency does on financial services does not impinge on its other endeavours. Between now and Report Stage, I ask the Minister of State to give some more consideration to this proposal. I do not think it would in any way cross over into other functions, because this type of activity is done already by the CCPC. Therefore, I ask the Minister of State to reflect on my suggestion and see if there might be some sort of a role for the CCPC in this regard. That so many people have contacted the agency shows there is an appetite for the CCPC to have some role in this area.

Deputy Robert Troy: It does have the power. As the Deputy quite rightly stated, a substantial number of complaints have been submitted to the CCPC. They were put on the record

of the Oireachtas committee and raised in the CCPC's correspondence with me. The Deputy said she met the representatives of the commission and that they are analysing the complaints. If the commission feels that complaints are valid, it has the power to explore them further. I encourage anybody with evidence that substantiates or supports the work of the CCPC to come forward with it. This Bill will give the CCPC additional powers so that if it finds companies engaging in uncompetitive behaviour, be it in the energy sector, insurance sector or any other, it will have for the first time the capacity to impose administrative sanctions. A very welcome development in the directive and legislation, which I hope we will enact in the coming weeks, is that there will be a leniency provision. This will give comfort to somebody in the sector with in-depth knowledge to come forward and assist the CCPC in doing its work. When somebody in a sector exposes a matter or acts as a whistleblower, we can really get to the bottom of things. This Bill will be very beneficial to the CCPC. At present, the CCPC can conduct further analysis if it deems it warranted.

Deputy Louise O'Reilly: I propose to withdraw the amendment but I reserve the right to table it again on Report Stage.

I thank the Minister of State and his officials for all the work that has gone into this Bill. On going through the amendments, I realise it must have been considerable. I wanted to say that now in case I forget to later.

Amendment, by leave, withdrawn.

Deputy Robert Troy: I move amendment No. 157:

In page 104, line 4, to delete "substitution" and substitute "insertion".

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 158:

In page 104, line 4, to delete "for" and substitute "after".

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 159:

In page 104, to delete lines 6 to 8 and substitute the following:

"“(ca) the referral of a matter to an adjudication officer for decision under section 15M of the Act of 2002.”.”.

Amendment agreed to.

Section 23, as amended, agreed to.

Amendment No. 160 not moved.

Sections 24 and 25 agreed to.

NEW SECTION

Chairman: Amendments Nos. 161 and 164 are related and may be discussed together.

Deputy Louise O'Reilly: I move amendment No. 161:

In page 104, between lines 21 and 22, to insert the following:

“Amendment of section 21 of Act of 2014

26. Section 21 of the Act of 2014 is amended by the insertion of the following subsection:

“(2) When considering the provision of moneys to be provided to the Commission, the Minister may give consideration to the additional powers the Commission may have undertaken, or been provided with, in a given year, and the increased expenses the Commission may have incurred as a result.”.”.

The purposes of amendments Nos. 161 and 164 are broadly similar. The amendments recognise the new powers that will be conferred on the commission by the passing of this legislation. These will naturally mean its workload will increase. The concern in such instances is that unless the money is provided to reflect the increased workload that the commission will be taking on, existing staff will be stretched to the point that it affects the organisation’s ability to carry out necessary functions to the best of its ability. For this reason, I have submitted my amendments. We need to make sure the organisation is fully resourced and funded to deliver on what we all agree is extremely important work.

Deputy Robert Troy: I agree wholeheartedly with the Deputy that it is important that a regulatory body be adequately resourced to coincide with any necessary legislative provision that gives it additional powers. My Department and the CCPC recognise that significant adequate additional resources will be required to implement the new legislation. In the past two budgets alone, the CCPC has received an increase of over 30%. It currently has 146 staff and intends to increase this to more than 200 by the end of this year. If the CCPC assessment is that additional funding is required based on the structures required under this Bill, it can submit an increased Estimate bid as part of the budget 2023 negotiations. This bid is subject to agreement by the Tánaiste and Minister for Enterprise Trade and Employment and, if approved, will be incorporated into the overall departmental Estimates package, which will be the subject of negotiation with the Department of Public Expenditure and Reform for budget 2023. The Deputy’s amendments would set an unusual departure from that process whereby past spending would have to be accounted for rather than projected spending. Accounting for projected spending is the norm. While I thank the Deputy for the proposal, I am unable to accept these amendments.

If the budgets had been based on past performance in 2017 and 2018, the commission would not have received the additional 30% in budgets 2021 and 2022. The best way is for the CCPC to come forward in advance of the budgetary process and make a business case for the funding it needs to carry out its work. Recognising that this Bill was coming and to assist the CCPC in doing the necessary work and restructuring, we have made funding available in the past two years.

Deputy Louise O’Reilly: I thank the Minister of State for the response. He understands what I am saying. Nothing I propose would preclude an increase in the budget, as he knows. In giving the CCPC additional responsibilities and powers, we must make sure the resources are in place. All the powers in the world are no good if they cannot be exercised because of resource constraints, and this would not assist the commission in doing its job and helping consumers.

Deputy Robert Troy: I genuinely believe that the best way to negotiate budgets is to look forward and not at historical performance. The CCPC can make a business case as to what is needed to run the service it provides adequately. We have demonstrated in the past two budgets

that we recognise a resource increase is needed. In the past two budgets, an increase of 20% was given to the CCPC. Its current staff complement, 146, will increase to 200 by the end of the year. That is a testament to our recognition of the additional resources needed for the commission to implement what is in the new legislation. I disagree with the Deputy on the setting of the budgets for the commission.

Deputy Louise O'Reilly: On the basis of the discussion, I am happy to withdraw the amendments. I reserve the right to resubmit both on Report Stage.

Amendment, by leave, withdrawn.

Section 26 and 27 agreed to.

NEW SECTIONS

Chairman: Amendments Nos. 162 and 163 are related and may be discussed together.

Deputy Louise O'Reilly: I move amendment No. 162:

In page 105, between lines 30 and 31, to insert the following:

“Amendment of section 26 of Act of 2014

28. Section 26 of the Act of 2014 is amended by the deletion of subsection (2).”.

I am not necessarily wedded to these amendments, which relate to the deletion of sections of the legislation, but I would like to explore further why the members of the CCPC or the chairperson cannot, in the performance of duties, question or express an opinion on the merits of any policy of the Government, or a Minister, or the merits of the objectives of such a policy. I get that if certain policy and other decisions are taken in the interest of the performance of the CCPC but, on matters such as funding and resources, I have a concern over what would occur if a Minister deliberately underfunded the organisation to ensure it could not do its job effectively. There is no suggestion at all that any current Minister has any intention of doing this. Should a Minister deliberately underfund the organisation to ensure it could not do its job effectively, the chairperson should be allowed to raise that, at the very least, with a committee, particularly where funding and resources are an issue.

This is more of a belt, braces and baler twine-type approach to insulate the CCPC from something that might happen. I am sure the Minister of State will agree it would not be okay for any future Minister to defund an organisation as important as the CCPC and for that organisation not to then have the capacity to come before an Oireachtas committee to discuss the policy objectives of the Government.

Deputy Robert Troy: I fully appreciate where the Deputy is coming from and what she wants to achieve. I will give her a little context for where we are coming from. The CCPC is a statutory body and the legislation underpinning it gives it statutory functions that give effect to policy. It has a number of functions under section 10 of the Competition and Consumer Protection Act 2014, which include the power to make recommendations to the Government on any matter impacting on consumer protection or competition, making recommendations to the Government on proposals for legislative change concerning consumer protection or competition, and submitting to any Minister proposals for amendment of an enactment, or for a new enactment, concerning consumer protection or competition. Thus for the chair to criticise policy would effectively be to criticise the CCPC's own statutory functions, although I accept

the Deputy is not talking about policy but resources.

Advice is given by the CCPC, and frequently sought by the Minister, in examining policy under the remit of the agency. This is a fundamental tenet of the CCPC as the then Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, noted during the Oireachtas debate when the CCPC was being established in 2014: “The objective here is not to direct the ... [CCPC] in any area where it has independent freedom of movement and its own statutory remit.” The prohibition on commenting on Government policy serves to protect the CCPC’s independence in its enforcement functions. The CCPC does not consult with the Department in respect of appearing before the Oireachtas Joint Committee on Enterprise, Trade and Employment or before the Committee of Public Accounts. This is part of ensuring the CCPC has full independence in carrying out its statutory duties.

Deputy Louise O’Reilly: I will raise a scenario, for example, where a Minister deliberately underfunds the CCPC to the extent that it cannot carry out its statutory functions and the chairperson appears in front of the Committee of Public Accounts or any other committee and is questioned on it. If it happens to be Government policy to not direct funds in that way, the CCPC is precluded from commenting on that. I am not suggesting it is a problem we have now. As I said, this is something for the future, but to the extent that the CCPC may have the capacity to bring those concerns it could not do so if it was considered policy, even though the Committee of Public Accounts or this committee are the very places it should be bringing those concerns. I am not trying to bounce the Minister of State into accepting the amendment, but does he agree there is some merit in affording that protection? He talked about the protection that is there and protecting the independence of the CCPC. That is very important but, equally, it infringes on the CCPC’s independence if it cannot come before a committee to talk freely about a matter of Government policy, which in this instance specifically relates to funding and resources.

Deputy Robert Troy: I will point out the State is bound by EU law to fully resource competent authorities, including a competition authority. That safeguard is in place. If any future Government decided not to adequately resource the CCPC, it would be going against the EU. The provision the Deputy is proposing to delete is a standard enough provision for statutory bodies, such as the CCPC. The 2003 legislation establishing Science Foundation Ireland contained a similar provision. Indeed, the legislation that was before the committee just last year relating to the Corporate Enforcement Authority, CEA, also contained similar provisions. It is not something new that is being introduced-----

Deputy Louise O’Reilly: No. I appreciate that.

Deputy Robert Troy: -----for the CCPC. As I outlined in my opening contribution, it is more to protect the independence of where it is coming from. I accept and share the Deputy’s concerns regarding some future government because this Government has proved in the past number of years that we have been resourcing the CCPC and the CEA in recognition of their increased powers and additional responsibilities. If there is a case where a future government decides not to adequately resource those bodies, it is bound by the EU and a complaint could be made there if such bodies were not adequately resourced. I do not envisage that happening.

Deputy Louise O’Reilly: I will withdraw that amendment. I will do some further research into the capacity of the EU and how rapid a response might be in that scenario. I reserve the right to resubmit on Report Stage.

Chairman: Is the Deputy withdrawing amendments Nos. 162 and 163?

Deputy Louise O'Reilly: Yes.

Amendment, by leave, withdrawn.

Deputy Louise O'Reilly: I move amendment No. 163:

In page 105, between lines 30 and 31, to insert the following:

“Amendment of section 27 of Act of 2014

28. Section 27 of the Act of 2014 is amended by the deletion of subsection (7).”

Amendment, by leave, withdrawn.

Section 28 agreed to.

NEW SECTION

Deputy Louise O'Reilly: I move amendment No. 164:

In page 107, between lines 7 and 8, to insert the following:

“Amendment of section 28 of Act of 2014

29. Section 28 of the Act of 2014 is amended by the insertion of the following subsection after subsection (1):

“(1A) When considering the appointment of staff to the Commission, the Minister may give consideration to the additional powers the Commission may have undertaken, or been provided with, in a given year, and the increased workload the Commission may have incurred as a result.”.”

Amendment, by leave, withdrawn.

Sections 29 and 30 agreed to.

SECTION 31

Chairman: Amendments Nos. 165 and 169 are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 165:

In page 107, to delete lines 36 and 37 and substitute the following:

“(a) by the substitution of the following subsection for subsection (1):

“(1) For the purpose of—

(a) obtaining any information which may be required in relation to a matter under investigation under the Act of 2002 or Article 101 or 102 of the Treaty on the Functioning of the European Union,

(b) carrying out any inspection or other fact-finding measure on behalf and for the account of a competition authority of another Member State in accordance with Article 22(1) of the Regulation of 2003,

(c) undertaking inspections considered necessary by, or ordered by, the European Commission with which the Commission has been requested to assist in accordance with Article 22(2) of the Regulation of 2003, or

(d) assisting the European Commission with an inspection conducted by the European Commission in accordance with Article 20 or 21 of the Regulation of 2003,

an authorised officer may, on production of a warrant issued under subsection (3) or (3A) authorising him or her to exercise one or more specified powers under subsection (2), exercise that power or those powers.”.

Amendment No. 165 expands the existing provision in section 31 in respect of the powers of the CCPC to provide mutual assistance to the European Commission and competition authorities in other member states with investigations of potential breaches of competition law under section 37 of the Competition and Consumer Protection Act 2014. This amendment will ensure that the CCPC can facilitate all of the mutual co-operation provisions laid out in the ECN+ directive and its underlying framework of co-operation between competition authorities in the EU in EU Regulation 1/2003, which originally established the European Competition Network.

Amendment No. 169 gives the same power to ComReg, under section 35, to offer mutual co-operation under section 39 of the Communications Regulation Act 2002 when it is acting as a competition authority. The ability to facilitate mutual assistance and co-operation with the European Commission and competition authorities in other member states is a requirement under Article 24 of the ECN+ directive. These amendments are necessary to fully implement this requirement for the CCPC and ComReg.

Amendment agreed to.

Chairman: Amendments Nos. 166 and 174 are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 166:

In page 109, to delete lines 14 to 18 and substitute the following:

“(c) in subsection (3)—

(i) by the substitution of “Subject to subsection (3A), if a judge” for “If a judge”,
and

(ii) by the substitution of “an offence under the Act of 2002, or an infringement, whether or not the infringement is criminal in nature, of relevant competition law, within the meaning of the Act of 2002,” for “an offence under the Act of 2002”,

and

(d) by the insertion of the following subsection after subsection (3):

“(3A) Where an authorised officer provides information on oath to a judge of the District Court for the purpose of a warrant being issued in relation to an inspection referred to in subsection (1)(d)—

(a) the information on oath so provided shall include—

(i) a statement to the effect that the information on oath is being provided

in relation to an inspection referred to in subsection (1)(d), and

(ii) sufficient information to allow the judge of the District Court to discharge his or her functions under the Regulation of 2003,

(b) before issuing the warrant, the judge of the District Court shall—

(i) where the warrant would, if issued, authorise the authorised officer to exercise powers under subsection (2) in relation to any place or land other than that referred to in subparagraph (ii), including the home or private vehicle of a director, manager or any member of staff of an undertaking, have regard to the matters referred to in Article 21(3) of the Regulation of 2003, and

(ii) where the warrant would, if issued, authorise the authorised officer to exercise powers under subsection (2) in relation to any place or land of an undertaking or association of undertakings, have regard to the matters referred to in Article 20(8) of the Regulation of 2003,

and

(c) the judge of the District Court, shall, where he or she is satisfied as regards the matters referred to in Article 20(8) or 21(3) of the Regulation of 2003, as the case may be, issue a warrant authorising an authorised officer (accompanied by such other authorised officers or members of the Garda Síochána or both as provided for in subsection (5) of section 35) at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter and search the place or land using reasonable force where necessary, and exercise all or any of the powers conferred on an authorised officer under this section.”.”.

The purpose of the two amendments is to clarify how an authorised officer shall apply for a warrant and to give the competent authority a route to appeal where an application for a warrant to the District Court is refused. It was also necessary to include the requirement to undertake searches on foot of a warrant for competition matters for ComReg so that authorised officers of both agencies, when acting as competition authorities, are acting under the same powers and obligations.

There are two separate amendments as the relevant provisions are contained in the Competition and Consumer Protection Act 2014 for the CCPC, in the Communications Regulation Act 2002 for ComReg, and not in the Competition Act 2002.

Amendment agreed to.

Section 31, as amended, agreed to.

SECTION 32

Chairman: Amendments Nos. 167 and 172 are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 167:

In page 109, to delete line 38 and substitute the following:

“requirement.

(4) A person who—

(a) provides the Commission or delegate, as the case may be, with information that the person knows, or ought reasonably to know, is false or misleading in a material respect, or

(b) fails, without reasonable cause, to provide information pursuant to a requirement under subsection (1),

is guilty of an offence.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or

(b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 5 years or both.”.”.

The purpose of the two amendments is to make it an offence under the new provisions for an undertaking, or association of undertakings, to provide information that it knows, or ought to know, to be misleading. There is a new section for the CCPC and ComReg regarding how requests for information shall be made, and the obligation for a person, an undertaking under investigation or a delegate to respond to that request for information. However, the existing provision in section 50 makes it an offence to submit false information and sanctions are available to the CCPC if such an offence occurs.

It was considered that creating an offence for the submission of false or misleading information to a competent authority was important because such information may be considered as part of an investigation or when making a decision which could erroneously lead to a significant administrative financial sanction or other sanctions being imposed on an undertaking. A competent authority needs to be capable of sanctioning any party which submits false or misleading information to prevent such consequences.

There are two separate amendments because the relevant provisions are contained in the Competition and Consumer Protection Act 2014, for the CCPC, and the Communications Regulation Act 2002, for ComReg, and not in the Competition Act 2002.

Amendment agreed to.

Section 32, as amended, agreed to.

SECTION 33

Deputy Robert Troy: I move amendment No. 168:

In page 113, to delete lines 7 to 13 and substitute the following:

“(k) in section 14—

(i) by the substitution of the following subsection for subsection (1):

“(1) Evidence obtained as a result of surveillance carried out under an authorisation or under an approval granted in accordance with section 7 or 8—

(a) may be admitted as evidence in criminal proceedings, and

(b) shall not be admitted as evidence in proceedings other than criminal proceedings, or used for the purpose of investigating any matter other than a criminal matter.”,

and

(ii) by the substitution of “member of the Defence Forces, officer of the Revenue Commissioners or authorised officer of the Competition and Consumer Protection Commission” for—

(I) “member of the Defence Forces or officer of the Revenue Commissioners” in subsection (4)(a), and

(II) “member of the Defence Forces or an officer of the Revenue Commissioners” in subsection (5).”.

This amendment is to provide clarification that any evidence gathered by the CCPC using these new surveillance powers can only be used in the pursuance of criminal cases and will not be used to pursue a civil case. Deputies will recall that during pre-legislative scrutiny of the general scheme of the Bill it was made clear that the granting of surveillance powers to the CCPC was for the purposes of investigation of the most serious cartel cases only.

Deputies may recall that the general scheme of the Bill contained a head to add interception powers to the toolbox of the CCPC. On reflection, I would like to defer that particular proposal pending further consultation with my colleague, the Minister for Justice. I am informed that the Department of Justice has undertaken a comprehensive review of the State’s legislative framework for interception powers. That framework, as provided for in the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993, is quite dated and in need of complete overhaul. The review will, however, be a comprehensive review of the powers necessary to ensure that the bodies are properly equipped in dealing with ever-expanding forms of communication and that there are in place the necessary safeguards and oversight mechanisms to ensure we have a modern interception framework regime in the State.

I can see merit, particularly in light of this review, in the view that the State and the public would be better served with a single statutory framework dealing with these powers rather than a diffusion of such powers through sector-specific legislation with different approaches to oversight. That is not to say that these powers will not be available to the CCPC. I am assured that they will be introduced as part of that comprehensive exercise.

Chairman: Is the Minister of State withdrawing the amendment or deferring its introduction for the moment?

Deputy Robert Troy: I am.

Chairman: The Minister of State was going to seek clarification.

Deputy Robert Troy: I am moving amendment No. 168, which relates to surveillance. I was clarifying a part of the Bill that is not included but that we spoke to at an earlier point in the drafting.

Chairman: In that case, we are going ahead with amendment No. 168.

Deputy Robert Troy: That is correct.

Amendment agreed to.

Section 33, as amended, agreed to.

Section 34 agreed to.

SECTION 35

Deputy Robert Troy: I move amendment No. 169:

In page 114, to delete lines 6 to 10 and substitute the following:

““(3A) For the purpose of—

(a) obtaining any information which may be required in relation to a matter under investigation under relevant competition law,

(b) carrying out any inspection or other fact-finding measure on behalf and for the account of a competition authority of another Member State in accordance with Article 22(1) of the Regulation of 2003,

(c) undertaking inspections considered necessary by, or ordered by, the European Commission with which the Commission has been requested to assist in accordance with Article 22(2) of the Regulation of 2003, or

(d) assisting the European Commission with an inspection conducted by the European Commission in accordance with Article 20 or 21 of the Regulation of 2003,

an authorised officer may, on production of a warrant issued under section 40A or 40B authorising him or her to exercise one or more specified powers under subsection (3B), exercise that power or those powers.”.

Amendment agreed to.

Chairman: Amendments Nos. 170, 171 and 173 are related and will be discussed together.

Deputy Robert Troy: I move amendment No. 170:

In page 116, line 11, to delete “and”.

All three amendments deal with the changes needed for authorised officers of ComReg. Amendment No. 171 expands the amendments already being made to section 39 of the Communications Regulation Act 2002 relating to the powers given to authorised officers of ComReg when it is acting as a competition authority. There are some additional powers which are available to authorised officers of the CCPC when acting as a competition authority, under section 37 of the Competition and Consumer Protection Act 2014, when compared with the existing power of authorised officers of ComReg. It is important that the powers of authorised officers of both agencies, when acting as a competition authority, are the same to allow them to be fully effective in investigating possible breaches of competition law and also to avoid any potential challenge to an investigation conducted by either competent authority in the courts where their powers may differ. This amendment for ComReg’s authorised officers mirrors the additional powers being given to authorised officers of the CCPC through earlier

amendments. It also mirrors the existing powers of authorised officers of the CCPC under section 37 of the 2014 Act.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 171:

In page 116, to delete lines 12 to 14 and substitute the following:

“(d) in subsection (5), by the substitution of “An authorised officer, other than where exercising functions in relation to a matter under investigation under relevant competition law, shall not” for “An authorised officer shall not,”, and

(e) by the insertion of the following subsections after subsection (7):

“(8) Where a member of the Garda Síochána arrests, whether in a Garda Síochána station or elsewhere, a person whom he or she, with reasonable cause, suspects of committing or of having committed an offence under section 6 or 7 of the Competition Act 2002 and the person has been taken to and detained in a Garda Síochána station, or if the person is arrested in a Garda Síochána station, has been detained in the station, pursuant to section 4 of the Criminal Justice Act 1984, an authorised officer or officers (but not more than 2 such officers) may, if and for so long as the officer or officers is, or are, accompanied by a member of the Garda Síochána, attend at, and participate in, the questioning of a person so detained in connection with the investigation of the offence, but only if the member of the Garda Síochána requests the authorised officer or officers to do so and the member is satisfied that the attendance at, and participation in, such questioning of the authorised officer or officers is necessary for the proper investigation of the offence concerned.

(9) An authorised officer who attends at, and participates in, the questioning of a person in accordance with subsection (8) may not commit any act or make any omission which, if committed or made by a member of the Garda Síochána, would be a contravention of any regulation made under section 7 of the Criminal Justice Act 1984.

(10) An act committed or omission made by an authorised officer who attends at, and participates in, the questioning of a person in accordance with subsection (9) which, if committed or made by a member of the Garda Síochána, would be a contravention of any regulation made under section 7 of the Criminal Justice Act 1984 shall not of itself render the authorised officer liable to any criminal or civil proceedings or of itself affect the lawfulness of the custody of the detained person or the admissibility in evidence of any statement made by him or her.

(11) Where a person is before a court charged with an offence under section 6 or 7 of the Competition Act 2002, a copy of any recording of the questioning of the person by a member of the Garda Síochána or authorised officer while he or she was detained in a Garda Síochána station, or such questioning elsewhere, in connection with the investigation of the offence shall be given to the person or his or her legal representative only if the court so directs and subject to such conditions (if any) as the court may specify.

(12) A recording referred to in subsection (11) of the questioning of a person shall not be given to the person by the Garda Síochána except in accordance with a direc-

tion or order of a court made under that subsection or otherwise.

(13) A court may admit in evidence at the trial of a person in respect of an offence under section 6 or 7 of the Competition Act 2002—

(a) a recording by electronic or similar means, or

(b) a transcript of such a recording,

or both, of the questioning of the person by a member of the Garda Síochána or authorised officer at a Garda Síochána station or elsewhere in connection with the investigation of the offence.

(14) Any statement made by the person concerned that is recorded in a recording which is admitted in evidence under subsection (13) may be admissible in evidence at the trial concerned notwithstanding the fact that—

(a) it was not taken down in writing at the time it was made, or

(b) that statement is not in writing and signed by the person who made it,

or both.

(15) Subsections (13) and (14) shall not affect the admissibility in evidence at the trial of a person in respect of an offence of any statement that is recorded in writing made by the person during questioning by a member of the Garda Síochána or authorised officer at a Garda Síochána station or elsewhere in connection with the investigation of the offence (whether or not that statement is signed by the person) and irrespective of whether the making of that statement is recorded by electronic or similar means.

(16) Section 9 of the Criminal Law Act 1976 shall apply in relation to a search carried out by an authorised officer pursuant to a warrant issued under subsection (3) or (3A) as it applies to a search carried out by a member of the Garda Síochána in the course of exercising his or her powers under that Act.

(17) In this section—

‘recording’ means a recording on tape of—

(a) an oral communication, statement or utterance, or

(b) a series of visual images which, when reproduced on tape, appear as a moving picture,

or both;

‘Regulation of 2003’ means Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty;

‘relevant competition law’ has the meaning it has in the Competition Act 2002.”.”.

Amendment agreed to.

Section 35, as amended, agreed to.

Section 36 agreed to.

SECTION 37

Deputy Robert Troy: I move amendment No. 172:

In page 117, to delete line 3 and substitute the following:

“requirement.

“(4) A person who—

(a) provides the Commission or officer, as the case may be, with information that the person knows, or ought reasonably to know, is false or misleading in a material respect, or

(b) fails, without reasonable cause, to provide information pursuant to a requirement under subsection (1), is guilty of an offence.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or

(b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 5 years or both.

(6) In this section, ‘relevant competition law’ has the meaning it has in the Competition Act 2002.”.”.

Amendment agreed to.

Section 37, as amended, agreed to.

SECTION 38

Deputy Robert Troy: I move amendment No. 173:

In page 117, to delete line 6 and substitute ““under section 39 other than subsection (3B) of that section.” for “under section 39”.”.

Amendment agreed to.

Section 38, as amended, agreed to.

NEW SECTION

Deputy Robert Troy: I move amendment No. 174:

In page 117, between lines 6 and 7, to insert the following:

“Insertion of sections 40A and 40B in Communications Regulation Act 2002

39. The Communications Regulation Act 2002 is amended by the insertion of the

following sections after section 40:

“Search warrants in relation to certain competition law matters

40A. Subject to section 40B, if a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting that evidence of, or relating to, the commission of an offence under the Competition Act 2002 or an infringement, whether or not the infringement is criminal in nature, of relevant competition law (within the meaning of the Competition Act 2002) is to be found in any place, the judge may issue a warrant authorising an authorised officer, accompanied if the officer considers it necessary by other authorised officers or members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter and search the place using reasonable force where necessary, and exercise all or any of the powers conferred on an authorised officer under section 39(3B).

Search warrants relevant to assisting the European Commission with an inspection

40B. Where an authorised officer provides information on oath to a judge of the District Court for the purpose of a warrant being issued in relation to an inspection referred to in paragraph (d) of section 39(3A)—

(a) the information on oath so provided shall include—

(i) a statement to the effect that the information on oath is being provided in relation to an inspection referred to in paragraph (d) of section 39(3A), and

(ii) sufficient information to allow the judge of the District Court to discharge his or her functions under the Regulation of 2003,

(b) before issuing the warrant, the judge of the District Court shall—

(i) where the warrant would, if issued, authorise the authorised officer to exercise powers under section 39(3B) in relation to any place or land other than that referred to in subparagraph (ii), including the home or private vehicle of a director, manager or any member of staff of an undertaking, have regard to the matters referred to in Article 21(3) of the Regulation of 2003, and

(ii) where the warrant would, if issued, authorise the authorised officer to exercise powers under section 39(3B) in relation to any place or land of an undertaking or association of undertakings, have regard to the matters referred to in Article 20(8) of the Regulation of 2003, and

(c) the judge of the District Court, shall, where he or she is satisfied as regards the matters referred to in Article 20(8) or 21(3) of the Regulation of 2003, as the case may be, issue a warrant authorising an authorised officer, accompanied if the officer considers it necessary by other authorised officers or members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter and search the place or land using reasonable force where necessary, and exercise all or any of the powers conferred on an authorised officer under section 39(3B).”.”.

Amendment agreed to.

Section 39, as amended, agreed to.

NEW SECTION

Chairman: Amendments Nos. 175 to 177, inclusive, are related. Amendments Nos. 176 and 177 are consequential on amendment No. 175. Amendments Nos. 175 to 177, inclusive, will be discussed together.

Deputy Robert Troy: I move amendment No. 175:

In page 117, after line 17, to insert the following:

“PART 8

AMENDMENT OF NATIONAL STANDARDS AUTHORITY OF IRELAND ACT 1996

Amendment of section 12 of National Standards Authority of Ireland Act 1996

40. Section 12 of the National Standards Authority of Ireland Act 1996 is amended—

(a) in subsection (2), by the substitution of “this section” for “subsection (1)”, and

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

“(3) Without prejudice to the generality of subsection (1), the Authority shall, subject to the consent of the Minister, have power to charge, receive and recover such fees as it considers appropriate from any person, other than the Minister, in respect of, or connected with, the performance by it of any of its functions, including functions provided for in—

(a) this Act or regulations made under this Act, or

(b) regulations made under the European Communities Act 1972.

(4) Any fee charged, received or recovered by the Authority under subsection (1) prior to the commencement of section 43* of the Competition (Amendment) Act 2022 shall be deemed to have been so charged, received or recovered in accordance with this section.

(5) The Authority may recover, as a simple contract debt in any court of competent jurisdiction, any amount due and owing to it by any person under this section.”.”.

Amendment No. 175 is an amendment I flagged on Second Stage. It is a technical amendment to the National Standards Authority of Ireland Act 1996, which governs the operations of the National Standards Authority of Ireland, NSAI. The proposed amendment will modernise the language in section 12 of the Act that enables NSAI to charge fees for its activities and for the services that it provides. The proposed amendment will not make any substantive changes to the National Standards Authority of Ireland Act. It does not seek to alter or increase the level of any of the fees charged – it is purely to improve and modernise the language of the fee-charging provision, and to align it with similar provisions for other State agencies.

The revised text in this proposed amendment will update the Act to facilitate NSAI in charging fees across the broad range of its activities, which include, for example, issuing standards, providing certification, CE-marking approval work, and metrology services, including approving measuring instruments. There is no impact on the Exchequer as a result of this amendment given its purely technical nature.

Amendments Nos. 176 and 177 are to expand the Long Title of the Bill to take into account the inclusion of clarification both the statute of limitations on enforcement actions taken by the CCPC on competition matters and the aforementioned introduction of an amendment to the National Standards Authority of Ireland Act 1996.

Amendment agreed to.

TITLE

Deputy Robert Troy: I move amendment No. 176:

In page 5, line 22, after “authorities;” to insert the following: “to make provision relating to the period of time within which certain proceedings relating to competition law may be brought; to make further provision regarding the power of the National Standards Authority of Ireland to charge fees in respect of certain matters;”

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 177:

In page 5, line 24, after “2007” to insert the following: “, the National Standards Authority of Ireland Act 1996”.

Amendment agreed to.

Title, as amended, agreed to.

Chairman: I thank members for their forbearance. Pursuant to Standing Order 187(3), I have to report specifically to Dáil Éireann that the committee has amended the Title to the Bill to read as follows:

A Bill entitled an Act to give effect to the implementation of Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market; for that purpose to provide for a system of non-criminal enforcement of certain provisions of competition law, including the appointment and empowerment of independent adjudication officers, and the issuing of prohibition notices in response to certain suspected infringements of competition law; to provide for a system of enforcement and non-criminal penalties in relation to certain breaches of competition law, including by the imposition of non-criminal structural and behavioural remedies and certain non-criminal financial sanctions, and to provide for processes by which such non-criminal sanctions may be appealed, remitted or confirmed by the High Court; to provide for a leniency programme in relation to certain undertakings; to provide for cooperation between competition authorities in the European Union and certain bodies in the State; to increase the penalties for certain criminal offences for breach of competition law; to provide additional powers of surveillance to the Competition and Consumer Protection Commission in relation to the investigation of certain criminal offences; to amend certain provisions relat-

ing to the procedure for notifying mergers to the relevant authorities; to make provision relating to the period of time within which certain proceedings relating to competition law may be brought; to make further provision regarding the power of the National Standards Authority of Ireland to charge fees in respect of certain matters; for those and other purposes to amend the Competition Act 2002, the Competition and Consumer Protection Act 2014, the Communications Regulation Act 2002, the Consumer Protection Act 2007, the National Standards Authority of Ireland Act 1996 and the Criminal Justice (Surveillance) Act 2009; and to provide for related matters.

Bill reported with amendments.

Message to Dáil

Chairman: Having completed our consideration of this Bill, in accordance with Standing Order 101, the following message will be sent to the Dáil:

The Select Committee on Enterprise, Trade and Employment has completed its consideration of the Competition (Amendment) Bill 2022 and has made amendments thereto.

Business of Select Committee

Chairman: I would like to thank the Minister of State and his officials for attending today's meeting. I look forward to the Bill being implemented as soon as possible. Before we finish, do any members want to make a brief comment? No member has indicated. I thank everyone and the Minister of State and his officials for coming in.

That ends our discussion of the Bill and we will move on to any other business. Is there any other business that members want to raise? No.

The meeting is now adjourned. I want to thank everybody for their consideration and their time. It was difficult. There were many complex and technical amendments. The meeting is now adjourned. I thank the members for participating today.

The select committee adjourned at 12.53 p.m. *sine die*.