



**CSNA Submission to  
The Joint Committee on Jobs,  
Enterprise and Innovation**

**The Cost of Doing Business**

**August 2017**

CSNA is the representative body for retailers in the convenience stores, newsagents and forecourt sector. It operates on a 26-county basis, with 21 branches throughout the country. There are in excess of 1,500 individual stores in CSNA membership, with an estimated 35,000 employees. Policy is determined by our National Executive, all of whom are working retailers. The majority of our members are affiliated to symbol groups such as Musgrave (Supervalu, Centra, Daybreak) BWG Foods (Eurospar, Spar, Mace, Londis, XL) Barrys (Costcutter) and Gala whilst the other members are independent of affiliation.

We welcome the opportunity to provide to the Committee our observations regarding the cost of doing business in Ireland and thank the Committee for including CSNA in your invitation to submit matters for your consideration. We would, if requested, be prepared to attend any meetings of your Committee to provide additional substance to our observations.

The Committee has asked the Association to prioritise the costs of doing business as they affect and are of most concern to our members.

### **Labour Costs**

It is our contention that the largest cost by far to all of our collective businesses are wage costs. This is because labour in service industries are necessary and intensive. For the avoidance of doubt, labour costs include employers PRSI contributions, training, uniforms, payroll administration, recruitment costs and employer liability insurance costs. Ensuring that the vast range of labour laws are complied with by our employer members necessitate ongoing administration/HR costs, as does the engagement of specialist legal firm to agree, defend or rebut assertions made to the WRC by employees.

We wish to make quite clear to the Committee that we are not attempting to criticise the right of any employee to assert and vindicate their rights as a employee, we are merely providing the Committee with a comprehensive review of the totality of costs incurred by an Irish retail employer.

Every business needs to make a profit. Every business needs to control their costs to enable them to make sufficient profits to enable them to sustain their business into the future. Retail outlets such as those represented by the CSNA are acutely aware that their customer base have extensive choices available to them and will not tolerate service levels that fall below acceptable standards. Our module does not, in the main, provide for ecommerce solution, nor would our customers appreciate being served following queuing for lengthy periods (unlike retail banks and many general post offices, government agencies etc). As such, the employment of sufficient staff in a prerequisite to any convenience retail business.

For many of our members, the overall costs of labour (as defined previously) as a percentage of their total costs can be higher than 65%. It is therefore crucial to their business that these costs, and any increase in these costs, can be justified, can be sustained and do not affect the ability of the business to continue to provide a quality service to their customers.

In Ireland, employers have an obligation to engage and pay their staff in accordance with a number of legislative provisions. For our retail sector, until the High Court struck down the constitutionality of the wage-setting function of the Joint Labour Committees (JLC), many of our members had the minimum rates of pay that were to be paid to their staff determined by an Employment Regulation Order from the RGAT JLC. In the absence of a sector-related operating J.L.C, the floor (or minimum) for wages is determined by the National Minimum Wage. The Low Pay Commission (LPC) is responsible to the Minister for Enterprise and Innovation to provide recommendations on an annual

basis regarding any changes that it would propose to alter or amend the current NMW rate. In the legislation providing for the establishment of the LPC, it is a requirement that any proposals to amend should be based upon an evidence – based conclusion. It is the contention of CSNA and many other employer bodies that the most recent (July 2017) recommendation to increase by 30cent (or 3.24%) the NMW to €9.55 was not evidence based. The Minority Report, authored by three representatives of employers appointed to the LPC states “in addition, it takes insufficient regard of the views of the people who will actually have to fund the proposed increase, namely employers”. The Low Pay Commission has issued 3 reports since it was formed. It was set up closely mirroring the UK Low Pay Commission, indeed much assistance was given by the UK LPC to both Department in the pre-legislative period and on an ongoing basis to the LPC. In the 18 years since the first (1998) report was published, there has never been a Minority Report appended to the main report, in the 3 years of Irish LPC reports, there have been 4 Minority Reports, 3 by worker representations and one by employers. It is clear to CSNA that the LPC, as currently constituted, is incapable of arriving at a consensus and from an employer’s perspective, is most certainly responsible for adding to existing labour costs.

To put into perspective the effect of increasing wage rates over and above the increases in value for products, CSNA will provide an illustration from a number of member stores.

Wage cost incl PRSI/Holiday etc	2017	2018 (projected)
17 staff (9 full time/8 part time)	€247,477	€259,417

This increase of €11,940 represents an actual increase of 4.82% in wage cost to the employer as most of the full-time workers will move from the Employer 8.5% PRSI contribution rate to the 10.75% rate.

To find an additional €12k in costs, working on an industry standard margin of 20% gross margin, the employers store will need to somehow sell an additional €60k next year. As both CSO and Revenue figures have demonstrated, Consumer Price Indexes tracking the retail value of sales associated with our stores have shown that prices have remained static for a considerable period of time. Our members do not have the ability to re-negotiate wholesale prices with our multinational suppliers; on many occasions, we have been subjected to manufacturers price increases that we do not wish to be viewed as uncompetitive to our customers. Labour costs are without a doubt a major concern for CNSA members, we suggest that the Committee seeks a review of the working of the Low Pay Commission and furthermore seek from the Department of Social Protection and the Department of Finance a working PRSI Employer Contribution rate that does not penalise employers when their employees move from one band to another.

### **Energy (PSO Levy)**

In terms of costs affecting our members, the cost of energy in particular, electricity, is a significant percentage of our outlay. We would like to draw attention of the Committee to the totally inappropriate methodology of determination by the Commission for Energy Regulation (CER) for apportioning rates for the Public Service Obligation (PSO) Levy.

The CSNA repeatedly voiced its objection to the illogical ‘splitting’ of the customer’s base into Domestic, Small and Medium/Large to calculate the Levy. Two entirely different formulas are used in this exercise, leading to enormous variations in levied amounts for the 3 categories. CER asked ESB networks to conduct a review of these methodologies last year and it was concluded that there had been significant overcharges to the medium/Large sector over the previous 8 years. CSNA has

quantified the level of overcharge to be not less than €54m and has written to CER to ask them to initiate a scheme to repay these admitted overcharges. The Property Tax accounts for approx. €400m, and there are significant and appropriate safeguards built into the system but every year (this year the Levy is just short of €500m) the CER applies a levy onto all electricity users without any real external oversight. The CER are without doubt one of the most arrogant and unapproachable public bodies that CSNA (and other employer bodies) have to engage with.

CSNA seeks from the Committee that it investigates the workings of the PSO Levy Determination/Decision process, with particular reference to the current methodology used by CER and to suggest appropriate amendments to the legislation to ensure that a fairer, more transparent and ultimately less costly system is put in place. The difference between two competing stores with similar turnover and identical electricity usage can be in excess of €1200 per annum.

### **Insurance Costs**

CSNA is aware that the Department of Finance are currently engaged in an investigation of the costs associated with the Insurance industry but as this Committee has sought from us to outline, in a 'priorities' fashion, the concern of its members regarding costs to their business, we believe that it is appropriate to bring to the attention of the Committee our concerns.

The vast majority of our members 'shop around' for value in shop insurance products. It is true to state that many insurance companies are loathe to provide full cover for many convenience stores or only provide limited cover. For peace of mind, every shop needs to have cover against issues from burglary, fire and loss of profits following a closure. It also needs to have public liability cover and employers' liability cover. Given the litigious nature of our society, cover against defemination/false arrest and product liability is also a requirement. A shop, particularly those with a fuel forecourt will also need to have cover to provide for environmental clean-up if there was a fuel leak from one of their underground storage tanks.

CSNA engage the services of a full-time insurance consultant to assist our members in minimising their potential exposure to risks. We find that the insurance market is so hostile to providing reasonably – priced insurance cover that we are frequently having to place business with UK insurance companies.

We do not believe that there is one single factor that has created a situation whereby insurance for shops in Ireland has become so expensive but we do believe that the reliance upon the Book of Quantum as a reckoner for personal injury claims is a substantial contributor to the reticence of insurance claims to provide cover at an affordable price.

CSNA would suggest that the Committee liaise with the Department of Finance Insurance group and seek to influence their deliberation with particular reference to reducing the levels of compensation awarded in personal injury claims via the book of Quantum. CSNA does not consider that our members, as customers of insurance companies are well served by a system that does not judicially penalise claimants who either falsify or exaggerate claims for personal financial gain. We support the proposals of our fellow representative body ISME in calling for sanctions via the Perjury Act against both claimant and, if the evidence warrants, their legal advisors where false affidavits have been sworn.

As a society, we need to ensure that people injured in accidents are properly and adequately compensated but we must eradicate the whole false claim "compensation" culture that is damaging our ability to sustain our business.

## Banking Costs

We have little doubt that the Committee will be provided with examples of concern by other respondents of the cost to business of securing or acquiring loans for the businesses that they represent, we would concur wholeheartedly that small and medium sized enterprises in our convenience sector find it difficult to satisfy the criteria for lending. Engaging the services of an accountant to assist in developing a business plan can be an expensive and time-consuming proposition yet we will accept that if it is successful it is a worthwhile exercise. We are aware of the services available to prospective commercial borrowers by the Credit Review Office and note with approval their ability to deal with loans which were suggested to a 'third party' (vulture fund) purchase. The real problem for individual members that have had their loans acquired by such a fund is the uncertainty revolving around the willingness of the new owner of the loan to facilitate the commercial business needs of the business to maintain their business as a giving concern and not merely the occupier of a piece of prime real estate. Loans acquired in 2005/07 and sold on at generous 'haircut' to funds are frequently being called in for full settlement without any consideration for the actual ability of the business to persuade an alternative lender to fund such a buy-out. We do not believe that businesses that have the capability of being viable should be forced to close as long as the business owners continue to pay off the loan in an agreed negotiated timeframe.

The other area of real concern to our members is the cost of physical banking of cash. The standard fee for lodging cash directly into a bank is now 60cent per €100 lodged. Despite significant moves towards a 'less cash' society, Ireland has a very real affinity towards cash. Retail outlets selling convenience products can very often have very significant amounts of cash transacted through our tills, all of which needing to be lodged. It does not seem fair or logical that our members are not discounted on a progressive level as the labour/work involved in cash counting actually reduces exponentially.

To put into context the cost of cash lodgements, a rate of 60cent per €100 lodges is 0.6% off our profit margin. When much of the cash has come from the sale of low margin, low commission products such as National Lottery products, M50 tolls, payment of utility bills etc, this 0.6% has a very real impact on profit reduction.

We do not accept that a bank processing a €200 note automatically needs €1.20 to cover its costs, and will charge the same €1.20 to count, store and move 40 x €5notes. Nor do we accept that a retail customer delivering €20,000 in notes should incur a fee of €120 even if the notes are sorted and banded. There is no proper process to seek a review of Commercial banking charges, unlike the charges applied to personal customers. We believe that the Committee should agree to enquire into this very expensive cost to commercial customers, many of whom are paying in excess of €5k per annum in cash lodgement fees.

The biggest growth in the usage of "plastic" payment cards has been in contactless debit cards, designed to allow for low value transactions (up to €30) to be processed at our pay terminals without additional "chip and pin" security measures. When the Department of Finance (having consulted with CSNA) announced in Budget 16 that there would be an increase in the then €15 contactless limit to €30 and that there would also be a reduction in interchange fees as per a European Directive, it was thought (by the Department and Central Bank) that this would have a positive effect on the cost of accepting plastic in retail stores. Despite rejected warnings from the CSNA to both the Department of Finance and Central Bank that the card providers VISA and MasterCard would alter the way contactless was charged, this change in interchange fees did not

lead to significant reductions in the commission paid by merchants to their service providers as they amended the methodology and rationale by which debit cards (including the contactless cards) were to be charged.

We would urge the Committee to seek from the Central Bank a review of the costs associated with credit/debit cards and report back to the Committee on the real (if any) savings that have followed the reduction in interchange fees. Members of CSNA can pay very significant fees to their service provider for Compliance, contact, tills rolls, terminal rental in addition to their commission fees paid for each plastic transaction. Some of these fees exceed €10k per annum and are, without doubt a significant and unregulated cost to business.

### **Costs Associated With Compliance**

CSNA fully accepts that certain commercial activities require regulating and ensuring that laws enacted by the Oireachtas are complied with. There are however a number of unfair or illogical costs applied to some or all of our members carrying out their legitimate businesses that should be brought to the attention of the Committee.

### ***Waste Management (Packaging) Regulations***

This Act requires our members to either join an approved body (Repak) or accept packaging back into their shops. CSNA has consistently argued that the premise that retailers are responsible (under the polluter pays principle) for the packaging of the products that they sell to consumers is perverse and unfair. It is not the retailers that design the packaging, it is the importer/manufacturer. It is not the retailer that uses the product, it is the consumer, we merely respond to demand. Those products that we sell that have packaging are **all** reported to Repak "upstream". Whether it is a Coca Cola bottle, a can of beans, a packet of biscuits or a carton of milk, Repak have been given all of the tonnage details for the plastic, wood, glass etc and fees on each of these products have been paid by the manufacturer/importer.

It is manifestly unjust that retailers are 'captured' by the Regulations and considered to be 'major producers' when a) we are not producers, merely a conduit for sale and b) the products we sell have **all** been fully accounted for already.

Repak charges a sliding scale for our members, they also reserve the right to refuse to accept application for membership unless 'back fees' are paid. Local Authorities can and do prosecute retailers if they are not members of Repak, a private company. The Department of the Environment made self-compliance both financially and logistically impractical, effectively guaranteeing an income stream for Repak.

We urge the Committee to investigate the mandatory aspects of retailers, hoteliers, publicans and pharmacists having to be members of a Scheme that none of them should logically or morally be obliged to be a part of. The average fee for a retailer is in excess of €800 per annum.

### ***PPI/IMRO Dual Contracts***

A further concern to our members is the matter by which royalties for playing music via radios in shops is collected. CSNA have been in correspondence with both the Controller of Patents and the Department of Enterprise and Innovation over a judgement from the European Court of Justice with regard to the unlawfulness of collections of royalties from businesses in certain circumstances.

In many respects, there are parallels in our objection to members being forced to pay Repak for products that have already been paid for. Radio stations such as RTE, Newstalk etc already pay very

significant royalties to IMRO and PPI and provide up-to-date listenership figures to enable the royalties' collectors ascertain the fees due. We would submit that our stores (and by extension, the customers in the store), are already fully paid for by the radio stations and all attempts to collect from our members is, in effect, a form of double payment.

The ECJ ruling (which was a **binding** ruling) was never implemented by IMRO/PPI, nor were the excluded categories of businesses that were **not** liable to pay royalties amended in the tariffs that the Controller of Patents approved in the year following the Ruling.

CSNA would ask the Committee to engage with the Department of Enterprise and Innovation as well as the Controller of Patents to ascertain how businesses that have, and more importantly, how businesses that **have not** a legal obligation to pay royalties for playing music in their business are protected.

In the past year, IMRO and PPI have 'joined' forces, sharing a database and billing businesses for obligations to pay both IMRO and PPI, despite there being no written contract in many cases. Many businesses are billed in excess of €400 per annum.

### ***Industry (convenience and newsagents) Specific Costs***

Many members of the Committee are aware of the importance that newspapers (both local and national) have in a democratic society. Retailers of newspapers play a significant part in fulfilling the role yet, unlike any other fast moving consumer good (FMCG) each and every retailer of newspapers must pay a carriage (or delivery) charge to obtain supplies from each of the 2 news wholesalers EM News and Newsread. The charges for retailers range from €40 to €70 per week for each of the distributors, leading to annual bills (before a single newspaper or magazine is sold) averaging over €6k. For retailers selling small numbers of papers in rural communities, it is not an exaggeration to state that they are making very little profit once these costs are subsumed into the category costs. Retailers selling titles such as The Irish Independent and the Sunday Times **must** deal with both entities, must provide a €2,500 security deposit (only returned on account closure) to each company and must abide by very strict returns criteria to obtain credit for unsolds. As the products have a printed RSP on the cover, it is not practical to attempt to recoup the cost of delivery by increasing the price of the individual title.

CSNA would urge the Committee to consider what changes to the Competition Acts could be made to enable representative bodies such as CSNA engage in price negotiation with undertakings on behalf of its members. We do not consider it to be fair that large companies who have a market dominance (or no competition at all) should be allowed to dictate commercial terms without there being a counterbalance to what can be, quite frequently, a 'take it or leave it' attitude.

### **Security Costs**

For many CSNA members, the cost of providing for security-related products is substantial and unique to the retail business. We carry many products that are considered to be desirable by non-desirables!

From building strong rooms for tobacco products, installing sophisticated burglar-detection devices, commissioning CCTV cameras to protect staff and property, meeting insurance requirements for the lodgement of cash, training staff in vigilance and non-confrontational techniques to dissuade shoplifting, agreeing maintenance contracts for camera monitoring and key holder services, the provision of security in our stores is most certainly an expensive business cost.

One of the concerns that CSNA has is the seemingly over-protective nature of the determination of the office of Data Protection with regard to the sharing of video images of shop lifters between store owners. We should not, as a society be so concerned to protect the “rights” of known criminals over the rights of business owners and their staff to be protected. In many parts of rural Ireland, criminal gangs can, with seeming impunity, arrive in towns and villages, carry out what can only be described as organised pillaging and businesses cannot, under penalty of prosecution, share images of these gangs with other shopkeepers in the area. In a recent incident in the midlands, one of our members’ customers had a gun held to her head while the criminal demanded that the cashier empty the contents of the till. It was subsequently learnt that the same individual had been “casing” another store in the locality previously that day. Had the first store the legal right to pass on the image of the offender to other stores in the area, he may have been noticed when he did his reconnaissance of our members shop an hour before the incident, allowing time for the Gardaí to be alerted.

As representatives of society at large, we urge the Committee to seek amendments to Data Protection Legislation to allow for the sharing of images of miscreants between store owners. Whilst this in itself may not reduce the cost of doing business it can and will prevent the cost of crimes affecting our businesses.

Similarly, the need to “pixelate” or block out images of customers not involved in a matter that is the subject of an enquiry from a solicitor acting on behalf of a complainant can and does create what we would consider to be an unnecessary and bureaucratic layer of cost-incurring requirements.

If somebody’s image is captured on CCTV camera in a store where the public have been advised that there are CCTV cameras, we would suggest that their presence implies a consent to not only be recorded but to have such images shared if required for purposes of assisting an enquiry. We would ask the Committee to seek from the Data Protection Commissioner guidance on reducing the costs to business of complying with third party requests for assistance.

### **Commercial Rates**

The majority of members of your Committee will have significant knowledge of the role that commercial rates have in funding local authorities. They will also be very aware that a number of services that were previously covered by rates have been discontinued, such as water and refuse collection. It is very difficult to find any of our members who are satisfied with the current rating system and, more importantly, the value for money that their businesses obtain from paying over very significant amounts of hard earned money. Many CSNA members are paying in excess of €10k p.a to their local authority and cannot accept that they are receiving anything remotely approaching a return for this payment. Many local authorities actively discourage shoppers by overly restrictive parking regulations and fees, fail to maintain roadways and footpaths, fail to provide adequate litter bins, engage overly-officious enforcement officers, fail to make themselves available during (and outside of) business hours, are extraordinary profligate with ratepayers money in financing unsustainable projects, neglect to engage in a partnership approach with rate payers or their representatives and generally provide extremely poor value for money.

Changes that have come about through the implementation of a new valuation system have without doubt affected retail ratepayers negatively. The whole idea of assuring the local authority that the changes were to be revenue neutral ensured that there would be ‘winners’ and ‘losers’ in introducing a system that was based upon what is a notional value of rental income, without any consideration for the profitability or desirability of a particular store in an area. The most recent slew of amendments in the Midlands area is testimony to our assertion that retail outlets have fared



disproportionately worse off than any of the other commercial sectors. This is on foot of evidence that the overall national vacancy rate of retail properties in the Republic now exceeds 13.5% (DKM Consultants, 2017). The vast majority of towns with the highest level of commercial vacancy rates are in the West of Ireland or in the Midlands. Any suggestion that rates based on national rental rates is fair or equitable is to be discounted as unrealistic. If a town centre does not have a thriving and mixed business usage, footfall is affected, with consequent loss of trade and migration to out of town retail parks, the majority of which provide free parking spaces. Commercial rates are a local property tax but are not subjected to the rigorous scrutiny that would be implemented if it was a national (revenue) tax.

One of the most unfair aspects of the existing valuation system is the effect that owners of properties encounter when they modernise their public offering by making changes or alterations to their property. Instead of congratulating the owner on investing in an appealing shop front, the local authority alerts the Valuation Office to the changes and seeks a revaluation of the premises. This is surely not a progressive way of encouraging entrepreneurial investment and is a recipe for maintaining dull, lifeless buildings.

This Committee should consider how businesses, particularly retail businesses can have their collective voices heard and heeded by local authorities who would, it would appear, be more interested in our money and not our opinions.

### **Conclusion**

CSNA welcomes the opportunity to provide the Committee with our observations and concerns on the cost of doing business in Ireland

Our members are part of the retail sector that is belatedly acknowledged to be a vital part of the Irish economy. Our members own stores that service their communities and are an important anchor and point of contact within their locale. For many young people, our stores are their first place of employment, allowing them to learn the value of work, the importance of customer service and a multitude of skills.

To enable us to remain in business, this Committee needs to take actions that will alleviate the very real pressures that are threatening small and medium-sized retail enterprises.

### **Labour Costs**

CSNA asks that the Committee seeks a review of the workings of the Low Pay Commission.

CSNA also asks the Committee requests from the Department of Social Protection and the Department of Finance that a new PRSI system be put in place that will eliminate the negative effects that follow for both employer and employee when an employee moves from the 8.5% to 10.75% ER rates.

### **Energy**

CSNA urges the Committee to investigate the workings of the PSO Levy, specifically the two-tier approach for calculating the Levy and to engage with both the CER and the Department of Energy and Natural resources on this matter.

### **Insurance Costs**

CSNA requests that this Committee liaise with the Department of Finance insurance group with regard to replacing the existing Book of Quantum with a more realistic framework for compensation

for personal injuries. Our sector in particular is penalised through insurance premium for the public liability aspect of our cover, with upwards of 70% of premiums quoted being assured on PL risk due to the overly generous rewards, and a legal system that is rewarded for delays.

### **Banking Costs**

CSNA asks that the Committee should seek to learn the views of the Credit Review Office specifically with regard to possible amendments to legislation to protect viable businesses from vulture funds.

CSNA requests that the Committee should enquire from the Financial Ombudsman and the Central Bank what protections could be put in place to provide for a fairer system with regard to banking fees for commercial customers, with particular reference to cash lodgement (notes and coin).

With regard to 'plastic' cards, CSNA asks that the Committee seeks from the Central Bank that they review the effect of the charges to the interchange fees, and whether the growth of usage of contactless debit cards has provided a new source of commission to the card users that has reduced the benefits of the reduction, at the expense of retail merchant users.

### **Waste Packaging**

CSNA seeks that the Committee request from the Department of Housing, Planning and Local Government a report on the efficiency of the Waste Packaging Act, with particular reference to the sole approved body, Repak, and specifically on the propriety of capturing retailers and other service providers into a scheme as 'major producers'.

### **PPI/IMRO**

CSNA seeks that the Committee engages with both the Department of Enterprise and Innovation and the Controller of Patents to enquire as to what they are doing to ensure the ECJ ruling on music royalties is provided for legislatively and procedurally.

### **Allowing Representative Bodies A Negotiating Licence**

Unlike Trade Unions, representative bodies such as CSNA are specifically prevented from entering into or agreeing commercial terms with undertakings. This leads to an unfair imbalance in imposed Terms and Conditions where a company has a dominant share of the market. We ask that the Committee consider recommending changes to the Competitions Acts to provide for a system that would allow a reversal of an imbalance that not certainly adds to small and medium sized businesses costs. This is not a radical suggestion and is in place in Australia.

### **Security Costs**

CSNA asks that the Committee requests from the Data Protection Commissioner guidance on how costs to business could be reduced with regard to 'pixelating' images.

CSNA asks that the Committee considers how businesses could legally provide images of persons engaged in criminal activity to other businesses to enable the prevention of crime.

### **Commercial Rates**

CSNA asks that the Committee should make recommendations on how business can have their interests heard with Local Authorities.

CSNA asks the Committee to agree to investigate how a rate payer that improves their premises can be rewarded rather than penalised following changes made to their shop front.

CSNA asks the Committee to enquire from the Valuation Office the changes made under the new scheme vis-à-vis the increases/decreases in valuation for retail, industrial, hospitality, office and commercial parks with a view to considering whether the 'revenue neutral' basis is fair and equitable.

CSNA thanks and appreciates the work of your Committee and assures it that we are prepared to attend and assist you to conclude your deliberations.

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Vincent Jennings  
Chief Executive  
CSNA