Tithe an Oireachtais
Houses of the Oireachtas

An Comhchoiste um Ghnó, Fiontair agus Nuálaíocht

Tuarascáil maidir leis an gCostas a bhaineann le Gnó a Dhéanamh

Iúil 2018

Joint Committee on Business, Enterprise and Innovation

Report on the Cost of Doing Business

July 2018

032 BEI 014

An Comhchoiste um Ghnó, Fiontair agus Nuálaíocht

Tuarascáil maidir leis an gCostas a bhaineann le Gnó a Dhéanamh

Iúil 2018

Joint Committee on Business, Enterprise and Innovation

Report on the Cost of Doing Business

July 2018

032 BEI 014

Contents

Chair's Foreword

Mary Butler TD
Committee Chair
(FF)

It is widely acknowledged that Small and Medium Enterprises (SMEs) contribute substantially to employment growth and economic prosperity. As policy makers we need to ensure that everything possible is done to create and maintain an environment supportive of this vital sector of our economy.

The cost of doing business is a major issue for Irish competitiveness. As a small open economy prone to volatility, we rely on our businesses being able to compete internationally and at home. SMEs are the most affected by the increasing cost of doing business in Ireland. Increases in their costs can threaten the viability of the business. Entrepreneurs who found and run small and medium enterprises assume all the risk and reward of the venture they undertake. Getting started, staying in business with all the associated costs can be extremely difficult.

According to the National Competitiveness Council's recently published report "*Cost of Doing Business in Ireland 2018*", Ireland remains an expensive location in which to do business with a price profile which can be described as "high cost, rising slowly".

In light of the challenges arising as a result of Brexit, it is more important than ever for Irish businesses to be competitive. We need to maximise the opportunities and minimise the risks to our economy.

The Committee identified the Cost of Doing Business as a priority in the context of its work programme. Over the summer of 2017 a number of stakeholders were invited to make a submission highlighting the main issues facing their sectors and industries. Having examined the submissions received, the Committee agreed to meet with 30 different organisations to further examine the current landscape for business in Ireland.

A wide range of issues was presented to the Committee, but the most common issues identified in almost every sector were

- the cost of insurance;
- commercial rates;
- the cost of credit and banking;
- labour costs;
- skills shortages; and,
- retail crime issues.

On behalf of the Committee I wish to thank all the organisations and individuals who contributed written submissions for this report and the witnesses who participated in our series of meetings and contributed significantly to the constructive and informative discussions.

I would like to thank all members of the Committee, including former members, for their input and also the staff of the secretariat to the Committee for the work involved in producing the report.

The Committee has made 50 observations and recommendations which, if implemented, it believes will assist businesses to compete in an increasingly competitive and challenging environment. As a committee we will monitor the progress being made on the on-going implementation of these recommendations, as well as other policy initiatives, in consultation with those Ministers, Departments, State Agencies and other stakeholders with responsibility for policy in this area.

Mary Butler T.D.

Chair

Joint Committee on Business, Enterprise and Innovation

03/07/2018

Executive Summary

The Joint Committee on Business, Enterprise and Innovation (the "Committee") met with 30 organisations over eight meetings between the 17 October and the 8 May 2018. It also received a number of submissions from stakeholders prior to their appearance before the Committee and from a number of organisations and individuals who did not appear before the Committee.

Throughout this engagement it became clear that a certain number of issues were a cause of significant concern across multiple business sectors.

The Cost of Insurance

The increasing cost of insurance was raised by most business organisations that appeared before the Committee. Some businesses have been experiencing exponential increases in their insurance premiums over the last number of years. These increases are threatening the viability of businesses, as well as many charitable and not-for-profit organisations.

A number of reasons were advanced for the increases in premiums, including the increasing level of awards, insurance fraud, legal costs, and the concentration of the market. Existing legislation surrounding personal injury claims was also identified as a factor in increasing insurance premiums. In particular, the lack of sanction for bringing a false or misleading claim was a source of major concern.

Summary of Observations and Recommendations – Cost of Insurance

1. The Committee notes the concern expressed by a number of stakeholders that the Book of Quantum is not adhered to in many cases. The Committee believes that a revised Book of Quantum, taking into account the work of the Cost of Insurance Working Group and the Personal Injuries Commission, should set the basis for awards through direct settlement, PIAB and the courts.
2. The Committee recommends that where an award exceeds the Book of Quantum, that the judge give a written explanation as to why.
3. The Committee recommends that Government examine the feasibility of introducing an updated law in relation to the offence of perjury.
4. The Committee notes the discussions on the establishment of a Garda insurance fraud unit. The Committee also acknowledges that the creation of a new unit is a matter for An Garda Síochána and the Garda Commissioner.
5. The Committee recommends the establishment of a Garda insurance fraud unit.
6. The Committee notes that sections of the Civil Liability and Courts Act 2004 do not appear to be functioning as intended.
7. The Committee notes the Alliance for Insurance Reform's recommendation for cases dismissed under section 26 of the Civil Liability and Courts Act 2004 to be automatically referred to An Garda Síochána for prosecution.
8. The Committee recommends that the Civil Liability and Courts Act 2004 be examined by the Department of Justice and Equality to address fraudulent evidence being presented in court and no further action being taken for the presentation of such evidence.
9. The Committee notes the concerns of the Alliance for Insurance Reform that the Central Bank is responsible for both the prudential supervision and consumer protection function of the insurance industry.
10. The Committee recommends that the Department of Finance and the Department of Business, Enterprise and Innovation examine the feasibility of the consumer protection function of the insurance market being transferred away from the Central Bank to another

body.

11. The Committee notes that the Blue Book in its previous form cannot be published by the Central Bank due to the new rules under Solvency II. However, the Committee agrees that there is a need for better publically available data on the insurance sector.
12. The Committee notes that in setting a statute of limitations it is important to balance the rights of both the plaintiff and the claimant.
13. The Committee notes the concern surrounding the late notification of claims to the defendant.
14. The Committee recommends an earlier notification time of claims to the defendant because the Committee believes it is vital that the early notification is given to allow the full facts of a case to come to light.
15. The Committee shares the concerns of policyholders not being informed of the settlement of claims against them and is of the opinion that policyholders should always be informed before a claim against them is settled.
16. The Committee recommends that a new code of conduct be put in place by the insurance industry that would put the policyholder at the centre of the process.

Commercial Rates

The cost of commercial rates for businesses was an area of major concern for many of the business organisations who presented to the Committee. The revaluation programme carried out by the Valuation Office has resulted in winners and losers, with some businesses experiencing significant increases while others have benefited from decreases in their rates bill.

A number of organisations also expressed dissatisfaction that rates bills have continued to increase while the services provided by local authorities have decreased, resulting in additional charges for businesses. Some businesses also expressed dissatisfaction that the Local Property Tax is reduced while commercial rates are increased.

Summary of Observations and Recommendations – Commercial Rates

17. The Committee notes the concerns expressed by business organisations surrounding commercial rates and that the revaluation programme has led to winners and losers among ratepayers.
18. The Committee notes that the first phase of the revaluation programme being carried out by the Valuation Office will be completed in all Local Authority areas by 2021.
19. The Committee recommends that rates alleviation measures be available to local authorities to reflect changes in trading conditions and government policy.
20. The Committee notes that the collection rates for commercial rates, while varying by local authority, can be improved and that efforts are underway to do so.
21. The Committee notes that certain local authorities have encouraged, through various incentive schemes, the improved collection of unpaid rates and recommends that all local authorities examine using such schemes, while protecting the viability and sustainability of businesses.

Cost of Credit and Banking

The cost of credit and banking was a significant issue for a large number of stakeholders. The level of interest rates in Ireland was raised as a particular concern. Irish interest rates are considerably higher than in most other Eurozone countries. This restricts Irish businesses ability to grow and compete with European businesses.

A public banking model, based on the German Sparkassen model, was put forward as an option for improving competition and reducing interest rates in the Irish market. An expanded role for credit unions, within the public banking model or not, was also advanced as a solution for increasing lending to small businesses at more affordable rates.

The cost of the physical banking of cash was also raised as a significant concern, particularly for retail businesses. These charges can represent a significant cost for businesses, in the region of 0.5% of the cash lodged. Reduced services offered by banks, either through branch closures or restrictions in the services provided in branches also increases the cost to businesses.

Summary of Observations and Recommendations – Cost of Credit and Banking

22. The Committee notes that Irish interest rates are higher than in most Eurozone countries and that this is an area of significant concern for Irish businesses, especially SMEs.

23. The Committee notes that there are many determinants of interest rates and that only general comparisons can be made between countries. However, it is clear that many Irish businesses are at a competitive disadvantage compared to those in other EU countries due to higher interest rates.

24. The Committee notes that Irish businesses are more reliant on bank finance than many other EU countries.

25. The Committee notes that the cost of the physical banking of cash is a significant concern for many businesses.

26. The Committee is concerned about the apparent lack of regulation in this area.

27. The Committee recommends that the Central Bank take an active role in overseeing the fees charged by banks for the physical banking of cash.

28. The Committee recommends that banks and business organisations engage to discuss how the services offered by banks can better be adapted to the needs of businesses, in particular SMEs.

29. The Committee notes and welcomes the proposal made by Irish Rural Link and Sparkassen.

30. The Committee notes that German Sparkassen do not propose to enter the Irish market, but would provide expertise if a similar model were to be introduced in Ireland.

31. The Committee is looking forward to the publication of the report on the Public Banking Model by the Department of Finance and the Department of Rural and Community Development.

32. The Committee welcomes the steps taken by credit unions to expand their offering to SMEs.

33. The Committee recommends the introduction of an Irish Public Banking Model to increase competition in the sector.

Labour Costs

The cost of labour is the single biggest cost factor for many businesses. While a number of organisations stated that Ireland has a high minimum wage compared to other EU countries, this is offset by lower employer social contributions. Ireland's hourly labour cost is in line with similar EU countries.

Another issue regarding labour costs is the lack of skilled labour in certain sectors. The need for increased training and apprenticeships was outlined to the Committee to fill the needs of business in the future, particularly in the construction, hospitality and agricultural sectors. Some organisations also called for work permits to be issued where sufficient labour cannot be found in Ireland or the EU.

Summary of Observations and Recommendations – Labour Costs

34. The Committee supports the recommendation of the Low Pay Commission that the PRSI step anomaly between 8.75% and 10.75% at €376 per week be removed.

35. The Committee notes that while the minimum wage in Ireland is high compared to most EU countries, Ireland's hourly labour cost is broadly in line with similar Member States.

36. The Committee regrets that the Low Pay Commission was unable to come to a consensus decision. However, the Committee believes the Low Pay Commission is the correct forum for examining and making recommendations on the minimum wage.

37. The Committee notes and welcomes the increased focus, from industry and State bodies, on apprenticeships as an alternative education model and a way to provide skilled labour in the future.

38. The Committee recommends that increased efforts be made by the government to substantially increase the number of people in apprenticeship programmes and increase the number of apprenticeship programmes to ensure Ireland has the skilled and educated workers needed for growing and emerging sectors of our economy.

39. The Committee recommends that increased efforts be made to match skills gaps with training programmes offered by Intreo Offices.

40. The Committee recommends that the work permit applications for particular sectors continue to be considered on a regular basis by the Department of Business, Enterprise and Innovation. The Committee also recommends that work permits should only be granted where there is a demonstrable lack of skilled labour and training programmes have failed to produce the skills necessary.

41. The Committee recommends that the reason for lower numbers in certain sectors (e.g. chefs) should be investigated.

Other Issues

A wide range of other issues, often related to a particular sector or industry, was also raised with the Committee. These include regulatory compliance costs, music licensing, public tenders and the VAT rate.

Summary of Observations and Recommendations – Other Issues

42. The Committee recommends that a review of all regulatory systems that affect businesses be undertaken, with a view to streamlining and combining the inspection and enforcement of the rules to reduce the cost of compliance for businesses. The Committee wishes to highlight that it is not advocating any reduction in standards or regulatory provisions, but that the way in which they are enforced be improved to reduce the cost to businesses.

43. The Committee recommends that Regulatory Impact Analyses be mandatory for the introduction of all new regulations and that they should be published sufficiently in advance to allow the Oireachtas and industry to fully understand the impact of the proposed regulation.

Cost of Crime

The cost of crime on businesses is also an area of concern, particularly for the retail industry. Businesses must also take measures to protect themselves from crime, such as CCTV, which results in additional security costs.

The lack of accurate statistics on the levels of crime makes it difficult to formulate a response. This is compounded by a reluctance on behalf of some business owners to report crimes as they do not believe there will be any sanction against those involved.

Summary of Observations and Recommendations – Cost of Crime

44. The Committee emphasises that it is important that crimes are reported to An Garda Síochána to allow for the accurate gathering of crime statistics.

45. The Committee recommends that specific statistics on the level and types of crime experienced by businesses be recorded.

46. The Committee recommends that sufficient crime prevention officers be available throughout the country.

47. The Committee recommends that increased resources be committed to combatting online fraud.

48. The Committee notes that many businesses, especially those involved in retail, do not believe that reporting a crime will result in any significant sanction for the perpetrators.

Further Steps

It is vital that cost of doing business be considered by both Government and industry to ensure that Ireland remains a competitive place in which to do business. The lack of a centralised point of responsibility is a particular concern.

Summary of Observations and Recommendations – Further Steps

49. The Committee recommends that the Department of Business, Enterprise and Innovation be given responsibility for monitoring the cost of doing business in Ireland and coordinating the whole-of-Government response to the issue. The Committee supports Ibec's recommendation that an Action Plan approach (similar to the Action Plan for Jobs) be used to set, coordinate and monitor the Government response.

50. The Committee will continue to monitor developments affecting the cost of doing business and will follow up periodically with the Department of Business, Enterprise and Innovation and other departments to examine the implementation of the recommendations in this report and other policy initiatives.

Introduction

The Joint Committee on Business, Enterprise and Innovation (the "Committee") identified the cost of doing business as one of the major topics it wished to examine. The ability of businesses to compete, grow and thrive is vital to Ireland's economy and society.

Ireland is enjoying an economic recovery as evidenced by the substantial reduction in the unemployment rate in the last number of years. However, with this economic growth, it is important that Ireland's competitiveness remains at the forefront of considerations.

The National Competitiveness Council (NCC) produces an annual report on the cost of doing business in Ireland. These reports, the latest of which was published in June 2018[1] provide vital information for analysing the costs facing businesses in Ireland.

The Committee decided to concentrate its engagement on the issues that were highlighted by business organisations. While many of the same issues were raised in the NCC report, some other areas were highlighted as being of particular importance.

The major issues raised with the Committee were insurance costs, the cost of credit and banking, commercial rates and the cost of labour. A series of other issues, some related to particular industries were also raised with the Committee, including the cost of crime and compliance with regulations.

Stakeholders

The Committee held eight meetings between the 17 October and the 8 May 2018 and met with 30 organisations over the course of its engagement on the Cost of Doing Business. The Committee also received a number of submissions from stakeholders prior to their appearance before the Committee and from a number of organisations and individuals who did not appear before the Committee. Table 1 identifies all organisations that made presentations to the Committee and the date of their presentations.

Table 1: Schedule of Committee Engagements

17 October 2017	
Ibec	Mr Fergal O Brien and Mr Gerard Brady
Small Firms Association (SFA)	Ms Linda Barry
Retail Ireland	Mr Tom Burke
Food and Drink Industry Ireland	Mr Paul Kelly
Irish Hotels Federation (IHF)	Mr Tim Fenn and Mr Joseph Dolan
24 October 2017	
Chambers Ireland	Mr Ian Talbot and Mr Thomas Mc Hugh
Irish Tax Institute	Ms Olivia Buckley and Ms Cora O Brien
Irish Small and Medium Enterprises (ISME)	Mr Neil Mc Donnell and Ms Siobhán O Connor

[1] National Competitiveness Council, *Cost of Doing Business in Ireland 2018* (June 2018) http://www.competitiveness.ie/Publications//Costs%20of%20Doing%20Business%2020120188%20Report.pdf

Irish Congress Trade Unions (ICTU)	Mr Peter Rigney and Mr Tom McDonnell
28 November 2017	
Convenience Stores and Newsagents Association (CSNA)	Mr Vincent Jennings and Ms Ann Martyn
The Retail Grocery Dairy and Allied Trades Association (RGDATA)	Ms Tara Buckley
National Off-Licence Association (NOffLA)	Mr Jimmy Redmond
Institute of Professional Auctioneers and Valuers (IPAV)	Mr Pat Davitt and Ms Valerie Mogerley
Insurance Ireland	Mr Kevin Thompson and Mr John Byrne
12 December 2017	
Irish Farmers Association (IFA)	Mr Martin Stapleton and Mr Damian Mc Donald
Restaurants Association Ireland (RAI)	Mr Adrian Cummins and Mr Liam Edwards
Construction Industry Federation (CIF)	Mr Tom Parlon and Ms Jeanette Mair
30 January 2018	
Banking and Payments Federation (BPFI)	Mr Felix O Regan
Bank Of Ireland (BOI)	Mr Michael Lauhoff and Ms June Butler
Allied Irish Bank (AIB)	Ms Catherine Moroney and Ms Margaret Brennan
Irish League of Credit Unions (ILCU)	Mr Ed Farrell
Credit Union Development Association (CUDA)	Mr Kevin Johnson
Credit Union Managers Association (CUMA)	Mr Tim Molan
Irish Rural Link	Mr Seamus Boland and Ms Sinéad Dooley
Sparkassen Bank	Mr Harald Felzen
18 April 2018	
The Alliance for Insurance Reform	Mr Eoin Mc Cambridge, Ms Stephanie Reid, Mr Ivan Cooper and Mr Peter Boland
24 April 2018	
Irish Pharmacy Union (IPU)	Mr Darragh Connolly, Ms Ann-Marie Horan and Mr Jim Curran
Association of Fine Jewellers (AFR)	Mr Damian Duggan
8 May 2018	
Insurance Ireland	Mr Kevin Thompson, Mr Declan Jackson and Mr Michael Horan
International Small Business Alliance	Mr Séamus Maye, Mr Gerry Duddy and Mr Jerry Beades

Transcripts

The transcripts of the meetings of 17 October 2017,[2] 24 October 2017[3], 28 November 2017[4], 12 December 2017[5], 30 January 2018[6], 18 April 2018[7], 24 April 2018[8] and 8 May 2018[9] are available online.

Submissions and Presentations

The submissions and presentations made to the Committee over the course of the engagement are available online.[10]

[2] Joint Committee on Business, Enterprise and Innovation (17 October 2017). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_business_enterprise_and_innovation/2017-10-17/debate/mul@/main.pdf

[3] Joint Committee on Business, Enterprise and Innovation (24 October 2017). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_business_enterprise_and_innovation/2017-10-24/debate/mul@/main.pdf

[4] Joint Committee on Business, Enterprise and Innovation (28 November 2017). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_business_enterprise_and_innovation/2017-11-28/debate/mul@/main.pdf

[5] Joint Committee on Business, Enterprise and Innovation (12 December 2017). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_business_enterprise_and_innovation/2017-12-12/debate/mul@/main.pdf

[6] Joint Committee on Business, Enterprise and Innovation (30 January 2018). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_business_enterprise_and_innovation/2018-01-30/debate/mul@/main.pdf

[7] Joint Committee on Business, Enterprise and Innovation (18 April 2018). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_business_enterprise_and_innovation/2018-04-18/debate/mul@/main.pdf

[8] Joint Committee on Business, Enterprise and Innovation (24 April 2018). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_business_enterprise_and_innovation/2018-04-24/debate/mul@/main.pdf

[9] Joint Committee on Business, Enterprise and Innovation (8 May 2018). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_business_enterprise_and_innovation/2018-05-08/debate/mul@/main.pdf

[10] Submissions and presentations. Available at: https://www.oireachtas.ie/en/publications/?committee%5B0%5D=%2Fen%2Fcommittees%2F32%2Fbusiness-enterprise-innovation%2F&topic%5B0%5D=opening-statements-submissions&topic%5B1%5D=reports

The Cost of Insurance

The increasing cost of insurance was raised by most business organisations that presented to the Committee. Mr Peter Boland (Director of the Alliance for Insurance Reform) told the Committee that the creation of the Alliance for Insurance Reform was a response to excessive insurance premiums (motor and liability) affecting small organisations. Mr Boland branded the insurance system dysfunctional as it has become an extractive sector with over €2 billion paid in motor and liability premiums.

Small businesses are particularly concerned with the rising cost of insurance with both Mr McDonnell (ISME) and Ms Barry (SFA) telling the Committee that insurance costs are the second biggest area of concern for their members. Mr Paul Kelly (Food and Drink Industry Ireland) also stated that rising insurance costs were one of his organisation's primary concerns.

The rising cost of insurance premiums is also a major concern for the retail sector. Both the CSNA and RGDATA raised it as a significant issue for their members.

Mr Fergal O'Brien outlined to the Committee that employment liability and public liability insurance represent a substantial operating cost for many of its members and that it typically equates to 2% of a company's payroll costs.

A variety of stakeholders told the Committee of the significant increases that the members of their organisations had seen. Ms Tara Buckley (RGDATA) outlined to the Committee that a typical store's insurance has increased from less than €10,000 a few years ago to up to €100,000 now. RGDATA surveyed its members on the cost of insurance and found that their members had seen anything from a 30% to 70% increase in their premiums.

Increases were identified across most sectors. Mr Adrian Cummins informed the Committee that the restaurant sector has seen an average increase in insurance premiums of 45%, an unsustainable increase for the sector. Mr Patrick Davitt (IPAV) told the Committee that public liability, employer liability and motor insurance have been increasing by 18% to 20% year on year. Mr Davitt outlined additional issues facing auctioneers and estate agents regarding the costs of placing young family members on motor insurance policies. This is a significant issue for auctioneers attempting to bring their children back to take up employment with them.

Senator Davitt also told the Committee of an almost 300% increase experienced by a GAA club he has an involvement with.

The Alliance for Insurance Reform shared the results of its survey carried out in January 2018. One fifth of respondents had seen their insurance premiums rise by over 70%, while almost half had seen rises of over 30%. Starkly, 45% of those that responded believe that insurance costs are a threat to their organisation.

The representatives of the Alliance for Insurance Reform highlighted the effect the increases in the insurance premiums have on businesses and other organisations. Mr Boland highlighted the severity of the issue that insurance is becoming so expensive that it threatens the viability of many organisations that form the backbone of the state. Mr Boland went on to call the increases in premiums a "societal threat" as businesses, charities and voluntary groups were no longer able to handle the scale of increases.

Mr McCambridge told the Committee that his business had decided against opening a second outlet due to the doubling of its insurance premium. Another member of the Alliance for Insurance Reform delegation, Ms Stephanie Reid, stated that her insurance premium had doubled from 2016 to 2017, despite her business being claims free for five years. If this continues (which she believed likely) Ms Reid stated it would put her out of business.

Mr Ivan Cooper, from The Wheel, highlighted that the increases in premiums is also having a negative impact on charities. Mr Cooper gave the example of a charity involved in providing transport services for people with disabilities. The organisation saw its insurance premium double causing it to reduce its services. Mr Cooper also informed the Committee that a number of organisations in the voluntary healthcare sector have been taken into the State's insurance programme as their insurance premiums were unsustainable.

Ms Tara Buckley (RGDATA) told the Committee that insurance increases are running out of control. She stated that a couple of shops have already had to close due to the unsustainable increase in their insurance costs.

The increases in premiums also led to organisations and businesses looking for alternative sources of insurance cover. Both the RAI and CSNA stated that they were looking to insurance companies outside the jurisdiction to find more affordable premiums for their members.

The impact of increasing premiums on Ireland's competitiveness was also raised by Mr Martin Stapleton (IFA) and Deputy Neville during the Committee's engagements.

Some stakeholders also raised concerns about the current culture in Ireland around personal injury claims. Mr Thomas Burke (Retail Ireland) stated that a culture incentivising claims against businesses appears to be developing. Mr Ivan Cooper (Alliance for Insurance Reform) outlined his view that a culture of adversarial relationships is developing and people are rejecting the sharing of risks and responsibilities.

On his two appearances before the Committee, Mr Kevin Thompson (CEO of Insurance Ireland) assured the Committee that Insurance Ireland is keenly aware of the concern around insurance costs and acknowledged that there have been large increases to premiums. He also stated that Insurance Ireland recognises and empathises with the concerns of business owners and outlined Insurance Ireland's determination to bring sorely needed reform to Irish claims costs.

Factors in Insurance Premium Increases

Throughout its engagement, and particularly during the meetings with Insurance Ireland and the Alliance for Insurance Reform, the Committee heard a range of reasons for the increase in insurance premiums.

Mr Kevin Thompson informed the Committee that insurance premiums are a function of claims. The cost of claims is the driving pricing factor for all insurance companies. Mr Michael Horan (Insurance Ireland) stated there is a reasonably good correlation between the cost of claims and the cost of premiums. Mr Moran continued that there has been a lot of volatility in the cost of claims, largely driven by the underlying personal injury claims environment.

Level of awards

The level of awards in personal injury cases was raised by a number of stakeholders, notably Insurance Ireland, as a significant issue affecting the cost of insurance. The Courts Service annual report[11] shows a 15% increase in the number of personal injury suits filed in 2016 over 2015. Mr Thompson quoted figures from the Courts Service showing that the average Circuit Court award increased by 48% between 2013 and 2016. However, during the meeting Deputy Lawless highlighted that this was to be expected as the jurisdictional limits of the courts were increased in 2014.

Mr McCambridge told the Committee it was his understanding that insurance companies are reluctant to defend cases due to the costs involved. He also stated that the cost of the claim could be relatively small, however, when all the costs are included it gets out of control which then transfers to premiums.

PIAB

The Personal Injuries Assessment Board (PIAB) is an independent State body charged with assessing personal injury claims. All personal injury claims (except medical negligence claims) must go through PIAB. If either party reject the assessment or if the respondent does not consent to PIAB assessing the claim, it can proceed to court.

In correspondence to the Committee[12], PIAB provided statistics on the number of cases and average awards in the PIAB system. In 2017, the average employer liability award was €32,015 and the average public liability award was €27,639. As can be seen in table 2 these figures are broadly in line with the last ten years. PIAB note in the correspondence that the averages fluctuate from year to year based on the severity of cases dealt with. There are greater variations in employer liability than in public liability over the last ten years. It should also be noted that not all these awards are accepted by both parties and can end up in the courts.

---

[11] Courts Service, *Annual Report 2016*
http://www.courts.ie/Courts.ie/library3.nsf/(WebFiles)/300A3D2A10D824E88025816800370ED2/$FILE/Courts%20Service%20Annual%20Report%202016.pdf

[12] Correspondence to the Committee from the Personal Injuries Assessment Board
https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_business_enterprise_and_innovation/submissions/2018/2018-06-27_correspondence-stephen-watkins-director-of-corporate-services-personal-injuries-assessment-board-piab_en.pdf

Table 2: Average PIAB Awards 2008-2017

Category/ year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Motor	€23,327	€21,844	€20,989	€20,438	€20,631	€21,730	€21,215	€21,470	€22,454	€23,234
Public Liability (PL)	€24,769	€23,143	€28,176	€27,102	€27,286	€25,120	€24,677	€25,213	€26,592	€27,638
Employers Liability (EL)	€32,266	€31,970	€24,374	€22,686	€22,656	€28,886	€32,134	€31,267	€35,159	€32,015
Overall average	**€24,552**	**€23,166**	**€22,271**	**€21,339**	**€21,502**	**€22,847**	**€22,642**	**€22,878**	**€24,305**	**€24,879**

Source: Correspondence to the Committee from the Personal Injuries Assessment Board[13]

PIAB also provided the volume of claims per year from 2011 to 2017. Table 3 shows that, while there are variations year to year, there is an upward trend in the number of cases being brought before PIAB. However, as highlighted by PIAB and other stakeholders, a significant proportion of claims do not go through the PIAB process as they are settled before that stage.

Table 3: Volume of Public Liability and Employer Liability Claims 2011-2017

YEAR	Public Liability (PL)	Employers Liability (EL)
2011	7,452	3,866
2012	8,332	3,828
2013	8,394	4,040
2014	8,214	4,368
2015	8,906	4,843
2016	9,182	5,241
2017	8,857	5,634

Source: Correspondence to the Committee from the Personal Injuries Assessment Board[14]

Courts

According to Mr Thompson, a high proportion of PIAB cases are rejected and end up in the courts. Once a case goes to court it increases the costs of the claim, which in turn are reflected in premiums.

[13] Correspondence to the Committee from the Personal Injuries Assessment Board https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_business_enterprise_and_innovation/submissions/2018/2018-06-27_correspondence-stephen-watkins-director-of-corporate-services-personal-injuries-assessment-board-piab_en.pdf

[14] *Ibid*

For cases that move on to the judicial system, there is a significant increase in the costs. The Committee heard that for a €100,000 award, additional costs (legal, medical experts etc.) add an extra €42,400.

Mr Boland (Alliance for Insurance Reform) raised the lack of consistency of awards for identical injuries. This makes it attractive to reject a PIAB settlement and opt to go to court for a possibly higher award. Ibec stated that senior Irish judiciary should encourage greater consistency in the application of Injuries Board guidance on compensation for bodily injuries. The Alliance for Insurance Reform called for the Civil Liability and Courts Act 2004 to be amended to require judges awarding damages in excess of the Book of Quantum to set out a detailed reasoning for doing so.

Concerns were also raised surrounding the awarding of costs. Mr Eoin McCambridge (Alliance for Insurance Reform) stated that even when an insurer wins a case it is very rare for the costs to follow the plaintiff. The Cost of Insurance Working Group (CIWG)[15] report on public and employer liability also examined the area of costs. According to the report, in general the awarding of costs goes against the unsuccessful party (the party that loses the case must pay the costs), though it is at the discretion of the court.

Similar concerns, that costs frequently do not go against the unsuccessful party, were raised with the CIWG. The CIWG also heard the view that this inconsistency may lead insurers to settle a claim purely on the basis that it is cheaper than the cost of defending (and winning) the case but not recovering the costs of defending the case.

ISME considers that there should be a meaningful moral hazard for those who appeal a PIAB ruling. ISME suggest this could be achieved by only awarding costs to the claimant if they the courts increase the award by at least 50%.

Book of Quantum

The adherence (or lack thereof) to the Book of Quantum was also identified as an issue by a number of stakeholders. Mr Thompson explained the Book of Quantum on his first appearance before the Committee. The Book of Quantum reflects the prevailing level of awards. According to Mr Thompson, while PIAB references the Book of Quantum, the judiciary is not obliged to do so, though it is minded to make reference to it.

Mr Boland stated Ireland is a very attractive place to have a minor accident as the awards bear no relation to those in other jurisdictions.

A number of stakeholders highlighted the difference in the scale of the awards in Ireland compared to other jurisdictions, in particular the UK. The CIWG report shows that there is a significant difference in the award levels between the Irish Book of Quantum and the UK Guidelines on General Damages. The CIWG uses the examples of neck, back and ankle injuries. Across the three severity levels (minor, moderate, severe), the Irish figures are significantly above the UK awards.

[15] Cost of Insurance Working Group, *Report on the Cost Employer and Public Liability Insurance* (January 2018) https://www.finance.gov.ie/wp-content/uploads/2018/01/180125-Report-on-the-Cost-of-Employer-and-Public-Liability-Insurance.pdf

The Alliance for Insurance Reform called for a change in approach to the calculation of the Book of Quantum, calling for it to be based on a percentage disability basis.

The Personal Injuries Commission (PIC) was established following a recommendation in the CIWG report on motor insurance. The PIC was set a number of tasks[16]. In its first report (which has been published) it focused primarily on gathering data on soft tissue injuries (whiplash) and the grading of minor personal injuries. The second report (due for publication in 2018) is to establish a high-level benchmarking of international awards for personal injuries and analyse international compensation levels and mechanisms. The work of the PIC should allow for a revision of the Book of Quantum to be in line with international awards.

Observations

1. The Committee notes the concern expressed by a number of stakeholders that the Book of Quantum is not adhered to in many cases. The Committee believes that a revised Book of Quantum, taking into account the work of the Cost of Insurance Working Group and the Personal Injuries Commission, should set the basis for awards through direct settlement, PIAB and the courts.

Recommendations

2. The Committee recommends that where an award exceeds the Book of Quantum, that the judge give a written explanation as to why.

Fraud

The level of fraudulent, false or exaggerated claims was highlighted as a major concern by a large number of stakeholders. A number of witnesses told the Committee that there was little disincentive to making fraudulent, false or exaggerated claims in the current system.

ISME called for a statutory offence of perjury to be introduced. Statements of claim to PIAB would then have to be made under an affidavit of verification. The CIWG report outlined that perjury is an offence at common law in Ireland. However, levels of investigation and prosecution are extremely low in Ireland, with only eight convictions since 2005. The CIWG stated that it could see the merit in introducing a modern offence of perjury, however, it needs to be considered as a part of a broader criminal offences agenda.

Recommendations

3. The Committee recommends that Government examine the feasibility of introducing an updated law in relation to the offence of perjury.

The Committee heard from Mr Thomas Burke (Retail Ireland) that cases of claims tourism have arisen, where groups are going to different businesses and towns having accidents.

[16] *Terms of Reference of the Personal Injuries Commission* https://dbei.gov.ie/en/Who-We-Are/Department-Structure/Commerce-Consumer-and-Competition-Division/Personal-Injuries-Commission/T-O-R-Personal-Injuries-Commission.pdf

The Alliance for Insurance Reform called for the establishment of a Garda insurance fraud unit. The CIWG's motor insurance report[17] recommended examining the feasibility of a specialised and dedicated insurance fraud unit within An Garda Síochána. This unit could be funded by the insurance industry but operational independence is maintained by An Garda Síochána, as is the case in the UK between the Association of British Insurers and the City of London Police. Mr Kevin Thompson stated that Insurance Ireland supports in principle an independent Garda fraud unit.

The CIWG note that the creation of a new unit and the deployment resources is an operational matter for the Garda Commissioner and therefore would require their approval prior to being considered by the Minister for Justice and Equality.

Since the end of the Committee's engagements, Mr Michael D'Arcy TD Minister of State with special responsibility for Financial Services and Insurance emphasised to the Joint Committee on Finance, Public Expenditure and Reform and Taoiseach that the creation of a Garda fraud unit was a matter for the Garda Commissioner and indicated it would not be addressed until the new Garda Commissioner is in place. Minister D'Arcy also raised some concerns that a Garda fraud unit would remove members of An Garda Síochána from front line policing.

Observations

4. The Committee notes the discussions on the establishment of a Garda insurance fraud unit. The Committee also acknowledges that the creation of a new unit is a matter for An Garda Síochána and the Garda Commissioner.

Recommendations

5. The Committee recommends the establishment of a Garda insurance fraud unit.

There was also major concern that there is little to no disincentive or risk in taking a false or exaggerated claim against a business. As previously discussed, costs are not always awarded against a person when they do not win their claim. A number of stakeholders expressed the view that making a false claim is a riskless crime and that there is a view among many people that it is a victimless crime.

The Alliance for Insurance Reform called for amendments to sections 25 and 26 of the Civil Liability and Courts Act 2004. Section 25 makes it an offence to knowingly give false or misleading evidence in a personal injuries action with the intention of misleading the court.

Section 26 of the Act requires that, once the court is satisfied that the claimant has knowingly given false or misleading evidence, the claim be dismissed, unless to do so would result in an injustice. A defendant can make an application to the court under this section if they believe that the claimant has made a false or misleading claim. The Alliance for Insurance Reform is calling for cases dismissed

[17] Cost of Insurance Working Group, *Report on the Cost Motor Insurance* (January 2017) https://www.finance.gov.ie/wp-content/uploads/2017/07/170110-Report-on-the-Cost-of-Motor-Insurance-2017.pdf

under section 26 to be automatically referred to An Garda Síochána for prosecution under section 25.

The CIWG report examines these two sections and found that insurers were reluctant to make applications under section 26 for a number of reasons. One reason given is that it is too difficult to prove that misleading evidence was knowingly given. Another reason given by insurers is that they feel that there is a judicial view that section 26 is draconian and that it is unjust to dismiss a case where the plaintiff was injured but misled the court as to the extent of their suffering and loss. The CIWG report also highlighted that if a section 26 application is unsuccessful, aggravated damages can be awarded in exceptional cases. The threat of aggravated damages (the CIWG could only find one case of aggravated damages being awarded and not after a formal section 26 application) appears to have contributed to a reluctance in making section 26 applications.

The CIWG outlined its concern that it appears insurers are genuinely reluctant to make applications under section 26.

The CIWG report also made a number of recommendations for the increased collection of statistics surrounding the complaints and prosecutions of personal injury fraud.

Observations

6. The Committee notes that sections of the Civil Liability and Courts Act 2004 do not appear to be functioning as intended.
7. The Committee notes the Alliance for Insurance Reform's recommendation for cases dismissed under section 26 of the Civil Liability and Courts Act 2004 to be automatically referred to An Garda Síochána for prosecution.

Recommendations

8. The Committee recommends that the Civil Liability and Courts Act 2004 be examined by the Department of Justice and Equality to address fraudulent evidence being presented in court and no further action being taken for the presentation of such evidence.

The Committee heard from representatives of Insurance Ireland that the industry is taking steps to combat insurance fraud. Mr John Byrne outlined to the Committee that insurers are improving their data analytics to help identify inconsistencies in claims earlier in the process. Mr Kevin Thompson also highlighted that insurance companies have to balance the need to investigate fraudulent claims with their duty and responsibility to genuine claimants to treat their cases quickly, fairly and satisfactorily.

Legal Costs

A large number of stakeholders cited legal costs as a significant factor in the increased cost of insurance. Mr Thompson outlined that the insurance industry has a significant requirement for legal services and that increasing legal costs are a material factor in the insurers cost base, and therefore in the price of premiums.

According to Mr Adrian Cummins, the legal profession were partly to blame for the sharp increases in insurance premiums. Ibec called for the legal profession to adopt a code of practice to prevent court proceedings from being dragged out unnecessarily.

Deputy Lawless, who stared that he was previously a practicing lawyer, stated it was not his experience that the legal profession were making large sums from personal injury litigation. The introduction of PIAB, according to Deputy Lawless, has led to a reduction in work in personal injury claims for the legal profession.

Regulatory Environment

The Committee heard strong criticism from the Alliance for Insurance Reform of the dual mandate of the Central Bank. The Central Bank has both the prudential and consumer protection role for the insurance industry. Mr Boland outlined the Alliance for Insurance Reform's belief that the consumer protection aspect always comes after the prudential role and stated that the same organisation should not fulfil both roles as they are mutually exclusive.

The Alliance for Insurance Reform has, therefore, called for control of analysis and reporting of the National Claims Information Database to be given to PIAB rather than the Central Bank. Longer-term, Mr Boland agreed there was a case for a consumer advocacy body for the entire financial sector. Mr Thompson, however, did not see the need to separate out the regulatory functions fearing it would increase costs for the industry.

The introduction of the National Claims Information Database was, however, seen as essential by the Alliance for Insurance Reform. Mr McCambridge highlighted that there is a lack of data on the industry available and that more granular data is needed.

Observations

9. The Committee notes the concerns of the Alliance for Insurance Reform that the Central Bank is responsible for both the prudential supervision and consumer protection function of the insurance industry.

Recommendations

10. The Committee recommends that the Department of Finance and the Department of Business, Enterprise and Innovation examine the feasibility of the consumer protection function of the insurance market being transferred away from the Central Bank to another body.

The reinstatement of the Blue Book was also called for by the Alliance for Insurance Reform. According to Mr Boland, the Blue Book was a set of industry data that gave an overview of the industry and gave a sense of its profitability. The Central Bank[18] has explained that the publication of the Blue Book is no longer possible, as it was based on the previous set of European regulations (Solvency I) reporting forms. The changes brought in under Solvency II have resulted in different data

---

[18] Central Bank of Ireland, *Retirement of Blue Book* (May 2018) https://www.centralbank.ie/docs/default-source/statistics/statistical-publications/insurance-statistics/retirement-of-the-blue-book.pdf?sfvrsn=2

being provided by insurance companies, much of which is not public and therefore the Central Bank must abide by confidentiality obligations.

The Central Bank publishes the Solvency and Financial Condition Report for each individual firm. It also publishes aggregate harmonised data, consistent with the data provided across the European Union.

Observations

11. The Committee notes that the Blue Book in its previous form cannot be published by the Central Bank due to the new rules under Solvency II. However, the Committee agrees that there is a need for better publically available data on the insurance sector.

Market

The concentrated nature of the Irish insurance market was also highlighted as an issue to the Committee. Mr Boland stated that 90% of the liability insurance market is controlled by just eight underwriters. Certain sectors, such as taxis, golf clubs, Montessori schools and play centres, are even more constrained with only one or two underwriters willing to quote the particular sector.

Mr Thompson confirmed that there are eight insurers substantially writing liability insurance policies. The majority of these are subsidiaries of multinational groups, with only one standalone Irish insurance company.

The CIWG report also discusses the issue of certain sectors finding it increasingly difficult to get quotes from Irish based insurers. However, it found that there is scope for insurance to be sourced through the Lloyd's UK market. Insurers who met with CIWG stated that this is a normal feature of the Irish insurance market, as UK companies are attracted by the higher premiums. However, according to one insurer, these companies have a short-term approach to the Irish market which contributes to the volatility in the market.

Claims harvesting

The Committee heard concerns surrounding the activity of claims harvesting websites. According to the Alliance for Insurance Reform, these websites increase the number of fraudulent, exaggerated and misleading claims. Responsibility for the regulation of these sites is left to the Law Society. Since 2014, 14 such websites have been taken down following Law Society investigations, according to the CIWG report.

The Alliance for Insurance Reform called for claims harvesting companies and websites to be regulated by the State and that the referral fees they might charge solicitors should be banned outright.

Notifying Policyholders

Two separate issues relating to businesses/policyholders receiving notification from the plaintiff or insurance company were raised with the Committee.

The first issue raised relates to sections 7 and 8 of the Civil Liability and Courts Act 2004. Section 7 of the Act relates to the statute of limitations for personal injury claims. The 2004 Act reduced the timeframe from three years to two. The Oireachtas debates at the time, as discussed in the CIWG report, show that the original proposal to reduce the timeframe to one year was amended to two years due to concerns surrounding medical negligence cases.

The CIWG report highlights that when the Pre-Action Protocols allowed for in the Legal Services Act 2015 are introduced, medical negligence will be removed from section 8 of the 2004 Act. The CIWG motor insurance report recommended that these Pre-Action Protocols be extended to personal injuries. Following the work carried out by relevant departments, it is anticipated that the General Scheme of a Bill to extend the Pre-Action Protocols to personal injuries will be introduced in 2018.

Minister for Justice, Charles Flanagan T.D.[19], in a written response to a Parliamentary Question on the 22 May 2018, stated that the draft heads had been drafted and were being discussed further with the view to them being agreed within a number of months.

The Alliance for Insurance Reform have called for the timeframe to be reduced to one year as it will mean that premiums could only be based on potential claims for one year and not the two years as is currently the case. The Law Society of Ireland stated that the two year limit should not be reduced as this limit has already caused hardship to people attempting to make claims after the two year period.

Observations

12. The Committee notes that in setting a statute of limitations it is important to balance the rights of both the plaintiff and the claimant.

Section 8 of the Act states:

> 8.—(1) Where a plaintiff in a personal injuries action fails, without reasonable cause, to serve a notice in writing, before the expiration of 2 months from the date of the cause of action, or as soon as practicable thereafter, on the wrongdoer or alleged wrongdoer stating the nature of the wrong alleged to have been committed by him or her, the court hearing the action may—
>
> (a) draw such inferences from the failure as appear proper, and
>
> (b) where the interests of justice so require—
>
> (i) make no order as to the payment of costs to the plaintiff, or
>
> (ii) deduct such amount from the costs that would, but for this section, be payable to the plaintiff as it considers appropriate.
>
> (2) In this section "date of the cause of action" means—
>
> (a) the date of accrual of the cause of action, or
>
> (b) the date of knowledge, as respects the cause of action concerned, of the person against whom the wrong was committed or alleged to have been committed,
>
> whichever occurs later.

[19] Parliamentary Question, *Motor Insurance Regulation* (22 May 2018) https://www.oireachtas.ie/en/debates/question/2018-05-22/267/

The section therefore sets a two month limit for the plaintiff to inform, in writing, the defendant of the wrong alleged to have been committed. The CIWG report highlighted that early notification of a claim is vital for the defendant to be in a position to mount a defence, if they so decided. The longer the delay in notification, the more difficult it may be to get access to CCTV footage and identify relevant staff or witnesses. A delay in notifying the defendant under the section could lead to a disadvantage to the plaintiff in court proceedings, however, submissions from stakeholders to the CIWG do not believe that this is the case.

The section is, in the view of the Alliance for Insurance Reform, largely ignored and so conditional in nature that it is useless. The CIWG report outlines discussions it held with various stakeholders on the issue. While the Law Society stated its belief that section 8 is complied with in the vast majority of cases, this is not the view of Insurance Ireland and business organisations who believe that section 8 letters are not regularly used.

The CIWG took the view that section 8 is not complied with in many personal injury cases, especially in public liability ones. The CIWG also notes that this failure to comply with the section does not appear to have been raised regularly by defendants.

The Alliance for Insurance Reform called for section 8 to be strengthened in order that judges must take into account any delay in notification before a case proceeds. It also stated that it had been told by the Department of Finance that this matter was being pursued in conjunction with the Department of Justice.

The CIWG made a number of recommendations related to section 8 of the Act

Recommendation 6 of the CIWG report calls for amendments to section 8 of the Act. It proposes that “*may*” be replaced by “*shall*” and that “*or as soon as practicable thereafter*” be deleted, as it could be considered as providing too much latitude for a plaintiff to delay the notification.

The CIWG also stated that reducing the timeframe for notification from two months to one would bring it into line with data protection legislation and the new General Data Protection Regulation. An organisation must be able to justify its retention period, which is generally set at one month. This is particularly relevant in the case of CCTV footage for personal injury claims.

Recommendation 7 of the CIWG report recommends that the Department of Justice request the relevant Court Rules Committee to consider changes to the rules of court to ensure defendants are notified of a claim against them. The CIWG also recommends that court rules outline the procedure if failure to comply with section 8 is pleaded.

Recommendation 8 of the CIWG report calls for greater awareness of the obligations under section 8 of the Act among the legal profession, PIAB, citizens’ advice bodies and local and state authorities. It is also recommended that the Law Society ensure clients are asked if they have notified the potential defendant and highlight the obligation to notify them.

Observations

13. The Committee notes the concern surrounding the late notification of claims to the defendant.

Recommendations

14. The Committee recommends an earlier notification time of claims to the defendant because the Committee believes it is vital that the early notification is given to allow the full facts of a case to come to light.

The second issue raised related to policyholders not being informed when a claim against them is settled by the insurance company. Ms Stephanie Reid gave a personal example of her business not being made aware of a claim against her being settled by the insurance company. In 2011 a number of allegations were made but when they were challenged it was discovered they were false. Ms Reid only discovered that the case had been settled when a solicitor wrote to her seeking payment for acting on her behalf. She was then informed that the case had been settled for €40,000 plus costs without her being informed.

Mr Kevin Thompson responded to this issue stating that under the consumer protection code the insurer must inform the policyholder of a claim, and that from Insurance Ireland's perspective insurers adhere to the code. Dr Declan Jackson (Insurance Ireland) told the Committee that his memory of the Consumer Protection Code[20] was that insurers have to inform the policyholder before a settlement is made.

The CIWG report on motor insurance recommended that a protocol be put in place in relation to requiring insurers to notify the policyholder before the settlement of a claim against them. The Department of Finance, while considering the recommendation, discovered that there was a previous protocol (from 2003) between Ibec and the Irish Insurance Federation (IIF, Insurance Ireland's predecessor) on the issue.

The IIF/Ibec guidelines, "*Communication Guidelines for Insurers & Policyholders*"[21] placed a number of obligations on the insurer and policyholder regarding communication between them after a claim is made. Before the settlement of a claim, the insurer undertook to:

- Consult with the policyholder before settlement discussions where practicable;
- Explain the assessment of the case and exposure or risk of settling or defending the case
- Take into account the view of the policyholder in finalising its approach.

The CIWG report outlines that Insurance Ireland consider the guidelines to have been superseded by the Central Bank's Consumer Protection Code. The CIWG disagreed that the Consumer Protection Code covered the areas in the protocol.

Recommendation 10 of the CIWG report calls for a set of guidelines to be agreed between the insurance industry and policyholders. According to the CIWG the IIF/Ibec protocol is an excellent template for a future set of guidelines. It is also noted that Ibec stated it would be preferable for other organisations, such as ISME and RGDATA, to be included in the drawing up of new guidelines to include the view of small businesses.

[20] Central Bank of Ireland, *Conduct of Business Rules: Consumer Protection Code*
https://www.centralbank.ie/regulation/consumer-protection/consumer-protection-codes-regulations

[21] A full copy is available as Appendix 12 of the CIWG Report

The Alliance for Insurance Reform also discussed the IIF/Ibec protocol, calling for its immediate reinstatement, backed by legislation. Mr Boland told the Committee that there had been resistance from the insurance industry to the reinstatement of the protocol.

Observations

15. The Committee shares the concerns of policyholders not being informed of the settlement of claims against them and is of the opinion that policyholders should always be informed before a claim against them is settled.

Recommendations

16. The Committee recommends that a new code of conduct be put in place by the insurance industry that would put the policyholder at the centre of the process.

Commercial Rates

Commercial rates were raised at a number of the Committee's meetings as a major issue for many businesses. Various stakeholders raised a range of issues related to the current commercial rates system.

Revaluation System

A number of groups raised the revaluation of commercial rates being carried out by the Valuation Office as a major concern for businesses.

As the revaluation system does not result in a change in the Local Authorities' revenue from commercial rates (compared to the previous year), there are some "winners and losers" in the process, as raised in a number of submissions to the Committee. In its submission to the Committee[22], the Valuation Office provided a table (see table 4) detailing the percentage of businesses experiencing the increases and decreases in their rates bill in each local authority following a revaluation. The table shows that the percentage of businesses experiencing a reduction varies considerably between local authorities, with Leitrim having the highest proportion at 70%, and Kildare the lowest at 52%.[23] However, these figures do not show the level of changes in commercial rates experienced.

[22] Valuation Office Submission to the Committee https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_business_enterprise_and_innovation/submissions/2018/2018-06-27_correspondence-john-o-sullivan-commissioner-of-valuation-valuation-office_en.pdf

[23] Excluding the first revaluation of South Dublin, where 49% of business saw a reduction, 39% an increase and 12% (at least double the percentage of no change in subsequent revaluations) no change. The second revaluation resulted in a reduction for 61%, an increase for 35% and no change for 4%

Table 4: Percentage of Businesses experiencing reduction, increase or no change following rates revaluation

Local Authority	% experiencing Rates Reduction	% experiencing Rates Increase	No change or new properties
South Dublin (1st Revaluation)	49%	39%	12%
Fingal	65%	30%	5%
Dún Laoghaire – Rathdown	54%	46%	-
Dublin City	56%	41%	3%
Waterford City & County	65%	32%	3%
Limerick City & County	65%	32%	3%
Carlow	55%	42%	3%
Kilkenny	56%	41%	3%
Kildare	52%	42%	6%
Leitrim	70%	24%	6%
Longford	65%	31%	4%
Offaly	58%	38%	4%
Roscommon	63%	33%	4%
Sligo	69%	27%	4%
Westmeath	56%	38%	6%
South Dublin (2nd Revaluation)	61%	35%	4%

Source: Valuation Office submission to Committee[24]

The scale of some of the increases has also been a significant issue. Mr Fergal O'Brien (Ibec) told the Committee that a number of its members had seen significant increases, in some cases in the region of 200%-300%. In a meeting of the Committee of Public Accounts on 25 January 2018[25], the Comptroller and Auditor General highlighted two examples from the Limerick revaluation. One business's rates bill rose from €16,000 to €490,000 and another's increased by €558,000 to €2.4million.

The revaluation process appears to have impacted different sectors to varying degrees. Representatives from the retail industry stated that their sector had seen some very large increases. However, the IHF told the Committee that many hotels and guesthouses were seeing reductions of up to 30% and above. As a result the IHF called for all hotels and guest houses yet to be revalued to have their rates bill reduced by 30%.

[24] Valuation Office Submission to the Committee https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_business_enterprise_and_innovation/submissions/2018/2018-06-27_correspondence-john-o-sullivan-commissioner-of-valuation-valuation-office_en.pdf
[25] Committee of Public Accounts (25 January 2018). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/committee_of_public_accounts/2018-01-25/debate/mul@/main.pdf

It was put to witnesses that bigger businesses appear to be benefiting from the changes, although this was disputed by the business representatives. Mr Fergal O'Brien (Ibec) stated that some big employers were facing large increases and that local government costs were getting attention from the head offices of international businesses as a result.

Mr Thomas Burke (Retail Ireland) stated that it was not a matter of big versus small, but rather retail versus non-retail. He also highlighted that while they had been told by the Valuation Office that there was in the region of a 60-40 split between winners and losers in the revaluation process, at least 60% of retailers were seeing increases in their rates.

Length of the process

The slow pace of the revaluation process was raised by a number of stakeholders. Revaluations are an extensive statutory process that is conducted under the Valuation Acts 2001 to 2015. The final phase of the revaluation process is due to commence in 2019 and be completed by 2021.

The revaluation process officially started with the Valuation Act 2001. In an appearance before the Committee of Public Accounts[26], Mr John O'Sullivan, the Commissioner for Valuation, outlined to that Committee why the process will have taken 20 years to complete. Firstly, it took a number of years for the system to come into operation. Secondly, according to the Comptroller and Auditor General, Mr Seamus McCarthy, each revaluation took almost two and a half years. Changes brought in by the Valuation (Amendment) Act 2015 have allowed for the acceleration of the programme.

Calculation of Rates

In its submission to the Committee the Valuation Office outlined how the new valuations are calculated. Each rateable property is valued according to its Net Annual Value (NAV) as set out in the Valuation Act 2001. Under the Act, the NAV is "the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant."[27]

In setting the NAV, the Valuation Office uses information provided by the Revenue Commissioners, the Property Services Regulatory Authority and directly from ratepayers. It analyses the information provided and arrives at its assessment for each rateable property.

Following the valuation, each Local Authority sets its own Annual Rate on Valuation (ARV) which when multiplied by the NAV gives the rates liability. These rates can vary significantly between local authorities. As a result, similar types and sizes of businesses can be paying significantly different rates depending on the local authority area in which they operate.

[26] Committee of Public Accounts (25 January 2018). Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/committee_of_public_accounts/2018-01-25/debate/mul@/main.pdf
[27] Valuation Act 2011, s48 http://www.irishstatutebook.ie/eli/2001/act/13/section/48/enacted/en/html#sec48

A number of business organisations raised objections to rents being used as the baseline for valuation. Mr Jennings (CSNA) highlighted to the Committee that in many parts of the country there is no real rental business, as evidenced by the large number of empty shop fronts.

Mr Cummins raised the RAI's concerns that the calculation of rates for restaurants does not take into account the size of the premises, profitability, the number of people employed or the location, while hotels and pubs are valued by reference to their trading data.

The IHF outlined concerns that the seasonal nature of businesses is not taken into account in the valuation. Hotels and guesthouses pay rates for the year, even though they may only be open for a number of months.

Mr Jennings criticised the system for not taking into account the business' ability to pay the rates set by the local authority. According to Mr Jennings, many businesses simply cannot afford the rates levied, in part due to a fall in their trading performance.

The CSNA criticised the increase in the rateable value of a property when the business makes improvements to modernise their public offering. In particular, the CSNA state that when a property owner invests in an improved shop front, the local authority seeks a revision of the property's valuation.

Ms Ann Martyn (CSNA) suggested that a "breathing space" be introduced for small new businesses. Ms Martyn told the Committee that many small businesses open up and struggle to remain open when they receive the rates bill that they cannot afford. This in turn stops businesses from returning to towns and this will only be reversed if it is made viable for them to operate in small towns.

A number of organisations also criticised the lack of transparency in the system. However, the Valuation Office stated in its submission to the Committee that it provides extensive support to stakeholders throughout the revaluation process. This includes providing detailed information packs, briefing of trade bodies and business representatives and "walk-in" clinics.

Observations

17. The Committee notes the concerns expressed by business organisations surrounding commercial rates and that the revaluation programme has led to winners and losers among ratepayers.

18. The Committee notes that the first phase of the revaluation programme being carried out by the Valuation Office will be completed in all Local Authority areas by 2021.

Recommendations

19. The Committee recommends that rates alleviation measures be available to local authorities to reflect changes in trading conditions and government policy.

Services

There was considerable disquiet among a number of business organisations over the services that are provided by local authorities in return for their commercial rates. Many businesses are unhappy that commercial rates have continued to increase while services that were previously provided by the local authority must now be paid for separately. Ibec's submission contended that commercial rates are a form of taxation that mostly fund services for which businesses are not the primary consumer.

In their submissions to the Committee, the CSNA, RAI, Ibec and IPAV emphasised their members' dissatisfaction that services such as water and waste water and waste collection were no longer provided for by the local authorities. Ms Linda Barry (SFA), Mr Jimmy Redmond (NOffLA) and Mr Patrick Davitt (IPAV) also raised the issue with the Committee during its meetings. Ibec added that a number of services and areas of responsibility have been removed from local authorities such as education grants and driving licence services.

The CSNA outlined a number of areas where they are unhappy with the service provided by local authorities, which can sometimes actively discourage shoppers from the area. Examples cited include the failure to maintain roadways and footpaths, failure provide adequate litter bins and imposition of restrictive and expensive parking. The CSNA also criticised local authorities for a lack of engagement with ratepayers.

Contribution to Local Authority Funding

Many of the business organisations voiced their frustration with the extent to which local authorities rely on the revenue from commercial rates, especially compared to the Local Property Tax (LPT). The Local Government Auditor' s report[28] shows that, in 2016, commercial rates account for 34% of local authority income, with 29% coming from goods and services and 26% from grants and subsidies. Only 7% come from the Local Government Fund/Local Property Tax.

Mr Fergal O'Brien (Ibec) highlighted that in comparison to other countries, the residential sector contributes a relatively low share of local government funding. Ibec's submission stated that the cuts to the LPT amount to a giveaway to those who contribute least to local authority funds but consume the majority of services provided.

Ibec called for legislation to be introduced to rebalance local authority funding in Ireland so that central government funding, the local property tax and service charges make a fairer contribution.

RGDATA echoed these sentiments stating that businesses make a disproportionate contribution to local authority funding. Ms Tara Buckley told the Committee that it galls many retailers to see the LPT being reduced by 15% while commercial rates continue to increase. RGDATA contend that the LPT should only be reduced if commercial rates are also reduced. Similarly, the SFA called for local authority funding to be rebalanced so that more comes from domestic households, as they are the primary user of the services.

Mr Ian Talbot (Chambers Ireland) also raised concerns about the stagnation surrounding LPT as there is a risk that businesses will be asked to make up the shortfall arising in funding through commercial rates.

[28] Department of Housing, Planning and Local Government, *Overview of the work of the Local Government Audit Service* (March 2018) http://www.housing.gov.ie/sites/default/files/publications/files/lgas_overview_report_march_2018.pdf

Collection of rates

The system for collection of rates was raised with the Committee. Ibec highlighted that non-payment of rates is a significant issue. A report from the Local Government Auditor[29], published in March 2018, showed total arrears in commercial rates of €297 million (although this was a decrease of €40 million on the previous year).

While appearing before the Committee of Public Accounts, Mr Paul Lemass from the Department of Housing, Planning and Local Government, stated that 84% of those liable for rates pay them. However, there is a wide disparity across local authorities. The local government auditor's report shows this disparity, ranging from 68% (in Donegal and Louth) to 96% in Fingal.

Mr Lemass stated that his Department's goal was to increase this to around 96% or 97%, in line with the collection rate for the Revenue Commissioners.

Mr Thomas Burke (Retail Ireland) proposed that the Revenue Commissioners be given responsibility for the collection of rates in order to increase the payment of rates. Mr Burke stated that it would also provide an element of clarity for Irish retailers.

Mr Fergal O'Brien (Ibec) also raised the need for a more uniform administrative collection process. In his view this does not have to be conducted by the Revenue Commissioners, but there could be a local government shared services approach.

Observations

20. The Committee notes that the collection rates for commercial rates, while varying by local authority, can be improved and that efforts are underway to do so.

Recommendations

21. The Committee notes that certain local authorities have encouraged, through various incentive schemes, the improved collection of unpaid rates and recommends that all local authorities examine using such schemes, while protecting the viability and sustainability of businesses.

Other Charges

Mr Adrian Cummins (RAI) raised two other areas related to local authority charges where the RAI have concerns, Business Improvement Districts (BIDs) and the so-called "sunshine tax".

The RAI is opposed to BIDs as it views them as double taxation. BIDs are funded through an additional levy of around 5% on top of the existing commercial rates. Mr Cummins highlighted that these initiatives are run by private companies and are outside of Freedom of Information and Standards in Public Office (SIPO) regulations. Mr Cummins called on the Committee to investigate the BID levy.

BIDs were introduced through primary legislation, however Mr Cummins claimed that both those in favour of and opposed to BIDs agree the legislation is not fit for purpose.

[29] *Ibid.*

The so-called “sunshine tax” relates to the outdoor seating charge that businesses must pay to put tables on the street. Mr Cummins stated that the RAI’s members see this as another example of double taxation. He also gave the example of Dublin City Council, where the charge raises €500,000 in revenue but only costs €100,000 to administer. Mr Cummins also highlighted that there is no uniformity in the cost of the charge around the country.

Senator Humphreys challenged the characterisation of the charge as a tax, as it is a charge for renting public space.

Cost of Credit & Banking

The cost of credit and other banking related costs emerged as a major issue facing businesses in the submissions received and throughout the Committee's engagement.

Access to Finance

The Committee heard significant concerns from most business organisations around the cost and difficulty in accessing credit. However Mr Felix O'Regan (BPFI), using figures from the ECB survey on the access of enterprises to finance[30], told the Committee that access to finance was not an issue of primary concern for most businesses. Access to finance ranked behind a number of other issues as being businesses primary concern, including finding customers, availability of skilled staff and competition.

The Department of Finance released, on the 7th March 2018, the latest SME Credit Demand Survey covering April to September 2017[31].

The survey found that 23% of SMEs applied for finance from April to September 2017. The results are also broken down by size of company, with 18% of micro enterprises seeking finance compared to 26% of both small and medium companies.

The main reason given by SMEs (88%) for not seeking credit is that it is not required. Five percent stated they prefer not to borrow and 4% stated that they had an existing finance product in place. A number of "bank related reasons" were also raised by SMEs including; possible rejection (2%), too expensive to borrow (1%), belief that banks are not lending (1%) and application process too difficult (1%).

Interest Rates

The Committee heard significant concerns from most business organisations around the cost of credit.

The difference in interest rates available to Irish businesses compared to other EU countries was a particular concern for many businesses. Mr Martin Stapleton (IFA) stated Irish farmers were at a competitive disadvantage due to the ongoing market failure within the Irish banking system. Mr Stapleton also told the Committee that interest rates in Ireland were about 2% higher than in north-west Europe, Irish farmers' main source of competition on the European market.

Mr Fergal O'Brien (Ibec) also stressed that the difference in the cost of finance between Ireland and other countries significantly discourages investment and growth. According to Mr Ian Talbot (Chambers Ireland), while the access to credit does not appear to be as big an issue as during the recession, the absolute cost of credit is a major issue facing Irish businesses.

---

[30] European Central Bank, *Survey on the Access to Finance of Enterprises in the euro* area: *April to September 2017* (November 2017)
https://www.ecb.europa.eu/pub/pdf/other/ecb.accesstofinancesmallmediumsizedenterprises201711.en.pdf?beb1832df4af9efa945a5a1f7b99eeb7

[31] Department of Finance, *SME Credit Demand Survey – April to September 2017* (January 2018)
https://www.finance.gov.ie/wp-content/uploads/2018/03/180306-SME-Credit-Demand-Survey-April-September-2017.pdf

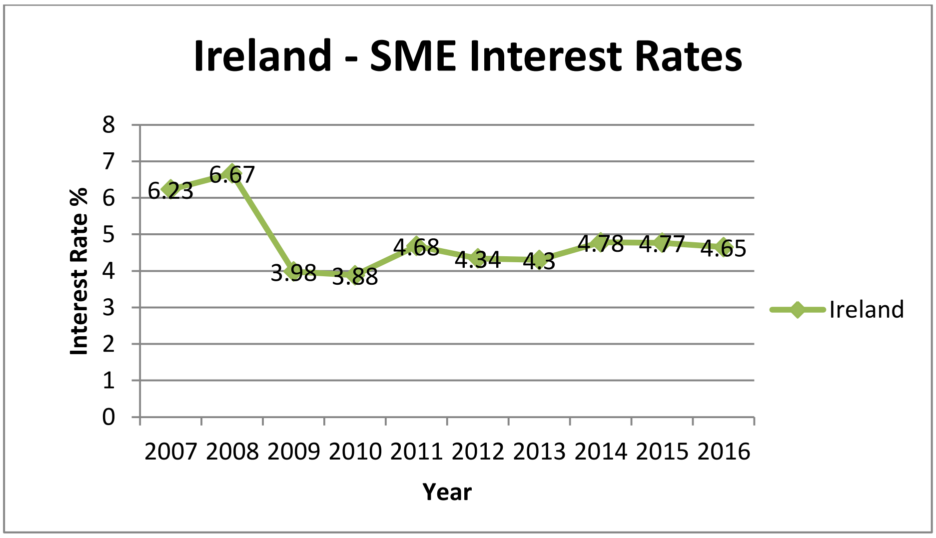
Ms Catherine Moroney (AIB) accepted that interest rates are higher in Ireland. However, she outlined a number of aspects that should be taken into account. According to both Ms Moroney and Mr Michael Lauhoff (Bank of Ireland), European banks often charge arrangement and administration fees that are not commonplace in Ireland. Ms Moroney also highlighted that the credit risk was higher in Ireland. The length of the loans was also raised, with Mr Lauhoff stating that commercial mortgage debt is often shorter term in Europe than in Ireland.

Interest Rate Comparison

This section is based on the data provided in the OECD report *Financing SMEs and Entrepreneurs 2018*[32].

Interest rates for SMEs in Ireland has been relatively consistent from 2009 to 2016 (latest available data), ranging from 3.98% to 4.78%. As highlighted in figure 1, 2009 saw a drop of over 2.5% from 2008 but the rate crept up again by 2011 and in 2016 remains over half a percentage point above the 2010 level.

Figure 1: SME Rates in Ireland 2007-2016



Source: Data from OECD report *Financing SMEs and Entrepreneurs 2018, p36*

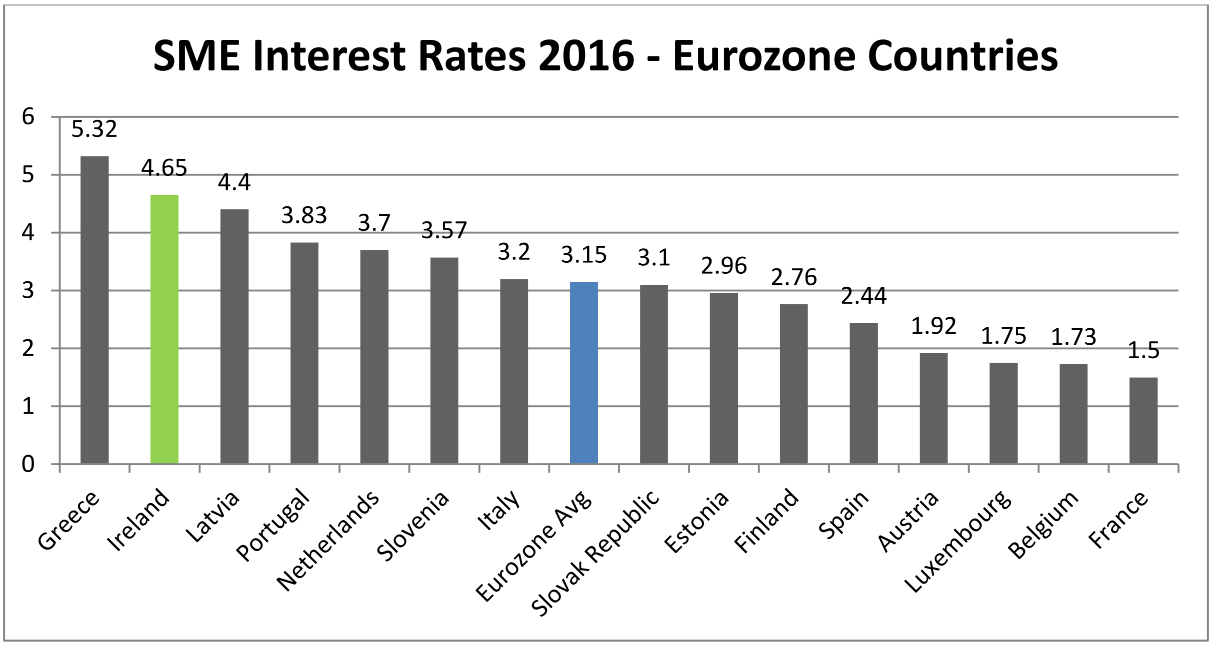
Eurozone Comparison

In 2016, Ireland had the second highest SME interest rates in the Eurozone[33], behind only Greece. Ireland is 1.5% above the Eurozone average. Figure 2 shows there is now a significant difference between Ireland and the countries with the lowest rates in the Eurozone.

[32] Organisation for Economic Co-operation and Development, *Financing SMEs and Entrepreneurs 2018* (February 2018) https://www.oecd-ilibrary.org/docserver/fin_sme_ent-2018-en.pdf?expires=1529405324&id=id&accname=oid006516&checksum=3A41C1F89F0C9D8E735748956A7741F7

[33] The OECD report does not present data for Germany, Lithuania, Malta or Cyprus (the latter three of which are not members of the OECD)

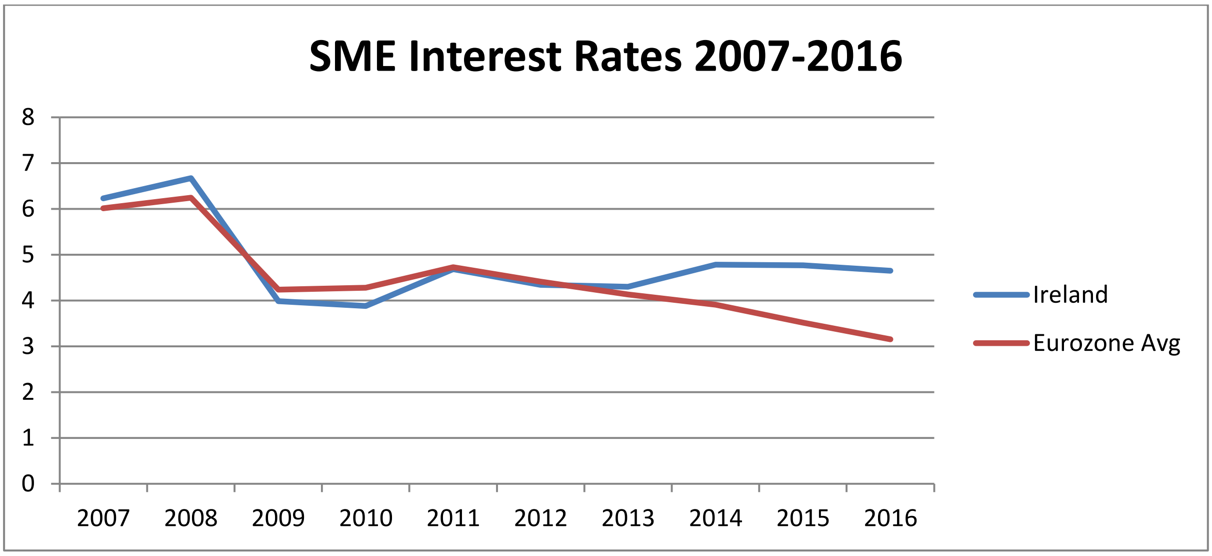
Figure 2: 2016 Eurozone SME Interest rates



Source: Data from OECD report *Financing SMEs and Entrepreneurs 2018, p36*

Figure 3 shows the how the Irish rate as evolved from 2007 to 2016 compared to the Eurozone average. Until 2013, Ireland was in line with the Eurozone average. However, from 2014 to 2016 as the Eurozone average began to drop the Irish level stayed level or increased slightly.

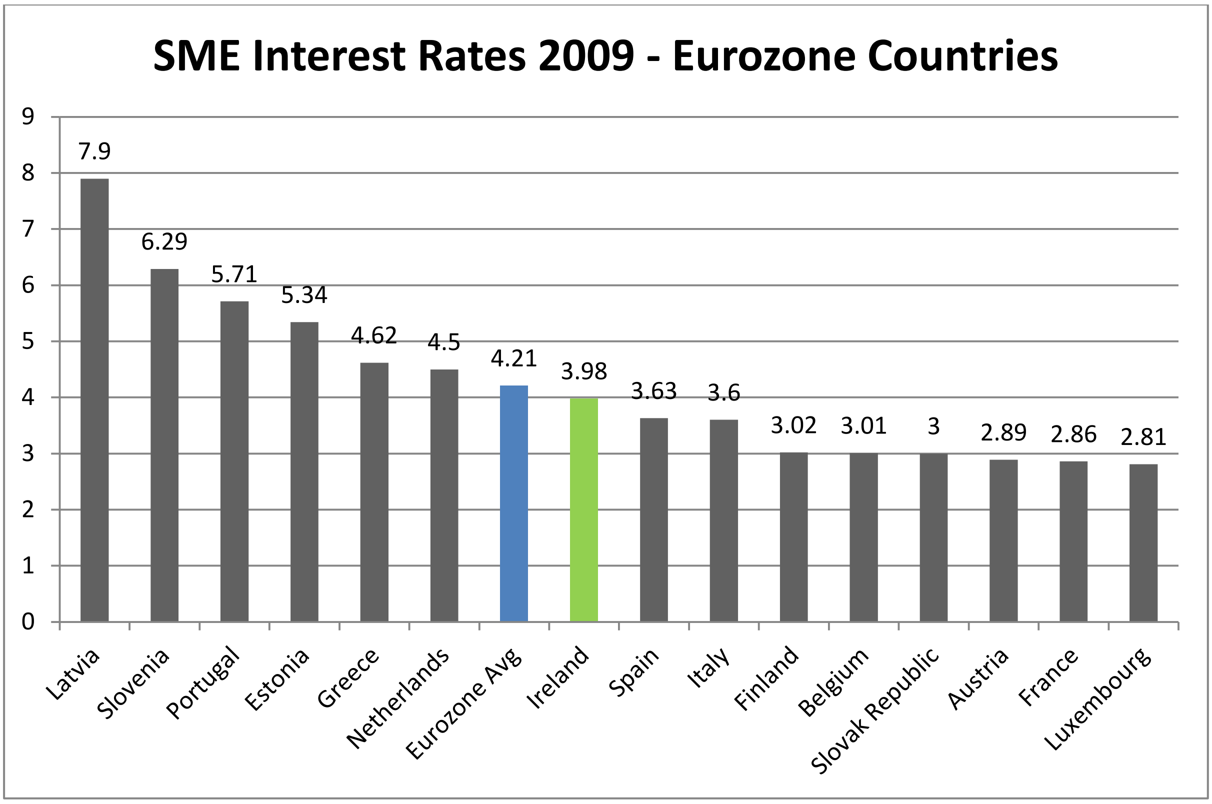
Figure 3: Average SME Interest Rates 2007-2016



Source: Data from OECD report *Financing SMEs and Entrepreneurs 2018, p36*

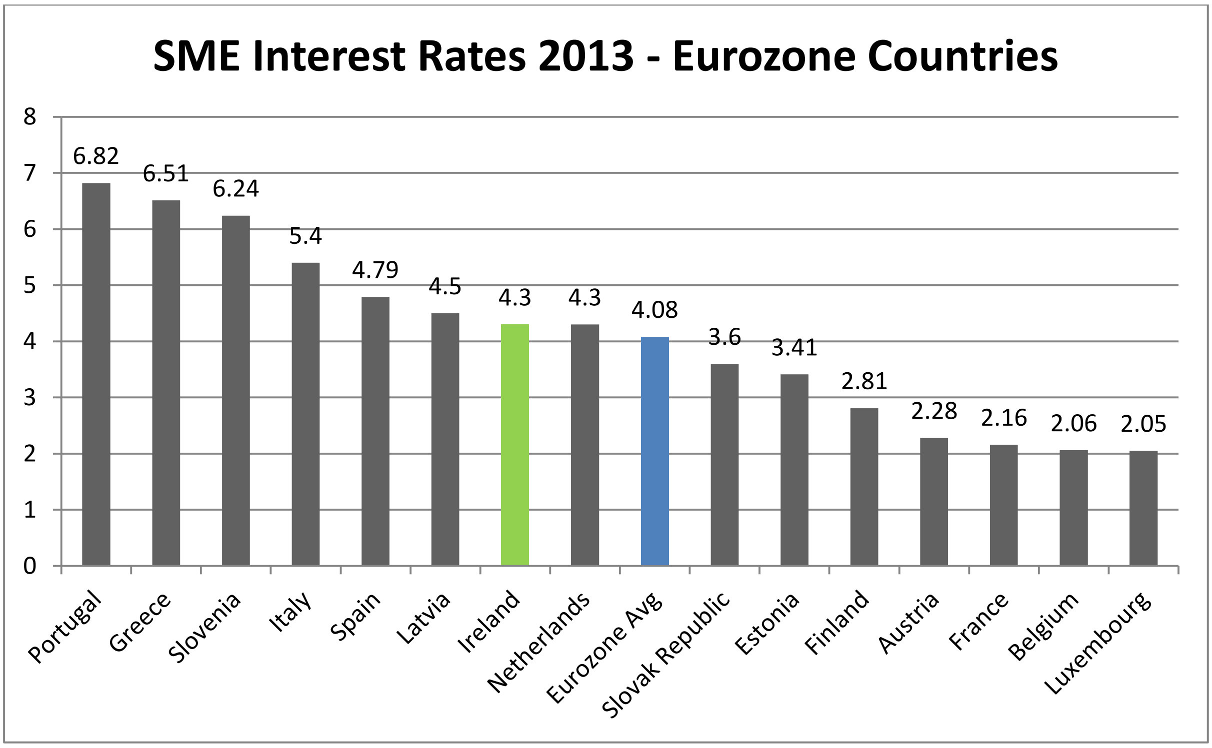
In 2009 Ireland (3.9%) was just below the Eurozone average (4.2%), while in 2013 Ireland (4.3%) was marginally above the Eurozone average (4.08%). While interest rates in Ireland have not increased substantially, they have not fallen to the same extent as in some other countries that had high rates during the financial crisis.

Figure 4: 2009 Eurozone SME Interest Rates



Source: Data from OECD report *Financing SMEs and Entrepreneurs 2018, p36*

Figure 5: 2013 Eurozone SME Interest Rates

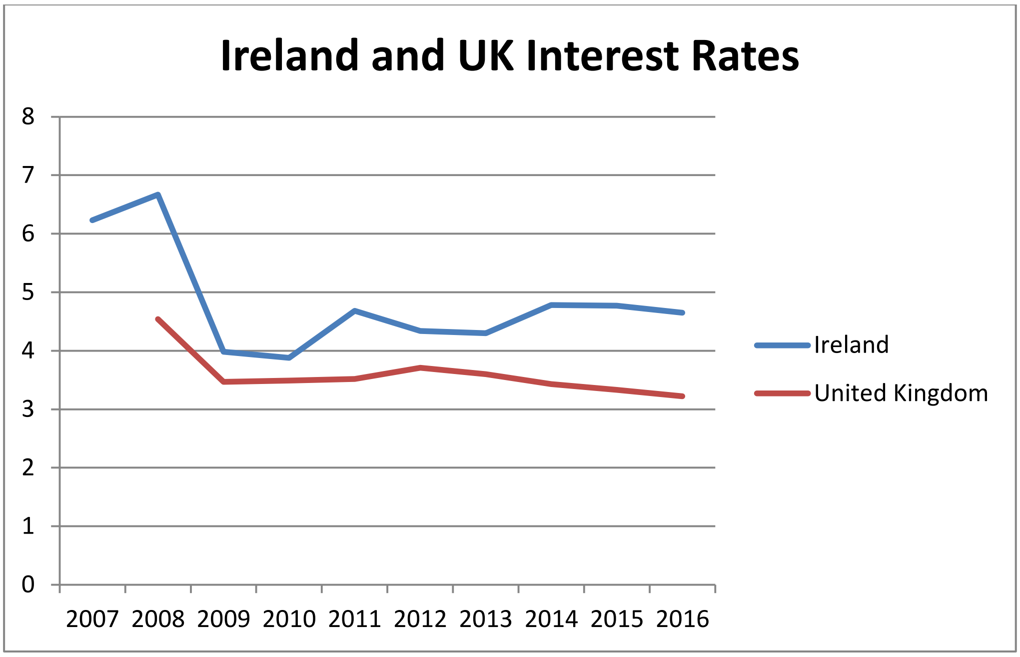


Source: Data from OECD report *Financing SMEs and Entrepreneurs 2018, p36*

UK Comparison

The OECD data also provides data for the UK. Ireland has been consistently over the UK rate over the time period covered. Figure 6 shows that the level of UK interest rates remained relatively stable between 2008 and 2016.

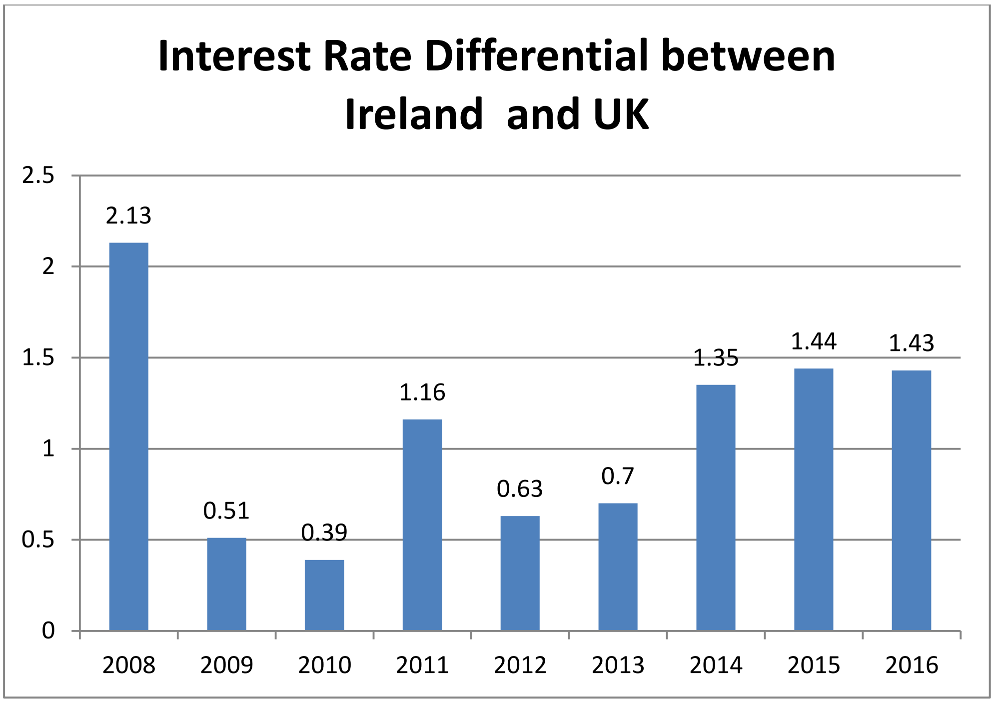
Figure 6: SME Interest Rates in the UK and Ireland 2007-2016



Source: Data from OECD report *Financing SMEs and Entrepreneurs 2018, p36*

Figure 7 shows the differential between the interest rates in the UK and Ireland over the period. While there was a significant reduction in the gap from 2008 to 2009 (due to a sharp decrease in the Irish rates), the last three years of available data have shown an increase in the differential.

Figure 7: SME Interest Rate Differential between UK and Ireland 2008-2016



Source: Data from OECD report *Financing SMEs and Entrepreneurs 2018, p36*

The data provided in the OECD report confirms that Irish interest rates are higher in Ireland than most Eurozone countries. It is however important to recognise that the data provided can only give a general overview of SME interest rates due to different definitions and the varying structures of countries' banking systems.

Observations

22. The Committee notes that Irish interest rates are higher than in most Eurozone countries and that this is an area of significant concern for Irish businesses, especially SMEs.

23. The Committee notes that there are many determinants of interest rates and that only general comparisons can be made between countries. However, it is clear that many Irish businesses are at a competitive disadvantage compared to those in other EU countries due to higher interest rates.

Diversity in Funding

Diversity in the types of funding available to Irish businesses was a significant issue raised by a number of stakeholders. Mr Fergal O'Brien (Ibec) stated that there is a need for diversity of financing options. Olivia Buckley (Irish Tax Institute) highlighted to the Committee that Irish SMEs are more reliant on bank finance than in other EU countries. Mr Gerard Brady (Ibec) also stated that Irish businesses are more reliant on overdraft and short-term lending than other countries.

The low level of equity finance was highlighted as a gap in funding for Irish businesses. Mr Gerard Brady (Ibec) outlined that the equity market in Ireland is very small. He stated that the attitude, from both the business and political side, to equity finance must be improved.

The tax treatment of equity was given as a significant reason blocking its increased use in the financing of business. Ireland's level of capital gains tax, the fourth highest in the OECD, was raised by the Irish Tax Institute. Ms Olivia Buckley stated that the high level of capital gains tax does not incentivise investment into business.

According to Ms Buckley, angel investors are also discouraged by the capital gains tax system. While there is entrepreneur relief, up to €1 million is charged at a lower rate, this is only available to owner managers. Therefore, it is not available to investors who do not spend a significant portion of time working for the business.

Ms Cora O'Brien (Irish Tax Institute) stated that a reduction in capital gains tax could be targeted at investments in business if there is no desire to reduce it across the board. This is what the entrepreneur relief is intended to do.

Ibec also raised the issue of entrepreneur's relief, calling for the lifetime cap of €1 million to be increased to €15 million.

Observations

24. The Committee notes that Irish businesses are more reliant on bank finance than many other EU countries.

Credit process

A number of organisations raised the administrative difficulty in obtaining credit. The CSNA highlighted that it is difficult for businesses to satisfy lending criteria. Chambers Ireland also raised concern about the length of time it takes for credit applications to be completed. The amount of micro SME's loan applications being rejected was raised by NOffLA, who put the figure at about 25% of applications.

During the meeting with representatives from the banking sector, Senator Reilly raised a new Central Bank report[34] showing an increase in the SME loan rejection rates from 8.2% in March 2017 to 13.9% in September 2017.

According to Department of Finance's SME Credit Demand Survey (April-September 2017)[35], the majority of SMEs that applied for credit reported that their applications had been approved (77%), while 14% were declined; a further 7% were still pending and 2% had their application partially accepted.

Representatives from both AIB and Bank of Ireland addressed the issue of loan rejections. Mr Michael Lauhoff stated Bank of Ireland did not see any material increase in loan requests being declined. Ms Catherine Moroney stated that AIB's approval rate for SME loans is 96%, and remained

[34] Central Bank of Ireland, *SME Market Report 2017 H2* https://www.centralbank.ie/docs/default-source/publications/sme-market-reports/sme-market-report-2017h2.pdf?sfvrsn=5

[35] Department of Finance, *SME Credit Demand Survey – April to September 2017* (January 2018) https://www.finance.gov.ie/wp-content/uploads/2018/03/180306-SME-Credit-Demand-Survey-April-September-2017.pdf

so up to December 2017. Ms Moroney also highlighted the share of SME loans coming from pillar banks have reduced, which could explain, in part, the increase in rejection rates.

Banking Related Costs

The cost of the physical banking of cash was raised by a number of stakeholders. Mr Vincent Jennings (CSNA) told the Committee that businesses pay between 0.5% and 0.6% for lodging cash. This is a particular concern where the margin on the businesses sales is very low. Mr Jennings gave the example of a €50 note used for a low margin transaction, such as the lottery, may earn only 19 cents but costs 25 cents when brought to the bank.

These costs can lead to very significant costs for retailers. Mr Jennings stated that some CSNA members are paying up to €40,000 or €50,000 a year on these charges.

The introduction of ATMs into retailer's stores has helped some retailers reduce their need for the physical banking of cash. However, Ms Ann Martyn (CSNA) outlined that the move to contactless payments has reduced the amount of cash available for the ATMs.

The range of services offered by banks was also raised with the Committee. Ms Ann Martyn (CSNA) stated that the services offered by the bank in her town have diminished significantly. The bank will only accept coins on certain days at certain hours. When representatives of AIB and Bank of Ireland appeared before the Committee, the reduction in services was put to them.

Mr Michael Lauhoff, representing Bank of Ireland, stated that it has the largest branch network in Ireland. Bank of Ireland has not left any locations, although some branches have been amalgamated in larger towns and cities. Mr Lauhoff did concede that the range of services has been changed, however this was done in response to changes to consumer behaviour. He also confirmed that, in some branches, the full cash offering is only offered at certain times of the day.

Ms Catherine Moroney, representing AIB, informed the Committee that AIB had closed 70 branches over the last decade. In many of these cases it was where two branches were in close proximity to each other (usually as a result of the amalgamation of the Munster and Leinster banks that led to the creation of AIB). Ms Moroney highlighted, that prior to the closure of branches, AIB had put in place its agreement with An Post to offer some AIB services through its network, which added 1,100 locations for AIB clients. Ms Moroney also stated that there were no restrictions in AIB branches regarding the acceptance of notes, coins and cheques.

The decreased access to banks has also led to security and insurance concerns as the business owners and staff have to travel further distances to lodge cash. Ms Martyn stated that she has to put staff members in peril by asking them to move cash. IPAV also highlighted that the money limits in transfers set by insurers mean multiple staff members have to travel to lodge cash.

Mr Jennings contended that there is a lack oversight of the rates charged by banks.

Observations

25. The Committee notes that the cost of the physical banking of cash is a significant concern for many businesses.

26. The Committee is concerned about the apparent lack of regulation in this area.

Recommendations

27. The Committee recommends that the Central Bank take an active role in overseeing the fees charged by banks for the physical banking of cash.
28. The Committee recommends that banks and business organisations engage to discuss how the services offered by banks can better be adapted to the needs of businesses, in particular SMEs.

Third Banking Force

The Committee met with representatives from the credit union sector, Irish Rural Link and the Savings Bank Foundation for International Cooperation (SBFIC – the development-policy arm of the Sparkassen-Finanzgruppe) to hear about the possibility of creating a third banking force.

Public Banking-Sparkassen Model

Sparkassen are local public banks in Germany that operate for the common good. The Committee heard from representatives of SBFIC who highlighted that three out of four German businesses are Sparkassen customers and have access to a full range of banking services. Interest rates offered by Spakassen in Germany are in the region of one or two percent.

Mr Harald Felzen (SBFIC) told the Committee that the Sparkassen model is a relationship-based model and its advisers are the main point of contact for all banking needs.

Mr Felzen highlighted that Sparkassen are fully exposed to market forces, operate according to commercial principles and must generate sufficient profits to fund operations. However, Mr Felzen also stressed that Sparkassen do not strive for short-term profits, as it may produce high risks in the long term.

Representatives from Irish Rural Link and SBFIC presented to the Committee their proposal for an Irish public banking model. It is important to note that, while SBFIC will offer support to the proposed model, German Sparkassen will not be entering the Irish market or bring any capital to the proposal.

Mr Harald Felzen highlighted that it is vital that the legal standing of the public banks be solid before the proposal could become reality. Special legislation would be needed to start the public banking model and Mr Felzen estimated that a minimum of 18 months would be needed to open the first branch.

The proposed model for Ireland includes eight to ten regional public banks, with a central service provider. According to Mr Felzen, it is estimated that 200,000 to 300,000 inhabitants is sufficient for a Sparkassen type bank to operate. A pilot programme was proposed, with one regional public bank being created. Mr Felzen estimated that this would need between €15 million to €20 million, while around €5 million would be needed to set up the central service provider.

Mr Seamus Boland (Irish Rural Link) informed the Committee that his organisation participated in the investigation of this model carried out by the Department of Finance and the Department of Rural and Community Development. This report is due to be published over the summer of 2018.

The Committee also heard that Irish Rural Link and SBFIC have held discussions with An Post. Mr Boland stated that while it will not fix all the issues facing post offices, they had identified synergies between post offices and banking in particular regions.

Observations

29. The Committee notes and welcomes the proposal made by Irish Rural Link and Sparkassen.
30. The Committee notes that German Sparkassen do not propose to enter the Irish market, but would provide expertise if a similar model were to be introduced in Ireland.
31. The Committee is looking forward to the publication of the report on the Public Banking Model by the Department of Finance and the Department of Rural and Community Development.

Mr Seamus Maye (ISBA) agreed with the need for a model similar to the Sparkassen model, however, he disagreed that a new standalone public banking model should be introduced. Mr Maye contended that the model should be based around the existing credit union and post office network, with input from the Sparkassen.

Credit Union

The Committee heard from representatives of the credit union sector outlining how credit unions could become more involved in commercial lending to SMEs. Credit unions are currently engaged in a small amount of commercial lending. According to Mr Tim Molan (CUMA), commercial lending accounts for 1.3% of national credit union loans. Commercial lending is a more complicated process than personal lending. Mr Molan told the Committee that credit unions are limited to 50% of a credit union's regulatory reserve, which is approximately 5% or 6% of its assets.

The credit union representatives addressing the Committee highlighted that credit unions have significant funds available for lending, however, due to a range of factors (including regulations limiting the type of loans they can provide and the lack of demand for the types of loans they currently offer) only around a third is currently out on loan.

Mr Ed Farrell outlined the ILCU's proposal for a State-backed vehicle that would enable a national network of credit unions form an efficient distribution network for SME loan applications. Credit unions would therefore be able to invest in a funding facility that would lend to SMEs nationally. According to Mr Farrell, this would combine the local expertise of credit unions with the necessary expertise, such as risk management capability, for business lending. This proposal would require the Central Bank to alter the rules governing credit unions.

The need for specialist knowledge and skills for commercial lending was also raised by Mr Molan (CUMA). He agreed that, while this might be unaffordable for individual credit unions, a combined approach could be a solution.

Mr Kevin Thompson outlined the increased cooperation between CUDA credit unions. This includes areas such as regulatory compliance and risk management. CUDA have also established the Solution Centre, a not-for-profit body to develop specialist products, supports and solutions for credit unions.

Mr Molan (CUMA) highlighted the view of some credit unions that SMEs are looking for more than just credit facilities and want other services such as current account and overdraft facilities.

Observations

32. The Committee welcomes the steps taken by credit unions to expand their offering to SMEs.

Recommendations

33. The Committee recommends the introduction of an Irish Public Banking Model to increase competition in the sector.

Labour Costs

Labour costs were raised as a major issue facing businesses in many of the submissions received by the Committee.

The cost of labour was identified by many groups as being the single biggest cost facing business. For example, both the RAI and CIF highlighted that labour costs can account for 40% of their members' costs, while the CSNA stated that wage costs can be over 65%.

The difference between the public and private sector was also raised, with Mr Neil McDonnell (ISME) noting "the extremely high gap between public and private sector remuneration" and stating that the gap "is no longer sustainable economically, politically or morally".[36]

Unit Labour Costs

As outlined to the Committee by Mr Peter Rigney (ICTU), when discussing the cost of labour, it is important to take into account not just the level of pay but also the cost of employer social contributions and other costs. Eurostat[37] divides the components of labour costs into:

- Employee compensation (including wages, salaries in cash and in kind, employers' social security contributions);
- Vocational training costs;
- Other expenditure such as recruitment costs, spending on working clothes and employment taxes regarded as labour costs; and
- Minus any subsidies received.

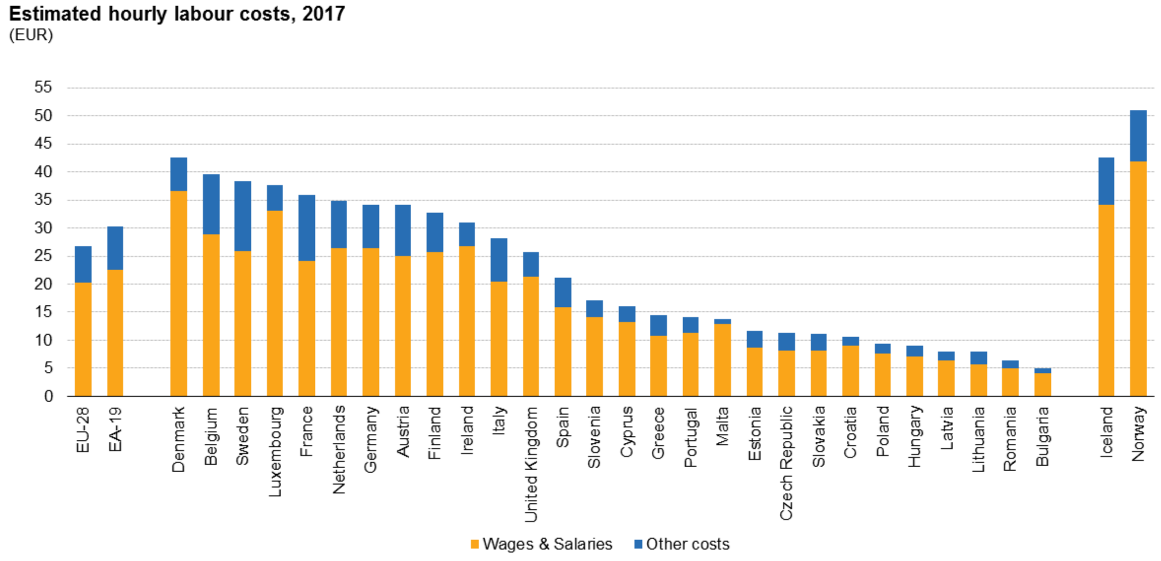
A number of different (though similar) figures were given to the Committee through submissions and at Committee meetings on the comparison between labour costs across the EU. To avoid confusion, this report will rely on the 2017 figures from Eurostat[38].

Figure 8 highlights the hourly labour costs across the EU. There is a wide variation among Member States, ranging from €42.50 (Denmark) to €4.90 (Bulgaria). Ireland has the 10th highest hourly labour cost, at €31.00. This is just above the Euro area 19 average (€30.30) and in line with the EU 15[39] average (€31.10).

The UK, however, is considerably lower at €25.70[40]. Eurostat note that for countries outside the euro area, the figures are influenced by interest rate movements

[36] Joint Committee on Business, Enterprise and Innovation (24 October 2017) page 6. Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_business_enterprise_and_innovation/2017-10-24/debate/mul@/main.pdf
[37] Eurostat, *Glossary: Labour Cost* (August 2017) http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Average_hourly_labour_cost
[38] Eurostat, *Hourly Labour Costs* (April 2018) http://ec.europa.eu/eurostat/statistics-explained/index.php/Hourly_labour_costs
[39] This refers to the 15 Member States of the EU prior to the 2004 enlargement.
[40] Eurostat has converted the UK rate from Sterling to Euro.

Figure 8



Note: whole economy (excluding agriculture and public administration); in enterprises with 10 or more employees. Provisional data.
Source: Eurostat (online data code: lc_lci_lev)

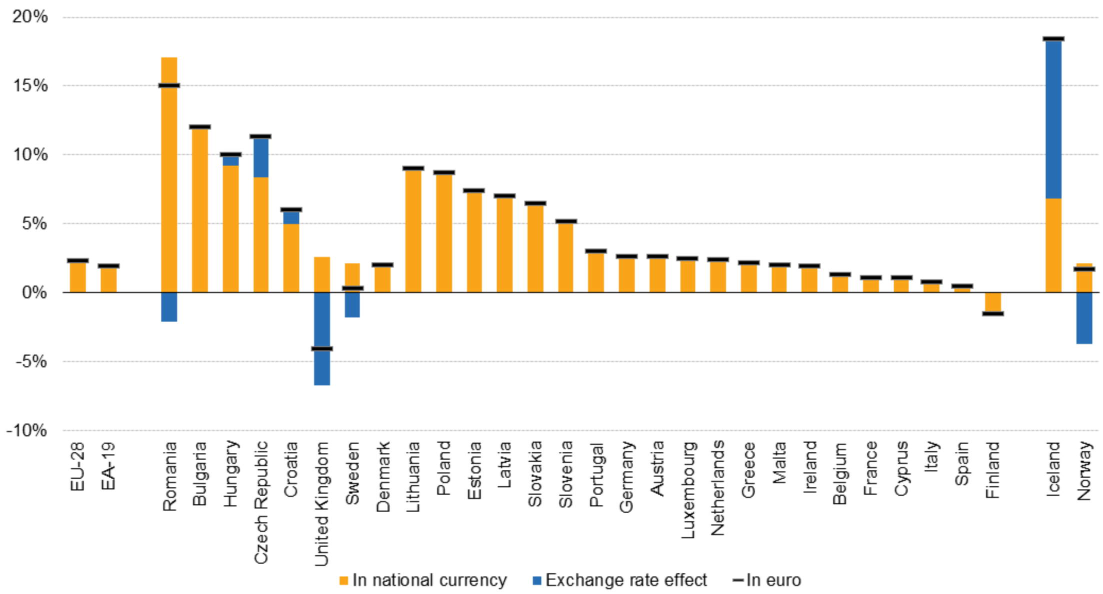
Source: http://ec.europa.eu/eurostat/statistics-explained/images/b/bd/Estimated_hourly_labour_costs%2C_2017_%28EUR%29_CORR_2.png

There was only a marginal increase (1.9%) in Ireland's hourly labour costs from 2016 to 2017. This is identical to the average for both the EU15 and the Euro zone 19. As shown in figure 9, Ireland had the 7th lowest increase. The bigger increases are primarily seen in newer Member States where the hourly cost of labour is significantly lower.

The UK's hourly labour cost fell in 2017 (from €26.80 to €25.70). However, as shown in figure 2, this is due to the exchange rate effect. The cost of labour in Sterling increased in line with the Irish increase.

Figure 9

Relative change in hourly labour costs 2017/2016 for the whole economy, in %



Source: Eurostat (online data code: lc_lci_lev)

eurostat

Source: http://ec.europa.eu/eurostat/statistics-explained/images/3/30/Relative_change_in_hourly_labour_costs_for_the_whole_economy%2C_in_%25_F2.png

Wage costs in Ireland are among the highest in the EU, behind only Denmark, Luxembourg and Belgium. However, Ireland also has one of the lowest proportions of non-wage costs (13.7%). Only Malta and Luxembourg have a lower proportion of non-wage costs. This compares to 32.8% and 32.7% in France and Sweden respectively. The UK's share of non-wage costs is also among the lower levels at 17.1%.

PRSI

The low non-wage cost in Ireland is in large part due to the lower rate of social security in Ireland. Mr Tom McDonnell (from ICTU/NERI) stated that labour taxation is about average, however when social security contributions are included, Ireland is very low. According to Mr McDonnell, this results in a lower social wage than other countries, as the benefits workers receive are not the same.

The Committee also heard concerns surrounding the "step" that occurs when gross pay increases above €376 a week. Once an employee's earnings go above €376 the employer PRSI goes from 8.5% to 10.75% on all earnings. Therefore a small increase in wages can result in a significant increase in the employer PRSI to be paid.

The Low Pay Commission (LPC) made a recommendation[41] that the anomaly created by the "PRSI step" should be removed.

Recommendations

34. The Committee supports the recommendation of the Low Pay Commission that the PRSI step anomaly between 8.75% and 10.75% at €376 per week be removed.

Minimum Wage

Considerable dissatisfaction with the 2018 increase in the minimum wage and the process by which the Low Pay Commission (LPC) arrived at the increase was expressed. Chambers Ireland, CSNA, Ibec and ISME detailed their opposition to the proposed increase.

Mr Ian Talbot, of Chambers Ireland, stated that their issue was primarily around the process undertaken by the LPC rather than the increase itself. Mr Talbot argued that the report should be published and then discussed before a decision is made. Mr Vincent Jennings (CSNA) stated that commitments on the minimum wage should not be made in the Programmes for Government. The LPC is charged with making evidence based decisions that should not be pre-empted by government.

In its submission to the Committee, the CSNA stated that the LPC "is incapable of arriving at a consensus and from the employer's, is most certainly responsible for adding to existing labour costs". ISME stated in its submission that the minimum wage is regulated to an inappropriately high degree and that the LPC did not cite any objective reason for the increase.

Mr Neil McDonnell (ISME) and Mr Vincent Jennings (CSNA) stated their concern with the proposed increase. Mr McDonnell stated that if an increase in the minimum wage cannot be recovered from the customer, it will have an effect on employment levels. This view was shared by the RAI

Mr Jennings highlighted that the businesses' concern with the increase was not limited to the increase for workers on the minimum wage, but also that other employees would request increases to maintain their differential with the minimum wage. This concern was also put forward by Mr Thomas Burke of Ibec. Mr Burke also said that the minimum wage puts Ireland out of line with the UK and Northern Ireland.

Low Pay Commission

Under the National Minimum Wage (Low Pay Commission) Act 2015, the Low Pay Commission is tasked with making recommendations to the Minister regarding the national minimum hourly rate of pay. The Low Pay Commission's remit is to recommend levels for the minimum wage rates that will help as many low-paid workers as possible without any significant adverse impact on employment or the economy.

In making its recommendations, the Low Pay Commission must take into account a number of issues, including international comparisons; changes in employment and the likely effect of any proposed change on levels of unemployment, the cost of living and national competitiveness.

[41] Low Pay Commission, *Recommendations for the National Minimum Wage* (July 2017) http://www.lowpaycommission.ie/publications/national%20minimum%20wage%202017/recommendations%20of%20the%20low%20pay%20commission%20for%20the%20national%20minimum%20wage,%202017.pdf

The Low Pay Commission recommended, in July 2017[42], an increase in the minimum wage to €9.55. This represents an increase of 3.2% (or 30 cents). However, the proposed increase was not unanimous. Three members[43] of the Commission (with an employer background) produced a minority report disassociating themselves from the recommendation to increase the minimum wage by 30 cents.

The authors of the minority report argued that the recommended increase was not an evidence based conclusion and is not supported by the data in the report. It was also stated that insufficient regard was taken of the views of employers, big and small, that will have to fund the increase. The authors stated they would have been willing to support a 20 cents increase in the minimum wage.

A 2018 Eurofound[44] (EU agency for the improvement of living and working conditions) report outlines that 22 of the 28 EU Member States apply a generally binding statutory minimum wage. In five of the Member States without a statutory minimum wage, the minimum wage is set by sectoral collective agreements. The final country, Cyprus, has a statutory minimum wage limited to specific occupations.

As of 1 January 2018, Ireland has the second highest minimum wage in the EU[45] behind Luxembourg. Seven countries are classified in the "high-range" bracket by Eurofound. Ireland is around €150 a month higher than the UK, the lowest of the "high-range" countries.

Observations

35. The Committee notes that while the minimum wage in Ireland is high compared to most EU countries, Ireland's hourly labour cost is broadly in line with similar Member States.

36. The Committee regrets that the Low Pay Commission was unable to come to a consensus decision. However, the Committee believes the Low Pay Commission is the correct forum for examining and making recommendations on the minimum wage.

Taxation

Concerns were expressed to the Committee from a number of employer groups that the high level of taxation on income makes it difficult to attract employees. According to Mr Neil McDonnell (ISME) the extremely progressive taxation above €34,000 results in an unwillingness on the part of employees to get promoted or work overtime.

[42] Low Pay Commission, *Recommendations for the National Minimum Wage* (July 2017) http://www.lowpaycommission.ie/publications/national%20minimum%20wage%202017/recommendations%20of%20the%20low%20pay%20commission%20for%20the%20national%20minimum%20wage,%202017.pdf

[43] Caroline McEnery (Director, The HR Suite), Vincent Jennings (CSNA) and Tom Noonan (for CEO of the Maxol Group and President of Ibec 2008-2010)

[44] Eurofound, *Statutory minimum wages 2018* (February 2018) https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef18005en.pdf

[45] As many EU countries' minimum wage are based on monthly earnings, Eurofound convert hourly minimum wages to monthly for comparison using 2017 mean basic paid hours per week.

According to the Irish Tax Institute Ireland's high effective personal tax rates continue to be a challenge for employers attempting to recruit the best possible staff. The Irish Tax Institute highlighted that the marginal income tax rate for earners above €70,044 is 52%, among the highest personal tax rates in global terms. According to the Institute, this hinders Ireland in attracting much needed skills and talent.

Mr Neil McDonnell also contended that the social welfare system results in some workers not wishing to earn over €35,000 a year, the income threshold for social housing in cities. Mr McDonnell argues that the wall between the social support systems and the revenue systems need to be broken down to stop discouraging people from earning more.

The Irish Tax Institute also raised the Revenue Commissioners PAYE modernisation programme, which will require employers to report PAYE information in "real-time". Currently this information is provided on an annual basis. According to the Irish Tax Institute this will present significant challenges to employers and result in increased reporting costs. There will be significant costs in migrating to the new system, while the UK's experience shows that there is likely to be significant ongoing compliance costs.

The Irish Tax Institute called for a full cost/benefit analysis to be undertaken on the real-time regime. They also stated that, if it does go ahead, every effort should be made to minimise additional costs to businesses and counterbalance the costs with tangible and measureable benefits (e.g. faster refunds and fewer errors). The Irish Tax Institute also believes that micro-businesses should be exempt.

The system should also have the flexibility to cater for differing work and employment patterns. There should be a simple and transparent mechanism to deal with disputes and a well-planned communication and support strategy. The Irish Tax Institute also called for the introduction of the new regime to be done on a phased basis and that it should be piloted for a year prior to its full introduction.

The Committee also heard that the introduction of a share-based employee remuneration scheme would enable SMEs to attract and retain skilled employees. The Irish Tax Institute suggest the Enterprise Management Incentive, where capital gains tax is payable by the taxpayer when they sell their shares, is a model Ireland should consider.

Skills Shortage

The lack of skilled labour, particularly in the construction and hospitality sectors, was raised with the Committee on a number of occasions. The IFA, CIF, RAI and IHF all said that this skills shortage was a significant issue for their sectors.

Mr Tom Parlon (CIF) stated there is now a lot of competition for skilled labour in the construction industry and that there is a scarcity of skilled labour among the unemployed. Mr Parlon also highlighted that the construction, hospitality catering and farming sectors are competing for the same apprentices.

Apprenticeships

One issue identified by the organisations was the lack of apprenticeships. The RAI highlighted that since the dismantling of CERT in 2003, there has been no single organisation with sole responsibility for hospitality and tourism training policy. Mr Cummins called for the re-establishment of such an organisation. Mr Cummins also welcomed the new Commis Chef Programme, stating that it will be of benefit to the industry. However, Mr Cummins also highlighted that the industry requires 5,000 chefs a year but on average only 1,800 a year qualify.

The CIF also identified apprenticeships as a significant issue for the construction industry. While certain skills continue to come through (e.g. plumbers and electricians) others, primarily wet skills (such as plastering and block laying) remain scarce.

The IFA highlighted that there will be a shortage of managers in the future and that there is a need for an apprenticeship scheme for people to progress to become farm managers and owners.

The Committee also heard that the farming sector has been involved with an apprenticeship programme aiming to get people from the live register to gain employment in dairy farming. According to the IFA a pilot project in Kilkenny which attempted to take people off the live register resulted in only five people taking part. Mr Martin Stapleton (of the IFA) stated he was not sure that those on the live register want to milk cows, while Mr Damian McDonald stated that working on a farm was not for everyone.

The CIF also raised concerns surrounding the funding model for apprenticeships and the removal of supports for apprentices. Previously the cost of the higher education contribution was covered by SOLAS/FÁS, but now apprentices themselves are expected to cover the cost. However, according to the CIF, it is often the employer that ends up covering the contribution.

A number of stakeholders raised the increase in the national training fund levy. Mr McDonnell acknowledged that the SME sector needs more resources to be put into training. He also stated that if the levy is to be increased, businesses expect to see increases in training, otherwise they will want to see the levy reduced. Mr Talbot (Chambers Ireland) agreed, stating the need for transparency around how the funds are spent.

Mr Ian Talbot (Chambers Ireland) suggested that, with the significant reduction in unemployment, there needs to be a rebalancing of the amount spent on the unemployed to increase funding for training people in employment in small business. This will help SMEs gain the skills needed to grow their businesses.

Observations

37. The Committee notes and welcomes the increased focus, from industry and State bodies, on apprenticeships as an alternative education model and a way to provide skilled labour in the future.

Recommendations

38. The Committee recommends that increased efforts be made by the government to substantially increase the number of people in apprenticeship programmes and increase the number of apprenticeship programmes to ensure Ireland has the skilled and educated workers needed for growing and emerging sectors of our economy.

39. The Committee recommends that increased efforts be made to match skills gaps with training programmes offered by Intreo Offices.

Work Permits

The need for work permits for non-EEA workers to address the lack of skilled labour in their industries was raised by both the RAI and the IFA. The IFA stated that the supply of labour from Europe is no longer sufficient, while the RAI outlined that the lack of skilled labour was an issue across Europe. The CIF stated that there remains sufficient availability of European labour.

Mr Cummins stated that the RAI have made submissions to the Department of Business, Enterprise and innovation every six months since 2010 requesting work permits be granted to the sector. These have been refused each time. The IFA have also made requests to the Department, but were turned down.

The RAI suggested that the Oireachtas could introduce a trusted partner scheme that would allow large organisations to get fast-tracked work permits as it is easier to deal with a large company employing thousands than individual SMEs.

The Minister for Business, Enterprise and Innovation, Ms Heather Humphreys T.D., announced[46] on the 14th May 2018, that a pilot programme providing a limited number of work permits from outside the European Economic Area (EEA) workers in the agricultural sector.

Recommendations

40. The Committee recommends that the work permit applications for particular sectors continue to be considered on a regular basis by the Department of Business, Enterprise and Innovation. The Committee also recommends that work permits should only be granted where there is a demonstrable lack of skilled labour and training programmes have failed to produce the skills necessary.

41. The Committee recommends that the reason for low numbers in certain sectors (e.g. chefs) should be investigated.

[46] https://dbei.gov.ie/en/News-And-Events/Department-News/2018/May/14052018.html

Other Issues

A number of other issues, often specific to the certain sectors were also raised with the Committee throughout its engagement.

Regulatory Compliance

While the importance of good regulation was accepted in many submissions, the costs of compliance with these regulations were a significant issue for businesses. The implementation of new regulations involves administration costs that must be covered by the business.

Poorly designed policy, legislation and regulations add directly to the cost of doing business, with businesses spending around 6% of turnover and almost one-third of their time meeting compliance costs according to Mr Fergal O'Brien (Ibec). It its submission Ibec also highlights that Regulatory Impact Assessments (RIAs) are not widely used and the quality varies considerably. Ibec calls for the wider use of RIAs along with ex-post evaluations across the public policy system.

Ms Linda Barry (SFA) also raised the cost of red-tape, stating it is a huge issue for small businesses as it is a fixed cost, and the business dealing with it is much smaller. As an example, Ms Barry highlighted that businesses must comply with 40 pieces of employment legislation, even if they employ only one or two people.

This is also an area of concern for rural businesses according to Mr Martin Stapleton (IFA), especially as the vast majority are micro-enterprises employing fewer than ten people. Mr Stapleton highlighted that these businesses struggle with administrative and regulatory costs.

Mr Adrian Cummins (RAI) told the Committee that a restaurant will have a minimum of 28 different licences, regulations and regulatory regimes it must comply with. Mr Cummins highlighted the fats, oils and grease charge that cost restaurants on average €1,000 per year.

Mr Cummins also raised the issue of multiple inspections, stating that when a food safety audit is carried out by an environmental health officer, they are not allowed to audit the fats, oils and grease trap standards, which is carried out by another inspector. Mr Cummins argued that these inspections could all be done by the state in one inspection.

Mr Liam Edwards (RAI) also raised concerns about the lack of consistency with inspections by environmental health officers. He stated that there are often discrepancies between what is required by different officers.

Ibec called for a "red-tape challenge" to be conducted to streamline the regulatory systems in place and stated a cross departmental approach is necessary to ensure that there are no unforeseen knock-on effects on policy areas in other departments when new regulations are introduced.

Ms Cora O'Brien (Irish Tax Institute) stated that burdens and uncertainties in the tax administration system, lead to higher compliance costs for businesses.

Recommendations

42. The Committee recommends that a review of all regulatory systems that affect businesses be undertaken, with a view to streamlining and combining the inspection and enforcement of the rules to reduce the cost of compliance for businesses. The

Committee wishes to highlight that it is not advocating any reduction in standards or regulatory provisions, but that the way in which they are enforced be improved to reduce the cost to businesses.

43. The Committee recommends that Regulatory Impact Analyses be mandatory for the introduction of all new regulations and that they should be published sufficiently in advance to allow the Oireachtas and industry to fully understand the impact of the proposed regulation.

Utility Costs

The relatively high cost of utilities, such as electricity, was mentioned in a number of submissions, however, the PSO (Public Service Obligation) levy proved to be a significant issue in a large number of submissions. Mr Fergal O'Brien (Ibec) stated it is important that utility costs remain competitive.

Poor broadband infrastructure, especially in rural areas, was also raised as an issue for many businesses.

Repak

The system surrounding waste management regulations was highlighted as being unfair by the CSNA, arguing that charging retailers for the packaging on products they sell was unfair as they are not the producers of the product. According to the CSNA, the average fee is over €800.

Music Licensing

The royalties that must be paid for playing music or radio in businesses was raised in the submissions by the RAI and CSNA.

Mr Liam Edwards (RAI) told the Committee that businesses have to pay threes different licences for background music, as well as the television licence. Mr Adrian Cummins (RAI) suggested that the licences for music be encompassed in one licence.

Mr Victor Finn, the CEO of Irish Music Rights Organisation (IMRO), wrote to the Committee[47] clarifying the current position regarding music licensing. Mr Finn outlined that the IMRO covers the public performance of musical work on behalf of songwriters, composers and music publishers and the Phonographic Performance Ireland (PPI) works on behalf of record producers and performers.

Since January 2016, a Dual Copyright Music Licence covering both copyrights was introduced to streamline the process for businesses and reduce administration costs. This new system has not led to any new costs for compliant businesses according to Mr Finn.

The CSNA stated their belief that the royalties for playing the radio were already covered by the radio stations. This results in bills of over €400 for many businesses.

[47] Correspondence to the Committee from the Irish Music Rights Organisation https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_business_enterprise_and_innovation/submissions/2018/2018-06-27_correspondence-victor-finn-chief-executive-irish-music-rights-organisation-imro_en.pdf

The CSNA also claimed that a ruling by the European Court of Justice regarding the collection of these royalties has not been implemented and the categories of exempted businesses have not been amended.

Carriage Fees for Newspapers

According to the CSNA delivery fee from newspaper wholesalers and the stringent rules for returning unsolds are an expensive cost for newsagents, especially as they may not sell many. The need to provide a security guarantee also increases the cost of selling newspapers.

The CSNA suggested allowing trade bodies to negotiate (which is not allowed under current legislation) with wholesalers on behalf of their members to help reduce costs.

Excise Duty

The level of excise duty was of particular concern for NOffLA, as well as some other organisations. Illicit trade has been a particular issue for the off licence trade. Mr Jimmy Redmond (NOffLA) highlighted that excise rates are increased overnight and this has to come out of the off-licence's bottom line

NOffLA also called for the introduction of a ban on the below cost selling of alcohol to prevent large supermarkets from selling alcohol as a loss leader.

Mr Cummins (RAI) also raised the issue of excise duty, specifically around wine, stating that it is the highest in Europe.

Childcare

ICTU highlighted the cost of childcare as a major indirect cost to business and the potential to lead to the loss skilled of labour in the workforce.

Public Tenders

The SFA raised concerns surrounding public tenders. Ms Linda Barry (SFA) stated that many of its members want to tender for public contracts, but the administrative burden and complexity act as a barrier to them. The SFA also raised concerns about public tenders being withdrawn. Small business can go to considerable expense to prepare and submit a tender and the tender can then be withdrawn.

The issue of tenders, both public and private sector, was also raised by the CIF. Mr Tom Parlon stated the cost of tendering for projects is often disproportionate to the probability of winning the tender.

VAT Rate

The VAT rate in Ireland was raised as a major concern for jewellers by Mr Damian Duggan (AFJ). The VAT rate in Ireland (23%) is higher than in Northern Ireland (20%), which makes it attractive to shoppers to buy high value products across the Border. Mr Duggan also highlighted that the non-policing of flights from the USA, South Africa and the USA by customs results in a loss of revenue to the Exchequer.

Mr Duggan called for legislation to be brought forward to ensure all online markets are liable for VAT and duties. This would ensure fairer competition for retailers and increased revenue for the Exchequer. Mr Duggan claimed that many online purchases do not include VAT, either in the country of retailer or the customer, as it is not properly policed. EU rules state that when selling a good to a consumer in a different country within the EU, a seller must pay VAT in the consumer's country. [48]

The AFJ have also proposed a system similar to VRT for high value items such as jewellery and paintings whereby a product imported into Ireland would have to be registered and the duty paid on it. A certificate stating this had been paid would then be required for the item to be insured or sold.

A number of stakeholders (including representatives from the IHF, RAI, Ibec and SFA) welcomed the retention of the 9% for the hospitality sector. Mr Fergal O'Brien (Ibec) outlined that this has been particularly important for businesses outside of Dublin.

[48] https://europa.eu/youreurope/business/vat-customs/cross-border/index_en.htm

Cost of Crime

The cost to business associated with crime was raised as a significant concern with the Committee. The Committee heard from representatives of the pharmacy and retail jewellers sectors on the specific issues their members face with regard to crime. The Committee also received a supplementary submission from RGDATA on the issue of crime.

Stats

Mr Darragh Connolly (IPU) informed the Committee that a survey carried out by his organisation found that four out of every five pharmacies had been the victim of crime in 2017. Of the pharmacies that had been the victims of crime, 81% reported two or more incidents throughout the year. The survey also provided a breakdown of the types of crime perpetrated against pharmacies:

- Shoplifting (89%)
- Break-in (17%)
- Fraud (16%)
- Raid (13%)

The 13% raid figure has more than doubled over the previous year's figure. Just under a third of cases of robbery or raid involved the use of a weapon.

Crime is also a major concern for retailers. According to a 2017 RGDATA survey, 97% of its members had been the victim of a crime in the previous 12 months. The most common types of crime were:

- Shoplifting (88%)
- Fraud/Counterfeit Goods (58%)
- Theft by Staff (30%)
- Burglary/Robbery (24%)

Concern was also raised at the violent nature of robberies, with 24% of RGDATA members and their staff threatened with weapons during a robbery.

The level of crime was raised in Retail Ireland's submission. Increased crime and vandalism have added to the loss of footfall in certain areas. The issue of the black market was also raised. Retail Ireland, quoting a Grant Thornton report, estimated (in 2015) illicit trade could be costing the Irish economy as much as €2.4bn. Mr Thomas Burke (Retail Ireland) stated that Retail Ireland has been in discussions with An Garda Síochána who confirmed that there has been a very significant increase in retail crime.

Mr Jim Curran (IPU) raised concerns surrounding the lack of statistics available on business crime. He highlighted that it is difficult to find solutions if the extent of the problem is not known.

Cost

The IPU stated that criminal activity resulted in an average direct cost per pharmacy of €4,300 in 2017. These costs can include CCTV, alarms, tagging systems and the need to have a security guard on the premises. There are also hidden costs, particularly the impact on owners, staff and customers of the pharmacy. Ms Ann-Marie Horan (IPU) stated her view that the level of crime experienced by pharmacies has a negative impact on pharmacists choosing to work in pharmacies and even deciding to become pharmacists.

RGDATA raised a number of issues in its submission to the Committee on the cost of crime to businesses. It estimates that shoplifting alone adds 3% to the cost of goods in retail outlets. Businesses face considerable crime prevention costs, including CCTV, staff training and the use of security companies.

Mr Connolly (IPU) also stated that the IPU provide training packages for pharmacists to help them prepare and protect their premises.

The Committee also heard that some businesses have to keep their doors locked and require customers to buzz for access. While this can be an effective security measure, it does not guarantee protection from robbery or raid. Ms Horan (IPU) highlighted that it can also remove the personal touch to the service being provided.

The cost of crime on businesses was raised in the CSNA's initial submission to the Committee. In particular it highlighted the high security costs facing retailers including CCTV and strong rooms for tobacco products. The CSNA also raised concerns with the data protection rules that prevent business owners from sharing CCTV images of shoplifters.

Reporting of Crime

A number of stakeholders outlined to the Committee that a significant portion of crime goes unreported to the Gardaí.

According to the IPU, only 73% of pharmacies that experienced crime reported it to the Gardaí, with 79% of those that did happy their case was dealt with effectively/adequately. Almost half (45%) of those that did not report the crime said they did not do so because they had a lack of faith the perpetrator would be charged.

Mr Connolly stated that there is no incentive for pharmacists to see through a prosecution due to the costs involved in attending court and having to get locum cover for their pharmacy.

RGDATA also highlighted their members' dissatisfaction with the Gardaí and justice system's response. Its survey showed that only 32% of criminals who have perpetrated crimes against its members were convicted.

Mr Damian Duggan (AFJ) outlined a number of reasons why businesses may not report crime. The impact on insurance costs and the lack of confidence in the judicial system are two major reasons according to Mr Duggan. Businesses must also consider the threat of litigation and false allegations.

Observations

44. The Committee emphasises that it is important that crimes are reported to An Garda Síochána to allow for the accurate gathering of crime statistics.

Recommendations

45. The Committee recommends that specific statistics on the level and types of crime experienced by businesses be recorded.

Despite the number of crimes not being reported, Mr Connolly (IPU) informed the Committee that pharmacists have a good rapport with local crime prevention officers and the Gardaí in general. However, Mr Jim Curran (IPU) highlighted that the number of crime prevention officers varies by area.

Recommendations

46. The Committee recommends that sufficient crime prevention officers be available throughout the country.

47. The Committee recommends that increased resources be committed to combatting online fraud.

Proposed Measures

The IPU proposes a number of measures to be taken to tackle the level of crime affecting businesses, including:

- More visible policing;
- Fast Garda response to reports of crimes;
- Increased installation and use of public CCTV;
- Tougher sentencing; and
- Development and implementation of business watch initiatives.

RGDATA state that certain actions should be taken to reduce the level of crime affecting businesses. Firstly, there is a need for Gardaí to introduce a range of management initiatives to better support retailers caught up in a crime, through better response time to crime calls and providing better follow through to convictions.

Secondly, there is a need for legal reforms to make it easier to fight retail crimes including:

- A new process for Retail Barring Orders;
- Mandatory sentences for specific crimes involving violence against retailers;
- On- the- spot fines for shoplifting;
- Consecutive rather than concurrent sentencing; and
- Enforcement of collection of fines.

Mr Thomas Burke (Retail Ireland) also called for additional resources to be allocated to An Garda Síochána to tackle crime that has a clear impact on the operational cost of retail businesses.

Observations

48. The Committee notes that many businesses, especially those involved in retail, do not believe that reporting a crime will result in any significant sanction for the perpetrators.

Further Steps

As outlined in this report, the cost of doing business in Ireland is affected by a broad range of issues. It is vital that these areas are considered by both Government and industry to ensure that Ireland remains a competitive place in which to do business.

Dispersed Responsibility

The issues raised in this report highlight that the issue of the cost of doing business touches a broad range of areas and does not fall under the remit of a single Government department.

Ibec highlighted that responsibility for cost competitiveness in Ireland is dispersed across multiple government departments and local government bodies. According to Mr Fergal O'Brien (Ibec), this leads to a lack of policy coherence and significant inaction. Ibec has called for the Department of Business, Enterprise and Innovation to commence an "Action Plan" approach that assigns clear responsibility to departments and bodies.

Recommendations

49. The Committee recommends that the Department of Business, Enterprise and Innovation be given responsibility for monitoring the cost of doing business in Ireland and coordinating the whole-of-Government response to the issue. The Committee supports Ibec's recommendation that an Action Plan approach (similar to the Action Plan for Jobs) be used to set, coordinate and monitor the Government response.

Continued Monitoring

The Committee will continue to monitor developments in this area. It is particularly interested to see what developments result from the Cost of Insurance Working Group and the examination of the possible introduction of a public banking model.

Observations

50. The Committee will continue to monitor developments affecting the cost of doing business and will follow up periodically with the Department of Business, Enterprise and Innovation and other departments to examine the implementation of the recommendations in this report and other policy initiatives.

Appendices

Appendix1: Committee Membership

Chairperson: Mary Butler (FF)

Deputies: Lisa Chambers (FF)

Billy Kelleher (FF)

James Lawless (FF)

Tom Neville (FG) [Vice-Chair]

Maurice Quinlivan (SF)

Noel Rock (FG)

Senators: Aidan Davitt (FF)

Paul Gavan (SF)

Kevin Humphreys (LAB)

James Reilly (FG)

Notes:

1. Deputy Gino Kenny replaced Deputy Bríd Smith on 26 October 2017.
2. Senator Kevin Humphreys replaced Senator Ged Nash on 16 November 2017.
3. Deputy James Lawless replaced Deputy Gino Kenny on the 20 February 2018
4. Deputy Billy Kelleher replaced Deputy Niall Collins on the 17 April 2018
5. Deputy Lisa Chambers replaced Deputy Stephen Donnelly on 17 April 2018

Appendix 2: Terms of Reference

a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]

(1) The Select Committee shall consider and report to the Dáil on—

(*a*) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and

(*b*) European Union matters within the remit of the relevant Department or Departments.

(2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.

(3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—

(*a*) Bills,

(*b*) proposals contained in any motion, including any motion within the meaning of Standing Order 187,

(*c*) Estimates for Public Services, and

(*d*) other matters

as shall be referred to the Select Committee by the Dáil, and

(*e*) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and

(*f*) such Value for Money and Policy Reviews as the Select Committee may select.

(4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:

(*a*) matters of policy and governance for which the Minister is officially responsible, (*b*) public affairs administered by the Department,

(*c*) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,

(*d*) Government policy and governance in respect of bodies under the aegis of the Department,

(*e*) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,

(*f*) the general scheme or draft heads of any Bill,

(*g*) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,

(*h*) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,

(*i*) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,

(*j*) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (*d*) and (*e*) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and

(*k*) such other matters as may be referred to it by the Dáil from time to time.

(5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—

(*a*) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,

(*b*) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(*c*) non-legislative documents published by any EU institution in relation to EU policy matters, and

(*d*) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.

(6) Where a Select Committee appointed pursuant to this Standing Order has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.

(7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:

(*a*) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,

(*b*) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(*c*) at the invitation of the Committee, other Members of the European Parliament.

(8) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department or Departments, consider—

(*a*) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and

(*b*) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select.

b. Scope and Context of Activities of Committees (as derived from Standing Orders) [DSO 84; SSO 70]

(1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders; and

(2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.

(3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993; and

(4) any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Orders [DSO 111A and SSO 104A].

(5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

(a) a member of the Government or a Minister of State, or

(b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

(6) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.