

COMPETITION AUTHORITY REJECTS ALL COMPLAINTS BY IRISH WASTE MANAGEMENT ASSOCIATION REGARDING WASTE TO ENERGY PLANT AT POOLBEG

14th July 2010:

The Competition Authority has written to Dublin City Council following their assessment of a series of complaints made by the Irish Waste Management Association, to confirm that “there is no breach of Irish competition law” in relation to the Dublin Waste to Energy plant at Poolbeg and the Public Private Partnership Contract between the four Dublin Local Authorities and their private sector partners in the Dublin Waste to Energy Limited project, Covanta Energy and DONG Energy. The Competition Authority rejected all four complaints made by the Irish Waste Management Association about the Waste to Energy Plant at Poolbeg.

“We are delighted that the Competition Authority is the latest statutory agency to confirm that the Poolbeg Waste to Energy plant is fully within the law. It is also in line with best practice”, says Seamus Lyons, Asst City Manager, Dublin City Council.

“The Irish Waste Management Association did not object to the Poolbeg Waste to Energy Plant during the ten years while it was going through the statutory processes and when they had plenty of opportunity to make their views known. It is only since 2007 that the IWMA has sought, at every turn, to stop Dubliners from having the most innovative waste management system, on a par with the best in Europe, with maximum recycling, minimum waste going to landfill and the waste to energy plant turning waste into enough energy for the equivalent of 80,000 homes as well as providing district heating for an additional 50,000 homes. The Poolbeg plant will ensure that Dublin meets its obligations under the EU Diversion of Waste from Landfill Directive and it is the best solution for Dublin’s waste from the point of view of climate change”.

The four complaints made by the Irish Waste Management Association against the Poolbeg plant have been rejected in their entirety by the Competition Authority. They are;

Complaint 1:

That Dublin City Council and Dublin Waste to Energy Ltd may have entered into arrangements that could amount to a concerted practice in breach of Section 4 of the Competition Act 2002.

The Competition Authority has come to the conclusion that there is **no breach of Irish Competition law in relation to this complaint.**

Complaint 2:

That Dublin Waste to Energy Ltd and Dublin City Council could use the specifics of the “put-or-pay” clause in the Public Private Partnership Contract to engage in an abuse of a dominant position in the market for waste treatment by engaging in predatory pricing, thereby breaching Section 5 of the Competition Act, 2002.

The Competition Authority has come to the conclusion that there is **no breach of Irish Competition law in relation to this complaint.**

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Complaint 3:

That the Public Private Partnership between Dublin City Council and Dublin Waste to Energy Ltd amounts to a State Aid in breach of European Law.

The Competition Authority has come to the conclusion that there is **no breach of Irish Competition law in relation to this complaint.**

Complaint 4:

That the Public Private Partnership Contract between Dublin City Council and Dublin Waste to Energy Ltd contains price-fixing arrangements between the parties in breach of Section 4 of the Competition Act, 2002.

The Competition Authority has come to the conclusion that there is **no breach of Irish Competition law in relation to this complaint.**

The Irish Waste Management Association made a further 5 complaints to the Competition Authority regarding Dublin City Council and Waste Collection Permits, as follows:

Complaint 5

That a stipulation in the Waste Collection Permits that could be construed as giving Dublin City Council the authority to direct waste collected by private operators to a waste treatment facility at its sole discretion, such as the Poolbeg facility, is anti-competitive.

This complaint was rejected by the Competition Authority.

Complaint 6

That Dublin City Council, by virtue of its role as regulator of the waste collection market, can use its access to commercially sensitive information to behave in an anti-competitive manner on that market.

This complaint was rejected by the Competition Authority.

Complaint 8

That a condition of the Waste Collection Permit that allows Dublin City Council to unilaterally change the authorized facilities to which collected waste can be delivered allows Dublin City Council to exclude facilities owned by other parties and, as such, is anti-competitive.

This complaint was rejected by the Competition Authority

Complaint 9

That a condition of the Waste collection Permits which stipulates that a permit holder cannot collect waste from single dwelling households, except when under contract with the relevant local authority, is anti-competitive and/or is an abuse of a dominant position.

This complaint was rejected by the Competition Authority

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Complaint 7

That the ban on the kerbside collection of glass co-mingled with other dry recyclable materials as found in the Waste Collection Permits is an attempt by Dublin City Council to foreclose the market for the collection of this material to private operators.

This is the only complaint that the Competition Authority says it intends to investigate further. It relates to Dublin City Council's policy of asking householders to separate glass according to colour, at recycling centres to ensure its high quality and so it can be recycled into new glass containers. This complaint has nothing to do with the Poolbeg waste to energy plant.

The Competition Authority says in the letter to Dublin City Council that the Authority's decision to investigate this one matter further, "does not indicate that the Authority is of the opinion that a breach of the Act has occurred".

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Note to Editors

The Poolbeg Waste to Energy project is the final piece of infrastructure needed for the Dublin Region to achieve its aim of maximum recycling and minimum waste going to landfill. It has full planning permission from An Bord Pleanála, has a waste licence from the Environmental Protection Agency, has permission from the Commission for Energy Regulation to generate energy and supply to the grid and has been approved by the Department of the Environment, Heritage and Local Government and the National Development Finance Agency, on behalf of the Department of Finance, to confirm it is good value for money.

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