



**IFA**



## **Competition and Consumer Protection Act 2014**

### **Consultation with Stakeholders on the need for Regulations to be introduced for the category of grocery goods 'garden plants and garden plant bulbs'**

#### **Background**

IFA has long campaigned for retail regulation in Ireland and in the EU to deal with the negative impact of retailers' buying power over food processors, suppliers and primary producers. IFA believes that the Competition and Consumer Protection Bill 2014, while containing measures to regulate the grocery good supply chain, does not go far enough to address the imbalance of power in the food supply chain.

IFA's position has always been that an Independent Ombudsman should be appointed by Government, similar to the Groceries Code Adjudicator in the UK, to oversee and implement this legislation. IFA is concerned that the proposed new Authority (Competition and Consumer Protection Commission), will not be sufficiently independent to provide anonymity and confidentiality to suppliers and this will deter them from making complaints and disclosures.

Notwithstanding these concerns, IFA believes that there is an opportunity to strengthen the regulation of the retail sector through the publication of draft Regulations which are to follow from the Department of Jobs, Enterprise and Innovation. It is critical that these Statutory Instruments provide the necessary protection to the primary producer, in order to ensure a fairer return to these producers, which covers the cost of production and leaves a margin to reward their work and investment.

#### **Grocery Goods Undertaking – garden plants and garden plant bulbs**

IFA / IHNSA (Irish Hardy Nursery Stock Association) welcomes the inclusion in the Competition and Consumer Protection Act 2014 of 'garden plants and garden plant bulbs' as grocery goods undertakings.

The Irish Hardy Nursery Stock Association (IHNSA) is a commodity sector within the Horticultural Section of The Irish Farmers' Association (IFA). It is the representative body for nursery stock producers, with the objective of advancing and protecting the interests of primary producers of hardy nursery stock.

The remainder of this submission outlines the argument for the inclusion of the garden plants sector in the forthcoming regulations on the terms and conditions of trading within the grocery goods sector.

## **Overview of the Hardy Nursery Stock Sector**

The farmgate value of the Irish Hardy Nursery Stock Sector was €43m in 2011<sup>1</sup>. There are more than 100 privately owned nurseries, predominantly family owned enterprises, supplying the garden centre, landscaping and major retail industries. The sector employs 647 people full-time and 347 people part-time, corresponding to 793 'full time equivalent' jobs.

## **Consultation response – need for inclusion of sector in Regulations**

In recent years, the volume of direct sales of nursery stock to large retailers has increased significantly. In addition, the sector has seen the growth of larger home ware stores with nursery / garden centre divisions.

The trading relationship between the producer and retailer in many cases is operating on an ad-hoc or informal basis, with no agreed contract of supply between the producer and retailer.

For the supplier this creates a huge amount of uncertainty. These growers have incurred costs to produce these crops and have made sizeable investments. The product being supplied has a short shelf-life, thereby limiting the producer's ability to find an alternative buyer, if an order is not honoured. In the absence of contracts, this presents a huge risk to the viability of the nursery enterprise.

The growth of the retail trade involvement in sales of nursery products means that the grower has become more reliant on larger retailers as a key customer. The retailer, with greater scale and market share is in a dominant position. As a result, growers are not negotiating the terms and conditions under which they supply their product on an equal basis with the more dominant retailer.

In the Competition and Consumer Protection Act 2014, provision is made in Chapter 5 – Grocery Goods Undertakings, for this sector to have the protection of a contract 63B. (2). IFA / IHNSA believe that the provisions set down in the Act will benefit the Irish Hardy Nurserystock Sector who are dealing directly with retailers. In the first instance, the requirement for there to be a contract for the supply of goods (subject to the retailer/purchaser meeting the definition of a relevant grocery goods undertaking) will result in greater certainty for the producer and an ability to better plan their production and investment decisions.

In addition, IFA/IHNSA believes that the full range of Statutory Regulations being prepared by the Department of Jobs, Enterprise and Innovation must apply to this sector, providing them with the protection of all areas covered in the Act (Section 63B (1), 63(B) 2 (a) – (s)). The Regulations must prohibit rebates to secure future orders, payments for wastage and other hidden charges imposed by retailers on producers.

Overall, IFA/IHNSA believes that the regulation of contract relationships between the Hardy Nursery and retail sectors is a necessary requirement to provide some rebalancing of the power within the supply chain. It should seek to eliminate the existing non-contract relationship, and prohibit unfair trading practices, such as payments for improved shelf-space.

10<sup>th</sup> October 2014

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<sup>1</sup> Department of Agriculture, Food & the Marine