

**Government approve Tánaiste's proposals for Reform of Competition
Legislation
Groceries Order to be retained
New Measures on Mergers and Takeovers Planned**

Mary Harney, Tánaiste and Minister for Enterprise, Trade and Employment today (Tuesday 24th October 2000) confirmed that she has decided to retain the Groceries Order which includes the provision of a ban on below cost selling.

Announcing her decision the Tánaiste said "I have carefully considered all the arguments and I have consulted widely with interested parties on both sides of the debate".

The Tánaiste continued "I am interested in where the consumer's interest lies. However, the question is a finely balanced one. On the one hand the Competition Authority has sought the abolition of the ban on below cost selling while the Consumers' Association of Ireland favours retention of the ban. Furthermore, the Competition Commission in the UK has recently concluded, following an extensive enquiry into the retail sector in the UK, that continuous below cost selling is not in the public interest".

She said "I have come to the view that it is not in the consumer's interest to remove the ban on below cost selling at the present time. I am particularly concerned that below cost selling could be used to eliminate competition in local markets".

"Of course, the groceries sector is changing very rapidly and I will keep the position under review in the light of developments", she added.

In addition to announcing the retention of the Groceries Order the Tánaiste also announced that under proposals approved by the Government today, the existing law in relation to competition and mergers is to be replaced by new consolidated Competition and Mergers legislation.

The new Competition and Mergers Bill which is proposed will contain a number of significant reforms to Competition and Merger Law including in relation to newspaper/media mergers, competition enforcement and the role of the Competition Authority.

The Tánaiste indicated that she had accepted the recommendation of the Review Group and of the Commission on the Newspaper Industry that additional public interest criteria should be taken into consideration in the case of media mergers.

These criteria relate to the strength and competitiveness of the indigenous newspaper industry, the plurality of ownership and titles, the diversity of views in Irish society,

the maintenance of cultural diversity and the position in the media generally of any of the undertakings involved in the proposed merger.

In addition, the scope of merger law is to be extended to cover acquisitions of control of media undertakings by means other than the acquisition of shares or assets. Final responsibility for decisions on newspaper/media mergers will continue to rest with the Minister for Enterprise, Trade and Employment.

The proposed Bill will also incorporate important institutional changes in relation to mergers and takeovers generally. In particular it is proposed to transfer responsibility for examining and deciding upon these mergers and takeovers from the Minister to the Competition Authority. It is also proposed that these notifications will be determined on the basis of competition criteria alone.

The Tánaiste said "Competition enforcement will also be strengthened by a number of changes including a "whistle-blower" protection for persons who in good faith make complaints or furnish information to the Competition Authority in relation to possible breaches of competition law. Powers of arrest and detention are to be extended to competition law offences".

A number of technical and procedural recommendations made by the CMRG will also be implemented in the new legislation. It is intended that other recommendations which do not require legislation will be implemented by secondary legislation or by administrative action, as appropriate.

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Notes for Editors

Today's decisions form part of the Government's response to the final report of the Competition and Mergers Review Group which was published in May. The group, which was chaired by Mr. Michael Collins, S.C., carried out an extensive review of all aspects of the law relating to competition and mergers.

The Groceries Order contains a number of provisions - the ban on below-cost selling, a ban on hello money, a requirement for suppliers to publish the terms on which they will trade and on retailers to honour those terms. The Competition and Mergers Review Group considered that the Order's provisions, other than the ban on below cost selling, should be retained. The Group were unable to agree on the ban on below cost selling, a majority recommending that it should be abolished while the minority opted for its retention.

The proposed new consolidated Competition and Mergers legislation will replace the Mergers and Take-Overs (Control) Act, 1978 and the Competition Acts 1991 and 1996. It will make the legislation on competition and mergers more accessible and user friendly for practitioners and the public.

Arising from today's Government decisions, work will now commence on the drafting of the proposed new legislation.