

**The Competition Authority**  
An tÚdaráis Iomaíochta

Competition  
Benefits Everyone

November 2009



# The Competition Authority

The function of the Competition Authority is to promote competition in all sectors of the economy by tackling anti-competitive practices and by increasing awareness of such practices. Where there is evidence of businesses engaging in anti-competitive practices – whether through price-fixing or abusing their dominant position – the Competition Authority can intervene through the enforcement of competition law.

The Competition Authority can also block mergers that substantially lessen competition. This benefits everyone – consumers, businesses and the economy as a whole – by keeping prices down, improving choice and quality, encouraging innovation and supporting economic growth.

The Competition Authority also has a duty to promote competition in the economy. It does this by identifying public restrictions on competition, advising the Government and its Ministers about the implications for competition of proposed legislation or regulations and by informing public authorities and the general public about competition issues.

In carrying out this specific function, the Authority has identified public restrictions in the energy sector, a number of professions (e.g. architects, optometrists, solicitors and barristers, and dentists), the grocery retail sector, and bus transport. The Authority has brought about change in many of these sectors, most notably in the grocery sector and within the professions.

The Competition Authority also advises Government Departments and other public authorities on a wide range of issues from energy and the environment to integrated ticketing in public transport. The Competition Authority is always willing to advise public authorities on how new policy proposals might affect competition and we openly encourage public servants to contact us in this regard.

If you are aware of any anti-competitive behaviour or practices in Ireland, or would like to ask us for advice on how new policy proposals might affect competition, we would encourage you to contact us using the information provided below.

## The Competition Authority

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# 1. Competition benefits everyone

Competition benefits everyone: consumers, businesses and the economy as a whole. It keeps prices and costs down, it improves choice and quality for all. It fosters innovation in the form of new products and services and supports economic growth.

These benefits arise because competition encourages businesses to compete for customers. Consumers of goods and services – from individual shoppers to businesses – benefit from paying less and receiving more choice and quality for their money. When consumers benefit from competition, then the economy does too. For example, when electricity costs fall due to greater competition, the cost of doing business falls. This makes Irish businesses more competitive; this, in turn, supports long-term economic growth.

Where there is a lack of competition, for example where there is cartel or a monopoly in operation, businesses do not compete for customers. In such cases, the consumer suffers as a result of higher prices, less choice and lower quality.

## Competition keeps prices and costs down

For consumers – competition keeps prices down

Competition keeps prices for consumers down by stimulating rivalry between businesses. Suppose there are a number of grocery shops in a small town. If one of the stores lowers its prices it can increase sales by attracting consumers away from its rivals. Its competitors must then respond to win those customers back. This rivalry means that each grocery store must keep prices as low as possible and offer genuine value for money.

The airline industry is a classic example of how competition keeps prices down. Following the first phase of airline de-regulation in the mid-1980s, Ryanair could, for the first time, compete with Aer Lingus and British Airways on the Dublin-London route. As a result of this greater competition, fares on the route immediately fell from €264 to €120. Nowadays, Aer Lingus, Ryanair and Bmi, fly to Heathrow, Gatwick, Stansted, Luton and London City Airport.

This increased competition on the Dublin-London route, and with the likes of EasyJet on a number of other European routes, brought fares down further and has kept them down. The consumer has been the biggest winner, benefitting not only from lower prices but also from a greater choice of flight destinations.



Competition in the mobile phone sector has had similar results. While Eircell (now Vodafone) was once the sole provider of mobile services in Ireland, there are now five providers - Vodafone, O<sub>2</sub>, Meteor, 3 and Tesco - competing for customers. Mobile phone prices (first time connections, monthly bills and pre-paid top-ups) fell sharply following the entry of Esat (now O<sub>2</sub>) in 1997, and have fallen every year since.

More recently, Airtricity and Bord Gáis Eireann (BGE) has brought much needed competition to the market for domestic electricity. Consumers who switch from ESB to the new suppliers can make savings of up to 14% on their yearly electricity bill.

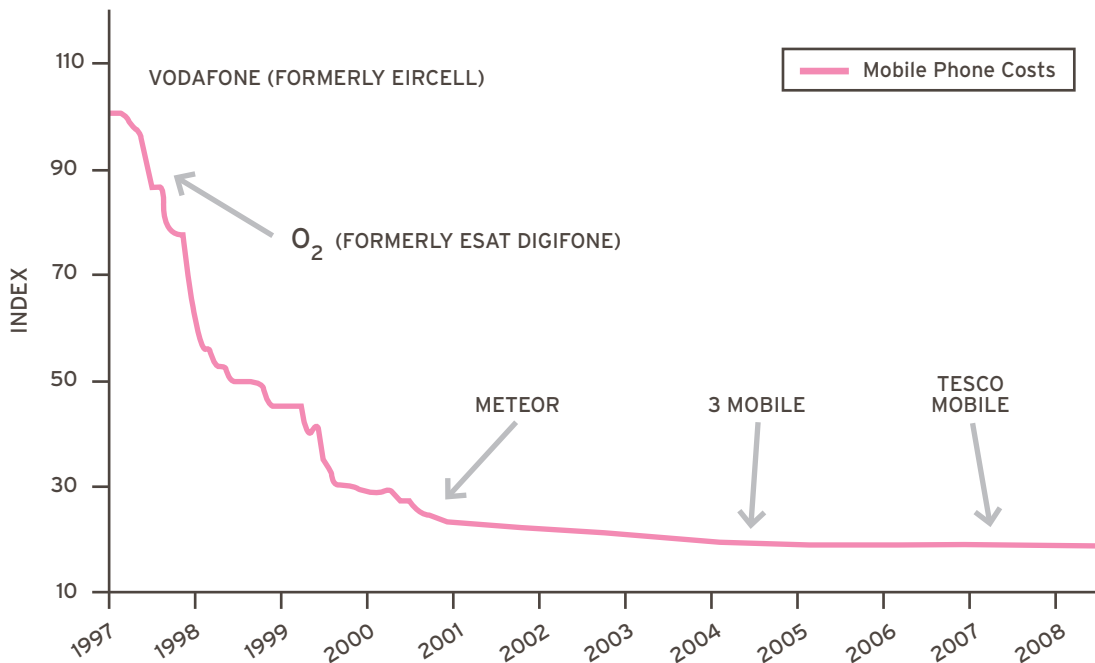


Fig 1: Competition keeps prices down. Source: CSO, consumer price index.



### For businesses – competition keeps costs down

Businesses, as consumers, also benefit from lower prices; however, the benefits of lower prices in this instance can have far-reaching effects. If a business pays less for electricity or legal services, its business costs fall, and this means it can charge consumers less for its products. Lower business costs also mean that the products of Irish-based businesses will be more cost-competitive, making them easier to sell abroad. This creates wealth and employment.

Competition, however, does not always guarantee that prices will fall. Businesses will sometimes decide to increase their price in response to external factors like rising world fuel and food prices. But a key point to remember is that prices can always be kept *lower* with competition than they would be in the absence of competition.

### Competition improves choice and quality

Companies do not compete on price alone. Competitive forces also encourage them to innovate and offer the individual or business consumer something “extra” as a way of making their products more attractive.

There are at least two ways that companies can achieve this - by offering more choice or better quality. More choice can present itself in a number of different ways. For example, rival bus companies operating on the same inter-city bus route might increase service frequency or a car manufacturer might add a new model to its range.

Using the same examples, to improve quality, one of the bus companies may purchase new buses offering more comfortable seats and leg-room, or the car manufacturer might start offering more efficient engines in all its vehicles as standard.

Consumers benefit from the opportunity to have products and services tailored to their needs. This complements competition's role in lowering prices. If there was only one bus company operating on an inter-city route, not only would the service be likely to be more expensive, the company would have no incentive to improve choice or service quality.

### Competition supports economic growth

In a small open economy like Ireland, the key determinant of economic growth is international competitiveness: that is, the ability of Irish-based businesses to export. By exporting goods and services, businesses in Ireland create wealth, employment, and help - through taxation - to fund public services such as health and social welfare.

Competition supports international competitiveness in two ways. The first and most visible effect is by keeping domestic prices down and by providing a greater choice and quality of inputs. This means that Irish-based companies can keep their costs down and produce cheaper, better products that can be more easily exported abroad.

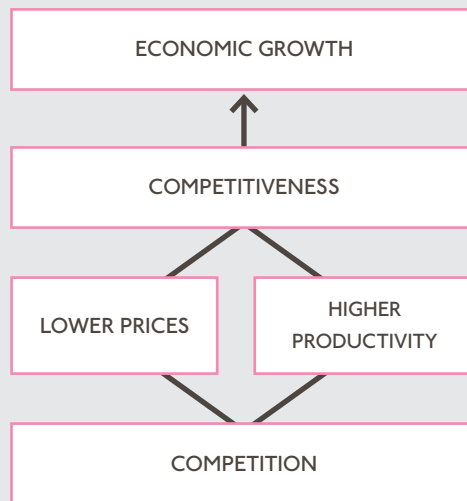


Fig 2: Competition supports economic growth.

Competition also drives productivity. Productivity is the level of value a business gets from its inputs; therefore, to increase productivity, a business must become more efficient. It must also innovate and develop new and highly sought after products that consumers want.



Where competition is strong, productivity is strong. If companies operating in competitive markets do not improve their productivity performance they will lose customers. Indeed, Ireland's most productive sectors are those that trade internationally in competitive markets; for example, productivity levels in the innovative chemical, pharmaceutical and electronic sectors are high and above average compared to sheltered domestically trading sectors like construction and hotels where competition is usually weaker.

Productivity will increasingly determine Ireland's competitiveness and, with it, our long term economic growth. Even in a high cost economy like Ireland, companies with high levels of productivity can continually cut costs and/or innovate to produce cheaper, better products that are easier to sell abroad. Productivity is therefore an essential factor in maintaining employment and will be a key determinant of Ireland's future economic performance and living standards.

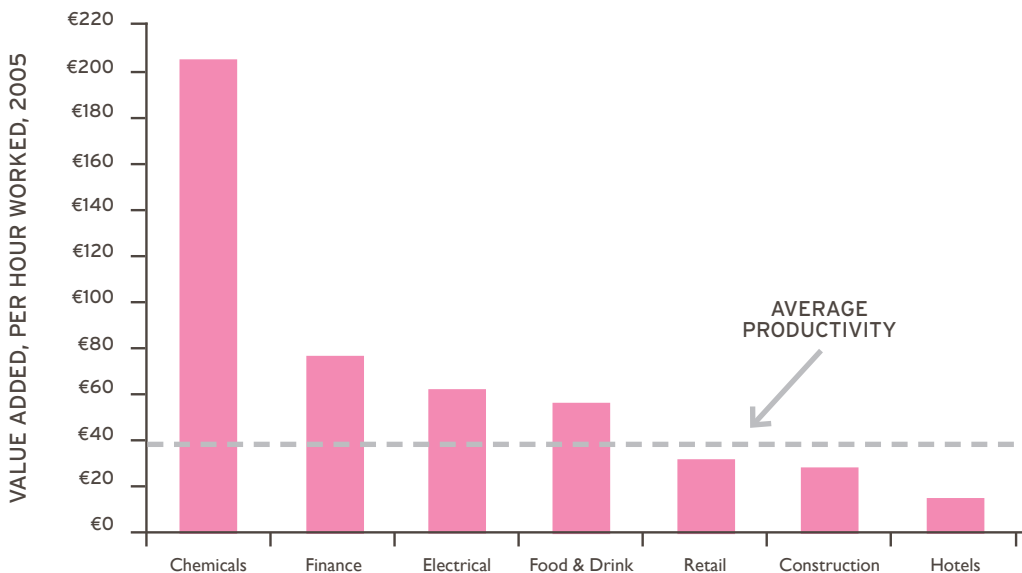


Fig 3: Competition drives productivity. Source: EU Klems Database.

## 2. Government influence on competition and regulation

Competition is not the silver bullet for solving every economic problem. However, through its effective use, Government can remedy many of the problems our economy faces today. Most notably, the restoration of Ireland's competitiveness will help to create wealth and sustain employment.

The Government has a significant role in determining the level of competition in the Irish economy. It can influence competition through its power to implement and reform regulation in both private and public sectors. By removing or reforming unnecessary or restrictive regulation, the Government can promote competition.

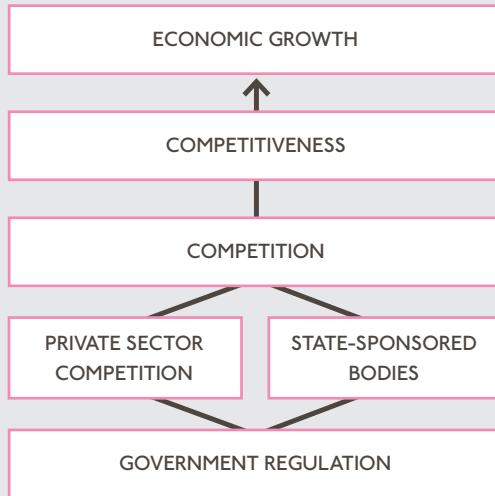


Fig 4: Government Influence on competition, competitiveness and economic growth.

### Regulating the private sector

When there is a risk that a market without regulation might not produce the best outcome for consumers, some level of regulation is clearly necessary to protect the public. Unfortunately, there are many cases where regulation unnecessarily protects private sectors of the economy from competition. This is sometimes based on the claim that the regulation concerned is in the public interest. For example, in some professions, restrictions on advertising effectively prevent price competition. There is little or no evidence to suggest that such restrictions are in the public interest. The result, though, is higher prices and less choice for consumers. The Competition Authority has drawn attention to many of these restrictive laws and recommended pro-competition reform in the consumer's interest.

The Groceries Order is a good example of how the Government's willingness to implement reform resulted in the removal of a regulation that restricted competition in the private sector. The Groceries Order banned "below net invoice prices" and was put in place by the State as a protectionist measure. The basic intention was clear; by preventing competition and keeping prices high, firms already in the industry would not have to increase their efficiency.

The Groceries Order was repealed in March 2006. Since then, retailers and grocers have been able to compete for customers on the basis of price. This has led to significant savings for consumers.



## Regulating dominant state firms

A firm is dominant in a market if it holds significant market share and if its actions are not held in check by the actions and reactions of competitors and customers. As a result, there is usually a lack of competition in sectors where a State-owned body is dominant. In Ireland, key goods and services like energy (Bord Gáis Eireann), waste collection (local authorities), public transport (CIÉ), and postal services (An Post) are often provided by dominant State bodies.

Due to the lack of competition, there is little incentive for State-owned firms to keep costs down and provide more choice and quality. The consumer loses out as a result, by paying more for poor quality services or by heavily subsidising inefficient State-sponsored bodies through taxation.

Energy and waste collection costs in Ireland are among the highest in the EU-15, while CIÉ is subsidised to the tune of €313 million by the taxpayer and facing a projected operating loss of over €100 million in 2009.

Paying high prices for services provided by State-owned firms, or subsidising them through taxation, seriously harms Ireland's competitiveness. The airline and mobile phone examples outlined earlier demonstrate how the exposure of a dominant State firm to competition results in lower prices and greater choice and quality to consumers. Continued efforts are needed to make sure that our regulatory structures and systems are strongly geared towards consumer interests rather than the interests of producers.

### 3. Key recommendations of the Competition Authority

One of the Competition Authority's roles is to promote competition in the Irish economy. We do this primarily by advising public policy makers on the implications for competition of existing and proposed legislation, regulations and other relevant decisions.

Figure 5 highlights a number of sectors where public restrictions on competition have been particularly harmful. It also shows the benefits where these restrictions are eased, or removed altogether, in terms of moving from less to more competition.

The Competition Authority has made numerous recommendations to improve competition in many of these sectors. A lot of these recommendations have been implemented, but many more remain outstanding. Of the 158 formal recommendations made to date, 27% have been fully implemented, 3% partially implemented and a further 13% are in progress.

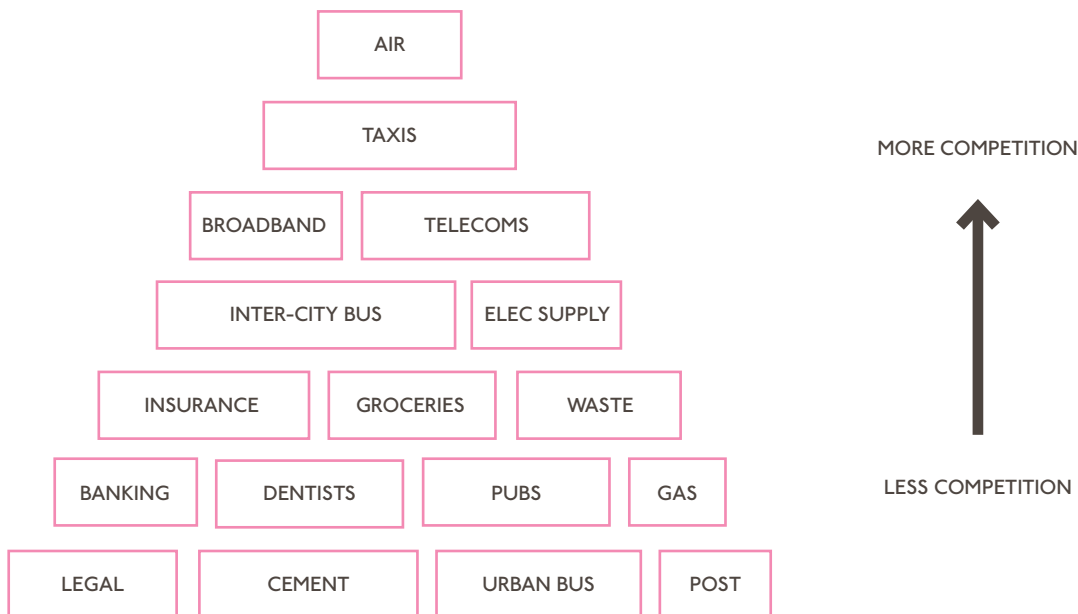


Fig 5: Competition in the Irish economy.





The Competition Authority's recommendations have, over time, seen the introduction of some welcome changes in a number of areas which will bring benefits to consumers; for example dentists are now free to advertise their prices and the services they provide.

The Competition Authority's advocacy role would be more effective if the Government formally responded to the Authority's recommendations. In this regard, the Competition Authority welcomes the Government's announcement in *Building Ireland's Smart Economy: A Framework for Sustainable Economic Renewal* that it intends to "... publish a whole-of-government response to recommendations contained in reports of the Competition Authority within nine months of their publication."

A brief summary of some of the more important recommendations made by the Authority across a number of sectors as outlined within. Copies of the full reports and more detailed information can be found in the "Promoting Competition" Section of our website – [www.tca.ie](http://www.tca.ie).

## The professions studies

Since 2002, the Competition Authority has carried out a series of major studies on competition in eight professions to examine how competition works in the professions concerned and to identify rules which, although not necessarily breaching competition law, nevertheless inhibit competition. In particular, the market for legal services in Ireland is in need of substantial reform, as follows:

### Legal services

1. First and foremost, self-regulation of the profession should be ended. This would best be achieved through the establishment of an independent and accountable Legal Services Commission, with overall responsibility for regulating the legal profession and the market for legal services, to put consumers and the public interest at the heart of regulation.
2. Barristers should be able to provide legal advice directly to consumers, not just to solicitors and categories of people identified by the Bar Council as eligible for exclusive rights to barristers' advice.
3. Barristers should be allowed form partnerships and work in groups.
4. The common law right of solicitors to hold on to a client's file, thus preventing a client from switching to another solicitor, should be removed.

5. Legal fees should, in practice as well as in theory, be based (and awarded) on work done, and not by reference to the size of the award received by the client.
6. Ireland needs to establish a profession of specialist “conveyancers”, as exists in other countries. Conveyancers would be regulated to ensure that they have appropriate training, professional indemnity insurance, ethical rules and a compensation fund to provide professional conveyancing services just like, and in competition with, solicitors.

#### Other professional services

Apart from legal services, the Competition Authority has made a number of recommendations to various Ministers in its Reports on other professions, as follows:

Profession	Responsible minister
Architects	Minister for the Environment, Heritage and Local Government
Dentists	Minister for Health and Children
Optometrists	Minister for Health and Children
Vets	Minister for Agriculture and Food

These recommendations were designed to make these professions more competitive, and to give consumers more choice and value for money in service delivery.

## Other sectors of the economy

The Competition Authority has regularly highlighted competition concerns across a wide range of sectors. Expenditure in many of these sectors, for example electricity and waste collection costs, are key cost inputs for many of Ireland’s exporting firms, as well as for private consumers, and many are in need of substantial regulatory reform.

#### Energy

- Ownership of the national electricity grid should be transferred from the ESB to the independent State body EirGrid. A commitment to do so was contained in the Government’s March 2007 White Paper *Delivering A Sustainable Energy Future For Ireland* but this has not yet been implemented.

#### Waste collection services

- Introduce competitive tendering for household waste collection where side-by-side competition is not working well.

#### Retail sector

- The Retail Planning Guidelines should be revised to facilitate more competition.

#### Bus transport

- Competition in bus transport should be introduced in the Greater Dublin Area through competitive tendering of (bundles of) routes by the Dublin Transport Authority.



## 4. Summary

Competition benefits everyone: consumers, businesses and the economy as a whole. Competition keeps prices and business costs down by stimulating rivalry between companies. Competitive forces also encourage companies to innovate, improve productivity and offer more choice and quality to individual and business consumers. This supports Ireland's international competitiveness - the key determinant of economic growth.

The Irish Government has a significant role in determining the level of competition in the economy. It can influence competition through its power to implement and reform regulation in both private and public sectors. By removing or reforming unnecessary or restrictive regulation, the Government can encourage competition.

While many of the Competition Authority's recommendations to the Government have been implemented, many have not. In this regard, the Competition Authority welcomes the Government's announcement in *Building Ireland's Smart Economy* that it intends to publish a response to Competition Authority recommendations in the future.





