

Hemp Federation Ireland to the Committee on Agriculture, Food and the Marine; the development of the Irish hemp industry

I thank the Chairman and the Committee for this opportunity to discuss the development of the Irish hemp industry. My name is Chris Allen, I am the Director of Hemp Federation Ireland (HFI), Ireland's national hemp industry stakeholder body. I am joined today by my colleague Marcus John McCabe, who is a member of our advisory board on Agriculture. He is an organics and permaculture expert and has grown and processed more than 80% of all hemp grown in Ireland over the past two decades.

The Irish hemp industry is one of the oldest in the European Union with a small but fully operational supply chain since the 1990's. Irish hemp farmers and industry operators are among Europe's leading industry authorities; Europe's oldest dedicated hemp retail outlet is also located in Dublin.

There are nine EU statutory instruments establishing the legal basis for the operation of the European agricultural Market in hemp and derived products, all of which are immediately applicable to Ireland. Article 34 of TFEU protects the integrity of the operation of the Single Market in hemp and derived products. In addition, there are three EU Court of Justice rulings going back to 2008, all of which positively clarify various aspects of the operation of the EU hemp market. The THC content in Hemp is not illegal under Irish Misuse of Drugs legislation as a direct consequence of the primacy of EU law.

Ireland's Department of Agriculture's support for Commission regulations establishing the EU hemp industry has driven the development of the Irish hemp sector since the 1970's. Indeed, during Ireland's presidency of the EU in 2004, the extension of trade in hemp between Member States was a priority for Ireland's then Fianna Fail Minister for Agriculture, Joe Walsh. Mr Walsh secured EU regulatory amendments which would serve to extend the operation of the EU agricultural hemp market into the future.

In November 2020, a particularly clear European Court of Justice decision in case C-663/18, also known as the KanaVape ruling, again confirmed the legality and scientific safety of hemp and derived products in Europe. The supremacy of the EU Court of Justice in interpreting both EU law and the Treaties is acknowledged by Ireland and by all Irish regulators. Indeed, On October 20th 2021, Minister for State at the Department of Foreign Affairs, (Deputy Thomas Byrne), advised the Oireachtas Committee of Ireland's policy in this regard as follows:

"As EU member states, there is an onus on us all to comply with determinations of the European Court of Justice with a view to maintaining our shared legal order. As part of membership of the Union, it is also essential that member states accept the primacy of European Union law, which is a principle of the European Union going back to a time prior to when Ireland was a member."

The EU Commission Website carries the following clarifying information on hemp.

"Hemp (*Cannabis sativa Linn*) is a species in the Cannabaceae family in which the level of tetrahydrocannabinol (THC) is very low, according to the provisions under the common agricultural policy (CAP). Hemp is grown primarily for its industrial uses and there are 75 different hemp varieties registered in the EU catalogue. Due to the very low level of THC, hemp complying with the provisions of the CAP is not used to produce narcotic drugs."

Much of the present confusion in Ireland regarding hemp is a result of the transfer of primary responsibility for the agricultural hemp sector to the Department of Health. Much of the discourse emerging from the Health Committee discussions on Medical Cannabis in relation to the farm crop and products, adds to the confusion.

In November 2016, Doctor Lorraine Nolan of the HPRA appeared before the Oireachtas Health Committee to discuss access to medicinal cannabis, in her opening statement she advises that "Cannabis is prohibited other than in specified circumstances where all activities relating to cultivation, manufacture and supply of cannabis, and products containing THC, are subject to licence."

However, the licensing procedures described by Doctor Nolan above apply only to "cannabis" and have never applied to the trace amounts of 0.2% THC in agricultural products. Medicines and food exist in entirely separate regulatory frameworks.

In 2017, Dr Nolan again attended the Oireachtas Health Committee to discuss access to medicinal cannabis. On this occasion Mr Eugene Lennon - principal officer in the medicines and controlled drugs unit in the Department of Health - was also in attendance. Mr Lennon, having brought up the subject of hemp food supplements, is responding to a follow up question from the Committee Chair man who asked "Is there an acceptable level of THC". Mr Lenno replies: "As the law stands, only trace amounts of THC are acceptable. Otherwise it becomes a controlled drug and a licence is required."

It is very clear that, " as the law stands" produce derived from the EU CAP regulated farm crop was never considered to fall within the scope of the Irish Misuse of Drugs regulatory framework and that these products were never subject to HPRA license.

In fact in 2019, Hemp Federation Ireland asked if HPRA licenced agricultural foods with trace amounts of THC, the HPRA replied in writing that they did not and did not envisage a situation where they would ever issue such a license as HPRA did not consider Hemp derived foods containing trace amount of THC to fall within the scope of Irish Misuse of Drugs regulatory framework.

From an agricultural perspective, the EU Commission formally recognises the capacity of the hemp industry to meet EU CAP, Farm to Fork and Climate Policy objectives. The financial benefits of hemp cultivation to EU farmers and rural communities are also highlighted by the Commission and, in both these contexts, the Commission advises that all uses of hemp are important to consider when we look at the future development of EU industry.

In 2021, hemp was included in Article 75 of the CMO Regulation by the Commission, the THC content in EU hemp in the field will go to 0.3% in January 2023. A Commission regulation establishing EU authorised limits for THC in hemp foods in Europe is already written and goes to final stage scrutiny before the EU Committee on Plant and Animal Food and Feed (PAFF) next week. The Commission's support for the exceptional competencies of the hemp plant are very important considerations at this seminal moment of transformation in agricultural systems and practices. Europe is leading global efforts to tackle climate change under Land Use, Land Use Change, and Forestry (LULUCF). The EU Carbon Cycles initiative is specifically geared to provide a basis for global buy-in, it envisages a globally operational Carbon Cycles framework going forward.

The objective is to completely reform land use management, our systems of agricultural food production, and to repair our soils. The second remit for farmers under the scheme is to grow biomass which will green global industry, providing new fiber materials to replace fossil carbon. The Carbon Cycles system is designed hierarchically, with high protein, low energy vegetable food production at the top of the cascade. The world is witnessing the birth of a new currency, a new means of exchange, backed by a carbon reserve which farmers will hold in their lands.

Hemp sequester more CO₂ than any forest can and it is also the most complete plant based protein known to man. In every context of the Carbon Cycle Cascade the crop is beyond compare - These competencies must be fully integrated at every point along the supply chain from farm to fork and from seed to industrial solution, integrating farming and industrial practice at local level for a carbon neutral Irish, EU, and Global economy. Hemp is one of the most valuable agricultural commodities in the context of carbon budgets and in the context of climate change.

The EU Commission, global corporations, and global banks have called repeatedly for European Member States to ensure the Carbon Cycles programme is launched in a completely open, honest, ethical, and transparent way, so as to inspire farmers with confidence and security in the transition process. The EU Commission has insisted over and over again, at the very highest level, that the economic benefits of the new system must go directly to farmers and that those economic benefits must constitute *additional* farm income. As the roll out of the EU Carbon Cycle initiative gets underway across Europe, in Ireland, earlier applications of unlawful economic sanctions by the Department of Agriculture and SBCI Bank enabled the Department of Agriculture to propose a development plan for our industry where two thirds of our traditional farm incomes no longer exist.

Hemp Federation Ireland would like to expand on how the environmental aspects of this industry actually function, and how the industry should be developed to best capture the fully integrated environmental, economic and social returns for our country. Today our submission must focus on the extraordinary regulation of the hemp industry in Ireland since 2018. From that time almost every rule and regulation governing the operation of our industry has been changed without prior consultation or subsequent explanation. This was achieved by suspending Ireland's observance of EU laws in direct and indirect ways, steering all conversations away from the agricultural and environmental potentials of the crop.

The Oireachtas record shows that the longstanding official representation of the Hemp industry by Irish Ministers for Agriculture changed suddenly and dramatically in 2019. All mention of our food produce is removed and the Misuse of Drugs Act is invoked for the first time alongside terms such as 'strictest levels of control". This change effectively rebrands hemp as cannabis and transfers responsibility for our agricultural industry from the Department of Agriculture to the Department of Health.

The Department of Health then began transforming the regulatory framework surrounding our agricultural markets and supply chains in consultation with pharmaceutical and tobacco companies. No regard was ever shown for democratic principles throughout, none of the regulatory interventions have ever been justified by science (as is required by EU law) and, as a result, our national farm based sector is no longer able to function. The Irish farmers and operators encouraged into the sector by previous Irish Ministers for Agriculture with the support of Government Departments and agencies are now facing 14 year prison sentences for possessing the very same CAP regulated farm crops they were previously encouraged to embrace.

The Lobbying returns show that throughout this entire time Irish Ministers, party leaders, senior civil servants and successive Ministers for Health, were engaging in consultations on hemp with a global tobacco corporation now repositioning to capture the emerging global hemp markets. These same public officials have consistently refused to engage with Irish hemp farmers and businesses operating in the sector for decades; the people who built the agricultural industry and earn their livings in the sector.

- In 2020 commercial control over all elements of our agricultural crop, our farm revenues, and our industry value chain was transferred by the Department of Business to pharmaceutical companies. Enterprise Ireland, removed all access to State enterprise support from all Irish hemp farms and businesses, including Covid-19 support. Only pharmaceutical companies can now access any business support for any commercial activity related to any part of the EU hemp crop in Ireland. When questioned in the Dail as to whether industry bodies were consulted beforehand, the then Minister for Finance replied that the Minister for Health decides who the relevant stakeholders are.

Many such issues are described in detail in Hemp Federation Ireland's letter of September 2021, to the Secretary General of the Department of Agriculture, which is available on our website. I have provided some examples below for the information of the Committee.

To close; the EU hemp industry is protected under primary EU Regulations, article 34 of TFEU, and by three separate CJEU decisions. The operators who work in the sector on farms and in shops and businesses throughout Ireland are entitled to the protections afforded to all EU citizens under the EU Charter of Fundamental Rights. I hope the Committee will be able to protect the Irish hemp industry and prevent further transfer of our industry to pharmaceutical companies before the pending High Court Review of the matter is decided in July.

I thank the committee for their time and attention in understanding what is a difficult and complex situation.

- In 2019 the Department of Finance regulator, Customs and Revenue, acting as an agent of the Minister for Health, began seizing EU hemp and all categories of products derived from hemp at the Irish border. Despite the provisions of primary EU legislation regarding the free movement and trade in hemp in Europe, the Chairman of Ireland's Revenue Commissioners advised HFI that no amount of THC in agricultural hemp is permitted to enter Ireland and that the enforcement practices at the Irish border are fully consistent with EU trade law.
- In June of 2021, the Food Safety Authority of Ireland (FSAI) held a webinar to clarify the legal situation of the hemp crop and derived products in Europe "and specifically in Ireland." Irish hemp operators were advised that a whole raft of EU Regulations permitted the cultivation and importation of hemp with a THC content not exceeding 0.2%.
- Hemp Federation Ireland again wrote to the Chairman of the Irish Revenue Commissioners advising him of the FSAI's view that EU regulations permit the free movement of goods and the importation of hemp into Ireland. The Chairman replied that he was not at the FSAI event and that his instructions from the Minister for Health had not changed.
- FSAI then informed hemp operators that the CJEU Ruling in Case C-663/18 (Kanavape) confirms that Irish farmers can use the flowers and leaves of their crops to make their agricultural food products. However, a second agency of the Department of Health, the HPRA, then immediately afterwards instructed HFI that Irish hemp farmers must destroy the leaves and flowers of their crops at harvest.
- The FSAI also informed farmers and operators that FSAI has no safety concerns regarding any food product it is possible to make from industrial hemp as the THC

content is so tiny. The Department of Agriculture, however, has adopted a strict policy where only the stalk of the plant can be mentioned. The Minister for Agriculture advised that he was unaware of the FSAI advice concerning the legality of our agricultural foods.

- At the same webinar, FSAI informed Irish hemp industry operators that Ireland did not agree with EU authorities that hemp is a Novel Food and Irish authorities therefore do not follow the EU regulations in this matter. FSAI considers that CBD made from the flowers and leaves of the hemp plant is not a Novel Food. Nevertheless, the FSAI announced that it would be working with Customs and Revenue, the police, the HPRAs and the State Forensic labs, among others, to remove CBD products from the Irish market under EU Novel Food Regulations. The EU Member States, when reclassifying hemp as a Novel Food in Europe in 2019, do not make a distinction based on extraction methods used in food production processes which are permitted without prior authorisation under Novel Food Regulation EU 2015/2283 and Directive EC 2009/32. CBD is now both Novel and not Novel, legal and illegal in Ireland.
- The FSAI and other state authorities are now actively removing our products from the Irish market stating that they do not comply with EU Novel Food regulations. By this process, FSAI have also banned the production of CBD in Ireland and the Irish farmers and operators who do have Novel Food Authorisation applications underway, in compliance with the Commission's requirements, and at huge expense, have now been ordered by Irish health authorities to cease production. However, the EU Regulations being used to justify these interventions against one segment of the market in Ireland are applied without exception to all CBD products by European Authorities who consider all CBD, no matter how it's made, to be Novel.
- In September 2020, the Minister for Agriculture then banned all Irish hemp farmers and industry operators from accessing the Covid-19 Credit Guarantee scheme operated by the Strategic Banking Corporation of Ireland (SBCI), which is wholly owned by Ireland's Minister for Finance. When questioned the Minister informed the Dail that he had "imposed no such sanctions. "Last August the Minister admitted that he had imposed the sanctions"
- The justification for Enterprise Ireland's withdrawal of business support for the hemp sector, which I mentioned above, was a Market Survey report conducted and published by the FSAI in conjunction with the Public Analyst's laboratory, Dublin (PALD), in February 2020. Hemp food products collected months earlier for laboratory testing were then assessed against a food safety reference value that didn't previously exist. The FSAI compliance page related to hemp food was updated to include the new advice on the day before the FSAI report was published. Hemp Federation Ireland has repeatedly called for a full independent investigation into the production and publication of the FSAI Market Survey Report.

