

STAINES

LAW

IFA Seminar on Producer Organisations

Background

- Commission recognised that there is not sufficient regulation to give producers adequate protection when dealing with large processors
- Producer Organisations and Association of Producer Organisations (APOs) introduced in a range of regulations and applied to various sectors in the agricultural market to include dairy, beef, olives, horticulture,
- PO's give focus to small groups of producers to work together
- gives the possibility of entering into contracts for supply which as individuals they would not have been able to do

Steps required to set up a Beef Producer Organisation

- SI 49/2016 essentially mirrors the language of the Regulation 1308/2013
- Article 152 of the Regulation provides that member states may recognise PO's which are constituted and controlled in accordance with Article 153.
- PO are to be formed on the initiative of the producers.
- POs must pursue a specific aim and at least one of 11 objectives – none of which would be an issue in the Irish context.
- In broad terms these include: -
 - Planned production and concentration of supply and the placing on the market of the products produced by its members including through direct marketing;
 - Promoting technical/research/marketing/environmental and sustainability initiatives in the beef sector.

Company CLG – Co Op

- There are minimum terms that required in the POs company constitution and/or co-op rules.
- Can require a member to supply a minimum amount of produce to the PO
- Standard Rules/Constitution of Company/ Co op cover many of the requirements for a PO

Must be equal votes for all members

Competition law

- Exemption from Competition law
- Not absolute
- Strong support for this in the Endives case

APO's

- The Regulations also allow for Association of Producer Organisations which is where a group of POs can come together under an umbrella.
- Can allow a group of smaller PO's to come together to share resources and out source admin/marketing
- Also allows larger PO's work together and again out source not production activities

Outsourcing of admin/support roles

- Outsourcing of the activities of a PO (other than production) to a separate entity is allowed
- Allows members get on with what they are best at
- Can bring in other expertise
- Needs resources

Member State – additional powers

- To make binding for a limited period some of the agreements or concerted practices on others who do not belong to the organisation;
- Require non-member to pay a levy or compulsory contribution to the PO;
- Impose contractual relations on delivery of products by a producer to a processor or distributor.

Issues

- No strict obligation on members to sell all produce through PO
- Difficulty of keeping all members together and not dealing separately with processor
- Administrative issues
- Small niche PO does not have resources or strength to take on processors
- Larger PO needs substantial resources to take advantage of PO benefits – admin costs and expertise
- Need to offer more than membership of PO

Next steps into a brave new world

- Producers have to want a PO to work
- PO needs support and resources to make them work
- Probable larger PO required to counter balance strength of processor/retailer

Summary

- In theory PO balances the negotiating position between producer and processor
- Competition law exemption is positive
- Practical reality of keeping everyone in PO is a serious impediment
- Administrative issues may be a burden for some PO's
- PO needs to offer more than benefit of Regulation/SI
- Resources and expertise required for this

Thank You

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