



**Ref: S1269 PAC33**

Ms. Sarah Cremin

Committee Secretariat

Committee of Public Accounts

25 April 2023

Dear Ms. Cremin,

I refer to your letter dated April 12<sup>th</sup> 2023 in relation to the potential sale of the National Lottery Operator, PLI. The Department, in consultation with the Office of the Regulator of the National Lottery, has considered these matters and a response to the questions raised by the Committee is provided below.

Yours sincerely,

David Moloney



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Secretary General

## **Background/Context**

In the first instance, it is important to clarify that both the Regulator and the Department are not aware of or on notice of any proposal to sell the licence to operate the National Lottery (the “Licence”) and this impacts on the relevance of answers to the Committee’s questions.

As per section 9 of the National Lottery Act 2013 (the “Act”), the principal function of the Regulator of the National Lottery is to procure the holding of the National Lottery under licence. The current licence was granted to Premier Lotteries Ireland DAC (PLI) in 2014 and does not expire until 2034 (the “Licence”). PLI is an Irish registered company with the sole purpose or object of holding the National Lottery under licence, in accordance with section 29 of the Act.

The Regulator and the Department are not aware of or on notice of any proposal for PLI to cease operating the National Lottery such that a competition for the grant of a new licence would need to be held.

The Regulator and the Department are aware of public comment and reports in the media that the majority shareholder in PLI (the Ontario Teachers’ Pension Plan) may be seeking to sell its shares in PLI. However, the Regulator and the Department cannot comment on such speculation.

Any proposed sale of shares in PLI (as operator) would be an entirely different proposition to the sale of the Licence itself and would be governed by Clause 19 of the Licence, which provides that any proposed sale of a controlling interest in PLI would require consideration by and the written consent of the Regulator. In the event that there was a transfer of ownership of PLI, the National Lottery would continue to be operated by PLI under the same Licence – with the same returns to good causes, players, and retailers, and the same safeguards in place – until the end of the Licence in 2034. In other words, any such share sale would not affect the provisions of the Licence and PLI would continue to act as operator of the National Lottery under the Licence.

## **Responses to Questions raised by the Committee**

### **1. If there is an exit penalty for the current licence holder**

Section 37 of the Act prohibits the transfer or sale by a licence holder of its rights or obligations under a licence to a third party without the prior written consent of the Regulator. Therefore, PLI could not sell its interest or rights or obligations under the Licence without the Regulator’s written consent. Any attempt by PLI to do this without regulatory consent would be void and have no effect (section 37(3)).

Clause 19.8 of the Licence provides that a change in control of the Licensee (namely, PLI) requires the written consent of the Regulator. Any change of control of the Licensee without the consent of the Regulator would constitute a material contravention of the Licence and PLI would be subject to the enforcement provisions under the Act and the Licence which could include the imposition of a financial sanction under the Act, the withholding of monies due to PLI under the Licence, or revocation of the Licence, each depending on the particular circumstances. Also, the State may have recourse to the performance bond provided by PLI (to secure its obligations under the

Licence) under Clause 17 of the Licence if a purported change of control resulted in some form of loss or liability on the part of the State.

If the Regulator's consent to a change of control in PLI were obtained, no penalties would apply.

2. Who will handle the sale of the National Lottery licence

The Regulator and the Department are not aware of or on notice of any proposal to sell the Licence.

Any proposed sale of the Licence prior to 2034 would require the consent of the parties to the Licence, namely, the State (represented by the Minister), the Regulator, and PLI. PLI is entitled to operate the National Lottery under the Licence until its interest expires in the ordinary course in 2034.

As noted, a sale of shares in PLI is permitted under the Licence and the sale of a majority of controlling shares would require the Regulator's consent.

3. How will the National Lottery licence be sold

The Regulator and the Department are not aware of or on notice of any proposal to sell the Licence.

Any change of control in PLI would follow commercial negotiations between the owners of the majority controlling shareholding in PLI and any prospective purchaser(s), an application to the Regulator seeking consent to a change of control, and written consent of the Regulator. Please see above regarding the consequences of a change of control without the Regulator's written consent.

4. Will the sale of the National Lottery licence have any consequences for An Post who is a junior partner

The Regulator and the Department are not aware of or on notice of any proposal to sell the Licence.

The impact for An Post of a change in control of the Licensee would depend on, and be subject to, the terms and conditions of the shareholder agreement it agreed with the other shareholders in PLI. This agreement does not form part of the Licence. This agreement comprises a commercial matter between PLI's owners and is not a matter for the Regulator, unless a change in control of PLI were proposed.

5. Clarification of the role of State agencies regarding the sale of the National Lottery licence and the roles of the Regulator and your Department

The Regulator and the Department are not aware of or on notice of any proposal to sell the Licence.

In the event of a proposed change of ownership or control of the Licensee, the Regulator's prior written consent for any such change would have to be requested by PLI and obtained. A permitted change of control in PLI would not impact on the provisions of the Licence (or the Act) and PLI would continue as operator of the National Lottery under the Licence. A change in the identity of PLI's shareholders would not change this.

6. If consideration is being given to the State purchasing the National Lottery licence

Since the licence is not for sale, no occasion arises whereby the State might or might not consider purchase of the licence.