

Joint Committee on Justice and Equality
Competition and Consumer Protection Commission (CCPC)
Opening Statement by Isolde Goggin

I would like to thank the Committee for the invitation to speak to you today. I am joined by Fergal O’Leary, Member of the Commission who has responsibility for our consumer protection and advocacy activity.

The Competition and Consumer Protection Commission (CCPC) was established in 2014. We work to improve consumer welfare across the economy by enforcing over 40 competition and consumer protection legislative instruments. Through our advocacy efforts we work to influence public debate and policy development, promoting competition and highlighting the interests of consumers. Currently, we are active in a number of markets including motor insurance, ticketing, public transport procurement, the motor sector, nursing homes and in the retail sector in relation to pricing and product safety. Most recently we commenced a major study on the public liability insurance market.

The legal services market has been a high priority for the CCPC and our predecessor organisation, the Competition Authority, for many years. I would like to outline some of the key aspects of our work and highlight some potential considerations that would help to address some of the issues in the market.

Issues in the Legal Services Market

Legal services are fundamental to the infrastructure of our economy. The State, and therefore tax payers, is the biggest purchaser of legal services. Excessive legal fees and out-dated, inefficient practices increase the cost of doing business in Ireland and also result in higher costs for all consumers of legal services.

In 2006, our predecessor organisation, the Competition Authority, published its final report on competition among solicitors and barristers. The report concluded that the legal profession was saturated with unnecessary and disproportionate restrictions on competition and was in need of substantial reform. These restrictions limited access, choice and value for money for those wishing to enter the legal profession and for those purchasing legal services.

From the consumer perspective, the legal services market was, and remains, extremely challenging to navigate. As is the case for most professional services, there is an information asymmetry between the profession and consumers. The ability to compare offerings is limited, particularly when the service is required urgently. An additional difficulty arises given the uncertainty around cost, as the likely cost of services is often uncertain at the outset.

Reform

One of the challenging features of the legal services system is that it is characterised by well organised groups of professionals who have been effective at influencing the nature and pace of reform efforts. Since our 2006 report and recommendations, a number of important developments have taken place including the establishment of the Legal Services Regulatory Authority and recently, the Legal Costs Adjudicator. However, as is widely acknowledged the pace of reform has been slow and there is a lot more work to be done.

The cost of legal services is a critical concern for anyone who has to engage the services of either a barrister or a solicitor – including the State. An assessment of whether costs have increased, or are high, can only be made on the basis of accurate industry data. In most markets, a sectoral regulator is best placed to gather such data. The CCPC is of the opinion that the LSRA should promote public awareness and disseminate information to the public in respect of the cost of legal services.

The CCPC believes that action is also required in the area of education and training of legal practitioners to enhance consumer choice and competition between legal practitioners. Existing monopolies on the provision of legal education and training held by the Honourable Society of Kings' Inns and the Law Society of Ireland should be brought to an end and replaced by a system of regulated standards for education, overseen by the LSRA. The opening up of these markets would enhance the quality and standards of legal services education whilst encouraging the emergence of competing providers. There is also scope to reduce the barriers to entry to the legal professions. There are unnecessary costs and duplication in education encountered by new entrants and those switching between the professions. Competition in legal services education would not only address issues in terms of access and choice, but would also contribute to bringing down costs.

Specifically, in relation to consumer access to redress, and in the context of the types of issues we deal with day to day through our consumer helpline, currently in Ireland, consumers can seek redress through the Small Claims Procedure and through a small number of Alternative Dispute Resolution processes (ADR). However, there are challenges to both with low engagement levels with the ADR process and the limit for claims that can be brought by consumers through the Small Claims Procedure is currently €2,000. We have in the past and continue to suggest that consideration should be given to increasing the Small Claims value so that consumers can seek their own redress for higher value products and services. For example, the European Small Claims Procedure, which allows for a claim to be made in civil or commercial matters against a trader based in another Member State, had its limit increased to €5,000 in 2017. A further significant future development in this area is in the field of collective redress. We note that in November EU Member States agreed on a position which would make it possible for consumers across the EU to go to court as a group, when a trader has harmed them, which is a positive move for consumers.

Conclusion

The CCPC believes that despite reforms the legal services market could, and should, be more competitive. If further reforms were introduced, they would drive higher levels of competition, consumers, businesses and the State would benefit.

While some progress has been made, significant issues which led to the establishment of the LSRA, including low levels of competition, barriers to entry, self-regulation and resulting high costs have not yet been resolved. Meaningful reform will only be achieved if momentum is maintained and the scrutiny afforded to this cause by the Committee is welcome in that regard. The CCPC is committed to playing our part in this reform. My colleague and I would be happy to take any questions you may have.