

Unclassified**English - Or. English**

22 November 2019

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE****Working Party No. 3 on Co-operation and Enforcement****Access to the case file and protection of confidential information – Note by
Ireland**

3 December 2019

This document reproduces a written contribution from Ireland submitted for Item 4 of the 130th OECD Working Party 3 meeting on 2-3 December 2019.
More documents related to this discussion can be found at
www.oecd.org/daf/competition/access-to-case-file-and-protection-of-confidential-information.htm

Please contact Ms Despina PACHNOU if you have any questions about this document
[Despina.Pachnou@oecd.org, +(33-1) 45 24 95 25]

JT03455160

Ireland

1. Introduction

1. This submission has been prepared by the Irish Competition and Consumer Protection Commission (“the CCPC”) for the OECD WP3 Roundtable on 3 December 2019 which will address ‘Access to Case File and Protection of Confidential Information’. The submission responds to the questions set out in the Annex to Letter of 30 July 2019 marked with reference COMP/2019.152. Each question is reprinted for clarity and the CCPC’s response is clearly indicated.

2. The CCPC derives its powers from the Competition and Consumer Protection Act 2014 (the “2014 Act”) which grants the CCPC competition law enforcement responsibilities in respect of the Competition Act 2002, as amended (the “2002 Act”). However, the CCPC is not the decision-maker in competition law enforcement cases; instead, in Ireland the power to make decisions in respect of alleged infringements of competition law is vested exclusively in the Courts, which is the sole entity that can impose a competition law remedy, whether injunctive or penal.¹ Competition Proceedings are defined in the Rules of the Superior Courts, namely Order 63B (as amended).²

3. The CCPC cannot make administrative decisions or determinations concerning breaches of competition law or impose civil fines or other civil penalties. Only the courts can issue decisions confirming if a particular practice constitutes a breach of competition law. However, it is expected that there may be significant changes in practices and procedures following the transposition of Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 (the ECN+ Directive)³ into Irish law which is expected to be completed by 4 February 2021.

4. The CCPC is however empowered to reach a determination following an assessment of a proposed merger or acquisition pursuant to Part 3 of the 2002 Act. The review process involve either a Phase I review period after which a determination is made to either clear the merger or acquisition or to proceed to a Phase II full investigation. Following a full investigation, the CCPC may determine to either block the merger or clear the merger subject to specified conditions. The notifying parties can appeal a determination to block or clear a merger with conditions to the High Court.

5. For this reason, this submission only outlines the practices in the jurisdiction relating to access to files in competition proceedings and provides a more detailed responses relating to the access to file in Irish merger control procedures.

¹ Irish law criminalises cartel behaviour under section 6 of the 2002 Act and in such cases, the CCPC can prosecute summary offences and the Director of Public Prosecutions prosecutes on indictment.

² Order 63B was introduced by SI 130/2005 Rules of the Superior Courts (Competition Proceedings), amended by SI 461/2006 Rules of the Superior Courts (Competition) 2006.

³ See Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (Text with EEA relevance.).

2. Access to File

2.1. Question A

6. Does your jurisdiction provide access to the competition agency's file in competition proceedings? If so, describe the information that is typically included in the file, and any categories of information that are excluded. Describe the information to which parties are granted access (e.g., documents from investigated parties, information received from leniency applicants or leniency applications, information received from third parties, documents prepared by the agency internally, reports of experts, documents received from other agencies, or only the information that will be used to prove an infringement). Distinguish, where applicable, between types of parties (e.g., investigated parties, merging parties, interested third parties).

2.1.1. CCPC Response

7. Please refer to the Introduction to the submission for an overview of CCPC's role in competition proceedings and merger review.

8. In the context of competition proceedings access to file is provided by either voluntary or compulsorily (Court ordered) discovery. Discovery is a term given to the litigation process whereby the parties to proceedings firstly, disclose the existence of documents or records and secondly provide for the inspection of those documents or records (subject to legal privilege). In the context of a third party seeking access to a the CCPC's file in private proceedings, that third party can seek voluntary discovery and if refused, may seek to obtain a court order compelling discovery.⁴

9. Specific provision has been laid down for third parties to obtain access to the CCPC's case file in actions for damages before the court pursuant to SI 43/2017 - European Union (Actions for Damages for Infringements of Competition Law) Regulations 2017 ("SI 43/2017").⁵ Under Regulation 6 of SI 43/2017, a third party pursuing an action for damages for infringement of competition law, can obtain access to the CCPC's case file without prejudice to the prohibition of unauthorised disclosure of confidential information set out in section 25 of the 2014 Act. Regulation 6(2) sets out what the court may consider when assessing the proportionality of a request seeking disclosure of evidence contained in the CCPC's case file. Only in exceptional circumstances, either before or after the closure of a competition investigation, following consideration by the court and will the court order a party or a third party involved in an action for damages to disclose either (a) leniency statements or (b) settlement submissions.⁶

10. In the context of merger review, access to the file arises where the CCPC is conducting a Phase II full investigation of a proposed merger or acquisition. Where the

⁴ Where a third party seeks a court order for discovery of documentation of non-party to the proceedings it is necessary to show that the order is necessary for disposing fairly of the matter or for saving costs.

⁵ See SI No. 43/2017 - European Union (Actions for Damages for Infringements of Competition Law) Regulations 2017 which implements Directive 2014/140/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing action for damages under national law for infringements of the competition law provisions of the Member States and the European Union.

⁶ See Regulation 6(4) of SI 43/2017 referred to above.

CCPC is conducting a Phase II full investigation it may furnish an Assessment to the parties involved.⁷ The Assessment sets out the CCPC's concerns regarding the effect of the proposed merger on competition in the relevant markets. After the Assessment has issued, the parties involved will be afforded the opportunity to access the CCPC's case file in accordance with the criteria set out in the CCPC's Procedures for [Access to the File in Merger Cases](#). In the context of this procedure, access is granted to the parties involved only and only to the CCPC's case file upon request, during the 15 working day period following the receipt by the parties of the CCPC's Assessment.⁸ Prior to the issue of the Commission's Assessment, the parties have no right of access to the file.

11. The file, to which parties will be granted access to, in a merger review case consists of all documents (except internal documents) which have been obtained, produced and/or assembled by the CCPC during the review of a proposed merger or acquisition. Internal CCPC documents can neither be incriminating nor exculpatory. They do not constitute part of the evidence on which the CCPC can rely in its assessment. For that reason, they will not form part of the CCPC's file, but instead will be held in an internal file to which the parties will not have access.

12. The parties will be granted access to all documents within the CCPC file (including the results, terms of reference and methodology of any study commissioned by the CCPC in connection with the review of the merger or acquisition and agreed minutes of meetings between the CCPC and the parties, or between the CCPC and third parties), with the exception of documents provided by the party seeking access, business secrets of other undertakings and other confidential information.

2.2. Question B

13. Is access to the file automatically granted as a matter of law, by statute, rule or case law; if not, is some type of balancing required (in particular, as regards interested third parties)?

2.2.1. CCPC Response

14. In the context of competition proceedings, access to the CCPC's case file arises through either voluntary discovery or compulsorily by Court Order in accordance with Order 31 rule 29 of the Rules of the Superior Courts).⁹ Disclosure of evidence in a CCPC case file may also be ordered by a court in the context of an action for damages in the manner set out in SI 43/2017.

15. In situations where a third party is seeking access to the CCPC's file, where the CCPC is not a party to the proceedings, the onus lies on the applicant seeking discovery to establish that the CCPC is likely to have or have had documents in its possession, custody or power and that those documents are relevant to an issue arising or likely to arise in the

⁷ The Assessment must be issued by the CCPC within 40 working days of the date of determination to proceed to a full investigation (Phase II) or for such longer period as may result, in a particular case, from the suspension of time provided for in section 22(4A) of the Competition Act 2002 (as amended),

⁸ Thereafter, the parties will be granted without further request access to any new information received or obtained by the CCPC that raises issues relating to the notified merger or acquisition not dealt with in the Assessment.

⁹ Order 31 rule 29 of the Superior Courts can be viewed on www.courts.ie

action. The test of the necessity for discovery is strictly applied in respect of discovery orders sought under Order 31 rule 29. Following this, the court will still have a discretion as to whether or not to grant discovery and may consider any potential oppression or prejudice that may arise for the CCPC as a result that could not be adequately compensated by the payment of costs.¹⁰

16. In the case of criminal prosecutions for competition offences before the courts, the prosecution is obliged to disclose to the defence, in advance of the trial, all relevant evidence which it has. This duty to disclose is based on natural and constitutional justice, case law and statutory principles.¹¹

17. In the case of the CCPC's Merger assessment process, only the merging parties are granted access to file and only upon request following the issuing of an Assessment during a Phase II full investigation. In this context access is granted not by statute but as a matter of policy and procedure of the CCPC.

2.3. Question C

18. What body or entity is empowered to grant access to the file in competition proceedings?

2.3.1. CCPC Response

19. In respect of competition proceedings before the Irish Courts, a Judge may direct the parties to provide discovery under Order 31 rule 12 of the Rules of the Superior Courts or in accordance with Regulation 6 of SI 43/2017. Upon motion of a party to the proceedings pursuant to Order 31 rule 29, a Judge may make an Order directing a party not to the proceedings, including the CCPC, to provide discovery of documents within its possession, custody or power. In criminal proceedings, the Director of Public Prosecutions will provide discovery in accordance with statutory rules, case law and natural and constitutional justice and the court will also have a role in ensuring disclosure of evidence should the need arise.

20. The transposition of the ECN + Directive into Ireland may involve significant changes to practices and procedures surrounding competition proceedings.

21. In respect of merger assessment the CCPC is empowered to grant access to its case file. Where the merging parties appeal CCPC Determination in Phase II to block or clear the merger with conditions, then a judge may direct discovery of the case file.

2.4. Question D

22. Is there any transparency obligation that would force a body involved in competition enforcement to provide access to the file even to parties that do not demonstrate any lawfully recognized interest in the case?

¹⁰ Costs in this context refers to the cost of disclosing the documents/records to the party seeking disclosure.

¹¹ The duty differs between summary prosecutions, which are tried in the District Court before a judge without a jury, and prosecutions on indictment, which are tried before a judge and jury in the Circuit Court or the Central Criminal Court.

2.4.1. CCPC Response

23. The FOI Acts allow public access to official information held by the CCPC which is not routinely available through other sources while also acknowledging the public interest and the right to privacy of individuals. Access to information under the FOI Acts is subject to certain exemptions, involves specific procedures and time limits and provides for an appeal mechanism.¹² The FOI Act grants the following legal rights:

- a right for each person to access information held by an FOI body;
- A right for each person to have official information relating to himself/herself amended where it is incomplete, incorrect or misleading; and
- A right for each person to obtain reasons for decisions affecting himself/herself.

24. The CCPC may decide to refuse, grant or grant with redactions the information sought following a request under the FOI Act.

2.5. Question E

25. At what stage of competition proceedings is access to the file granted (e.g., statement of objections in administrative proceedings, when the case is brought to court in adversarial systems)? Is information added to the file after that stage accessible (e.g., information obtained after the statement of objections)? Is there any deadline for accessing the file?

2.5.1. CCPC Response

26. In the case of competition proceedings, access is granted through the process of discovery as described at above and only after proceedings have commenced. Again it is important to note that the transposition of the ECN + Directive into Ireland may involve significant changes to practices and procedures surrounding competition proceedings.

27. In respect of access to file in the context of merger review, access can be granted following the issuing of an Assessment during a Phase II full investigation. Access is only granted to the parties concerned upon request which must be made within 15 days of the issuing of the Assessment. In addition, the parties will be granted access without further request access to any new information received or obtained by the CCPC that raises issues relating to the notified merger or acquisition not dealt with in the Assessment.

2.6. Question F

28. Is it possible to access evidence in the agency's file once the case has been closed? By whom (e.g., investigated parties in that case, investigated parties in another case, other interested third parties)?

2.6.1. CCPC Response

29. Upon the closure of an investigation case file, parties to the case and or third parties may seek to access the case file through the process of discovery in court proceedings as

¹² See: Freedom of Information Act 2014.

outlined in paragraph 2.2 to 2.4 above or through an access request under the FOI Act as outlined in paragraph 2.17 to 2.18 above.

2.7. Question G

30. Is there a statutory or constitutional obligation to act fairly in the collection and disclosure of evidence (in particular, as regards exculpatory evidence)?

2.7.1. CCPC Response

31. There are both constitutional and statutory obligations on the CCPC to act fairly in the collection, retention, safeguarding and disclosure of evidence.

2.8. Question H

32. For what purposes can the parties which have accessed the information in the case file use it (e.g., the case at stake, to support other cases, in subsequent competition damages actions)?

2.8.1. CCPC Response

33. In respect of the access to file in merger cases, the parties can only use the information provided in the context of responding to the Assessment of the CCPC.

34. In respect of civil litigation, where discovery is either voluntarily provided or ordered, the information obtained can be used for the purposes of the proceedings concerned under which the discovery was provided.

35. In respect of actions for damages, where a third party has sought and obtained discovery of information contained in a CCPC file under SI 43/2017, the information obtained under regulation 6(4) relating to (a) leniency statements or (b) settlement submissions is inadmissible in such proceedings as evidence. Furthermore, until the CCPC has closed its investigation, information obtained under regulation 6(3) not related to either leniency statements or settlement submissions is inadmissible in an action for damages.

2.9. Question I

36. Can the decision not to grant access to evidence be challenged? What about the decision to grant access to evidence (for instance, to a third party)? By whom? Before what body? What are the consequences if an agency is found improperly to have denied or granted access to the evidence in the file?

2.9.1. CCPC Response

37. In proceedings before the court where parties seek to obtain disclosure, it is the judge who either grants or refuses an order of discovery and all matters relating to discovery or failure to comply are a matter for the relevant court. Decisions may be appealed to a higher court in the same manner as in other cases.

38. In the context of access to file in merger cases the parties may challenge a refusal to grant full access to the evidence. For example, where parties wish to gain access to a redacted document, or a redacted section of a document section, they must make a written request outlining why the information redacted is likely to be relevant for its defence. The

CCPC will assess whether the need to safeguard the rights of the defence of the parties outweighs the concern to protect confidential information of third parties. The CCPC will assess whether such information is necessary to prove that a significant lessening of competition ('inculpatory document') will occur as a result of the merger or could be necessary to disprove that a significant lessening of competition will occur as a result of the merger ('exculpatory document').

2.10. Question J

39. Explain briefly the methods through which access to the file is provided (e.g., electronic storage devices, in situ at the agency's or court's premises).

2.10.1. CCPC Response

40. Access to the file in a merger or competition case will be granted in one of the following ways, or in any combination of them, taking due account of the technical capabilities of the parties: electronically (by email or otherwise) or by sending copies of the accessible file in paper form by fax, post, or courier.

3. Protection of Confidential Information

3.1. Question A

41. How does your agency or a court in your jurisdiction balance a party's right to review and respond to evidence that will be used against it with the need to protect confidential information?

3.1.1. CCPC Response

42. In the context of competition proceedings before a court, the judge will have discretion in respect of orders of disclosure and balancing the rights for parties to review and respond to evidence with the need to protect confidential information. The CCPC will have a limited role to play in such situations.

43. In the context of protecting confidential information in respect of access to file in a merger review context, the CCPC is cognisant of merger parties' right to review and rights of defence while also protecting the confidential information of third parties. Where the file includes confidential information, consistent with the CCPC's obligations and its procedures on treatment of confidential information, this information is redacted to ensure confidentiality is maintained. If this redacted element is part of the evidence on which the CCPC intends to rely, or relevant to a merger parties' case, where possible, non-confidential summaries of this information are provided to the merger parties.

3.2. Question B

44. How is "confidential information" defined in your jurisdiction? Are there any statutes, case law, or agency guidance documents that define what information will be afforded confidential treatment? Describe the types of information generally deemed confidential in your jurisdiction (e.g., business secrets, strategic plans, or other commercially sensitive information; personally identifiable or sensitive personal

information; information that implicates certain public interests such as national security; information provided by other agencies, etc.).

3.2.1. CCPC Response

45. Section 25 of The Competition and Consumer Protection Act 2014 prohibits the unauthorised disclosure of confidential information by the Commission or members of its staff. Section 25(5) defines confidential information for the purpose of that section as:

“(a) information that is expressed by the Commission to be confidential either as regards particular information or as regards information of a particular class or description, and

(b) proposals of a commercial nature or tenders submitted to the Commission by contractors, consultants or any other person.”

46. Examples of information that may qualify as business secrets include: technical and/or financial information relating to an undertaking's know-how, methods of assessing costs, production secrets and processes, supply sources, quantities produced and sold, market shares, customer and distributor lists, marketing plans, cost and price structure and sales strategy.

47. Section 25 gives the CCPC a wide discretion as to what classes of information it can consider to be confidential. In the context of merger review and access to the file, information will generally be considered confidential if (i) it is known only by a limited number of persons; (ii) its disclosure must be liable to cause serious harm to the third Party; and (iii) the interests liable to be harmed by the disclosure must be objectively worthy of protection.

3.3. Question C

48. Explain the procedure to provide confidential treatment, including:

1. What steps, if any, do providers of information need to take to request confidential treatment for submitted material.
- ii. Which body decides whether to provide confidential treatment (e.g., the body handling the proceedings in the agency, a separate decision maker within the agency).
- iii. Explain the factors that are used to determine whether confidential treatment should be provided. What role do general considerations on the value of transparency of public proceedings play in this balancing? Is the reasoning behind the decision on confidential treatment shared with the party making the request?

3.3.1. CCPC Response

49. In the process of investigations, where the CCPC seeks submissions from parties via its Requirement for Information pursuant to section 18(1)(d) of the 2014 Act, it will ask parties to provide both a confidential and a non-confidential version of any submissions or response or to clearly identify confidential information and provide a reasons for the claim of confidentiality.

50. In merger reviews, the parties to the concentration making the notification are required to identify confidential information and to provide a reason for the confidentiality. In addition the parties are asked to provide a confidential and non-confidential version of

all information submitted to the CCPC during the course of the merger review. Third parties contacted by the CCPC when it is conducting the assessment are also asked to provide both confidential and non-confidential versions of any submissions or responses given to specific questions of the CCPC.

51. Upon receipt of a claim for confidentiality, the CCPC will either provisionally accept the claim or inform the party or the third party in question that it does not agree with the claim in whole or in part, give its reasons and set a time-limit within which such third party may inform the CCPC in writing of its views. The CCPC will take into account the written views duly submitted by the third party and the CCPC may reject the claim for confidentiality if the information is necessary for the proper performance of the CCPC's merger review functions. Information will generally only be considered confidential if (i) it is known only by limited number of persons; (ii) its disclosure must be liable to cause serious harm to the third Party; and (iii) the interests liable to be harmed by the disclosure must be objectively worthy of protection.

3.4. Question D

52. Can the decision not to provide confidential treatment be challenged? Can the decision to provide it be challenged? By whom? Before what body?

3.4.1. CCPC Response

53. In the context of access to the CCPC file in competition cases where the CCPC refuses a voluntary request for disclosure to documents in proceedings, an application may be made to the relevant court to order the CCPC to provide disclosure in line with Order 31 rule 29 or under SI 41/2017 or through other applicable means.

54. In the context of access to file in merger cases, the parties may challenge a decision not to provide access or to provide access to redacted information as part of an overall appeal of CCPC Determination to block the merger or to clear the merger subject to specific conditions. In such context the challenge to the decision not to provide access amounts to challenge to the procedure applied by the CCPC in reaching its Determination.

3.5. Question E

55. Describe the circumstances, if any, under which information deemed to be confidential may be disclosed.

- i. Does your agency provide notice to the party or third party claiming confidentiality of your intention to disclose confidential information?
- ii. Do parties or third parties have the ability to object to, or appeal within the agency, prior to the disclosure of their information on confidentiality grounds?
- iii. Do parties and third parties have the ability to appeal to or seek an order from a court and/ or other agency to prevent or limit disclosure of their information?

3.5.1. CCPC Response

56. In the context of requests for access arising under the FOI legislation, confidential information may only be disclosed in the public interest following the consultation procedures set out in section 38 of the FOI Act.

57. In certain cases, in the context of access to file in merger cases the CCPC may grant access to confidential information through the use of a negotiated disclosure procedure. Under this procedure, the CCPC will seek consent from a third party to voluntarily waive their right to the claimed confidentiality. This waiver is provided on the basis of the parties limiting access to confidential information to a restricted circle of persons (to be decided by the parties and the affected third party), under the supervision of the CCPC, who are required to enter into confidentiality undertakings.

3.6. Question F

58. What are the consequences of inadvertently or improperly disclosing confidential information? Distinguish, where applicable, between disclosure by the agency's or the court's personnel and disclosure by the parties that have been granted access to the file.

CCPC Response

59. Section 25 of the 2014 Act prohibits the unauthorised disclosure of confidential information by persons working for or engaged by the CCPC. Where such a person discloses confidential information without authorisation, that person commits an offence and is potentially subject to a fine of up to €5,000 and/or a term of up to six months imprisonment if found guilty of the offence in a District Court.

60. This is distinct from the reputational damage that may arise for the CCPC and the potential affect that this could have on its ability to effectively engage with third parties and in the performance of its functions.

3.7. Question G

61. With respect to information that has been treated as confidential during the investigative and administrative stages (where applicable), what are the rules on disclosure when a competition case is examined by a court, either on appeal or at trial?

3.7.1. CCPC Response

62. The CCPC is tasked with investigating alleged breaches of the 2002 Act. The CCPC cannot make administrative decisions or determinations concerning breaches of competition law or impose civil fines or other civil penalties. In the context of competition proceedings disclosure of confidential information is determined under the rules of discovery.

3.8. Question H

63. How does your jurisdiction protect the confidentiality of the leniency applicant, information provided by the leniency applicant, or leniency applications before and after a case is closed? How are the interests of private litigants balanced against the need to protect the integrity of the leniency program?

3.8.1. CCPC Response

64. The CCPC in conjunction with the Irish Director of Public Prosecutions operates a [Cartel Immunity Programme](#) (the “Programme”).¹³ The Programme treats all applications for immunity as strictly confidential and information made available under the Programme will not be disclosed unless disclosure is required by law or must be made public by the CCPC to enforce the 2002 Act.

65. In addition the Protected Disclosures Act 2014 provides protection to employees who raise concerns about possible wrongdoing in their place of employment and who make a protected disclosure to his employer or a designated person prescribed by the legislation. The Chairperson and the Members of the CCPC are designated as persons prescribed to receive protected disclosures under the Protected Disclosures Act 2014.¹⁴ The person to whom a protected disclosures is made shall not disclose to another person any information that might identify the person by whom the protected disclosure was made, except in the limited circumstances described the legislation.¹⁵

3.9. Question I

66. Explain briefly the methods through which confidential information is protected (e.g., protective orders, non-confidential versions, negotiated disclosure, data rooms, summaries, in camera reviews).

3.9.1. CCPC Response

67. Where parties provide confidential information to the CCPC, it will do all it can to protect the personal details of those providing information to it and in accordance with applicable data protection legislation. However, the CCPC may need to disclose confidential information, including the identity of the source of such information, in limited circumstances for example if required to do so in the context of legal proceedings.

68. Where the CCPC is required to disclose confidential information it will do so in accordance with the specific disclosure requirement imposed upon it. The manner in which disclosure will be made will be determined on a case-by-case basis.

3.10. Question J

69. Does your jurisdiction allow the sharing of confidential information with foreign agencies or courts? Does it allow the sharing of confidential information with other domestic agencies, or government and legislative bodies? If so, what factors are taken into consideration to decide whether the information is shared (e.g., the approach of that agency or body to the protection of confidential information)?

3.10.1. CCPC Response

70. The CCPC is authorised and empowered to share confidential information in accordance with the rules set out in [Council Regulation \(EC\) No 1/2003 of 16 December](#)

¹³ For more information see: Cartel Immunity Programme.

¹⁴ More information on how the CCPC deal with protected disclosures can be found on its website [here](#).

¹⁵ Section 16 of the Protected Disclosure Act 2014.

[2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty](#) dated 16 December 2003.

71. In addition, the CCPC in accordance with the provisions of section 23 of the 2014 Act may enter into an arrangement with foreign competition and/or consumer bodies to share information. However, this information sharing, which may include confidential information, may only be done in for purposes prescribed by section 23.¹⁶

72. The CCPC is authorised to share confidential information with other domestic agencies in accordance with section 24(1) of the 2014 Act, if the CCPC is of the opinion that the information relates to the commission of an offence.¹⁷ The CCPC is also authorised to share confidential information if it is necessary for the performance of the functions set out in section 10 of the 2014 Act.

The CCPC may share confidential information with foreign agencies or courts where it is required to do so in accordance with any obligations placed on it pursuant to international treaties.

¹⁶ The consent of the Minister for Business Enterprise and Innovation is required before the CCPC can enter into arrangements with foreign bodies under section 23 of the 2014 Act.

¹⁷ Section 24(1) of the 2014 Act lists the domestic entities with whom the CCPC can share confidential information.