

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 14 Feabhra 2019

Thursday, 14 February 2019

The Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Catherine Connolly,	Deputy Marc MacSharry,
Deputy David Cullinane,	Deputy Catherine Murphy,
Deputy Alan Farrell,	Deputy Kate O'Connell.
Deputy Alan Kelly,	

DEPUTY SEAN FLEMING IN THE CHAIR.

Mr. Seamus McCarthy (*An tArd Reachtaire Cuntas agus Ciste*) called and examined.

Business of Committee

Chairman: We are joined by the Comptroller and Auditor General, Mr. Seamus McCarthy, who is a permanent witness. Apologies have been received from Deputies Aylward, Cassells and Deering.

The first item on the agenda is the minutes of our last meeting on 7 February. Are they agreed to? Agreed.

Mr. Seamus McCarthy: At last week's meeting the Chairman asked a question about the Law Reform Commission's financial statements for 2017 and whether they had been signed off on. They were signed off on on 19 December and are working their way through the system to be presented to the Oireachtas.

Chairman: They will arrive here shortly.

Mr. Seamus McCarthy: Yes.

Chairman: That is fine.

The next item on the agenda is correspondence. There are three categories, the first of which is briefing notes and opening statements for today's meeting. Before we get into the details of the correspondence received, what I have is quite a lot but not all of the documentation we have received in recent days on various meetings and reports in connection with the national children's hospital. We will hold all of it together for a separate discussion and deal with the other correspondence received first, but I want to give members an indication of the volume of material that has been sent to the committee as a result of our questioning at a previous meeting.

Nos. 1943A and 1958 are items of correspondence received from Mr. Peter McCarthy, CEO of Enet, providing briefing material and an opening statement for today's meeting. We will note and publish them. Is that agreed? Agreed.

No. 1953A is correspondence received from the company Imagine, providing an opening statement for today's meeting. We will note and publish it. Is that agreed? Agreed.

No. 1959A is correspondence received from BT for today's meeting. We will note and publish it. Is that agreed? Agreed.

No. 1962A is correspondence received from Eir for today's meeting. We will note and publish it. Is that agreed? Agreed.

Nos. 1963A and 1964A are items of correspondence received from the Regional Internet Service Providers Association, providing an opening statement for today's meeting. We will note and publish them. We will also note and publish the documentation received. Is that agreed? Agreed.

The second category is correspondence received from Accounting Officers and-or Ministers as a follow-up to requests made at Committee of Public Accounts meetings.

No. 1932B is a letter received from Mr. Robert Watt, Secretary General of the Depart-

ment of Public Expenditure and Reform, providing information requested by the committee on the Government banking service contract in respect of the service being provided by Danske Bank. Mr. Watt does not provide specific details, but he mentions the fact that there are up to 50 million transactions, mainly involving the Department of Employment Affairs and Social Protection which accounts for some 43 million of them. Mr. Watt says the service delivery and relationship management aspects of the contract are primarily managed by Danske Bank's Dublin based team supported by the head office in Copenhagen in Denmark. It had a pre-existing arrangement with An Post for cash and cheque transactions, etc. We will note and publish the correspondence. Is that agreed? Agreed.

No. 1937B is correspondence received from Dr. Des Fitzgerald in the University of Limerick, providing information requested by the committee. We asked for the total number of subsidiary companies; a breakdown of the staff and the board membership, as well as the most recent financial statements for Plassey Campus Centre. All of the information is provided, with a list of all the companies over which it has control and the financial statements for Plassey Campus Centre, a company limited by guarantee, formerly known as Plassey Campus Centre Limited. I note that the company which is controlled by the University of Limerick has a turnover of €37.168 million and revenue reserves of €36.273 million. I will ask the Comptroller and Auditor General to confirm same. Is the company consolidated in the accounts of the University of Limerick?

Mr. Seamus McCarthy: It is.

Chairman: That is an important aspect. We want to make sure the figures are incorporated into the accounts of the University of Limerick. If anyone wants to review the financial statements, he or she should, please, feel free to do so.

The next item is No. 1938B, correspondence received from Ms Julie Sinnamon of Enterprise Ireland, providing information requested by the committee, outlining Enterprise Ireland's full investment in FeedHenry, including its involvement in supporting and contributing to the commercialisation of the project. Ms Sinnamon confirms that Enterprise Ireland invested €1.59 million in the project and received €4.5 million from the proceeds of the sale. This was mentioned in passing the last day and we asked for a detailed letter on the matter. Other than Waterford Institute of Technology and Enterprise, did any other State organisation receive some of the proceeds of the sale?

Mr. Seamus McCarthy: That is the full extent of the matter.

Chairman: We will note and publish the correspondence as we want to balance the discussion. There has been much debate about returns to the State. It is clear that on an investment of €1.59 million by Enterprise Ireland, it received €4.5 million in return. That helps to complete the picture on the matter.

The next item is No. 1939B, correspondence received in connection with the national children's hospital. As we have a large volume of items in that regard, we will note and discuss the correspondence with all of the other correspondence received on the national children's hospital. No. 1940B is also correspondence related to the national children's hospital.

No. 1942B is correspondence, dated 7 February 2019, received from Mr. Aidan O'Driscoll, Secretary General of the Department of Justice and Equality, providing follow-up information requested by the committee at an earlier meeting. What is provided includes information re-

quested from the Irish Prison Service. There are three items outstanding which the secretariat will be monitoring. I will make a brief observation and know that other members wish to comment. There has been much public criticism of us by another Oireachtas committee asking these questions, but I wish to put in context the reasons we are asking them. There is a complication as the issues are within the remit of the justice committee, but equally they are within the remit of this committee. Some committees of the Houses believe that if a matter is within their remit, it cannot come within ours, but there are matters that fall within the remit of more than one committee. We must deal with that issue. If a topic falls within the remit of a line committee, it should not necessarily be excluded from the remit of the Committee of Public Accounts. I will not get into the detail as I know members wish to comment on the issue.

We followed up with the State Claims Agency on the matter of medical negligence and the cost of claims against the State. There are approximately 1,685 such claims against the Irish Prison Service from current and former prisoners which may bring a serious cost to the State. We were acting within our remit in inquiring about the background and matters such as how prisoners were dealt with while imprisoned. There are also concerns about potential medical claims, which is why we asked about the medical service. We asked about the level of prisoner injury and compensation claims. The reply from the Department of Justice and Equality is that the information is awaited from the State Claims Agency. The fact that the agency is dealing with the matter is proof that it is very much one within our remit. We also asked about cases being taken against the State on the issue I mentioned. That request is with the State Claims Agency. We asked for details of compensation paid in cases where prisoners had harmed themselves. Again, the Department is awaiting information from the agency. We asked for information on compensation payments related to protected disclosures. Again, information is awaited from the agency.

We were concerned about the health of prisoners as if the State was not providing adequate medical services, it might well lead to compensation claims against it. We want such matters to be dealt with. I was shocked by the response to one of the questions asked. We asked about the number of prisoners with mental health or drug dependency issues, including the percentage of prisoners who passed through the system every year on medication or prescriptions. The reply states: "Information on the level of mental health conditions in the prison population is derived from studies done in 2003 and 2005". If information is based on 15 year old studies, it is utterly unacceptable and possibly on the negligent side of things. That is if this is the most up-to-date information available. The reply also states the rate of prescribing in the Irish Prison Service is "currently" - the letter dates from last week - 63% of the total number of prisoners in custody. They have an active prescription which indicates that serious issues may arise at a later date. The reply gives the cost of maintaining a prisoner in a high security prison, a medium security prison and an open prison. The average cost was €68,535 in 2017.

Deputy Alan Kelly: There is much detail included in the correspondence. As a committee, we requested a number of pieces of information. The correspondence indicates that there are three elements that will be responded to at a later date, but as there may be more, we might liaise with the clerk on the outstanding requests.

The first point made in the reply is related to surveillance and is mind-boggling because of the way it is written. One has to read it two or three times in order to understand it. It states: "In relation to the request by the committee for an information note on any costs for surveillance in any of the prisons or any prison offices over the past five years, the Irish Prison Service has no information to suggest that any authorised covert surveillance of a prison officer has been

undertaken by the Irish Prison Service". That relates to authorised, not unauthorised, activity. The reply continues:

Companies were engaged by the Irish Prison Service operational support group. Records show that one company was paid a cumulative total of €9,586.59 in 2011 and €8,641.68 in 2012. A second company was paid a cumulative total of €10,774.12 in 2011. It is not possible from the information available to determine if these payments relate to the surveillance of prison staff.

Effectively, the Irish Prison Service does not know why the money was paid. The executive summary states money has been spent, but the service has no idea why it was spent. It is mind-boggling.

Deputy David Cullinane: It is a comprehensive set of documentation, on which I agree with most of the Chairman's observations. What are we doing with it? We now have the response and witnesses were called before us. If there are issues relevant to the work of the Committee of Public Accounts, we must isolate and deal with them. It also strikes me that some of this relates to policy and that the documentation could be forwarded to the justice committee. It could deal with the policy matters with which it must deal, while we can examine the cost or control matters relevant to our work.

Chairman: It will come into our discussion on the periodic report on the potential costs of claims and costs incurred.

Deputy David Cullinane: That is my point. We do not intend to bring back people.

Chairman: Not immediately. We have good information.

Deputy David Cullinane: This will inform our periodic report.

Chairman: Yes. If clarification is requested on any point, we will seek it in writing in the first instance.

Deputy David Cullinane: If this informs our periodic report and we are not happy with some of the response received, will we seek further clarification?

Chairman: Absolutely.

Deputy David Cullinane: That is perfect.

Chairman: When the secretariat is drafting a periodic report, it checks to see if we have all of the answers. It will go back to obtain the information. Therefore, our periodic report will be based on up-to-date information. As a period could elapse between the public meeting and the date of publication of our report, we always check. That work goes on behind the scenes.

Deputy Marc MacSharry: The Accounting Officer for the Irish Prison Service is the director general of the Irish Prison Service.

Chairman: It is the Department of Justice and Equality.

Mr. Seamus McCarthy: It is the Secretary General of the Department of Justice and Equality.

Deputy Marc MacSharry: Not the director general of the Irish Prison Service.

Mr. Seamus McCarthy: No.

Deputy Marc MacSharry: I have information on which I will obtain legal advice before I share it here, but it contradicts some of the content of the correspondence. We will have to come back to it.

Chairman: Does the Deputy want me to hold it over?

Deputy Marc MacSharry: No. I do not want to go into private session now. We have received a lengthy and wordy reply, but, unfortunately, some of the stuff included in it just does not stand up and we will probably have to revisit it. I have a concern that, with the best will in the world, the service administration in Longford does not really know what is going on in certain prisons or aspects of the work. If we look at the mess committee stuff that came back here, it does not really add up. There is other stuff as well. We are not sure that money spent on surveillance was of staff. It is just not credible. Expenditure is supposed to be okayed by the director of operations of the Prison Service. Why would he or she ever okay something without being told what it was for?

Chairman: We will note and publish this but the Deputy is noting he will want to revisit this item.

Deputy Marc MacSharry: There is no doubt about it.

Chairman: The Deputy can bring the matter up again.

Deputy Marc MacSharry: This is a response and I thank the Secretary General for giving us a response. He probably gathered information from various people in good faith. However, in many aspects the response is just not credible.

Deputy Catherine Murphy: The State Claims Agency straddles all Departments. While the biggest contingent liability is in the area of health, there are liabilities and risk assessments in other Departments and it is quite useful for us to be able to match one against the other. We could see there was a drop in some claims by actions that were taken in respect of the risk assessments that were done in some of the prisons. That was one of the things that came out. If we are doing a piece of work on open disclosure, the HSE, the State and contingent liability, there are other liabilities under the State Claims Agency that could be part of that report. What we are really trying to get at concerns the State Claims Agency, how we function, how litigious we are and how much is potentially being spent in the courts unnecessarily. This will be useful in that context.

Chairman: Part of it.

Deputy Catherine Murphy: We can park the issue while accepting the point that has been made by Deputy MacSharry that we will need to come back to it. It is important to put it into one package of issues and that really comes under the heading of mitigating against claims, reducing claims or becoming less litigious and taking corrective action.

Chairman: We note and publish that. It is an issue we will come back to. It will form part of our periodic report and feeds into the State claims issue as well. The next item of correspondence is No. 1944B from Mr. Mark Griffin, Secretary General, Department of Communications, Climate Action and Environment, providing follow-up information in respect of metropolitan area networks and mobile phone blackspots. We will note and publish this. Some

people will be interested in the information.

Next is No.1945B in connection with the children's hospital. We will hold that over and discuss it in a moment. No. 1946B is also in connection with the children's hospital. We will hold it over and discuss it in a moment. No. 1948B is from Mr. Maurice Buckley, chairman of the Office of Public Works, providing information requested regarding the procurement arrangements for the Pope's visit. We will note and publish this.

Deputy Catherine Murphy: This is one I have been waiting for us to receive. When we inquired into the issue, we got a note back with a little box ticked saying that they had gone through the procurement process. We asked what the procurement process was, specifically around some of the contracts. The largest one would have been for the fencing and security. Essentially, what they are saying is that confirmation of the Papal visit of 28 August was only received in June. That was the issue about the timeline to tender. They used existing frameworks for some of the procurement. My understanding is that they were on some preferred contractor list or something like that. Someone might correct me if I am wrong on that. That will happen. There was not a specific tender for this. However, going by the report that came back from the Department with the box ticked, one would have presumed there was a specific tender. This letter is saying that there was not but that, after discussions with other parties, having considered the issue, and as there was insufficient time and resources to run multiple tender competitions, the OPW had no alternative but to use the existing frameworks. Could we explain the existing frameworks? Does anybody know what they are?

Mr. Seamus McCarthy: Obviously, 2018 expenditure would be a matter for us to examine in the context of the audit of the 2018 appropriation account. In general, if I may explain how a framework agreement works, the Office of Government Procurement or a large organisation puts a framework agreement in place. They look for contractors who are capable of providing a class of service. They pre-qualify them and put them on this framework arrangement. Normally, when an organisation then wants to avail of the framework, it will go to a number of the contractors and run what is called a mini-competition. It will state specifically what it needs and ask for prices, running a constrained competition. Some people refer to a framework agreement when what they mean is a draw-down contract, whereby there is an arrangement for a certain amount of service to be provided but where more of the service can be drawn down. The terms tend to be used interchangeably in some of the correspondence we have seen. I do want to look at this procurement in the context of the appropriation account. If there is something significant around procurement I may report on it.

Chairman: I also want to note that this matter has also been discussed with the Office of Public Works in recent days at the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach. Next is correspondence No. 1949B from Martin Whelan, head of public affairs at the National Treasury Management Agency, providing a note on the Ireland Strategic Investment Fund, which is part of the NTMA, and its investment in the Irish infrastructure fund, IIF, which, although it sounds similar, is a completely different organisation. The Ireland Strategic Investment Fund is part of the State under the NTMA. The second last paragraph of the letter states that one of the Ireland Strategic Investment Fund's investments is in a privately managed Irish infrastructure fund. While the abbreviations are similar, they are distinct and different entities. The Ireland Strategic Investment Fund is a State-owned fund and the IIF is a privately managed fund. There is a bit of confusion about the names out there. Investors in the privately managed IIF purchase their investment via unit holdings. This is common practice in fund-based investments. Consequently, the Ireland Strategic Investment

Fund does not own shares or have a shareholding in the privately managed IIF but does have a commercial interest via unit holdings. The letter further states that the Ireland Strategic Investment Fund holds 49.5% of the units in the privately managed IIF and has a commitment of €250 million to the privately managed fund. A chart is provided showing that there are 27 investors in the IIF who have control of 50.5%, while the State involvement is 49.5%. Am I reading it correctly?

Mr. Seamus McCarthy: That is my interpretation as well.

Chairman: It took us a bit of time to learn this. The NTMA has a commercial interest but it is through units, not shares. It is not a shareholder.

Deputy Catherine Murphy: It has money in it.

Chairman: It has up to €250 million. We are putting that on the public record, anyway.

Deputy Catherine Murphy: There are also other entities that are not State entities such as pensions and so on.

Chairman: Yes, the letter goes on to say that some of the other investors that have units in this fund are Irish investors, including pension funds, trusts and local investment managers, while there are three international investors as well. The Irish investors include university trusts, union pensions, religious orders, construction worker pensions, pension funds of a number of Irish companies, and Government bodies. They have a lot of investment directly from the State and through major pension funds.

Deputy Catherine Murphy: That is not an insignificant issue, either, even though it is not State money. Going back to what happened with Anglo Irish Bank, part of the reason people said there was Irish interest in it was that there might have been pension funds or credit union funds, things like that.

Chairman: There is a strong link here.

Deputy Catherine Murphy: There is a strong link, yes.

Chairman: This is of interest to those who are watching this issue.

Deputy Catherine Connolly: Can anyone clarify what is meant by “unit holdings”?

Mr. Seamus McCarthy: They are certain percentages of the investment. It is like a 5% investment.

Chairman: Who is the shareholder in this company? There is probably a shelf company and the funding comes through sale of units in the investment.

Mr. Seamus McCarthy: That would be my understanding of it.

Chairman: In other words, we still do not know who the shareholder of the company is.

Mr. Seamus McCarthy: All of the returns after expenses should be going to the investors. The beneficial interest in the profitability of the investments is the unit holders.

Deputy Catherine Murphy: The more opaque something is, the more concerned about it I become. If there are very clear straight lines, it is transparent. The two names are very similar

and we are being told we are misunderstanding this. It is a very similar name. In fact there is a certain amount of State money involved in this and there are people who have a stake in it through their pensions.

Chairman: Correct.

Deputy Catherine Murphy: That means it is very important to make sure those investments are robust. If they fail, the State picks up on the other side.

Chairman: The Comptroller and Auditor General might be able to help us. Would a search of the Companies Registration Office tell us this information?

Mr. Seamus McCarthy: I do not know how one would do that. I am not sure the company would be found.

Chairman: It is becoming even more interesting. What is the corporate structure of the Irish Infrastructure Fund, IIF? Is it likely to be unincorporated? The Comptroller and Auditor General does not know.

Mr. Seamus McCarthy: No. I would have to do some further-----

Chairman: Very well. We will send a quick note to the Oireachtas Library and Research Service asking it to find out who these are.

Deputy Catherine Connolly: That would be helpful. We should also ask the service for anything else it can give us in the absence of our own researchers. I am looking at this-----

Chairman: This is very complicated.

Deputy Catherine Connolly: Yes, as my colleague said, it is opaque. On top of that, it is a system set up to promote infrastructure. The privately managed IIF holds investments in five Irish infrastructure companies in the energy, healthcare, telecoms and hospitality sectors. There is a presumption that all of this is right. Of course we need infrastructure. I am not questioning that. However, this is supposed to be good without any analysis of what is good. The State holds 49%. There is a push in a particular direction. For example, I would immediately think of climate change. Some infrastructure projects may make us more vulnerable to climate change. The officials from the National Treasury Management Agency, NTMA, were very good. They put their hands up and said they had not considered climate change in making investments. Fair play to Mr. O'Kelly. Since then the NTMA has taken action. We are seeing the same thing in this matter. We are struggling.

Mr. Seamus McCarthy: Obviously the NTMA would be the best body to advise and inform the committee about it.

Chairman: The NTMA is saying it does not have any shares, it just has a unit. That agency has given its answer on its involvement. Mr. McCarthy is right. To help the public to understand what is going on here, we will ask the Oireachtas Library and Research Service to look into it and give us what information it can. We are not suggesting there is anything wrong, but we would like to know what is going on.

Deputy Catherine Murphy: It is great that we have money that has been invested.

Mr. Seamus McCarthy: This may go into a policy area. From a strategic point of view

the IIF is trying to leverage, to use a technical term. It is trying to get private sector funding invested in Irish infrastructure as well.

Deputy David Cullinane: It is described as a wealth fund.

Chairman: Deputy Cullinane has googled it.

Mr. Seamus McCarthy: One can see the sources of the wealth, things like-----

Deputy David Cullinane: The Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach has dealt with some of these issues in the past, so I have picked up on some commentary. It is described as a wealth fund. It leverages private funding.

Deputy Catherine Connolly: What are the sources of the private funding?

Mr. Seamus McCarthy: The sources include funds held by university trusts, pension funds, religious order funds and construction worker pensions. There are a lot of pension funds there. When people make their contributions to pensions, those contributions have to be invested. They have to generate returns for the pensions to be paid in the future. That funding is out there looking for a home that will generate a reasonable expected rate of return. That is what the pensions industry is about.

Chairman: Finally, it says the privately managed IIF is managed by AMP Capital, an international infrastructure investment fund manager, and Irish Life Investment Managers. They are the firms that manage it and receive fees for doing that.

Deputy Catherine Connolly: That is a good letter.

Chairman: It is.

Deputy Catherine Connolly: It is a clear letter. It answers the questions we asked. The next step beyond that is important.

Chairman: Exactly. It took about three letters to get to this point, but anyway.

Deputy Catherine Connolly: They did well to give it to us finally.

Chairman: We are not letting them go. We will ask the Oireachtas Library and Research Service to give us a paper on this. We will ask the service to check with the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach and find out what information is already available through that source so it does not duplicate its work. We will note and publish that.

No. 1949B has been dealt with. No. 1950B concerns the national children's hospital. We will deal with that in a moment. No. 1951B is correspondence from the Secretary General of the Department of Transport, Tourism and Sport, dated 8 February. He has provided a detailed note on the procedures and processes in place for granting money under the sports capital programme and through Sport Ireland. The correspondence also refers to matters relating to Galway GAA, which received no funding from Sport Ireland. Members should note that a related briefing note by the Comptroller and Auditor General's liaison officer was circulated earlier this week. We will note and publish that.

Deputy Catherine Connolly: I welcome that correspondence.

Chairman: That is good. No. 1952B concerns the national children's hospital. We will hold off on that for a minute. The following items relate to the national children's hospital: Nos. 1954B, No. 1955B, No. 1956B, No. 1957B and No. 1960B. We will discuss those in a minute. No. 1961B also concerns the national children's hospital, which we will discuss in a minute.

Included in the category C correspondence is letter, dated 2 February, from a company that provides details of meetings between the Department of Agriculture, Food and the Marine and Horse Sport Ireland. The correspondent raises what he believes to be lobbying of the Department by Horse Sport Ireland. We have requested a note from the Department on the oversight arrangements for moneys given to Horse Sport Ireland and a copy of the service level agreement in place. We expect to receive that in the coming days. That is in line with what the correspondents ask the committee to do. We note that.

No. 1931C is correspondence from an individual dated 4 February regarding the Irish election observation roster. We have dealt with that extensively. We have checked. The Department has provided information to the committee regarding this matter and we will forward it to the correspondent. I propose we note this item.

Deputy Catherine Connolly: The issue was whether the system was working.

Chairman: Deputy Connolly raised another issue on the previous day.

Deputy Catherine Connolly: I did not deal with that letter, but the issue that came up concerning the roster was the panel. It was to function for a certain period.

Chairman: Yes.

Deputy Catherine Connolly: That was the issue we were following.

Chairman: On the previous day Deputy Connolly asked why the panel was allowed to expire.

Deputy Catherine Connolly: It followed on from when Irish Aid was before the committee. Its representatives were to clarify.

Chairman: We got a note on it. We will recirculate it by email.

Deputy Catherine Connolly: I thank the Chairman.

Chairman: If anyone wants to bring it up next week, they may do so. So much for Nos. 1931C and 1934C. No. 1936C is correspondence from an individual who went to get a bank draft from Ulster Bank the other day. He was told that the price of a bank draft was €2.25 but it would be rising to €10 at the end of the month. He says this is exorbitant. We will note that.

Deputy Catherine Connolly: That might be appropriate for the Joint Committee for Finance, Public Expenditure and Reform, and Taoiseach. The committees are all looking for work.

Chairman: We will forward that to the Joint Committee for Finance, Public Expenditure and Reform, and Taoiseach for any action its members consider appropriate. They may want to investigate it. We will not get into the issue of the cost of the banking collapse today. No. 1941C is from an individual relating to a protected disclosure. The matter was discussed at a private meeting last week and a response conveying the committee's decision will be sent to the

individual. Can we note the item and agree that our consideration of the matter is now closed?

In No. 1947C, the head of communications for the Irish Wind Energy Association provided the committee, and every Member of the Oireachtas, with a report on wind energy. It is in public circulation and we will note it.

The next item is statements and accounts received since the last meeting. The first is Údarás na Gaeltachta, where there is a clear audit opinion. The next is the Financial Services and Pensions Ombudsman. It is a clear audit opinion but it raises the issue of the accrued pension liability, as happens in a lot of public organisations. No. 4.3 is the Ombudsman for the Defence Forces, where there is a clear audit opinion. The next is the Commission for Railway Regulation, for which there is a clear audit opinion. The credit institutions eligible liabilities guarantee scheme account has a clear audit opinion. The National Council for Curriculum and Assessment has a clear audit opinion and the City of Dublin Education and Training Board, CDET, 2017 accounts have a clear audit opinion, though attention has been drawn to non-compliant procurement of €2.7 million. The board had no internal audit resource in 2017. Why is that? Is this coming to us late?

Mr. Seamus McCarthy: The board traditionally has its own internal audit because of its scale but the internal auditor left in 2017 and the board was unable to fill the position. It also could not avail of the common arrangement for ETBs, which was put in place by the Department and operates out of Cavan. There has been a problem in that function but the board has been gearing up. Many ETBs have drawn attention to the fact that they did not have an internal audit resource in the period in question.

Chairman: Do they have one now?

Mr. Seamus McCarthy: They have been gearing up and had additional resources in 2018. We will keep it under review.

Chairman: I propose that we write directly to the chairman of the board. It is unacceptable for an organisation with a turnover of €577 million not to have an internal audit function.

Mr. Seamus McCarthy: It is a very significant sum.

Chairman: We will write to the board for an outline of why it happened and an update as to the current position. I picked this particular ETB because of its sheer size.

Deputy Catherine Murphy: What does Mr. McCarthy mean by “gearing up”?

Chairman: They are hiring staff.

Mr. Seamus McCarthy: They are recruiting.

Deputy Catherine Murphy: Does it mean they need more than one person?

Mr. Seamus McCarthy: They are recruiting additional people but I do not have the numbers within the internal audit function in the ETB sector.

Deputy Catherine Murphy: In this case they need one staff member.

Mr. Seamus McCarthy: The City of Dublin ETB traditionally had its own internal audit function and it did not need to draw on the common service.

Deputy Catherine Murphy: Is it the general sector that is beefing up, rather than the City of Dublin ETB?

Mr. Seamus McCarthy: Yes.

Deputy Catherine Murphy: The City of Dublin ETB will not have its own internal auditor but the function will be available to them.

Mr. Seamus McCarthy: I need to look at the wording it uses.

Chairman: We are going to write to them so that they can explain it. We will ask if the City of Dublin ETB will be part of the internal audit function based in Cavan. We will ask what arrangements the board has put in place since 2017. We want to know how many meetings it has held since that time.

Mr. Seamus McCarthy: It states that, due to the retirement of the CDETb internal auditor in December 2016, it was agreed that the internal audit unit for ETBs would provide a service with effect from 2017. The board carried out a recruitment competition and on two occasions failed to fill the post. As an interim measure, the internal audit unit for ETBs has appointed an external resource to undertake internal audits in the board. Effectively, it has been outsourced. The ETB internal audit unit was only in a position to carry out one internal audit in quarter 3 of 2017, in the area of specialist training providers with field work. There was no report for the audit committee in the year and the report on the audit I mentioned was issued in December 2018. The resource that is available to them in the period in question is very light.

Chairman: It is minimal and it is not acceptable.

Mr. Seamus McCarthy: It is insufficient. The board recognises this and has disclosed it.

Deputy David Cullinane: The City of Dublin ETB disclosed a non-compliant procurement of €2.7 million. Here we go again in matters relating to compliance in the area of procurement. I do not know how many times we have raised this and we have received a number of reports from the Office of the Comptroller and Auditor General when it has been flagged in audit opinions. Sometimes it has no implications for spending and sometimes it does. The Comptroller and Auditor General's special report into the Kildare and Wicklow ETB showed that there had been incomplete documentation in relation to certain procurements. There was a cost of €483,000 to the State in additional expenditure because of change orders relating to the construction of a school. We have to be more vigilant and start to go under the bonnet of some of this stuff. As Teachta Connolly has said in several meetings, it is almost like a David and Goliath situation for us as we try to do our work in this area.

Procurement is at the heart of the big issue of the national children's hospital, with which we will be dealing in a few minutes. Every time our attention is drawn to an issue with procurement we should follow up on it, rather than just note it. What was the €2.7 million for in this case? What can we do to get more information on it? Why was there non-compliance?

Chairman: The Comptroller and Auditor General liaison officer worked on a report last year relating to all the reports before us which listed non-compliant procurement. It was for the period up to October and it is currently being brought up to year end. A very significant piece of work will be presented to us shortly on precisely what the Deputy is requesting.

Mr. Seamus McCarthy: The statement on internal control gives some detail on what the

€1.7 million is made up of. There are a number of categories. Purchases of goods and services were procured locally in 50 locations. These were in line with CDETB procurement policy but due to the aggregation of spend across the organisation, they exceeded the national procurement threshold. When a board spends more than €25,000 it is supposed to put the contract on eTenders but because this organisation has devolved procurement to different areas, individual schools or training centres were making purchases from the same supplier. These were in areas such as school books, arts and crafts material, coach hire, document storage, disability service providers, merchant banking services, school food provision and managed print services. These contracts should be available to anybody who can supply them.

In another area, there were purchases of goods and services where the tender was extended beyond the specified contract period, for which the total cost incurred in 2017 was approximately €1 million. It included expenditure relating to mobile phones, wide area network, ICT network support, design and print services, ironmonger and hardware supplies, plumbing and electrical supplies. These are also the types of activities that suppliers would be interested in competing for.

Chairman: The issue is on our radar and we will come back it.

Deputy Catherine Connolly: The Comptroller and Auditor General has highlighted this, which is his job, and then we draw attention to it, but we cannot keep going into the minutiae of these accounts. We can highlight these things and call representatives in to meet us but----

Deputy David Cullinane: There are no sanctions.

Deputy Catherine Connolly: Yes.

Chairman: Deputy Connolly is asking where it all goes.

Deputy Catherine Connolly: Yes.

Chairman: I will tell the Deputy. At the commencement of our work three or four years ago, we found that only 30% of the 300 bodies audited by the Comptroller and Auditor General had submitted their accounts within three months of the year end. That figure rose to 78% for 2017, not only as a result of the Comptroller and Auditor General's insistence but also the committee's refusal to accept it. One can clearly see that we will hold to account the boards of the education and training boards or whatever the organisations are. As we did in the case of the non-provision of accounts in a timely manner, we might end up having to bring four or five organisations before the committee, which will send out a clear message. I suspect that within 12 months most of them will address the matter. It should be the boards' responsibility, not ours. If they fail to do their job, however, we will ensure that they will do it, whether they like it or not. We should not have to do it but nobody else will and we want it done.

Deputy David Cullinane: The report being carried out for the committee by the liaison officer will be useful. We previously gave the matter some discussion and we were waiting on the report to see what we would do with it. There were some major issues with justice and policing, for example, and there was one case where it was too late to make changes and, therefore, the contract was just rolled over. That was fairly substantial. There are a number of issues and, in some cases, it is a matter of small organisations not having the expertise or capacity. Some of the explanations are benign while others are not, and some of the issues cost the State money while others do not. The one constant is a note in the Comptroller and Auditor General's audit opinion but, as far as I can see, there is no sanction for organisations that do not comply with

the rules. We need to consider compiling our own report if we do an examination of the issue, or perhaps it should be included in a periodic report.

If a Department commissions a body to carry out a report on weaknesses in procurement, similar to the Mazars report that was done on the national children's hospital, in which procurement failures and weakness were identified, should that body as a matter of course forward the report to the Comptroller and Auditor General? Is that the practice?

Mr. Seamus McCarthy: Typically, those types of reports are done by internal audit. We monitor them and seek to ensure that any recommendations made by internal audit are followed up on in subsequent audits.

Deputy David Cullinane: The Comptroller and Auditor General does not receive the reports, however.

Mr. Seamus McCarthy: We seek to ensure that within the governance structures of the organisation, it has systems to follow up on all recommendations made by its own internal audit. As we have put a great deal of focus on the procurement of goods and services, many organisations are getting better at this. They are getting better at understanding what they are buying, collating information for procurement and so on. Progress is being made. The one area where there is a systemic problem is the health sector. Relative to the total spend in many of the organisations, the spend to which we are drawing attention is not so great. Nevertheless, pressure needs to be maintained to avoid the problem becoming worse.

Chairman: We will move on. I expect people to be satisfied that the matter is on a work programme. We will request the details of the note on the internal audit function.

The next matter is the Mayo, Sligo and Leitrim Education and Training Board. There are similar issues, such as non-compliance. We will not discuss this now but we will request a detailed note. Concerns arise regarding internal audit resources, the failure of the finance committee to meet properly and the absence of a review by the board of the effectiveness of the system of internal control. We will write directly to the ETB.

Deputy David Cullinane: These are two ETBs where problems have occurred. The committee has received a special report from the Comptroller and Auditor General on one ETB which flags up weaknesses in the sector. Whether it is in our work programme or we deal with it now, will we have a meeting in respect of the report? I think we should.

Chairman: Yes, we will discuss the work programme shortly.

Deputy David Cullinane: We need representatives from the Department to appear before the committee to deal with that report, and all the issues which have been flagged in the audit opinion need to be discussed at that meeting. Will we return to this matter in our work programme?

Chairman: Yes, we will do so presently. The next items are the State property miscellaneous deposit account, for which there is a clear audit opinion; the Ireland-United States Educational Fund, for which there is a clear audit opinion; the intestate estates fund account, for which there is a clear audit opinion; and the sundry moneys account, where amounts are held pending the final instructions of the Department of Public Expenditure and Reform on their destination.

Deputy Catherine Murphy: What is that?

Chairman: There are four organisations. In one, money is in a suspense account waiting to be allocated. In the intestate estates fund, the balance is in the fund. The State property deposit account money mainly comprises the residual assets of dissolved companies. Who manages these funds? Are they not managed by the NTMA?

Mr. Seamus McCarthy: The State property miscellaneous deposit account is managed by the Department of Public Expenditure and Reform. I think we discussed it previously.

Chairman: Yes.

Mr. Seamus McCarthy: It comprises moneys that are surplus after a company is dissolved. There is a cooling-off period in which those who were shareholders could return to reclaim the money for up to 15 or 20 years.

Deputy David Cullinane: Is it in purgatory?

Mr. Seamus McCarthy: More or less.

Chairman: It is in limbo. It is similar to a dormant account fund. The money goes into a fund but shareholders can reclaim it if they can prove it is theirs.

Mr. Seamus McCarthy: There is approximately €3.5 million in the intestate estates fund

Chairman: Who manages that?

Mr. Seamus McCarthy: I think it is also managed by the Department of Public Expenditure and Reform. Sundry moneys is an account with the Paymaster General where moneys are coming in but it has not yet been determined where they will go. The balance at the year end was €63 million but the throughput of the account was approximately €149 million. I intend to examine the balances.

Deputy Catherine Connolly: Mr. McCarthy referred to the throughput. Has the money been allocated?

Mr. Seamus McCarthy: A determination is made. I examined the 2017 account and there were a number of receipts from the month of December - around 22 or 23 December - from the EU. These are moneys that arrive just before year end and they would probably be moved into the appropriate account in the first week or two of January. I intend to examine the timing of that and why there would be a delay in the recognition of where the moneys should go.

Deputy Catherine Connolly: I return to the Mayo, Sligo and Leitrim ETB. Notwithstanding procurement, the finance committee met only twice and identified significant organisational challenges, potential control weaknesses, an outdated financial management system and so on.

Mr. Seamus McCarthy: The Deputy may recall that the Mayo, Sligo and Leitrim ETB had a particular difficulty in getting its financial statements once it was amalgamated. It was bringing together three different systems, as well as training centres, and it had considerable difficulty producing financial statements of a standard that could be audited. It gave a detailed account of that in correspondence with the committee and it was one of the ETBs that appeared before the committee.

Chairman: Yes, it was one of the ETBs the committee highlighted a year and a half ago.

Mr. Seamus McCarthy: It has largely caught up and improvements are being made. Out of an abundance of caution, it is drawing attention to the matter. Bear in mind that we are referring to the 2017 account, which was the year during which it appeared before the committee. There is a firm purpose of amendment.

Chairman: We will now examine the work programme on the screen. We wish to discuss some of the correspondence received in respect of the national children's hospital. We will not have a lengthy discussion on the matter now because there is nothing major. The key issue is that we know who is appearing before the committee later in the meeting.

Next week, we have arranged a session on the Kildare-Wicklow ETB financial statements 2015 and the Comptroller and Auditor General's supplementary report, which was published yesterday. The Comptroller and Auditor General might make a brief observation because he seems quite critical of the board and its functions. Perhaps his criticism applies to all ETBs. There will be restrictions in respect of what the Department can answer on the day because a Garda investigation is ongoing. In the afternoon, we will separately deal with housing as part of the housing meeting. We have invited Mr. Robert Watt, Secretary General of the Department of Public Expenditure and Reform, to appear before the committee and discuss the control of and procedure for capital projects. We are aware that he was busy in recent days due to the nurses' dispute and we have not yet received an answer. I am aware of invitations from approximately four Oireachtas committees to Mr. Watt to discuss the same issue. He will not appear before all four, however, and I propose that if he agrees to appear before our committee next Thursday, as we have suggested, we postpone the discussion on the Kildare-Wicklow ETB. Otherwise, we will proceed with that report. We will receive confirmation tomorrow.

Deputy Catherine Murphy: We always said we would deal with the Kildare-Wicklow ETB issue when the report was published.

Chairman: That was published yesterday.

Deputy Catherine Murphy: We only saw that yesterday. The former CEO has now retired. At the time he committed to appear before the committee subsequently. I know there is another investigation. Is he being asked to come in?

Chairman: We will definitely invite the chairman of the current board and the chief executive. They will be the two key people. They will be here next week. We did not invite the former chief executive. He is not there now. We know he said here on the record that he would come when the report was completed.

Deputy David Cullinane: The Comptroller and Auditor General's report on the Kildare-Wicklow ETB speaks for itself. It is quite a damning report in highlighting mismanagement, conflicts of interest and poor governance with information not being brought to the attention of the board and just poor decision making. It speaks for itself. We just discussed the Mayo, Sligo and Leitrim ETB, which has accepted its problems. It is trying to put in place improvements and is flagging issues to us, which is good. We should recognise and encourage that.

We obviously have to deal with the report which is before us, which speaks for itself. Some elements could form part of a criminal investigation-----

Chairman: It has been referred to the Garda Síochána. The Thorn report-----

Deputy David Cullinane: -----so we will not be able to deal with them. I thought the

Department's response to the Comptroller and Auditor General report was inadequate to say the least. I have concerns over how it responded to that report. I imagine officials from the Department will be coming in.

Chairman: They will.

Deputy David Cullinane: Our focus should be on weakness in the processes and procedures, and how improvements can be made.

Chairman: We will hold over discussion on that. Departmental officials will be here. The Comptroller and Auditor General might wish to make a quick comment. As of now it is on our agenda for next Thursday unless the Secretary General of the Department of Public Expenditure and Reform appears instead, in which case we will reschedule it as urgently as possible thereafter.

Mr. Seamus McCarthy: My particular interest in producing the report was to try to focus on the ongoing systemic issues that might apply to any ETB. There are questions that each ETB should be looking at for itself. I think there is a willingness in the sector to do that and in Kildare-Wicklow ETB to address the thing.

There were very particular circumstances about this and the capacity of the ETB to deal with those issues when they came to light and whether it has the systems in place that allow, let us say, the board itself to take legal advice and take action. The Department is seized of improvements that need to be made in the functioning of boards generally.

Chairman: We will hold over discussion on that until the meeting with it, which will happen very quickly - either next Thursday or soon thereafter.

We will not go through the work programme. Members can see the gist of it and we have discussed it previously.

Before we complete this issue, at the last meeting Deputy Kelly asked about the reporting obligations of directors of State bodies to Ministers. The Comptroller and Auditor General has presented us with a factual briefing on the matter. I ask the Comptroller and Auditor General not to read the whole section, but to give us-----

Mr. Seamus McCarthy: It is actually a note with a description of the system in place.

Chairman: I ask him to summarise it.

Mr. Seamus McCarthy: Basically, it reiterates the points I made last week at the committee. It looks particularly at the code of practice for the governance of State bodies and specifically the reporting obligations of directors of State bodies. I draw attention to the legal basis of State bodies. The point I made was that most of them were set up under statute - either specific Acts or statutory instruments. However, in some cases State bodies are set up as companies under the provisions of the Companies Act. If they are set up as companies, they must observe all the requirements of the Companies Act. In addition, there may be requirements, in terms of reporting and so on, imposed by the line Minister or the Minister for Public Expenditure and Reform.

It is probably worth bearing in mind that the legal basis for a State body is not synonymous with the depiction or the designation of the body as commercial or non-commercial. For example, Pobal is established as a company, but is classified as a non-commercial State body,

while the ESB is established under an Act of 1927, but is classified as a commercial State body. There is a bit of greyness around what applies in the code of practice because of those differences in designation.

The code of practice deals with fiduciary duty obligations on board members in general terms, but the terminology used relates to the interest of a company. So there is a bit of ambiguity there as to whether the same principle should apply to any public body. The specific bullet points that are included in the code are lifted more or less from the Companies Act. It would seem to suggest that is specific to State companies as opposed to bodies.

Chairman: To clarify, it is possible to have a State company that is a company and a State body that is just-----

Mr. Seamus McCarthy: That is not a company.

Chairman: There is a big distinction between the two.

Mr. Seamus McCarthy: Yes. There is also a section in the code dealing with the obligations on civil servants who are board members. This refers back to a circular letter from the Department of Finance, as it was called then, circular 12/2010. It deals with a protocol for civil servants nominated to the boards of non-commercial State bodies and outlines steps to be taken where a civil servant nominee to the board of a non-commercial State body has a concern that they have raised but that has not been answered to their satisfaction where a significant public policy issue is at stake. This requires the Minister to be notified without delay where: there are serious weaknesses in controls that have not been addressed despite being drawn to the attention of the board or the chairperson; there is a significant strategic or reputational risk to the State body that is not being addressed; or there are serious concerns about possible illegality or fraud occurring in a State body. The note was just trying to give greater detail on the points I made at last week's meeting.

Chairman: Deputy Kelly raised this the last day.

Deputy Alan Kelly: I thank the Comptroller and Auditor General. I have been raising this for weeks and what he has said is crystal clear; it reinforces the answers he gave me last week. The way the National Paediatric Hospital Development Board was constituted under the Health Acts means that circular 12/2010 and the code of conduct for State bodies which was brought up into line in August 2016 would apply to civil servants on that board. Is that not correct?

Mr. Seamus McCarthy: My understanding is that the National Paediatric Hospital Development Board is a non-commercial State body and, therefore, the circular and the reiteration of the circular principles in the code of practice would apply in that case.

Deputy Alan Kelly: I thank the Comptroller and Auditor General; that is crystal clear. The Comptroller and Auditor General is obviously not in the political sphere so we will not go anywhere near that with him. Repeatedly, including again last night, the Minister, Deputy Donohoe, and the Taoiseach have said that the representative, the civil servant - I have no opinion or issue with him personally - who sat on this board was acting in a personal capacity. We now know that is wrong and completely and utterly inaccurate. That individual had a responsibility as outlined in the circular to bring it to the attention of the Secretary General and then the Minister. Very specifically, the Minister needs to be notified "without delay" where "there are serious weaknesses in controls that have not been addressed despite being drawn to the attention of the Board or the Chairperson" or "there is a significant strategic or reputational risk

to the State body that is not being addressed”. We have an overrun of at least €450 million. It started at more than €60 million, increased to €200 million, increased again to €391 million and then increased to €450 million. Given what we now know and given the responsibilities set out in the code of practice in Circular 12/2010, how could that representative on the board not have brought these issues to the attention of the Minister? They certainly come within the meaning of “serious weaknesses in controls” and “significant strategic or reputational risk to the State body”. We need to bring this circular and the opinion given to us here today to the attention of the Minister for Public Expenditure and Reform and the Taoiseach and ask them to explain and answer how this is the case.

Deputy David Cullinane: Does the Office of Public Procurement come under the remit of the Department of Public Expenditure and Reform?

Mr. Seamus McCarthy: Yes.

Deputy David Cullinane: That is all the more reason the Secretary General of that Department should come before us. We have asked for the head of the Office of Public Procurement to come before us as well. Is that correct? Has that invitation been issued?

Chairman: We wrote to him for clarification. I do not think we specifically invited him. We wanted to see the reply in writing before making a decision.

Deputy David Cullinane: I think we should invite him. I understood we were going to invite him. If we did not make that decision, I recommend that we do so.

Chairman: Okay.

Deputy David Cullinane: To be fair to the individual in question, I agree with Teachta Kelly that there are issues here. Where weaknesses in controls are identified, there is an obligation on an individual who is a senior civil servant to notify the Minister and that did not happen. That is something that we need to probe. We need to give this circular to the individual in advance of him appearing before the committee because a number of issues issue. The steering committee, which is a steering committee of the board and the Department, was made aware of issues. Those would have had to have been reported back to the board. The individual in question sat on the board but I do not think he sat on the steering committee. I know the Comptroller and Auditor General cannot comment on the matter. We need to be clear as to what meetings he attended. I assume they were the board meetings. We also need to be clear about what information was presented to him, as a board member. We have the minutes and we can go through them. This information would enable us to put questions to him fairly and he will be able to respond to them fairly, if he appears before us. We should give him this circular in advance of him doing so. I am confused as I thought we had agreed at the previous meeting that he would appear.

Chairman: We will double-check that. We did not formally agree a work programme.

Deputy David Cullinane: I thought we did.

Chairman: We asked Mr. Robert Watt.

Deputy David Cullinane: Please bear with me. If we agree to invite people in, I do not think we have to go back to the issue in our work programme as it has been agreed at that point.

Chairman: I have clarified the position. We indicated to him that he would be required to

attend but we did not specify a date yet. He has been informed he will be required to attend.

Deputy David Cullinane: Does the Chairman agree that the circular should be sent to him in advance?

Chairman: Yes, a copy should be sent to him in the meantime.

Deputy David Cullinane: Exactly, because we need to know what information he was given as a board member and what meetings he attended and did not attend.

Chairman: We will send him the circular. We will probably spend a few minutes dealing with the hospital board issue because, as I said, I have hundreds-----

Deputy David Cullinane: There were more last week.

Deputy Alan Kelly: It is the overlap.

Chairman: We are finished with the work programme. We are dealing with all of the correspondence that I referred to earlier. We note them all. We should have a quick discussion on this as we cannot spend all morning on it.

Deputy Catherine Connolly: Can I just deal with that before we go on?

Chairman: Yes, before we move on.

Deputy Catherine Connolly: I thank the Comptroller and Auditor General for the clarity he has provided. It did not offer an opinion but set out the-----

Chairman: The facts.

Mr. Seamus McCarthy: Yes.

Deputy Catherine Connolly: -----obligations under the legislation that is applicable and under the circular that dates back to 2010.

Our time is limited. At the previous meeting, I asked who was protecting the public purse and various colleagues, notably Deputy Jonathan O'Brien, took up the issue, which was very helpful. The chairperson of the board did not seem to know who on the board was protecting the public purse or representing the ordinary person. It subsequently emerged from, I think, the Department of Health that the gentleman who was named was the nominee on the board but that was not clear. I cannot remember what answer was given about his reporting duties. The circular has provided some clarification that has particular significance for this board. It also has a wider significance in terms of appointments to various boards generally and who protecting the public purse and acts as the voice for the public. There is the specific issue of the hospital board and then generally. This is just the beginning in clarifying where accountability lies. The 2010 circular, which was issued eight years ago, refers to contributing to greater accountability in non-commercial State bodies. Everything set out in the circular was good but it did not happen. That is my comment on the matter. I welcome this as the first step.

Deputy Catherine Murphy: I understand that the Department of Public Expenditure and Reform would set this out for others. We are telling that Department what is in its own circular and that Department is supposed to make sure other Departments and agencies understand what is in the circular it issued. That seems extraordinary to me.

Deputy Alan Kelly: I tabled a parliamentary question on this matter. The Department of Public Expenditure and Reform responded that the circular applies to its officials and, as Deputy Murphy just said, all other civil servants. Based on the factual statements - not opinion - we have had this morning on the National Paediatric Hospital Development Board, and all of the issues and consequences that will arise from this and our requests for people to revert to us or appear before us, there is a broader issue here. If we are meant to believe that the most senior procurement officer in the Department of Public Expenditure and Reform did not interpret this circular in the way in which it is set out, what is going on across the whole Civil Service and the various institutions and boards and how they are made up? What is going on, as Deputy Connolly said, as regards reporting lines and their role in protecting the public purse? This whole topic seems to be all over the place.

Chairman: I suggest we return to that topic because it is broader than the children's hospital. I was a member of the previous Committee of Public Accounts. The Oireachtas has generally accepted until now that a public servant on the board of a company would be constrained by company law and the fiduciary duty on directors in terms of informing a Minister. This circular does not tally with what I believe was the general presumption in the Oireachtas. We will probably have to do a trawl of each Department and ask what issues have been highlighted to each Minister by civil servants in his or her Department in respect of the membership of civil servants on various boards. We need to get that list or perhaps it does happen or is ignored. That information might be useful. We will not sign off on that today. Deputy Kelly has highlighted the broad issue. Now that it has been highlighted, I do not believe this committee can walk away from that without following through. Maybe we will not do so today but we will certainly come back.

On correspondence, how do members want to proceed? We are behind time and we want to catch up. We have invited guests coming. They are not normal witnesses who are required to be here.

Deputy Catherine Connolly: I do not think we should delay witnesses regardless of who they are.

Chairman: Yes. Two big reports have been presented to us. We have minutes of boards all over the place. There are hundreds of pages. As a matter of form we cannot publish them without having read them because we are giving parliamentary protection to everything in there. It would be imprudent to publish the material without having seen it.

Deputy Alan Kelly: Half of these documents will be published by the Joint Committee on Health as well.

Chairman: I understand it just noted them. We will ask the secretariats to work out what has been published already. We will agree to ask the HSE, the Department of Health and the various boards to which these documents relate to immediately publish them. Let them take the responsibility for publishing their minutes as it not our function to publish them.

We want to highlight two reports that are separate from the minutes. One is a review of the new children's hospital project at the Mater Hospital. It is the Mazars final report on the National Paediatric Hospital Development Board, which issued on 17 December 2018. I propose that we agree to publish this because it is the seminal document that everyone relied on last December. It is a very hard hitting report. Deputy Cullinane is about to comment. We will probably have to get clearance or consent for it to be published because I am sure it was not part

of the engagement that Mazars would agree to the document being published by the committee.

Deputy Alan Kelly: The report specifically states that this is to be kept very tight.

Chairman: Okay. I propose that we write to the board saying we wish to publish it, get its consent and consent from Mazars. If we get their consent we will publish. We will indicate our intention to do so but we will not do it if they do not give their consent. Is that a reasonable approach? I know the Deputy wants to discuss it without publishing it, which is fine. We can discuss it but we cannot publish it unilaterally if that is contained in the terms and conditions on which the report was published. I know that people have circulated it. It is in wider circulation at this stage. That is only an observation. I call Deputy Cullinane. We will spend only a couple of minutes on this topic because we have to get into the broader work.

Deputy David Cullinane: I appreciate there are witnesses waiting outside. I had flagged earlier-----

Chairman: You did.

Deputy David Cullinane: -----that we should prioritise this on the correspondence. My issue is that we had the Secretary General of the Department before us on this issue. We were dealing specifically with the processes and procedures around procurement and the spend of taxpayers' money in respect of the national children's hospital. We had to drag information out of the Department in respect of the cost overruns. From the €983 million to the €1.4 billion to the €1.7 billion, we spent the entire morning getting that information. We eventually got a breakdown, which we should have had before the meeting started. How in God's name did the Department not give us the Mazars report in advance of those witnesses coming in? To be fair to Mazars, its report nails many of the issues. It is a very good report. It outlines the 57% increase in costs as soon as the project started. In my view it is a damning indictment of the work of the design team and the implementation board. It is a damning indictment of the reporting relationship between the board and the Department. There was very poor oversight. We talk about reporting lines in respect of civil servants sitting on boards. The reporting lines between the board and the Department were very weak.

What we have now established from our work in the Committee of Public Accounts is that in April of 2018 the steering committee became aware of very significant cost overruns. The Department was not informed until August and the Cabinet and the Minister for Public Expenditure and Reform was not informed until November. That is where we ended up but my point is that the Mazars report highlighted all of these weaknesses yet we were not given that report before the witnesses came in. We were given it afterwards. I believe that was disingenuous of the Department not to do that. We had to go looking for that and when we got it, we saw that it answers many of the questions we would have wanted to put to them. In my opinion it is a way of avoiding accountability because a report such as this one is done for a reason. It is to identify where weaknesses exist and our job is to probe those weaknesses to seek improvements. We are not here to do anything other than protect the taxpayer, make sure that if there are weaknesses in the system we can identify and highlight them and recommend changes and improvements. That is our purpose. We cannot do that if valuable and important documentation is not provided. I cannot understand why that report was not given to us. We got it on Monday with a mountain of other documentation that it is not possible for any member of this committee to go through. I made the David and Goliath comparison earlier. We are not the Goliath, and some people have their views about the Committee of Public Accounts. We are doing a very difficult job with the mountains of correspondence that we get, and we cannot keep up with all of it. I

believe in this case it was a deliberate tactic by the Department not to give us that report because I think it would have been a very different meeting. That is my point. Do we come back to it?

Chairman: Yes.

Deputy David Cullinane: Do we get the Department back in with the Mazars report and the documentation we now have and say, “Now let us have the real discussion around where there were weaknesses and failures”?

Chairman: The first page of the Mazars report states that before this document or any part of it is disclosed to a third party, its written consent must first be obtained. I presume it got consent to give it to this committee because that is written in black and white. If we are having a discussion on this shortly, I believe it would be useful that the public can see what we are discussing. They cannot follow the discussion if we are referring to a document they cannot access. I propose that we write to them asking for consent for this committee to formally publish it.

Deputy David Cullinane: Did the Comptroller and Auditor General’s office get that report before it came to the Committee of Public Accounts?

Chairman: This is 2018 report.

Mr. Seamus McCarthy: We had a discussion draft version of the report. We did not have the final version until it came.

Chairman: We will move on shortly but I call Deputy Catherine Murphy.

Deputy Catherine Murphy: On a general point, the previous Government and, I presume, the current Government agreed to an open Government approach but it does not feel as if that is the case here. I accept there are reports that can be commissioned for a particular purpose. However, in terms of informing us but also in terms of the estimates of public money being spent that help to inform an understanding of what happens, we need to ask exactly what is meant by the open Government approach and how that is being pursued. My understanding is that that comes under the Department of Public Expenditure and Reform also.

Deputy Catherine Connolly: I want to concur with my colleagues. The report should have been given to us. I am looking at it, and the Chairman has read out that the written consent of Mazars is required. We have the Mazars report in front of us and we are supposed to be talking about it today or another day but nobody else can have it. The word “bizarre” comes to mind-----

Deputy Catherine Murphy: Yes.

Chairman: It rhymes with-----

Deputy Catherine Connolly: -----in respect of this matter. Are we going to pick pieces out of it?

Chairman: We will hold off-----

Deputy Catherine Connolly: It is my view that we should hold off and not pick pieces out of it-----

Chairman: -----just for today.

Deputy Catherine Connolly: -----but I now have a report before me that I have read, as have my colleagues, under pressure. At the very least, we should not be here wondering about written consent. That should have been done.

Chairman: It should have been sorted.

Deputy Catherine Connolly: That should have been sorted out when this report came to us. We should have been told that we have the consent from Mazars and we do not need to proceed in a bizarre manner with a report before us that we cannot talk about.

Chairman: I will tell the Deputy the reason I am cautious about it.

Deputy Catherine Connolly: The Chairman is absolutely right to be cautious. I have underlined the sentence that it written consent must first be obtained. The Chairman has to be cautious but this should have been sorted out by the board that was sending us the report. It should have stated the board had got the consent of the people it commissioned and paid, using taxpayers' money, that we could now use it and that it apologised for not giving it to us before now. We are sitting here now waiting for written consent. The Chairman is absolutely right but it just adds to unaccountability, all in the guise of accountability and hours of questions and answers in the Dáil yesterday. This should have been before us.

Deputy David Cullinane: I have a slightly different view. I would publish the report now but if there is a wisdom that we need to get permission to do it, it should be sought very quickly. If we get it we should publish the report because, to be honest, it is out there. Every media outlet has it. We need to stop messing around with this type of stuff. There is a damning report. We are waiting for another report that will cost ten times more than this one cost. This is a report that answers some of the questions. In my view it should be published in the public interest. Let us get that advice, if the Chairman believes we need it.

In all the minutes of the sub-committees, which we got also, reference was made to the joint finance and construction sub-committees and that cost overruns were identified in those sub-committees of sub-committees. That is the world we are in. Can we get the minutes of those meetings because we need to follow that through? If we are to get the witnesses in again, we do not need to hear, "There is another set of minutes over here" in which there may be more information.

Chairman: I propose that we agree that we will publish this report. We want to seek clarification that Mazars has given its consent. If it has given its consent, the secretariat can publish it today, tomorrow or as soon as it is confirmed. If the consent is not available, we are requesting that consent and when we get it, it is our intention to publish that report. I was cautious not just because of what is written in it. We were here previously with the HSE regarding the reporting to the charity Console and its internal audit report. The HSE was happy for us to publish it but would not publish it itself. The HSE wanted to use the Committee of Public Accounts to get parliamentary privilege for its internal report, with which we chose not to oblige it. I am cautious about people using the Committee of Public Accounts to get parliamentary privilege for some documents. We have to be cautious from our perspective and that is why I am cautious here. If there is agreement, we will publish it as quickly as possible once we have consent. Second, we will ask each of the organisations that sent us the minutes to publish theirs straight away, and if not, to give consent for us to publish them. Then we are to get any further minutes that have been referred to any organisation.

Deputy David Cullinane: I want to be very clear on this. It is a joint finance and construction subcommittee.

Chairman: Yes, and the Deputy can tell the secretariat precisely. It goes without saying that we will discuss it again under correspondence next week. At this stage I will take a brief suspension before we move on to our meeting with the broadband providers.

Deputy Catherine Connolly: On some of the minutes, it is obviously a minefield but it has been pointed out to the secretariat that some pages are missing in the minutes that have been supplied.

Chairman: We are following up on it.

Deputy Catherine Connolly: Lovely.

Chairman: It is a phenomenal amount of documentation. It probably would have been helpful if there was a schedule at the beginning. Maybe there is a schedule such as the freedom of information schedule with a list of documents. It would have been useful had we got an index of everything we were getting. We got bundles of stuff.

Deputy Catherine Murphy: We could find ourselves in the newspapers for overusing our ink cartridges.

Chairman: We have an issue with that because we get bills for it.

Sitting suspended at 10.41 a.m. and resumed at 10.50 a.m.

2017 Annual Report of the Comptroller and Auditor General and Appropriation Accounts

Vote 29 - Communications, Climate Action and Environment

Broadband Service Provision: Discussion

BT Ireland

Chairman: We are dealing with the topic of broadband and we will have an engagement with broadband providers. This is part of our consideration of the appropriation accounts for the Department of Communications, Climate Action and Environment. We will be engaging with a number of broadband providers in regard to our examination of the appropriation accounts for the Department. The committee decided that in order to understand how value for money can be achieved in such a technical matter as broadband provision, it would be worthwhile hearing from those companies engaged in this market and have direct experience of it.

The companies and the representative body of smaller providers are here voluntarily. They

are not under examination by the Committee of Public Accounts. They are here to help us understand the Department's effectiveness in regard to the national broadband plan and broadband provision in general.

We have five groups here today, BT, Eir, the Regional Internet Service Providers Association, Imagine and Enet. The engagements will be short and we have asked each of the companies to address a specific number of items as follows: outline the company's involvement with the national broadband plan, or its non-involvement, as the case may be, or its discontinuance of involvement if it had been involved and is no longer involved; describe briefly what it sees as the administrative and bureaucratic challenges and financial and operational challenges with the plan; comment on any communications with the Department in regard to the operation of metropolitan area networks, MANs; comment on facilitation of provision of broadband services throughout the country and new technologies, such as 5G; comment on the potential use of MANs for rollout of the national broadband plan, where appropriate; and comment on mapping of MANs, private fibre networks and mobile blackspots.

I emphasise that the companies are here voluntarily to assist us and we are very grateful they are here. They are not here as witnesses from a Government Department or agency, who can be required to attend. They are here to help us with our understanding. As Oireachtas Members, we are lay people with no technical knowledge of this area. We had a preliminary discussion with the Department on it and we felt we could do with a broader understanding of the broadband issue, if the witnesses will pardon the pun. We have asked people involved in the industry to come in so that we can listen and learn. That is why we are here today, not to examine them in regard to their particular company.

I welcome from BT, Mr. Peter Evans, director of wholesale, pre-sales and strategy. He is accompanied by Mr. John O'Dwyer, head of regulation.

I remind members, witnesses and those in the Visitors Gallery that all mobile phones must be switched off or switched to airplane mode. Leaving them on silent mode is not enough as they may still interfere with the recording and broadcasting systems.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the provisions of Standing Order 186 that the committee shall refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government or the merits of the objectives of such policy or policies. If any member happens to ask what the witnesses think of the Department's view, they are not here to answer for the Department. That is a matter we will address to the Department, and there is no problem in replying in that way if someone inadvertently puts such a question to them.

I invite Mr. Evans to make his opening statement.

Mr. Peter Evans: I am grateful for the invitation to speak with the committee on the na-

tional broadband plan and related matters. I am director of wholesale for BT Ireland, and I am joined by my colleague, John O'Dwyer, head of regulation at BT Ireland.

BT is the main alternative provider of fixed line communications services in Ireland, employing more than 650 professionals throughout the country. With a global network in 198 countries, our expertise lies in building and managing complex communications solutions for multinationals, public sector organisations and large domestic businesses. We are Europe's largest telecoms services wholesaler by revenue and market share, serving more than 50 Irish communication providers, including Sky Ireland and Three. We have invested heavily in building a high-capacity fibre network with nationwide reach, supported by sophisticated IT platforms and an expert in-house team. We are in our 20th year of organising the BT Young Scientist and Technology Exhibition, Ireland's flagship science and technology platform for primary and secondary school students.

Our formal involvement to date with the national broadband plan, NBP, has been relatively limited so I will comment briefly on this before focusing primarily on our perspective on the opportunity presented by the metropolitan area networks, MANs, to improve broadband service provision throughout Ireland.

On the national broadband plan, as mentioned, BT Ireland provides national and international business, IT and communications services to corporate and public sector customers, alongside wholesale voice and broadband services to fixed and mobile telecommunications companies. We considered entering the NBP bid process to roll out broadband access but we found that our business was better aligned with providing wholesale backhaul facilities and connectivity to service providers. BT Ireland, therefore, offered to be a subcontractor to the Gigabit Fibre bid, which ultimately did not proceed past the pre-qualification questionnaire stage. BT Ireland considers that high-speed connectivity to every home and business is an essential goal for Ireland, and one we actively support.

The metropolitan area networks were established using EU state aid to overcome limitations in the supply of fibre for entrant operators to invest into 94 provincial towns, such as Tralee, Wexford and Sligo. The conditions of state aid approval sought to ensure that the MANs achieved the aim of stimulating investment and competition in regional areas on an open and transparent basis for all users of the MANs, for example, network operators such as ourselves which provide services directly or indirectly to homes and businesses. We believe there is a considerable opportunity for some relatively straightforward enhancements to how the MANs are operated and monitored today. Such enhancements could include the Department of Communications, Climate Action and Environment requesting the support of ComReg in the governance of the contractual obligations of the MANs managed services entity, MSE. In doing so, we believe it is possible to ensure that its original purpose - equitable, open and transparent operation for all operators - is preserved, and will encourage further investment for more consumer-friendly solutions to homes and business throughout these provincial regions.

I thank the Chairman for this opportunity to speak to the committee. My colleague and I would be happy to provide the committee with further information or to support it with any query members might have.

Chairman: I thank Mr. Evans for his presentation. I call Deputy Murphy. There is a maximum of one hour per group, so I ask members to take no more than ten minutes for questions.

Deputy Catherine Murphy: I thank the witnesses for coming in and I am sorry if they

were delayed, although it might be the same for each group. As time is short, we might go forward and backwards with the questions and answers, and I might get fairly snappy answers, if possible.

I picked up on the part of the opening statement that referred to ComReg. I looked at the Analysys Mason report that was published yesterday, although it is unfortunate it was only published yesterday as it did not leave much time to study it. The report says there were several complaints in respect of the activity of the metropolitan network area, MAN, contracts. Was BT one of the entities that made a complaint? If so, what were the concerns that prompted the complaint?

Mr. Peter Evans: Yes, we were one of the organisations that submitted concerns to the Department, going back to 2014. We have had a number of correspondences with the Department in respect of the operation and governance of the MANs. We welcomed the Minister's announcement yesterday and the publication of the Analysys Mason report. While it was only published yesterday, in the limited time we have had to study it, we have seen that it addresses some of the concerns we raised back in 2014 and which we have continued to raise since then.

Deputy Catherine Murphy: What were those concerns?

Mr. Peter Evans: Many of them are addressed in the report. They include things like the transparency of pricing for the MANs. We are a customer of the MANs. We spend quite a lot of money every year buying services from them. We were concerned that the pricing, the levels of pricing and the discounting were not as transparent as we believed necessary in a public contract such as that for MANs. We also believed that, in managing that contract, the Department would benefit from bringing in ComReg. ComReg is the expert in telecommunications in Ireland and the expert regulator. It understands cost models, pricing and competition. We sought the bringing in of ComReg to provide a level of governance on that contract not only now, but on an ongoing basis. We had a number of other concerns around the operation of the managed services entity. Does the managed services entity own and run the MANs or is it a telecommunications operator itself? The EU state aid rules make it very clear that it was not to be an operator, but it clearly is an operator today. We believe that necessitated a level of separation between the company that manages the MANs and the company that runs the commercial organisation. Some of that level of transparency between the two organisations is addressed in the Analysys Mason report.

Deputy Catherine Murphy: Irrespective of which company was running the MANs contract, if it had a wholesale element and a retail element they would have to be clearly separated. It is fair to say that.

Mr. Peter Evans: Deputy Murphy is correct. Not only would the wholesale and retail elements have to be separate but, within the wholesale area, the commercial and non-commercial parts of the organisation would be also. The MANs are a public asset and need to be managed by a body with a transparent and distant relationship with the commercial organisation.

Mr. John O'Dwyer: As my colleague was saying, there are effectively two companies. It is very difficult to see the gap between them. There is the managed services entity, MSE, function which runs the MANs, but there is also a commercial entity which is a separate company. That issue is brought up in the Analysys Mason report. The gap between the two companies cannot be seen and that has worried us.

Deputy Catherine Murphy: The BT representatives reckon that this issue is more or less addressed in the Analysys Mason report.

Mr. Peter Evans: Some of it is addressed in the report.

Deputy Catherine Murphy: Is anything outstanding? The report says that elements have been implemented so there has obviously been a dialogue between the Department, the people who produced the report, and the company. The report says that elements have been implemented. Have the elements relating to these concerns been fully implemented or are some things outstanding?

Mr. Peter Evans: As a large customer of the MANs and of the managed services entity, we have seen no evidence of any changes to date. In fact yesterday was the first time we saw new pricing published on the website. We have not seen those changes implemented as of yet. We look forward to working with ComReg and the Department on making sure that those changes are implemented, but as a big customer of the MANs we have no evidence to date that they have been implemented.

Mr. John O'Dwyer: I will add one issue to that if I may. As my colleague has said, we purchase services from the MSE.

Chairman: Will Mr. O'Dwyer explain the term "MSE"?

Mr. Peter Evans: It is the managed services entity, the company that operates the MANs on behalf of the Government.

Mr. John O'Dwyer: We purchase a considerable amount of services from the MSE, but we also purchase commercial services from the other part of that organisation, the other company. We only get one bill. If we are only getting one bill from two separate companies, we have to ask whether they are actually separate. We would expect to see commercial services treated one way and the services from the State-aided MSE treated another way.

Deputy Catherine Murphy: The State owns the network.

Mr. John O'Dwyer: Yes.

Deputy Catherine Murphy: The MANs essentially manage the network and have concessionary agreements to do so.

Mr. John O'Dwyer: The Deputy is referring to the MSE.

Chairman: The managed services entity is a private company.

Mr. John O'Dwyer: It is not a company name. It is what it is called for state aid purposes. It is not the name of the company. It is just its function. There is a company.

Chairman: This company carries out the job.

Mr. John O'Dwyer: Yes.

Chairman: I hope the representatives will understand if we ask them very basic questions.

Deputy Catherine Murphy: In the end we are concerned with ensuring the end user gets the best value for money and that it is possible to get the best value for money. I accept that

we are talking to commercial entities today, which shows that there is a profit element involved as well, but if this system does not function properly it may have a bearing on the end user. Is that fair to say?

Mr. Peter Evans: It would have a direct bearing on the end user. Transparency allows competition. More companies, such as ours, will enter the market if the pricing and discounts are transparent. European and international operators will be brought into Ireland. More competition is proven to deliver better services to the end consumers and businesses and at lower cost.

Deputy Catherine Murphy: The Analysys Mason report, for which we have been waiting a long time, listed out a number of things that have been implemented. Mr. Evans has identified one thing, which he only saw change yesterday, which is down as implemented. Are other changes listed as delivered or implemented which he has not seen delivered yet?

Mr. Peter Evans: We have not seen any of the changes listed being implemented. Some are internal changes to the managed services entity and we would not have visibility of these anyway. As a big customer of the MANs, we would have expected others to have been visible externally. We have not seen them.

Deputy Catherine Murphy: I will move on to the national broadband plan.

Chairman: Will the Deputy read out the name of the report which came out yesterday?

Deputy Catherine Murphy: It is the Analysys Mason report.

Chairman: By whom was it produced?

Deputy Catherine Murphy: It is a review. It was the final report for the Department. A consultancy produced the report. It looks at the MANs.

Chairman: I thank the Deputy. It is great that this report came out yesterday. I have not seen it. Some of us might not be familiar with it. I will ask the secretariat to download it from the Department's website and circulate eight or ten copies. Can somebody arrange that? We will not all have it in our hands before the representatives leave, but we will be here for a few hours. It will be useful to have that as the meeting goes on. I ask that it be circulated as soon as possible.

Deputy Marc MacSharry: I do not want to intrude on Deputy Murphy, but can I just add something? The report is a year old but was only published yesterday. I do not think that is coincidental.

Chairman: Okay, that is fine. We are achieving something already this week.

Deputy Marc MacSharry: I have an issue with it appearing yesterday.

Chairman: If a press release relating to the report has been issued from a Minister or anyone else in the Department, we will want to see it. If the report is a year old and miraculously arrived only 24 hours before this meeting, there must be people out there who pay heed to the Committee of Public Accounts, despite what some say.

Deputy Catherine Murphy: It is a bit like one of these people who say "and here is one I baked earlier". That is not me. That does not reflect me at all. I have trouble finding the right dial on the oven, but that is neither here nor there. I happen to have the press statement from the

Department. I completely concur with what Deputy MacSharry has said. It is really annoying when a report arrives the day before a meeting because one needs time to study it and it was appropriate for today.

There were approximately ten recommendations that the Department drew attention to in its opening statement. Most of those were implemented and some remain in progress. It looks like there has been great progress. The only way we can test that is by asking the people who are the subject of this and it is helpful to us to have that kind of understanding so as we make sure we get the optimum regulation and a cost effective delivery of broadband, where it is in place and where it may, and should, be in place in the future.

It would be useful if Mr. Evans could give us a note, even after the meeting, in response to the kinds of things that are supposed to be implemented and if he believes they are not implemented. That would be useful for us to hear. We only got this report yesterday evening.

Moving to the national broadband plan, BT has considerable expertise in the area of broadband, as outlined by Mr. Evans in his opening statement, as do other providers. BT considered making a bid and it probably would have been beneficial if there was a lot of bids and a large amount of competitive tension. BT considered partnering with Gigabit. What put BT off? Did it not make the cut? Were we comparing apples and oranges? Why did BT not proceed to make a bid?

Mr. Peter Evans: We participated in the task force, going back to 2012. Our chief executive officer and a number of our officials participated in that throughout the years. We were heavily involved at that stage.

When we looked at the original tender, our business interests, as I mentioned in our opening statement-----

Chairman: What year was the original tender?

Mr. Peter Evans: The task force started around 2012, so there was probably three or four years of discussion and dialogue around the industry before an initial conversation started about what it would look like.

Our business in the Irish market is around serving multinationals, the public sector and wholesale operators. We are not an access provider. We do not build local networks in Ireland, although we do in the UK and Northern Ireland. It is our business in the UK and Northern Ireland to build local access networks, as well as the services above it, but in the Republic of Ireland, our business is multinationals, public sector and wholesale operators. The network here was about building fibre access. While we had the expertise to do it in the UK, it was not aligned to our business interests in Ireland. We decided, at a very early stage, we were not going to participate in the tender process.

Deputy Catherine Murphy: This is the critical question I want to ask. Can I go back to the metropolitan area networks, MANs, and the concession contracts that were extended. They were first issued in 2004 and 2009 and they were to run until 2019-----

Mr. Peter Evans: 2019 and 2024.

Deputy Catherine Murphy: -----and 2024, or something. It was decided to give an extension to an existing company without tendering. Would BT have been interested in tendering for

those? Was Mr. Evans disappointed that there was not a tendering process for those?

Mr. Peter Evans: Yes. Going back to the early stages in 2004, we expressed an interest at that stage in becoming the managed services entity. However, the EU state aid approval stipulated that an operator could not run the MANs. They wanted that separation so we could not bid for it at that stage.

When it became clear, over the following years, that an operator actually was running the managed services entity, in 2017 we expressed an interest in participating in an upcoming tender for the management of the MANs. We were told the decision had been made by the Minister to extend the contract for another ten years.

Deputy Catherine Murphy: The facility was available for the contract to be extended to the existing operator. That was done and there was a report-----

Mr. Peter Evans: A Norcontel report.

Deputy Catherine Murphy: That was done by the Department. That report recommended the extension to that existing company. That company, and any other company making a bid if there had been a tender process, would presumably have had to demonstrate that they were going to invest and it was not just a question of managing what was there but expanding and investing in it. Is that Mr. Evans's understanding?

Mr. Peter Evans: We were surprised that it was extended so early, two years before the expiry of the first contract. That seemed to us quite early for a contract to be extended.

If a tender had taken place, there was nothing to stop the existing company bidding for that, as we did with our 999 emergency call-answering service, Ecas, contract. We bid, re-bid and won the tender to renew it. We were surprised that the contract was extended so early without a tender process.

Deputy Catherine Murphy: If there were a number of bidders, might it have produced an expansion? Might it have put more money into the expansion of the infrastructure?

Mr. Peter Evans: It might have. That is what the competitive bidding process would have done. It would have brought a number of bidders in and the Department could then have chosen the best one to market and ensure that the MANs was extended.

Deputy Catherine Murphy: BT was disappointed not to have that opportunity?

Mr. Peter Evans: Yes.

Chairman: Forgive us for the questions we ask, but people do not know one company from another. Mr. Evans mentioned that BT manages the 999 emergency service.

Mr. Peter Evans: Yes.

Chairman: Could he tell the public, in a sentence, what that is because the public might not know BT does that.

Mr. Peter Evans: The 999 Ecas service is another concession agreement that the Department manages. The Department went out to tender, eight or nine years ago, for a company to run that service on behalf of the State. We have been running that service for the past eight or nine years. Our agents take the 999 calls. They have the first point of contact with the person

who makes the call and they ask whether the person wants to talk to the Coast Guard, the fire brigade, the police or the ambulance service. The agent then triages the call out to the appropriate State agency to take those calls.

Chairman: BT has that contract having won it by public tender.

Mr. Peter Evans: We run that contract, having won it by public tender, on behalf of the State. Interestingly, ComReg is brought in to do the pricing and cost analysis on an annual basis for that contract so there is heavy and severe governance around that contract to ensure we are managing it effectively on behalf of the State.

Chairman: The public will be happy to hear that. The 999 service needs to be tightly managed, regulated and controlled.

Mr. Peter Evans: We have won awards recently and we can show the committee statements.

Chairman: I only ask because, even though the committee members may have heard that before, a lot of people might not understand that BT does that on behalf of the State.

Mr. John O'Dwyer: It is also worth mentioning that, in that concession agreement, the Government re-tendered it. The first contract came to its natural conclusion and the Government re-tendered it correctly through the public procurement process. BT won the contract a second time and that is just starting. It did go through the re-tender stage, as required.

Deputy David Cullinane: I welcome Mr. Evans and Mr. O'Dwyer and thank them for coming before us in a voluntary capacity.

The witnesses have answered some of these questions already. We are talking about the wholesale operational licence for the MANs infrastructure. That is what Enet has; is that correct?

Mr. Peter Evans: Yes.

Deputy David Cullinane: Two years before the current licence or contract was due to expire, it was renewed.

Mr. Peter Evans: Yes.

Deputy David Cullinane: There was no tendering or competitive tension in it. It was simply renewed.

I understand there was no publication or information distributed about the pricing structure. Mr. Evans mentioned earlier, as a critique of the process, that there was no allowance to pricing. Can he expand on that?

Mr. Peter Evans: Pricing for the MANs is published and has been published on the website of the managed services entity since it was put in place in 2004. It has not changed downwards in 15 years which is unheard of in the telecoms industry. Prices are falling and have been falling rapidly. The prices two days ago were the same prices that were there in 2004 for the MAN products.

As a result of the document yesterday-----

Deputy David Cullinane: Have there been any publications as to why that was the case? I accept the prices are put out there. If it is the case that this is not something that is comparable with other countries, for example, have there been any publications as to why the price has remained static in this State?

Mr. Peter Evans: Not until the Analysys Mason report yesterday.

Deputy David Cullinane: Which is the one that appeared yesterday?

Mr. Peter Evans: Yes. The prices have stayed the same since 2004.

Deputy David Cullinane: In simple terms, what did yesterday's report say about the pricing structure?

Mr. Peter Evans: It stated, number one, that the pricing structure is not transparent and open and the discount structures are not available and published, and that it is too high.

Deputy David Cullinane: Therefore, the pricing structure is not transparent and open. We are here meeting the providers today. We see in this report, which was published yesterday and of which we were not made aware of, that one of the obvious issues in relation to the MANs was the pricing structure and the fact that it remains static. Only that Deputy Catherine Murphy had it, we would not even be in a position to put the questions to the providers. It shows a sleight of hand.

On the renewal of the contract to Enet, Mr. Evans will have to be careful in how he responds. Would he have seen that as a transparent process?

Mr. Peter Evans: No.

Deputy David Cullinane: A fair process.

Mr. Peter Evans: There was not a process at all. There was no tendering process at all.

Deputy David Cullinane: Would Mr. Evans see as unfair the lack of a tendering process or the fact that there was not any competition, for example?

Mr. Peter Evans: Yes.

Deputy David Cullinane: Mr. Evans stated he made a complaint. To whom did he complain?

Mr. Peter Evans: We did not make a complaint about that. We made an application to participate in an upcoming tender process, if there was going to be one, and we got a letter saying it had already-----

Deputy David Cullinane: If Mr. Evans had a view that there was a lack of transparency and a lack of fairness, how or to whom does he communicate that? Is it merely that he does it through the media?

Mr. Peter Evans: No. We communicate directly and in confidence to the Department.

Deputy David Cullinane: What was the Department's response?

Mr. Peter Evans: That the tender had already been extended.

Deputy David Cullinane: Was it that it was too late and tough luck?

Mr. Peter Evans: Yes, it had already made the decision.

Deputy David Cullinane: That is interesting. At some point after we hear from the providers, we need the Department back in. We can put it to them.

Chairman: In fairness, it is not the private sector's fault that the Government did not tender.

Deputy David Cullinane: Absolutely, I am not suggesting that. I am looking for their opinion as to why that happened.

Chairman: Perfect.

Deputy David Cullinane: They have put on the record that they did not believe it was transparent or fair. Most of us would agree with that.

In relation to the national broadband plan, Mr. Evans stated he considered it. I appreciate the reasons, he stated then, that he did not continue. I understand the original proposal was meant to be for 840,000 homes, 300,000 of which were taken out and given to Eir. Did that have implications for the viability of that process?

Mr. John O'Dwyer: It is how the Deputy describes it. When the Deputy says "taken out", what happens is that one can only give state aid where the commercial sector has not invested. This is worth clarifying. What happened here was Eir went to the Department and said that it had decided to commercially invest in that 300,000. By saying it was going to do that - obviously it made a commitment because there was a commitment agreement given for that - it was saying to the State it was going to commercially do this and the State cannot provide state aid where it has commercially rolled out. In this situation, Eir made that decision to make that roll-out and to be honest, I do not think-----

Deputy David Cullinane: It might have, but I ask Mr. O'Dwyer to bear with me for a second. My understanding is - I have read all of the commentary in relation to this - that those 300,000 were some of the most commercially viable ones-----

Mr. John O'Dwyer: That may be so.

Deputy David Cullinane: I ask Mr. O'Dwyer to bear with me. We have had this discussion with the Secretary General who conceded that that had a bearing on the overall contract. Whatever about the rights and wrongs of it - I hear what Mr. O'Dwyer is saying - if it started off as 840,000 and Eir made that proposition to commercially invest in those 300,000, and they were the most commercially viable, did that have a bearing on the commercial viability of what was left as the remainder of that contract?

Mr. Peter Evans: The bidders at the time have expressed that is the case and they will know more than we did. We were not part of the bidding process. Clearly, there would be an impact if the estate is reduced.

Deputy David Cullinane: I note BT looked at it and then, maybe, for different reasons, did not continue in the bidding process. Would Mr. Evans have seen that particular process as a transparent process?

Mr. Peter Evans: Until the point we decided we were not taking part in it, it was a very collaborative process. When it became a formal tender, we were not involved at that stage directly so we would not have an opinion on that.

Deputy David Cullinane: Given that the one consortium that is left is unrecognisable from when it first started out, would that be a concern to Mr. Evans?

Mr. Peter Evans: In our view, that would certainly raise questions.

Deputy David Cullinane: Raise questions.

Mr. Peter Evans: Yes.

Deputy David Cullinane: One final question relates more on a policy issue but it is one on which they might have an opinion. Ofcom in Britain is looking at providing a legal minimum broadband speed. That is one of the issues that is a source of public debate. What would be the witnesses opinion on introducing such a policy in this State?

Mr. John O'Dwyer: The Deputy is correct. That discussion in the UK is happening as we speak. There is a debate. The universal service is looking at 10 Gbps, which is lower than is being required here, although in practice a lot of the technologies would give one 30 Gbps or above anyway. It is going down the road of this universal service approach to it. One of the things which may be quite useful here is that BT has put forward a proposal in the UK to pragmatically look at the remainder. One of the things that has happened is it has looked at introducing this from 2020. It is saying that in 2020 it thinks it will be short of meeting the 100% coverage by approximately 600,000 premises - very similar to the numbers here, to be honest. It thinks it will be short by that amount.

What BT, our parent company, has done is make a proposal. It is in the public domain and is on the Ofcom website. It has made a proposal, which is being discussed with the regulator as part of consultations, etc. It has looked at it pragmatically. It has said it is a lot of customers and has asked how it can do this quickly and pragmatically. It said, "Well, let us look at radio.". It has asked if 4G or 5G can help, because that can be rolled out very quickly and it has already got a lot of coverage, could work. It reckons it could cover approximately 450,000 of that 600,000 with radio technology, like 4G and 5G. EE, the company we also own, runs very good 4G. It reckons it could get on average approximately 30 Mbps downstream, which, actually, is the specification for the NBP download speeds.

It said, "Well, okay, that is the first 450,000. Let us look at the next piece of it. We are 150,000 short." It asked what it could do now and it set a threshold." It is £3,200, or something of that order. It asked what it could do within that. In terms of a price range of £3,200, it could pay for itself. It said that it could probably do 40,000 and pay that itself commercially without too much of a hit and that it would recover that eventually. It would then be down to 110,000. At the moment, there is a discussion - it may not be arguing but debating - how do one deals with the 110,000. It has taken a very pragmatic approach of chunking it to see what it can do rather than saying that it is just a big number, it is a big problem, let us break the problem down and see how we can split it up. That is roughly what is going on.

Deputy David Cullinane: That is very useful. It is probably useful for the sectoral committee.

Chairman: If we ask a question that is obvious to Mr. O'Dwyer, so be it, but the public

might not be as well up on this as he is. Is BT regulated by ComReg?

Mr. John O'Dwyer: Ofcom in the UK.

Chairman: No, here.

Mr. John O'Dwyer: We are.

Chairman: Are all the providers regulated by ComReg?

Mr. John O'Dwyer: They are but in different ways. Open Eir has got more regulation.

Chairman: My question is whether the metropolitan area networks, MANs, system is regulated by ComReg. This is where I am coming from.

Mr. Peter Evans: The MANs are operated on a contract between the managed services entity, MSE, and the Department. Up until yesterday, ComReg had no role to play at all. The report recommends that ComReg come in and do an investigation into the compliance of the managed services entity with the contractual obligations. We believe it should go further. We think ComReg should be involved in the pricing and cost methodologies that are used by the managed services entity going forward on an annual basis.

Chairman: That is what I picked up. I find it unusual that this report was commissioned by the Department. I wondered why the Department was involved, as surely we have a regulator that deals with all this. It should not still be in the hands of the Department. There is no regulator, effectively, in respect of the MANs. As we speak, there is a proposal that the regulator would examine aspects, which suggests there is not a regulator for the metropolitan area networks.

Mr. John O'Dwyer: There is one slight difference there, if I may. My colleague is completely correct that the Department issued the concession agreement and the contract to run it, and the company running the MANs has to comply with that contract. However, there is an extra piece to this. This is a state aid and, in 2005 or 2006, the European Commission issued a state aid approval for this project. There was some debate at the time as to whether it was the correct sort of investment for state aid. The European Commission issued a document, which is quite easy to obtain via Google, providing a set of conditions for that state aid. In the concession agreement and the operation of the MANs, in my opinion, they have to comply with those conditions set as part of the state aid approval. That is where the non-discrimination is coming through from. It is the European Commission state aid approval that states that it must be open and transparent and that it must not be an operator. All these conditions came from the European Commission.

Chairman: I have one last question so I understand what it being said here before Deputy MacSharry comes in. At the time of that contract being given for a managed services entity with the Department and at the time that contract was signed, the organisation that got the contract would not have been involved in the retail trade. Maybe on day one it was in compliance with the state aid rules. However, Mr. O'Dwyer is saying that due to the passage of time and the change of business model being operated by the company that got the contract, it is a matter that needs to be looked at because it might not meet the state aid rules now.

Mr. Peter Evans: Yes. In our view, the state aid rules were very clear, as Mr. O'Dwyer mentioned. Over the years, our view is that the managed services entity has been allowed to

diverge from those rules that were set back in 2006. Yesterday's report was the first attempt to bring it back in line with those rules. We welcome the fact that the new Minister, Deputy Bruton, has published that report, brought ComReg in and involved it in this process in an attempt to make sure the governance is right around that contract. That is to the benefit of competition, as I said. Bringing in more operators means better prices for consumers and more broadband.

Chairman: We will take this up with the Department. BT's concern would be that at the point of extending the contract, which was quite recently, certainly it did not meet the state aid rules at that point because it was an operator of the service and was doing the managed services entity process at the same time. Mr. Evans and Mr. O'Dwyer have a concern about that now.

Mr. Peter Evans: They were the concerns that we expressed in our letter to the Department.

Chairman: That is something we will have to take up with the Department when we have it back in.

Deputy Marc MacSharry: I thank the witnesses for coming in voluntarily. We appreciate it. It is great that they have come. On a similar thread to do with the MANs, around the issue of the extension, it is still not clear to me why it was extended two years before it was going to expire and with no tender process. We are all about proper procurement procedures in here. Is there correspondence between BT and the Department that would be relevant to that?

Mr. Peter Evans: We first became aware through a parliamentary question asked of the Minister that there was consideration being given to an extension of the MANs. I think the words used were "he has made"-----

Deputy Marc MacSharry: Was that a parliamentary question in here?

Mr. Peter Evans: Yes. I think it might have been in the Oireachtas Joint Committee on Communications, Climate Action and Environment or else in the Dáil. There was a question asked around this and the reply was that the Minister was providing for an extension. When we saw that, we knew something was happening and that it looked like consideration was being given to extending it early. We wrote to the Department to say that we would like to participate in an upcoming tender process, which we understood from the question was happening. We got a letter back saying it was too late and the Department had already made the decision.

Deputy Marc MacSharry: On timelines, when did BT become aware of the question having been asked?

Mr. Peter Evans: The question was asked around May and we wrote in June, a couple of weeks later.

Deputy Marc MacSharry: It was all within a few weeks.

Mr. Peter Evans: We wrote our letter a couple of weeks after we saw that and about a month later we got a response back.

Deputy Marc MacSharry: The time between the answer to the question and the renewal that the Department said was already complete was about two months. Is that right?

Mr. Peter Evans: It was roughly two to three months. We understand now from other public reports that it had already been signed off when the Minister answered that parliamentary question, even though the language he used indicated he was considering it.

Deputy Marc MacSharry: It was done at that stage.

Mr. Peter Evans: We were too late with our request.

Deputy Marc MacSharry: I am going to chance my arm here and ask a private company if it would be prepared to give us that correspondence.

Mr. Peter Evans: The correspondence was in confidence between ourselves and the Department so we would obviously need to talk to the Department to see if it would be happy with releasing it.

Deputy Marc MacSharry: It would be delighted, I am sure.

Chairman: We will ask the Department.

Deputy Marc MacSharry: I am going way off the reservation here but if BT was prepared to give us the correspondence it sent and got back in respect of this, it just might equip us in terms of timelines. What is being indicated here is very concerning. If the witnesses were prepared to consider that, it would be very useful for our work.

Chairman: I am sure the Deputy would agree that we now write directly to the Department on foot of what we have heard to get a copy.

Deputy Marc MacSharry: The implications of what we have heard certainly make a mockery out of the Dáil, answering questions and all of that stuff.

Chairman: The Deputy has highlighted an issue there. We will write to the Department for clarification on foot of this conversation.

Deputy Marc MacSharry: Of course we can ask the Department and I know I am chancing my arm. There is certainly no onus on the witnesses but I am saying that if they were so inclined, we would really appreciate a copy of the correspondence.

Mr. John O'Dwyer: I have a feeling that particular letter may already have been subject to a freedom of information request and that we have released it. Not all the letters were released but that one was, I think.

Deputy Marc MacSharry: In that case, BT would be able to give it to us no problem, presumably.

Mr. John O'Dwyer: I do not quite know all the rules there. I think it is that one. I might be mistaken but I think it is.

Deputy Marc MacSharry: Was there any follow-up after the fact? The Department wrote back and thanked BT for its expression of interest but said that unfortunately the deal was done. Did BT follow up?

Mr. Peter Evans: No.

Deputy Marc MacSharry: Right, that was just the end of it. Any correspondence that is relevant that the witnesses may feel they are able to make available to us would be very welcome. That is all I have to say.

Deputy Catherine Connolly: I thank the witnesses for coming in. Their plain speaking

is very helpful. I also thank the Deputy beside me for pushing this matter, which is why we are discussing it today. As it emerges, it is shocking. I have just got the report. I am certainly no expert on this terminology but a number of things jump out. The MANs is a good project, theoretically, run by the Government. It is a very good project to roll out the infrastructure that is necessary. BT is a customer of the MANs, as are other private entities.

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: It is run by Enet.

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: The report indicates that Enet has a sister company.

Mr. Peter Evans: ETNL.

Deputy Catherine Connolly: ETNL, yes, which was separated from Enet in 2015. That sister company provides a similar service involving wholesale products and services.

Mr. Peter Evans: It provides commercial services. One entity is due to manage the State broadband and the other company runs its commercial business involving backhaul end services and other services not paid for by the State.

Deputy Catherine Connolly: On the backhaul, paragraph 2.2.2 of the recently published review addresses concerns with the current business model and it states:

Under the concession agreement, enet must treat all its customers in a transparent, non-discriminatory and equal way. Given that ETNL and its backhaul business is a related company of enet, enet may have an incentive and the ability to discriminate against customers who buy only MAN products in favour of customers who buy MAN-plus-backhaul products.

There is an incentive to discriminate in favour of their own customers. Is that Mr. Evans's understanding of that section of the review?

Mr. Peter Evans: That is what the review states. It concludes that without transparency and an understanding of how the two companies are run, including details of their accounts and how staff and functions are separated, the relationship between them is unclear.

Deputy Catherine Connolly: I ask Mr. Evans to revisit the issue of bills.

Mr. Peter Evans: We are a large customer of the MANs and we are charged by the company for the services it provides to us. We buy MAN and commercial services from the company and those services are billed together.

Deputy Catherine Connolly: The services are billed together even though, theoretically, they are provided by two separate companies. BT buys services from both companies.

Mr. Peter Evans: We receive a single bill for those services.

Deputy Catherine Connolly: A single bill. On tendering and the extension, the contract for the company to operate the MANs for 15 years, from 2004 to 2019, was signed in 2004.

Mr. Peter Evans: There were two contracts.

Deputy Catherine Connolly: I understand that.

Mr. Peter Evans: One ran from 2004 to 2019; the other from 2009 to 2024. They are two separate phases.

Deputy Catherine Connolly: Both have been extended.

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: It has been clearly set out that the contract running to 2019 was extended in 2017.

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: BT was unaware of that extension until it was brought to its attention.

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: BT inquired further but was told the decision had been made.

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: Were reasons given for the decision to extend the contract rather than put it to tender?

Mr. Peter Evans: Norcontel was commissioned to prepare a report for the Department.

Deputy Catherine Connolly: What is Norcontel?

Mr. Peter Evans: It is a consultancy company. The report has been made public. The Department asked Norcontel to consider whether it would be preferable for the Department to extend the contract or put it out to tender. The Norcontel report recommended that the contract be extended.

Deputy Catherine Connolly: That report is available.

Mr. Peter Evans: It is.

Deputy Catherine Connolly: BT has read it.

Mr. Peter Evans: We have. We disagree with its findings.

Deputy Catherine Connolly: What was the rationale for the decision that it was better to extend rather than go to the market?

Mr. Peter Evans: Norcontel concluded it would be better value for money for the State to extend the contract and that there was inherent risk that the existing company would not invest or would de-invest in services in the period between 2017 and 2019 if the contract went to tender. We do not agree. Enet is very profitable and we do not think it would have de-invested in the MANs.

Deputy Catherine Connolly: It is obliged under law to comply with its contract up to 2019.

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: The analysis concluded that it would not comply with its contract.

Mr. Peter Evans: The report did not state that Enet would not comply with the contract.

Deputy Catherine Connolly: That is the implication.

Chairman: It is a risk.

Mr. Peter Evans: Yes, there was a risk.

Deputy Catherine Connolly: Was there any public consultation with various stakeholders?

Mr. Peter Evans: No.

Deputy Catherine Connolly: None.

Mr. Peter Evans: None. We expressed our interest in talking to the Analysys Mason consultants and Norcontel. We were told our concerns would be taken on board but that we were not to speak to them.

Deputy Catherine Connolly: BT was not to speak to them.

Mr. Peter Evans: We were not allowed speak to them.

Deputy Catherine Connolly: Why was that?

Mr. Peter Evans: I do not know.

Deputy Catherine Connolly: How were the concerns of BT taken on board?

Mr. Peter Evans: Some of our concerns were taken on board in the Analysys Mason report.

Deputy Catherine Connolly: How were the concerns of BT taken on board in the Norcontel report? What was the mechanism for that to be done?

Mr. Peter Evans: Our concerns regarded the governance and the running of the contract, dealt with in the Analysys Mason report.

Deputy Catherine Connolly: BT was not allowed to speak to the consultants preparing the report that justified the extension of the contract without any open competition.

Mr. Peter Evans: We did not ask to speak to them. We did not know that was happening until the report was published.

Deputy Catherine Connolly: That report reached a decision but no stakeholders were consulted and the market was not tested.

Mr. John O'Dwyer: We were not consulted but we cannot speak for other stakeholders.

Deputy Catherine Connolly: BT cannot speak for other stakeholders.

Chairman: Reference was made to that report when representatives of the Department ap-

peared before the committee. We will have it circulated, if that has not already been done.

Deputy Catherine Connolly: On the costs, some of BT's concerns were taken on board in the Analysys Mason report.

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: In particular, there were concerns regarding pricing.

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: The prices were published and available online but had not changed since the initial contract.

Mr. Peter Evans: Exactly.

Deputy Catherine Connolly: BT is of the view that, given the nature of the business, the prices should have fallen.

Mr. Peter Evans: Yes. Prices are falling in the telecoms industry. They have been falling for decades. Yesterday, the pricing was reduced by 50% on the back of that report.

Deputy Catherine Connolly: It was reduced by 50%.

Mr. Peter Evans: New pricing published yesterday involved a 50% reduction.

Chairman: A 50% cut was announced yesterday.

Mr. Peter Evans: Yes. It was published on the website.

Chairman: That cut was announced the day before this meeting but the Department has had this report for 12 months.

Mr. John O'Dwyer: The 50% price reduction is mentioned in the Minister's statement.

Chairman: Where in the statement is that referenced?

Mr. John O'Dwyer: I do not have the statement in front of me. My apologies.

Chairman: The statement by the Minister indicates that the connection fees for any product and the existence of any discounts should be published. That was to be implemented by Enet. Enet published that information yesterday.

Mr. Peter Evans: It published the headline or maximum price.

Chairman: What level of price reduction is involved?

Mr. Peter Evans: It was reduced from €5.20 to €2.60 per metre.

Chairman: The MANs contract has been in operation for many years. The Department was given the completed review a year ago. The committee scheduled a meeting with the providers at which, inevitably, such matters may be discussed. The day before the meeting, the Minister, Deputy Bruton, published a report which had been in the possession of the Department and recommended that the pricing should be addressed. I give him credit for that. Enet was responsible for implementing that recommendation. When were the new prices published?

Mr. Peter Evans: Yesterday.

Chairman: Enet published the prices shortly before the Minister said they should be published. Mr. Evans stated there has been a 50% reduction in the cost of new connections. I ask him to explain that to us in layman's language. A major reduction of approximately 50% in the price of the service provided through the metropolitan area network for a new connection was announced yesterday based on a report that has been sitting in the Department for the past 12 months. Coincidentally, that was the day before the providers, including the operator providing that service on behalf of the Department, were due to appear before the committee. Lo and behold, a 50% price reduction was announced yesterday.

Mr. Peter Evans: To clarify, the price reduction also relates to existing services. It does not refer to connection but, rather, rental of the service, which is the headline price.

Chairman: The public will want to know whether they can expect to see a reduction in their bills in due course.

Mr. Peter Evans: That price reduction will immediately flow to operators such as ourselves. It will encourage more people to use the MANs, which will encourage flow-through reductions in costs to consumers.

Chairman: The reduction will eventually trickle down to consumers.

Mr. Peter Evans: Yes.

Chairman: Fabulous.

Deputy Catherine Connolly: This begs the question as to whether, if the review had been done earlier and the committee met on this issue earlier, prices would have reduced and been published online sooner.

Chairman: That might be the opinion of the committee.

Mr. Peter Evans: The price reduction is referred to in the third paragraph of the Minister's statement.

Deputy Catherine Connolly: The review made a number of recommendations which are currently being implemented by Enet, including a reduction in the maximum annual price of dark fibre by over 50% to €2.60 per meter.

Chairman: Wow.

Deputy Catherine Connolly: Before my time runs out I would like to go back to one last matter. When this was tendered originally, BT wanted to enter that process?

Mr. Peter Evans: Yes.

Deputy Catherine Connolly: Did I understand that BT was told at the time that it could not because of an operator? Can Mr. Evans clarify that for me?

Mr. Peter Evans: The EU state aid rules, which Mr. O'Dwyer mentioned, are published by the European Commission. The Commission was very clear and it said the MANs must not be run and operated by a telecoms operator because Europe saw that there would be a conflict of interest. If one is a telecoms operator and one is managing the MANs, there was a perception

of an incentive to distort competition in that way. They wanted a company to come in and just run the MANs. We were a telecoms operator at the time so we were excluded from that process.

Deputy Catherine Connolly: There is a question now as to whether there is a conflict of interest with the entity that actually won. That is the very thing that prevented BT from going in. The rules prevented BT from going in but the entity that got it-----

Mr. Peter Evans: The entity that got it was not an operator at the time. It has become an operator over the years and that is where the conflict has arisen.

Deputy Catherine Connolly: When it became an operator in time, the rules applied.

Mr. Peter Evans: Yes, that is what we believe. The Department clearly has a different view.

Deputy Catherine Connolly: Therefore, there is a role for the regulator or for somebody else here. It can happen that somebody is not an operator at the time, they become an operator and then there seems to be conflict of interest. There is nobody in a monitoring position to say that matters have changed. Not alone that, but the contract was extended after that had become apparent.

Mr. Peter Evans: Yes.

Chairman: I call Deputy O'Connell and I ask her to be brief so we can bring in Eir in a few minutes to deal with it before the vote.

Deputy Kate O'Connell: I will only be a minute. I am just trying to get my head around this issue this morning. I thank the witnesses for coming in to speak with us. I refer to the Norcontel report. Do the witnesses think it is right? Would they argue that it is not correct? My understanding from what has been said here this morning is that the Norcontel report basically said not to fragment the market and that it would be better to have consistency and continue with company A. Do the witnesses agree with that as people who operate in the business? Was the Norcontel report correct?

Mr. Peter Evans: No, we do not agree with it. It could have still achieved that by doing a tender and having the company that is the incumbent bidding for the tender and winning it. That would have still achieved the continuity that was needed but it would have been in the environment of a competitive process to keep it competitive in how it will run the contract. We deal with multinationals and public sector organisations and it is very rare that contracts get rolled over for the long term. In almost all cases, the company will look for a retendering process to get the best value and service out of the bidders. Even if that same company retains the business it still goes through a process.

Deputy Kate O'Connell: I am only after seeing all of this now this morning but the 50% reduction seems like a very round figure. Can BT match that price or is that commercially sensitive? Is that the price of it? How much is it per metre and how does it compare? Obviously the comparisons are other countries with different landscapes, different poles and different everything but all things considered, what is Mr. Evans educated guess coming from the sector? Is that a real price?

Mr. Peter Evans: If the Deputy has the time to read the Analysys Mason report, it does a pretty-----

Deputy Kate O'Connell: I will later but not now.

Mr. Peter Evans: It does a pretty good study around where the pricing was. ComReg has recently done an analysis of Eir's duct pricing and fibre pricing and the ComReg regulated price for Eir is even below €2.60. It is below the €1 mark. The Eir network is different, it is a bigger network and it is in more places but even at the new and reduced price there is still a gulf between that and the regulated price from ComReg.

Deputy Kate O'Connell: Before this morning there was an even bigger gulf.

Mr. Peter Evans: Yes, exactly. That is why we feel ComReg's involvement with the management of this contract on an ongoing basis is essential because it knows the prices-----

Deputy Kate O'Connell: The Minister said that it will be. He referred it.

Mr. Peter Evans: He said ComReg is just there to look at it now. We think it should be an ongoing annual monitoring.

Mr. John O'Dwyer: They do this for us in the emergency call answering service, ECAS. An annual review by the regulator, ComReg, would be very helpful to manage this going forward.

Deputy Kate O'Connell: What is BT's regulator called? Who does it provide to every year?

Chairman: It is the 999 emergency service.

Mr. John O'Dwyer: It is a concession agreement with the Department but it has effectively contracted the ComReg communications regulator to audit us every year and then to publish that audit every year for consultation. ComReg then sets the pricing etc. within the wholesale market. It is all controlled by the communications regulator, not by the Department.

Deputy Kate O'Connell: On the EU state aid rules where the MANs were not to be run by the operator where this all started out, if audits were carried out every year like with the 999 emergency service, would that annual audit throw up something like this new relationship that has emerged since?

Mr. Peter Evans: Absolutely.

Mr. John O'Dwyer: Yes.

Deputy Kate O'Connell: I hope I am phrasing this correctly but from day one, the company clearly had no involvement with this sister company but through the process it has obviously acquired it. Are the witnesses saying there should be an annual audit to see if the terms have changed?

Mr. Peter Evans: That would be one of the matters it would look at. It would look at the transparency between the commercial entity and the non-commercial entity but it would also look at matters such as pricing and cost models for the organisation, publication of discount schemes, transparency and non-discrimination. It would look at all those matters which ComReg is expert in.

Chairman: I call Deputy Catherine Murphy and I ask her to be brief because we want to bring in Eir and complete our discussions with it before the voting starts.

Deputy Catherine Murphy: I do as well so I will try to be very quick with a few questions.

BT expressed concerns to the Department way before the extension of the contracts about how the MANs were being run. Is that fair to say?

Mr. Peter Evans: Yes.

Deputy Catherine Murphy: Did BT notice any change in its dealing with Enet either before or after the acquisition by Granaghan McCourt or was it pretty much a similar relationship all the way through?

Mr. Peter Evans: It was pretty much a similar relationship. Similar people were involved in the business here even though the ownership had changed.

Deputy Catherine Murphy: I want to ask about the language in a lot of the documentation on broadband coverage, regions of the country and all this kind of stuff. There is a difference between passing the availability of a facility and the penetration of the facility. It gives the impression that there is a large take up. Cost and the 50% reduction is important from that point of view. Cost will be a determining factor for some people in taking up the contract because of affordability and that. It is true that the language is more or less about the coverage running past as opposed to the penetration. Would it be more appropriate to match the level of penetration? Is that possible? Is it done?

Mr. Peter Evans: On the MANs?

Deputy Catherine Murphy: Say BT has the MANs but there are other entities with broadband as well. It would be quite useful to have a full mapping service so we know what is available and also what the penetration is as opposed to what is there in theory, what is being taken up in practice and what the impediments to taking up broadband might be. Some of that has been addressed yesterday to some degree by a reduction in the costs. Would that be fair to say?

Mr. Peter Evans: The reduction in the costs is always helpful because that will flow down and add to the competition in the areas. The Deputy's question is around operators talking about coverage of 1.6 million homes or 500,000 homes but what is actually more important is how many people have taken up the service.

Deputy Catherine Murphy: Yes.

Mr. Peter Evans: For example, do they have 10% penetration or 20% penetration? What really drives that is competition. If there are multiple operators, retailers and wholesalers in an area at lower prices, consumers will buy the best service. It drops prices down but it also increases service levels.

Deputy Catherine Murphy: It is all the more important that the MANs contract works effectively if that is the case.

Mr. Peter Evans: Yes. It was a lot of money. It was €180 million that was spent back in 2002.

Deputy Catherine Murphy: There would be consequences for the State under state aid rules for not operating this correctly. What consequences does Mr. Evans understand there will be?

Mr. Peter Evans: Mr. O'Dwyer is probably more of an expert in this area. The State will be given an opportunity to address the concerns and non-compliance first and then there would be a more formal approach if the State did not address the concerns.

Mr. John O'Dwyer: There are possible sanctions.

Deputy Catherine Connolly: Were the witnesses aware that this has been with the Department since March last year?

Mr. Peter Evans: Yes, and we have been asking for it to be published.

Deputy Marc MacSharry: A Deputy asked if the witnesses raised the issues of MANs generally. I would love to have that correspondence if the witnesses could consider it.

Mr. John O'Dwyer: To save time, we can look at that and check with the Department because it is in confidence. We can ask.

Deputy Marc MacSharry: That is fine. The witnesses knew about this report since last year. If the witnesses asked for it, what response did they get from the Department?

Mr. Peter Evans: It said it was looking through it and that it would be published shortly.

Deputy Marc MacSharry: I am not an expert and am learning all of this from what the witnesses are saying today. If this was published a year ago, would there have been a 50% reduction then?

Mr. Peter Evans: That was a recommendation from the report so it would have been down to the Department and Minister enforcing that. We think the Minister, Deputy Bruton, has done the right thing by publishing it.

Deputy Marc MacSharry: Would it have been more beneficial if it was out last year?

Mr. Peter Evans: Absolutely. It would have had a year of lower cost for the industry and for consumers.

Deputy Marc MacSharry: Ultimately, there would have been a trickling down period.

Mr. John O'Dwyer: Stimulating the investment, we could have-----

Deputy Marc MacSharry: We could have gone through it by now and I, the consumer, might have cheaper broadband.

Mr. John O'Dwyer: It would stimulate investment and there may be more choice.

Chairman: I am going to conclude this session. On behalf of myself and the committee, I thank Mr. Evans and Mr. O'Dwyer for being here. We found it interesting and educational, which is why they are here. I think the public has learned a lot in the last hour or so. I thank them and appreciate their attendance here.

Sitting suspended at 12.02 p.m. and resumed at 12.05 p.m.

Eir

Chairman: I welcome Ms Carolan Lennon, chief executive officer of Eir. She is accompanied by Mr. Edward Storey, director of strategy and corporate communications. I remind everybody to put mobile phones onto airplane mode, as merely having them on silent can interfere

with the recording system. I thank the witnesses for their attendance. I want the public to know the witnesses are not obliged to be here and we are grateful for their presence. They are here to inform and educate us about the telecommunications and broadband issue. The Department attended some time ago. We do not have any technical expertise and felt that talking to industry would help us in our understanding in order that we are better informed when we have the Department back in. The witnesses are not under examination like a Department and are here to assist us. If any question is directed at them which they feel is one for the Department, they should say that and not answer for the Department. We will deal with the Department.

I advise witnesses that by virtue of section 17(2)(I) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

I call Ms Lennon to make her opening statement.

Ms Carolan Lennon: I thank the committee for the invitation. We are happy to be here and hope that we can help with the information on the telecommunications industry and market in Ireland. I will begin by addressing Eir's current investment strategy, which is underpinned by strong support from our new shareholders, NJJ. We are focused on further network expansion of both mobile and fixed services and plan to spend €1 billion over the next five years. That is on top of the €1.5 billion that we have already spent, making Eir the largest investor in telecommunications infrastructure in Ireland in the last five years. The European Commission states that Eir's €1.5 billion investment moved Ireland from a position where 30% of the population had access to high-speed broadband to 90% today. Earlier this week, we announced a €500 million investment over five years to expand our fibre-to-the-home network, FTTH, beyond rural Ireland to a further 1.4 million premises. That will cover 180 towns and cities. When this project is complete, 75% of premises in Ireland will have access to fibre-to-the-home technology, which will move Ireland to third place in Europe for fibre to the home roll-out. Every town in Ireland with 1,000 premises will be included in this roll-out. Eir also contributes more than €1 billion to the Irish economy annually.

In our material submitted to the committee and our discussions today, we are conscious of the ongoing national broadband plan process and our own engagement with the one remaining bidder, as a likely subcontractor to National Broadband Ireland. We welcome the opportunity to attend the committee and to be as helpful as possible. However, there may be some specific questions about the process of the draft contract which we may not be able to discuss.

Eir's rural fibre investment, to pass over 300,000 premises, has attracted much public and political commentary and criticism. When the Department of Communications, Climate Action and Environment approached all the network providers, we were asked to provide any future investment plans we had in the intervention area. We faced a decision at Eir. We were fast approaching the end of our fibre-to-the-cabinet investment programme, which brought high-speed broadband to 1.6 million homes and businesses in suburban and urban areas. We put together a team of engineers, planners and contractors, to prove that we could roll out fibre quickly, efficiently and on budget. We had to decide whether to dismantle that team and wait for the national broadband plan, NBP, process to conclude and possibly rebuild the team at that

point or to keep that team moving forward and continue our fibre investment into the remaining commercially viable areas. We knew we had a commercial business case for roll-out to another 300,000 homes in rural Ireland. Eir decided to continue fibre investment into rural Ireland. The specific 300,575 premises - identified by Eircode - were selected based on a number of criteria but essentially to provide the greatest number of premises which were commercially feasible that we could deliver within our €250 million budget. We needed to stay within that budget and we needed to see how many homes we could get passed for €250 million.

In April 2017 we entered into a formal commitment agreement with the Department - at its request - and we shared with the Department an indicative deployment timeline. I am pleased to say that as of last month, the programme is 76% complete and more than 228,000 of the specific 300,000 were passed. We have also passed an additional 30,000 rural premises. People refer to the 300,000 premises but these are not just statistics: 800 people have laid 22,000 km of fibre across the State from Drumcliff in Sligo to Rathmoylan in Waterford. When we are completed in June this year, some 900,000 people in rural Ireland will have access to high-speed fibre broadband, as will 30,000 farms, more than 1,000 schools, 300 business parks and 50,000 small businesses.

Our rural fibre programme is an investment of €250 million by Eir shareholders, connecting rural communities with high-speed future-proof technology. We believe this is the single largest investment in fixed fibre technology in rural Ireland and is unmatched in scale and scope by any other operator. I reiterate that our rural fibre to the home investment is Eir's own private capital. It is not subsidised in any way by the Government. Consequently, by June of this year more than 335,000 homes and businesses that originally required a subsidy under the national broadband plan will be able to avail of high-speed broadband without any contribution from the taxpayer.

As for the national broadband plan, as Eir began the rural 300,000 deployment we also remained a bidder in the national broadband plan and committed to securing the contract to deploy high-speed broadband to the remaining premises within the intervention areas. We entered the national broadband plan process with only one goal, which was to win the NBP. We invested more than €7 million on our bid. On 26 September 2017, we responded to the Department's invitation to submit a detailed submission, known as an invitation to submit detailed solutions, ISDS. This included more than 3,000 pages of information, maps contained in 35 memory sticks and 52 lever arch files. We actually had to make a wooden box to contain the submission. The Department was aware that at that time, Eir had a range of commercial, regulatory and governance concerns about elements emerging in the procurement process. We had raised these issues in August 2016 so the Department was well aware of our challenges. We had decided, however, to remain in the process. Even though there were three bidders remaining at that stage we were only one of two who submitted an ISDS. It was a lot of work to put that ISDS together and submitting it.

In January 2018 my predecessor, Richard Moat, met the then Minister, Deputy Denis Naughten and the Secretary General of the Department, Mr. Mark Griffin, to inform them of Eir's decision to regrettably withdraw from the bid process for the national broadband plan contract. We confirmed this in writing on 30 January 2018. Following protracted discussions we ultimately we came to the conclusion that the NBP framework would drive very substantial additional costs and delays to the roll-out of high-speed broadband to rural Ireland. In our view the NBP framework resulted in duplication and inefficiency, adding to the ultimate cost to deliver high-speed broadband to non-commercial areas of rural Ireland. We could not, therefore,

accept it and we could not recommend it to our board.

There were specific requirements, such as ring fencing of funding, the creation of a wholly separate subsidiary company and the proposed restrictions on our existing wholesale division's ability to compete in the NBP areas. These were all critical factors in our ultimate decision, as was the knock-on effect of NBP pricing and other decisions on our business outside of the intervention footprint. This was a big consideration for Eir.

These challenges were unique to us because Eir is the only operator with an extensive wholesale division. It was also looking as though Eir's infrastructure was the most likely to be built on. There were processes and aspects that applied to Eir that did not apply to other bidders.

The committee has asked that we also refer to any other details we had on the metropolitan area networks, MANs. The MANs did not form any part of our bid for NBP. As we have a network everywhere there is a MAN, we do not use the MANs. We did not have any communication with the Department on the MANs. We had, however, been awaiting the launch of a re-tender of the MANs contracts and we expected to see it out in the summer of 2019. We had planned to tender because, as I said, we have infrastructure everywhere there is a MAN and we thought there would be synergies there so we could probably put in a good bid that would save some taxpayer money.

The committee also asked for information on our mobile and 5G investments. Recently we began a €150 million mobile network upgrade and expansion. This will grow our network by 25% with over 200 sites. It will expand our 4G coverage to 99% population and geographical coverage.

It will also allow us to trial 5G later this year and to trial fixed wireless access as another potential mobile solution to rural broadband coverage.

It remains a source of real regret for Eir, and for me personally because I was the managing director of Open Eir, which was heavily involved in putting together the NBP bid, that we ultimately found ourselves in a position where we could no longer remain in the NBP bid process. I worked very closely on the process with a dedicated team of employees. It was not a decision we took lightly. We continue to engage extensively with the remaining bidder and we continue to support the Department in rolling out the NBP.

I am happy to take any questions that the members may have and will endeavour to be as helpful as possible, conscious of our obligations in respect of the communications protocol.

Chairman: I thank Ms Lennon for her presentation.

Deputy Catherine Murphy: I wish the witnesses a good afternoon and apologise for the delay. I wish to deal first with the MANs. I appreciate that Eir has its own network but did it indicate its interest to the Department in advance? These contracts were not due to come up until 2019 and 2024 but would have been dealt with in advance of that.

Ms Carolan Lennon: Yes. The normal process for this is to see the information on the eTenders website. We were constantly looking at the website to wait for the details.

Deputy Catherine Murphy: Eir was expecting it.

Ms Carolan Lennon: We were expecting it and we expected to bid. We were very disap-

pointed to hear in the press - we did not hear it officially - that the contract had been re-awarded.

Deputy Catherine Murphy: That would have been several entities potentially in a competitive process.

Ms Carolan Lennon: We expected that and we felt we had a good opportunity there. As I said, we already have infrastructure in all of these places so we thought there was an opportunity for some cost savings and to potentially make a successful MANs bid.

Deputy Catherine Murphy: In fact it might have driven down the price several years ago because we noted there was a 50% reduction per metre announced yesterday, as a consequence of the Analysys Mason report.

Ms Carolan Lennon: We just saw that last night and we have not gone through it in detail yet.

Deputy Catherine Murphy: I may come back to that. I want to concentrate on another point. Ms Lennon touched on her regulatory concerns with regard to the withdrawal of the national broadband plan. We have only one entity now. Ms Lennon said there were only two. It can only be Eir and Enet who were still in it - if that is what the consortium is called now. It would have been SIRO. I understand it was in the process. Was it in the process?

Ms Carolan Lennon: It was in the process then but at the formal submission in September 2017 which required the detailed, specific solutions only two bidders submitted that detailed solution, and we were one of those.

Deputy Catherine Murphy: Ms Lennon has gone through the efforts and costs for that.

Ms Carolan Lennon: To put that together, yes.

Deputy Catherine Murphy: It is not an inconsiderable effort to do that submission. Did Ms Lennon raise the concerns at the time with the Department? I understand there is a communications protocol but there would have been a separation within the Department for the team that was dealing with it. Did Ms Lennon raise her concerns?

Ms Carolan Lennon: Absolutely. Right off the bat, the Department gave us the detailed communications protocol and we were very happy with that. There was no issue there. As part of that there were regular meetings with the Department's team for the NBP. I was at many of those meetings in my previous role. We were raising those issues for 18 months. We started raising them in August 2016. To be honest, those issues never changed and across that entire 18 months the issues remained the same. As we worked through the process we knew the September date for the detailed submission was approaching. Our chief executive officer got in touch in writing with the Minister in July and they met in August as part of an overall meeting on communications infrastructure and investment. He raised those issues-----

Deputy Catherine Murphy: Should he have raised those issues?

Ms Carolan Lennon: I believe he should have. We wanted to submit our submission and make sure he would raise these issues. He raised them and we then went ahead and submitted our ISDS. The next step was for the Department to issue the contract in the new year. We were hopeful that between the submission of the ISDS in September and the contract in the new year a number of our issues would be addressed. However, when we saw the contract in the new year, there were a few small changes, but none of the fundamental issues surrounding gover-

nance, cost and regulation had been addressed. The next stage which was due to be in February was to sign off on the contract. It was to commit to all of the commercial arrangements included in the contract, but we knew then that we would not be in a position to do that. We had been raising issues for 18 months and the bid was due to be awarded in April. We did not believe there was any opportunity between January and April for these things to be addressed because they had not been addressed in 18 months. Therefore, we made the unfortunate and sad decision to pull out of the NBP. That was the sequence of events.

Deputy Catherine Murphy: Does Ms Lennon think there was inequality of treatment? We see in Mr. Peter Smyth's report that there was ongoing engagement with another entity, but in Ms Lennon's experience, was there inequality of treatment?

Ms Carolan Lennon: Given who we are in terms of the ex-incumbent, that it looked likely that our infrastructure was going to be used and that we are regulated, in any decision we made, for example, on pricing in the intervention footprint or access to our products or a service level agreement to repair, we had to worry about the impact on the rest of our business. That, however, did not apply to anyone else.

Deputy Catherine Murphy: Would Ms Lennon say Eir was subject to inequality of treatment?

Ms Carolan Lennon: I was surprised to hear about the other meetings with the other bidders. I found out about it in the same way as everybody else and was surprised.

Deputy Catherine Murphy: Eir accepted the protocol, but the protocol did not seem to apply universally.

Ms Carolan Lennon: That was a surprise, but it was not the reason we withdrew. Our reasons were the same as those back in August 2016 and we communicated them throughout the process.

Deputy Catherine Murphy: However, judging from the report, there was no equality of treatment.

Ms Carolan Lennon: In the communications it certainly does not look like there was.

Deputy Catherine Murphy: In retrospect, does Ms Lennon think the concerns Eir expressed undermined the national broadband process? It appears that instead of the process accelerating the delivery of broadband, it has delayed it. Is that correct?

Ms Carolan Lennon: There are a couple of issues. The fact that there are state aid rules on top adds a level of complexity. From where we were coming as a regulated ex-incumbent, Eir had a level of complexity. However, we were of the view that if we had a commercial case to deliver the NBP - we do not, but if we did - we could have done it cheaper and faster than it could have been through that NBP process because of the complexity and cost that arose from it.

Deputy Catherine Murphy: Eir's recent investment which I accept is a commercial one and does not require a subsidy from the State is in part of the area mapped as an intervention area.

Ms Carolan Lennon: Not any more.

Deputy Catherine Murphy: No, not now, but it was in terms of the business case made at the beginning. Does this change that business case? Does what Eir and possibly others are doing change it?

Ms Carolan Lennon: Potentially, it does. If the 300,000 for which we had a commercial case were still in the NBP, we believe, based on our analysis, that it would require a subsidy. We had a case to make, that we could do it cheaper than if it was part of the NBP process. Second, the subsidy required for the NBP is based on two things: how quickly one can do it and how many people are in it. If other network developments happen at the same time and people avail of a fixed wireless solution, a satellite solution or whatever else, potentially, that will reduce the number of people who are in it. However, building a fibre connection to the home network is a long-term investment. As it is future proofed, we will not look at our business case in the next two years. We expect the level of uptake to grow over time, but undoubtedly that will make an impact on the subsidy.

Deputy Catherine Murphy: We note what Eir stated about the terminology used of “passed” and “access to” and that it does not necessarily mean penetration.

Ms Carolan Lennon: Absolutely.

Deputy Catherine Murphy: The regulation is quite confusing. ComReg does some things and not others, while the Department appears to be a regulator of sorts. Did the Department dictate duct prices and the like?

Ms Carolan Lennon: No. The regulator sets the prices. It is done on what is called a cost orientated basis. The regulator looks at the cost of erecting and maintaining poles in rural Ireland and bases the regulated price on this. We are bound by the regulated prices. Again, we are concerned that in being asked to have a different regulated price in one part of the country we would then be required to have the same price in the rest of the country. We are obliged to be equivalent to other operators all over the country. We do not have varied prices across the country.

Deputy Catherine Murphy: There has been much discussion about whether 5G is an alternative to fixed fibre. It would be useful to have Ms Lennon’s input on that issue. Does it differ in urban and rural areas? What does it look like physically? It would be helpful to know.

Ms Carolan Lennon: The 5G network will certainly deliver very impressive speeds, if one will benefit from it.

Chairman: A fast rate.

Ms Carolan Lennon: It will be an upgrade on the 4G network. If one is in an area that can benefit from it and loads of people are not trying to benefit from it, one will have fibre-like speeds. That is definitely the case. The problem is that if there are 100 people on it, everybody is looking for the same footprint, whereas if one has a fibre to home connection, one does not have that contention issue. The other issue is that the 5G network requires an awful lot of masts, which can be a challenge, particularly in rural areas. I believe the 5G network can solve some of the problem, but it cannot solve all of it.

Deputy Catherine Murphy: When Ms Lennon refers to an awful lot of masts, is it more than one per town?

Ms Carolan Lennon: Some of the equipment used can be smaller, but it is line-of-sight technology. From one's house one must be able to see the mast. Also, as they cover smaller areas, there will be more of them.

Deputy Catherine Murphy: Why does Ms Lennon think the Department and ComReg are not in a rush - they certainly appear to be stalling - in the publication of mobile black spots? Would it not be something obvious to map in order that Eir would know what it had to work on, or would it know anyway?

Ms Carolan Lennon: The operators would know where they were. The challenge in dealing with mobile black spots comes back to commercial decisions. As an operator, it is difficult to make a commercial case to gain access to a site. They are black spots for a reason and perhaps one cannot get access to them. However, all operators know where the black spots are. From talking to other operators who are committed to trying to solve the problem, we would like the Department to state: "Here are the sites you can use because we own them. Now, as mobile operators, you can tell us how this is going to work".

Deputy Catherine Murphy: In her opening statement Ms Lennon focused on possible duplication and inefficiency. It is part of the reason that mapping is so important. Bord Gáis and the ESB also have some fibre networks and there are others. Esat has some in County Mayo. Is the absence of it being connected what Ms Lennon was talking about in terms of duplication and inefficiency?

Ms Carolan Lennon: Not for us. In our case, part of the tender and the requirement for the national broadband plan was that we would set up a completely new wholesale team. We have a wholesale team today; we are the biggest wholesale operator in Ireland. Part of the NBP was that we would set up a duplicate wholesale team to sell into the national broadband plan footprint and that our current wholesale team would not be able to sell into it. If I had 80 people selling today, with all of the systems and costs involved in supporting them, I would have to have another 80, probably, selling into the national broadband plan footprint. That did not make any sense for us and we could not stand over it. Therefore, we could not recommend it to the board.

Chairman: These are strictly five minute slots in order that everybody can ask his or her questions before the witnesses leave.

Deputy David Cullinane: Five minutes is more than enough.

I welcome Ms Lennon and Mr. Storey. I will start with the existing infrastructure. In the past couple of weeks there have been announcements by Eir, SIRO and Imagine Telecommunications Limited of increased investment in infrastructure. I live in and represent part of a rural constituency. In the past, issues were raised relating to old infrastructure, poles, and copper rather than fibre to the mast. Are those the areas where investment will be directed? I believe the sum was €500 million.

Ms Carolan Lennon: No. The 300,000 which we are now building and which will be complete by June is pushing into rural areas. The investment announced on Monday relates to urban and semi-urban areas, that is, towns of over 1,000 premises. The Deputy is correct. We are over-building our copper network with fibre. It is future-proofed technology, which will serve Ireland well into the future up to 10 GB.

Deputy David Cullinane: While it is great that urban areas will receive increased invest-

ment and an enhanced infrastructure, the difficulty is that many customers in rural areas are serviced by single masts. They are often copper to mast. Why is there no investment in those areas, particularly when they are the same areas?

Ms Carolan Lennon: Because there is no commercial business case for this. We did those 300,000 rural build - and that is very rural - because there was a commercial business case but there is no business case for us to go beyond that. That is the reason a national broadband plan exists in the first place, because it recognises that subsidy is required to bring fibre broadband to certain areas.

Deputy David Cullinane: I get that. The lack of commercial business case is what I was getting at. It goes back to the argument, which some might say is ideological, that the State has to intervene to ensure something is available when it is not commercially viable, but that it is necessary in the interests of the State that it be provided.

Ms Lennon referred to the NBP. It has been problematic, to say the least. Someone living in a rural area might hear a service provider say that it is not commercially viable for it to make the investments but that there is an NBP that will resolve their problem. So far it has not resolved their problem and it has been dogged with difficulties. I raised this with BT earlier. Notwithstanding any changes in the structure of the company which have made it almost unrecognisable from when it first drew up its bid, one problem that has been raised is that the initial plan was for 840,000 customers. Eir made a pitch for 300,000 of them.

Ms Carolan Lennon: Eir did not make a pitch. The Department contacted all telecoms operators and asked what our plans were to build into that 840,00 or 850,000 intervention footprint. We understand that several telecom operators, including ourselves, went back to the Department and told it our plans. The only operator that went off and put its money where its mouth was, spent the €250,000 and did the build, was Eir. We signed a commitment contract at the request of the Department. We would have done that build anyway.

Deputy David Cullinane: Okay. BT was saying something different, namely that the prompt came from Eir.

Ms Carolan Lennon: That is absolutely not correct.

Deputy David Cullinane: That is fine. The point is that the 300,000 customers we are discussing here are considered the more commercial viable.

Ms Carolan Lennon: Absolutely.

Deputy David Cullinane: That goes back to my point. As Ms Lennon has pointed out, the NBP deals with households and areas where it is not commercially viable. That was to include the 840,000 customers. When 300,000 of the most commercially viable of that figure are removed, it makes the remaining number more problematic in terms of their viability. Is that part of the reason for the current difficulty and why there was not sufficient competitive tension in the process?

Ms Carolan Lennon: I do not believe so.

Deputy David Cullinane: Did Eir bid for it?

Ms Carolan Lennon: We started with a challenge of 850,000. Now we have 540,000. By June, 335,000 rural homes, businesses and farms will be passed at no cost to the State.

Deputy David Cullinane: Was Eir a bidder for the remainder?

Ms Carolan Lennon: Yes. We left for the reasons we gave, namely, that none of our issues was addressed in the 18 months that we raised them.

Deputy David Cullinane: Does Ms Lennon believe that what was left was a transparent process?

Ms Carolan Lennon: Absolutely. We not only signed up to 300,000 but -----

Deputy David Cullinane: No, I do not refer to the 300,000 customers but to the remainder that Eir did bid for.

Ms Carolan Lennon: We knew what we were bidding for but we had issues which, as I said, we raised back in August 2016. Those issues were not addressed in the following 18 months. We put in our detailed submission solution. We saw the contract in January. Nothing much had changed apart from a few small things around the margins. When we looked at that, we knew that we did not have a case on which we could recommend Eir's participation.

Deputy David Cullinane: Was that from Eir's end?

Ms Carolan Lennon: Absolutely. Of all the issues with which we struggled, such as a separate wholesale team, the regulatory impact on the rest of our business, all the process and overheads, none had been addressed by the Department. Eir, therefore, just could not go forward because it made no sense for us to do so.

Deputy David Cullinane: We will take these issues up with the Department.

Chairman: I now call Deputy Connolly.

Deputy Catherine Connolly: I thank Ms Lennon for coming before the committee. It is very helpful. There is no obligation on her and we appreciate it.

Does Eir have figures on uptake and use?

Ms Carolan Lennon: We do not share them, as there are other companies building fibre networks so that it is commercially sensitive. In terms of our business case, the uptake numbers are in line with what we expected. They substantially measure what we saw in our fibre to the cabinet build in urban areas of Ireland. We are very happy with the uptake. The last figure we published was 14% but that was some time ago. For homes that were passed at the start of the build, penetration is more than double that figure. As time goes on, there is more awareness and more people are coming onto the network.

Deputy Catherine Connolly: Eir is not publishing the figures because they are sensitive, but it has something in its business plan and targets to be achieved. What percentage did Ms Lennon give?

Ms Carolan Lennon: We no longer present these figures, as others are building networks and it is commercially sensitive.

Deputy Catherine Connolly: Eir used to present the uptake at one time.

Ms Carolan Lennon: Yes, and the last figure was 14%.

Deputy Catherine Connolly: When was that?

Ms Carolan Lennon: It was about nine months ago.

Deputy Catherine Connolly: Eir has decided that it will no longer publish these figures.

Ms Carolan Lennon: Yes, because other companies are building fibre to homes so it is commercially sensitive.

Deputy Catherine Connolly: The figure of 14% seems very low.

Ms Carolan Lennon: I do not believe so. Consider the people who were passed earlier -14% is more than double. It is exactly what we saw in urban areas. We do not have 100% penetration in urban areas; it is about 80%. There might be homes, holiday homes, or households where age is a factor, which are not connected.

Deputy Catherine Connolly: I am only trying to check.

Ms Carolan Lennon: We are not worried about uptake. Our business case is fine and we are not worried about the commercial case.

Deputy Catherine Connolly: I refer to the 300,000 properties for which there was a commercial business case. Eir wishes to complete this by June.

Ms Carolan Lennon: Yes.

Deputy Catherine Connolly: How many remain to be completed?

Ms Carolan Lennon: We are 76% -----

Deputy Catherine Connolly: That is rural and urban.

Ms Carolan Lennon: No, that is all rural.

Deputy Catherine Connolly: Therefore, 76% of that is done.

I return to the MANs. Presumably Ms Lennon has read the report.

Ms Carolan Lennon: We only saw it last night.

Deputy Catherine Connolly: That is okay; we only saw it less than an hour ago.

Ms Carolan Lennon: I am not a speed reader, unfortunately.

Deputy Catherine Connolly: Did Eir know that the report was with the Department for a year?

Ms Carolan Lennon: We knew that the Department was working on a report and we expected to see it. We did not know for how long it had been ready, so we were surprised to see it had been there for a year.

Deputy Catherine Connolly: According to Ms Lennon's opening statement, Eir was waiting for the project to be retendered and was disappointed that it was not.

Ms Carolan Lennon: Yes.

Deputy Catherine Connolly: Ms Lennon said that Eir was going to enter that process with a view to getting the tender -----

Ms Carolan Lennon: Of course.

Deputy Catherine Connolly: ---- in the same way that Eir entered the broadband area. What is Ms Lennon's understanding of why it was not tendered?

Ms Carolan Lennon: To be honest, we did not get any information.

Deputy Catherine Connolly: Eir was watching the appropriate sites to see it come up.

Ms Carolan Lennon: Yes, and we did not see any retender. The first we knew was that there was not going to be a retender process.

Deputy Catherine Connolly: However, Eir had expected that there would be.

Ms Carolan Lennon: Yes, we expected that there would be.

Deputy Catherine Connolly: Would that have been the normal in this business?

Ms Carolan Lennon: Yes. It was assigned in 2004, which is 15 years ago. In 2019, we expected to see it in eTenders.

Deputy Catherine Connolly: Eir was watching for it.

Ms Carolan Lennon: We were having a look at it.

Deputy Catherine Connolly: How did Eir become aware that it would not be retendered and that it was being extended?

Ms Carolan Lennon: In the press.

Deputy Catherine Connolly: Did Eir make a complaint at that point?

Ms Carolan Lennon: No, we did not make a complaint. We discussed it but we did not make a complaint.

Deputy Catherine Connolly: Eir discussed it with the Department. Can Ms Lennon share what was discussed?

Ms Carolan Lennon: We just told the Department we had expected to see it retendered.

Deputy Catherine Connolly: Was a reason given?

Ms Carolan Lennon: No.

Deputy Catherine Connolly: No reason was given at all. Was Eir happy to take no reason?

Ms Carolan Lennon: We have our own build. We were finishing our rural build. We were getting on with the things on which we were focussed.

Deputy Catherine Connolly: It a serious matter not to retender something. A decision was made - and I am not saying that there was anything wrong with that - but we now learn that a report was done. Did Eir have an input into the report on which that decision was based?

Ms Carolan Lennon: No.

Deputy Catherine Connolly: Did Eir have any input into this report?

Ms Carolan Lennon: No.

Deputy Catherine Connolly: Eir applied. BT explained to us earlier that, under state aid, it wanted to participate in the initial tender. Did Eir enter into the initial tender going back to-----

Ms Carolan Lennon: I do not know. It was before my time.

Deputy Catherine Connolly: It was indicated, by the entity that was before us earlier, that it was excluded because there would have been conflict. The entity that got it did not have that conflict but, subsequently, did. Would Eir not have had the same conflict had it applied if the Department had retendered?

Ms Carolan Lennon: We did not believe we did. We have a separate wholesale business and all the regulations around that so we believed we were in a position to re-tender had if the opportunity had arisen.

Deputy Marc MacSharry: I thank our guests for appearing before us voluntarily because they did not have to do so. I also thank them for their commitment to the north west and Sligo. We hope their new national call centre will be based there.

Ms Carolan Lennon: Yes, it will be. It will open in March.

Deputy Marc MacSharry: I hope recruitment for that is going well.

Ms Carolan Lennon: It is going really well. We are delighted. It will be full in terms of recruitment by the end of February.

Deputy Marc MacSharry: Eir should tell all its commercial friends to come and do the same up in the north west.

Ms Carolan Lennon: Deputy MacSharry is welcome to come to our launch in March.

Deputy Marc MacSharry: No problem. After 18 months of “Look, we have these issues. Can you address them? If you do, we’ll go on”, did Eir get a sense that there was no effort to answer its questions or did it feel that the Department was doing its best to-----

Ms Carolan Lennon: We knew there were some real restrictions, particularly in the context of state aid. We know who we are in terms of our ex-incumbency. Our regulation poses some challenges. We raised all of the issues in the context of understanding that we would all love things to be simpler but sometimes that they cannot be. We were disappointed that they were not addressed. I can say this not as CEO. I was the person who led the NBP bid from the start. We wanted to win it and we thought we were best placed to win it because we know how to build networks and we know the infrastructure. It was disappointing. We kept thinking that the issues would be addressed but in the end, they were not.

Deputy Marc MacSharry: Was Eir strung along? Was it told that the issues would be dealt with, that it should not worry and that it should remain in the process?

Ms Carolan Lennon: That is a question for the Department.

Deputy Marc MacSharry: Make no mistake - I will be asking it. I am just interested in Eir's perspective.

Ms Carolan Lennon: We gave it our best shot to try to change, to say why and to give the reasons.

Deputy Marc MacSharry: I understand that fully. Eir did that. It asked the Department questions and told it about its concerns. Did the Department say it would sort that out or that it would provide an answer? Was it a case that Eir was putting these questions and raising these matters of concerns and they were falling on deaf ears?

Ms Carolan Lennon: The Department was looking to address some of them while it pushed back on others. For example, on the registration pricing and our worry that if we set a price over here, it would end up our *de facto* price over there. That is a real issue for us with a business that is all over the country and an equivalence requirement. The Department will state that this will be okay but we cannot take it that it will be okay because we are regulated, as are our prices. There were some areas where the Department did not accept our issue and we believed it was an issue because we are regulated and know how the rules work while there were other areas where the Department engaged on them. We went for it in terms of the ISDS submission. We did an awful lot of work and produced a large submission. We hoped that would show how serious we were about the bid in terms of the effort. We hoped for changes after that. That went in in September and the contract came out in January. That was when we realised that nothing was going to change because there had only been very small marginal changes in the contract and none of the major issues had been addressed. Up to then, we were probably hopeful that we might make some progress. We kept making our arguments, kept pushing and put in a very good submission but it was obvious in January that we were not going to get traction on those issues. At that time, the tender was meant to be awarded in April. If we could not get traction in 18 months, we were not going to get in three months. That was when we decided to-----

Deputy Marc MacSharry: It was a case of "There is no point in flogging a dead horse. We need to get on with our own business." I understand that. When Eir indicated to the Department that it was pulling out of the process because it was not for it, did the Department say "Fair enough, good luck" or was there much of an effort to try to get Eir to stay in?

Ms Carolan Lennon: My predecessor went to that meeting, which I did not attend. The feedback was that the Department asked us to reconsider and not to be hasty. Richard Moat came back and we discussed it. We also discussed it with our board. At that stage, it was too late. We were of the view by April that those major issues were not going to be fundamentally addressed. They are major issues that require a lot of thought and many solutions.

Deputy Marc MacSharry: This committee has been told that there were exhaustive efforts involving dinners and lunches to keep people in the process.

Ms Carolan Lennon: I am obviously not a good dinner or lunch date because I was not at any of those.

Deputy Marc MacSharry: That was what I was wondering. Would Ms Lennon or her predecessor-----

Ms Carolan Lennon: No, sorry.

Deputy Marc MacSharry: Would Ms Lennon have a view on that?

Ms Carolan Lennon: As stated earlier, the Department was up-front with us about the communications protocol from the start, which I understood and respected. We followed that. I was as surprised as everybody else to see that other meetings were happening because that was not our experience at all. In our case, the communications protocol was followed to the letter, which was fine by us. We bought into that.

Deputy Marc MacSharry: Is the communications protocol a document?

Ms Carolan Lennon: There was a document. There was also a website if people wanted to submit questions, which were all anonymised. At the start, it seemed very cumbersome but we bought into it and that is the process we followed.

Deputy Marc MacSharry: Looking back, does Ms Lennon feel that the protocol process to which Eir adhered seemed to apply to it but not to others?

Ms Carolan Lennon: It looks like there was a different process for both of us. That did not impact on our decision to withdraw. Our decision to withdraw was about the issues that we had raised for 18 months.

Deputy Marc MacSharry: Eir was perfectly entitled to withdraw and Ms Lennon has laid out very clearly the reasons for its withdrawal. We are delighted to have Eir before us. It is able to give us a perspective that is very important to our work. I know that others are under pressure to get in. One's instinct would indicate that there seemed to be one set of rules in terms of communications protocols that applied to Eir and a different set that applied to others.

Ms Carolan Lennon: That is what the evidence seems to say.

Deputy Kate O'Connell: I thank our guests for attending. In the view of Eir as a large operator, is fibre the way forward in terms of future-proofing the network in Ireland? Is that the only show in town in Ireland?

Ms Carolan Lennon: It cannot be the 100% solution because fibre has 10% of premises in Ireland that are going to-----

Deputy Kate O'Connell: In an ideal world.

Ms Carolan Lennon: Absolutely, because it is possible to guarantee matters. There is a lack of contention and the future-proofing aspect. We do not want to do this twice, we only want to do it once.

Deputy Kate O'Connell: From reading about it, my understanding is that it is about laying a proper network-----

Ms Carolan Lennon: Forever.

Deputy Kate O'Connell: -----to which we can apply upgrades.

Ms Carolan Lennon: At the moment, fibre will support 10 GB. Nobody needs 10 GB today but they may need it in the future and it is there. In terms of that future-proofed piece-----

Deputy Kate O'Connell: It is the only show in town in terms of the product that should be used. I do not want to misinterpret Ms Lennon. Eir is 76% complete regarding the 300,000 homes. Is that right?

Ms Carolan Lennon: Yes, that is right. At the end, it is going to be 335,000 homes. Of the 300,000 homes we signed up to those specific Eir codes, 228,000 have been done. We have also done another 30,000 because as we got out to build, we picked up more on the way and it made sense to pick them up when we picked them up.

Deputy Kate O'Connell: Is Eir on budget with-----

Ms Carolan Lennon: Yes, we had a €250 million budget for that project and we will bring it in on budget. I get asked all the time and I get letters from Deputies, Ministers and other people asking to be added. I have the money. I have €250 million and have done as many as I can for that figure. I do not have €260 million. I only have €250 million so we are on budget.

Deputy Kate O'Connell: What price is it per metre? Am I allowed to ask that question?

Ms Carolan Lennon: The average price past a home is just over €700.

Deputy Kate O'Connell: How much?

Ms Carolan Lennon: It is just over €700 to pass a home.

Deputy Kate O'Connell: But Eir does not do it per metre-----

Ms Carolan Lennon: To have fibre go past one's house - if one wants a connection, the average cost is about €450.

Chairman: The Deputy was asking a different question about the cost of deducting-----

Deputy Kate O'Connell: Yes, in light of the report we got this morning-----

Chairman: The Deputy is thinking of the MANs figure-----

Deputy Kate O'Connell: -----that there is a 50% reduction in cabling down to €2.60 per metre from about €5. I assume that is probably commercially sensitive.

Ms Carolan Lennon: That is commercially sensitive. We do not charge that way. We work on a homes passed cost and have an all-in cost with our contractors so we do not look----

Deputy Kate O'Connell: Does Ms Lennon have a view on the price? Based on her experience in the sector, does it seem unusual to her that the price of anything could be cut overnight by 50%? Would that indicate that things were inflated previously?

Ms Carolan Lennon: I honestly have not gone through the report in detail. It sounds like a big reduction, but it has gone through.

Deputy Kate O'Connell: On market players in this area and reported speeds, does Ms Lennon believe we are getting the correct information? Various players are stating there are certain speeds in County Kerry, Thurles and Tyrrellspass, for example. Is there enough transparency in that regard? As someone who works in the sector, does Ms Lennon believe we are getting the real figures?

Ms Carolan Lennon: ComReg is doing quite a lot of work in this area and hoping to produce a lot more clarity on the speeds of service in individual homes. For Eir, speeds to the cabinet network can range up to 100 Mbps.

Deputy Kate O'Connell: What is the range?

Ms Carolan Lennon: It is from 30 to 100 Mbps, depending on how close one is to the cabinet. That is a challenge. With a fibre to the home connection, because it is a linked-in system, much of the variation can be taken out of the equation.

Deputy Kate O'Connell: In that instance, the range is probably not 30 to 100 Mbps but a static 50 Mbps or 60 Mbps.

Ms Carolan Lennon: It really depends how close one is to the cabinet, but it probably averages at around 70 Mbps.

Deputy Kate O'Connell: If one is part of the cabinet network, rather than connected via direct home connections, one will not have speeds below 30 Mbps at any point. Is that correct? When companies state they can reach speeds of 30 Mbps in County Kerry, can we trust that is the case?

Ms Carolan Lennon: One can trust the figures, but there are a few anomalies. For example, within our new roll-out to 1.4 million homes, at a cost of €500 million, there are pockets which are coloured amber on the map provided which are housing estates which have been built since the network was put in place. As they are too far from the cabinet, there are reduced speeds. We are including approximately 50,000 such houses in the urban areas roll-out. There are discrete pockets which are not receiving that service, but, in general, people are getting what is being advertised.

Deputy Kate O'Connell: In discrete pockets speeds are less than 30 Mbps, but in terms of percentages-----

Ms Carolan Lennon: The Department has recognised this and they are included in the intervention footprint map. We are going to solve some of the problem with our-----

Deputy Kate O'Connell: The problem will be solved by way of direct cabling.

Ms Carolan Lennon: Yes.

Deputy Kate O'Connell: The people in question will not just be left hanging there. There is a plan in place.

Ms Carolan Lennon: No, they will not. We will address the problem for approximately 50,000 homes.

Deputy Catherine Murphy: I want to go back to the Smith report. In Eir's engagement, it was not listened to. It had serious concerns which led to it dropping out of the tender process. If there been different engagement, might it have been heard? I am thinking of the concerns it expressed about regulatory processes, among others. Is it the case that if a company plays by the rules, it is at a disadvantage? Ms Lennon has said this is not the reason Eir dropped out of the process.

Ms Carolan Lennon: No, absolutely not.

Deputy Catherine Murphy: Could Eir have had different engagement with the Department if it had been heard?

Ms Carolan Lennon: We had a lot of engagement with the Department. There were regular meetings with our team and the national broadband plan, NBP, team; I attended many of

them. Our issue was that all of that engagement did not change anything in dealing with our issues which were the same at the end as at the beginning. It is not that nobody met us to discuss them with us or knew about our issues. They were known, but as nothing changed, we had to pull out.

Deputy Catherine Murphy: Was Eir aware that Enet was for sale in 2013 when Granahan McCourt bought it? Would Eir have been interested in buying it at that point? Is Ms Lennon aware of that, or was it before her time?

Ms Carolan Lennon: I was not aware of-----

Mr. Edward Storey: We were not aware that it was for sale.

Deputy Catherine Murphy: Would it have been something that was of interest, given that the networks are-----

Ms Carolan Lennon: Not really. We have infrastructure everywhere where it has infrastructure. We have infrastructure everywhere there is a MAN. It would not have added to our network.

Deputy Catherine Murphy: I assume Eir was not interested when the Irish Infrastructure Fund purchased it at a later stage.

Ms Carolan Lennon: No.

Chairman: I have a few questions, the answers to which perhaps might give us a better understanding of the whole system. Eir started to talk to the Department several years ago. I am looking at the updated Ireland broadband intervention strategy 2015. When did Eir start to talk to the Department about the rural broadband plan?

Ms Carolan Lennon: The procurement process kicked off in December 2015 when we assembled our bid team.

Chairman: The discussion in the tender process started in December 2015.

Ms Carolan Lennon: Yes.

Chairman: We are still not at the end of the process three years later. I have a concern about how relevant the tender process is after three and a half years. The process now covers approximately 540,000 houses. When the discussions started, how many homes were scheduled to benefit?

Ms Carolan Lennon: At the beginning we planned to connect 850,000.

Chairman: There has been a change. That figure was reached on the basis that it was not commercially viable and that it qualified for State aid.

Ms Carolan Lennon: The Department created its first intervention map based on its analysis or view that it was not commercially viable. It then contacted all of the operators and asked them if they could make a commercial case and if they had plans in that regard. My understanding is a number of operators came back to it, not just Eir, but in the end we made the bid. We had the machinery, having finished one network build, and wanted to keep it going. We also had a commercial case.

Chairman: Were the other 300,000 homes included at the original stage? It might have posed a risk to the overall project and access to State aid if there were 850,000 houses involved, some of which were not entitled to such aid.

Ms Carolan Lennon: My understanding is that, whether we had signed a commitment contract, if Eir or another company had started to build in the intervention footprint, it would have been a suggestion the project was commercially viable. In that instance, the company could not apply for State aid.

Chairman: In the intervention area which now includes 540,000 houses, if there are people who are willing and able to pay for a broadband service, are there providers in the market which could provide it? Are they allowed to do so?

Ms Carolan Lennon: It is very difficult to do it. We receive requests every day to extend our footprint and we do. However, I can go back and say “No” to some of them because I cannot make it happen owing to my budget and timeline. Recently I was asked to look at the issue for someone. I had a look and it would have cost €30,000. Fibre cable has to be provided from the core network to the house. It is very hard for anyone to go in and out of small-----

Chairman: Ms Lennon has mentioned that during the course of her work Eir has pulled in an extra 30,000 new houses which were not on the original map. If another €100 million was provided, could Eir pull in another 100,000 homes? Could that be done if Eir was given the budget to do it by its shareholders and board? Some 310,000 houses have been taken out of the plan on the basis of the budget of €250 million. If Eir had more money, could it pull in more?

Ms Carolan Lennon: When we carried out our analysis, we thought that potentially there could be another 150,000 connections, if we had more money.

Chairman: Is that 150,000 pulled in from the figure of 540,000?

Ms Carolan Lennon: Yes.

Chairman: How can Ireland go to the European Union under state aid rules and ask that this be approved for a subsidy when a company such as Eir is stating a significant proportion could be done commercially?

Ms Carolan Lennon: I am saying Eir could do it, but not when the processes are applied. The 300,000 would have required subsidy if they were left in the NBP.

Chairman: That is my point.

Ms Carolan Lennon: This 150,000 would have required subsidy. We can do it at a lower cost.

Chairman: Is Ms Lennon saying there are 150,000 houses in the existing 540,000 houses for which, if Eir had the budget, it could do it commercially?

Ms Carolan Lennon: Yes.

Chairman: We are now saying that a chunk of the plan in front of us can be done commercially if Eir had the budget. My concern from the Department’s point of view, not from Eir’s point of view, is how the Department can run a competition on the basis of getting rural broadband to 540,000 houses without contravening state aid rules. There is going to be a subsidy and

then, lo and behold, someone says “sure I can do a third of them without any state aid”. Given where we are on this contract, I am sure Ms Lennon can understand my line of thought.

Ms Carolan Lennon: I understand.

Chairman: It might be possible that other providers could do the same through other mechanisms; Ms Lennon mentioned that 5G can be a partial solution in some places. Leaving the ideology out of it for a minute, if there are people who are willing to provide the service, is it possible that a larger chunk out of the 540,000 than the 150,000 could be provided commercially?

Ms Carolan Lennon: I understand Imagine is coming in later. Based on its announcement yesterday, it will say it is going to do a number of these homes.

Chairman: We started off with a plan that was going to be eligible under the state aid rules at 850,000. We now have 300,000 knocked off that. Ms Lennon is saying that if Eir had another budget it could knock off another 150,000 on its own. She is saying another company is going to say it can do a whole lot more. I wonder why we are talking about the 540,000 houses now. That is really a question for the Department.

Ms Carolan Lennon: We do not have a plan to address those premises because we have our urban and national build that we are going to start. We do not have a plan to address them but when we looked at it in the past, we believed there was a commercial case for another 150,000.

Chairman: If Eir’s board of directors was willing to give a budget to it, it could be done.

Ms Carolan Lennon: Yes.

Chairman: That is where I am coming from. The complaint I am getting in rural areas is that people are willing to pay in and do not want to have to wait for the national broadband plan. They want to get on with the job themselves but they are being held up by this process that has been going on for three and a half years with no sign of a contract. Where we started out with the contract is worlds apart from where we are now. I think the Minister is going through this matter with a fine tooth comb. I would be appalled if he were to sign a contract for this now, given that a lot of it can be dealt with.

Ms Carolan Lennon: The challenge is that it has taken such a long time and technology moves on. That is the problem.

Chairman: The passage of time has made some of this process redundant.

Ms Carolan Lennon: That is the challenge, yes.

Chairman: People might be surprised at me saying that. It might not be popular in some areas to say this is not necessarily the answer. However, my point is that a lot of this can be done by providers. How many premises are there in the country?

Mr. Edward Storey: There are about 2.4 million premises.

Chairman: When we started out, 850,000 were to be in the broadband plan. That figure is now down to approximately 550,000.

Ms Carolan Lennon: I do not want to confuse everybody but for the sake of clarity, because we have done 335,000 as opposed to the original 300,000, the Chairman can take that

35,000 off. They are in the rural one. Because we are going to pick up 50,000 of urban infills, the Chairman can take them off. The figure of 540,000 probably goes down to 460,000.

Chairman: Ms Lennon is also saying that if Eir's board of directors gave her a budget, she could take more out of that. Then there are the other companies.

Ms Carolan Lennon: The committee will hear from Imagine this afternoon.

Deputy Catherine Murphy: Bord Gáis and the likes of the ESB and others have network as well.

Chairman: Somebody suggested €3 billion for an ever-diminishing number. I get worried when I hear billions being mentioned and the need for the contract. We have seen documents. There is a cohort that can only get it with State support; we accept that. However, there are other ways. When people were not able to get water, they set up group water schemes and got grants. It is even simpler to run a piece of fibreoptic cable to a house. There may be other ways of doing this that we will put to the Department. When Eir started the conversation with the Department, what speed of broadband was specified in the terms?

Ms Carolan Lennon: The minimum at the time was 30 Mbps but now I believe it has gone to 100 Mbps, which is in line with Europe was saying.

Chairman: Is that download or upload?

Ms Carolan Lennon: That is download.

Chairman: What would the upload speed be?

Ms Carolan Lennon: I think it was 10 Mbps at the start.

Chairman: We are now talking about what is envisaged by the contract for those who get it might be 100 Mbps download and what upload speed? What was it when Eir last left the table?

Ms Carolan Lennon: I do not know what it has increased to from the 10 Mbps. It has probably gone up to about 30 Mbps.

Chairman: Going back to the MANs, I look at towns that have a gigabit now available. That is 1,000 Mbps. What is on offer in this contract is only 10% of speed that is available to the neighbouring town a mile away.

Ms Carolan Lennon: I do not think that is correct. If the solution that is on the table is fibre to the home, people will be able to get 1 Gbps at a minimum.

Chairman: I hope Ms Lennon does not mind me asking this and she is not obliged to answer. One would see a benefit to Eir, in or out, from the plan because the Department told us it has a million poles around the country-----

Ms Carolan Lennon: We have 1.5 million.

Chairman: -----and it is going to require another €200 million to do this running from pole to pole. One way or the other, Eir is going to be centrally involved.

Ms Carolan Lennon: Yes. We have been working with the remaining bidder on access to our infrastructure.

Chairman: ComReg sets that price.

Ms Carolan Lennon: Yes.

Chairman: Let us say in respect of our conversation this morning that ComReg had no role in setting the pace in the metropolitan area networks.

Ms Carolan Lennon: They are still not regulated.

Chairman: I think it is bizarre that ComReg had no role in the urban areas while Eir is heavily regulated doing a similar type of business making its network available. When Eir is increasing the number of poles that the Department mentions, ComReg will be the adjudicator and Eir is obliged to provide it whether it likes it or not.

Ms Carolan Lennon: Absolutely, we have to provide it to anyone who wants it.

Chairman: Eir cannot refuse to provide it. I am looking at the broadband plan from 2015; we have the notes. Reference is made to procurement lots, as in different regional authorities. When Eir started, were there different procurement lots? That is what is in the most recent document from the Department, as if it was going to be done on a regional basis. Did that go out the door during the process?

Ms Carolan Lennon: When we first started talking about it, we thought it was going to be in one lot. Then there were discussions about different models and in the end two lots were decided on, a north and a south region.

Chairman: At the moment, are there two separate lots?

Ms Carolan Lennon: Our detailed submission had a bid for the northern lot, a bid for the southern lot and a bid for the whole lot. It was possible to bid for one, two or the whole lot together.

Chairman: Eir was bidding for both. We can ask the other groups what they were bidding for. I did not know the contract could be subdivided into two lots. In terms of the 335,000 Eir has added on, were more of them in the northern or the southern end?

Ms Carolan Lennon: They were evenly split, as it happens.

Chairman: In respect of fibre to cabinet, being so big, Eir is part of the landscape. When it was originally part of the Department of Post and Telegraphs it had these cabinets all around. In some villages they still have the old cabinet and Eir puts in a new fibre cabinet. In respect of the old cabinets that are, say, three miles from the exchange, has Eir any plan to upgrade them?

Ms Carolan Lennon: What we announced on Monday is basically a plan to overbuild our copper network. At the moment in a lot of those places we have fibre going from the exchange to the cabinet and then a copper line into someone's house. Our recent announcement was to bring fibre into 1.4 million premises.

Chairman: That will bypass the old cabinet.

Ms Carolan Lennon: Over time, we will not need the copper line because we will have the fibre connection. We are regulated so we will have to engage with the regulator and the other operators who use our infrastructure. Our plan will be not to have two networks but just to have a fibre network.

Chairman: Is Eir going to provide a fibre cable to every house in Ireland?

Ms Carolan Lennon: To 1.4 million plus our rural, so 1.735 million.

Chairman: Under the broadband plan, is the plan to bring fibre to every house in Ireland?

Ms Carolan Lennon: That is the national broadband plan. What we are going to do is bring fibre to 75% of the premises in Ireland. That is our plan.

Chairman: I refer to the broadband plan.

Ms Carolan Lennon: That was the solution that we originally heard.

Chairman: My point was that fibre broadband could be brought to many houses but some of the householders might not want it.

Ms Carolan Lennon: The homes will be passed and the householders can then decide whether they want to be connected.

Chairman: It is similar to the provision of water. Some people have their own water supply. Why run water to a house and then find the householders do not want it because they have their own supply?

Ms Carolan Lennon: The problem is that in building networks, it is not efficient or economical to build to order because a home could be 20 miles down a road. Homes should be passed because that is efficient. If the householders want to be connected, we connect them, but if not, we do not. The business case is made on the number of people who are expected to want to be connected.

Chairman: Okay. The pragmatic point that many householders in rural Ireland, rather than urban areas, would make is that they might have a pole at the edge of their house or garden, and they might have an underground connection to their house-----

Ms Carolan Lennon: Yes, an underground duct.

Chairman: The old, copper cable might have been in place for 30 years. In general, many people will have to replace the ducting. Will Eir bring the cable to the house or the edge of the property? What is provided for in the broadband plan? We should ask those responsible for the plan.

Ms Carolan Lennon: It is a 50 m drop and our plan is to bring the cable from the pole outside one's house to the eaves of the house. Some people say they do not want that and that they want an underground duct. In that case, generally, they install the duct and we meet them at the road.

Chairman: For example, if they do not want wires over their garden.

Ms Carolan Lennon: Yes, if they think it is unsightly or whatever.

Chairman: Okay. We are nearly finished and the voting has taken place. Eir is bringing the cables to homes. We are learning useful information that will help us a great deal when representatives from the Department appear before the committee again.

Deputy Kate O'Connell: I have a final question before the vote. The Chairman referred

to the figures of 850,000 and 330,000 customers, and Ms Lennon stated that Eir could provide another 150,000. She referred to Imagine's announcement yesterday and what it could provide-----

Ms Carolan Lennon: That is fixed wireless, which is different technology.

Deputy Kate O'Connell: It is a different product. Although Imagine is offering fixed wireless, it is not equal to Eir's offer. I wish to clarify the matter.

Ms Carolan Lennon: It is absolutely not the same technology.

Deputy Kate O'Connell: In that case, the two types cannot be equated.

Ms Carolan Lennon: Yes. The challenge to the plan is that the intervention footprint is based on uptake. A lot of people will benefit from Imagine's roll-out and they will take its broadband on. They will not then go on to the NBP, although they may in the future. Future-proofing is the challenge.

Deputy Kate O'Connell: It is not the same product when we talk about following on from Eir. The water network is not the product to build the infrastructure and the network.

Ms Carolan Lennon: That is correct.

Chairman: On my own behalf and on behalf of committee members, I thank Ms Lennon for appearing before the committee. It has been helpful and educational, which is why we asked her to attend. We appreciate her presence and we are grateful for all the information she has provided.

Sitting suspended at 1.15 p.m. and resumed at 2.25 p.m.

Regional Internet Service Providers Association

Chairman: We are continuing our engagement with broadband providers. I remind members and those in the Public Gallery to turn off their mobile phones. I welcome Mr. Marcus Matthews, managing director of the Regional Internet Service Providers Association, and thank him for appearing before the committee. We have met officials from the Department of Communications, Climate Action and Environment to discuss the broadband issue and will meet them again. As Members of the Oireachtas, we are not experts in the area and, therefore, we have taken the opportunity to seek expertise. People who work in the sector, including Mr. Matthews, have agreed to appear voluntarily before the committee to provide some information and background. We are present to listen and learn in order that when we revert to the Department, we will be better informed on the topic, and that is the purpose of the meeting. Mr. Matthews is present not as a witness to be cross-examined but rather to help the committee with its work.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to this committee. If they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to qualified privilege in respect of that evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as

to make him, her or it identifiable.

I invite Mr. Matthews to make his opening statement.

Mr. Marcus Matthews: Before I begin, I note an error on page 4 of my submission, where it is stated that it took Eircom five years to pass 300,000 properties. The statement is incorrect because it took Eircom two years to pass the said properties. The Regional Internet Service Providers Association, RISPA, apologises to the committee and Eircom for the error and asks that it be corrected for the record.

I will take the opening statement as read and highlight certain aspects, including the background, for the information of the committee because I wish to ensure that the committee receives answers to its advance questions. On behalf of the Regional Internet Service Providers Association, RISPA, I thank the committee for the invitation to appear before it and for the opportunity to contribute to its current examination of the NBP. RISPA recognises the important role that the committee serves in scrutinising all matters pertaining to public expenditure and appreciates the privileged opportunity to contribute to the committee's work regarding the NBP. It is the intent of RISPA to present information on selected aspects of the NBP, which collectively should offer the committee new insights with respect to the plans economic cost-effectiveness and general value for money.

RISPA is a trade protection association comprised of 13 Irish owned and operated internet service providers, ISPs, each of which provide reliable high-speed Internet connectivity to predominately rural premises throughout the regions of Ireland. Collectively, these companies provide a personalised customer service experience and are committed to expanding their network coverage and adding additional services like television, enhanced telephony and broadband at speeds of 100 Mbps and faster. RISPA aims to raise awareness of small Irish owned and operated ISPs and to address the issues they face in delivering high-speed reliable broadband to rural Ireland.

I will now refer to the briefing on the purpose of RISPA's submission and appearance before the committee. In the eight years since the NBP began, network technology has developed significantly. This technology has been successfully deployed in other jurisdictions to address connectivity gaps similar to that faced by Ireland. Given the much faster deployment timescales and better return on investment opportunity to Ireland that these technologies represent when compared to rolling out fibre in the same context, RISPA feels that it is in the best interests of Ireland and its economy that an up-to-date alternative to the fibre optic-centric, single wholesale operator model of the NBP be explored.

This concludes the introduction to, and brief background on, RISPA. I will now move to answer the questions the committee specifically asked all delegations to answer in their opening statements. On the question regarding RISPA's involvement with the NBP, we have not been involved with the plan because we are a newly formed trade protection association. Over the years, our members have attempted to engage in the consultation processes surrounding the NBP but have only ever received token responses to their submissions. Accordingly, no RISPA member is involved with the NBP.

On the question of RISPA's involvement or discontinued involvement in the plan, our position is that the fundamental design parameters of the NBP preclude fixed wireless solutions that utilise license-exempt radio spectrum and, because the procurement process did not identify any suitable spectrum to be set aside for bidders wishing to submit a proposal which utilised

fixed wireless technology, no RISPA member nor any other small ISP was able to partake in the process.

Regarding the committee's questions about challenges to the NBP, it is RISPA's position that there are numerous administrative, bureaucratic, financial and operational challenges with the NBP in its currently proposed format, a number of which RISPA will examine during its presentation. In brief, the association's view is that the NBP's procurement process has failed to meet the standards required of such processes as set by the public spending code and that the NBP is a fundamentally out-of-date proposal due to more cost-effective technologies that have come to market over the past three years. It is, therefore, the association's opinion that, based upon the project management principle of continued business justification, which is a rudimentary risk control concept designed to prevent the funding of projects with poor prospects for return on investment, the NBP tender be cancelled and that a new 12-month evaluation on how to solve Ireland's connectivity gap, which incorporates both the lessons learned from the NBP and genuine effort to engage with ISPs via a public private partnership consultative approach, be started.

On communications with the Department in respect of the operation of the MANs, neither RISPA nor its members have had any such communications, not least because these networks are under a contract that renders any discussion mute.

Regarding the question of broadband provision and new technologies such as 5G, RISPA's position is that such provisioning efforts are progressing at an unacceptably slow pace compared to the needs of Irish citizens and the wider economy. It is the association's opinion that the approach being taken by the Government, the Department and ComReg is ill-advised and could be greatly improved by borrowing lessons learned from other jurisdictions with similar connectivity gaps. RISPA's position regarding 5G technology specifically is that its inherent design makes it fundamentally unsuited to the needs of rural Ireland. The association will give precise details during its presentation to factually explain why 5G technology cannot be a cost-effective solution for Ireland. RISPA's position on new technologies generally, when these technologies are applied correctly, is positive. However, it is RISPA's general assessment that 5G only offers benefits in high-density urban environments. In contrast, the advancements that have been made with fixed wireless technologies and their application to similar connectivity gaps makes them worthy of consideration as a possible solution for Ireland. In particular, the association believes that the latest generation of fixed wireless technologies, which came to market approximately three years ago, have the capability to deliver speeds of 100 Mbps or faster per subscriber connection. Given the low cost of these technologies and their potential to rapidly solve Ireland's connectivity gap in an economically sustainable way, the association will examine them in further detail during its presentation.

With respect to the potential use of MANs in respect of the NBP roll-out, RISPA has no direct comment since the contract governing the MANs would preclude them from being utilised in such a way. Nonetheless, RISPA does believe that the MANs could play a vital role in addressing Ireland's connectivity gap if they were subject to competitive wholesale pricing. In this regard, it is the association's opinion that the Department's decision not to run a tender process for the MANs, after BT Ireland gave the Department more than six months notification regarding its keen interest in competitively bidding for the contracts, was a grave misjudgement that has set Ireland's economy back 15 years. RISPA will offer information during its presentation to support this opinion regarding the decision not to tender the MANs contracts.

Finally, I refer to the committee's questions about the mapping of the MANs, private fibre

networks, and mobile black spots. On the mapping of MANs, we believe that they have been sufficiently mapped and that there is little to be gained by remapping them.

Regarding the mapping of private fibre networks, it is our opinion that it is an important exercise because it could help the Government to make informed funding decisions that can avoid situations where such networks are overbuilt, that is to say, avoiding the occurrence of double spending where no additional benefit results from the taxpayer's perspective. Consequently, RISPA believes that all private communications network operators, not just fibre operators, should be afforded a reasonable opportunity to respond to the mapping exercise and, in turn, that network operators should have an obligation to ensure that the data they supply is accurate so as to minimise the cost to the State. Interlinked with this viewpoint, RISPA believes any decision to provide funding for a network operator should not wrongly disadvantage an ISP who is delivering quality services in their locality.

RISPA's opinion regarding the mapping of mobile black spots is that the exercise is of limited value with respect to addressing Ireland's connectivity gap. Our position on this matter is due to the nature of mobile communications technologies being unsuitable for the provision of high-speed broadband in rural environments.

This concludes our opening statements and our answers to the questions which we were asked to address in advance. I yield to the Chairman to decide whether the committee would like me to present RISPA's submission or to move directly to questions on it, if all members have read it.

Chairman: I thank Mr. Matthews. We will move directly to Deputy Catherine Murphy, who may have some questions. I will follow her.

Deputy Catherine Murphy: On the make-up of Mr. Matthews's organisation, he has said that it is a trade protection association. In his written statement, he said that one of its objectives is to "work with wholesale providers of backhaul fibre-optic network capacity to achieve better pricing and terms of access for RISPA members." Would that have to be done individually? There are issues in respect of cartel activity and so on. Will Mr. Matthews explain how RISPA's structure is an impediment or advantage in that regard?

Mr. Marcus Matthews: The Deputy is correct. Currently all regional ISPs have to deal with wholesale backhaul providers individually, which can be quite a difficult process. It can be incredibly time-consuming, which is a burden for small companies with working directors and so on. The main issue facing regional ISPs is the disparity in the costs of getting backhaul capacity. A massive dimension of the problem of Ireland's connectivity gap is the lack of backhaul capacity to sites from which regional ISPs connect their customers. The absence of regulated pricing is also a problem.

Deputy Catherine Murphy: Where they do exist.

Mr. Marcus Matthews: Yes, where they do exist. Regulated pricing in general is an issue, irrespective of whether there is site access. Even if no fibre is running into a site, regional ISPs have to use microwave links, which are point-to-point fixed wireless high-capacity links, and daisy-chain them to bring the signal to a point where there is fibre. In each site there is an annual fee to pay for each of the links and the cost of that can add up quite quickly. The costs can spiral which means the money is not there to reinvest in order to serve more customers.

Deputy Catherine Murphy: What is the geographical spread of regional ISPs?

Mr. Marcus Matthews: It is across the whole country. We are relatively new and more members will join as time goes on but there are approximately 40 regional ISPs throughout the country.

Deputy Catherine Murphy: What component of the network do they serve? What are the numbers?

Mr. Marcus Matthews: The NBP procurement literature estimates that 125,000 homes are covered by regional ISPs. That is in the intervention area of the proposed 540,000 homes.

Chairman: This is not using fixed wireless technologies.

Mr. Marcus Matthews: It is a mixture. It is predominantly fixed wireless technology

Deputy Kate O'Connell: What percentage of the estimated 125,000 are connected with high-speed fibre?

Mr. Marcus Matthews: I cannot give the Deputy the answer to that but the estimate is that the majority are connected via fixed wireless technology.

Deputy Catherine Murphy: Would it be around 51% or nearer to 70%.

Mr. Marcus Matthews: It is higher than 51%.

Chairman: Can Mr. Matthews explain what fixed wireless technology is? Wireless means “no wire” but Mr. Matthews then says that it is fixed.

Mr. Marcus Matthews: Fixed wireless technology is designed to be used in a fixed context. It involves static connections in buildings and premises that do not move. The connection does not move from base station to base station.

Chairman: In other words, it is a building.

Mr. Marcus Matthews: It is a building. It is designed to connect homes and businesses in areas where it is not economically viable to bring in fibre.

Chairman: Is it like mobile phones?

Mr. Marcus Matthews: This is where the confusion occurs. Mobile communications technology such as 4G, 5G and LTE is on nomadic wireless technology, the principal design of which is to support devices that move between sites, not to connect buildings. The difference is important because the overall performance from mobile communications technology is not as good in a fixed scenario. Fixed wireless is purposely designed to perform in a static context. The difference is one of nuance but it makes a world of difference. Fixed wireless technology has a committed information rate, which is a minimum speed that each connection is guaranteed to get for a download or an upload, irrespective of the time of day, how many users are on, what they are doing or how much they are downloading.

Chairman: Is it mainly for business, rather than domestic customers? What is the breakdown?

Mr. Marcus Matthews: It is not mainly for business - it is very much for both. Businesses in rural Ireland need a reliable connection and reliability is more important than speed for any business. I can give members some statistics for what the rolling 30-day peak requirements

are. These days, many businesses in rural Ireland work remotely and from home. Those businesses require a reliable connection with a suitable amount of upload capacity, which copper cannot provide as its maximum speed, such as for ADSL which is the typical specification for rural settings, is limited to approximately 3.5 Mbps and will continuously drop. In such cases, employees constantly drop out and productivity is lost. This is why many businesses, which require reliability, become customers of regional ISPs. Regional ISPs use fixed wireless technology because of its inherent design for fixed connections and because it can give businesses a committed information rate, which will be the minimum amount of upload and download they require. The connection almost never drops and it is incredibly rare to lose connectivity. I have had a fixed wireless connection for over a year and it has never lost connectivity.

Deputy Catherine Murphy: I am trying to understand this from the perspective of a layperson. There has been a lot of talk of 5G being an alternative, particularly in rural Ireland in the intervention area, but Mr. Matthews says it is more suitable to an urban area. I understand that 5G is worlds apart from fixed fibre but why is it more suitable in urban than rural areas?

Mr. Marcus Matthews: I will give a layman's description of 5G. The current 5G involves a software upgrade to 4G hardware, which is why the technical term is 5G New Radio. New radio code has been added to the software - it is not new hardware. This is part of the reason industry leaders like the deputy chairman of Huawei have said that consumers will experience no material difference between 5G and 4G. The chief technology officer of T-Mobile USA gave a presentation to the Federal Communications Commission and explained that it had only achieved a 19% performance increase with low-band spectrum, which is the band that relates to rural connectivity. It is difficult to see how 5G can significantly help address Ireland's connectivity gap.

Deputy Catherine Murphy: Does the question of how flat the land is have a bearing on it?

Mr. Marcus Matthews: No. It is to do with how the signal propagates. Because 5G is more orientated towards high-density urban settings and short distances, it uses mid-band spectrum which does not travel as well. In rural settings, there are issues with trees blocking the signal, especially in summer when the leaves grow back. A rural setting needs low-band spectrum to travel and make connections that are not based on a line of sight. The amount of spectrum that has been assigned to mobile communications operators proves that the technology is not an efficient use of the spectrum blocks. If regional ISPs had some of the low-band spectrum and some of the mid-band spectrum, they could solve the problem. They have the coverage with their signal but because they operate in highly interfered, licence exempt bands, the spectrum they have to use cannot reach the customers for their service. They cannot therefore deliver the download and upload speeds people need. That is the technical explanation.

Deputy Catherine Murphy: I can see that and it is helpful. I will move on to the area of mapping. We already know where the MANs are and accept that point, which is a fair one. This is an area that I am concerned about as well. There is other fibre available from the ESB, Bord Gáis, Esat and whoever else. There is more there than we know and it is not mapped. We are talking about double spending. I am big into saving money if we do not have to spend it and getting a good outcome at the same time. Has Mr. Matthews any idea how much additional capacity is available that is under-used that could be leveraged, or is this just a mapping exercise that needs to be done?

Mr. Marcus Matthews: We do not have an idea. Regional Internet service providers, ISPs, do not build those networks. Their interactions with them are purely based on requesting quota-

tions for a specific circuit to connect customers in a locality to get connected to the Internet, so to speak. They are not privy to that kind of information.

What the Deputy is getting at is a point that needs to be understood. We have so much capacity in the country, and regional ISPs cannot get access to that at a regulated price. I discuss regulated pricing in the submission and give the cost ranges that regional ISPs are subjected to as compared to a regulated price. They are more than 1000% more than a regulated price. It is completely mad. Part of the smart way to solve Ireland's connectivity gap is to put regulated pricing in a way that regional ISPs can access. Even if one looks at Eircom's regulated price, in theory it is there, but getting access to that by regional ISPs-----

Deputy Catherine Murphy: Is that for Commission for Communications Regulation, ComReg?

Mr. Marcus Matthews: ComReg issued the regulated price. No regional ISP that Regional Internet Service Providers Association, RISPA, knows of has ever got access to that regulated price.

Deputy Catherine Murphy: Okay.

Mr. Marcus Matthews: I believe the technicality is that if what is called sub-ducting can be provided, it does not have an obligation to sell at the regulated price. I am open to correction on this but I am fairly sure that is the loophole.

Deputy Kate O'Connell: If I can get my head straight on this, what Mr. Matthews is offering is not fibre, it is wireless.

Mr. Marcus Matthews: Fixed wireless.

Deputy Kate O'Connell: I am not sure if Mr. Matthews was looking at proceedings earlier, but we were looking at the best way of providing this infrastructure that can be updated in the future. I mean this in the best possible way, that what he is selling is not what we want. We want a fibre for high-speed fibre network that is sustainable that is the same in Tullow, Tullamore, Tyrellspass and Terenure. That is what we are trying to achieve here. With all due respect, this product is not the product, to my mind, that we want.

I know from reading all of the documentation, that at the end of the day when this job is done, there will always be a certain percentage where there will be issues and we may have to use a product like Mr. Matthews product to complete the task.

We have had a series of people in to the committee offering different products and it has to be made very clear that Mr. Matthews' product is not comparable to, perhaps, the product that BT was speaking about before the break.

Some 125,000 homes would be connected with the regional Internet, that is fixed wireless technology, to a building not to an area, that building being a home or a business. Mr. Matthews mentioned about it is not economically viable for fibre and I understand where he is coming from on that. I understand his comment on the nomadic 4G and 5G.

On reliability of connection, and uploads and downloads, I am thinking of businesses, where the system gets clogged. If everybody in the company is downloading a massive file and ten people are on their break and looking at Netflix, such a system is not fit for purpose when it comes to-----

Mr. Marcus Matthews: Does the Deputy mean fixed?

Deputy Kate O’Connell: Fit, as in the fixed wireless technology. I am assuming that the wireless as in 4G, 5G-----

Mr. Marcus Matthews: Mobile communications.

Deputy Kate O’Connell: -----is subject to capacity issues.

Mr. Marcus Matthews: No.

Deputy Kate O’Connell: Is Mr. Matthews saying there is no capacity issue? My apologies, Chairman, but I am trying to understand this. If Mr. Matthews is providing this service in Tyrellspass to a home, or to a business with 50 people working in it who are downloading and uploading massive files and are working 24 hour shifts and have access to Netflix, is he telling me that there are no quality issues with downloads with fixed wireless technology?

Mr. Marcus Matthews: No, because as explained, the key fundamental hardware design feature of fixed wireless technology is that it supports what is called a committed information rate. Mobile communications technology does not.

Deputy Kate O’Connell: Mobile technology does what, sorry?

Mr. Marcus Matthews: Mobile technology, as in Long-Term Evolution, LTE, 4G, or 5G, does not have that feature. There is no way that one can guarantee network performance because it is not designed for fixed scenarios where one has a baseline.

Deputy Kate O’Connell: One cannot guarantee network performance with 4G or 5G because it is nomadic.

Mr. Marcus Matthews: With fixed wireless one can. That is a fundamental hardware design feature.

Deputy Kate O’Connell: Unless there is a tree in the way.

Mr. Marcus Matthews: That depends on the spectrum that has been allocated. Most other jurisdictions understand and have long been utilising fixed wireless, and allocate spectrum accordingly.

Deputy Kate O’Connell: Mr. Matthews has mentioned “most other jurisdictions”. Give me an example of another jurisdiction that has used this.

Mr. Marcus Matthews: I would have to come back to the Deputy with a list of-----

Deputy Kate O’Connell: If it is “most”, Mr. Matthews must know a few of them.

Mr. Marcus Matthews: I have not looked it up in terms of the protected licensed spectrum.

Deputy Kate O’Connell: With all due respect, Mr. Matthews is at an Oireachtas committee and has made a claim, and I and my colleagues are trying to get the best product for the people of Ireland, and we do not want to be sold a pup. He has just made a claim-----

Mr. Marcus Matthews: I will give the Deputy an example-----

Deputy Kate O’Connell: Excuse me. He has just made a claim that he has not backed up,

and we are at an Oireachtas committee. If he wants to row back on what he said or provide me with information, it would be helpful.

Mr. Marcus Matthews: What I can say is, for example, the United Nations published a tender which proceeded to a figure of €28.2 million which came into effect in April 2018 to connect over 40 different mission-critical field missions in multiple jurisdictions around the world. It required a minimum of 100 Mb to 1 Gb per second to all of its field mission sites, buildings, sub-buildings-----

Deputy Kate O'Connell: I get that.

Mr. Marcus Matthews: -----in multiple different countries.

Deputy Kate O'Connell: I am asking about another country, with landscape, population density etc. We want a product that is fit for Ireland.

Mr. Marcus Matthews: Of other countries that are doing this, Scotland is a perfect example.

Deputy Kate O'Connell: Scotland is a good example for me.

Mr. Marcus Matthews: Scotland is a country which did a fibre-optic roll out very similar to the national broadband plan, NBP, as to its objectives. It connected approximately 920,000 properties for £1 billion sterling.

Deputy Kate O'Connell: When?

Mr. Marcus Matthews: That was the Digital Scotland Superfast Broadband, DSSB, plan which is recently drawing to a close. This happened over the last couple of years.

Deputy Kate O'Connell: Of the 920,000 properties, is that the amount of properties in Scotland?

Mr. Marcus Matthews: No, that was the number of properties connected.

Deputy Kate O'Connell: What is their total basket of properties?

Mr. Marcus Matthews: I do not know but I know that 2 million properties were connected in fibre over the same period that the DSSB programme ran. The balance of the properties, of 1 million odd were connected because they were commercially viable. No state intervention of any nature was required for those. That project with those figures achieved a per-connected property cost of €1,250 approximately.

As to the approach it took to fibre - I will loop back around to the Deputy's point as to where fixed wireless comes in - on their figures as compared to what the NBP proposal is, our proposal would work out at approximately 23 times more expensive, based on a per property connection basis. In Scotland's case, the DSSB was to bring fibre to as many properties as possible - achieving 95%. For the remaining 5%, it launched an initiative called Reaching 100. That programme aims to bring fibre to about 150,000 homes or to get as close as possible to 100%.

Deputy Kate O'Connell: Does 5% equate to 150,000 homes?

Mr. Marcus Matthews: It is in or around that. As part of that Reaching 100 programme in its procurement process or evaluation process for that initiative, Scotland realised it would not

be economically viable to bring fibre to all those homes. Therefore before even launching that programme, it had already begun work on a consumer subvention programme, similar to what the respected Irish economist, Colm McCarthy, noted in his 2015 report and provided as part of the submission. The NBP probably should have looked at that. The intervention that Scotland is looking at is to give grant vouchers to the consumers in a technology agnostic way, so they can decide themselves whether it is going to be fixed wireless or fibre. They work with the ISPs to figure out what is viable.

Deputy Kate O'Connell: For example, consumers in Scotland might get a voucher for £100 and they can buy it off the fixed wireless or they can pay for fibre, as the lady from Eir who spoke before lunch said, bringing the cable down the road. I think the figure was 30,000. Consumers get the voucher and can do with it what they want.

Mr. Marcus Matthews: They work with the ISPs themselves. The key difference in terms of why the scope of that initiative is so well thought through - the parameters have not been defined - is that it is a quality-of-service intervention. The ISPs will not get the voucher if they do not deliver the minimum amount of download and upload, response time and connection. Irrespective of the technology, the quality of service is the same. This is the type of intervention that would have made the most sense here in Ireland and would have allowed many of the regional ISPs to ultimately connect most of the customers.

Deputy Kate O'Connell: I would argue that we would be looking to RISPA when we get to the 5% or 7% that we will have difficulties with.

Mr. Marcus Matthews: I will loop back to how the Deputy started the questioning, which was that fixed wireless is an unfit technology in terms of looking forward into the future. I put in an appendix - I was interested myself - just to see which technologies were actually experiencing the most research and development. I believe it is appendix A. I put in a growth trend analysis which shows that wireless specifications which underpin fixed wireless technology are experiencing a growth trend, I believe, in excess of 9,000%, compared with fibre which is too small on the graph - I think it says less than 700% by comparison. Also if one looks at appendix A-----

Deputy Kate O'Connell: That is just showing there is more growth in the market for one product than the other product. It does not necessarily mean it is better.

Mr. Marcus Matthews: No. It is showing where the commercial research and development is going, where companies are actually investing shareholders' money into developing technology for market application. They would not be investing money at that rate if fixed wireless was not a technology that was exploding.

Deputy Kate O'Connell: With all due respect, we are here to provide Internet to the people of Ireland. Commercial entities are there-----

Mr. Marcus Matthews: The second-----

Deputy Kate O'Connell: Sorry. Commercial entities do not have the same remit as members of this committee and Members of the Oireachtas have.

Mr. Marcus Matthews: In respect of what Ireland's connectivity needs are, we need a product that is future proofed. The NBP starts off with a minimum of 30 Mbps download; it scales to 100 Mbps. So fixed wireless already delivers 100 Mbps-plus at the moment. That is

before any of these current-----

Deputy Kate O'Connell: It is before the leaves grow on the tree or because it is bad weather.

Mr. Marcus Matthews: Right, but that is bad public policy. It is not the fault of the technology.

Deputy Kate O'Connell: However, we are in Ireland where there are trees with leaves on them and windy weather. I am not saying anything about RISPA's product. I am just trying to summarise. My understanding is that the broadband plan is for high-speed fibre throughout the country. There is an acknowledgment that it will not be possible to provide that everywhere. There will be a balance left and that is where we bring in an organisation such as RISPA. Mr. Matthews is arguing today that RISPA's product is currently equally good and therefore the idea of having fixed is not necessarily the best idea. That is what I am taking from what he is saying. However, all the evidence shows that in terms of laying down an infrastructure which can be upgraded and making it is as easy to set up a business in Tullow as in Terenure, from a planning and policy point of view the best infrastructure without doubt is connected with fibre optic cable.

Mr. Marcus Matthews: Well, no.

Deputy Kate O'Connell: In terms of not having any capacity issue in the system, not having weather interference, not having spring and leaves on trees interference, there are significant issues with fixed wireless technology that are not with high-speed fibre optic cable.

Mr. Marcus Matthews: Right, but when the Deputy is discussing that she is not taking into consideration the great leaps and bounds that public institutions in the country have taken to make the roll-out of fibre viable. This committee's remit is ultimately the economic effectiveness. To say that it makes sense to roll out a project that is roughly 23 times more expensive than a similar project with an identical connectivity gap in very similar geographical topography is questionable.

Deputy Kate O'Connell: What was the identical gap Mr. Matthews referred to?

Mr. Marcus Matthews: Scotland's connectivity gap.

Deputy Kate O'Connell: Yes.

Mr. Marcus Matthews: It has the very same geography and the very same issues with leaves on the trees and everything else. There are many properties in the proposed intervention area that will ultimately be connected by fibre. The question, however, is what are the properties that it is not economically viable to connect and how should we connect them. There are many regional ISPs that lay their own fibre and connect homes with their own fibre rings. They are not limited to fixed wireless technology and they also do copper. They approach a prospective customer with the best solution for their needs, having identified the maximum speed, efficiency and viability they can deliver via whatever specification it is.

It also comes down to a cost issue, but also then the requirements. In part the Deputy is saying we need to lay fibre because we need it for the demands going forward in the future.

Deputy Kate O'Connell: That is what the evidence shows, rather than what I am saying. I am not an expert on this; I have just read all the information.

Mr. Marcus Matthews: What I did was I actually got into the numbers in terms of what-----

Deputy Kate O'Connell: I got into the numbers too. Mr. Matthews should tell me about the numbers.

Mr. Marcus Matthews: A 4K ultra high-definition live stream, such as Netflix, requires a stable download speed of 25 Mbps. Normal high-definition live stream requires 5 Mbps. If these figures are considered in the context of an average Irish family of two parents and two children, and it is assumed that all are watching on separate screens at the same time, the total peak download requirement is 40 Mbps.

RISPA members who supply fibre optic broadband connections of at least 100 Mbps report that the 30-day rolling average for peak-time download demand, which is from 5 p.m. to 10 p.m., is just 3 Mbps for 95% of customers on fibre optic connections. If this figure is representative of all Irish households - I believe it would be - it means that 95% of residential Internet connections are already being oversupplied by 97% in respect of the capacity of their 100 Mbps-plus fibre optic connections.

Deputy Kate O'Connell: I understand.

Mr. Marcus Matthews: The statistics for businesses are different and reveal more of the needs that businesses require. Professional services oriented businesses typically require 0.5 Mbps for each employee as well as another 5 Mbps for live hosting of web conferences. This means that the vast majority of Irish businesses would function extremely well with a highly reliable Internet connection of 30 Mbps downstream, which is the minimum entry point of the NBP.

RISPA asked its members to present examples of the throughput needs of their business customers. Two cases stood out. These cases had high demand or intensive applications, not necessarily just a professional services business. The first was an engineering business that had ten employees. It had a 15 Mbps symmetric Internet connection, meaning it was the same speed in both directions. The second case was a videographer who specialised in filming weddings in high definition and ultra-high definition, who had a 100 Mbps symmetric connection to support intensive uploading. In both of these instances, the needs of each business was met comfortably by the throughput of the Internet connection supplied. The question is why we are proposing to build this State-supported fibre optic network.

Deputy Kate O'Connell: That is why we are here.

Mr. Marcus Matthews: We are here to meet the demands - to an economical price point and value point.

Deputy Kate O'Connell: That is arguable. I get what Mr. Matthews is saying.

Mr. Marcus Matthews: We are not here to build an entertainment network for people who just want to watch Netflix for three hours a day.

Deputy Kate O'Connell: I do not think anybody suggested that.

Mr. Marcus Matthews: The committee needs to be mindful of the statistics.

Deputy Kate O'Connell: I have heard what Mr. Matthews said and I am clear on where he stands and what product he is selling.

Chairman: Is getting more spectrum the greatest issue facing Mr. Matthews' organisation?

Mr. Marcus Matthews: It is one of them.

Chairman: What is the holdup? Is the spectrum gone or is it being held for others? What is involved?

Mr. Marcus Matthews: The Communications Regulation Act 2002 allows the Minister for Communications, Climate Action and Environment to direct ComReg to set aside spectrum.

Chairman: I know that is a process. Has RISPA applied for more spectrum to use?

Mr. Marcus Matthews: We have made applications and requests for years, with appearances in consultation processes, to no avail.

Chairman: What is the rationale for not providing the additional spectrum? Mr. Matthews must have an idea. It is more than just a blank wall.

Mr. Marcus Matthews: It would seem to be a bias towards a particular approach to the market.

Chairman: To the fibre?

Mr. Marcus Matthews: To the market in general and selling spectrum to the highest bidder.

Chairman: Has RISPA submitted a bid for more spectrum?

Mr. Marcus Matthews: Regional ISPs cannot afford to bid.

Chairman: It is a financial issue then.

Mr. Marcus Matthews: It is the way that the State has chosen to utilise spectrum.

Chairman: Are there large fees when people get spectrum?

Mr. Marcus Matthews: The last major 3.5 GHz spectrum auction was for €68 million up front and approximately €20 million in the following year.

Chairman: Some €68 million for spectrum? What would the total value of the spectrum have been? Should we ask the regulator? I cannot expect Mr. Matthews to know. Where do I go to find out?

Mr. Marcus Matthews: From the committee's perspective, the question to ask is what the most economical application of the spectrum is. Is it to take €100 million for it or is it to set it aside for more than 40 companies that are generating in excess of €500,000 in rural regional areas every year to provide a service that can cause a multiplication of economic value?

Chairman: In appendix C of Mr. Matthews' submission, practically all the spectrum is assigned to the major mobile phone companies.

Mr. Marcus Matthews: Almost all spectrum in Ireland goes to mobile phones.

Chairman: When Mr. Matthews said major companies, I wondered if the major pharmaceutical companies or others were getting their own spectrum.

Mr. Marcus Matthews: It is only for operators of the spectrum itself.

Chairman: Of the mobile network. Have any on the fixed wireless network got spectrum?

Mr. Marcus Matthews: They cannot afford to bid.

Chairman: So there are not at the moment.

Mr. Marcus Matthews: They cannot legally broadcast on that spectrum. It is protected.

Chairman: What spectrum does RISPA use?

Mr. Marcus Matthews: Licence-exempt.

Chairman: What range is it?

Mr. Marcus Matthews: There is not a lot of it. They are very congested spectrum bands.

Chairman: Who uses it other than RISPA?

Mr. Marcus Matthews: A lot of it is fixed wireless but it could also include home wireless, external Wi-Fi points and a significant number of different applications and technologies. The 700 MHz band, which is a low spectrum band, is coming up for consideration, not just in Ireland but in several other countries. I believe ComReg is part of a group from different countries, which is looking at this and how to reassign it. Almost any household name, such as Microsoft or Google, or any company interested in deepening and advancing connectivity globally to parts of the world that do not have it, advocate that the 700 MHz band should be allocated to fixed wireless technology. It is the last opportunity in the low-band spectrum for fixed wireless to get an opportunity to deliver services. This is a band for which there needs to be an econometric assessment. Does it make sense to get a couple of million up euro front? The committee must be aware that the economic figures used in the procurement process for the NBP to justify the approach for fixed wireless providers are from 1990. It is that far out of date because official bodies have not gone to get the information from regional ISPs and crunched the numbers. We are basing these significant economic decisions on data that are ridiculously out of date.

Chairman: We will take that up with the Department because it will be back before us. A reason that we have a variety of groups before us is to give us information that we would not have had before we started this meeting. I thank Mr. Matthews for attending. We have two other groups to meet this afternoon. We are learning. It is complicated but that is what we are here for.

Mr. Marcus Matthews: I very much appreciate the opportunity to present the information.

Chairman: I thank Mr. Matthews for all the documentation that was submitted to us.

Sitting suspended at 3.17 p.m. and resumed at 3.19 p.m.

Imagine Communications Group

Chairman: I welcome the witnesses from Imagine Communications Group. Mr. Sean Bolger is the executive chairman and he is accompanied by Mr. Derek Kickham, chief operating

officer.

I remind everybody to turn off their mobile phones or to switch them to airplane mode, at least, because putting them on silent can still interfere with recording systems. I thank the witnesses for attending.

We have met the Department to discuss the national broadband plan, NBP, before. We have discussed the metropolitan area networks, MANs. We are elected Members of Dáil Éireann. We do not have any technical knowledge in this area, so we have asked to meet a number of people in this industry so we can listen and learn. The witnesses are not under investigation here. They are here voluntarily and we appreciate that. It is hoped we will add to our learning during the course of the day, so that when we meet the Department again, we will have a lot more information than the first time we met its representatives.

I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given, and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

Mr. Sean Bolger: I thank the committee for the invitation. We are here to help. We have tried to address the questions put. Our submission was in direct response to the queries raised to be as helpful as possible. It is given in that context. We intend to identify risks and issues concerning the national broadband plan.

I would like to begin with some clarifications. We are bringing something completely different and new to the market. We have taken time to provide some additional information. It has been said that no fixed wireless operator has spectrum. To clarify, Imagine Communications Group secured a large amount of spectrum in the previous auction.

Chairman: When was that?

Mr. Sean Bolger: It was awarded in June 2017.

Chairman: I thank Mr. Bolger.

Mr. Sean Bolger: That is part of the reason we are here. Since 1993, Imagine has been an innovator and a strategic investor in the Irish and European fixed wireless and mobile telecoms markets. Internationally, Imagine is an industry-recognised and credited innovator in the use of 4G long-term evolution, LTE, advanced and 5G fixed broadband. That is a very important clarification. In 2016, we deployed a trial network of 54 sites providing high-speed broadband with speeds up to 70 Mbps to 20,000 customers across regional and rural areas of Ireland. This was the pilot trial of the commercial roll-out. In July 2017, we secured 5G spectrum for the provision of fixed broadband services in ComReg's 3.6 GHz spectrum licence auction. In April 2018, we announced a strategic partnership with Brookfield, which is the world's second largest

asset management fund, with more than €310 billion of assets under active management, and the funding of the roll-out of high-speed broadband infrastructure across Ireland.

On 13 February 2019, we formally launched our plans to roll out a national 5G-ready fixed broadband network with the priority to deliver high-speed broadband to the underserved areas of regional and rural Ireland. With an initial project investment of more than €300 million, the initial roll-out will see 155 sites live by June 2019 and 325 sites live by June 2020. That is a rough estimate. Commercially, our objective is to be first to deliver 150 Mbps broadband to the majority of the 1.6 million homes and businesses in our licensed coverage area. Our current roll-out plans will initially cover 400,000 of the 540,000 premises where there is currently no planned commercial alternative. That is about 75% of that cohort. It would surpass this with regard to fibre.

It is important to make clear that while we have raised concerns about the NBP intervention strategy and process, Imagine continues to support fully the important objectives of the NBP. This is clearly demonstrated by our significant commercial investment in the market which will help deliver the NBP objectives, de-risk its execution and, most importantly, ensure the delivery of high-speed broadband to underserved rural areas as quickly as possible.

Internationally, with the inevitable cost and significant time needed to deliver services, major companies such as Google are abandoning previously planned fibre to the home, FTTH, roll-outs in favour of alternative wireless solutions that cost less and are faster to deploy. With the focus of current commercial investment and the intervention based solely on FTTH, users could be waiting for decent broadband for a great many years to come, not just in rural areas but throughout the country. Currently our 5G-ready technology can deliver 300 Mbps services, which far exceeds user demand. An industry roadmap shows service speeds will exceed 10 Gbps. In fact, the most recent numbers have increased to 20 Gbps. 5G fixed broadband has become a mainstream alternative to FTTH for the delivery of future-proofed next-generation high-speed broadband to homes and businesses. It is currently the primary business model and driver of commercial 5G infrastructure investment across the world.

We believe that in addition to delivering services in underserved areas, our investment will stimulate competition and investment across the market. However our primary concern is that the current intervention strategy, unless revised, will delay the roll-out of critical backhaul fibre infrastructure on a national basis. We have openly engaged with key stakeholders, Departments and elected representatives to outline our commercial plans and our view that the objectives of the NBP can best be achieved by a phased approach which prioritises State-subsidised investment in extending fibre backbone infrastructure into every region in Ireland. That is the alternative to extending to every home as work goes along. This approach would mean getting fibre to every part of Ireland first.

This approach would ensure the availability of critical fibre backbone infrastructure to support hospitals, industry and business on a national basis as quickly as possible while at the same time enabling commercial investment in demand driven “last-mile” connectivity, potentially using multiple access technologies, including FTTH and 5G fixed wireless. This would provide the essential core infrastructure platform commercial investment needs to be able to extend services economically to customers in underserved areas now and in the future. It is not necessary for the State to replace commercial investment completely as appears to be the case in the current NBP approach.

I will now address our participation in the national broadband plan process. Imagine was

an active participant in the high-speed broadband task force. The initial NBP goal was to provide next generation access, NGA, high-speed broadband services using different technologies as provided for in the state aid guidelines, SAG. This would ensure the delivery of 30 Mbps broadband to 100% of the population and 100 Mbps to 50% of the population by 2020. In 2014 the Government approved a more ambitious plan with a focus on long-term future-proofed infrastructure with additional fibre backhaul, a key component underpinning the technology used to deliver the service to customers in rural areas.

I will now refer to the mapping process. As required by the SAG and to avoid market distortion, the purpose of the mapping process is to assess existing and planned commercial deployments to identify market failure and minimise unnecessary intervention. At the end of 2015 our plans for the roll-out of high-speed broadband were rejected by the Department and therefore not included in the NBP maps which defined the proposed intervention area. Since then many of the perceived risks that led to our exclusion, such as the risk that Imagine would fail to secure spectrum in the ComReg auction and concerns about the availability of LTE advanced wireless equipment, evolution of the technology and market demand, have been shown to be incorrect. The revised NBP strategy, including the 2020 broadband map published at the end of December 2015, effectively embedded FTTH as the preferred intervention solution. Fibre to every home, which had never been done anywhere ever before and has never been done since, subsequently became the mantra of the NBP.

I will now outline our involvement in the NBP intervention process. The project information memorandum, PIM, for the NBP set out very specific and detailed pre-qualification criteria for the financial, technical, building, operation and management work. These included a requirement that in the preceding two years, consortia bid members had participated in similar relevant large-scale infrastructure projects with a value in excess of €300 million. Together with Macquarie Group, one of the largest infrastructure funds in the world with an impeccable and highly successful track record in Government infrastructure projects and public private partnerships in Ireland, we assembled a consortium of blue-chip international partners which exceeded all of the requirements of the pre-qualification criteria. This consortium included Macquarie Group, Black and Veatch, which is one of the largest telecommunications infrastructure contractors in the US, and Huawei, the largest communications technology company in the world.

Due to an administrative technicality pertaining to the ultimate global holding company ownership structure of both Black and Veatch and Huawei, both were deemed ineligible to be a bidder member and the economic, financial, technical and professional capability of these entities was excluded from the assessment process. Therefore, their contribution to the consortium was not considered in the evaluation of our pre-qualification questionnaire, PQQ, which then, unsurprisingly, failed to meet the stringent pre-qualification criteria. Given their international experience, the bid members were very surprised and disappointed with their exclusion, and while an appeal was considered, this was not pursued as the subsequent immediate announcement of a gap-funded model, which favours existing infrastructure operators, in preference to a concession model consolidated the apparent preference for a full fibre to the premises solution, which our consortium did not consider to be financially viable.

We were asked by the committee to address the administrative risks to the NBP and there are a number of existential threats to the NBP process. Given that the pre-qualification process was to ensure the financial, technical and operational capability to complete the roll-out, the significant changes in the last remaining consortium's membership raises concerns. Does the remaining bid member meet the PQQ criteria, and if not, what are the consequences for the integrity

of the process and the outcome? In circumstances where the two bidders with experience in the roll-out of fibre to the home, FTTH, networks have pulled out of the process, apparently on the basis that they could not make a commercial business case, the inevitable conclusion is that either there is a significant risk to the successful roll-out of the network or there will be a significant increase in the final cost, or both. With the sole remaining bidder determining the only proposed technical solution, without the required spectrum and absent any competitive tension, there is a risk that the process can no longer deliver its objective while effectively excluding the benefit of available, alternative lower-cost last-mile solutions.

With the current intervention based on an end-to-end FTTH solution, in the absence of a phased approach which prioritises fibre backhaul infrastructure, there is a risk that while some areas will eventually benefit, other areas will be significantly delayed and will have to wait many years to get any service. With 5G essential to the future digital society and economy, and wireless mobile a part of that, the current FTTH approach can no longer of itself achieve the very objectives of the NBP, with the risk of further marginalising regional Ireland and rural communities. An inherent risk to the proposed FTTH focused NBP intervention is the requirement for and cost of access to incumbent poles and ducting infrastructure, resulting in avoidable delay and unnecessarily high costs to the State and taxpayers. There is a risk that unnecessary market intervention and cost could lead to difficulties with state aid approval. All these identified risks will need to be addressed by the Department and in any contract. This should happen to ensure the NBP is successful.

We have had no communications with the Department on the operation of metropolitan area networks, MANs. However, this infrastructure is underutilised and could be a useful component of a fibre backhaul network across Ireland. We are a major user of fibre backhaul so today's news of a reduction in price is welcome. It will be a significant factor in bringing down the cost of fibre backhaul for our network. With regard to the mapping of MANs, private fibre networks and mobile blackspots, in line with state aid guidelines, all existing and planned commercial investment should be taken into consideration prior to any state intervention into a commercial market. The mapping of mobile blackspots is a different issue and should be looked at separately from the NBP. In the context of the NBP, 5G mobile will have a significant impact on the future digital economy, and the availability of fibre backhaul infrastructure in the regions is also critical to the development of 5G mobile services in those areas.

On behalf of Imagine, I thank the committee for providing us with the opportunity to outline our views and I welcome any questions it may have.

Chairman: Mr. Bolger used the phrase “fibre backhaul infrastructure”, and although he knows what it is, what is it in layman's terms?

Mr. Sean Bolger: It is important to clarify the terms as there is certain amount of confusion and misconception in this area. All high-speed networks use fibre backhaul infrastructure. All large modern telecommunications and high-speed networks are built on backhaul structure comprised of fibre.

Chairman: What does that mean? What is backhaul?

Mr. Sean Bolger: The committee will have heard about fibre to the cabinet, fibre to the home and we will hear about 5G broadband today. They all connect to a national fibre network. What differentiates them is how they connect from that network to homes and businesses. It is important from our perspective to explain that fibre has always been in the network, and be-

cause of the heightened demands for speed and capacity, it is now about bringing fibre closer to customers. There are basically four ways to do it and most people probably confuse them. One uses cable, which is what Virgin Media does. Another method is fibre to the cabinet, where fibre is brought to a local cabinet in a town or village and then copper is used to bring the service to a home. The next method brings fibre past the cabinet into every single home, thus replacing the need for copper.

Chairman: That is what is contained in the national broadband plan.

Mr. Sean Bolger: It is the technology that was chosen for the national broadband plan. 5G fixed broadband takes fibre to a mast and from that mast it uses wireless to connect to every home. It therefore saves the cost of having to bring fibre to every home.

Chairman: In other words, the last leg would be achieved by wireless technology.

Mr. Sean Bolger: Yes. It is referred to in the business as the last mile. The last mile differentiates the different solutions as such. LTE wireless has the capability of 100 Mbps and up to 300 Mbps today but at the time of tendering for the NBP, the issue was the future-proofing element of fibre to the home. The only way to achieve a future-proofed network was through fibre to the home, but with the announcement of 5G, there will be massive capacity that is also future-proofed. That capacity will be up to 20 Gbps per user. It is a very high-capacity solution that has fundamentally changed the industry. It is being used internationally and is a major driver of investment. It is an alternative to fibre to the home.

Chairman: With regard to the existing mast infrastructure, would additional infrastructure be required for rural areas where there are still even mobile phone blackspots? How many people would not be able to get the service?

Mr. Sean Bolger: I am glad the Chairman asked the question. There is another understandable misconception that when people speak of 2G, 3G, 4G and 5G, it is always about mobile technology. We are talking about 5G mobile services powering driverless cars, the future digital economy, the Internet of things, artificial intelligence, remote technologies and remote automation of farm machinery. To do this there would need to be an extensive additional build of masts because current masts do not have the coverage to support such services. That is as it relates to 5G mobile technology. 5G fixed technology is a completely different build and network. It is not built for what I have just described but specifically and totally to deliver high-speed broadband from fibre in the mast directly to premises. It does not require a massive additional build of masts because the technology is not like that used to connect to a small mobile phone, which will not function properly unless the user is near a mast or outside a building. 5G fixed broadband will put an outdoor antenna on a premises. It is being deployed around the world. In the United States, for example, Verizon, AT&T, Google Fiber and Sprint have all started to roll out 5G fixed broadband as an alternative to fibre to the home. That is because technology has advanced so much.

High-speed data cannot be delivered across a long distance with a mobile phone. If there are thousands of mobile phones using a service, the signal is variable. A fixed broadband network using 5G limits the number of people on every mast to guarantee that the service can be provided with high quality to those people. It does not need many extra masts because it can reach longer distances. In Canada, this distance has extended to 30 km but it depends on how we would like to build our network. In our network, approximately 13 km is the maximum distance we would allow, giving us a large range. This means distance can be covered much

faster. It is very important to note we are talking about two totally different technologies.

In relation to some of the challenges in rural areas, which other people mentioned, is it line of sight, for example? Yes, it is largely line of sight to get the kind of quality of a connection one wants but one is talking about new technologies. Without going off too far, beamforming is one, which basically directly focuses the signal. Things like trees or massive MIMO allow for the signal to be picked up from multiple locations. If one has a mast and a connection on a house, whatever is in between will block one. When one is building a national network, one is talking about multiple sites, so the signal can come from different directions and because it is also used in beamforming technology, it can direct the connection directly to one.

Deputy Kate O'Connell: Beamforming.

Mr. Sean Bolger: Beamforming, yes.

Deputy Kate O'Connell: Beam.

Mr. Sean Bolger: It sounds a little bit like "Star Wars". It is basically just directing the signal, so instead of it blasting out everywhere it basically-----

Deputy Kate O'Connell: It channels them.

Mr. Sean Bolger: Exactly, it channels them. Basically, when we build a network, we will not connect anybody on the network unless we get the quality of connection that we expect. The box that we have - the equipment that goes on the house - is like a large book basically.

Chairman: Is it the size of the screen in front of the witness?

Mr. Sean Bolger: It is size of the screen, yes. This has to be done professionally.

Chairman: Yes.

Mr. Sean Bolger: Where we have gained an international recognition is, basically, by developing this and optimising this technology for home broadband. Basically, that box connects. Others have talked about technologies and wireless. One cannot do this with unlicensed spectrum because it is too variable. One cannot do it with mobile because one is sharing this spectrum with everybody and people are on the move. One can only do this by fixed broadband. Today, one is talking about eight transmitters and eight receivers in one box that allow one to take signals from different locations. Many of those challenges that existed previously have been addressed.

Chairman: To receive this, everybody would have to have a cable to the house under the national plan or, under Mr. Bolger's plan, they would have to have one of these things on the gable end.

Mr. Sean Bolger: Absolutely, yes.

Chairman: I call Deputy Murphy.

Deputy Catherine Murphy: Mr. Bolger said in his opening statement that the revised national programme "strategy including the Broadband Map 2020 published at the end of December 2015, effectively embedded FTTH as the preferred intervention solution." He said that has never been done anywhere and that there is a mixture of technologies. We all want everybody to have access. Not everyone will want it-----

Mr. Sean Bolger: Yes.

Deputy Catherine Murphy: -----but we should at least to make it available to people. I understand that Mr. Bolger has said a mixture of technologies is needed. Am I correct?

Mr. Sean Bolger: If one looks at this from a commercial point of view, if one was to build a network today, with the technologies that are available today, one would not be building a fibre to the home or to every premises because there are new technologies that can be used.

Deputy Catherine Murphy: Those technologies are different since the process was initiated in 2012.

Mr. Sean Bolger: Fundamentally, at the time the process started, a decision was made that the fibre to the home was a solution for two reasons. It could meet and exceed the existing requirements, and the Government was right to say not to take 30 Mbps for now. It made a decision to do this for the future. One was able to deliver a high-capacity, high-speed broadband service and then in the future, because one had fibre, it was basically future-proofed in terms of investment. That is important for two reasons. The first is that it is the right thing to do and the second is that from a funding, finance and banking perspective, one has a long-term infrastructure that can give one the returns, which justifies the investment. I refer to building out a network. We are investing €300 million now to do this because we have a solution that has a long-term future. At the time, that was not available but it is now.

Deputy Catherine Murphy: Has the business case for the current national broadband plan fundamentally changed? Should it be changed?

Mr. Sean Bolger: The business case.

Deputy Catherine Murphy: The business case for the decision the Government took for the national broadband plan that was tendered for. Has that fundamentally changed or should it fundamentally change?

Mr. Sean Bolger: Fundamentally, it should look at all of the solutions that are available at the moment, but that is a matter for the Department. We have been very open with everybody and all stakeholders and we have offered to make our solution available as part of the solution. It is in the process of the Department considering that.

Deputy Catherine Murphy: I noted Mr. Bolger welcomed the significant cost reduction that was announced-----

Mr. Sean Bolger: Yes.

Deputy Catherine Murphy: -----in the context of the release of the Analysys Mason report yesterday.

Mr. Sean Bolger: Yes.

Deputy Catherine Murphy: What will be the impact of that?

Mr. Sean Bolger: Enet is ostensibly a wholesale infrastructure and network that was built by the Government and managed under a contract. Therefore, what it did not do was connect customers. It was there to provide wholesale access. Obviously, the cost of access has an impact on what services are financially viable to deliver off that network. We use that network as

part of our fibre backhaul infrastructure. We have and require a very large national fibre backhaul infrastructure so we are investing tens of millions of euro.

Deputy Catherine Murphy: What is the cost?

Mr. Sean Bolger: A big part of our expenditure is the fibre backhaul so it has a big impact in terms of all our costs.

Deputy Catherine Murphy: That impact on the end user in terms of-----

Mr. Sean Bolger: It impacts on the overall investment case.

Deputy Catherine Murphy: Yes, and the viability-----

Mr. Sean Bolger: And the viability.

Deputy Catherine Murphy: -----in terms of people connecting, affordability and all the rest.

Mr. Sean Bolger: At the end of the day, we are talking about major investments that people look at in a very logical way so the costs are quite a significant factor.

Deputy Catherine Murphy: In his opening statement Mr. Bolger stated: “With the sole remaining bidder determining the only proposed technical solution, without the required spectrum and absent any competitive tension, there is a risk that the process can no longer deliver its objective...”. I refer to difficult to get to places which is where Mr. Bolger sees his technology being particularly effective.

Mr. Sean Bolger: Yes. The technology we are talking about is from a performance perspective and from the service one can deliver - I know others were in talking about different wireless technologies - a complete game changer in the industry. What we are talking about is an alternative to fibre to the home as a solution.

Deputy Catherine Murphy: Yes.

Mr. Sean Bolger: For example, it is used in Tokyo to deliver rather than fibre to the home and that is commercial. In terms of the NBP, it is a different issue. The NBP process has been ongoing and it is a very difficult process. We need to all recognise that. The complexity around the NBP contract is because this is a big challenge. Even the commercial operators today have struggled to get fibre to the home out. Even if one started it tomorrow morning, it would take years.

Deputy Catherine Murphy: Yes.

Mr. Sean Bolger: There is an opportunity now to ask if there are other future-proofed technologies available. The answer to that is, “Yes”. We made the announcement yesterday at the launch. Since last year, we have kept the Department updated on this. It knows what we are doing. The opportunity now is to ask if we can use different solutions. At the moment the problem is that if one is left with one bidder in a process - it is the process that defines that the bidder makes the bid and defines the solution - then who can say the bidder chooses the best and lowest cost solution. That is something we are saying and I want to make it clear in this context. These are all issues that can be and should be addressed by the Department and in the contract to make sure that this is done right. That is the context-----

Deputy Catherine Murphy: Is what is being rolled out purely commercial?

Mr. Sean Bolger: Absolutely, it is purely commercial.

Deputy Catherine Murphy: Has the State subsidised the project?

Mr. Sean Bolger: Absolutely not. As far as we are concerned, the national broadband plan is essential and should go ahead. One of the major benefits of the national broadband plan is that it has driven commercial investment. There is no doubt about that in terms of the fact the State took a view to build out and to have a national broadband plan. The objective of the task force, of which I was a member, was to stimulate commercial investment and that is what it has done. The objective is to get everybody high-speed broadband. It is not about the State doing it; it is about getting it. If one gets commercial operators to invest - the announcement by Eir is very welcome - and if more money is invested, more people will get broadband quickly.

Deputy Catherine Murphy: In the second last paragraph on page 1 of his statement Mr. Bolger refers to the current intervention strategy delaying the rolling out of critical backhaul fibre infrastructure nationally. Presumably, that is returning to the same point-----

Mr. Sean Bolger: To which paragraph is the Deputy referring? I want to get the right-----

Deputy Catherine Murphy: It is the second last paragraph on page 1, starting with the sentence which reads: "While we believe that our investment in addition to delivering services in underserved areas will stimulate competition and investment across the market, our primary concern is that, unless revised, the current intervention strategy will delay the roll out of critical backhaul fibre infrastructure on a national basis". Mr. Bolger is, therefore, seeking a revision.

Mr. Sean Bolger: I will deal with two points. First, the network we will launch will cover rural areas. That is where our focus is going to be and it is for commercial reasons. It will, however, automatically cover many of the areas where Eir is going to run out of fibre broadband connections on a commercial basis. The reality for everybody is that this roll-out has taken many years and much investment. It takes a long time to have fibre broadband. This is an alternative solution which will create competition to make sure everybody will put in the best effort to move forward. Is the Deputy referring to the areas that are left?

Deputy Catherine Murphy: Yes; the ones that are difficult to get to.

Mr. Sean Bolger: What we are saying to the Department and everybody else is that if there is an alternative way to do this which is better and quicker, it should be done. If the current approach to the roll-out, with an end-to-end contract, is followed, there is a risk that there will be two issues with the NBP. The technology was chosen and it has now evolved. It is evident that things have changed. The second aspect was that a decision was made to ensure everybody received broadband. The initial idea of the contract was that €500 million would be put into backhaul infrastructure. There were two ways to set it out. One was to give a contract to roll out backhaul infrastructure. Alternatively, a contract could be given for an end-to-end service to bring fibre broadband near homes.

Deputy Catherine Murphy: That is fine.

Mr. Sean Bolger: The problem is that the process is taking a long time. Even if it was to start tomorrow, a fibre broadband roll-out that started in County Kerry, extending to Galway and then County Donegal to connect every home at same time, would take a lot of money and

time. I am simplifying it, but by the time the people at the end of the line were reached in that process they would have been waiting for years.

Deputy Catherine Murphy: They are people who happen to be in the wrong place.

Mr. Sean Bolger: The difference with and benefit of 5G technology is that coverage can be provided. The service is then available to those who want it now. It will not be the case that everybody will take the service straightaway. There have been references to the take-up of fibre broadband to homes. It does not matter what is done; there will be a take-up rate, at which nobody should be shocked. Wireless technology allows us to provide coverage over a wide area, but, to be clear, we are not going to connect 1 million or 1.6 million premises. We are going to make the service available and will add more capacity as people want the service.

Deputy Catherine Murphy: Mr. Bolger's business case will be based on a certain initial take-up which might then increase.

Mr. Sean Bolger: Exactly.

Deputy Catherine Murphy: There is one remaining bidder in the consortium which is undertaking the national broadband plan, the delivery of which requires two components, one of which is at the technical end, while the other is the financial aspect. Mr. Bolger has described his backers and the technical side of his operation. Therefore, he has the combination required. Is the last remaining consortium coherent as it has changed several times? Will it create issues in respect of the ability to build out the network?

Mr. Sean Bolger: That is not my decision. Everybody is asking the same question. A clear process with high standards and qualification criteria was needed. All of the bidders should have had to go through it to ensure they had the financial capability and practical expertise to build, operate and manage the network. I do not know if that is the case with the current consortium as it has progressed and changed, but I am sure the original members of the bidding team were there for a reason. Now that some of them are no longer there, how is the loss to be made up? Again, we do not know. It is an issue about which everyone is talking. We are here to help the committee-----

Deputy Catherine Murphy: When Mr Bolger says everybody is talking about the issue, does he mean within the sector?

Mr. Sean Bolger: Everyone within the sector and the media is asking how this issue affects the consortium. If it can demonstrate that it can meet the same criteria and that it has the ability to deliver, that is fine. I just do not think anybody knows if that is the case. There is a risk.

Deputy Catherine Murphy: I have struggled to keep on top of the companies in the consortium. That is fine and I thank Mr. Bolger.

Chairman: I call Deputy O'Connell.

Deputy Kate O'Connell: Deputy Farrell is in a hurry. As I am in no rush, I am happy to hang on.

Chairman: We are on the topic of broadband and have representatives of Imagine here.

Deputy Alan Farrell: I only missed the bit in the time it took me to come here from my office. I thank Mr. Bolger and Mr. Kickham for coming. I have found much of the discussion

very interesting. I worked in the industry well over 15 years ago, but it is still fascinating. I have one question, the answer to which perhaps even Mr Bolger might share. Which “G” will provide an alternative to fixed-line broadband? I do not think it is 5G, but we are not too far off it. Mr. Bolger touched on the originators of 5G - Huawei. There are some global security concerns about the company. I do not have sufficient information to make a judgment call on whether having those concerns is warranted, but I know that it is something that is under consideration. Would the witnesses like to offer a view?

Mr. Sean Bolger: To clarify, 5G is a global standard and Huawei is not the originator.

Deputy Alan Farrell: It is, however, a provider of the service.

Mr. Sean Bolger: Yes. It is important to understand, however, in respect of future-proofing, that 5G is a global standard of technology under the International Communications Union and that Huawei is just one company that provides the service. My response to the security concerns is the same as that of the Deputy. There is insufficient information available at this point to make a judgment. We work with Huawei, with which we have had a strong relationship for many years, as we do with many other vendors. We are working with 12 vendors in our network. Huawei is a provider for nearly every telecommunications company in Ireland and probably the vast majority of companies in Europe. At this point-----

Deputy Alan Farrell: The jury is out.

Mr. Sean Bolger: It is a case of choosing one’s own facts.

Deputy Alan Farrell: We do not yet know, which is perfectly understandable.

One of my key questions is about how Imagine fits into the national broadband plan. My interpretation of what Mr. Bolger said in his opening statement is that the national broadband plan envisages 100% fixed-line fibre broadband connections to all homes and businesses in Ireland. That is what I picked up from what he said, but I do not think that is accurate. I think the national broadband plan envisages that about 5% of homes and businesses in the State are not connectable. They are in locations that are too far down a boreen to have any level of commercial or State interest in connecting them. That is where wireless service providers step in. For my own peace of mind - I appreciate-----

Mr. Sean Bolger: May I-----

Deputy Alan Farrell: That was a statement, rather than a question. For my own peace of mind, the service provided by Imagine is really welcome.

Mr. Sean Bolger: I will clarify that I was referring to the intention. We do not know at this point if there are homes and premises that will require a wireless solution. From the outside, the focus has been on having the vast majority - 100%, if possible - of homes and premises connected. That is and has been the intention. The figure may turn out to be less; we just do not know.

Deputy Alan Farrell: I am pretty sure it will be less.

Mr. Sean Bolger: We expect that to be the case. To that extent-----

Deputy Alan Farrell: I do not think it is possible to connect 100% of premises to the network, whether private dwellings or otherwise. I just do not believe it is viable. It is not viable

anywhere, as the witness correctly said. It is not viable elsewhere and it is not viable in the future. Imagine Communications Group is a commercial operator and the best of luck to it. It is a service provider in terms of the service to those rural parts of the country 13 km from its transponder, for want of a better description. That is absolutely fantastic. However, there are certain places in rural Ireland where I have a personal interest. In one that I go to regularly I am not connected to broadband.

Mr. Sean Bolger: The Deputy can join the list of people who are asking me when they will-----

Deputy Alan Farrell: I may well avail of the service or that of another wireless service provider in that part of Mayo. From my perspective, the big issue is wireless service providers, particularly when the service is being provided on a large scale, which I presume Imagine Communications Group intends to do. How many customers does the company envisage being able to reach with this €300 million investment?

Mr. Sean Bolger: The initial roll-out is for coverage. That is to make it available to as many people as possible. That will cover, or make it available to, approximately 1 million premises. Some 400,000 of that are currently-----

Deputy Alan Farrell: They have a line.

Mr. Sean Bolger: They do not have a line. They are the customers in the most remote areas.

Mr. Derek Kickham: The 540,000-----

Mr. Sean Bolger: That is just the coverage.

Deputy Alan Farrell: That is really positive.

Mr. Sean Bolger: Each one of those sites will have a limitation to the number of customers on the site. That is what makes this different. What we will do is add more sites based on demand. To give a practical example, we are not talking about what we are going to do as we have already done this in Kildare. We built a site and then we had to build more sites in Longford and so forth. We only had a trial of 50 in this case. We will expect to build many more sites based on demand.

Deputy Alan Farrell: How does the company deal with penetration to areas that might be hilly, forested or have other natural or man-made obstructions? In the mapping of the 540,000 Mr. Kickham mentioned, has the witness identified homes in that 540,000 or in that geographical band that will not be able to get service from the existing transponder sites? How does he propose to reach those homes?

Mr. Sean Bolger: First, there is the initial nominal plan. When rolling out a network on a national basis we develop a nominal plan. That will identify all the topography - mountains, hills and so forth.

Deputy Alan Farrell: Has that exercise been done?

Mr. Sean Bolger: Yes. That is a very detailed process. It is fundamental to designing the network. Then one puts in masts strategically to fill in those gaps to the maximum extent one can. The masts are done on a probability basis. One tries to make sure it is highly probable that people will get a service. That is how one mitigates, by building out masts. One is build-

ing one site to service an amount of customers. If they can see the site that is fine. When one is building out a network at the density we are doing one ends up getting multiple sites that one can see. However, we are not going to get everybody. We are not going to cover everybody. That is not what we are saying. We are saying that as a commercial investor and operator on the market this is what we are doing.

Deputy Alan Farrell: I am not casting any aspersions on what the company is doing - it is a commercial operator as Mr. Bolger said from the start and it provides a good service and so forth - but would Mr. Bolger accept the statement that by providing a service to potentially 1 million customers or 540,000 people in predominantly rural Ireland where the State is going to go with the national broadband plan and provide that service at great cost to the Exchequer, taxpayers and businesses throughout the State, the competition might dissuade investment in certain areas?

Mr. Sean Bolger: By whom?

Deputy Alan Farrell: By commercial operators in the first instance. Ultimately, we are providing the lines. Somebody else will have to provide the service. Commercially speaking, if Imagine Telecommunications Group is operating a 5G network and it is giving line speeds of five, ten or 15 Mbps or whatever - I believe Mr. Bolger mentioned up to 50 Mbps-----

Mr. Sean Bolger: Absolutely not. It is 150 Mbps. Today we can do 300 Mbps and it will be-----

Deputy Alan Farrell: It is 150 Mbps. I presume that is-----

Mr. Sean Bolger: We need to clarify this-----

Deputy Alan Farrell: I presume that is somebody who is quite close to the mast.

Mr. Sean Bolger: Absolutely not.

Deputy Alan Farrell: Will Mr. Bolger explain that?

Mr. Sean Bolger: We are talking about a completely different scenario here with 5G. 5G is massive capacity. We are not talking about something theoretical but what is working now today. LTE was at 100 Mbps and the reality in the market would have been about 70 Mbps. That is why when we did a trial we did not say up to 100 Mbps, as many people would have done. We said it was up to 70 Mbps. Right now we can do up to 300 Mbps but we are not saying that. We are saying that, on average, people will get 150 Mbps. Probably 95% of people who have fibre get 150 Mbps. The evolution of the technology is not something we are saying but is a global technology and global standard. We had the chief technology officer, CTO, of Ofcom with us yesterday at the launch. These trials and roll-outs are happening all over the world. We must be clear. It is a very high speed broadband service and it is future-proofed given that it is a global industry with billions being invested in it. The current standard for 5G is 20 Gbps. In fact, Ofcom says it is 50 Gbps. It has gone beyond practicality at that point in time. That is the reality.

Deputy Alan Farrell: What about contention? What is the ratio on a mast? Mr. Bolger mentioned that there will be a limited supply and, therefore, the company will have to put in more.

Mr. Sean Bolger: People throw around phrases such as “limited supply”. The service is

unlimited.

Deputy Alan Farrell: Forgive me, but I misunderstood the witness. Is there a limit on what each mast can take in terms of capacity?

Mr. Sean Bolger: There is a capacity on the mast which one then decides, depending on the quality of service one wishes to deliver, is the dimension of the network. One decides on how many customers one uses. One decides on the number of customers per use based on the actual usage and profile of customers, which on every network is basically demand. Not everybody is using it at the same time, and in the evening people are doing a host of things.

Deputy Alan Farrell: Okay.

Mr. Sean Bolger: We have the knowledge and understanding of exactly how that is dimensioned. It is standard telecommunications; it is standard industry. We look at the actual demand on the network. Most people do not demand a lot at the time and that then leaves capacity.

Deputy Alan Farrell: What if there is an event that is online and everybody is on the telephone and getting connected to the service? What is the capacity of the site?

Mr. Sean Bolger: That is where the Deputy might have gone slightly off track. It is not telephones. This is a home broadband service. The maximum number of people-----

Deputy Alan Farrell: Okay.

Mr. Sean Bolger: Let us say there are 200 people-----

Deputy Alan Farrell: The network is poor but the Wi-Fi is not and they are using a Wi-Fi in their home. I am using that as an example.

Mr. Sean Bolger: Okay. Let us say there are 200 people and they are all watching some television. Then it is about how much capacity there is for everybody to do that.

Deputy Alan Farrell: That is my question.

Mr. Sean Bolger: That is fine. There is no problem at all.

Deputy Alan Farrell: It should not-----

Mr. Sean Bolger: There is absolutely no problem. If people are watching television and streaming it is probably 4 Mbps.

Mr. Derek Kickham: Yes.

Mr. Sean Bolger: It does not actually work like that anyway.

Deputy Alan Farrell: I understand that.

Mr. Sean Bolger: One must look at it in terms of the ability-----

Deputy Alan Farrell: It is still a legitimate question in terms of capacity. I know from years of horrible experiences that if one has a contended line and sharing with other people it can be a disaster. I accept that it is getting better as line speeds improve. Ultimately, however, this is a shared service.

Mr. Sean Bolger: Yes, absolutely.

Deputy Alan Farrell: Therefore, there will always be that element of contention. My question is, what will the capacity be?

Mr. Sean Bolger: Today, the capacity of 5G is substantially beyond what normal demand will be. By that I mean heavy users and everything they want to do.

Deputy Alan Farrell: That is good to hear.

Mr. Sean Bolger: If one looks at the roadmap for that, it is dimensioned to be way beyond that. We are talking about a shift here in what previously would have been considered as fixed wireless, the unlicensed spectrums and the legacy technologies. We need to put this in context. No one in the world is spending billions building out 5G fixed broadband networks that are not future proofed. We would certainly not invest the kind of money we are investing if it was not future proofed. Future proofed means it will always meet the demands of the customers. One cannot put this kind of money to work in a market and think one will not keep up to standard and speed when something else such as fibre to home is coming. We must be clear about this. We are not saying not to build out the national broadband plan. We are saying it should be built out. We are building out a network in parallel commercially and we will not do that unless we are 100% confident that the service our customers will get today is seriously faster than what they currently experience - that is why they will choose it - and it will continue to meet their demands. The industry expectation now is that we will have 1 Gbps by the end of this year. When we see it, trial it and it is tested, I will believe it. The next thing is 10 Gbps. Nobody is building these networks for the short term. This is a major shift.

Deputy Alan Farrell: I presume the next step for Imagine's business plan, after investing €300 million, is dependent on uptake, that is, the number of customers following the investment. Will it then move on to additional sites and scenarios that its mapping exercises will have identified where there might be an area with a couple of hundred houses that it cannot penetrate because of topography or other barriers to the provision of services, whether man-made or otherwise? Alternatively, is Imagine rolling out services in a particular region and trying to capture everyone in it before moving on to the next region? What is its business model?

Mr. Sean Bolger: The business model is to make it available to as many people as possible. That is the first objective. By definition, we are investing commercially, which is very important. What makes it possible is that the technology allows us to make a commercial investment in areas where previously others would not have made that investment. Our objective is to cover as many people as possible, make the service available and then meet demand. That means that in each area we will have customers take on the service. If they do not take it on, we will not add more capacity and if they do, we will put up more capacity. That means we will put in our 5G fixed broadband equipment on more masts. It may start with a certain amount of coverage and a certain number of customers and when one exceeds a certain number of customers, more capacity is needed. To do that, we will build more base stations and reduce the coverage of each base station to service the customers.

Deputy Alan Farrell: I assume that from a cost perspective Imagine will seek to retrofit its service onto existing masts, as far as it can.

Mr. Sean Bolger: Yes, as far as we can.

Deputy Alan Farrell: Does Imagine have an idea of the number of new sites it will need

in its network?

Mr. Sean Bolger: Initially, we will probably not need any new sites for the initial coverage. We already have access to a large portfolio of sites. We bought the two biggest wireless companies in Ireland in 2009. We have been working on this project for a long time and we have access to a large number of masts.

Deputy Alan Farrell: Mr. Bolger covered upload and download speeds and the contention issue insofar as it pertained to the comparison with the old style network I raised. Is a maximum capacity known for the 5G network or is it constantly evolving?

Mr. Sean Bolger: We want to be very clear that we have not come in and said we will solve the whole problem and connect 1.6 million people and they will get 10 Gbps broadband tomorrow. 5G is a journey. It will continuously evolve. I have been in the business for 30 years and seen 2G, 3G, 4G and 5G. People will talk about 6G next. The bottom line is that the wireless technology, which is backed by global industry, has now got to a starting point of very high capacity. This makes it an alternative to other high capacity fixed networks. It is not going to go backwards. If one chooses to use that technology for mobile, that is great. If one chooses to use that technology for a mix of mobile and fixed, that is also great. However, it will not work as an alternative to a fixed broadband solution. We are providing a fixed broadband solution. People probably do not know a great deal about this because Ireland was the first country in Europe and one of the first in the world to release the 3.6 GHz spectrum, which now happens to be the pioneer spectrum for 5G. We have worked with industry, regulators, governments and operators who come to Ireland to look at what we are doing. It is very new and we are very proud of that and of being an Irish company. As the committee heard earlier, Eir is also trialling fixed wireless as a solution. Vodafone is using it in other countries and Three is using it in the UK. It is the biggest driver of business investment. So many masts will have to be built for the 5G network but the handsets to get there will not be available in large numbers, whereas today there is a deficit in infrastructure for fixed broadband. That is what is making the commercial investments possible. The reason we were successful in raising funding and bringing this project is that the infrastructure funds and banks around the world now see this as a real alternative. These are the same people who invested in fibre. It is not better; it does exactly what fibre will do in a different way. It is just new. We have been clear that this will raise questions but we are putting a large investment into this.

Deputy Alan Farrell: Yes, and I welcome it.

Mr. Sean Bolger: I would say that we are fairly confident that it will work.

Deputy Alan Farrell: It is a large amount of money, which will create many jobs and facilitate the creation of many other jobs. I have one final question.

Mr. Sean Bolger: Can I make one point?

Deputy Alan Farrell: I have a question on the contention issue.

Mr. Sean Bolger: I would like to make one point so that we are clear. One of the objectives of the national broadband plan is to ensure that people get the service. We think that is critically important. If we do not deliver, we know that everyone else is coming behind us.

Deputy Alan Farrell: That is fine. My question refers to a transponder, a mast or an antenna or whatever one wants to call it. I am sure there is a technical term that I am not aware

of. If Imagine is broadcasting at a particular mast, what is its capacity or maximum number of users? At what will Mr. Kickham call Mr. Bolder and tell him another mast is needed in Ballygowwherever? What is the number?

Mr. Sean Bolger: Technically it could be 1,000 or 2,000 but we do not do that. It depends on the configuration. We need to achieve different configurations of coverage. We cannot go out and blast this everywhere and get as much coverage. We have to use different radio plans-----

Deputy Alan Farrell: Yes, I heard Mr. Bolger's answer to Deputy O'Connell.

Mr. Sean Bolger: We have to use different radio plans and each one of those defines the maximum number of customers that we would allow. Once we get to 70% capacity, we would say we need more sites. As we roll out the network, we will have far fewer on each mast because of the rate at which we are building it out.

Mr. Derek Kickham: I will make a point that might be helpful. We talk about it as though there is a constraint or capacity limitation associated with fixed networks but all networks have constraints and contain within them design assumptions relating to how much capacity to put in at certain points. A fibre network is the same as any other network. We use a lot of fibre ourselves. When we refer to a mast, it is not a singular entity. Mr. Bolger said that there are several configurations but a particular bay station could be configured to have three, four, five, six, seven, eight or nine cells. The answer is that one deploys capacity where it is needed. That is what it means. It is not that there is only one of these things and that is it. This is really about putting up what is needed to meet the capacity for which there is a requirement.

Mr. Sean Bolger: It is highly challenging. The network has load balancing, which means that if, let us say, the area in which one's house is located gets busy, one will switch to another sector. It is very complex. That is what makes it possible. The concept of limitation is being lifted. The cap is off with technology.

Deputy Alan Farrell: I thank both of our guests.

Mr. Sean Bolger: No problem at all.

Deputy Alan Farrell: I appreciate their answers.

Chairman: To be absolutely clear, we have effectively been almost an hour behind schedule all day. We are stopping in ten minutes, one way or another. The others are an hour behind schedule also. I ask the members to be as brief as possible. We have another player coming in.

Deputy Kate O'Connell: I thank Mr. Bolger for attending.

Mr. Sean Bolger: No bother.

Deputy Kate O'Connell: My understanding from reading the evidence - clearly, Mr. Bolger probably will not agree - is that fibre-optic cabling is more effective in terms of future-proofing or upgrading the network. I do not want to twist his words but my understanding is that Mr. Bolger claims that perhaps when the national broadband plan was being developed, there were limitations but that it has evolved to a point now where he would see it as an alternative. Am I misinterpreting what Mr. Bolger is saying or do I have the gist of it?

Mr. Sean Bolger: That is the gist of what I am saying. This is not me. This is not Imagine.

It is the technology that we are using, which is 5G.

Deputy Kate O’Connell: I never mentioned Imagine. I have read it all. I am only trying to understand what Mr. Bolger is selling. That is all.

Mr. Sean Bolger: We are not selling anything. We are here just giving information. It is the technology. It is at that level.

Deputy Kate O’Connell: Mr. Bolger is before an Oireachtas committee. Does he believe it is internationally accepted that his product is an alternative to fibre-optic cable?

Mr. Sean Bolger: Do I think, as a commercial alternative-----

Deputy Kate O’Connell: Get rid of the word “commercial”. My remit, as an Oireachtas Member, is to ask Mr. Bolger questions. I want a broadband plan for the people. I have no vested interest in this. Leave the commercial out of it. In terms of providing for the people of Ireland and leaving money out of it, is it true to say that Imagine’s product, wireless fixed, is equal now in terms of evolutionary status to fibre optic?

Mr. Sean Bolger: As stated, 5G is on our roadmap. It is on our journey. The standard that it is at is way above what is required today. It is similar to the speeds that are being provided commercially in the market, the vast majority of which would be 150 Mbps. The reality is that in places like Jersey, where there is 100% fibre penetration, the customers do not take more than 150 Mbps. Fibre is being built for the future. That is important. We need to compare like with like. If we are building for the future, at a point in the future somebody will need 1 Gbps. I am telling the Deputy that the standards for 5G by that time will be at 1 GHz. It will actually be beyond-----

Deputy Kate O’Connell: Mr. Bolger is basically looking into a crystal ball and predicting that if wireless progresses continuously on the same trajectory, it will be as good in the future as fibre optic.

Mr. Sean Bolger: I can tell the Deputy now that it is already delivering 1 GHz processing-----

Deputy Kate O’Connell: No, no. I really need to deal with this because it is the crux of the matter. Mr. Bolger is stating that 5G is evolving, on a journey to evolve, etc., but he is really predicting the future in terms of technology. He cannot guarantee that wireless fixed in a few years’ time will be equal in effectiveness to fibre-optic cable. Can he predict that?

Mr. Sean Bolger: What I can tell the Deputy is that the world industry, the United Nations International Telecommunication Union, ITU, third generation partnership project, 3GPP, standards providers will all say that it will provide the kind of capacity we are discussing.

Deputy Kate O’Connell: Perhaps the committee could do with this information. I have not seen any of it.

Mr. Sean Bolger: I have no problem with that at all. In fairness to the Deputy, we are quite advanced in this. As a result of the fact that we had the spectrum, we have been involved in this for many years. We are recognised as being one of the most advanced companies in this particular area. We have no problem in providing the service. There is a very good reference site that we can give the committee, putting it not wrong but in plain English, which is the UK Government website which basically sets out their expectations and strategy for their network.

That would be probably a good source for the Deputy, if it was helpful.

Deputy Kate O'Connell: Excellent. Mr. Bolger is stating that Imagine has enough masts already as a result of what it bought as part of the two previous transactions and from piggy-backing on other masts and adding bits on. Imagine has enough without building any more masts to provide wireless to the number of people to whom it wants to provide. I want to clarify that Mr. Bolger does not want to build any more masts.

Mr. Sean Bolger: Right now, the critical issue for us commercially is to deliver high-speed broadband in the network that we have designed. Commercially, we have to do that. We are in a challenge against everybody else who said they were going to do it. We will only survive if we deliver and connect.

Deputy Kate O'Connell: How many customers does Imagine have at present? We are under pressure for time.

Mr. Sean Bolger: Our network is designed specifically on existing sites. We will not need to build any new sites to do what we have already released. As for the number of customers on the network, we have a trial network that we have run for two years which has circa 19,000 customers.

Mr. Derek Kickham: It is 19,500.

Mr. Sean Bolger: Something like that.

Deputy Kate O'Connell: How do those customers break down in terms of business versus domestic?

Mr. Sean Bolger: We did not distinguish between business and domestic. It was a mix of everybody.

Deputy Kate O'Connell: Has Mr. Bolger no data to distinguish between them?

Mr. Derek Kickham: We only marketed the service to residential customers. For the trial service, that is all. The product we announced just yesterday is a separate small business and residential offering.

Deputy Kate O'Connell: I suppose what I am getting at is that Imagine's market share to date has been residential, not business, customers.

Mr. Sean Bolger: We did not launch the service. We only launched it yesterday.

Deputy Kate O'Connell: Still, what I said is true. Imagine has not yet had an existing business customer base.

Mr. Sean Bolger: We have not.

Deputy Kate O'Connell: Has the company dealt with that sector, yes or no?

Mr. Sean Bolger: Is there-----

Deputy Kate O'Connell: Has the company dealt with it?

Mr. Sean Bolger: I am sorry. If the Deputy asks me a question, I need to answer it.

Deputy Kate O’Connell: I asked Mr. Bolger a question.

Mr. Sean Bolger: If Deputy O’Connell wants me to give her an answer-----

Deputy Kate O’Connell: I would like the answer. I am not asking what Mr. Bolger did yesterday. I did not go to its-----

Mr. Sean Bolger: The Deputy has asked me-----

Deputy Kate O’Connell: I do not know anything about what Mr. Bolger announced yesterday. I am here sitting at a committee.

Mr. Sean Bolger: I do not want to be argumentative. I do not want to be misrepresented either.

Deputy Kate O’Connell: I refer to the company’s 19,000 customers out of a total basket of customers of 840,000. Prior to yesterday, Mr. Bolger has only marketed his product to domestic customers. Is Mr. Bolger entertained in some way?

Mr. Sean Bolger: Sorry?

Deputy Kate O’Connell: We are at a very serious part here. Mr. Bolger has 19,000 customers, all of whom are domestic.

Mr. Sean Bolger: On a trial.

Deputy Kate O’Connell: How does Mr. Bolger know if his product is good enough for business customers? It is the customer who will tell him.

Mr. Sean Bolger: We have a lot of businesses on it. We know that business is using the product. We did not market it as a separate business product. Business customers use it for business. We have not distinguished between them. This is a trial network that we have run. We did not expand it. When we launched the trial, the facts that we know are that it meets the demands and needs. We have business customers. As for the normal usage that we would expect on the international works, we have tested all of that. We know that 20,000 people wanted the service in those areas. However, it was a trial network and, therefore, we did not connect to anybody else. We were not in a position to do it. This is very important. We could not make this announcement and investment because at the time we had not secured a spectrum until 2017. It was only when we had the spectrum - we secured it at a cost of €10 million - that we were able to make the plans to roll out the national network. We could not do anymore more than the 50 sites, just to be clear.

Deputy Kate O’Connell: I will have to let-----

Chairman: No, I will call time on this session. Did Deputy Connolly want to get in, briefly, in fairness to the next group?

Deputy Catherine Connolly: I thank our guests very much. This has been helpful. They are here in a voluntary capacity and I appreciate that. It is good to get the views of all the delegations that have been before us.

I have read the material and I will go back and read it again. Is Mr. Bolger stating that he agrees with the national development of broadband and wants to work with it-----

Mr. Sean Bolger: Yes, absolutely.

Deputy Catherine Connolly: -----but that fibre to the home is wrong from Imagine's point of view? Is he stating that the latter is not necessary?

Mr. Sean Bolger: Not for everywhere. That is purely our opinion.

Deputy Catherine Connolly: That is-----

Mr. Sean Bolger: It does not interfere with asking anybody to change the national broadband plan.

Deputy Catherine Connolly: I am only trying to understand what is here so that I can-----

Mr. Derek Kickham: I am very conscious of the time but if it would help - and I hope it does - I want to point out that sometimes people talk of the national broadband plan as though it is all one thing. It is helpful to look at it as the two components that it really has. It has a backhaul requirement, which everybody agrees is required. Everybody also agrees that this has to be fibre and that it has to be extensive. There is no dispute about that. Then there is what we call the "last mile", which is the access piece. There are different views about that.

Deputy Catherine Connolly: And different solutions.

Mr. Derek Kickham: The cost of doing the last bit in fibre is very high. It is horses for courses. There are a number of last-mile solutions such as fibre, copper or wireless. We think that we should absolutely be doing the backhaul phase extensively and as quickly as possible because everybody needs it. Then it should be horses for courses for the access.

Deputy Catherine Connolly: In a phased approach.

Mr. Derek Kickham: Correct. They are two different things. It is not as though one is for or against fibre. It is a horses for courses situation.

Deputy Catherine Connolly: That has been helpful. I will finish on this. In the third paragraph on the first page of the statement submitted by Imagine Communications Group, reference is made to 400,000 out of the 540,000 premises. Are these the same premises we were talking about at this morning's session with another group of witnesses? Are these the 540,000 premises-----

Mr. Derek Kickham: Yes.

Deputy Catherine Connolly: -----under the national broadband plan? Is that right?

Mr. Sean Bolger: That is correct.

Deputy Catherine Connolly: Eir informed the committee that it could deal with 150,000 of those but Imagine is indicating us it could cover 400,000 of them.

Mr. Sean Bolger: That is correct.

Deputy Catherine Connolly: In what timeframe could it do so?

Mr. Sean Bolger: That service will cover those 400,000 premises by June 2020. We have given a commitment that by June 2019 we will have 155 sites covered. We have given clear points at which we will deliver on this.

Mr. Derek Kickham: It would be 18 months.

Deputy Catherine Connolly: Okay.

Chairman: The logic of what we are hearing now is for the national broadband plan for rural areas, not the whole State. The rural area cover started off as 850,000. Eir has already done 300,000 from that total and we are now down at 540,000. The Department has looked at that. Eir has confirmed that it is now going to upgrade its existing network from copper to fibre and that it is going to take another 80,000 of the 540,000. This means the number will have dropped to 460,000. Eir has confirmed that commercially. It will be done without a penny of State aid or taxpayers' money. Imagine has stated that it can do a large chunk of the 460,000 remaining premises, although I am not tying anyone to a figure.

Mr. Derek Kickham: That is what we will do.

Chairman: It raises the question-----

Deputy Kate O'Connell: Are they not providing a different product now?

Chairman: That is correct. Fibre to the home is not being provided for the final section. That is correct and we must be clear.

Deputy Kate O'Connell: There is an important distinction there.

Chairman: Some people do not care about having to sit on the same couch to watch television but others wanted the connection to the home.

Deputy Kate O'Connell: May I add-----

Chairman: This is the big question we must ask. The State embarked on this broadband plan in 2015 but today there are commercial operators. The representative from Eir made it very clear that if she got permission from her board to invest another €100 million she could take more out of this.

Deputy Kate O'Connell: As a committee we need information. When we have witnesses in to the committee who have a product and when there will be a budget for that product, we as a committee have to be very aware of the facts. I read a lot of documentation on fibre optics last night and today it has been discussed as an evolving sector, whether it is equal or not and that it is an alternative in Japan, in Jersey and in the United States of America. This morning, however, we heard that Eir has announced €500 million in fibre investment and a further €250 million in respect of the rural fibre programme. We are not getting the right information or non-biased information. It is very important for the committee to have some sort of expert advice on this.

Chairman: Today, we are listening. We do not have to agree 100% with everything that is said. Part of the purpose of this meeting is to increase the bank of knowledge for us, and for the members of the public who are watching, such that when we come back to the Department, we will be far better informed. At that stage, we will see about assessing where matters stand. I agree with the Deputy.

Deputy Kate O'Connell: We need non-biased-----

Chairman: We are not accepting-----

Deputy Kate O'Connell: We need legal advice. We need to have advice from the industry

leaders and from universities.

Chairman: We are not accepting everything as gospel.

Deputy Kate O’Connell: Yes. I would not. I am sorry but I put it to the Chairman that I run a business and when a rep comes in to sell me something, I start by not believing a word he or she says. However, I then end up believing some of it. I see this as a glorified version of that, with respect, and I believe we need to be very conscious of where the industry is and the science behind it, as well as the factual information.

Deputy Alan Farrell: There are a lot of questions left about 5G and nothing to do with any of our business today.

Chairman: Absolutely. Some of us might not be convinced at all. I am not suggesting we are.

Mr. Sean Bolger: Can I address that? We are not looking for anything. All we are doing is coming in to the market. We think the national broadband plan should go ahead. They should make sure that we deliver on it. I ask that people be careful because some of the conversation is about “Eir is doing this” and “Imagine is doing that”. The bottom line is that we have to prove that we can do it. Right now, the important thing for the national broadband plan is to make sure that we do it and that it should go ahead. The most efficient way to do it is in a two-phased approach. If one concentrates on fibre backhaul we will do our job and connect the homes. If we do not, then the rest of the homes can still be connected: it is fine. We are not looking for anything and we are not selling anything. We will have to sell to our customers, which, in fairness, is what we do.

Chairman: We thank Mr. Bolger and Mr. Kickham for being at the committee. We are learning. It is a slow process. When we go home this evening we will be far better informed, which was the purpose of this session. The witnesses are here voluntarily and are running their own businesses. I wish them well in their own businesses, and they say best of luck to the national broadband plan also. There is no conflict, we are just gathering information. We will distil it in due course and test it.

Mr. Sean Bolger: We are providing everything to the Department to figure out the best way to do this.

Chairman: I thank our guests. We shall suspend while the next group of witnesses take their seats.

Sitting suspended at 4.37 p.m. and resumed at 4.42 p.m.

Enet

Chairman: We will resume our engagement with broadband providers. We have been busy all day meeting a number of groups. I welcome Enet, and thank its representatives for being here. They are here voluntarily to assist the committee and to provide information to us. We are here to listen and learn. The Department of Communications, Climate Action and Environment appeared before this committee some time ago to discuss the NBP, the process of which has been ongoing for a couple of years. We wanted to interrogate the process to date, in terms of

costs incurred so far and the future costs of the plan, and we decided that we needed to inform ourselves on the matter, being Deputies with no great expertise in the communications area. Deputy Farrell has indicated that he has some knowledge in the area.

Deputy Alan Farrell: I worked in the accounts department; that was as far as I got.

Chairman: He probably knows a little bit more than the rest of us. We decided that we needed to inform ourselves, and we are pleased to have so many people appearing before us today. We thank them all for coming. All of the information we are using and gathering will be distilled in due course. When we speak to the Department about the national broadband plan and other issues we will be far better informed than we were at 9 o'clock this morning. That is the purpose of this meeting, and we thank the witnesses in advance for providing information.

I want to stress that we are not here to examine the financial statements of the witnesses. They are here to help us. We are not here to interrogate them. If the witnesses are asked a question about the Department that they feel is more appropriate for the Department to answer they can tell us. Please do not hold back on that issue.

I welcome Mr. Peter McCarthy, chief executive officer of Enet. He is accompanied by Mr. David Eyre, chief commercial officer, and Ms Claire Murphy, general counsel. I remind everyone in the room to put their mobile phones on to airplane mode or to switch them off; merely putting them onto silent mode can still interfere with the recording system.

I advise witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of the evidence they give to the joint committee. If, however, they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable.

I invite Mr. McCarthy to make his opening statement.

Mr. Peter McCarthy: My introduction is quite long, so with the Chair's permission, I might just read a shortened version of it. I believe the opening statement is on the formal record.

Chairman: We will note and publish it, but if Mr. McCarthy is talking about this statement, which looks like it would take ten minutes, we are happy for him to read it into the record. Everyone watching will want to hear what he has to say. It is fine for us; we have the opening statement in front of us. However, it is no good if we have the document while the people watching do not know what is being said. Mr. McCarthy can summarise or skip the odd sentence here or there, but I have no problem with the length of the statement.

Mr. Peter McCarthy: I thank the committee for the invitation to attend this session. I am the group CEO of Enet. I am accompanied today by Mr. David Eyre, chief commercial officer, and Ms Claire Murphy, general counsel and company secretary. As we have mentioned in our briefing materials, our entire leadership team is relatively new to Enet but we are here today to support the committee's work to the best of our ability.

The invitation to attend this session is designed to support the examination of matters related to the national broadband plan, NBP. As such, we intend to outline our role in the NBP

project. While Enet, as a sub-contractor to the bidder, NBI, is subject to confidentiality regarding aspects of the plan, we will do our best to address the questions posed to us. I would also like to take the opportunity to highlight Enet's operation of the metropolitan area networks, MANs, which is a State asset.

Our company is based in Limerick, has staff of nearly 115 people and operates the largest alternative wholesale telecoms network in Ireland. It operates over 5,400 km of fibre infrastructure, including the Irish state's metropolitan area networks – known generally as the MANs - and proprietary metro networks, a unique backhaul infrastructure and one of the largest licensed wireless networks in the country. As it stands, Enet operates the MANs in 94 cities and towns across Ireland, operates over 3,700 km of backhaul fibre along the Irish Rail network and has access to Bord Gais and ESBT fibre, as well as access to Waterway Ireland's fibre.

Enet's operations are at the very heart of Irish telecoms. Our customers - almost 70 in total - some of which are the country's largest service providers, use our services to systematically improve their retail services and to bring high-quality broadband to more than one million end users throughout Ireland.

Enet's shareholder is the Irish Infrastructure Fund, IIF, which now owns 100% of the business. The IIF invests capital for 28 institutional investors, 25 of which are Irish pension funds including university trusts, union pensions, religious orders, construction worker pensions, pensions from a number of Irish companies, as well as Government bodies. It has been stated previously that ISIF is one of the investors in IIF. The fund purchased a 78% stake in Enet from Granahan McCourt, GMC, in July 2017. The IIF subsequently agreed terms to acquire the remaining 22% in September 2018. This transaction closed on 5 December 2018, and included the resignation of the GMC representative directors, effectively ending the GMC involvement in Enet. Today the primary board of Enet has three board directors nominated by the IIF.

In December 2015, the Department of Communications, Climate Action and Environment launched its NBP procurement process. At that time, Enet's shareholder, Granahan McCourt, developed a consortium to participate in the tender process. In March 2016, the consortium lodged its pre-qualifying questionnaire, PQQ. At this stage and throughout, Granahan McCourt was formally the lead bidder, and Enet's envisaged role was that of a key subcontractor. In September 2018, the final PQQ was lodged. At this point, Enet's role remained unchanged and we were reaffirmed as a key subcontractor. Neither Enet or its shareholder, IIF, are directors, shareholders or direct advisers to the consortium. We do acknowledge that, for most of the procurement process, the consortium was described as Enet-led. At the commencement of the process, Granahan McCourt had control of Enet, both as a shareholder and with its chairman. David McCourt referenced this in a Newstalk interview with Pat Kenny in October 2018 when discussing the consortium name, when he stated, "it was called Enet because at the time I owned Enet and I was running Enet and it was a convenient name to call it."

As regards the MANs, they were implemented by Government in response to market failure and the need to provide high-speed, open-access broadband networks in regional towns and cities. Following an open tender process, Enet was appointed in 2004 to manage the 28 phase 1 MANs. In 2009, following a further open tender process, Enet was appointed to manage the 60 phase 2 MANs. Ownership of the 88 MANs remains with the State. To date, Enet has made revenue share payments to the State in excess of €8.8 million and has also made MAN-related infrastructure investments totalling €31 million, with that value residing with the State. From Enet's review of the policy deliverables which we have detailed in our briefing materials already provided to the committee, we believe that both the MANs and our operation of same has

delivered in excess of the anticipated policy outcomes.

Our role has been about value creation for the State. It has supported balanced geographical foreign direct investment, reduced costs to customers and enhanced State assets. This has been acknowledged by a number of Ministers and public servants over the years. No business is perfect. People come and go, processes fail, markets go up and down but, most important, we always seek to improve what we do and to do so with professionalism and integrity. With Irish pension money as the foundation of our shareholding today, and with close to 115 people directly employed through our business and hundreds more indirectly providing services to us, our primary focus is on improving everything we do to deliver the high standard of service required in the market place today.

Chairman: For clarification, Mr. McCarthy said that Enet was a subcontractor to the bidder, NBI. Who is NBI?

Mr. Peter McCarthy: It is National Broadband Ireland.

Chairman: Who are they?

Mr. Peter McCarthy: National Broadband Ireland is Granahan McCourt.

Chairman: Enet is only a subcontractor, even though the bid has your name on it.

Mr. Peter McCarthy: This is because the chairman was in control of Enet at the time. He was the face of the business and he chose to call it the Enet consortium.

Chairman: Mr. McCarthy is saying the Irish Infrastructure Fund has purchased a 78% stake in Enet from Granahan McCourt.

Mr. Peter McCarthy: It has now acquired the full 100%.

Chairman: In Enet.

Mr. Peter McCarthy: Yes.

Chairman: We were a bit confused and had a letter today from the NTMA about the structure. The Irish Infrastructure Fund has units but not a shareholding. We are trying to get our heads around who is who. Who owns NBI?

Mr. Peter McCarthy: I do not know but I presume it is controlled by Granahan McCourt.

Chairman: Has there been a change in the ownership structure of the main bidder? I thought Granahan McCourt was the bidder from day 1. A lot of people are utterly lost as to the sequence of this.

Mr. Peter McCarthy: As a result of the operation of the State-owned metropolitan area networks, Enet has a unique perspective on what State intervention in the telecoms market can do to create competition, remove the barriers to foreign direct investment and reduce the cost of bandwidth. Enet, therefore, has always been supportive of the national broadband plan, NBP, and the Government's vision for a ubiquitous high-speed broadband network. In December 2015, the Department of Communications, Climate Action and Environment formally launched its procurement process for the NBP. At that time, Enet's shareholder was Granahan McCourt and that company developed a consortium to participate in the tender process. A number of Enet staff were seconded onto the project to work on the bid on behalf of the consortium. We

have no seconded staff any more in the consortium.

In March 2016, the consortium lodged its prequalifying questionnaire, PQQ, which was the first formal milestone in the process. At this stage and throughout, Granahan McCourt was formally the lead bidder.

Chairman: And still is.

Mr. Peter McCarthy: And still is. Enet's envisaged role is that of key subcontractor providing services such as capacity via the MANs, co-location via MAN-enabled co-location sites and the Enet proprietary network, services in backhaul capacity, the provision of wireless access and network operations management. In September 2018, the final PQQ was lodged by Granahan McCourt, the lead bidder, to reflect a change in bidder composition. At that point, Enet's role remained unchanged and we were reaffirmed as the key subcontractor, the same role as we had originally. For the avoidance of doubt, neither Enet or its shareholder, the Irish Infrastructure Fund, are directors of, shareholders in or direct advisers to the consortium.

We acknowledge that for most of the procurement process, the shorthand term "Enet-led consortium" was used in media coverage. In all likelihood this came about because Granahan McCourt owned the business.

Chairman: That is helpful. At prequalification, the financial side of the consortium is coming through Granahan McCourt and Enet, as the key subcontractor, has a proven track record of being able to deliver as an operator in the system with operational knowledge of this type of project.

Mr. McCarthy must be the most modest person ever to have appeared at the Committee of Public Accounts because there was a press release from the Minister yesterday announcing a 50% cut in the rate Enet will charge for fibre, from €5 to €2.60 per metre. That is a phenomenal reduction in price and it is remarkable that Mr. McCarthy did not make a reference to it. He is here to discuss MANs and maybe his script was prepared before this announcement was made. In any event, we were very pleased to announce this price reduction for the operating demands network and its customers at the Committee of Public Accounts this morning. What was the timing of the cut and how did it come about? Some customers were thrilled at the good news which they heard overnight.

Mr. Peter McCarthy: I appreciate that some of the terminology we have used today is somewhat industry-specific and it is appropriate to define what dark fibre is, because what we are talking about is dark fibre. Dark fibre is the physical fibre optic cable and one must consider that it is a physical infrastructure product. Some refer to it as "unlit fibre" because physical infrastructure does not carry a 1 Gbps service, which is referred to as a "managed service". Managed services are where one puts the electronics on it and the dark fibre is the cable product.

Chairman: Hardware.

Mr. Peter McCarthy: Service providers have different operating models and some prefer to procure dark fibre as opposed to managed service. Enet is the only operator in the regional Irish market which openly sells both duct and dark fibre products and we price it on a per metre basis, which is a global standard for pricing such products. One metre or 100 m of dark fibre would be cheaper than 500 m normally. Depending on the distances involved in the geographical locations requiring to be linked, the price will vary. The Analysys Mason report recommends that Enet and the Department discuss price changes for dark fibre subduct and duct to

ensure that customers do not find it more expensive, on average, to buy passive products that are comparable to managed service products.

When we put our pricing up on our website, as is the case with all operators that we are aware of, it is maximum pricing you put up, and this has been the industry norm both in Ireland and abroad for many, many years. We published that pricing yesterday and I am going to explain to you the timing of that.

Regarding this specific point about the 50% reduction in prices yesterday, I would like to clarify this item. The Analysys Mason report was sent to us in June 2018. We had a number of discussions with the Department over June and July and a new pricing for the specific item of dark fibre of €2.60 per metre was agreed with the Department. It was also agreed that this price would be the maximum price per metre. In other words, depending on what people are buying off you that price could drop considerably. It could be down to €1 something or whatever. It depends. At that time we were asked to publish this price at the time of publication of the report by the DCCAE.

I would just like to say that in July, now, in fairness, you have to appreciate, Mr. Chairman, that I can only go on records-----

Chairman: Yes.

Mr. Peter McCarthy: -----and talking to more junior members of the team-----

Chairman: Yes.

Mr. Peter McCarthy: -----because there is no senior team here that was here last July-----

Chairman: Yes.

Mr. Peter McCarthy: -----so I am having to go from record.

Chairman: Okay.

Mr. Peter McCarthy: In a lot of the cases and a lot of the information I am going to give you today, I will have gone back and looked for correspondence, minutes and whatever I can find in the business in order to be able to give you the information. I do understand that it was envisaged that that report would be published within a matter of weeks or days of that meeting. We would have had a number of discussions with the Department from there, over the following months, where specific items of the recommendations were dealt with and we were closing them out. During that period, of closing them out, we would have consistently heard that the report was coming.

Chairman: That is very helpful. Has Mr. McCarthy covered the point or is there more?

Mr. Peter McCarthy: Yes, I have. I can go into more detail but I think that-----

Chairman: Perhaps, because it is so late, if he is free after, can he forward that document so we can read it in due course, as part of our further consideration. He can send it on to us rather than reading it now.

Mr. Peter McCarthy: No problem. Can I say one thing else on the Analysys Mason report, Mr. Chairman, if you are okay with it?

Chairman: Yes.

Mr. Peter McCarthy: Just to give a bit more information. Analysys Mason is a London-based consultancy. The DCCAЕ commissioned them to review whether Enet is operating the MANs in compliance with its obligations under the code of practice in the MANs concession agreements to provide open access to the MANs on an equality of treatment, non-discriminatory and transparent basis. This report represents the results of the review. It provides their opinion on the changes that should be made to the way Enet operates the MANs to: improve the transparency of pricing; ensure non-discrimination between ETNL and other Internet service providers; increase separation from ETNL; and encourage further take-up on the MANs.

Enet co-operated with Analysys Mason on their review. This involved site visits by their team to our Limerick headquarters, interviews with our staff and the sharing of records and data with them.

The independent report sets out four possible options regarding optimal structure of operation for the MANs. After thorough review, their chosen option recommends “improved processes, procedures and checks.” For the avoidance of doubt, the report states, at 2.5.5 overall conclusion, “this report shows a range of areas in which enet should improve its adherence to the Code of Practice”. This is stating that Enet is adhering to the code of practice, while suggesting improvements can be made in their opinion. The 13 recommendations are internal and procedural in nature, and are actually helpful to us as a business trying to continually perfect our delivery of service.

After nearly 15 years operating the assets, it is right and proper that the code of practice and our procedures be reviewed so as to ensure they are still relevant for current market conditions and fit-for-purpose going forward. The focus of the recommendations is on the improved processes, procedures and checks and relate to physical access, the cost of connection and pricing, and communication and take-up.

We have engaged with the DCCAЕ in addressing each individual recommendation, and these actions have been implemented or are being implemented in our business currently. We are always striving to be the best we can be. It is beneficial for the consultants from outside the business to come in and undertake a review, and give their views on what is good, what needs improvement and what needs to change. In keeping with best practice, we are working in partnership with Government to make the economic recovery sustainable in parts of the country previously left behind. Thank you, Mr. Chairman.

Chairman: I shall not cut into Deputy Murphy’s time. I wish to clarify the following in case people listening to the debate or the public do not know who or what we are talking about. The report was commissioned by the DCCAЕ, which is the Department of Communications, Climate Action and Environment. We will immediately write to the Department. Enet understood, having met its staff last July, that the report was going to be issued very soon thereafter.

Mr. Peter McCarthy: That was our understanding. Yes, Chairman.

Chairman: We are writing to the Department to ask it to give us a good reason the report was not published last July if Enet and the Department had signed off on it. The point is that people would have got the price reductions last July rather than tomorrow or today.

Mr. Peter McCarthy: Just one point on that, Mr. Chairman. My understanding is we would have been working through the recommendations. So what they might not have been

able to come out with at the time was to say Enet has everything done. We would have been working through. We would have been discussing some of the recommendations.

Chairman: So the Department wanted some implementation before it published is what you are saying.

Mr. Peter McCarthy: I am not sure they are saying-----

Chairman: Yes.

Mr. Peter McCarthy: I am not actually saying anything.

Chairman: We will ask the Department that.

Mr. Peter McCarthy: Yes. Thank you very much, Chairman.

Chairman: They are good price reductions in so far as they go and it would have been better if they had been out last summer. That is all I am saying. That is a Department issue - the report - not Enet. I am sorry, Deputy Murphy, for the delay.

Deputy Catherine Murphy: I welcome Mr. Peter McCarthy. I am sorry for the delay. I apologise in advance as I must leave after our exchange because I have somewhere to go.

Mr. Peter McCarthy: That is okay.

Deputy Catherine Murphy: For the purpose of accuracy, the understanding was that Enet was going to lead the bid all along, and it has changed quite substantially. In actual fact, a number of subcontractors had been named as part of the consortium, which would be the case now, who would be engaged in the building out. The bid has changed very substantially, which was mentioned by others here today.

The leadership team in Enet changed in the latter part of last year. Obviously things happened in advance of that so it may not be possible for the CEO to answer.

In terms of the Enet national broadband plan, it had a technical proof of concept and the pilot scheme was launched in Ballyseedy, County Kerry. Does the CEO know the take-up figures? Was that business transferred to Granahan McCourt or did it remain with Enet?

Mr. Peter McCarthy: Can I just confer, if you do not mind, Deputy?

Deputy Catherine Murphy: Yes.

Chairman: Does Mr. McCarthy want his colleagues to sit at the table? There is no issue with doing so.

Mr. Peter McCarthy: No, it is fine.

Chairman: Proceed once you are happy.

Mr. Peter McCarthy: My understanding is that the take-up was 30% but there would have only been a relatively short period of selling at the initial stage of that. In other words, I do not think it is being actively sold today.

Deputy Catherine Murphy: Has the scheme remained with Enet or did it stay with Granahan McCourt?

Mr. Peter McCarthy: It is with us.

Deputy Catherine Murphy: Is it with Enet?

Mr. Peter McCarthy: Yes.

Deputy Catherine Murphy: I seek a clarification because we probably will need to deal with this when we have the Department back in. Who, in the Department, regulates Enet? Does Enet specifically deal with somebody in the Department?

Mr. Peter McCarthy: There is a team we deal with in the Department.

Deputy Catherine Murphy: Who leads the team?

Mr. Peter McCarthy: It is led by Brendan Whelan.

Deputy Catherine Murphy: In terms of MANs, the Analysys Mason report talked about having received several complaints. Some of those would have been submissions and some would have been complaints. One of the entities that we talked to this morning confirmed that it had made submissions. Some of those issues have been captured in the report. Predominantly, it would have been to do with pricing and transparency, and also the non-separation of the wholesale and retail business, which were very valid complaints. Obviously the complaints were picked up in this report because they were valid. We heard from a number of entities here today. Two and possibly three of them said that they would have bid had the MANs concessionary contract been openly tendered. Enet had a contract with a clause that allowed it to continue. There was a report by the Department, but it is entirely appropriate for members to ask a question on what happened to the tender process. There was an expectation that the tender process would have occurred. We expressed our surprise and disappointment today that this did not happen.

Does Mr. McCarthy accept that he is operating in a commercial world and in that world, people bid for tenders all the time. Enet bid for the tender in 2004 and 2009 and some of the rules changed during that time. Does he accept that there was not a clear-cut relationship between the retail and wholesale entities, which has been picked up?

Mr. Peter McCarthy: Would the Deputy like me to start with the extension of the concessions?

Deputy Catherine Murphy: Yes, if Mr. McCarthy could start with that and then address the pricing element. I will then come back to him on a third point.

Mr. Peter McCarthy: That is no problem. The first decade of the MANs programme saw significant investment and positive market impact from Enet and the company saw an opportunity to invest further in the asset to ensure that it remained at the heart of a rapidly changing telecoms landscape and to continue to deliver policy benefits for the State. When Enet approached the Department of Communications, Climate Action and Environment in July 2014, there was less than six years remaining on the phase 1 concession and given our investment plans and the fact that the payback period for infrastructural investment exceeded the remaining life in the concession, we felt it was more than appropriate to commence discussions with the Department.

Deputy Catherine Murphy: May I stop Mr McCarthy for a moment?

Mr. Peter McCarthy: Yes.

Deputy Catherine Murphy: I accept that when one considers making an investment, one has to look at whether one will get a return on it. If there had been a tender process, does Mr. McCarthy also accept that others would have had to make those kinds of decisions for exactly the same reason?

Mr. Peter McCarthy: When the Department approved the extension in March 2017, there was just three years remaining on the phase 1 concession. The Department of Communications, Climate Action and Environment commissioned an independent report on whether it should re-tender the MANs contract or extend the term of the existing contract, as allowed for in the original contract. We had a contract that started in 2004 and another in 2009. Both contracts had a provision for extension. It is not unusual for large infrastructure projects to have this extension provision and this contract had this extension provision in it.

The Norcontel report completed in June 2016 is unambiguous in its recommendations that the preferred option, based on the analysis, is to extend the current concession agreements. This report also makes a variety of other conclusions. The MANs had fulfilled the role for which they were conceived and designed. The MANs had been successfully operated and managed by the MSC appointed. The MANs continued to make a financial return to the State, as specified in the concession agreements. The role and position of the MSC in providing open and transparent access and connectivity is acknowledged and accepted by the service providers that avail of MANs service.

Deputy Catherine Murphy: May I stop Mr. McCarthy at this point?

Mr. Peter McCarthy: Yes.

Deputy Catherine Murphy: There was criticism of the lack of transparency in pricing and this has been picked up by the Analysys Mason report. There was one bill that did not differentiate, for example, between different components and whether there were discounts. We have heard from British Telecom, BT, this morning and we can only test this with companies that are purchasing from Enet whether the contract's terms were fully implemented. BT will revert to the committee with a note on the aspects it says were not fully implemented.

The purpose of teasing out the service is to ensure the delivery of a cost-effective product to homes and businesses. There has been a sizeable reduction in the cost. Enet did not need to wait for this report to be published to reduce prices but it the reduction happens to coincide with the publication of the Analysys Mason report and the Minister's announcement yesterday. While the report was published last March, Enet saw it in July or August.

Chairman: It was ready last March and published yesterday.

Deputy Catherine Murphy: Yes. Before the contracts were extended, there were criticisms from companies which were significant purchasers from Enet. That has been picked up and I hope it will be remedied now and in the foreseeable future. Mr. McCarthy stated that there was a satisfactory relationship between Enet and its customers. However, the customers were saying there were serious problems. Does he accept that?

Mr. Peter McCarthy: First and foremost, one has to remember that British Telecom is a major competitor of ours in the Irish market.

Deputy Catherine Murphy: I understand that.

Mr. Peter McCarthy: We have two major competitors in this market, Eir, being pretty much the incumbent, is one and BT is the other. We have to look at things in that context and we cannot completely put that to one side. Maybe if I address the next section of the Deputy's question, which was on inter-company pricing. Enet is related to a sister company, Enet Telecommunications Networks Limited, ETNL.

Deputy Catherine Murphy: Is that the retail side?

Mr. Peter McCarthy: No. I will explain it now. ETNL was separated from Enet in 2015. They are two distinct buckets on the Enet side of the house, namely, the MANs business which is Enet, and the wholesale business which is ETNL. There is a retail business which sits over to one side, which is AirSpeed Telecom. The MANs were built by the State. They were merely rings of fibre in rural areas, which were not connected either to buildings or backhaul networks. A ring of fibre was built in the centre of a town and one basically had ducts with one fibre cable in the ducts. That is all one had. It is a dead piece of infrastructure until one lights it up and connects it back through the backhaul network to some sort of termination point, probably in Dublin, where one will get international connectivity. Without backhaul, the MANs would have been a complete waste of money as local traffic would not have the ability to reach other destinations. Some €176 million of taxpayers' money would have been wasted. The State would not be in a position to receive nor would have been in receipt of the financial or policy benefits yielded to date. Analysys Mason stated in its report that without these backhaul connections, the MANs would be islands of connectivity with limited usefulness. Enet invested heavily in connecting the MANs to a national network, thereby making them utilisable and allowing regional broadband traffic to terminate in Dublin. The only party at that time that had that type of backhaul connectivity outside of the incumbent Eircom was BT. By putting in this network, we increased the competition in reaching these areas. The investment to date has been in excess of €50 million on this infrastructure, outside of the MAN infrastructure. That investment of €50 million is on top of the €31 million. Therefore, the Enet group of companies has State owned assets as well as private owned assets. On this basis, Enet created a company ETNL to hold the non-MAN assets. This process acts to separate out the concession assets and the non-concession assets so that the State's assets remain easily identifiable at all times. The company has an inter-company pricing policy between the entities Enet and ETNL. This inter-company pricing is agreed with the Department of Communications, Climate Action and the Environment.

Not having been involved in any of the process prior to October 2018, I went through the records of the business and consulted a great many documents to see what happened in respect of the splitting of the entities, how the pricing worked and how the contracts were constructed. I have found that the company has acted in good faith at all times when going to do anything in that it has gone to the Department first and said, "We are thinking of doing this, this is how it is going to look, this is how it will sit, this is the way the contracts will be constructed and this is how we propose to do our pricing". At all times, we have had that signed off by the Department in advance of making any specific moves, and that includes changing prices and anything else.

I have reviewed, in particular, documentation exchanges between the Department and Enet in respect of Enet seeking agreement to set up ETNL and how the relationship between ETNL and Enet would work, the transfer pricing proposals and draft agreements, including Enet acting as agent to customers in order that they have the simplicity of a single bill. In the case of AT&T, Verizon and some of the large operators, which are trying to connect multinational

companies, customers do not want to be dealing with two entities and two bills. We are trying to provide a simple service and it is clearly documented because if it was not, we would end up with a grey area. We have gone to great lengths to try to ensure that does not happen.

Enet did not embark on the process, including the agreement on transfer pricing, without the consent and agreement of the Department. I am specifically referring to documents between the end of 2014 and the beginning of 2015, when ETNL was set up, which is important. I have seen a correspondence chain between the Department and ourselves on that.

Deputy Catherine Murphy: It is clear there has been a sizeable reduction of almost 50% per metre, from which, I hope, the end user will benefit. Has that been factored into Enet's business model? The contract will have changed hands and, as Mr. McCarthy identified, there are investors, many of which are pension funds while others are from the IIF. Will the reduction make a significant difference to Enet's business model? Does it hope to sell more as a result of reducing the price? How will it play out?

Mr. Peter McCarthy: We need to talk about maximum pricing. As I alluded to earlier, the pricing that is put on the website as the published pricing is maximum pricing. The pricing is coming down, as it has been for a period of time, and the deals have been done accordingly. Prior to this, the maximum pricing was probably far out of kilter with what we were charging and what the market was willing to pay. Today, the maximum pricing is much closer to where it should be.

Deputy Catherine Murphy: The maximum pricing will differ depending on the size of the customer.

Mr. Peter McCarthy: Yes, exactly.

Deputy Catherine Murphy: What is Lactava Investment Holdings 1 and 2? It appears to have the same board composition as Enet.

Mr. Peter McCarthy: I do not have a clue because it does not form part of the Enet companies.

Deputy Catherine Murphy: In that case, it is a part of the NBP bid company.

Mr. Peter McCarthy: They do not form part of the structure of which I am chief executive today. They are not part of the existing company structure, as far as I am aware.

Deputy Kate O'Connell: I thank Mr. McCarthy for appearing before the committee. It has been a long day and he has added some clarity to the matter. I was nearly convinced at the end of the previous meeting that we would not need any fibre broadband and that broadband could all be provided through bits of boxes and parts of buildings.

Mr. McCarthy mentioned that Eir is the incumbent and that BT is the major competitor. BT seemed to have an issue with the Norcontel report but, as he clearly outlined, it is only natural that it would, given that is Enet's chief competitor and it wants the business.

On the report about the 50% reduction I received earlier, I wish to clarify that, having met the Department in July 2018, following the publication of the Analysys Mason report, Enet's understanding at the time was that the announcement would be made a few weeks later. Am I correct that the committee intends to write to the Department in respect of the delay?

Chairman: Yes, that is exactly what I was saying. We will write specifically to ascertain why there was a delay last summer.

Deputy Kate O'Connell: The 50% reduction is the price as of this morning. If there is a retrospective saving, will there be any claw-back for the taxpayer, or will the price of €5.20 per m. be paid in full?

Mr. Peter McCarthy: As I said, they are the maximum prices. When a maximum price is set, what one is saying is that it will be any more than that.

Deputy Kate O'Connell: There is an economy of scale, however.

Mr. Peter McCarthy: In general terms, it is going to be a lot less.

Deputy Kate O'Connell: I knew nothing about broadband until this week. From what I have read, my understanding is that the basic intention of the NBP is to install a network around the country that, hopefully, will provide consistent speeds. They might not reach 100% but it is hoped that there will be coverage of 95% for customers in, for example, Ballymaloe or counties Galway or Leitrim. Unless I have missed something during the meeting, there is no better method for delivering that than high-speed fibre-optic cable, which is Enet's business. While masts, fixed wireless, roaming or nomadic wireless have a place, and perhaps they will fill the residual void, my understanding is that, according to the evidence, the best product to deliver infrastructure for the people is the fixed-line cable. Am I correct that nothing that beats fibre-optic cable?

Mr. Peter McCarthy: The interesting aspect of the matter is that the two are intertwined. There is no question that wireless has a part to play but in most cases, when rolling out wireless, it is being rolled out with fibre connected to it. Great speeds will be attained by running fibre to the masts. Over the past year, we have rolled out a lot of fibre. Wherever people roll out rural broadband, we connect their infrastructure to fibre.

Deputy Kate O'Connell: In that case, there is a mast-----

Mr. Peter McCarthy: Yes.

Deputy Kate O'Connell: One of the companies - it might have been Imagine - stated that the cable extended 13 km to the mast. Enet brings the cable to the mast and, in effect, the broadband companies ping off the mast.

Mr. Peter McCarthy: Yes, exactly. The MANs are rural and, therefore, it is easy to connect to the MANs and then connect to our backhaul or somebody else's backhaul.

Deputy Kate O'Connell: Enet is essentially the spine of the process and everybody else radiates from it.

Mr. Peter McCarthy: Because we are so deep into rural Ireland, we are playing a major part in that at the moment.

Deputy Kate O'Connell: Questions were being asked about the existing infrastructure and Bord Gáis networks. Mr. McCarthy referred to Enet having use of that. Will he elaborate on that? It was not discussed earlier and from what I heard, I had the impression that the networks were almost redundant. He indicated that Enet has capacity in that regard.

Mr. Peter McCarthy: This is an incestuous business in that every carrier in the country somehow connects into every other carrier for different reasons. One is all the time trying to build the reach of one's network, much of which is done by me buying a piece from BT, Colt, Eir or whatever it might be. Eir does not sell very much but the other operators do. We are always trying to build our infrastructural reach. We deal quite a lot with international carriers and they want reach. They want to be able to get to the business communities. We are very lucky with the MANS in that we are providing unique infrastructure to areas of Ireland. There is much infrastructure in Dublin but outside of the city the sort of infrastructure we have is unique. There is also ESBT, which is the telecoms network of the ESB. That is mainly a backhaul network. We use pieces of that for connectivity. It would be the same for Aurora. It will buy bits from us and we buy bits from it. We are always trying to strategically build our network. We are all intertwined. We have BT as a customer and we also provide some services to BT. In fact, up until approximately 2014, we had nearly all of our backhaul with BT and then we moved it to CIE. Up until that point, however, BT would have had a lot of business from us.

Deputy Kate O'Connell: I thank Mr. McCarthy. This morning we heard about the second phase of the tendering and I want to make sure I understand that. Many of the questions this morning related to the extension. I heard Mr. McCarthy explaining it to Deputy Catherine Murphy. From July 2014, there was less than six years to run on the first phase. Is that correct? As a business then, Enet was wondering what it would do in six years. Is that what Mr. McCarthy was saying?

Mr. Peter McCarthy: No. It is more about investment. If I went to our board today and stated that I wanted to build a new MANS, that I wanted to build new infrastructure, the first thing the board will examine is if it will pay back within seven years. If it is not going to pay back within seven years-----

Deputy Kate O'Connell: I understand.

Mr. Peter McCarthy: -----I will not get that extra money for deployment. That is a critical factor and it is no different with any other telecoms company in the country. They are looking at this all of the time. As a company gets closer to its renewal situation, that starts to become an issue.

Deputy Kate O'Connell: Of course it does.

Mr. Peter McCarthy: Is it a good idea to invest all of that cash and take the risk-----

Deputy Kate O'Connell: Mr. McCarthy obviously has a sum that works out how to make a MANS equitable.

Mr. Peter McCarthy: In fairness to the Department, it did not rush out and make a decision. This was a discussion that went on for three years and involved Norcontel being brought in. It was a careful evaluation process. First and foremost, as I said, we had a provision in the contract that said the MANS could be extended-----

Deputy Kate O'Connell: The 2004 and 2009 contracts had provisions for extensions.

Mr. Peter McCarthy: Both of those contracts had that.

Deputy Kate O'Connell: Mr. McCarthy already said that.

Mr. Peter McCarthy: Once we had that we met procurement rules. It really was down to

the Department to decide if that was the right to do. When the Secretary General was before this committee in December he said that irrespective of any pressure that may have been put on, and there was none in this case, the only objective was to ensure that whatever deal emerged from the decision on extending or retendering was to the benefit of the State and nobody else.

Deputy Kate O'Connell: That is fairly clearcut, is it not?

Mr. Peter McCarthy: Absolutely. As part of the extension, the Department negotiated changes to the contract. As the incoming CEO, I can see that is biting and is benefiting the State and not us. The renegotiated terms were definitely advantageous to the State.

Deputy Kate O'Connell: That all seems to make sense now. We could have done with the representatives from Enet being in first this morning. It might have been handier if we did everything in reverse order. Would the witnesses like to add anything further? We are at the end and perhaps there are things we have not asked about that might help our discussions.

Mr. Peter McCarthy: I want to say one or two things. We genuinely welcomed the publication of the Analysys Mason report. My team is a new one and we are very keen to get off on the right footing here. We want transparency and we want to work with the officials to make sure we are not back here in 12 months trying to work our way through this again. It is our plan to take this forward in a transparent and professionally-operated business. This is a public-private partnership and we are not a regulated body. This is about us working with the Department to deliver the best the value from this process. It is a win-win situation.

As I mentioned earlier, the State already received €31 million in assets and €8.8 million in revenue. Foreign direct investment outside of Dublin is been facilitated by our partnership. This means jobs in underdeveloped regions, taxes being paid by new companies and their employees and more affordable housing. People will not have to leave Dublin to work. This is good for everybody and this is what Enet and the Department are delivering together. There has been a certain amount of trial and error but we have addressed and are addressing any defects we can identify. That is the nature of every business and this is a success story for Enet and for the State.

We have to remember we are in a very competitive situation. While we do not operate a regulatory department or have people who are constantly watching what everybody else is doing and putting stuff out, we are operating in a competitive space. We are doing the best we can and we are totally focused on our business and driving it out, building our customer base and doing that with professionalism and integrity. That is what I wanted to say.

Deputy Kate O'Connell: I thank Mr. McCarthy.

Chairman: I have a few questions. Mr. McCarthy referred to some comments made by the Secretary General of the Department. He was here before Christmas and I remember that very well. He cited the Norcontel report. We will take that up again with the Department and not Mr. McCarthy. I want to get the facts on the record by asking Mr. McCarthy some questions. He mentioned the competitive situation. Where is the competition with MANs? ENET is the sole monopoly operator of that network. Perhaps Mr. McCarthy is referring to competition to get the best price for customers. I do not know. Mr. McCarthy, however, mentioned the competitive situation twice. There is a contract for ten years so where is the competition?

Mr. Peter McCarthy: I am sorry, but within the Enet business, in the ETNL situation, where we are wholesaling business ourselves, BT is our primary rival, or one of the main rivals

in that area.

Chairman: We are more concerned with the MANs and the public business with the State rather than private business. In that regard, there is no competition.

Mr. Peter McCarthy: Eir would be the primary competitor there. I did see the opening statement of the CEO of Eir this morning. This is important. When we are out in the MANs, we are the only alternative to Eir. If the MANs was not there then Eir would be in a completely monopolistic situation. It would also have been very difficult if Eir ever had bid to acquire the MANs because it would have given it a 100% monopoly.

Chairman: Eir did not even bid for the MANs because it was an operator at the time.

Mr. Peter McCarthy: I think Eir has always operated, or for many years, as a separate-----

Chairman: I do not think it sought the MANs.

Mr. David Eyre: I think MANs was put in place so that there would be infrastructural competition. The *raison d'être* for the MANs was to have two separate networks in these towns.

Chairman: That is fine. The point made today by Eir was that under the European procurement rules an operator could not provide the service supplied by the Enet. It had to be independent. It was stated that Enet met that condition at the time. Now that it has a sister company in the same business, however, Eir questioned whether that condition was still being met. Does Mr. McCarthy understand the question?

Mr. Peter McCarthy: I do Mr. Chairman. I will go back to the point I made at the start and that is the differentiation between a wholesaler and a retailer. ETNL is a wholesaler, Enet is the operator of the concessionaire and AirSpeed is a retailer. They are quite different.

Chairman: That is fine. They are well separated.

Mr. Peter McCarthy: I am glad to have the opportunity to clarify that. Paragraph 75 (e) of the State aid approval decision of the European Commission addressed to Ireland in respect of the State aid to be provided to Enet under the concession agreements for the Metropolitan Area Networks, phases two and three, states that the State retains ownership of the infrastructure and attributes its management to an independent MSE which cannot act as a retail service provider. Enet is the MSE and neither Enet nor ETNL act as a retail service provider.

Chairman: The sister company of Enet, however, does act in that capacity.

Mr. Peter McCarthy: Yes, but it is a separate company.

Chairman: I suppose that is where public confusion arises. Mr. McCarthy can understand that. I ask Mr. McCarthy to send that document to the committee because it will be important in our deliberations.

Mr. Peter McCarthy: That is no problem, I would be delighted to do that.

Chairman: What year is that document from?

Mr. Peter McCarthy: That document goes back to 2004 or 2005.

Chairman: I ask Mr. McCarthy to give us the provenance. We are putting these questions

now because otherwise we will have to come back to them later. It has twice been stated that the original contract provided for an extension.

Mr. Peter McCarthy: Correct.

Chairman: The contract did not have to provide for that, but the Department chose to go that route. It could have retendered. If Enet had invested in the latter years of the contract and the contract was not renewed, I presume it would have included a mechanism of compensation for unrecovered investment.

Mr. Peter McCarthy: I am not clear on that.

Chairman: I gather from Mr. McCarthy that, when Enet entered into the last few years of its contract, it put it to the Department that it wanted to continue investing.

Mr. Peter McCarthy: Yes.

Chairman: From Enet's point of view, that would only have been viable if it had been able to recover the investment over a seven year period. That is one of the reasons Enet would have sought an extension.

Mr. Peter McCarthy: Yes.

Chairman: Was there a corresponding opposite agreement to the effect that, if Enet continued investing but did not recover its investment because it did not get an extension, it would not then be out of pocket?

Mr. Peter McCarthy: If I tried to answer that question, I would be doing so without knowing the facts.

Chairman: We will allow Mr. McCarthy to check. He gets my meaning. I presume the contract was a two-way street.

Mr. Peter McCarthy: My understanding is that what was on the balance sheet would end up going to the Department.

Chairman: Back to the State.

Mr. Peter McCarthy: Yes. We will check the details and send them to the clerk.

Chairman: If investment was incurred in the latter years of the contract and, because Enet did not receive an extension, that investment transferred back to the State, where would Enet's non-recovery accrue? A normal business would want to get a return on investment, but Mr. McCarthy is saying that it went to the State.

Mr. Peter McCarthy: It is important to point out that it would not stop us from connecting anyone.

Chairman: I am talking about further investment.

Mr. Peter McCarthy: Every time we connect someone to the MANs, we could have to do a dig. A MAN is a ring. If BT or another company came along and stated that it wanted to connect Joe Bloggs or such and such a company in a town, it could mean us having to dig 500 m to that premises to connect it. That type of direct connection to a MAN is always an investment

and stays with the MAN. It is an ongoing investment of possibly millions of euro per year.

Chairman: When Mr. McCarthy stated that, in the event of the contract not being renewed, he wanted Enet to get a return on the investment it had made latterly, to what investment was he referring? That seems to be the pitch he was making.

Mr. Peter McCarthy: Yes. I am not sure of the specific investments at the time. I have not dug out the details.

Chairman: Mr. McCarthy made that statement-----

Mr. Peter McCarthy: I understand that.

Chairman: -----but has now said that, if Enet made an investment, it was really the State's investment because it would revert to the State.

Mr. Peter McCarthy: I will give the Chairman an idea of some of our investments. We have built MANs where there was none at all.

Chairman: Was Government approval for that required?

Mr. Peter McCarthy: No. One would apply normal-----

Chairman: Enet has a big presence in Portlaoise, but if it decided to go to Mountmellick in my area, that would be its call.

Mr. Peter McCarthy: That is our call.

Chairman: Enet can make that decision.

Mr. Peter McCarthy: We can if there is a business case, but so can anyone. Any operator can do that.

Chairman: People can provide MANs-----

Mr. Peter McCarthy: Yes, but they are State subsidised. Anything we do is through our investment.

Chairman: We are getting that. Mr. McCarthy stated that all MANs were connected to Dublin.

Mr. Peter McCarthy: Yes.

Chairman: Is that through ESB pylons? Bord Gáis, Waterways Ireland and Iarnród Éireann have been mentioned.

Mr. Peter McCarthy: Our primary backhaul is with CIÉ.

Chairman: Now.

Mr. Peter McCarthy: Yes. As our customer base grows, the MANs become busier - data usage by our customers is going through the roof - and we bring more of the mobile operators and Imagines of this world onto the network, our capacity on the MANs requires much more IT development and spend. We must upgrade regularly, which is expensive. This is not just about fibre in buildings, since it is the IT systems that make all of this work. A massive amount of

money goes into those systems continuously to expand the networks.

Chairman: Enet has a contract with the Department that looked unusual to us. All of the companies represented - I am sure Enet's retail company is included in this - are governed by the regulator.

Mr. Peter McCarthy: No, we are not. There is only-----

Chairman: No. I am coming to the reason it sounded unusual to us.

Mr. Peter McCarthy: I beg the Chairman's pardon and apologise for interrupting him.

Chairman: The MANs are a major piece of the telecoms infrastructure, yet the regulator of the telecoms industry seems to govern everything except for them. We will raise this matter with the Department, but does Mr. McCarthy have a view on it? Eir has made it clear to us that, as part of the national broadband plan, the price that the company that wins the contract will pay for use of Eir's physical network for running fibre services will be set by the regulator. Is that correct? I am not blaming Enet but it appears that, in the case of the MANs, the regulator has no role in setting Enet's prices. That is why it has maximum, discounted and reduced prices. That the MANs are not under the Commission for Communications Regulation, ComReg, when almost everything else is a matter that we will raise with the Department. It is just a straight agreement. Am I right? That is the impression we were given today.

Mr. Peter McCarthy: I am glad to have a chance to clarify this. Most of our competitors' services and our services are unregulated. The most regulated-----

Chairman: Most of-----

Mr. Peter McCarthy: A company must have significant market power, SMP, to be regulated. As far as I am aware, our competitor, BT, only has one or two minor services that are regulated. Its products that compare to ours are, like ours, unregulated. That is an important piece of information.

Chairman: It is useful, as a clear impression was given. Eir is under the regulator because it is so big.

Mr. Peter McCarthy: Yes. Given that BT is a business of scale, parts of it are regulated as well. In terms of the MANs and any of our services, though, BT's comparative products are, like ours, not regulated.

Chairman: We got the impression that everything was regulated bar the MANs.

Mr. Peter McCarthy: I am glad to have the chance to clarify that.

Deputy Kate O'Connell: Might I clarify that again? It is 5.50 p.m. Where else would we be on Valentine's Day, Chair?

Chairman: We came back in the afternoon. In truth, we have only been here for just over an hour.

Mr. Peter McCarthy: We are okay for time. We have no problem in that regard.

Chairman: We will conclude soon.

Deputy Kate O'Connell: "SMP" means significant market what?

Mr. Peter McCarthy: Power.

Deputy Kate O'Connell: Enet is regulated in that respect. BT has SMP in some cases and, hence, is regulated. Am I right?

Mr. Peter McCarthy: In respect of just some elements.

Mr. David Eyre: Products that are not relevant to the products that we provide.

Deputy Kate O'Connell: Some of its parts and the equivalents in the witnesses' company are not regulated. They are basically-----

Chairman: Equal.

Deputy Kate O'Connell: BT's apples and Enet's apples are-----

Mr. Peter McCarthy: Exactly the same.

Deputy Kate O'Connell: Perfect. I thank the witnesses.

Chairman: They can see why I am putting these questions. We do not want to walk out of here with one side of the story.

Mr. Peter McCarthy: Yes.

Chairman: It is probable that the other company was precisely correct in what it said, but we got an impression from the big pitch it made about its being regulated. That is because it is so big, though, and we understand it is a dominant player.

Does the Department have a separate service-level agreement with Enet or does it just have a contract?

Mr. Peter McCarthy: It is a concession contract.

Chairman: It governs the arrangements. How often must Enet submit its financial statements, including returns, dividends and investments, to the Department so that its viability as an operator can be checked? The Secretary General told us that there was almost a requirement that a certain percentage of Enet's turnover had to go into investment each year. I am sure the witnesses have read it, but I have not looked back over the transcript.

Mr. Peter McCarthy: We have-----

Chairman: There is a requirement of a certain level of investment.

Mr. Peter McCarthy: There is. We must produce a three-year plan, which was produced and handed over in November, I believe. That is a requirement. I am not certain, but I believe that we also have a requirement to produce accounts for that particular company.

Chairman: Mr. McCarthy might provide clarification for us.

Mr. Peter McCarthy: I will. There are a number of reports as well, including a KPI report. We have regular, formal and minuted meetings. Those are the requirements.

Chairman: Mr. McCarthy might set out the reporting structure.

Mr. Peter McCarthy: We can send a note on that to the clerk.

Chairman: I have a further question on the broadband plan, but something was mentioned about MANs in rural areas. Well, Enet calls them “rural areas”, but it is not out the country. It is in towns, by and large the provincial ones. For people who want broadband outside of the MANs and a provider is supplying broadband in a rural area close to a town on the MANs, it has been stated that there is an option to connect to Enet as the source for that service.

Mr. Peter McCarthy: Yes, that is correct. We manage what is called the “middle mile”.

Chairman: Please explain that again for people. We have heard about the “last mile”. This is important for understanding the system.

Mr. Peter McCarthy: I am delighted to explain. I actually have a carefully scripted explanation on that, if I may have one moment.

Chairman: I understand that-----

Mr. Peter McCarthy: It is a couple of paragraphs and no more.

Chairman: Mr. McCarthy can send that document to us.

Mr. Peter McCarthy: That is not a problem. I am happy to help.

Chairman: Those Members not here will then get the benefit of reading it next week.

Mr. Peter McCarthy: I am delighted to do that.

Chairman: I can guess what the “middle mile” is. We also know about the last bit and where Enet is with that, but it would be helpful if Mr. McCarthy would send us the explanation of the “middle mile”. The last topic I want to raise with Mr. McCarthy is the national broadband plan. This might not take very long. The national broadband plan was a principal part of Mr. McCarthy’s opening statement and Enet is a subcontractor to the bidder, National Broadband Ireland, NBI. Mr. McCarthy has stated that Granahan McCourt is the main shareholder. The Ireland Strategic Investment Fund, ISIF, a State company, also has a significant stake.

Mr. Peter McCarthy: The ISIF.

Chairman: That is correct. The ISIF has a substantial investment in the Irish Infrastructure Fund, IIF, as well, the company which now owns Enet. Is that correct?

Mr. Peter McCarthy: That is correct.

Chairman: That is fine. If this contract is secured by Enet, then the State has a stake. Is that correct?

Mr. Peter McCarthy: No. If National Broadband Ireland, NBI, which is the bidding consortium, or anybody, wins this contract then Enet is potentially a subcontractor. At the moment, Enet will be a subcontractor if the national broadband plan, as it currently is, was to go into the preferred bidder stage and move forward. Enet would be bringing the benefit of the MANs and all of that infrastructure into play. From that perspective, IIF, and consequently ISIF, would benefit.

Chairman: I note the wording used by Mr. McCarthy. He stated Enet is a “key subcontractor” but not the only contractor.

Mr. Peter McCarthy: That is correct.

Chairman: Enet, therefore, is not the only subcontractor. I just wanted to clear up that issue. The last aspect of this matter concerns the national broadband plan. It started in 2015 with 850,000 houses. Today, we heard Eir has already taken 300,000 houses out of that original figure because it can do it commercially. The company has also stated that it is now replacing some of its old network with fibre and that will take another 80,000 houses out of the remaining 540,000. The total left will then be 460,000 houses. Mr. McCarthy may not be able to answer my next question. He can make a comment if he wishes or, if not, we can refer this back to the Department.

This plan is now for 20% of the 2.4 million premises in Ireland. We have had that figure and, between business and domestic, I think it is correct. The national broadband plan was to cover probably the last 30% or 40% of premises when it started but it is now for the last 20%. The commercial sector is now dealing with a big chunk of the original 30% or 40%. Eir made it clear today that if its board approved further investment it could possibly work on a commercial basis to reduce that figure further.

This committee will be concerned that the contract the Minister may approve - and I am not speculating on whether he will - will be for circumstances that are very different to the situation pertaining when negotiations commenced. The numbers covered by the national broadband plan could be dramatically reduced. As time passes, we are hearing that some of the premises currently included in the plan will be removed. There is no doubt we need the national broadband plan in rural areas but the numbers covered by and scale of this plan seem to be diminishing all of the time. Is that Mr. McCarthy’s understanding? How is Enet, as a subcontractor, affected by this situation?

Mr. Peter McCarthy: I will give a personal view.

Chairman: I will pose that question to the Department.

Mr. Peter McCarthy: This is a very general high-level view and it goes back to what I stated about the market we are in. It is highly competitive sector. All of the competitors were here today and they all have a different slant and that is what it is.

Chairman: They were all very shy.

Mr. Peter McCarthy: The only way to get the real numbers involved would be to do a census. That is all I have to say. It is back to the Department after that.

Deputy Kate O’Connell: Regarding the alleged residual number of premises, I think we might subtract another 30,000. Eir stated there were 330,000 premises, so the imaginary figure is now 460,000. Those will also be hardest places to get to, the most difficult to connect and, I imagine, the places with the least penetration. I imagine they are the most complex premises to deal with. Everybody is going to take the low-hanging fruit first.

Chairman: Contract negotiations are proceeding on the potential benefit for whichever company gets the contract and the State aid. As the process continues, some premises are being removed from the being covered in the plan. I do not like using the word “cherry picking” but

as we go along companies are taking the most commercial or the best prospects from what was initially envisaged in the original plan. What is left is not the low-hanging fruit.

Deputy Kate O'Connell: It is not low-hanging fruit.

Chairman: It is at the stage where the costs are going to be higher, as well as the State aid, the smaller the numbers involved get. That is something the Department will have to configure and not Enet.

Mr. Peter McCarthy: Exactly.

Chairman: One of the witnesses made a good point on the MANs and the private fibre networks as well as the mobile network. It was stated that "all existing and planned commercial investment should be taken into consideration prior to any State intervention into a commercial market". We might advise the Minister to find out what exactly is in any contract before he signs it. There might be fewer premises included by the time whatever company gets the contract actually gets around to doing the job. We will have to raise that with the Department. What is in the contract is a moveable feast at the moment.

Deputy Kate O'Connell: It always will be.

Chairman: That is correct.

Deputy Kate O'Connell: It changes every day.

Chairman: If we turn back the clock two years, there were 850,000 houses involved. The numbers have almost halved now. That is an observation and not a conclusion. We have now completed our-----

Mr. Peter McCarthy: I would like to add one small thing to what I have said.

Chairman: Yes, please do.

Mr. Peter McCarthy: We came in today in good faith and we have answered questions not just on the national broadband plan but on Analysys Mason, extensions and everything else. It was good to hear what was said today to understand, finally, the identity of the complainant. There is a very unusual process under way here. It is the bit I do not understand. The Analysys Mason report was driven by complaints, in one sense.

Chairman: That is okay.

Mr. Peter McCarthy: To address something like those complaints within a business, and ensure the business is equipped to make sure something similar does not happen again - if something did happen - or that there is continuous improvement, the first thing to do is to go back, examine the complaint and try to understand it. I still do not feel that has been possible. One of the complainants has gone public today. I still believe, however, that if a complaint is valid, it should be in the public domain. I do not understand why it is not. I do not understand why, if there is a legitimate complaint, it is confidential. It makes no sense to me.

Chairman: That complaint was stated here today and we asked for a copy of that correspondence. Mr. McCarthy will be aware of that. We will also contact the Department separately. I do know if it has been requested already under freedom of information legislation. I doubt it.

Mr. Peter McCarthy: If I had sent a letter to the Chair or the Department, I would have

thought that aspect was up to me to undertake.

Chairman: There was at least public acknowledgement today as to the identity of the complainant.

Mr. Peter McCarthy: I appreciate that.

Chairman: It was stated earlier and I will not repeat the name. It is on the record.

Mr. Peter McCarthy: I thank the Chair and the committee.

Chairman: I thank all of the witnesses for coming and I apologise that the meeting has continued so late into the day. It was a long day and I thank the witnesses for bearing with us. Is it agreed that the clerk requests any follow-up documentation and carries out any agreed actions arising from the meeting? Agreed. We will now adjourn. If confirmed, we will be meeting representatives of the Department of Public Expenditure and Reform on the issue of oversight of capital projects at our next session or, that is not possible, we will be meeting with representatives from the Kildare and Wicklow Education and Training Board on the financial statements in the special report of the Comptroller and Auditor General. We have to check availability. It will be one or the other of those groups. In the afternoon of that session, we will be meeting witnesses from the Irish Council for Social Housing and the approved housing bodies interim regulatory committee in connection with their Vote and our discussion on housing.

The joint committee adjourned at 5.59 p.m. until 9 a.m. on Thursday, 21 February 2019.