

DÁIL ÉIREANN

AN COMHCHOISTE UM CHUMARSÁID, GNÍOMHÚ AR SON NA HAERÁIDE AGUS COMHSHAOL

JOINT COMMITTEE ON COMMUNICATIONS, CLIMATE ACTION AND EN- VIRONMENT

Déardaoin, 15 Feabhra 2018

Thursday, 15 February 2018

Tháinig an Comhchoiste le chéile ag 10.00 a.m.

The Joint Committee met at 10.00 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Pat Buckley,*	Michael McDowell,
Timmy Dooley,	Joe O'Reilly.
Michael Lowry,	
Eamon Ryan.	

* In éagmais / In the absence of Deputy Brian Stanley.

Teachta / Deputy Hildegarde Naughton sa Chathaoir / in the Chair.

Business of Committee

Chairman: As we have a quorum we will go into private session.

The joint committee went into private session at 10.03 a.m., suspended at 10.07 a.m. and resumed in public session at 10.11 a.m.

National Broadband Plan: Discussion (Resumed)

Chairman: I wish to draw attention to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if directed by the Chairman to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and 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. Any submission or opening statement they make to the committee will be published on the committee website after the meeting.

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 Houses or an official either by name or in such a way as to make him or her identifiable. I remind members and witnesses to turn off their mobile phones as they adversely affect television coverage and web streaming and interfere with the sound system, which makes it difficult for parliamentary reporters to report the meeting.

The committee has agreed to forward correspondence from IrelandOffline to the Department and the Minister for written reply.

I welcome officials from the Department of Communications, Climate Action and Environment. Their presentation has been circulated to members in advance of the meeting and I intend to commence the meeting by inviting them to address the outstanding questions posed by members at the meeting of 8 February. I call on Mr Ó hÓbáin.

Mr. Ciarán Ó hÓbáin: We are pleased to have the opportunity to attend today's meeting and will address the remaining questions asked at last week's meeting. The team from the Department includes Ms Orla Ryan, principal officer for the national broadband plan, NBP, Mr. Fergal Mulligan, programme director for the national broadband plan and Mr. Patrick Neary, chief technology officer of the Department. I am the assistant secretary in the area of communications. As the Chair outlined, we have provided the clerk with a slide presentation. We do not propose to speak to the presentation but may refer to individual slides in the context of replies and, for that reason, have numbered the slides for ease of reference. The slide presentation covers the objectives of the national broadband plan, the mapping process, the procurement timeline from the outset of the process through to preferred bidder, value for money issues and

next steps.

With the agreement of the Chair, I will turn to the remaining questions from last week. For efficiency, I propose that we deal with them in three groups. Mr. Mulligan will address the questions dealing with the three lots, wholesale contracts and State aid issues, followed by Mr. Neary addressing questions on the NBP mapping process and the Eir contract to provide broadband to 300,000 premises and, lastly, Mr. Mulligan will address questions on value for money, pricing structure and technical solutions.

Mr. Fergal Mulligan: I welcome the opportunity to go through the background to the project, which has been in the offing since we published the draft intervention strategy in July 2015 and the final intervention strategy that went through Government and significant stakeholder engagement in 2015. It is important to be aware of that backdrop and what was agreed in 2015 before we launched the procurement process because that set the stage for our current position. The fundamental objective then and now is to deliver high-speed broadband to every premises in Ireland, regardless of how remote or rural they are. That is in keeping with the mission statement of the overall 2012 national broadband plan.

One of the key tenets of the national broadband plan is to stimulate and extract as much commercial investment from the market as possible without the need for market intervention by the State, which is an essential requirement of State aid guidelines and must be followed by every member state. Broadband is nationally available from a number of operators. There are probably up to 100 operators selling broadband across the country and, therefore, the key prerogative for us is to ensure we only intervene in areas where we will deliver high-speed broadband. A key area on which we had to decide in 2015 is what we meant by high-speed broadband. In that context, in December 2015 we concluded that we would only intervene in areas where we would deliver at least 30 MB download speed and 6 MB upload speed and published seven expert documents that set out what that meant. Analysys Mason, our technical adviser, set out in great detail what is meant by 30 MB down and 6 MB up. It does not mean service providing up to those speeds, rather minimum speeds of 30 MB down and 6 MB up, along with several other technical characteristics. That will ensure that the network is resilient, of high quality and will stand the test of time. In addition to criteria on the 30 MB and 6 MB speeds set out in 2015, a key requirement is that the network would be future proofed over the 25 years of the contract. It is not a question of whether a download speed of 30 MB will be sufficient in 2030 or 2040 because it will not. The network to be built will stand the test of time, which is true to the 2015 statement and our current position. That gives an assurance to commercial operators offering low-speed or basic broadband that we will not intervene in areas where they are delivering 10 or 15 MB but will only do so if there is a need to deliver step change to consumers. That is a key tenet of the State aid guidelines.

Another key tenet of the 2015 strategy and the State aid guidelines that every member state must follow is that one must maximise the reuse of existing infrastructure. As all members know, there are many networks across the country that deliver telecoms, involving poles, ducts, towers, masts and, with the advent of the legislation, the electricity network. There are many demands in this area. There is the rail and many other networks. Coillte is in the telecom space. Those networks must be leveraged to minimise the cost to the State and commercial operators of building this rural network. That is being worked on with any company that is willing to offer up its network. In terms of any regulated company, the regulator is part of the process to ensure the relevant access obligations are in place and appropriate prices are set. In the telecom space, the Eircom poles and ducts are regulated and ComReg has a very clear role in that regard.

The ultimate objective of the strategy is to stimulate growth and jobs and to ensure that any Government strategy such as e-education, ehealth and etourism is facilitated through the nationwide availability of high-speed broadband. That was our starting point in December 2015.

Another key prerogative is that it is an open access wholesale network. We are not subsidising a retail network or retail service providers but, rather, are subsidising and the commercial sector is investing in a wholesale network. The metropolitan area networks are currently being sold by Enet on a wholesale basis and Open Eir, the wholesale arm of Eir group, offers wholesale services. The entity to which we are referring in notional terms as the NBPCo until it has formally been named will only sell open access wholesale services, probably to 50, 60 or 80 retailers. Ultimately, consumers will have absolute choice in terms of broadband and other services the network will allow to be delivered, such as television, voice telecommunications, high-speed lease line services for businesses and so on, which is typical in the market. It is an open access wholesale network and will deliver consumer choice and competition at the retail level.

In July 2015, we began work on our draft strategy, a process informed by experts from economists across Europe. PricewaterhouseCoopers was our main adviser on strategy and KPMG also advised on ownership, funding and so on. Analysys Mason was the technical expert. These experts came together and we concluded in December 2015 on a number of facets to which I have referred. It was decided that we would tender for three lots. In July, it was intended to tender for four lots but, following consultation, over 60 responses to our July 2015 consultation were received, one of which included approximately 50 operators. We engaged with more than 150 stakeholders in 2015 to arrive at our strategy in December 2015. We landed on having three lots. Essentially, that was the north and the south of the country and there was the option to win lot C, which was both lots together. That is what all the five consortiums that came forward in March 2016 said they would be willing to bid for. Three of those consortiums qualified in July or June 2016. The three remaining bidders in September and the remaining bidder today all had subscribed to bidding for all three lots, therefore, none of them had ever opted for any one particular lot. As to the reason one would opt for the lots, up to now it was seen as a key driver of competition and possibly allowing smaller networks an opportunity to bid. In France, for example, where one area of the country might have 500,000 premises, they would have 40 or 50 equivalent lots, because it is done by municipality. In Germany, there would be many different lots because it is done on the basis of geographic area. In the UK, Broadband Delivery UK would have split the UK, Scotland and Wales into many different areas and in that way different companies would have the opportunity to bid. That is the way it is done in every member state. One divides it up rather than having one big procurement process and one big lot. That is the history of the lots.

In terms of state aid, since 2014 we have had many visits to Brussels to meet the DG COMM unit, which is responsible for overseeing our process and, ultimately, it will be responsible for delivering a state aid approval letter before we issue a final tender. It is responsible, as set out in the state aid guidelines, to ensure that each member state only intervenes where it absolutely has to and that no taxpayer moneys go into geographic areas, cities, towns or counties where commercial operators have already delivered, or have concrete plans to deliver.

Mr. Patrick Neary will go through the mapping process with the members shortly, which involves how one decides or confirms if there is a concrete plan from a commercial operator or whether plans that were promised three years ago are happening on the ground. That is an intricate, complicated and detailed process because we are talking about every road, street, house

and business in the country that we must analyse and examine. We started that process in 2013 when we issued many questionnaires to every single commercial operator in the country asking them to outline their plans, if they will deliver high speed broadband and, if they will, to submit their plans in order that we could examine them. Mr. Patrick Neary will go through all that detail shortly. Under the state aid guidelines, that is a key tenet, namely, to identify the areas of market failure and decide on what way to intervene, which is what is in our strategy. We did all that in 2015. The map is dynamic and it must remain so as any commercial operator can at any time decide it will invest money in this particular area. Over the course of 2015, we engaged with the European Commission and consulted it on the map we published in 2015, along with our strategy and the procurement launch in December 2015, and it was very satisfied with our mapping process. To date, it has not raised any issues. We have gone through the whole pre-notification process. We issued the first one in 2015. We reissued an updated pre-notification in August 2016 just to bring it up to date. We intend to move to the final notification process in the coming weeks. At that stage the European Commission will engage in reviewing the overall process in a little more detail and give us a final letter of approval before we would have a preferred bidder or a contract awarded. From a state aid perspective, we have gone through a great deal of detail with the European Commission, ComReg has been consulted and we believe we are in a very good place in that regard. That is the general process. I will now hand over to Mr. Patrick Neary who will talk the members through the mapping process.

Mr. Patrick Neary: Does the Chairman want me to continue to deal with the remaining questions?

Chairman: Yes, Mr. Neary might continue to address the remaining specific questions from the last meeting.

Mr. Patrick Neary: I will continue to do that.

Chairman: Do some members want to intervene? I will leave it open to them to do so.

Deputy Timmy Dooley: It might be as well to get a tight response to some of the questions, as many were asked last week.

Chairman: Yes, absolutely.

Deputy Eamon Ryan: I have oral questions to the Minister for Transport, Tourism and Sport today, so I would like to raise one brief question, if that is in order.

Chairman: Deputy Buckley has also indicated. Deputy Ryan can proceed.

Deputy Eamon Ryan: I apologise for intervening and I do so in case I have to leave and I do not want to come back to discover that the meeting has ended. It was useful for us to get the correspondence today on the communications between Eir and the Department. Regarding the 300,000 additional rural homes to which Eir is delivering broadband directly, I understand Eir had originally approached the Department in 2014 or 2015 - Mr. Neary might be able to confirm the year - for those to be excluded from any national broadband plan and that the then Minister, Alex White, ruled that out. I was interested in the correspondence between Eir and the current Minister, Deputy Naughten, to find out when that changed. It is not clear from the correspondence. The only meeting it seems where it could have been discussed was in the summer of 2016. What is difficult to understand, in the context of Eir's presentation at a later meeting, is that it started that programme in the first quarter of 2017 - in other words, it already had 10,000 houses done in the first quarter. Therefore, it must have started in January or February 2017. In

the context of the commitment assigned in 2017, that must have been agreed with the Minister the previous summer. When was it decided to change the approach whereby the Department and the previous Minister said that we would not do that. When was it changed? When was it signalled to Eir that the Department would allow this different approach? That is not insignificant. It only became apparent obviously in April 2017 but the bidding process must have been proceeding for at least six, eight, nine or ten months during which time the other parties would not have known that the whole terms of the process were changing. When was it decided to switch tack in that regard?

Mr. Ciarán Ó hÓbáin: If I could take that question, it is a very complex area and I absolutely understand the Deputy's question. The best way to answer it would be to speak in a boarder sense and answer the question on how the mapping evolved and specifically deal with the Eir 300,000 which was a part of that process.

Chairman: Thank you, Mr. Ó hÓbáin. I call Mr. Patrick Neary.

Mr. Patrick Neary: I will address that question as I go through the mapping process and it should become very clear. I will start at the beginning and members will note as the map has developed, the way in which operators have come forward with their plans. Our first engagement with the industry started in 2013 when we wrote to all the operators and asked them for submissions relating to high-speed broadband and their intent to roll it out. That resulted in us publishing a first iteration of the map in November 2014. That was sent out for public consultation, following that extensive engagement with the industry in 2013 and 2014.

We received 27 responses representing more than 60 stakeholders in that consultation, therefore, we got quite a healthy response particularly from the industry. That resulted in us republishing the map in February 2014. We then issued a supplementary information request to the industry inviting operators to come forward with any detail of any further high-speed broadband plans they had out to 2020. It was very much a future-looking request for information. In that year, June 2015, Eir came forward with, and announced publicly, a 300,000 roll-out. At that point it would have submitted its submissions to the Department. Along with that, in response to that information request, six operator plans were submitted to us. Therefore, Eir had made a submission, along with five others. At the end of 2015 we concluded that no operator had met the technical deployment or financial criteria or was willing to sign a commitment agreement at that point. On that basis, we republished the map in December 2015 and at that point we launched the procurement. In 2016 Eir re-engaged with the Department. It had updated its 300,000 plan, come forward with more robust and committed finance for the project and revised its deployment profile, which had started or was planned to start during 2016. In fact, it started towards the end of 2016. Throughout 2016 we reassessed that updated plan from Eir. During that year we also continued to monitor and assess the anticipated commercial developments in what, at that time, was the blue area on the map.

To complete the picture, through our analysis of the blue area we identified a further 84,500 premises which we had anticipated would get high-speed broadband but the plans were not forthcoming as anticipated. We decided at the time that those 84,500 premises should revert to the intervention area. We continued engagement with Eir, and in April 2017 we signed a commitment agreement which underpinned its plan to deliver high-speed broadband to 300,000 premises. Eir had started the roll-out at the end of 2016 and had already completed the first quarter of roll-outs during 2017, so it was well down the road of actually implementing the deployment. This supported the credibility of its plan, along with the fact it underpinned the commitment through an agreement with the Minister and the Department. In April 2017, this

resulted in us updating the map, which now included the further 84,500 premises we had identified through analysing the blue areas. The intervention area was reduced by 300,000 premises as a result of the commitment agreement with Eir. This gave us an intervention area of approximately 540,000 premises. As has been pointed out, April 2017 was during the ongoing procurement process and I will come back to this.

We continually analyse issues regarding accuracy of the map and issues in the blue areas. As recently as January we asked for further observations on the map through a public consultation, which concluded last week. We received nine responses directly on the mapping and we are reviewing and assessing those respondents. The point I want to make is the mapping process is extremely complex. We are attempting to map high-speed broadband nationally to every house in every eircode in the country. In many cases, this information is based on the legacy copper network and the information is quite old. We have had to do a lot of analysis and work with various operators to try to improve the accuracy of what is there. There are many difficulties in identifying the performance of high-speed broadband at individual premises level. At the point a premises orders and connects to the service it becomes more measurable. We have had cases where one would expect that houses built close to a cabinet would receive high performance high-speed broadband direct from that cabinet, but when they connect it is identified they are not connected to that cabinet but to an exchange several kilometres away. As a result, they do not receive the expected performance levels. There are difficulties such as these.

Various technology is involved and there are different ways of measuring the performance dependent on the technology. It is a very complex process. We have developed the map to be dynamic and to respond to our analysis as we develop it over a period of time. We have been doing it for quite a long time and it is getting better and better. As people connect to it, we get better insight into the performance they receive. We are continually updating and reassessing the accuracy of the map. We have allowed for this within the procurement process, and from the outset we very much flagged the dynamic nature of the map. When we updated the map in April 2017, it was not something unflagged to bidders at the start of the procurement process. It was catered for in the procurement process.

Deputy Eamon Ryan: Was I inaccurate in stating the previous Minister and, I presume, the Department had not agreed to a similar proposal which came from Eir in the early stages?

Mr. Patrick Neary: In June 2015, Eir's initial 300,000 premises proposal was assessed and did not meet the criteria. It was not accepted at the time and it was concluded by December of that year that it had not met the criteria. In 2016 Eir updated that proposal. We have quite extensive technical, financial and deployment criteria and we require the commercial operator to underpin the plan with a commitment. During 2016 we had extensive engagement with Eir on its updated revised plan. At that point it met the criteria. In April the following year it signed a commitment agreement.

Deputy Eamon Ryan: That tentative agreement was to have been indicated by the Minister at his meeting in the summer of 2016 with Eir, and the Department would have known at that stage it was going to-----

Mr. Patrick Neary: When was that?

Deputy Eamon Ryan: Was in it June or July 2016 that the meeting between the Minister and Eir took place? I believe it was July.

Mr. Ciarán Ó hÓbáin: Perhaps what we are not communicating as clearly as we need to is that the mapping process and the process by which operators could have included on the map their infrastructure that was in place or planned, in such a way that it would reduce the area for State intervention, has been in place since the outset of the procurement. The same process with the same criteria was in place for the 2015 evaluation of the Eir 300,000 premises proposal as was applied to the 2016 process that concluded in 2017.

Deputy Eamon Ryan: I imagine that at the meeting on 21 July 2016 the broad approach the Department and the Minister were going to take must have been communicated because there was not a subsequent meeting between the Minister and Eir.

Mr. Ciarán Ó hÓbáin: The broad approach the Department would take was outlined through the process documentation and engagement with the operators from the beginning. The approach was fully understood by those operators who had engaged with the process to date, including Eir. It knew the test it had to pass for its infrastructure to be accepted on the map. It knew why it had not passed that test in 2015 and it knew what the tests continued to be in 2016 and onwards. There was absolute clarity for the operator as to what it had to do, the hurdles it had to go over and the process it would have to follow. There was no need to communicate it.

Deputy Eamon Ryan: If it changed after 2015, when the Department found the 300,000 houses did not fit with the new criteria, when did the Department communicate to Eir that the 300,000 houses process was within the criteria? When did the Department indicate to Eir that it had changed its position, in that it would accept the 300,000 houses in the plan?

Mr. Ciarán Ó hÓbáin: There was no change of position. It was a different proposal put through the same test. It was very close to the date at which the commitment agreement was signed. It was back in March, I do not have a date.

Mr. Patrick Neary: My best recollection is that we concluded it at the end of March. We sent it formal-----

Deputy Eamon Ryan: Eir started building it in December 2016.

Mr. Patrick Neary: As I said, it is a commercial deployment. It is Eir's strategy and within its own gift to deploy any time it decides. It helped the credibility of Eir's deployment plan that it was actually delivering according to it. Our assessment was on whether it was a credible deployment underpinned by the financials with the technical capability of delivering the service. That was concluded in March 2017.

Deputy Timmy Dooley: I wish to go back to the beginning of slide 18 because I want to try to understand when the process actually started. The strategy development was between 2014 and 2015. From July 2015 to November 2015, there was a detailed assessment of six operators. Can I assume that the process had started in terms of engagement with potential bidders in and around July 2015 if not prior to that?

Mr. Fergal Mulligan: I started on this project in March 2014 and Mr. Neary started in April 2014. The national broadband plan was published in 2012 and that set out the mission statement. In 2014, we started a stakeholder engagement.

Deputy Timmy Dooley: The Department launched a procurement process in December 2015. Did it have some sort of timeframe at that point to get shovels into the ground? Mr. Ó hÓbáin has overall responsibility for the tender process. Given that it started in the middle of

2014 and procurement was launched in December 2015, but that it will now be the end of 2018 before we get a preferred bidder and a contract, does he think the process is fit for purpose? It has taken three years, if not longer. As an assistant secretary of a Department, is Mr. Ó hÓbáin happy with the process from the perspective of the overall delivery of a State policy?

Is an overall price included in the details submitted by the one remaining bidder? How much will the State have to provide, by way of an intervention, to make sure it is rolled out? Is there a technical solution? I assume one has been provided. Has the contractor provided the Department with a timeline by reference to T+, "T" being the date of the signing of the contract? Is there a date for starting deployment, the rate at which the project is rolled out, that is, the number of homes included per week, and a concluding date?

Mr. Ciarán Ó hÓbáin: On the general question on the complexity of the procurement process, I am absolutely satisfied with the governance of the process and the strength of the team which is managing it, as well as with the resources which have been made available. I am happy to answer questions on timelines to the extent that-----

Deputy Timmy Dooley: My question was on when this was initiated as a Government policy and when it will be concluded. Is Mr. Ó hÓbáin, as a senior civil servant, happy that there has been maximum efficiency in the context of the time lag? Is it appropriate for it to take three and a half years, perhaps four, from the time the Government took the policy decision? At this stage there is only an assumption that it will, eventually, get started.

Mr. Ciarán Ó hÓbáin: I am satisfied with the governance and strength of the team and the manner in which the team has engaged with it. The pace at which this project has been managed by the team, including in its engagement with builders, has been intensive but the complexity of the process and the obligations on the State to get it right are onerous. One can understand the timelines in this context and I believe the project is being managed in an effective manner. The team has the capacity to deliver it. In a competitive dialogue process, the timelines will be influenced by the two sides and the multiple bidders. We have already discussed the mapping of that but issues such as revisiting the map, to provide certainty to bidders in the process, impact on timelines. This project is being well managed.

Deputy Timmy Dooley: I do not want to nitpick but someone who lives in one of the intervention areas - and is part of the 542,000 who do not have high-speed broadband - is not going to understand how Mr. Ó hÓbáin can say it is being well managed. The Department may be dotting all the i's and crossing all the t's but it does not seem to me to be an efficient process. I am sure there is no wrongdoing by any staff member and I am sure everybody is working really hard but it is a bit like the hamster on the wheel, working hard to keep it spinning but delivering nothing visible. Is the bidder intervention action the best way to do this? Might there be a better way to deliver, particularly in view of the fact that the Department can quickly sign an arrangement with Eir that sets timelines regarding the deployment in 300,000 homes? It is very hard to comprehend how this can be the best way to do it.

Mr. Ciarán Ó hÓbáin: I will make a final comment and then pass the Deputy on to the programme director because many of his questions are relevant questions from last week in the context of value for money and next steps. The competitive dialogue process is absolutely appropriate to a project such as this on account of its uniqueness. We understand the frustration of people who are waiting for high-speed broadband and one of the members of the team is in the amber area and reminds us of it on a daily basis. It is an effective methodology for the project and we have learned that it is impossible to deliver a project of this sort on the basis of

the standard tender process. For the State to define the outcome, it has to engage with industry. I am happy to talk the Deputy through the stages of the timeline, if that is helpful.

Deputy Timmy Dooley: I ask Mr. Mulligan to be specific.

Mr. Fergal Mulligan: We were not twiddling our thumbs in 2014 and 2015. In 2015, before we entered the procurement process, we asked all stakeholders if they thought this was the right way to do it. The process is big and complex and there is a lot of taxpayers' money at stake. We identified exactly the technical and financial solutions we wanted from bidders following that engagement and our engagement with international experts. There was no other way of doing this and, having benchmarked against other projects in other sectors in Ireland and other broadband projects in Europe, we can say that no one has done such a project more quickly. The majority of PPP and other projects in this State take years because they are big and complex. When one gets it wrong, it stalls it for many more years when cases are dragged through the courts. As the Deputy is aware, there are all those things to factor in when one is doing this. However, when one examines the information shown on slide 18 and when one reflects on what we have done in the past two years, I am personally confident that we could not have done anything any more quickly. We started out with 840,000 premises in 2014 that were not going to get high-speed broadband from the commercial sector. We are now at 540,000. I live in an amber area myself but I now see in my area of rural Wicklow that many people are now getting 500 Mbps from the 300,000 homes to which Eircom is now delivering. That is great news for them but it is not good news for me. I accept that, but where we are on this trajectory is at the top end of the curve, thank God. The scars of where we have been for the past two years are over us and we see the prize at the end of this coming by September. We have moved mountains to get to where we are. I hope there are not many more mountains to move. As programme director, I am absolutely confident that we have done everything possible. I agree that it was done by the book, but we have to do it by the book in order to ensure that it happens and that it does not get dragged through some other process down the line. We will deliver. That is the ultimate aim here. We will deliver by the end of September.

In terms of the other more detailed questions on procurement, without going into the procurement process and what the bidder is or is not doing - because there is a lot of confidential and commercially sensitive information in all of that so we could not disclose it - in the context of whether we have a detailed price, we must go back to the process here and what we got in September. In any procurement process with competitive dialogue, bidders give us what they call a dummy bid. We got that in September. It included more than 3,000 pages of stuff with huge models and everything else and our experts have spent October, November and December going through that. The bid included technical, financial and all the network information Mr. Neary and his engineers have been looking at for three months. The way the process works is that we have now given them substantial reports, although not as much in paper, from financial, technical and legal advisers in terms of what we would like to see them do better, where we think they could be more efficient and all those sorts of things one goes through in competitive dialogue in order to ensure the State gets the best outcome. They have only got that in the past couple of weeks. They now need to go and recalibrate those models, recalibrate their solutions and then come back into us.

There will not be a final price until we are happy that we have the right solution, namely, the right solution for the State, and that it will be done as fast as possible, which brings me back to the timeline and whether it has a timeline. We might have been given a timeline and we might have gone back and said we are not happy with it and that we want it done faster and we want

it to look at that. That is what one does in competitive dialogue. For example, we ask how one can get a faster provision in County Clare or County Wicklow or what else could be done more quickly, even if it costs a bit more money. We are going through all that with the consortium to see how we can get the job done as quickly as possible between 2019 and whatever end date. Our time plus is time plus minus because we want to get the work done as quickly as possible. That is product we are dealing with.

Deputy Timmy Dooley: I thank Mr. Mulligan for the clarification. Does he not accept then that just having one bidder puts the Department on the back foot? If Mr. Mulligan were negotiating with two or three bidders, it would be clear that everybody was going to make the best effort. With one company on its own, it can say that is the best timeline or that is the best price it can do or this is the earliest it can start the roll out. In effect, it holds all the aces.

Mr. Fergal Mulligan: Of course, when one has a single bidder that is the perception but, in reality, what we have here, regardless of the number of bidders at the table and the number of remaining bidders in this commercial gap-funded model, is substantial commercial money coming into the project from shareholders, including international ones. Their prerogative is to make a rate return and to get bums on seats, as I said. They need to get people to buying the ICP broadband service from them. They are not here just to get State aid because then they lose their money. Their prerogative is that they are still in an environment where every part of Ireland has broadband and there is the Eircom provision to 300,000 homes, and there are other operators out there that are spending their own money on certain networks. This company is going into a highly competitive and highly changeable environment in terms of technology and it needs to hit the ground running. We are giving any international shareholders that are coming into our process to talk to us and get an investment from the State - because that is what a gap-funded model involves - a grant and they then need to absolutely build this as quick as they can to get people buying the service so that they can get revenue in. Their revenue model is completely dependent on getting people on board and, as we know, the demand is out there. They know they will be hit the minute this has started and launched by thousands of orders. Their prerogative is to get people on board because they need happy customers. They need people to spend money on the bundles they will set up. I think there is fundamental pressure on the consortium to deliver for its shareholders, as well as us, and the State is a key shareholder in that.

Deputy Pat Buckley: I thank the witnesses for the presentation. I will follow on from Deputy Dooley's questions. Mr. Mulligan referred to value for money. Deputy Dooley was correct in saying that there is only one bidder in the process now so what are the actual risks to the State in respect, first, of value for money and, second, for the entire project if it goes belly-up? In terms of the intervention areas, if this plan, which we will call plan B, fails, in my area of Cork alone there will be more than 74,000 premises, which could possibly involve 200,000 individuals, that might not get any broadband. That is very worrying.

Has a public ownership model, based on existing State infrastructure, such as that owned by the ESB, been considered? I recently met the Chamber of Commerce in Cork and a number of stakeholders to discuss the Celtic interconnector. They spoke about utilising existing State infrastructure. We are talking about very complex operations and bids.

I looked at the metropolitan area networks, MANs, in my area in Cork and in Midleton, Cobh, Cork city, Ballincollig and as far away as Youghal and the points seemed to be there. If deflectors were used, could we not utilise them and tap into the national network? Surely 99% of people have electricity in their homes? Reference was also made to data and tracking in terms of Eircodes and addresses. If 99% of people have an electricity connection and each

person gets a bill, we already have the data and the mapping done. I am a bit lost in that regard and would welcome some clarification from the witnesses.

Mr. Fergal Mulligan: I will start. As I said at the outset, every piece of infrastructure that can be used will be used. Going back to the consortium and the State, as shareholders, we need to minimise the cost. The MANs are in Cork and in approximately 80 places across the country and where they represent the most efficient way to utilise the networks, they will be used. In some cases, it might be more efficient to use the electricity or Eircom network. All of those networks are in front of the consortium as options at the moment. What is being considered is what is the most cost-efficient way of doing it. The reason areas of the country have not been served to date is because while those networks are there, it still costs a lot of money to bring them to the door of the house. While the electricity or any other network might be there, one still needs to get fibre on poles and through ducts and back to a point of presence in Cork, Wicklow, Dublin or wherever else. That is why an area has been designated as amber; it is because it is not commercially feasible for anybody to spend their capital to get it from the house back to those points of presence. That is why we are doing this. That will happen as part of this process. We are reducing the amount of any overbuild here where possible but if something needs to be built, it will be built.

In terms of a public ownership model, the Government decided in July 2016 that we would use the commercial gap-funded model, which is a typical model used across member states whereby we offer a grant to the winning consortium. The fact that an Eircom network, the ESB network or a MANs network might be used as a subcontractor or rented will not make any difference to that ownership model because those networks are owned by the semi-State company, be it, for example, the ESB or by Eircom. The MANs are owned by the county councils. Those ownership models are there across the board with the actual infrastructure already, some of which is in State ownership, for example, the ESB, public ownership for the MANs or private ownership such as Eircom and towers and masts are owned by Coillte, for example, a semi-State organisation which may be part of the solution. A multitude of infrastructure is involved in terms of the solution to deliver in the most cost-efficient way, whether it is predominantly fibre to the home or even fixed wireless or whatever other solution and those will all be leveraged to minimise the cost. In Cork, there are potentially 74,000 unconnected premises. Every county in Ireland has that problem and that is why it is amber. Our target for Cork and other counties is that we address the problem as soon as possible through 2019 and onwards. The target now is to turn all of those areas blue. That is the ultimate objective here.

Deputy Pat Buckley: If this fails, is there a risk to the whole project? Is there a plan B?

Mr. Ciarán Ó hÓbáin: We were invited here today to address questions that the Minister could not answer last week. That question was answered clearly last week and it is on the record from last week's meeting. I do not have anything to add to that.

Chairman: Mr. Neary mentioned someone who is living beside the cabinet but is not connected to the exchange and the difficulties they are experiencing because of that. As public representatives, we are all contacted quite regularly by members of the public who have this issue. What are the solutions? Can Mr. Neary expand on that? People are experiencing this at present and it is a huge issue right across the country. What are the solutions?

Mr. Patrick Neary: The blue areas are primarily urban or suburban areas where there is a high density of premises. They are areas which should be served by commercial operators. It should not be the case that the State has to intervene to support a commercial operator in a

densely populated area. We are continuing to monitor the plans that have been presented to us that are reaching fruition in the blue areas. There have been particular barriers or issues that operators encounter, primarily local issues, that, if unlocked, would allow the commercial operators to deploy to those areas.

One of the major initiatives launched to alleviate that has been the mobile phone and broadband task force and 40 actions have been identified through that task force. It was updated this year with further initiatives, including the appointment of a broadband officer to look at alleviating local issues and updating the planning exemptions for the deployment of telecoms infrastructure. We have come across premises in the centre of Dublin - one-off premises which are quite close to the building we are in at the moment - where the operator is willing to deploy but has found it cannot get through the planning process. By bringing people together we found a solution for those premises where they can locate a new cabinet or address an existing cabinet.

These issues arise as the operator tries to deploy. On the example I gave, where there is a premises that is very close to a cabinet - this is based on very old legacy data - the operator expects that the premises will receive high-speed broadband but it does not because it is connected to an exchange many kilometres away. We want to see if we can alleviate problems such as that. It is not the case that these are suitable for intervention because they are in such densely populated areas. In saying that, the contract and the initial strategy which was published provide that in the event that there are premises left behind, they could be added to the intervention area in due course. We have the ability, after the contract is awarded, to increase the number of premises. Our main tool, however, is to try to address the issues. We provided an email address at which the Deputies, or indeed the public, can highlight issues to us and we will continue to investigate them. We then engage with the industry and see how the issue might be alleviated.

Chairman: It is a huge issue, and many Deputies and Senators are in contact about it. Perhaps it is something that we as a committee will follow up on in the future.

Senator Joe O'Reilly: At the outset I want to apologise as there may be a level of duplication in my questions. I was unavoidably late for this meeting because of another commitment and therefore have not heard all of the questions. Despite that, I am going to ask questions to which the people I meet seek answers.

There are three specific allegations in the letter from Eir to the Minister of 30 January 2018. The first concerns the regulatory and governance issues that have been repeatedly highlighted over the past 18 months. Implicit in that is the suggestion that Eir had flagged its difficulties and that in some way those problems were not adequately responded to. Can the witnesses comment on that? The second problem mentioned in the letter is that Eir had grave and growing concerns about the current regulatory environment. Can the witnesses comment on that? Is the regulatory environment too oppressive? If so, will this also be a difficulty for Enet? If Eir had legitimate difficulties, will Enet face them as well?

The third issue in the letter from Eir is that there were well-communicated, red-line issues over the period. Implicit in that is that Eir was very clear about what it wanted and that there was not an adequate response to that and that there was too much tardiness in dealing with the issues. The people watching and listening to us today or those who will read the Official Report of the meeting would want assurances and a response on those three implicit suggestions in the letter from Eir, namely, a certain tardiness, a failure to deal with red-line issues and an oppressive regulatory environment, as well as the fact that each of those issues had been flagged. Was enough done? Was there inflexibility in the witnesses' dealing with Eir during the process?

Was there an unused flexibility in the system?

There are a few simple basic questions about Enet to which people would like answers. Can the witnesses explain why Enet will not cost more than it would have cost? In other words, how will we avoid a situation where it exploits its position as the only bidder? An assurance around the cost issue would be appreciated, as well an explanation as to why the witnesses are confident about that issue. There will be some doubting Thomases on this issue; apt terminology given the season we are in at the moment.

How will the process with Enet work? How will the process be managed to ensure the kind of objectives the witnesses have are met? People are wondering about the capacity of Enet to do the job - I acknowledge we have had assurances - but can the witnesses pad that out a little? The big issue is the timeframe. Will deadlines be met and when will shovels be in the ground? When do the witnesses see the whole process completing?

When the Minister was in the House on the last occasion, I mentioned there are three simple questions that people on the streets are asking. Will they get the broadband, and when? Will it be cost-effective? Will it be efficient? In essence that is what the questions amount to. I would appreciate if the witnesses could address the specifics I raised.

Mr. Ciarán Ó hÓbáin: I might first deal with the questions around the regulatory environment, red-line issues, flexibility and the process. I will then ask Mr. Mulligan to address again some of the points he discussed earlier on value for money, process and timelines.

In terms of the Eir letter, which is in the public domain, the matter was discussed with the Minister at a meeting of the joint committee last week. It is not unusual for an operator to be critical of the regulatory environment in the market in which it is operating, as will, I am sure, other operators from time to time. In saying that, I do not wish to reflect in any way, by way of commentary, on the regulatory environment, which is very much a matter for the independent regulator, ComReg. The Minister made that point clearly last week when he also suggested the joint committee may wish to consider having a meeting with the regulator to discuss the wider issues.

We have made clear we will not go into the specifics of the procurement process. We showed members a timeline. I will not and cannot discuss red line issues and it would be wrong to do so. However, I point to the timeline in this regard. It is a matter of record that in this process the detailed solutions stage was about to complete at the point at which Eir withdrew. By the end of January 2018, bidders had to provide the Department with their final red line issues. The Department would consider these and the aim was that over the coming weeks, the final contract would be settled on for the tender stage. It was clear the engagement with bidders in the process around their views on the contract had not concluded at that point and there was still space for that.

All I can say on the issue of flexibility is that I am confident, having been there and seen it, that the team is acting in an appropriate manner in approaching this project on the basis that there is a strategy to be delivered and the team is acting on behalf of the Government and people of Ireland in delivering that strategy. The bidders will act on behalf of their stakeholders. While a certain amount of tension is to be anticipated in the process, it was being managed effectively. Mr. Mulligan will respond to the remaining questions.

Mr. Fergal Mulligan: To answer the question on whether people will obtain a broadband

service, approximately 500,000 premises had broadband in 2013. By the end of this year, that figure will have increased to 1.8 million. The momentum on the delivery of broadband is significant and we will ensure it is maintained and accelerated. That is our prerogative. There is no question that we will get 100% of the country covered. In terms of timelines, the question is when this will be achieved. By the end of this year, we will have a detailed timeline from the consortium for when it will be able to achieve this. We will not know what the timeline will be until then because we are working through the detail. As I indicated, part of the detail is that the Department will apply as much pressure as possible to ensure the process is concluded as quickly as possible. With the competitive dialogue process we are running, we can engage with the consortium to identify what can be done to have the process completed quicker before we get a final tender.

In terms of the ability of Enet to do this, one fundamental point is that one must qualify to be included in a tender process. In 2016, five consortiums applied to be part of our tender process and three consortiums, including Enet, qualified. The company went through a very robust qualification process which demonstrated that it had the experience, understanding and projects to prove it could do a large-scale project. We have no doubt it can do it.

Chairman: On behalf of the joint committee, I thank the officials for attending to address members' questions and discuss the national broadband plan. It is proposed that the committee publish the presentation on the website. Is that agreed? Agreed.

The joint committee adjourned at 11.15 a.m. until 3 p.m. on Tuesday, 27 February 2018.