



Lidl Ireland GmbH

Lidl Ireland GmbH, Great Connell Road, Newbridge, Co. Kildare

**Ms Mary Coughlan T.D.
Tánaiste and Office for the Minister of
Enterprise Trade and Employment
Kildare Street
Dublin 2**

30 September 2009

Re: Submission on Grocery Code of Practice

Dear Tánaiste

Thank you for the opportunity to express our views in relation to the 'Consultation Paper: Code of Practice for Grocery Undertakings' enclosed with your letter dated 11th August.

At Lidl, our supplier relationships are founded upon well established principles. We shun the very notion of 'Hello Money', we do not charge suppliers for shelf space and our contractual arrangements are not structured to include a cocktail of hidden charges. We invest in developing long standing relationships and to this end many suppliers who supported our entry into the Irish market in 2000 continue to form part of our strong network of Irish suppliers today. A core element used when dealing with business partners is our 'Code of Conduct'. I attach a copy of same for your perusal.

We recognise that the proposals in the Consultation Paper are designed to cover those retailers or suppliers who may not have established principles in the manner that we have. Furthermore, we welcome any initiative designed to protect the interests of Irish SMEs. A large number of our Irish suppliers are in fact either small or medium sized enterprises.

We respectfully suggest, however, that it is highly unlikely that this aim will be achieved through the proposals developed. A code such as that proposed will undoubtedly represent additional compliance for effected parties. The imposition of additional and unnecessary compliance costs on the retail sector will make it less competitive. Such costs will inevitably result in higher retail prices for the Irish consumer. We respectfully propose that Government policy needs to be directed towards providing a more competitive Ireland for both Irish retailers and suppliers at a time when Ireland's cost base is openly recognised as uncompetitive.

The August 2009 CPI shows that food prices have fallen by -4.8% over the previous 12 months. Over the last year retailers have negotiated lower prices from suppliers and passed them on to the consumer. The suggested code may have the effect of inhibiting further falls in food prices in these difficult times of declining household incomes because the structures being proposed may make it more difficult for retailers to obtain best value from suppliers.

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It is no co-incidence that demands from certain suppliers for a code have arisen when prices to the consumer are falling. It is clear that suppliers and supplier representative bodies have retreated to a protectionist mindset due to current trading difficulties that face every area of Irish business. Dominance in the marketplace is a factor which does not, in our view, receive mention in the Consultation Paper. While there are dominant retailers in the market, in many product categories there is also a very small concentration of suppliers. We suggest that abuse, to have any substantive effect, would have to be generated from within those significant groupings. On this basis, we respectfully suggest that a minimum of 20% market share, for supplier or retailer, be established as a threshold for participation in any code. This would avoid the entire industry carrying a burden in a situation where risk lies with few parties.

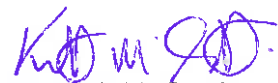
The retail sector is a fast moving and highly competitive business. Retailers currently respond to market developments with price reductions in days and frequently in hours. The proposed code will inhibit the freedom of retailers to respond quickly to initiatives in the market with the result that the consumer will be the loser. A greater administrative burden could also have the undesired aim of pushing retailers in the direction of external markets to source supply as the proposed code in its current form only governs Irish retailer / Irish supplier engagement.

We note that various commentators in favour of a code have referenced developments in the United Kingdom. We fail to see the rationale of copying policy or initiatives directly from the UK. The health of various industries / sectors in the UK at present certainly does not give confidence that the UK is the appropriate role model for such a core element of the Irish economy.

It is our considered view that The Competition Authority is the most authoritative body to make comment on the Irish grocery market. We note that the Competition Authority has not called for a code to govern the retailer supplier relationship at any time. We further note that not one complaint of abusive exercise of market power by a retailer has been validated either by the Competition Authority or by the courts. This is significant in view of the powers of the Competition Authority and the obligations imposed by competition legislation. Unsubstantiated allegations of abusive exercise of market power not backed up by specific evidence fail to provide justification for a code.

We respectfully conclude that the Consultation Paper does not demonstrate a rationale for a code to regulate the retailer-supplier relationship. We feel that neither an industry need nor a consumer need has been established. Any code, voluntary or statutory, in the form proposed will have the unintended effect of placing an expensive burden on the end consumer. While we remain supportive of your initiatives to assist the creation of an open and fair economy for Irish retailers and suppliers, in this case we hope that you reconsider your proposals in full. We trust that you will see that neither the interests of the SME nor the consumer are being catered for by the proposed code.

Yours sincerely,



Kenneth McGrath
Director