

DÁIL ÉIREANN

AN COISTE UM FHORMHAOIRSIÚ BUISÉID

COMMITTEE ON BUDGETARY OVERSIGHT

Dé Máirt, 28 Bealtaine 2019

Tuesday, 28 May 2019

The Joint Committee met at 4 p.m.

Comhaltaí a bhí i láthair / Members present:

Richard Boyd Barrett,	
Thomas P. Broughan,	
Joan Burton,	
Barry Cowen,	
Martin Heydon,	
John Lahart,	
Michael McGrath,	
Eamon Ryan,	
Brian Stanley.*	

* In éagmais / In the absence of Deputy Jonathan O'Brien.

Teachta / Deputy Colm Brophy sa Chathaoir / in the Chair.

Business of Select Committee

Chairman: Apologies have been received from Deputies Lisa Chambers, Jonathan O'Brien, Declan Breathnach and Maria Bailey. The committee will hold two separate sessions today. In our first session we will meet the Minister for Public Expenditure and Reform, Deputy Paschal Donohoe, to discuss the national broadband plan and consider the budgetary implications of the plan and its potential impact. In our second session we will meet Mr. John Hogan and representatives from the local property tax review group to discuss the group's review of the local property tax.

The select committee went into private session at 4.06 p.m. and resumed in public session at 4.07 p.m.

National Broadband Plan: Minister for Public Expenditure and Reform

Chairman: I remind members and witnesses to turn off their mobile phones as they affect the sound quality of the recording. I welcome the Minister, Deputy Paschal Donohoe, who is accompanied today by Mr. Ed Hearne and Mr. John Kinnane, both principal officers from the Department of Public Expenditure and Reform. As the Minister knows, the committee has requested a meeting with him and senior officials from the Department of Public Expenditure and Reform to discuss matters relating to the national broadband plan, particularly with reference to the impact on commitments in the capital programme. I thank the Minister for making himself available to meet the committee at short notice and we appreciate that. We should also note that the Minister will engage with us separately on the local property tax. We will have a session on that topic later but the current engagement relates to the national broadband plan. The Minister will discuss local property tax with us on 11 June.

I draw the attention of 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 their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of the evidence. Witnesses are also directed that only evidence connected to 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.

With that done, I ask the Minister to make his opening statement.

Minister for Public Expenditure and Reform (Deputy Paschal Donohoe): I am pleased to attend the meeting of the Committee on Budget Oversight today in response to the committee's request to provide clarification on the national broadband plan and advices received from my Department with regard to the development plan and funding for other infrastructure projects; and the future budgetary impact of the national broadband plan, its potential impact on the overall fiscal position, and measures to provide oversight and control over budget costs.

I note from the agenda items listed for discussion today that the committee appreciates

the differing roles and responsibilities of my Department and the Department of Communications, Climate Action and Environment with regard to the national broadband plan. However, it would be worthwhile to recap on these differing roles and responsibilities to help inform our discussion this afternoon. When it comes to capital spending and the procurement of individual capital projects, in accordance with Government policy and in compliance with the public spending code, I can summarise the position as follows. I am responsible for setting the overall five-year multi-annual capital expenditure ceilings and for allocating these resources across different Departments. My Department is also subsequently responsible for monitoring expenditure every month at departmental level against these agreed ceilings. Decisions on how and where these allocations are then invested by individual Departments are a matter in the first instance for the relevant Minister, in line with the conditions of delegated sanction specified by my Department.

My Department maintains the national frameworks within which Departments operate and make their decisions to ensure appropriate accounting for, and value for money of, public expenditure. These frameworks include the public financial procedures, the public spending code, and the national public procurement guidelines. The management and delivery of individual projects, within allocation and in accordance with the relevant national frameworks such as the public spending code, public financial procedures, etc., is primarily the responsibility of the relevant individually responsible Minister.

The public spending code requires Departments and agencies to undertake an appropriate appraisal, such as cost-benefit analysis or cost-effectiveness analysis, on all expenditure proposals with an estimated value in excess of €20 million. This requires Departments to submit their appraisals for such projects to my Department for technical review with regard to the methodology used and to ensure compliance with the requirements of the public spending code. Departments are further required under the public spending code to update project appraisals or cost-benefit analyses continually as the procurement process evolves and as actual tender costs, as opposed to cost estimates, become available. My Department may be consulted to review such updated proposals technically, if necessary. While my Department is not involved in the assessment of the tenders for individual projects, if it emerges that the cost of a project is not capable of being met within the agreed multi-annual capital allocation of the relevant procuring Department, then that Department must engage with my Department to explore how to proceed with regard to the project.

In the specific case of the national broadband plan, the Department of Communications, Climate Action and Environment is the sponsoring agency and the Government is the final sanctioning authority. Where the Government is the sanctioning authority, the public spending code makes it clear that the day-to-day oversight functions of the sanctioning authority revert to the relevant line Department, in this case the Department of Communications, Climate Action and Environment. The Government is then involved at major decision points. My Department has engaged with the Department of Communications, Climate Action and Environment throughout the process with regard to the economic appraisal of the national broadband plan. The purpose of that engagement was to review technically the economic appraisal to ensure that the methodology used was robust and in compliance with the requirements of the public spending code. There has also been ongoing engagement between the Department of Communications, Climate Action and Environment and my Department in respect of the cost and affordability of the project, in particular once it emerged that the cost of the project was not capable of being funded within the allocation that had been made for the project in the national development plan.

I will now turn to the three specific issues that the committee has tabled for discussion today. In terms of the impact on the national development plan, NDP, and other infrastructure projects, I have already indicated that I intend to provide the additional capital required to fund the additional cost of proceeding with the project. This means that the decision to approve the appointment of the preferred bidder will have no repercussions for other planned projects within the national development plan. No other projects will be delayed or rescheduled and no other changes will be made to the capital allocations for other projects, such as those set out in the national development plan, as a consequence of the Government's decision to proceed with the broadband plan.

In terms of the future budgetary impact, the current indications are that the additional requirements will be approximately €200 million in 2021 and 2022, rising to €300 million in 2023. This will result in a disimprovement in the general Government balance of approximately 0.1% of both GDP and GNI* annually compared with the projections published as part of the stability programme update. As the committee will be aware, projections for general government revenue and expenditure beyond 2023 have not yet been compiled by the Department of Finance.

Finally, regarding the risk associated with the project, I accept that there is risk associated with the decision the Government has made. Rolling out a form of technology like this to 1 million of our citizens who live across the length and breadth of our country is an inherently complex activity and therefore one which must involve risk. If it was not complex and if there was no risk involved, the private sector would already have delivered this. While I accept that there is complexity and risk involved in the decision that has been taken, I believe that, on balance, this is the right course of action to take.

Chairman: A number of Deputies have indicated. I will call them in the order in which I have seen them indicate. The first is Deputy Cowen.

Deputy Barry Cowen: I thank the Minister for coming before the committee to assist us in properly scrutinising, analysing, questioning, and querying this decision of Government. We preface our remarks, as always, by saying that we all accept and that nobody disputes this infrastructure is badly needed. It is most definitely needed throughout the entirety of the country. It is many years overdue. Many commitments, deadlines, and promises have been made but missed thereafter. The cost, however, is far in excess of what was originally indicated. When two bidders dropped out, there was an understanding on their part, I am sure, that the subvention was to be far less than it has turned out to be. That in itself is not of great value to the taxpayer, in hindsight.

Deputy Donohoe, as Minister for Finance and Minister for Public Expenditure and Reform, is a senior member of the Government which approved this plan. Having read through his submission, he seems to be indicating that it is a matter for the Department of Communications, Climate Action and the Environment. Fobbing it off to that Department in the absence of further questioning will not cut it, I am afraid. It is perfectly fine for the Minister, or any other Minister, to challenge, to disagree with, or to question the advices that arrive on his desk, but in this instance, despite continued communications to the relevant Department, the Secretary General, in his final memorandum to Cabinet, outlined his serious concerns. I am sure the Minister was well aware of those. He was well aware that these concerns related to value for money, the cost-benefit analysis, the impact on the national development plan, projects to be forgone as a result, the unprecedented risk, and the plan's lack of compatibility with Project Ireland 2040. For the Minister to counter that and for him to say that, on balance, he disagreed, where did he

go to, who did he consult, and what advices countered that advice primarily for him to arrive at the conclusion he did?

I refer to some of the specifics.

In the first instance, notwithstanding our questions, if this project were to proceed and the contract were to be signed, we need clarity on aspects of it. The State will enter into a contract with National Broadband Ireland. According to the reply to a question I asked on 15 May, NBI comprises Granahan McCourt Dublin, Tetrad Corporation and McCourt Global. The Minister or his Department has since clarified that McCourt Global is not a shareholder. The Minister and his colleagues have said consistently that in the contract and the method by which the contract will be adhered to the risk is on NBI, not the State. If that risk is called in, is he sure there is a lien on, for example, Tetrad Corporation? If NBI folds, do the holding company or the shareholders walk away? If they walk away, is that not a lien on the State? That is not protecting the taxpayers' interests in the way in which the Minister and his colleagues have said they will be protected.

The other issues relate to the mammoth cost associated with this. It is far in excess of what had been indicated over the past number of years. The Minister said it will come from future revenues. It is almost magic, a Freddie Mercury job. The Minister has to be straight. It is either capital projects forgone, as the Secretary General says, or not. Where will the future revenue come from? Will it be from corporation tax or new taxes? If not from there, is it coming from current spending and what implications will it have for current spending?

Chairman: The Deputy has one minute left in his first round of questions.

Deputy Barry Cowen: Yes. That must be clarified. We are still awaiting details of the €400 million overspend on the children's hospital. The Minister gave details of €100 million in this year, but there is €400 million between now and 2021. There is a further €400 million on this issue between now and 2021 and €1.5 billion between 2021 and 2027. The Minister says it will come from future revenues and has no impact. If it were so easy and the Defence Forces wanted additional expenditure, could we magic it for them as well? These are the questions being asked on the doorsteps and people want answers to them. I do not yet have details of the €400 million and we need them.

Chairman: I thank the Deputy.

Deputy Barry Cowen: We need to know what implications it has. This refers back to how the Minister counteracts the advice given to him. What way did he respond to that? Who did he meet? What record is there of the discussions or negotiations he had to allow him to arrive at the conclusion he has taken?

Chairman: Before the Minister replies, I wish to clarify that every Deputy has five minutes in the opening round of questions, at which point we revert back to Deputies to ask questions again. That is to be fair to all colleagues and give everyone an opportunity. I call the Minister.

Deputy Paschal Donohoe: In my description of the decision-making process for this project, I am in no way seeking to diminish or dilute my role in it. That is why I am before the committee. I am happy to answer all questions about it, both as Minister for Finance and Minister for Public Expenditure and Reform. While it is true that under the public spending code line Departments are responsible for the implementation of their projects, the two portfolios I hold mean I am fundamentally involved in these matters and will answer all questions relating to

them.

To give the context of how I will answer Deputy Cowen's questions, I formed the view that three particular decisions made by this and previous Governments have set the path to where we are today and the proposition we are now debating. The first was the decision made 20 years ago to privatise Telecom Éireann, the second was the decision to pursue 100% coverage and the third, which was made by those involved in the bidding process, is the preference for fibre optic technology. Those three points are fundamental to understanding the decision the Government will make when we go to sign the contract.

The Deputy put three questions to me. Who did I meet in forming my view on this? I met nobody beyond officials in my Department and the Department of Communications, Climate Action and Environment. My diary is published every few weeks. It contains everything in respect of this and all the meetings I have. All the engagement I had with this matter was confined to my two Departments and the Department of Communications, Climate Action and Environment. That engagement was intensive, extensive and over a long period.

On the second question, my view was formed by a document that was published as part of the information I released in the aftermath of the decision being made. It is the options analysis. It went through every other option that the Government or any of the Deputies might put forward to find alternative ways of delivering the national broadband plan. I formed the view that each of the options available would have incurred either significant delay in the process or additional risk, crucially, would not have delivered the 100% coverage and would have raised further issues regarding cost certainty in the future. All of those considerations led me back to the conclusion I made which is, I believe, on balance the option that is available to us and the one I recommended to the Government. I went through every other option at great length over the past six to nine months.

Regarding the risk that exists and how that will be managed, I am confident that the nature of the agreement that is open to the Government to sign finds a way of managing that risk. I say that for two reasons. The fact that the potential contribution of the State is capped and is up to a certain figure is profoundly relevant to the decision the Government might make. In any situation in which risk could occur in respect of either roll-out, implementation, take-up or impingement on the coverage area, the fact that our exposure is capped is fundamental to why I believe, on balance, this should be done.

With regard to how this will be paid for, I acknowledged in my opening statement that there are options available to us for how it will be done. It is worth pointing out that the highest cost of this is liable to the State at the point at which our surplus is due to be growing. There will, therefore, be options open to the Government of the day, including me now, regarding how to recommend paying for it. I will provide my views in that regard in both the summer economic statement and on budget day.

I will conclude by emphasising the point of risk. In all the Deputy's calculations about how to do this, and the views he may form on how to do it, covering 540,000 homes and 83% of the country with new infrastructure is inherently risky. I invite those who disagree with the recommendation we have made to examine the options I have rejected and outline why they think they are better. I will engage with the Deputy in this committee over the course of this process and answer his questions about it.

Deputy Barry Cowen: My question was not answered.

Chairman: If there is a specific question that was not answered, the Deputy can state it.

Deputy Barry Cowen: There are two. The Minister said the risk is capped from the State's perspective. That is based on the assumption that NBI has the capacity to soak up any associated risk that it may incur. What lock system is in place in the contract to ensure that is the case? If there is none, the State will still be left carrying the can anyway. That is why I said NBI is made up of Tetrad and Granahan McCourt Ireland. Have they the capacity to meet the demands of the State in the event of this project going belly up? Joe Public wants to know whether those entitled have the capacity to meet the penalties or the extra costs they may incur because if they have not, the State will be left to carry the can. The Minister has said that the State's expenditure has been capped and he must have done that because the contract will be so tight.

Deputy Paschal Donohoe: I can give a brief answer in two phases. The answer to that lies in the work that has already taken place in the Department of Communications, Climate Action and Environment to assess the financial and operational capacity of this consortium to deliver this project. Its assessment is it can and the Department has benchmarked this project and proposal against international standards. As the Deputy will know, when it went to one final bidder in this process, which is what has also happened in the UK on a process like this, the Department re-engaged again to benchmark the final proposal against the criteria I have mentioned.

In terms of the second part of how we assess this, the Department of Communications, Climate Action and Environment will make a final assessment on the operational and financial capacity of the consortium to deliver the project before the contract is signed.

Deputy Barry Cowen: Then bring the contracts and get the holding company on the hook.

Deputy Paschal Donohoe: I know and then when the contract is in place, there is a claw-back facility from the State. The State has the ability to claw back 60% of excess return above a certain level and 100% before that and it also has the step-in rights in terms of the contract.

Deputy John Lahart: I thank the Minister and his officials for their public service. In fairness, he always attends when we ask.

I will ask questions from a budgetary oversight viewpoint. When the Minister talked about how the cost of this project will be covered in the future, the words that came into my head were "revenue buoyancy". He seemed to predicate one's ability to meet the gap or potential gap in costs with what he foresees as revenue buoyancy, which runs counter to everything that we have been told here at this committee either formally or informally. Most lately we have been told by the IMF, in an informal discussion, that it is not something on which we can rely. I ask the Minister to comment on the matter.

Deputy Paschal Donohoe: I point the Deputy to my comment that the total cost of this project, at its peak, will be around 0.1% of our general Government balance. The work that we will do in advance of this decision being made is to make the following calls. First, is this something that would affect the budgetary stance of the Government of the day, which is quite a few years away but it is still a decision I take seriously. Out of all of that, the revenue forecasts that I will publish on budget day and beyond, will not be and cannot be impacted by any expenditure decision that we make. They are independently prepared for me by the Department of Finance.

Deputy John Lahart: The Minister mentioned there is a risk involved.

Deputy Paschal Donohoe: Yes, there is.

Deputy John Lahart: From a budgetary oversight point of view, there are at least two risks involved. I am concerned about the disparity between the view of the Secretary General and the Minister. Earlier the Minister stated, “No other projects will be delayed or rescheduled and no other changes will be made to the capital allocations for other projects, such as those set out in the [NDP]” and that “the decision to approve the appointment of the preferred bidder will have no repercussions for other planned projects within the national development plan”. However, the advice of his Department to the Minister runs completely counter to that and talks about being unable to recommend the project to proceed for reasons of cost, the impact it would have on the national development plan, the affordability of what has been proposed, the fact that there was a lack of competition; the reputational damage it would do to the country; and the risks for the State, including emerging technologies. I suppose, most importantly for the Minister for Public Expenditure and Reform, his Secretary General pointed out that there is a risk to the perception of the economic competence of the country and the Government. In essence, he went on to say that for the current national broadband plan to proceed a number of other key projects within the national development plan would have to be delayed or deferred and the list ranges from primary schools to the Dunkettle interchange to primary care centres. I am referring to the advice that the Secretary General of the Department for Public Expenditure and Reform gave to the Minister. I ask the Minister to explain the gap between his advice and the Minister’s decision? I ask because the Minister took responsibility for the decision today when he said that he recommended this option. The Minister recommended this option against the advice of his Secretary General and, therefore, it is reasonable to ask why is the Secretary General still a Secretary General if the Minister went against such significant advice on such a significant project?

Deputy Paschal Donohoe: I shall deal with each of the points in turn. First, I published that advice myself because I decided that for a decision of this magnitude, it is appropriate that all of the information pertaining to it be made available. Deputy Cowen, and I think he may be acknowledging that,-----

Deputy Barry Cowen: I would have sought the information anyway.

Deputy Paschal Donohoe: -----wrote to me looking for the information. What I decided to do was to release it all once the decision was made.

As for why I made the decision I did, I have touched on some of my key reasons in response to Deputy Cowen a moment ago, which is that I went through all of the alternatives regarding how this could be delivered and I decided, on balance, that this was the appropriate course of action. If one looks at the final recommendation that was made to me, and it is a recommendation that is covered off in the document there, it is a lower-cost option. That lower-cost option does not deliver 100% coverage and involves different uses of technology. Had the Government and I made that decision, we would now be involved in an appearance here at this committee regarding the number of people who had been left behind and why we had used a technology that might not be the most resilient one in the future.

In terms of the final point on why my Secretary General is still the Secretary General, and I work so closely with him, is because I value independent and strong advice. We nearly always agree. We do not always agree, as is the case with a Minister and any Department with which he or she works but that is the way we should be making decisions about major projects now. I can understand completely why Deputy Lahart is scrutinising why I made my decision and I am

doing my best to answer his questions. I, respectfully, also make the point that the fact that such a decision has gone through such debate - I am being open about it and the Secretary General of my Department will be too - reflects how this is a better way of making decisions. I am outlining why I believe, on balance, this is the best course of action that is available to Government.

Deputy John Lahart: If this project does not work out then this is not the committee to which the Minister will return. Rather, it will be the Joint Committee on Communications, Climate Action and Environment. We are the Committee on Budget Oversight and that is why I am focusing on the budgetary oversight aspect of the project.

Deputy Paschal Donohoe: Sure.

Deputy John Lahart: Did the Secretary General read the options? Did he have access to the paper with the same options as the Minister?

Deputy Barry Cowen: Please publish them and the costs.

Deputy John Lahart: The Minister mentioned costed alternatives. Can the costed alternatives be published?

I wish to reinforce the following point. Obviously we want Ministers with independent minds who seek advice from all quarters. However, I refer to the points that were issued by the Secretary General, particularly the ones on reputational damage, the risks to the perception of economic competence and the endangering of a significant number of projects under the NDP by proceeding with this plan. The Minister has answered the questions in a short way but not comprehensively enough. I refer the Minister to my question about whether the Secretary General read the options.

Chairman: The Deputy is now over time.

Deputy John Lahart: I assume that the Secretary General has had access to the same options that were available to the Minister, yet still arrived at this advice to the Minister for Public Expenditure and Reform. Can the Minister explain the difference in the two outcomes and responses to the two options papers?

Deputy Paschal Donohoe: My Department and Secretary General had access to the options paper and work which was ongoing. At three points in the process different options were looked at, namely in 2015, 2018 and 2019. My Department was involved at each of those three points to look at different options.

On their costings, work was done, and I think it is something that the Minister for Communications, Climate Action and Environment has touched on. The options paper before me has some indicative costs. If that is not available to the Deputy or he has not seen it, I will see if we can share it again.

Deputy John Lahart: It should have been published.

Deputy Paschal Donohoe: I believe it may have been but I will double check. The Deputy asked about all the advice and economic competence available to me. I answered Deputy Cowen's questions about whose advice I sought quite carefully. It was advice within Departments. Fundamentally the reason I decided on balance that this was the course of action that the Government should proceed with goes back to the question of 100% coverage, which is a key driver of much of the additional cost. A second decision, which I believe was correct but

which was not made by Government, is that of fibre optic technology. The recommendation which was made available to me did not deliver 100% coverage. In all the options we examined, I could not find a way which would more credibly deliver 100% coverage more than the one before us today.

The effect of my perceived economic competence is something for the country to decide and for the Deputy to form a view.

Deputy John Lahart: That is what the Secretary General formed a view on.

Deputy Paschal Donohoe: He did indeed. When we get into the broader debate on this I will ask those who disagree with the Government's decision to offer an alternative that achieves the same level of coverage, which might be cheaper. We will also put this in the round along with all the other things going on in the economy. There has been 4% expenditure growth in recent years compared with 7% ten years ago with a fraction of the credit in our economy. No doubt, we will have that debate at an appropriate point.

Deputy Brian Stanley: My first question is on the overall financing of the project. The Minister referred to projected growth but we are also aware of risks including the corporation tax yield from multinational companies and Brexit. The projected growth may not work out. A reply to a parliamentary question tabled by my colleague, Deputy Jonathan O'Brien, on 21 May said that it was estimated that the national broadband plan would cost €200 million in 2021, an additional €200 million in 2022, €200 million in 2023 and so on. The Department estimated that the additional cost of €1.6 billion until the end of the term of the national development plan in 2027.

The Minister said that he intends "to provide the additional capital required to fund the additional cost of proceeding with the project" in his opening statement. That is the context. I assume he is saying that the taxpayer will provide the additional capital. Will he confirm that additional capital will be transferred from the Exchequer to NBI and the private bidder, Granahan McCourt or whatever new name is attached to the entity, if it changes once again, having changed several times in the period since I have followed this project? The Minister needs to clear this up, as I have not heard a convincing answer. One can only spend money once. I have never had €100 or £100 old pounds in my pocket that I was able to spend twice. I do not know of any business, county council or Department that can spend money twice. It can only be spent once. An indicative list of projects will be cut to fund the broadband plan, including roads projects, primary care centres, and schools. Can the Minister confirm that the transfer of money will happen and where he will get it from? He is going to have to do one of two things - to cut the capital projects and forget about them, or increase some form of taxation, whether direct or indirect, but most likely the former.

The Minister has confirmed that Granahan McCourt will only invest €180 million up front in equity capital, which was originally set out in the released memorandums by the Secretary General, Robert Watt,. Many of us, particularly members of the communication committee, thought that it would be at least 50:50. That is €180 million in private equity while the State puts up €2 billion for a project it will not even own. Robert Watt wrote in his memorandum that by 2028 the private operator will have all its moneys paid back while the Exchequer will have paid out almost €2.5 billion. The contract is due to be signed by the end of the year with deployment to begin in 12 months, which is the end of next year, and the full deployment to be finished by 2027. By then Granahan McCourt could have flipped the business and sold itself off. According to the documents we have seen, by then the scheme could be fully rolled out

and the entity sold off. Does the Minister believe that represents sound use of public funds? It is very high risk.

The reason for going with the gap funding model - and if I have heard it once, I have heard it a thousand times from the Minister and his Cabinet colleagues - was competitiveness. That competitiveness is gone. An auctioneer who is selling something and finds himself or herself with a gavel in his or her hand and only one bidder does not have the edge.

Chairman: I ask the Deputy to finish up.

Deputy Brian Stanley: I ask the Minister to deal with this issue and the fact that taxpayers are front-loading the funding.

Deputy Paschal Donohoe: On the gap funding model and the front-loading from the tax payers, the key is that we are seeking to expand a broadband network, where we do not own the current network. The fundamental factor which made the gap funding model the appropriate one to take is that we are looking to extend an asset which is not currently owned by the State. If we were looking to create an asset to deliver 100% coverage, we would have to build it and then own it. That would cost more than what I, on balance, think is the preferable option open to us and open up a new set of risks and challenges as we go down the planning process and look to put new infrastructure in place. That is why the rental or concession model we are using is the best way to move forward.

The State's money is being front-loaded because the delivery of the infrastructure is also being front-loaded. We have faced the charge, which is understandable from the Deputy's perspective and that of people who seek broadband, that there is a delay. There is disappointment that it will take up to seven years to get to the 100,000 homes per annum after the first year where we will build up to that. The reason the investment is front-loaded is that the delivery of the infrastructure is at the start of the 25-year period with the balance of that period being used to maintain it with a further ten years after that.

The Deputy is right that the equity contribution is up to €222 million but the overall cost of this project will be in the realm of €5 billion so there is a further €2 billion that the consortium will need to provide in order to deliver all of this and our contribution is capped at €3 billion with a possibility, although not one I am going to commit to in front of the committee today, that the cost will come in below that as we work our way through the different phases of the delivery of this.

Regarding the Deputy's point about transfer of money, it is transfer of money but it happens retrospectively. At the end of each period, if the broadband has been expanded, the consortium gets paid and if the contract is not delivered, it incurs penalties and-or does not get paid. Is it paid for doing this? Yes, it is paid via a subsidy. Why does it need a subsidy? It is because the private market will not deliver 100% coverage. The subsidy is delivered retrospectively with many different clawback mechanisms in place.

With regard to the corporation tax piece, the great risk of corporation tax is that one relates corporation tax to day-to-day current expenditure. As I said in response to Deputy Lahart, current expenditure is growing at 4% per year. We have massively increased capital expenditure and corporation tax has played a big role in paying for that in addition to dealing with the difficulty I have had with a Department over the past number of years. Even routing that in, the growth in current expenditure is 4%. I go back to the point made by Deputy Stanley. We are

looking at extending an asset we do not currently own. The question therefore arises as to why we would want to own something if it is adjacent to something that is in private ownership.

Deputy Brian Stanley: Could I just ask for clarification on something?

Chairman: One small point of clarification.

Deputy Brian Stanley: Obviously, the Minister cannot magic up income to fund capital spending. That money must come from somewhere and must come from State income - taxation and other sources of income. How is the Minister going to spend money twice? If he is going to use this pot of money for the national broadband scheme to subsidise this private operation, which the State will not own, he must do one of two things. He must either cut projects or raise new taxes.

Chairman: The Deputy has made his point.

Deputy Brian Stanley: What is the Minister's intention? I think the Minister would say neither of them.

Deputy Paschal Donohoe: There are a number of options available with regard to how this could be done but I again draw the Deputy's attention to the fact that during the period, the cost of this is due to accrue. Because we are running a surplus this year of 0.2% of national income that, even with the risk we have built in, is due to rise next year and the years beyond that to well in excess of 0.5%, there are options open to the Government. Yes, we could make the decision to pay for it through taxation revenue that has been collected but I emphasise that the revenue forecasts are not done by me. They are done by the Department of Finance. Of course, there is then the choice regarding the level of surplus we run across that period. I would make the point that once we have paid for this, it is then paid for for a 35-year period and unlike current expenditure, does not become a recurring year-on-year cost. The huge difficulty is when one commits oneself to current commitments that are recurring and that one cannot get out of without great pain.

Deputy Michael McGrath: I thank the Minister and his officials for attending. I will keep it as interactive as possible with some specific questions. To clarify, the amount of money that is required above and beyond what is currently provided for in the national development plan is €200 million in 2021, €200 million in 2022 and €300 million in 2023 so the figure up to 2023 is €700 million. Is that correct?

Deputy Paschal Donohoe: That is correct.

Deputy Michael McGrath: The Minister is saying that this will come from future revenue so, in effect, he will have a smaller surplus or if things take a turn for the worse in terms of the public finances, it would be increased borrowing but it would essentially come from the resources he has already projected he is going to collect out to 2023.

Deputy Paschal Donohoe: I have not yet made that decision because that is a decision I will make in the context of the summer economic statement and then budget day. The only caveat I could add to what I have told the Deputy is that for each of those years, it is up to that. The reason I say up to that is because within those figures is included a subsidy that may or may not be drawn down.

Deputy Michael McGrath: Sure, but we have the Minister's projections for revenue out to

2023, which are only a month old. They arrived in the stability programme update last month. In effect, there is an extra €700 million that must be found over that period for the broadband plan. What the Minister is saying here is that it will be from future revenues and that he has already forecast what those revenues will be so the impact will be a smaller surplus or increased borrowing if things take a turn for the worst. That is simple mathematics.

Deputy Paschal Donohoe: That is definitely a likely outcome of it but I have yet to make those decisions. The decision point for me will be in the summer economic statement when I will outline the capital ceilings for the next few years and also the recommended budgetary stance for those years.

Deputy Michael McGrath: On top of that €700 million out to 2023, there is a further €900 million over the lifetime of the national development plan. Will that also come from future revenues?

Deputy Paschal Donohoe: That decision will have to be made in the same way. The decision must be made as to whether we want to run a higher surplus, a lower surplus or a higher deficit across that period.

Deputy Michael McGrath: Okay but, in essence, it is €1.6 billion that the Minister must identify out to 2027 as to where that money will come from. What he has said so far is that this money will come from future revenues, not expenditure cuts, tax increases, displacement of other projects or increased borrowing, so it will affect his net position - his deficit or surplus position. There is no other source.

Deputy Paschal Donohoe: That is correct. The figure of €1.6 billion is correct and yes, it will affect the net position of the Government of the day.

Deputy Michael McGrath: In addition, as I understand it, with regard to the national children's hospital, approximately €400 million must be found there above and beyond what is currently provided for in the national development plan. That brings the figure of €1.6 million to €2 billion in combined terms. Is that correct?

Deputy Paschal Donohoe: Yes, across the lifetime of the national development plan.

Deputy Michael McGrath: The Minister mentioned a number of times that the State's commitment around risk is capped. Is there any scenario where the State's exposure could exceed €3 billion?

Deputy Paschal Donohoe: With regard to the-----

Deputy Michael McGrath: The broadband plan.

Deputy Paschal Donohoe: I do not believe so. I believe that when the contract is signed, it will give us legal protection on that.

Deputy Michael McGrath: Okay, so there is no construction inflation clause or no scenario provision whereby the cost could exceed €3 billion. It is absolutely watertight.

Deputy Paschal Donohoe: It will be if and when a contract is signed. A key part of the figure being high is because of all of the contingent subsidies that are built into the contract to deal with the different risks identified by the Deputy.

Deputy Michael McGrath: But it will be watertight.

Deputy Paschal Donohoe: When the contract is signed.

Deputy Michael McGrath: It is the Government's intention that it will not sign a contract if there is any wriggle room whereby the bill could exceed €3 billion?

Deputy Paschal Donohoe: When we get to the final point of the decision being made in terms of signing the contract, it will have to deliver the certainty I have described to the committee.

Deputy Michael McGrath: The Minister said that the overall development cost is about €5 billion, the State will have to put in up to €3 billion and the consortium's initial contribution is €220 million between working capital and equity. Is it envisaged that the balance will principally come from service charges?

Deputy Paschal Donohoe: It will be-----

Deputy Michael McGrath: From revenue streams.

Deputy Paschal Donohoe: That particular matter is one the Minister for Communications, Climate Action and Environment might be better equipped to answer in terms of its detail but my understanding is that the majority of it will come from revenue streams and the contribution the consortium will make. The Minister, Deputy Bruton, answered questions about this matter at the communications committee.

Deputy Michael McGrath: My understanding is it will come from revenue streams, rather than the consortium.

Deputy Paschal Donohoe: I just said "revenue streams". As the Deputy knows, a charge will be made for access.

Deputy Michael McGrath: Okay.

Deputy Paschal Donohoe: It will be up to the consortium to meet the figures required to deliver the project.

Deputy Michael McGrath: Is there a draft contract?

Deputy Paschal Donohoe: I believe there is and that the Minister, Deputy Bruton, has stated he will make as much of it available publicly as he can.

Deputy Michael McGrath: What will be the role of the Department of Public Expenditure and Reform in the negotiation of the contract?

Deputy Paschal Donohoe: To ensure the various criteria I have outlined to the committee are met.

Deputy Michael McGrath: Will the Department be heavily involved or have oversight? How would the Minister describe its role as opposed to that of the Department of Communications, Climate Action and Environment, in the negotiation of the nitty-gritty of the contract?

Deputy Paschal Donohoe: Responsibility for the negotiation of the nitty-gritty of the contract sits with the Department of Communications, Climate Action and Environment because

it is the tendering Department. Our role will be to ensure, as the work progresses, that we are satisfied that it is progressing in line with two considerations - the public spending code and the assumptions laid out in the cost-benefit analysis. When a final recommendation is made by the Department of Communications, Climate Action and Environment, we will be involved in assessing it against these considerations before a decision is made by the other Department and the Government.

Deputy Michael McGrath: I will ask one final question for now. According to the letter from the Minister's Secretary General, dated 16 April, the potential break points will kick in in years four, six and ten. The Secretary General has asked pertinent questions about what would happen in the event that the break clauses were invoked by the Government. One question relates to the issue of ownership. In a scenario where the contract is terminated mid-stream in year six and the State has, according to the Secretary General, invested up to €2 billion, what will be the fallout and who will own what?

Deputy Paschal Donohoe: At that point, the State will have the ability to step in, if it so wishes. If it believes certain criteria have been met, we will have the ability to step in and acquire what is in place. The key point is that, if the contract has been fulfilled by that stage, 100,000 homes will have been connected to broadband per year. This relates to the point I teased out with Deputy Stanley. Given the commitment to achieve 100% coverage and the use of fibre optic technology and if we want to do this quickly, the subsidy is being front-loaded at the start. The step-in clauses apply to years four and six. The State will have the ability to step in, but if the contract has been delivered in line with how it should be, as I expect it will be, many hundreds of thousands of homes will by that point have fibre optic broadband connectivity.

Deputy Michael McGrath: Would compensation be payable to the preferred bidder were the State to intervene in that scenario and terminate the contract? As this is a question the Secretary General asked, I assume it was answered.

Deputy Paschal Donohoe: Yes.

Deputy Michael McGrath: What is the answer?

Deputy Paschal Donohoe: The Deputy will know that a detailed letter was sent back by the Secretary General of the Department of Communications, Climate Action and Environment, Mr. Mark Griffin.

As to whether compensation would be due at that point, my judgment is that it would probably be unlikely if we were stepping in to acquire the network, but I will revert to the committee with a more detailed note on the issue.

Deputy Michael McGrath: I thank the Minister.

Deputy Eamon Ryan: Is it not the case that we are actually in for €3.25 billion? In the letters the Minister mentioned, there was an acknowledgement that we would have to pay €10 million per year in current expenditure for departmental staff. As I told delegates from that Department when they appeared before the Joint Committee on Communications, Climate Action and Environment last week, one rarely sees a budget being withdrawn. That is the nature of the Civil Service, as the Minister knows. It is difficult to take salt from soup. As such, are we not potentially looking at a figure of €3.25 billion, rather than €3 billion?

Deputy Paschal Donohoe: I read the transcript of the Deputy's dialogue with the Minister on this matter. The Minister told the Deputy that there would be current expenditure commitments, primarily in respect of oversight of the contract, that his Department would have to meet. He outlined the figures for the Deputy.

Deputy Eamon Ryan: Just to get the figure right, it is €3.25 billion.

Deputy Paschal Donohoe: That is not the contract figure. It is up to €3 billion, as I have described.

Deputy Eamon Ryan: No. It is the cost to us. All of it is in the State's books and none of the work with the private operator will remove any of it from the State's accounts.

Deputy Paschal Donohoe: That is correct, but for other reasons I have become highly sceptical of projects that have the lure of being off the State's balance sheet.

Deputy Eamon Ryan: I was formerly Minister in that Department and we delivered many projects. The Minister will have read the transcripts. In my experience, the Department is good in this area and has capability. Having worked for seven years on the contract, it probably knows more than anyone else about how a broadband scheme should be rolled out. We are investing €3.25 billion, whereas, without meaning anything against Mr. McCourt or his company, that company is putting in a bank note to the effect that it will be able to get an overdraft facility of €45 million. It is not investing any cash. It will get a rate of return, but we do not know what it will be. I presume it will be a good rate of return. The €2 billion the Minister mentioned will be paid by the people. Given that all of it is in our books, that almost all of it is our cash and that we have the expertise in the departmental officials, those officials could have easily worked with the other contractors and told them where to put the wire in the same way as happened in the case of the metropolitan area networks, MANs. We undertook those significant projects of scale. Even at a late stage, why did we not use the concession model instead of the gap model as in the end, we would have owned the asset? I cannot get my head around why we will not own the asset at the end of the process.

Deputy Paschal Donohoe: To answer each of the Deputy's questions in turn, the officials whom he has justifiably praised for their work are the same ones who are making the Department of Communications, Climate Action and Environment's recommendation that we go ahead with this approach. They are the same people who have weighed all of the different approaches and reached the conclusion that this is the best way to move ahead with something that is inherently risky and highly complex.

To respond to the second question as to why we will not own it, it is related to a point I made earlier. As I could see the merits of it at the time, I will not adopt an overtly political stance, but the decision not to own the existing broadband network is fundamental to the decision on whether it would be worth our while to own this extension.

Deputy Eamon Ryan: Why is it fundamental?

Deputy Paschal Donohoe: The Deputy would tell me that we were seeking to own an extension to a broadband network that we did not own, which would mean that the very risk all of the committee's members are justifiably raising with me would sit with the State. We would carry all of it. Part of the questions colleagues are understandably putting to me has to do with the risk involved. If this asset was to be State owned, a question would then have to be asked about why we did not own all of the broadband network, which clearly would involve a

decision in respect of Eir. All of the risk of a possible impingement on the broadband area, the roll-out and uptake rates would sit with the State. Having evaluated the other options and some of the costs, on balance, I think this is the best course for us to take.

Deputy Eamon Ryan: Even if one accepts that there will be risks if, for example, we sign the contract, there is still a fundamental truth. The developer does not have a huge team or significant resources in the event that there are difficulties, compared with some of the bidders that were involved at earlier stages, for example, Vodafone and SSE which are massive utility companies that could have covered some of the risks in the event that there were difficulties, as they would have had the capital, technological and other reserves required. We are still providing €3.25 billion while a relatively small team, which is mainly organising contractors, is providing - even with the capital it is providing, in addition to the working capital - €200 million. The asset will be owned by that team. Eircom will get a very nice subsidy over 25 years but the team gets to own the asset. The benefit lies entirely with it, therefore. Fibre will be valuable in 25 years. I do not see why the company should own it. Therefore, a concession model would work perfectly well.

Deputy Paschal Donohoe: I appreciate the Deputy's acknowledgment that fibre is the appropriate technological choice. He is correct. Various participants in the bidding process decided what the right technology was. With regard to the upside sitting with the company, it will do so if the technology still has economic value in the future. All the downsides will also sit with it, however. Regarding the risks, the alternative that could be proposed here is that all the risks would be on the State balance sheet, were we to go down the route of owning the infrastructure. I refer to all the costs of renewing and maintaining the network and dealing with all the things that could happen when expanding a broadband network across 83% of our country. Given that we do not own the current broadband network, why should we seek to own what some would describe as being potentially a stranded asset?

At the end of this process, the option is available for the State to acquire the infrastructure. At each point, if the return goes above a certain level, the State will have the ability to access 60% of it. If the return goes above the aforesaid level, the figure becomes 100%. If the project becomes riskier than we believe it is, the risk will sit with the consortium once the contingent subsidies are used.

Deputy Eamon Ryan: The basic truth is that we know we are going to put potentially €3.75 billion on our balance sheet, representing a cost to us. The consortium's risk is €175 million. There is just no comparison.

I asked the Minister for Communications, Climate Action and Environment about my next point. Given that we are not in a competitive tendering process, given that we are providing €3.75 billion and the consortium is providing €175 million, why does an Oireachtas committee, be it this or another, not have the right to know what the rate of return is? The developer may not want it because of other business interests or whatever. Given the imbalance in the financial investment in the project, the lack of competition and the very unusual process we have ended up in, with all the resources ploughed in over seven years, why do we not have the right to know the rate of return? How can the Minister possibly justify that?

Deputy Paschal Donohoe: On the various points the Deputy made, the equity contribution is in line with that in public private partnerships. The reason the subsidy is being front-loaded is to try to ensure the infrastructure is provided quickly.

On the point on the rate of return, I was not aware that the Deputy raised this with the Minister for Communications, Climate Action and Environment, Deputy Bruton. I can discuss it with him. I would imagine the reason the rate of return cannot be shared with the Deputy now is that the contract has not yet been signed and it could be commercially sensitive. It is a fair question, however. It is not one I can answer definitively now but I will get an answer for the Deputy.

Deputy Martin Heydon: I thank the Minister and his officials for attending today. The point I have made in the media a couple of times when addressing this topic is that the rolling out of broadband is regularly compared to the electrification of Ireland. When electrification occurred, people at the time thought it was simply to bring light into their houses. Nobody could have envisaged the many uses for electricity down the line. To my mind, high-speed broadband — fibre broadband — is exactly the same. We will have uses that will be crucial to how we live our lives in the very near future but that we cannot yet envisage. We are very quickly moving from a position in which high-speed fibre broadband is seen as a luxury. It is becoming a necessity. Just as we would not consider living in a house without electricity, very soon we will not dream of living in a house without high-speed broadband. Therefore, we are not far off from a position in which, if the deficit in rural Ireland is not addressed, those concerned will move out of rural areas into larger towns and cities where they can access the service. This will have a knock-on impact on everything we are trying to do to achieve balanced regional development. It fundamentally boils down to whether one believes in a person's inherent right to live in rural areas or a rural one-off house. I believe people in rural areas are entitled to the same standard of living as those in our larger urban conurbations.

Could the Minister outline the role of his Department in the early part of this process in respect of the procurement element? In the term of the Government in question, did the Department of Public Expenditure and Reform agree with the approach of the then Minister for Communications, Energy and Natural Resources, Mr. Pat Rabbitte, on the procurement process as it went to Cabinet and later when his successor, Mr. Alex White, proposed the gap-funded model?

Deputy Paschal Donohoe: The key points in the involvement of my Department in this process up to this point were between December 2015 and July 2016, when we made a decision on a gap-funding model, across 2018, when there was considerable engagement on the cost-benefit analysis, and towards the latter part of 2018, when the need to examine alternatives became apparent. My Department was heavily involved in the latter.

We were involved in the gap-funding approach and recommended it.

Deputy Martin Heydon: Was that under the last Government also?

Deputy Paschal Donohoe: No, that was under the current Government. It was a decision that was made by the former Minister for Communications, Climate Action and Environment, Deputy Naughten, and me.

Deputy Martin Heydon: The Minister outlined the impact of three decisions: to privatise Telecom Éireann, to opt for 100% coverage, and to opt for high-speed fibre broadband. How did the sale of Telecom Éireann affect where we are now in regard to decisions made on the national broadband plan?

Deputy Paschal Donohoe: As I said, when the decision was made in the 1990s, I was one of those who questioned whether it was right for the State to own a company like that. I am making this point in a non-partisan manner because there have been many debates over who

owns what. The point that we do not own the existing network is fundamental to understanding the difficulties that we have in extending it. That, in turn, influences the question regarding the value of owning an extension.

With regard to the effect on the cost, the biggest effect is the decision to have 100% coverage. If anyone wants to find a credible way to proceed at a lower cost, it involves excluding significant numbers of people from the coverage area and explaining to them why they should not receive the service. If the Government had done that or if I had recommended that the Government do it, I would now be facing questions, understandably, on the number of people who will not be benefitting from the roll-out of high-speed broadband. I may not have emphasised when answering questions from Deputies Lahart and Cowen that I fundamentally believe that, in 20 years' time, the connectivity we are debating here today will be used in ways to deliver public services that are not apparent to us now. I believe it will form an essential part of what citizenship might look like or, if that is overstating it, it will form an essential part of what accessing public services will look like in the future.

Deputy Martin Heydon: In regard to the options paper the Minister talked about and all the different options that were looked at, was the option of potentially looking to repurchase Eir and all of that network looked at and what was the cost involved?

Deputy Paschal Donohoe: It was looked at and we did have a discussion. It was one of the options we looked at. One of the issues that emerged in the consideration of all of this is the cost involved and the fact a portion of Eir changed ownership, and the cost of that was in the many billions of euro when it happened. We would then face the challenge that we would have looked to acquire Eir, which would mean we would have spent a significant amount of the State's money acquiring a network for those who already have coverage, which would then have led to the next question regarding what we are going to do to expand that coverage, which cuts into the debate we are having here now.

Deputy Martin Heydon: Of all of those options in the options paper, was there an option that would provide 100% coverage at a lower cost than that talked about here and that can be done in the same timeframe?

Deputy Paschal Donohoe: None that I could credibly identify. If we were credibly identifying one that could have been better than the outcome of the process the Department of Communications, Climate Action and Environment had led, that would have had a big effect on the decision we have now.

Deputy Martin Heydon: Of the other companies that were involved in the earlier stages of the procurement process, was there agreement among those that fibre optic cable was the best approach?

Deputy Paschal Donohoe: Fibre optic was the preferred technology from the last group of bidders that were involved in this. The tendering process was technology neutral and they identified fibre optic.

Deputy Martin Heydon: Does the Minister have any analysis of how profitable he envisages National Broadband Ireland to be down the line?

Deputy Paschal Donohoe: This goes to a question Deputy Eamon Ryan asked me on whether I have an estimate as to what the level of profitability will be. That depends on a contract that has yet to be signed. I will say two things about it. First, I do not believe this is an

entity that will be profitable for a long period, based on the figures that are there. Second, the scale of the company we were talking about at its peak could be approximately €150 million. Therefore, in the debate we are having here, it is important to be clear in regard to the scale of the entity which will be running this operation.

Deputy Martin Heydon: Who bears the initial cost of the roll-out of the fibre up the point where properties are reached and connected?

Deputy Paschal Donohoe: The cost of this is borne by the consortium but, of course, it gets a subsidy from the State to do it.

Deputy Martin Heydon: In regard to the cost-benefit analysis, I note from the communications from the Department of Communications, Climate Action and Environment that it questions the methodology and elements that were not allowed to be included in the cost-benefit analysis element. Will the Minister outline what elements of the perceived benefits from the national broadband plan were excluded from the cost-benefit analysis?

Deputy Paschal Donohoe: Six elements, in particular, were excluded. The first was the benefit that might accrue to citizens in terms of education. The second was what might happen as a result of an acceleration in home working. The third was the benefits of social inclusion, which are obviously inherently difficult to monetise, while the fourth was what would happen as a result of less pressure on transport. The fifth was the area of health and what will happen as more services are available digitally, particularly in the area of e-health and the sixth was the risk or issue that could develop if those benefits are not available to a group of citizens. A final point which is not included in all of this is, of course, that the Department of Public Expenditure and Reform is now playing a role in trying to increasingly digitise public services and to ensure they are increasingly available online. That is then, of course, an option that would not be available to citizens if they do not have high-speed broadband.

Deputy Martin Heydon: I will come back in with other questions but I wanted to make one last point on the cost-benefit analysis. Those six would strike me as very significant benefits down the line. Is it correct that, even though they were excluded from the analysis, the analysis still showed a cost-benefit ratio of 1.3 to 1?

Deputy Paschal Donohoe: Yes.

Deputy Martin Heydon: I thank the Minister.

Chairman: I call Deputy Burton.

Deputy Joan Burton: I apologise as I had a Topical Issue and have just come back, although I was here earlier.

I am very concerned about the aura that now surrounds this project and the fact there was extensive wining and dining of Ministers who are members of Government, and who may or may not have discussed the project at a number of dining opportunities. It is extraordinary in the history of public procurement in recent times, given the ministerial handbook, that this would have happened. I frankly wonder, in respect of the Minister's Department, his related Department and their role, about ministerial conduct and behaviour in guarding the State's interest and not allowing commercial interests to take undue advantage of the State. Did the Minister make inquiries as to where the senior civil servants in the line Department were when these social contacts were under way? Anyone who has read the ministerial handbook would

literally be very shocked at some of the revelations which were made.

This remains a fear factor underlining this project. In other words, in the conviviality of a social-type occasion, basically, would the State get taken for a ride? Obviously, at times, people on the commercial side can be very charming, very compelling and one can get carried away. If they are millionaires and billionaires, then the people acting on the other side in a Government context could risk being anxious to please. Did any of that concern the Minister in terms of propriety?

The Minister referenced Eircom. The fact is that as a financial project which was initiated by a previous Fianna Fáil Government to a great fanfare of excitement, that investment in the financial model has been flipped over and over again, and is currently being flipped again. Therefore, my second question is, what is to prevent those who have been identified as the investors in the project from flipping the investment once that investment has been established? The nature of State risk in regard to public private partnerships, or parallels to public private partnerships, is that if one has a private investment in something that is a public good, and we have heard a lot of discussion of the importance of this public good, then the State cannot, in the event of the investment being flipped or the investment failing, suddenly close the public good. It cannot close the hospital, it cannot close the road and I put it to the Minister that it cannot close the broadband network because that would be unacceptable to citizens. Therefore, while the conversation is about risk being transferred to the private investor, the reality is quite different.

Does the Minister have a figure for the total amount spent on consultancy to date? We have heard reference to a whole host of different kinds of studies, value for money reviews, cost-benefit analyses and so on. Can he give us a broad cost figure for the consultancy? How has he satisfied himself ultimately, as the lead decision-maker and adviser to his colleagues in Cabinet, that the risks are acceptable? How has he guarded against what happened with Eircom and what may very well happen with this, at which point the people of Ireland will be captives of a financial model that is very crude but very effective for the investors?

Deputy Paschal Donohoe: To respond to the Deputy's first question, the ministerial handbook and its implementation is a matter for the Minister of the day and the Taoiseach. As Deputy Burton knows, the circumstances were that the then Minister, Deputy Naughten, resigned and ceased to hold office after a number of issues regarding this process developed around a year ago. In answering the Deputy's question as to whether this was influenced in any way, the key thing is the investigation commissioned by the Department of the Taoiseach by Mr. Peter Smyth into what happened. That report concluded that no inappropriate influence took place. I remind the Deputy that the process up to that point had been going on for approximately six years, led by the Department of Communications, Climate Action and Environment, with huge safeguards around it. I know that the Secretary General of that Department was before his own committee when this issue developed to give assurances regarding the integrity of the process, which I accept. I also accept the Smyth report into the issues to which the Deputy referred and I believed it was appropriate that Deputy Naughten resigned at that point in order to allow this process to go forward.

To respond to the understandable questions she has put to me about the protections available to the State in respect of change of ownership, throughout this entire ownership period the Minister can terminate the agreement. There are a couple of different levels in this regard. The first is that the contract makes clear that there is an absolute prohibition on a change of ownership in respect of the contract to what would be described as an unsuitable third party. That power

is available to the Minister. The Minister's consent is then required at different points in this process regarding the sale or shares of ownership regarding the consortium. This is laid out in the contract. As for citizens being held captive by this, with respect, that is overstating it. If this works, which I believe it will, we are talking about citizens who will have access to broadband which they do not have at present and providing a service to citizens that the private sector will not provide. One area on which I do agree with the Deputy is what has happened with Eircom, whereby we have seen the organisation change ownership on many different occasions. Again, when that decision was made, I could see merit in it. Having now been in this role for a number of years, I think the Government of which Deputy Burton and I were members was wise not to make sales of any assets at that point.

Deputy Joan Burton: May I ask a further very brief question?

Chairman: A very brief question.

Deputy Joan Burton: Does the Minister know whether Mr. Smyth - another report - spoke to Frank McCourt, who was in New York city at that time as well? We know he spoke to one of the McCourts. Did he speak to Frank McCourt? Can the Minister also give us the figure for the consultancy cost to date?

Deputy Paschal Donohoe: As to who Mr. Smyth did or did not speak to, I do not have that information but I am sure the Minister, Deputy Bruton, or Mr. Smyth himself can ascertain it and share it with the Deputy.

Regarding the consultancy fees on this project to date, that is not information I have to hand but I will get it for the committee.

Chairman: To update everyone on where we are, there are two Deputies who have not had a chance to contribute so far and whom I will call now. Then we will go to a second round of questioning, for which I already have some indications. We are working towards a timeline, I understand, of about 6 p.m. That is what we had budgeted for this first session. We have another session to go to after that.

Deputy Richard Boyd Barrett: I just find the Minister's rationale for going ahead with this process very difficult to follow. If I hear him rightly, he is sort of acknowledging that the privatisation of Eircom has landed us in this situation and that the fact that much of the broadband network is already privatised means that even though we are not in a good situation, we must now continue with the privatisation process because it would not make sense to have one part public and one part private. He also seems to be saying this would minimise the risk for the State. This is a very peculiar logic that does not really stand up. First, do we not carry all the risk regardless? This consortium could unravel or fall apart, the people involved might just decide they will not make enough money out of this or there might not be enough take-up, and we will end up holding the baby. The only risk the consortium is taking on is the €175 million, so we are in any event taking all the risk, and all the upside is for the consortium. We pay €3 billion; it pays €200 million. If things go well, it owns the asset; if things go badly, we hold the baby. Why on earth would we not use our investment to guarantee that we have the asset at the end of this? It would not really be a risk for us in that sense if we did it that way because we need the thing. It is only a risk because these people are in it for money. If the consortium cannot make money, its investment could fall apart. Is it not also, by the way, very unusual that the consortium that has been given this is not even the original consortium? It is evidence before our eyes that the original Granahan McCourt consortium was different, involving different

people, who then pulled out, and that this consortium could also unravel. I just cannot see the logic of persisting with this. The Minister's own Secretary General is saying precisely all this. I just find it rather bizarre.

My other question concerns the National Broadband Ireland board. The Minister says there will be someone be on the board to look after the public interest, but did we not have this with the national children's hospital board? There was supposed to be someone on that board looking after the public interest and they did not because the collegiality and confidentiality of the board trumped their accountability to the Government, the Department and so on. What reason do we have for believing that exactly the same thing will not happen again?

Deputy Paschal Donohoe: The key level of risk here is not the desire on the part of anyone to earn a profit; it is the fact that we are talking about expanding an expensive asset to 1.1 million people who do not currently have access to it and to whom the private sector is unlikely to supply it. The fundamental factor in all this is whether we want to move away from 100% coverage. This has a very big effect on how much this will cost. To my mind, having worked on this now for quite a while, I believe that is the decision we need to evaluate. I believe a commitment to 100% coverage is understandable in the context of what will happen with public services in the future, but that is where the risk emerges from. Deputy Boyd Barrett may feel it is better for the State to carry all that risk. There is benefit in that risk being capped. That is why, having weighed all the pros and cons, this is the safest way forward for us.

The Deputy asked the difference between this and the national children's hospital. The fundamental difference is we will be making a decision on this with all the cost, complexity and options now available. We have a tendered cost. The contract will be signed with the tendered cost known and the contingency structure in place. That is different from what happened with the national children's hospital where, as a result of the two-stage planning process, a decision was made to go ahead and, as the Deputy is well aware, the cost is now different from what was anticipated.

On the role of the person on the board, I will be making sure that, and working with the Minister, Deputy Bruton, to ensure that, the person on the board will have very clear duties to perform and that he or she will be very clear about what he or she will need to do on the board.

Deputy Richard Boyd Barrett: The Minister has not really answered the question. Is it not highly possible this consortium could unravel, and therefore do we not carry all the risk anyway? The Minister keeps saying we are capping the risk. How are we doing so? If this consortium goes belly up, the risk will not be capped and we will end up holding the baby, so to speak. Regardless of the structure put in place, how tight the contract is and all the rest of it, it could unravel because this is a private and for-profit consortium whose capacity to do this is, frankly, questionable. There is nothing to stop it falling apart.

Deputy Paschal Donohoe: The contract will not be signed until the Department is fully satisfied again, at that point, that the consortium has the operational and financial capability to implement this contract. That is the safeguard, at that point, as to how this can be dealt with. On my point that the risk for us is capped, the reason I stand by that assertion is that all of the different issues that have been raised in the debate on this, including what could happen with take-up, the coverage area being impinged etc., could have a significant effect on the economics of this project. There is also the question of value of fibre optic technology in future. These are all significant issues and risks that somebody else will now have to manage. In return for that, we will pay them a subsidy to connect 100,000 homes per year and get that upfront at the start

of the contract.

Deputy Richard Boyd Barrett: To be honest, that does not convince me and it is an accident waiting to happen. That is what the Secretary General of the Department seems to be saying. I have a straight question about one of the potential risks, whether the Minister has looked at it, and if it bothers him. The company formerly known as Siteserv has a legal case pending against it, and we do not know the implications of that for Actavo. Has the Minister looked at that as a possibility? If something happened there, one of the main parts of the consortium-----

Chairman: The Deputy will be able to come back in again.

Deputy Richard Boyd Barrett: Okay. The Minister has the question.

Deputy Paschal Donohoe: All economic and financial risks will be assessed again by the Department before the contract is signed.

Deputy Thomas P. Broughan: I believe in universal services. We have all had experience around the country, with friends and relatives or on holidays in different places, of running upstairs to get a signal for the phone or the iPad or to try to access broadband. We are sympathetic to the objective of 100% coverage. I questioned some of the Minister's colleagues, such as the Minister for Communications, Climate Action and Environment, Deputy Bruton, on the matter. Does the Minister envisage fibre optic cable going to every household?

Deputy Paschal Donohoe: I envisage a fibre optic cable going to the majority of households, but in the contract there is provision for other forms of technology being used to complete the final distance to a small number of homes. My understanding is that fibre optic cable will be required to enable that final piece of technology to a small minority of homes.

Deputy Thomas P. Broughan: Does the Minister have any idea of the percentage of homes in urban areas that have a direct fibre optic connection into the home?

Deputy Paschal Donohoe: The Minister, Deputy Bruton, is probably better informed to answer that question than I am. Fibre optic cable technology has been used by Eir to expand its coverage and it is used in many other countries to improve coverage.

Deputy Thomas P. Broughan: Eir has stated, more or less, that it brings fibre optic cable to the street or the entrance of an estate. I am not sure but I believe it is still copper wire technology that goes into the household. Is that the case?

Deputy Paschal Donohoe: For the majority of homes covered by this contract, there will be fibre optic cable direct to the premises.

Deputy Thomas P. Broughan: Therefore this programme would give better coverage than what rest of the country has to those who I admit are hard done by currently.

Deputy Paschal Donohoe: I do not believe that would be the case. I believe that fibre optic cable technology is a form that is likely to be used more and more for the delivery of services.

Deputy Thomas P. Broughan: There is also the development of the 5G platform. I know I am straying into the territory of the Minister, Deputy Bruton, and I asked him about this as well. There are parts of the spectrum that may be used a few decades down the line as well. We are going with a plan but the Minister does not seem to know exactly what we are doing in a technical sense. The person who will spend this money on behalf of the public, if the Government

survives, does not seem to know what he is doing.

Deputy Paschal Donohoe: I can assure the Deputy that the Minister, Deputy Bruton, knows exactly what he is doing. I am in front of the committee answering those questions for which I have responsibility.

Deputy Thomas P. Broughan: If he knew what he was doing, Deputy Bruton would have been the leader of Fine Gael.

Deputy Paschal Donohoe: I have a pretty clear idea of my responsibilities. While I have been answering the Deputy's questions, I have received some material on his question about fibre optic technologies and it backs up the point I made a moment ago. SIRO is a venture involving ESB and Vodafone and it uses fibre optic technology to expand and upgrade its existing rural network, which will reach 300,000 premises. Eir recently made the decision to upgrade its urban network, serving 1.4 million premises, using fibre optic technology as well.

Deputy Thomas P. Broughan: Again, is it going to the household?

Deputy Paschal Donohoe: Fibre optic technology is also being rolled out in many other European states.

Deputy Thomas P. Broughan: The reason I am asking this is that both the Minister's own Secretary General, Mr. Robert Watt, who has spoken before this committee on a number of occasions, and not on some occasions when we wanted to see him, and his colleagues put forward what is referred to as plan Z. Those of us who are now backbenchers but who might like to be Ministers see that as a fairly fast incremental process to build out fibre optic nodes to go to approximately 900 strategic central points, from where it would be taken further with the existing network and with 5G. It seems to me to be a reasonable plan and it may be what is implemented, depending on what happens in the next number of months. It is a reasonable plan, is it not? It is one that should have been seriously considered.

The Minister, Deputy Bruton, referred to the great Donogh O'Malley, who was one of our greatest Ministers and who introduced free second level education. He went to my *alma mater* one night and just announced he was going to do it. The Minister's analogy was not a fair one, in a sense, because the structure of the broadband roll-out was profoundly affected by the decision to sell what is now Eir. We keep coming back to that. What drives constituents crazy and what they regard as a flawed plan with the current bid is that we will not own it. Whatever the asset is, we will not own it. They see this as a chance, even for one fifth of the network, to start getting the State back to where it should always have been, that is, holding onto the national electronic network and protecting our digital independence and so on. We are not doing that. Is that not the worst feature of this plan? Why has the Government not gone with plan Z? Why are we not holding on to our infrastructure? We are largely paying for it.

Deputy Paschal Donohoe: I reiterate what I said a moment ago. Fibre optic is the technology choice being used to upgrade our existing broadband network. The Deputy opened his contribution by saying that he was a committed believer in universal public services and 100% coverage. Plan Z did not deliver 100% coverage.

Deputy Thomas P. Broughan: It moved towards it very fast.

Deputy Paschal Donohoe: It did not deliver it. I have no doubt that if I was before the committee advocating plan Z, the Deputy Broughan would castigate me for not delivering uni-

versal coverage.

Deputy Thomas P. Broughan: I would say the Minister was being prudent, something he has ceased to be.

Chairman: The Deputy is out of time. We have heard from all Deputies once. We have the conclusion to our first session at 6 p.m. Three Deputies have indicated. To be fair, everyone will have a couple of minutes. The idea is to try to let everyone back in. That will take us to 6 p.m. Deputy Cowen will be first.

Deputy Barry Cowen: I have a couple of questions and I am keen to take them one by one. Many issues and clarifications remain outstanding prior to the contract being signed. The Minister said he will not sign until he is satisfied those issues are resolved. If for any reason the contract is not signed, what is the State's obligation to the consortium, having conferred preferred bidder status on the bidder?

Deputy Paschal Donohoe: Given that the contract will not have been signed-----

Deputy Barry Cowen: What if it is not signed at all? What if there is no contract?

Deputy Paschal Donohoe: I will give my view on it but the Minister for Communications, Climate Action and Environment, Deputy Bruton, is best placed to definitively answer that. I imagine that although the consortium is the preferred bidder, we do not have any significant commitments to the consortium until the contract is signed. The Minister, Deputy Bruton,-----

Deputy Barry Cowen: That is if it is not signed. If the Government does not get the clarifications we asked for or a lock system to ensure the State is not on the hook in the event of the consortium going belly up-----

Deputy Paschal Donohoe: It is an ongoing procurement process. I do not believe we would have any significant commitment to the bidder until the procurement process has concluded.

Deputy Barry Cowen: The Minister is not answering the question.

Deputy Paschal Donohoe: I think I am answering the question with the best knowledge that is available to me.

Deputy Barry Cowen: Have we an obligation to pay the consortium compensation if the contract is not signed?

Deputy Paschal Donohoe: I will have to come back to the Chairman with that.

Deputy Barry Cowen: The Minister said he was heavily involved in studying alternatives. Were the alternatives based on information provided by Granahan McCourt?

Deputy Paschal Donohoe: No, it was on work done by the Department of Communications, Climate Action and Environment as well as my Department.

Deputy Barry Cowen: The Minister published some information which has not been redacted or blanked out. It states that the information presented in the document was developed with the intent of illustrating what could be achieved in a plan B scenario using high-level assumptions and assuming favourable timelines to complete several complex tasks. It states that the subsidy estimates presented in the paper, as well as the costings, revenue projections,

timelines and other supporting assumptions, have been extrapolated from information provided by the bidder and experience gained through engagement with the market through the national broadband plan intervention programme during the past five years. This seems to indicate that the information presented to the Minister in respect of alternatives came from the bidder. If it did not, the Minister needs to tell me otherwise.

Deputy Paschal Donohoe: I guess the key part is the insights used in the entire procurement process informed options that were put to me. Anyway, I know from the fact that my Department was involved in this that we formed independent views regarding the pros and cons of the different options.

Deputy Barry Cowen: This paper was shared between the Minister and the Department of the Taoiseach for their consideration only and was then published by the Minister. It states that timelines and other supporting assumptions were taken from information by the bidder and experience gained. This is information not from his officials or officials from the Department of Communications, Climate Action and Environment but from the bidder. The options the Minister said he was heavily involved in studying and in making a decision in respect of thereafter were, in the main, based on information provided by the bidder that secured the contract.

Deputy Paschal Donohoe: No, that is not correct. What happened is that the Department of Communications, Climate Action and Environment and then my Department were involved in this at three different points. We looked at the policy options available that were different from the course of action we were on.

Deputy Barry Cowen: It was with information provided by the bidder.

Deputy Paschal Donohoe: Those policy options and our ability to implement them were informed by our experience of the procurement process, as Deputy Cowen has acknowledged. It was not the case that the bidder was able to influence the other options. What would have been the benefit to the bidder in doing that?

Deputy Barry Cowen: That is the exact point of the question. The paper the Minister produced states that specifically.

There is another issue I want to ask about in this regard. Reference is made to alternatives that were high level. Is that correct?

Deputy Paschal Donohoe: We examined all the different policies that could have been alternatively pursued. Are they as detailed as the final proposition in front of us?

Deputy Barry Cowen: They are not.

Deputy Paschal Donohoe: No, they are not, because this has followed a tendering process. However, they are sufficiently detailed to form a view on whether they would work.

Deputy Barry Cowen: They are high-level assumptions. Is that correct?

Deputy Paschal Donohoe: No, I disagree with that. They are all options laid out in the document I referred to earlier.

Deputy Barry Cowen: They are referred to in the document I have before me as high-level assumptions.

Deputy Paschal Donohoe: I guess the answer to that unfolds if we look at the document we published. It goes through the alternative options available. I do not believe we could describe those options as high level. We went through the different options open to the Government, including using the ESB and purchasing other companies. On the basis of that, an evaluation has been made.

Deputy Barry Cowen: The Taoiseach is anxious, as are other members of the Government-----

Chairman: Deputy Cowen, please.

Deputy Barry Cowen: I will only be two minutes.

Chairman: Okay, but I want to let Deputy Lahart in.

Deputy Barry Cowen: He will defer to me if he needs to. The Taoiseach has said that we need to study this in great detail to come to the same conclusion that he and the Minister came to, if that is what we do. To do that we need the exact information that was available to the Minister in respect of the alternative options. Is that not correct? The Minister said earlier that he published the document I have before me. He published it with the alternative options and the costs associated with them, but I am none the wiser. Let us look at it. How can I be expected to come to a conclusion that might be similar to that of the Minister when I do not have the information that was available to him? He based his view on assumptions provided by the bidder that ended up with the job.

Deputy Paschal Donohoe: I categorically reject the idea that a Government or Department would allow alternative options to be generated by someone involved in the bidding process. That is wrong. As the Deputy said, why would that be in the interests of the other bidders? Why would an entire Department overseeing the process, the Department of Communications, Climate Action and Environment, require a bidder to generate different options? We need to be clear on that.

The Deputy made another point about lack of information that is making it difficult for him to decide whether alternative options are needed. If he wants to indicate what that is, I imagine the Department of Communications, Climate Action and Environment will share it with him, but there is a caveat. Some information contained in the document has been redacted because it is commercially sensitive. The Deputy knows that information is shared among Departments and local authorities and it is not appropriate to make that information public, whether there is one bidder or otherwise.

Deputy Barry Cowen: Was one of the-----

Chairman: Deputy Lahart is next.

Deputy John Lahart: I will give Deputy Cowen 30 seconds of my time, if I can.

Chairman: The Deputy will be out of time because we are over time.

Deputy Barry Cowen: Was one of the options a state agency?

Deputy Paschal Donohoe: Yes.

Deputy Barry Cowen: Is the Minister concerned about the EU rules on a state agency car-

rying out the work this plan endeavours to achieve?

Deputy Paschal Donohoe: It is certainly a consideration in state aid rules.

Deputy Barry Cowen: What is the situation in Croatia?

Deputy Paschal Donohoe: I said it was a consideration.

Deputy Barry Cowen: Why is Croatia-----

Deputy Paschal Donohoe: I ask the Deputy to, please, allow me to answer the question. The other factor is we are pre-eminent. To ensure compatibility with State and EU rules, we would have to go through an entire procurement process again. We would have to debate again the same cost issues we are discussing in the context of a State agency.

Deputy Barry Cowen: Has the Minister studied the Croatian model? Is he aware of it?

Deputy Paschal Donohoe: I am not aware of the Croatian model.

Deputy Barry Cowen: The Minister is not aware of a state agency that did this.

Deputy Paschal Donohoe: I can certainly make myself aware of it, I am sure the Department of Communications, Climate Change and Environment would be aware of such a model.

Deputy Barry Cowen: It is disappointing to hear the Minister is not aware of a situation within the European Union where it is-----

Chairman: I thank the Deputy and call Deputy Lahart.

Deputy John Lahart: It is the budgetary oversight competency that is of interest. Essentially, Mr. Robert Watt had a Sir Humphrey Appleby moment with his Minister. When the Minister for Finance told the Taoiseach of his decision and that the Secretary General had raised some issues, I assume the Taoiseach asked him to summarise what the issues were. They were affordability, the risks to the State the perception of our economic competence. Has the Secretary General come around to the viewpoint of the Minister? Is he *ad idem* with him? Are they on the same page on the decision the Minister made? In April the Minister's Department produced a document on the national broadband plan - concerns and risks. Even under the section on benefits it states-----

Chairman: We are running out of time. I allowed Deputy Cowen too much time.

Deputy John Lahart: -----emerging technologies and future developments could render this investment obsolete, leading to an unprecedented risk for the State. Budgetary oversight is our responsibility. What led the Minister to overrule the overwhelming weight of advice of officials who I presume are at his side today?

Chairman: The Deputy is out of time.

Deputy Paschal Donohoe: The role of the Secretary General of my Department is to provide advice for the Government on decisions made. It is up to me to make decisions and be politically accountable for them. That is what I am doing and what I will do in the future. That is the way our system of government and how our representative democracy works. In the publication of documents there is engagement pretty much on every big decision we make. As this decision is unique, the information is published and available for Deputy Lahart to see.

The Deputy asked what caused me to form a different view from that of my Department. The first reason is the array of benefits not captured in the cost-benefit analysis and the value they will have for citizens and the economy in the future. The second is that, having looked at every other option, none would deliver against the objective of achieving 100% coverage, while giving a guarantee of lower cost. Deputy Broughan was looking for Project Z, but that is why I made the decision.

Deputy Joan Burton: The Minister said he agreed that the private investor, the successful bidder, had the right under certain conditions and terms to sell or flip the investment. It is making a modest investment of around €200 million and risking far less of its own funds, while it will recover all its initial investment by 2028. That is a very short timeline for an investment that earlier was likened to the investment in the ESB which was a 100-year investment. By 2028 the State will have committed approximately €2 billion. Does the Minister agree that this constitutes a massive transfer of public value from citizens to a small number of private interests?

Chairman: Effectively we are out of time.

Deputy Joan Burton: The Minister's logic is that citizens who are without broadband will benefit. We all understand this and are anxious for them to have it. However, the level of award to this private investor that may flip and sell, compared to the State's investment within a narrow timeline of ten years, is genuinely extraordinary and I speak as somebody who worked as an accountant.

Chairman: We are out of time.

Deputy Joan Burton: When we throw in consideration of all of the improper contacts with investors in the project, it raises the most serious questions about propriety and how citizens' money is being spent. We know about some of the contacts, but we do not know if we know about all of them.

Deputy Paschal Donohoe: The flip side of what the Deputy has just said is that by the time the point to which she referred is reached, some 500,000 homes will have been connected to broadband. In addition, it is a 25-year contract, to be followed by a further period of ten years. The majority of the money to which the Deputy referred will be used to pay for the entirety of the contract and the availability of the service for ten years after that period. I agree that the payment is very significant, which is why these questions are being raised. However, in return for the money, over 500,000 premises will receive broadband which I do not believe they would otherwise receive. Whether there was improper conduct was reviewed independently by Mr. Peter Smyth who published a report on the matter. If the Deputy decides she cannot accept this, it is her right to do so. The Department was also involved. The conclusion, which I accept, was that there had been no improper conduct across the period. The then Minister, Deputy Naughten, resigned.

Deputy Joan Burton: I do not believe he is adequately independent. Does the Minister believe he is?

Chairman: I am drawing this discussion to a conclusion because we had agreed a timeline and the Minister made himself available to us at a very early date. I thank him for attending with his officials. We appreciate the exchange of information and views, on which we have been able to engage with him.

28 May 2019

The joint committee went into private session at 6.10 p.m. and adjourned at 6.15 p.m. until 4 p.m. on Tuesday, 11 June 2019.