

DÁIL ÉIREANN

AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

Déardaoin, 3 Deireadh Fómhair 2019

Thursday, 3 October 2019

The Joint Committee met at 10.00 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies

Seanadóirí / Senators

Peter Burke,	Rose Conway-Walsh,
Pearse Doherty,	Gerry Horkan,
Michael McGrath,	Kieran O'Donnell.
Paul Murphy.	

I láthair / In attendance: Deputy Eugene Murphy and Senator Maria Byrne.

Teachta / Deputy John McGuinness sa Chathaoir / in the Chair.

Business of Joint Committee

Chairman: I propose that we go into private session to deal with some housekeeping matters. Is that agreed? Agreed.

The joint committee went into private session at 10.05 a.m. and resumed in public session at 10.20 a.m.

Application of VAT to Food Supplements: Discussion

Chairman: We are dealing with the application of VAT to certain food supplements. From Health Stores Ireland I welcome Mr. Matt Ronan, spokesperson, and Dr. Dilis Clare, as well as Mr. Kevin Hurley, adviser to the group on VAT. By virtue of section 17(2)(I) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the joint committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of the proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or 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 Houses or an official, either by name or in such a way as to make him or her identifiable.

I invite Mr. Ronan to make his opening statement.

Mr. Matt Ronan: I am spokesperson for Health Stores Ireland. I am joined by my colleagues, Dr. Dilis Clare, GP and medical herbalist, and Mr. Kevin Hurley, a tax agent from CKH Fiscal Services who for the past few years has been advising our organisation on the VAT treatment of food supplements. I thank the Chairman and the other members of the joint committee for the interest they have taken in the issue and inviting us to address them on the most serious threat ever to face the health food industry in Ireland, that is, the imposition of VAT on food supplements.

There are health food stores in every town in Ireland. They are mostly small, independent family-run businesses which are an integral part of the local community. The imposition of this unwarranted tax will undoubtedly lead to the closure of many of them and the loss of hundreds, if not thousands, of jobs. We have made a submission to the committee which sets out a lot of the background to the issue and I hope members have had a chance to read it.

I will summarise the five reasons the imposition of VAT on food supplements should not proceed. We are being told that we are about to have a no-deal Brexit budget. The Minister for Finance, Deputy Donohoe, has stated it will be a safe and careful budget which will help citizens, families and communities that could find themselves dealing with real change as a result of a no-deal Brexit. If the United Kingdom crashes out of the European Union on 31 October, new customs tariffs will apply to goods traded between the United Kingdom and Ireland. It is expected that imports of food supplements from the United Kingdom into Ireland which account for the majority of supplements will attract a tariff of 12.8%. If VAT at a rate of 23% is

applied, Irish consumers of food supplements will be facing a cumulative increase of 37.8% overnight at the beginning of November. A near 40% rise in price will see a major decline in health supplement consumption, a knock-on impact on the health of citizens and a threat to hundreds of retailers across Ireland. The Minister cannot prevent the United Kingdom from crashing out of the European Union or the resultant WTO tariffs, but imposing VAT on food supplements in the budget is totally at odds with a no-deal Brexit. Instead of protecting Irish consumers and retailers, it would punish them.

It is important to understand the origins of the proposal. It is not because of Government policy and not driven by a desire to raise money, nor is it being demanded by the European Union. It is being done because Revenue's decentralisation of decision-making in 2014 led to contradictory Revenue decisions where given different VAT rates were applied to the same types of supplement. Revenue's answer to an administration problem which it created is to impose a charge on consumers and damage the business of retailers. Revenue, in the shape of its chairman in front of this committee, has claimed that since the end of 2018, the zero-rating of food supplements since 1973 has been on a concessionary basis, but there is no evidence whatsoever to back up this claim. If there was a single email from one Revenue official to another mentioning this concession in the past 20 or 30 years, we would have seen it by now, but no document has been produced showing any evidence that there was ever a concessionary basis for the taxation of food supplements at the zero rate. The industry had never heard of this so-called concession until it was first mentioned by the Minister, in response to a Dáil question in October last year, despite the countless VAT audits that had taken place throughout the country in the 40 years in which there had been food supplements in Ireland. Revenue would have audited the accounts of many firms, retailers and wholesalers in recent years and there has never been an issue with the non-application of VAT to food supplements. There have been no related prosecutions, fines or penalties, interest or back tax payments during the years.

The EU VAT directive does not allow member states to apply a zero VAT rate on a non-statutory or concessionary basis, as Revenue should know better than anybody. Under freedom of information legislation, we obtained evidence in August this year that there had never been any concessionary treatment and that in 2006 Revenue had published instructions for its staff confirming that food supplements were always legally eligible for the zero rate as food in accordance with its interpretation of existing VAT law. In short, the concession argument is bogus and has caused the Minister and members of the committee to be misled.

Any imposition of VAT would impact negatively on health and retailers. The imposition of VAT on these products would also penalise hard-pressed consumers, especially children and the elderly who, with most adults, often use food supplements to maintain good health and address many dietary deficiencies associated with the reality of modern diet and lifestyle. We can provide examples of the positive health benefits of food supplements for members, if they so desire. A serious risk if there is an increase in the price of food supplements is that consumers will abandon their local stores and purchase supplements online, where there is no regulation, advice or guidance on what might or might not be suitable, depending on people's health circumstances. That will guarantee job losses and the closures of small businesses. The sudden imposition of VAT on sports supplements in 2011 led to the decimation of that category of goods which had accounted for 10% of my business. The segment more or less disappeared as if somebody had turned out the lights. People went online to buy their products and that was the end of sports supplements for me.

The resolution of this issue lies with the Minister. An identical situation arose in 2014

regarding VAT on herbal teas. The former Minister, Deputy Noonan, had no difficulty in introducing new zero VAT legislation for those products in that year's budget. I thank members for their continuing interest in this issue. We are happy to take questions on any aspect of this subject. What we hope to do today is to persuade individual members and the committee as a whole of the merit of our case notwithstanding the forces ranged against us. As public representatives, we ask members to reject the proposal that an administrative problem for Revenue be resolved at the expense of ordinary consumers and retailers. We realise that time is short but we hope the committee will take action over the coming days.

Chairman: Does Dr. Clare wish to comment on the VAT end of it?

Mr. Matt Ronan: She would love to take any questions, particularly with regard to the health benefits of these products. If members are interested, she would be delighted to answer questions.

Deputy Michael McGrath: I welcome Mr. Ronan and his colleagues and thank him for his opening statement. Could he give us a sense of current practice regarding the products he and other members of the Irish Association of Health Stories sell? What is the overall mix? I know there are regional variations since the devolution in 2014 to local Revenue offices. What is the overall picture regarding the application of the zero rating of products for VAT purposes?

Mr. Matt Ronan: I would be delighted to do so. We must also remember that when we speak here, we are not just speaking about the 200 businesses we represent. Supplements are being sold within many aspects of retail. About 1,800 plus pharmacies throughout the country are selling food supplements. We can speculate that there are many hundreds of supermarkets that sell them in the same way. For the past 40 years, there was never been a question regarding how we should treat food supplements. We had a few things like juices. If we sold a medicinal product such as plantain juice that did not taste very nice, the fact that its label contained the word "juice" meant that it attracted 23% VAT in the same way as apple juice would. However, there was never a question but that a simple vitamin, mineral, fish oil or a botanical like turmeric, ginger or garlic, which would almost be sold in any corner shop, would attract 0% VAT. I can say that all retailers applied that same measure. It was unquestioned and nobody had any reason to think otherwise.

It is only in the past three or four years that there has been any real challenge to that practice and we found the need to submit a product to Revenue to get a VAT ruling on it because Revenue started throwing up question marks about this. I will pass this question over to Mr. Hurley, who can give the Deputy even more definitive information in that regard. However, I can tell the Deputy that over the past 47 years, every retailer in the country always had the very simple approach that it was 0% VAT for a food supplement regardless of whether it was a Vitamin C, ginger or garlic capsule. That was the practice and all those thousands of businesses applied that rule without hesitation. Suddenly, Revenue is saying that these thousands of businesses have been out of step and only Revenue knew what should have happened. It is only Revenue that claimed at one point that the very tight definition of vitamin, mineral or fish oil deserved the 0% rating according to a strict reading of the regulation and that everything else should have had 23% VAT attached to it. That story was then contradicted by Revenue's own website because the website had numerous products such as royal jelly, ginseng and garlic openly rated at 0%. I have snapshots from the 2018 guidance from Revenue's website detailing a 0% rating on these products in accordance with their categorisation as a food because----

Deputy Michael McGrath: My question was about establishing current practice. Is this

not currently applied to 70%, 80% or 90% of products sold in the stores of the association's members? What is current practice on the ground?

Mr. Matt Ronan: While there have been recent rulings from Revenue on some products, for the most part, they have been challenged by the manufacturers or suppliers. We are awaiting the conclusion of that. I will hand over to Mr. Hurley to get the Deputy a more definitive answer.

Mr. Kevin Hurley: Products that would be standard rated in stores would generally be sports nutrition, body building, skin, hair and nail products.

Deputy Michael McGrath: VAT is applied at 23% on these products.

Mr. Kevin Hurley: VAT is applied on these products. There may not be any legal basis for doing so. In legal terms, there is no real difference between a body building supplement and a Vitamin C supplement for immune health but the industry as a whole applied VAT to those products in 2012. Everybody assumed that products similar to ginseng, such as probiotics or other botanicals were zero rated because of entries on Revenue's website for ginseng and royal jelly capsules at 0%. When royal jelly was first released into the market, it was marketed as the fountain of youth. I think ginseng was marketed as an aphrodisiac. Revenue might have taken the view that some of these supplements were being marketed for frivolous purposes but very many of the products Revenue said were zero rated, such as royal jelly capsules and ginseng, were marketed for equally frivolous purposes.

Deputy Michael McGrath: Do we have a sense of the overall scale of this sector? How much is spent by consumers annually across the sector on what might be generally described as food supplements?

Mr. Kevin Hurley: We do not really have a sense. It is estimated at €60 million per year. That was a 2016 figure. From the turnover of our clients selling food supplements, I would estimate that it is considerably in excess of that figure.

Deputy Michael McGrath: If VAT was applied at 23%, even with a figure of €60 million, it would be in the region of €13 million or €14 million but Mr. Hurley is saying turnover could be much higher.

Mr. Kevin Hurley: A lot of those products, for example, sports nutrition products, would already have VAT on them. Other types of food supplements might not be included in that.

Deputy Michael McGrath: I know the profile depends on the customer's individual circumstances and needs but what would be a typical monthly spend for a regular customer in the food supplement area? I am trying to get a sense of what the impact would be if VAT was applied 23% across the board on all of their purchases.

Mr. Matt Ronan: Obviously, there is significant variety. Regarding the profile in my store, I always say that elderly people on a limited budget who still find it within their means to spend significantly will be at the top of my list of people who will be badly affected by this. A monthly spend of €40 or €50 would not be unusual if they are buying something like a good multivitamin. They may be spending €20 on a turmeric product to reduce achy joints and knees, or perhaps a glucosamine sulphate, something that has been well scientifically researched, to help with joint problems. One can easily get to that sort of number. Obviously there will be a great deal of variation on that. The most popular single product in my store is what might appear to

be a slightly expensive multivitamin but nevertheless people find the value in it. That starts off at €45 for a monthly supply and could go to well over €60 if one were to apply duties, tariffs and all the rest.

Deputy Michael McGrath: We are looking at €10 or so extra on that if we apply the 23% VAT rate.

Mr. Matt Ronan: Probably €15.

Deputy Michael McGrath: That would be a fairly typical customer.

Mr. Matt Ronan: Indeed it would. My colleague, Dr. Clare, might want to come in on that.

Deputy Michael McGrath: That would be over €100 a year for the customer.

Mr. Matt Ronan: It is very significant.

Dr. Dilis Clare: I also have a retail business and I also manufacture. Those who come for health food supplements might not have an adequate diet, partly because there is an evidence-proven reduction in constituents in the food we are eating compared to 20 or 30 years ago. Also if we look at the survey of lifestyle, attitudes and nutrition, SLÁN, which is the Government's own information, there are serious deficiencies in what Irish people are eating. Only 35% of the population is eating the advised five servings of fruit and vegetables a day; 20% are eating three portions of dairy and 60% are not eating two portions of fish. There is a fantasy about how it would be if we all ate the right food, but we are not. Irish people are not eating our ideal diet. In the absence of proper health intervention and prevention, people are trying to do the best that they can. Many are addressing dietary deficiencies. Some 70% of first-time patients attending Cork University Hospital rheumatology department were deficient in vitamin D and 26% of them were seriously deficient. That is every patient who went for a first appointment to rheumatology.

As a GP, I can tell the committee they will no longer do vitamin D tests for general practitioners. There is a lot of scientific evidence showing that the medical supplements of vitamin D do not provide the adjuncts of vitamin K1, boron and magnesium. Many Irish people are also deficient in magnesium. Iron deficiency in toddlers is widespread. There are food supplements based on dried apricots and dried fruit, which they are not eating for their parents for one reason or another. That is the reality based on the Government's own health information in the SLÁN survey.

Deputy Michael McGrath: That is really helpful. In light of what Dr. Clare has said, I would be interested in her reaction to the Taoiseach's description in the Dáil some months ago of many of the products sold by her sector as snake oil.

Dr. Dilis Clare: To be honest I found it very disrespectful.

Deputy Michael McGrath: And inaccurate, presumably.

Dr. Dilis Clare: Absolutely. The science behind all of this is undisputed. For example, treating ulcers in elderly people is greatly enhanced by a multivitamin. I refer also to treating iron deficiency in children. Many people who have chronic illnesses cannot assimilate different forms of vitamins, for instance the difference between B12 as a supplement and methyl B12. One can treat gout with vitamin C. There is a reference in these documents to 13 meta-analyses, systematic reviews showing that vitamin C can treat gout. Because of all the side effects and

gut devastation of analgesics, and liver problems, more and more doctors are using colchicine long term, which causes a deficiency in B12. Even using pharmaceuticals can cause vitamin deficiencies. My son has epilepsy. He has been treated with epilepsy medication. Not one doctor has told him about depletion in B vitamins and folic acid. There is a knowledge deficit.

Nothing is perfect on either side of a issue but to describe what people are seeking to do for their own health - I cannot understand the logic of putting no VAT or medicine but putting VAT on food supplements, which is people trying to help themselves. They might not always get it right but they are trying to help themselves. A local health food store is likely to give the most accurate advice that people have time to give. That is the reality.

Senator Rose Conway-Walsh: I thank the witnesses for their presentation. They say that if this is changed in this budget, no matter what evidence becomes available or what the impact is on people's ability to afford supplements, we cannot change it back to zero.

Mr. Matt Ronan: That is an acute observation. It is true because of the peculiarities of VAT law. I will hand over to Mr. Hurley here but it appears that if we break the continuity of the allowance of zero VAT for a product, the EU will say we cannot re-establish it.

Mr. Kevin Hurley: Under the EU VAT directive, certain member states were allowed a derogation from the minimum reduced VAT rates. The cut-off date was 1 January 1991. Ireland had a zero rate for food on that date, which included food supplements under Revenue's own interpretation of the VAT directive, which is repeated in its guidance throughout the years. The products that were permitted to be zero rated at that time could continue to be zero rated but after that date, we could not bring in any new zero rates. If we were to legislate to exclude food supplements from zero rate the same way as other products are excluded, such as sweets, crisps, cakes and biscuits, although they are afforded a reduced rate, thereafter we would not be able to change that legislation and reintroduce them at the zero rate because that would, in effect, be introducing a new VAT rate. The fact is that on 1 January 1991 these products were food. They were entitled to the zero rate under the EU rules. Revenue's claiming that there is a concession places us in an extraordinary situation. Ireland was treating food supplements as food and was compliant with EU VAT legislation but, if this was understood as a concession, we would be in breach of EU rules and possibly open to EU infringement proceedings.

Senator Rose Conway-Walsh: But there is not a concession and I believe that is the key to this issue. Government and Revenue are giving away our authority on this. We are giving away any scope to change our minds once the impact has been studied.

Mr. Kevin Hurley: Yes. It is up to Irish authorities to interpret national legislation and we always interpreted national legislation to include food supplements as food. There are other types of non-conventional food or not ordinary everyday food, for example food-grade chemicals - all these numbers from E100 up to E900 - which are zero rated at the moment. Revenue considers them to be food. They are not ordinary conventional food but they are still included under the umbrella term of food and as such zero rated. They can only be not zero rated by being excluded from the food and drink table that is in the VAT legislation. That is the only way a food cannot be zero rated.

Senator Rose Conway-Walsh: We are facing, if we have the 23% VAT plus the 12% tariffs that may come in if we have a hard Brexit, a 35% increase for people who are taking supplements. People take supplements because they need them in the main. The serious consequences of what the witnesses have said is an administrative error are quite daunting. It makes no

sense whatsoever. People can then buy these supplements online at 3% VAT, so we are giving away all of that as well. It is crazy. That is in addition to the jobs that are created by health food stores. We have a great health food store in Belmullet, as well as a chemist who supplies health foods and employs local people. This measure makes no sense, even from a purely economic point of view.

Dr. Dilis Clare: Having sat on the HPRC committee on herbs and medicines, I am conscious that this will also open up the possibility that vast amounts of committee time and paper will be involved in deciding what is a food, a supplement or a medicine. I have been in the European Parliament which debated whether prunes were a laxative for four or five years. There is no evidence that prunes are a laxative. Therefore, according to the regulations, the European Food Safety Authority, EFSA, had to state that prunes were not a health food. The debate went on for a long time because many other issues hinged on the case. I wish the committee well with the amount of administration, people hours and paper that will go into what is such a minor change. It will be phenomenally difficult. The same applies to herbal teas and medicines and considering what is a botanical and what is a food. There are three different lists in the EU, including what is known as the BELFRIT list. What is being opened up is huge.

Senator Rose Conway-Walsh: Yes, it is bureaucracy gone absolutely insane. Unfortunately, people will have to pay for it in the first instance, with those who need the supplements paying the ultimate price.

Dr. Dilis Clare: It is the people who want to look after themselves and prevent health problems.

Senator Rose Conway-Walsh: How dependent on supplements are people with coeliac disease?

Dr. Dilis Clare: Coeliac foods will not be affected. Gluten-free food products will remain as a food. I do not think there will be any controversy about that.

Senator Rose Conway-Walsh: What does Dr. Clare consider to be the main cohort of people who will be affected? For what types of disease do people need to take regular supplements?

Dr. Dilis Clare: Many patients on statins take CoQ10, an evidence-based replacement of a nutrient that becomes deficient when people take statins. Many people with iron problems, who cannot tolerate gastrointestinal side effects of pharma products such as Galfer or Feospan, can often tolerate food-based iron. That is another significant category. Another is vitamin D for the over-65s and essential fatty acids for those who do not eat oily fish or do not have good oils in their diet. There is a major movement towards veganism and vegetarianism. These diets are deficient in omega 3, 6 and 9 fatty acids. People are choosing to change their diet and replace those essential elements by using food supplements in a knowledgeable way. They are some examples. Another area is children's multivitamin supplements and vitamin D. We do not pay enough attention to vitamin D. The governments of all other countries at the same latitude as Ireland and further north advise their entire populations to take vitamin D.

Senator Rose Conway-Walsh: I imagine we have a significant number of people on statins. Is there a figure for the percentage of the overall population?

Dr. Dilis Clare: I do not have it.

Mr. Matt Ronan: If I could contribute, a very well established and noted Irish academic spoke in the vicinity of this House in recent days. His specialty is research on age-related macular degeneration, which is the degeneration of the back part of the eye. It is a leading cause of blindness in Ireland in the over-50s. He has studied the condition for years and is one of the world's leading researchers in this area. He presents his research internationally and is based in Waterford Institute of Technology, WIT. He has estimated that the cost of providing the correct level of supplementation with carotenoids, which are his specialty, for this single condition free of charge to sufferers of this cause of blindness in Ireland would be €93 million over five years. The State would save €210 million over the same period because the treatment, the only recourse people have as the disease progresses, is enormously expensive. He reckons that blindness costs Ireland €135 million per annum, which is a significant cost to the State. There is an enormous cost-benefit to the State of encouraging people to take these types of supplements. It helps to prevent the decimation of their quality of life while also avoiding the excessive and extreme cost of trying to save the vision of the people in question. If we were to choose one product or one area, it would have to be age-related macular degeneration because it of the debilitating effect blindness has on quality of life. The State is being lumbered with an enormous cost to try to make up the shortfall when medical intervention becomes necessary.

Dr. Dilis Clare: Another significant area is probiotics. Most doctors now advise people to go to their health food store for probiotics. Whether one calls these products a medicine or food, they fall exactly into the middle ground. Significant research has been done and presented internationally by Cork University Hospital. A particular brand has been researched and must be sold mainly through agencies that require the products to be sold at two or three times the price to ordinary customers. Be that as it may. There will be a major argument on what is a food and what is a medicine. People are increasingly being advised by their doctors to buy probiotics at a health food store after a regular course of antibiotics.

Senator Rose Conway-Walsh: That is right. I foresee this leading to widening inequality. Food supplements are already expensive and increasing their cost will separate further those who cannot afford them from those who can. Is VAT applied to food supplements in the North?

Mr. Kevin Hurley: It depends on the type of supplement. In general, most capsules, tablets and pills have VAT applied in the UK, whereas many power food supplements and certain liquid supplements are zero rated.

Senator Rose Conway-Walsh: They normally work out cheaper. I thank the witnesses.

Deputy Paul Murphy: Most of the questions I wanted to ask have been answered. How many people in Ireland who regularly buy these products would be affected if the zero rate was removed?

Mr. Matt Ronan: An iReach survey determined that 71% of Irish people regularly purchase food supplements. Irish people have a well established tradition of using these types of products. It has become part of our everyday culture. One gentleman who was in hospital told me he was in a ward with five or six other people, all of whom looked at him as if he had two heads because he was not taking any supplements. They asked why in the name of God he was not taking anything to protect his health. He asked me what he needed to get back on his feet and recover well. That shows that supplements are a major part of our approach to safeguarding our health and the health of our families. Babies, children and everyone else, all the way up to seniors, are using products that are appropriate to them to improve their health and ensure they are in good form.

Deputy Paul Murphy: I thank Mr. Ronan.

Chairman: I will return to a question Senator Conway-Walsh asked as I want to get a clear picture. Will the witnesses list three or four of the best selling products, their current price and how much they would cost if VAT were applied? We can then factor in Brexit. VAT and Brexit will be the two major issues for the witnesses. If I went to Mr. Ronan's shop and bought four different products, how much would they cost, taking into account VAT changes and Brexit?

Mr. Matt Ronan: Going with the full VAT application that we are being threatened with, one could start with a bottle of 30 capsules containing 1,000 mg of vitamin C that is available for purchase for €7.50. Applying the 23% VAT rates brings that to €8.36 and taking into account the effect of Brexit as well, the price will go over €10. A bottle containing 100 capsules of vitamin C from Solgar starts at €19.65 but this could go to €24.17 with the new VAT rate and €27.25 after the effects of Brexit. A commonly used probiotic costs €25.99 for a 30-day supply and with a new VAT rate, this would rise to €31.97 and to €36.05 after taking into account the effect of Brexit. The product would be pushed from €25 to €36, meaning nearly €11 would be added to the price if the worst happens.

Chairman: In reality, if all this is applied to prices, they will be pushed significantly upwards for customers of these stores. Those customers include older people and those who may not be able to afford regular prescriptions from doctors.

Mr. Matt Ronan: That is inevitable. The budget of such people may be limited and in these uncertain times, that is especially the case. These people will find they just cannot afford these products.

Chairman: Their health would be affected as a result. It is a consequence.

Mr. Matt Ronan: Without doubt there would be a detrimental effect on the health of such people. I have spoken of the Macushield example, a product taken by people whose vision is under threat. Such people may find they cannot quite stretch to the extra 25% or 30% in the price.

Chairman: What is that example?

Mr. Matt Ronan: It is a product starting at €30.

Mr. Kevin Hurley: With VAT, the price of Macushield would increase to €36 and with the effect of Brexit included, the price would be approximately €42.

Chairman: That product is very important for people.

Mr. Matt Ronan: It is vital.

Senator Gerry Horkan: I thank the witnesses for their opening statement and comments so far. Many of the questions I might have asked have already been addressed. In the opening statement the witnesses indicated that the tax treatment of these products is currently the same whether the product is sold in a supermarket, food store or pharmacy. Is there a definition of a food supplement? I presume if I go to Tesco I can buy garlic powder, turmeric or products that people might use to benefit their health. Have the Revenue Commissioners been a bit vague about this food versus food supplement definition?

Mr. Kevin Hurley: The Revenue Commissioners have been a bit vague. The interpretation

used to be that this was just food. That was old guidance from the Revenue Commissioners published many times. The wording is that the such supplements in themselves constituted food within the terms of paragraph 12 of the second Schedule to the VAT Act 1972. That is old VAT legislation.

Senator Gerry Horkan: That does not really tell us anything.

Mr. Kevin Hurley: The Revenue Commissioners always treated these products as food. Food supplements were defined as food in accordance with VAT legislation.

Senator Gerry Horkan: I am trying not to be overly pedantic about this. Are salt and pepper food supplements? One does not consume salt or pepper on their own and they are used to supplement food. Is it an attack on the health food industry to look at it that way? The comments from the Taoiseach seemed to demonstrate a disregard for the efforts of these businesses and the industry in keeping people healthier than they may be otherwise. Is there any indication that a line is drawn somewhere? I am not being flippant about this but where do we stop? Garlic capsules are one product and raw garlic is another. Are they the same?

Mr. Matt Ronan: We have an international definition of a food supplement and that was supplied by Europe, where food supplements are regulated under food law. There is a very strict definition within the confines of that legislation and that can give a precise definition of food supplement. When a food supplement is placed on a shelf, there must be an indication that it is a food supplement. There can be no vagueness in how it is regulated. These products are very strictly regulated under the Food Safety Authority of Ireland. It must align 100% to the European directives dealing with food supplements and there is no vagueness in that respect. The label must indicate it is a food supplement and the ingredients and directions for use must be listed.

Senator Gerry Horkan: I appreciate we are ten minutes away from an Irish rugby match and our ratings may be slightly lower than usual but if an ordinary person is watching this committee, how would he or she know the difference between a food supplement and food? Is a food supplement part of a larger group of food? If food is zero rated for VAT, should that be the end of the story?

Mr. Kevin Hurley: There is a European Union definition of food. There is no definition of food in Irish VAT law but there is a definition in Irish food law, which relates to European Union regulations. It is described as any substance that is reasonably expected to be ingested by humans. The legislation further states that this cannot be a medicine and it should not fall under certain other criteria. Essentially, if it is not a medicine and it is not toxic but it is ingested, it is food.

Senator Gerry Horkan: On that basis, olive oil, garlic oil and all those products used in cooking and part of food preparation can be classed as food.

Mr. Kevin Hurley: Yes.

Senator Gerry Horkan: I am not telling the witnesses their business but should the argument be that if something can reasonably be ingested and is not a medicine, which have their own definition, it is effectively food and that should be the end of the argument. Is that fair?

Mr. Kevin Hurley: Yes.

Senator Gerry Horkan: That is enough for now.

Chairman: We have witnesses from the insurance groups outside so I am obliged to bring this section of the meeting to a conclusion. I will allow some further questions but the Deputy and Senator should be aware of that.

Senator Kieran O'Donnell: Has the Food Safety Authority of Ireland ever asked shops to withdraw products from sale?

Mr. Matt Ronan: Even if the label contravened the strict labelling requirements, the Food Safety Authority of Ireland would ask for a product to be withdrawn.

Senator Kieran O'Donnell: The bottom line is the Revenue Commissioners made a guideline ruling in 2006 and there must have been back-up for that ruling.

Mr. Kevin Hurley: It was in 2011.

Senator Kieran O'Donnell: Have the witnesses looked at the EU directive to see if the interpretation made by the Irish tax authorities is correct? The issue is around how these products are perceived. The robustness of any regulatory system is sometimes based around products that are withdrawn rather than those that are allowed. What control mechanisms exist within regulation to ensure the products being sold are food supplements?

Mr. Kevin Hurley: They are essentially regulated as food and they must comply with food legislation. Any manufacturer, distributor or shop must be registered with the authorities as a food business operator and these are inspected by environmental health officers in the same way as a food business. There are very strict controls and there must be compliance with food information and consumer laws. There cannot be claims that are disallowed by law. It is strict regulation. The interpretation is in line with EU VAT legislation because annex III to the EU VAT directive permits reduced rates to apply to a number of products and they include food-stuffs and animal feeding stuffs. Revenue interprets that to mean that food supplements for farm animals are also zero rated. That is on Revenue's VAT rates index. Ingredients to produce food are also in that reduced rates section, as are supplements to the normal diet. The reduced rate, which is our *de facto* zero rate, can apply to food supplements.

Senator Kieran O'Donnell: Can the association seek a direction from Europe on that?

Mr. Kevin Hurley: I have never seen any direction from Europe to say that there should be VAT on food supplements.

Senator Kieran O'Donnell: Can the association get clarification from Europe to assist the Revenue on this issue?

Mr. Kevin Hurley: We have never sought it.

Chairman: The association does not want to have a 23% VAT rate applied.

Senator Kieran O'Donnell: The Chairman is missing my point, which is very simple.

Chairman: I am not missing the Senator's point. I am giving the other side of the argument and being mischievous.

Senator Kieran O'Donnell: The Chairman is trying to give balance.

Deputy Eugene Murphy: I apologise for being late but the traffic played havoc with me getting in this morning.

Chairman: That is not an excuse.

Deputy Eugene Murphy: It is sometimes easier to get from Kilkenny to Dublin than it is to get from Roscommon to Dublin. The traffic after Palmerstown is chaotic. I apologise for arriving at the end of the meeting.

I am very much supportive of this campaign on the basis that I know, from people who come to me, many of whom are elderly, that many of those health products are a considerable support. I know of one person who had to be taken into hospital numerous times in the middle of the night with serious pain. This person started taking a special supplement, which has meant the emergency services no longer come out and a hospital bed is no longer taken up. That side of things should not be forgotten.

The health food sector is one of the few sectors to have expanded in rural Ireland. These businesses are opening in many towns where other businesses have closed. God knows, we want more of these developments in rural towns and villages. I do not want to hold up the meeting. I am very supportive of the campaign. I hope the representations made today will be taken into account in the budget and VAT will not be applied to many of these products which are very important, particularly to our ever growing ageing population.

Chairman: I think that, overall, the remarks of committee members have been supportive of the campaign and the position that VAT should not be imposed. Perhaps we will reflect on that and send a note to the Minister to reflect the opinion of the committee. Does Mr. Ronan wish to make a final comment?

Mr. Matt Ronan: I would like to respond to the Chairman's remarks. Our entire industry feels as if it is on a precipice. As a previous speaker observed, if we lose the ability to rate food supplements at zero, that ability will be lost forever. We stress that we are at the mercy of the Minister in this regard. It is within his power to act. While he may choose to accept the Revenue view that this is driven by regulation, the current interpretation of the regulations would serve perfectly well. These products could then continue to be sold properly at a zero VAT rate. I beseech members to do everything in their power to protect our customers and their constituents.

Senator Gerry Horkan: The budget is next Tuesday. I ask that the committee communicate with the Minister speedily to ensure he receives our letter before next Tuesday, rather than have it arrive on the day after the budget.

Chairman: The clerk will deal with that. This looks to me like a grab for tax from small business at the expense of the health of the citizens who support the food supplements sector. I will strenuously suggest to the Minister that this decision should not be taken and the situation should remain as it is. That view needs to be reflected in correspondence to the Minister before budget day. I thank our guests for coming along and making their case so clearly.

We will suspend until the representatives of the insurance companies have taken their seats.

Sitting suspended at 11.15 a.m. and resumed at 11.20 a.m.

Insurance Sector: Discussion (Resumed)

Chairman: We are dealing with No. 5, the difficulties being experienced with insurance. The committee recently heard direct evidence about the difficulties faced by businesses with the escalating costs of insurance. To assist us in our consideration of this matter, I am pleased to welcome: Mr. Declan O'Rourke and Mr. Owen Kelly from AIG Insurance; Mr. John Quinlan, Mr. Brian Mahon and Mr. John Farrell from Aviva Insurance; and Mr. Anthony Brennan and Ms Siobhán Corbett from Zurich Insurance.

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

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. We have a number of opening statements. I invite AIG to give its opening statement first.

Mr. Declan O'Rourke: We thank the committee for the invitation to give evidence today on behalf of AIG. We understand the valuable work of the committee and the importance of these hearings and welcome the opportunity to contribute to the discussion. My opening statement will provide some background on AIG in Ireland and then address the costs and availability of insurance in Ireland.

AIG is 100 years old this year and has operated in Ireland for 43 years. AIG companies have a team of 900 people in Ireland. The team is involved in insurance and shared services, both domestically and internationally. Domestically, AIG is the seventh largest general insurer and the second largest health insurance provider in Ireland. In addition, the AIG team in Ireland provides IT support to AIG operations in Europe, the Middle East and Africa. The AIG team also provides treasury and investment services to AIG globally from Ireland. Our general insurance business is roughly €300 million in premiums, 50% in insuring individuals and 50% in insuring companies. Our principal lines are financial, for example, directors and officers insurance, professional indemnity and cyber insurance, motor insurance, travel insurance, liability insurance and property insurance. For 40 years, AIG has been the insurance partner for large and small companies, not-for-profit organisations and consumers in Ireland. Operating in over 80 countries, our global footprint combined with our local presence and knowledge has enabled us to support the insurance needs of Irish based companies expanding in the EU and around the world, as well as the insurance needs of US and other multinational businesses in Ireland. We are proud of the part we play in safeguarding people and property.

The high cost of insurance has been an ongoing challenge in Ireland for many years. Representing the Government back in 1992, the former Minister, the late Des O'Malley, stated in the Dáil that insurance costs in other countries are only a fraction of what they are here. However, the claims and awards in other countries are also only a fraction of what they are here. Inevitably, the former is a reflection of the latter and that will continue. As has been discussed, Ireland

has experienced significantly higher personal injuries awards from its courts than comparable European jurisdictions, with awards for minor injuries, on average, 4.4 times higher than in the UK, according to the Personal Injuries Commission. Claims awards and legal costs make up the majority of insurance premiums, and this is a key factor in the cost of insurance in Ireland. The higher awards arise from a combination of factors, including the relatively high award levels for personal injury claims set out in the book of quantum, the inconsistency of awards made by the courts, and a time-consuming and costly appeal process. There is real commitment from Government, the Oireachtas and key stakeholders, including the insurance industry, to implement change. We welcome the Judicial Council Act 2019 as it provides an opportunity to address some of the root causes of higher insurance costs by creating a fairer and more consistent framework for the allocation of personal injury awards. We look forward to the establishment of the personal injuries guidelines commission, under a judicial council, to oversee the delivery of new personal injuries guidelines. We also support the Civil Liability (Capping of General Damages) Bill 2019.

It is critical for the market that insurers are well capitalised with a strong governance and risk management framework. For insurers to continue to provide services to consumers and businesses, they also need to be profitable. Although the Irish motor insurance market made a profit for the first time in many years in 2017, liability remains loss-making. In the last six years of published data, the liability market has made a net underwriting loss of over €500 million and the motor market has made a net underwriting loss of over €800 million. This has led to some companies exiting the market or exiting poorly performing segments, which has impacted the cost and availability of cover in these areas. We want to work together with the Government and Oireachtas to create a sustainable, fair and consistent cost framework for insurance claims, allowing AIG to play its role supporting businesses and consumers in Ireland.

Mr. John Quinlan: The issues being discussed today are of great importance to economic well-being and we welcome the opportunity to contribute to the discussion. Aviva has been operating in the Irish market for nearly 240 years. This year, we reinforced our commitment to this market by completing the establishment of separate legal entities in Ireland for our general insurance and life assurance businesses. This allows us to continue to protect our customers and serve their best interests in Ireland post-Brexit. We employ circa 1,600 people in Dublin, Galway and Cork. We are a socially responsible insurer that seeks to deliver value for all stakeholders, including our customers, over the long term. We contribute significantly to national sports and community organisations through our sponsorship of the Aviva Stadium and our support of charitable and community causes. We are one of the largest providers of insurance in the Irish market, with a general insurance market share of approximately 15%. To give a sense of that figure, we insure one in every five small and medium enterprises, SMEs, one in every five motorists and one in every six homes. We are well placed to know and understand this market and we exist to pay our customers claims. We hear from our customers on a daily basis about the difficulties they are facing as a result of the problems in the insurance market.

What is driving the cost and availability of the insurance sectors under discussion today? We point to three areas that have caused challenges for profitability in the market. Those challenges are the increasing cost of claims, a reduction in investment income and a reduction in premiums. The problems faced by the insurance market became a consumer issue from 2015 onwards, manifesting first in significant increases in customer premiums and thereafter in significant reduced availability of cover for certain market segments. Most domestic insurers reduced capacity for volatile and unprofitable segments of the market, including leisure, and these were replaced primarily by UK-based insurers. The additional problem, as highlighted

in the media recently, is that these UK insurers are now exiting the market. Business customers in these sectors can find it difficult to get a quote and if they do, it can be at prohibitively expensive prices.

The cost of insurance working group was established in 2016 to address the issue of increasing insurance costs. The group correctly identified the need to establish the Personal Injuries Commission, PIC. One of the most significant aspects of the PIC was that for one of the first times ever, it included representatives of all stakeholders, including the Law Society, insurers, the Bar Council, the medical profession, consumer and competition representatives and relevant Government Departments. The excellent work of retired Mr. Justice Nicholas Kearns, who chaired the PIC, confirmed that personal injury award levels in Ireland are 4.4 times those in England and Wales, with the commission unanimously recommending the establishment of a judicial council to recalibrate awards back to reasonable levels. When whiplash awards are aligned to levels in England and Wales, this will result in substantial premium reductions. What are the key changes that need to be made to improve the landscape for the cost and availability of insurance? The insurance landscape continues to create significant issues for Irish customers in terms of premium volatility and the withdrawal of insurance underwriters from what is an open market here. The issue of excessive award levels was validated by the cost of insurance working group and the Personal Injuries Commission and Aviva fully supports the recommendations they outlined. However, our customers remain frustrated that in spite of all the activity in implementing changes, there has been no real reduction in claims costs and, as a consequence, we cannot deliver more substantial premium reductions and sustainable premiums.

Business customers face an additional challenge. The excessive award levels have created a “compo” culture that is significantly impacting the liability market in Ireland. In our experience, the courts are taking a much broader view of the duty and standard of care. We are asking the Government to review the law of negligence as it applies to personal injury actions against small and medium enterprises, SMEs, and community and voluntary organisations in Ireland.

What has Aviva done to promote, encourage and deliver these required changes? In 2015, we launched our “road to reform” agenda and wrote to our customers highlighting the reasons for the rising cost of premiums and the changes required to reduce the cost. We have since proactively engaged with key stakeholders including Ministers, Opposition spokespersons and senior officials in the Departments of An Taoiseach, Finance and Transport, Tourism and Sport on the drivers of premium increases and the urgent reforms required. We recognise the need to substantially increase our capacity to prevent and detect fraud. We have invested heavily in our fraud team, which now has more than 30 dedicated fraud investigators working alongside a network of more than 50 additional claims investigators nationwide. Over the past three years we have worked very closely with the Garda Síochána and have increased the reporting of criminal disclosures to it under section 19 of the Criminal Justice Act 2011. In addition, we have proactively engaged with the Garda, industry stakeholders and the media to raise awareness of the issues of claims fraud, ghost broking, which involves the sale of counterfeit policies, and fraud tourism, involving claimants who travel to Ireland from countries with lower award levels solely to commit insurance fraud.

What is Aviva’s commitment to Irish consumers if the required changes are delivered? Aviva will continue to operate prudently from an underwriting and pricing perspective, as it always has, to ensure that we are here to protect our customers when they need us most, namely, at point of claim. The target return we hope to achieve is a small percentage of the overall cost of insurance. Most of a premium goes towards paying our customers’ claims. For example,

65% of motor insurance premiums goes toward paying claims, with a further 11% going towards paying levies and claims from uninsured drivers. The cost of claims remains the largest influencing factor on the cost of insurance in Ireland. We would be delighted to pass on lower premiums to our customers who are bearing the brunt of these excessive awards. Changes in the awards handed down are essential if we are to deliver lower and more sustainable premiums to our customers and we encourage the Government to prioritise the completion of this reform process. We are committed to ensuring our customers will benefit directly from any such reductions when claims costs come down.

What is Aviva's request of the Government and the committee? The biggest factor determining the cost and availability of insurance is the cost of claims. The mechanism to address this is a recalibration of award levels as provided for in the Judicial Council Act. Aviva calls for the establishment of the judicial council without further delay and for it to then establish the personal injuries guideline committee to recalibrate injury award levels as a matter of urgency rather than in accordance with the maximum timeframe permitted under the legislation. Aviva also asks the Government to review the law of negligence as it applies to personal injuries actions against SMEs and community and voluntary organisations.

I thank the Chair and members.

Mr. Anthony Brennan: I thank the committee for the opportunity to discuss the cost and availability of insurance in Ireland. Zurich welcomes the opportunity to be part of this discussion, contribute to the work of the committee and discuss the next steps in the reforms required to address the challenges on the agenda today. As this is our first time to appear before the committee, I will briefly introduce Zurich Ireland. It was originally founded in Cork in 1952 and has been part of the global Zurich Group since 1998. Our AA- financial strength rating means Zurich customers can rely on us to consistently deliver on our promises when it matters. We are a proudly Irish business with a 100% local management team focused solely on the Irish market, with 380 employees across our Dublin and Wexford offices. We write over €300 million in premiums in Ireland, giving us a market share of approximately 9%. Our business profile is similar to that in the market overall, with 45% of premiums in motor insurance, 30% in property and the remaining 25% spread across a number of more specialised business lines including farm, financial lines and liability business.

Like most companies in the market, Zurich experienced the ups and downs of the Irish insurance cycle in recent years, with underwriting losses after several years of falling premiums and rising claims costs across the industry. In 2015 we enacted a turnaround programme to restore our business profitability. By 2018 we had completed the programme and delivered a 6% underwriting profit on our written premiums. Even during the turnaround period, we continued to experience consistently rising claims costs. The continued rise in claims costs and volatility has been the key driver of increased insurance premiums and reduced availability of cover in certain lines across the Irish market. We have worked to help drive change and reform and have been consistent and active supporters of the actions outlined in the reports of the cost of insurance working group which lay out a clear framework that can deliver real change for Irish customers in terms of internationally benchmarked claim awards, faster resolution of those claims and improved predictability of total claims costs which will deliver reduced cost and increased availability of insurance for Irish customers.

We accept that providing more consistent and transparent industry data to independent bodies such as the Central Bank will help all stakeholders to understand relevant trends and drivers of performance. We have seen the useful impact of making such data available through the

work of the Personal Injuries Commission which used independently verified industry data to drive an informed debate on the level of personal injury awards in Ireland and provide that Irish soft tissue injury awards are more than four times the level of such awards in the UK. It determined the cost of inaction on the issue, with awards for such injuries increasing by more than €900 each year benchmarked from 2011 to 2016. We welcome, therefore, the recent passage of the Judicial Council Act through the Oireachtas. It promises to be a significant step in reforming and modernising the way our courts work. However, real measures need to be implemented as a matter of urgency to align the level of compensation awarded in Ireland with that in other jurisdictions. We also welcome recent Court of Appeal rulings which recognise that minor injuries should attract appropriately modest general damages. We acknowledge and welcome other key steps taken in 2019 such as the progress of the Civil Liability (Capping of General Damages) Bill and the commencement of the Personal Injuries Assessment Board (Amendment) Act which should enable more timely and accurate settlements to injured parties.

The introduction of the Personal Injuries Assessment Board in the early 2000s was a landmark event and initially led to material reductions in the duration and cost of claims as well as delivering reduced insurance premiums across the market. These benefits have been eroded over time as more and more claimants have chosen to reject the recommended awards and instead pursue a longer, more adversarial and more costly settlement path. The steps I have outlined are key enablers of reform and it is important to acknowledge progress that will benefit customers, insurers and society. However we must also acknowledge and act on public frustration with the pace of change and the need for a continued sense of urgency. All stakeholders need to remain engaged and vigilant to ensure the benefits are delivered and maintained from these actions and not allowed to erode over time as happened with the Personal Injuries Assessment Board.

We recognise the committee's major concern regarding the cost and availability of insurance in the Irish market. There are a number of factors, so how do we fix the problem? The way forward is to continue to deliver the recommendations laid out in the reports of the cost of insurance working group, which lay out a comprehensive suite of reforms agreed through co-operation and commitment across multiple stakeholders. We cannot get away from the fact that the single biggest input into our calculation of insurance premiums is the cost of claims. Insurers transfer the risk and cost of claims and we share it across our portfolio. This means the cost of claims directly impacts on every insurance premium we calculate and collect from our customers. Our premiums must reflect the prevailing level of awards to ensure our business is sustainable. If the level of injury awards and incurred legal costs reduce, this will drive meaningful reform in the claims environment which will deliver a stable and sustainable cost of insurance for businesses and consumers. We want to be part of the solution and we welcome any help from the committee to maintain the necessary sense of urgency on reducing uncertainty and delivering these core reforms. I wish to take this opportunity to confirm that we will pass on the benefits of reduced claim costs to our customers. I thank the Chair and look forward to answering questions from members.

Senator Kieran O'Donnell: I welcome all of the witnesses to this committee hearing, which follows on from our previous one with AXA, FBD and Allianz. Today, I would like to follow up with a few quick questions. All three insurers present share a common theme. Mr. O'Rourke from AIG stated: "Claims awards and legal costs make up the majority of insurance premiums and this is a key factor in the cost of insurance in Ireland." Mr. Quinlan from Aviva Ireland stated: "The cost of claims remains the largest influencing factor on the cost of insurance in Ireland." Mr. Brennan, representing Zurich, stated: "We cannot get away from the fact

that the single biggest input into our calculation of insurance premiums is the cost of claims.” I ask the witnesses to break down the premia into the cost of claims, awards, legal fees, administration and the profit margin that they seek to cover. My request is simply to elicit the information and I ask Mr. Quinlan to respond first.

Mr. John Quinlan: I am happy to start, Senator. Let us consider a typical premium. Our premia is made up as follows: Claims would represent 65% out of €100 and of that 65% the legal fees would be 19% or 30%; levies, including for uninsured drivers, would be 11%; commissions to intermediaries would be 9%; our expenses would be 12%; and our profit would be 3% but that is a target. From 2012 to 2018, one can see from the facts that we achieved nothing like that.

Senator Kieran O’Donnell: I will be consistent in terms of my questions to the previous three insurers of AXA, FBD and Allianz. Am I correct to say that the target of profitability in Aviva is 3%?

Mr. John Quinlan: We would look for 5%. When one looks at the interest rate environment and what is happening in Lloyds, one of the reasons that capital is withdrawing is because interest rates are so low that people have to make money at the underwriting level.

Senator Kieran O’Donnell: What was Aviva’s premium income in 2018, which is the most recent year?

Mr. John Quinlan: Our premium income in 2018 was €508 million.

Senator Kieran O’Donnell: What was Aviva’s profit?

Mr. John Quinlan: Our profit was €58 million in our general insurance business.

Senator Kieran O’Donnell: Is that a profit margin of 10%?

Mr. John Quinlan: One is looking at lots of different moving parts within that. One is looking at benign weather, which is a factor. We have a hurricane, potentially, on the way, which can cost a multiple of millions of euro in damage. When one considers the return that we make the figure I would always consider is our combined operating ratio.

Senator Kieran O’Donnell: Yes.

Mr. John Quinlan: Our combined operating ratio is the critical figure of our premiums, less claims costs and less expenses. If that is less than €100 million then we are making money without having to rely on investment income, which we cannot do. Our group, to attract capital in Ireland and remain safe, will require a combined operating ratio of 95% out of 100%. It is important that we continue to attract capital here. We are struggling to do so, certainly from the Lloyds market following its remediation of its book.

Senator Kieran O’Donnell: What does AIG seek in terms of the breakdown of the premium?

Mr. Declan O’Rourke: Typically, we are quite happy with the industry norm of 5%. AIG has a similar breakdown of between 65% and 70% for claims.

Senator Kieran O’Donnell: What was the turnover for AIG in 2018?

Mr. Declan O’Rourke: It was €280 million.

Senator Kieran O'Donnell: What was the profit?

Mr. Declan O'Rourke: We lost money in 2018.

Senator Kieran O'Donnell: What was the loss?

Mr. Declan O'Rourke: It was €30 million.

Senator Kieran O'Donnell: Is the target margin 5%?

Mr. Declan O'Rourke: Correct.

Senator Kieran O'Donnell: What was 2017 like for AIG?

Mr. Declan O'Rourke: We consider things over the long term. Over a six-year period, for every €100 we collected, we paid out about €97.

Senator Kieran O'Donnell: What were the AIG figures for 2017?

Mr. Declan O'Rourke: In 2017, it was €314 million in premium so it was a year in which we broke even.

Senator Kieran O'Donnell: What was the turnover for Zurich in 2018?

Mr. Anthony Brennan: In 2018, it was €312 million. Our total breakdown for 2018 in terms of our actual profit margin was 6% and our cost of claims was roughly 63%.

Senator Kieran O'Donnell: What was the target profit margin?

Mr. Anthony Brennan: We would aim for about 5%.

Senator Kieran O'Donnell: So all three insurers aim for a 5%.

Mr. Anthony Brennan: In or around that, yes.

Senator Kieran O'Donnell: What was Zurich's profit?

Mr. Anthony Brennan: In 2018, we had an underwriting profit of 6% on the €312 million so that is roughly €18 million, plus €10 million of investment income, which means we had a total profit of €28 million.

Senator Kieran O'Donnell: Did Zurich have €10 million in investment income?

Mr. Anthony Brennan: Yes.

Senator Kieran O'Donnell: Was the actual profitability overall €28 million?

Mr. Anthony Brennan: Yes.

Senator Kieran O'Donnell: I am sure Mr. Brennan will appreciate that, to the ordinary person viewing this meeting, it would be higher than 5%.

Mr. Anthony Brennan: It would but that is the total, as I said, across €312 million in premiums.

Senator Kieran O'Donnell: If there was a reduction in claims and awards how much of it

would be passed on to customers in reduced premiums?

Mr. John Quinlan: We have figures that I cannot provide, unfortunately, under competition law. Given the components of our premiums we will pass back anything above our 5% margin. We are absolutely committed, pound for pound, to return that by way of reduced premiums. I cannot give an exact figure but I can tell the Senator that we have done calculations.

Senator Kieran O'Donnell: Is it fair to say that Aviva will always seek to retain the 5%?

Mr. John Quinlan: Absolutely, Senator. We need to make sure that we are here to pay the claims. The cost of the Quinn liquidation to this State is €2 billion.

Senator Kieran O'Donnell: If claims are reduced will the profit margin for Aviva be reduced to 5%?

Mr. John Quinlan: One will see more competition come into the market, which is really important. A 5% margin, for any provider of capital in a risk-based industry, is a minimum acceptable return. The percentage will stay at that level but one will see substantial premium reductions. I cannot give figures under competition law, as the Senator will appreciate.

Senator Kieran O'Donnell: Will Zurich pass on a reduction in its entirety?

Mr. Anthony Brennan: Yes, and we have considered competition law. I cannot talk about our actual premiums but I can go a little bit further and talk about the theoretical premium calculation model. To be very clear, for competition reasons, I am not saying this is exactly Zurich's premium. Right now, if we consider motor insurance, roughly 30% of our claims are personal injury-type or soft tissue damage and we are four times the UK average. If we reduced the figure to twice the UK average, which is reasonable, and thus a reduction of 50%, I think I could bring that 30% in a theoretical model down to 15%. It would be quite reasonable that if that were to happen and insurers had reduced their prices, with all things being equal and somewhere in the region of 10% to 15%, the committee should ask us a lot of questions. I cannot really go much further than that.

For liability, where the vast majority of claims are injury related, it would be a higher percentage and probably close to 20%. Again, this is a theoretical pricing model and not a commitment on Zurich's premiums, which I cannot give for competition reasons.

Senator Kieran O'Donnell: Will AIG pass on a reduction?

Mr. Declan O'Rourke: We will take a reduction into consideration. It is the biggest part of our inputs and pricing so we will take it into consideration. If one looks back, because we cannot look forward with pricing legislation, one can see that when the injuries board was established premiums dropped dramatically fairly quickly. As the market has returned to profitability over the last couple of years one can already see decreases across the market, particularly on the motor side.

Senator Kieran O'Donnell: To date, the committee has met six insurance companies and AIG is the only one to make a loss. Why? AIG broke even in 2017 yet it showed a loss of €30 million on a turnover of €280 million in premiums in 2018. Have there been major write-offs? Was the loss of €30 million made after exceptional provisions were made? A loss by AIG is out of kilter with what happened in the rest of the insurance industry. Why is that?

Mr. Declan O'Rourke: Our mix is different from that of a lot of the other insurers. We tend

to write a lot of major multinational accounts and financial lines. We had a reasonably large adjustment in our financial lines piece that is separate from the motor and liability business.

Senator Kieran O'Donnell: I am reading from the Insurance Ireland fact file of 2017, which shows that the company was consistently among the highest. It had the second highest market share in the motor sector, the sixth highest in property, and the highest market share in terms of liability insurance.

Mr. Declan O'Rourke: Liability insurance for the fact file includes employer liability, public liability and financial lines. Financial lines is a different kind of business. It is director's and officer's insurance, cyber insurance-----

Senator Kieran O'Donnell: In that loss of €30 million, how did the company do in the areas of motor, property and liability insurance, respectively?

Mr. Declan O'Rourke: We made money in motor, we lost money in liability, and we also had a loss, mainly coming from prior years, in financial lines.

Senator Kieran O'Donnell: Is the latter the property line?

Mr. Declan O'Rourke: No. Financial lines is a much bigger part for us. We are not a major household insurer in Ireland. In the property side, we are more involved in insuring large commercial property.

Senator Kieran O'Donnell: Mr. O'Rourke referred to losses coming forward from previous years. Did the company make money in 2018 in financial lines?

Mr. Declan O'Rourke: In 2019?

Senator Kieran O'Donnell: No, in 2018.

Mr. Declan O'Rourke: In 2018, we did make money, yes.

Senator Kieran O'Donnell: The company made a profit in motor insurance. Mr. O'Rourke has said that in the financial lines, the issue was a provision coming forward from previous years. In liability, the company made a loss. Did AIG make a profit in 2018?

Mr. Declan O'Rourke: No, we made a loss.

Senator Kieran O'Donnell: How much of that loss was from previous years? Mr. O'Rourke referred to payments in respect of previous years.

Mr. Declan O'Rourke: Correct. We had what are known as prior year developments. If one excludes the prior year developments, we would still have made a small loss.

Senator Kieran O'Donnell: How small? Was it more or less a break-even scenario?

Mr. Declan O'Rourke: It was approximately €5 million.

Senator Kieran O'Donnell: An overall loss of €5 million. Would it be fair to say that the company almost broke even? How are things looking for 2019?

Mr. Declan O'Rourke: Again, it is going to be a difficult year. We have a number of very large losses in Ireland and one from abroad, and it will depend on how they work out.

Senator Kieran O'Donnell: Do the figures provided by Mr. O'Rourke relate solely to AIG's operations in the Irish market?

Mr. Declan O'Rourke: That is our total premium.

Senator Kieran O'Donnell: That is the total for 2018 for the Irish market. Is some of it for operations overseas?

Mr. Declan O'Rourke: Yes, some of that is overseas.

Senator Kieran O'Donnell: If we just drill down into the Irish market, how did AIG do?

Mr. Declan O'Rourke: I would say about €30 million of that is overseas. Most of our difficult lines are written here in the Irish market.

Senator Kieran O'Donnell: The company made a loss in the Irish market.

Mr. Declan O'Rourke: Correct.

Senator Kieran O'Donnell: During previous engagements with insurers, FBD representatives spoke about high levels of fraudulent claims. Will the witnesses outline briefly the percentage of claims they believe are fraudulent?

Mr. John Quinlan: I will pass that question to our claims director, Mr. John Farrell.

Mr. John Farrell: The main source of fraud is in the personal injuries area. In terms of the personal injury claims that we receive, approximately one in five would be fraudulent.

Senator Kieran O'Donnell: One in five personal injury claims, which is 20%, are fraudulent.

Mr. John Farrell: Yes, one in five or 20%. Over a three-year period, that is approximately 800. If one looks at the three-year period and the reports made to An Garda Síochána under section 19, we would have reported fewer than one in five of those.

Senator Kieran O'Donnell: The company reported one in five of that 20% to An Garda Síochána.

Mr. John Farrell: Yes.

Senator Kieran O'Donnell: I direct the same question to Mr. O'Rourke and Mr. Brennan.

Mr. John Quinlan: There were 100 cases this year and 500 over recent years.

Mr. Declan O'Rourke: Looking at our personal injury cases, we had 5,700 in total, which is a mix of employer's liability, public liability and motor. If we drill down into the figures for motor, where this issue is most prevalent, we have 2,500 personal injury cases, with red flags and cases being passed on to the fraud team at around 18%. We see ten being reported to An Garda Síochána and one conviction.

Senator Kieran O'Donnell: What percentage of claims does Mr. O'Rourke believe are fraudulent?

Mr. Declan O'Rourke: About 18%, according to our figures.

Mr. Anthony Brennan: We had about 2,700 injury claims last year. We have a three-line defence system but I will not go into that now. We identified 200 claims to be directed to our special investigations unit and we did not pay out on roughly half of those. In 2018, we reported four cases to An Garda Síochána.

Senator Kieran O'Donnell: What percentage of the claims does the company believe were fraudulent?

Mr. Anthony Brennan: Our fraud savings from those cases were roughly €15 million, which is approximately 6% to 7% of our total premium income. Obviously, we do not know about what we have not found, but I would be fairly confident that we found the majority of fraudulent claims against the organisation.

Senator Kieran O'Donnell: That is the number for the claims the company paid out-----

Mr. Anthony Brennan: No, it is for the claims that we did not pay. It is the savings compared with what-----

Senator Kieran O'Donnell: Mr. Brennan is estimating that fraudulent claims amount to roughly 6% or 7%.

Mr. Anthony Brennan: Yes, roughly 6% or 7% of our total premium income was saved.

Chairman: Deputy Pearse Doherty is next.

Deputy Pearse Doherty: I want to pick up on some of those numbers again, starting with Mr. Brennan. He said that the company suspected fraud in approximately 200 cases. Is that correct?

Mr. Anthony Brennan: We identified 200 cases with fraud flags, and with around 100 of those cases, we went further.

Deputy Pearse Doherty: In what period?

Mr. Anthony Brennan: In 2018.

Deputy Pearse Doherty: In terms of the other 100 cases, did the company believe, on further inspection, that there was no fraud involved?

Mr. Anthony Brennan: There was no evidence of fraud. There was nothing more to work on. We have a number of flags for identifying fraud. When flags are raised, the cases are passed on to a specialist team who work through them to see if there is more evidence to indicate that they merit further investigation.

Deputy Pearse Doherty: The company paid out on the other 100 cases. Is that correct?

Mr. Anthony Brennan: Yes.

Deputy Pearse Doherty: There were around 100 claims that the company believed were fraudulent.

Mr. Anthony Brennan: Certainly there was an element of suspicion of fraud.

Deputy Pearse Doherty: What percentage do those 100 cases represent of the overall number of personal injury cases?

Mr. Anthony Brennan: The 100 is out of 2,700 which represents about 3% to 4%. That is the percentage by number rather than amount. Such claims tend to be for higher amounts, which is why I referred to a 7% saving against the premiums.

Deputy Pearse Doherty: It is 3% in terms of-----

Mr. Anthony Brennan: It is 3% in terms of the number of claims, but that works out at about 7% in terms of the value of claims.

Deputy Pearse Doherty: Yes. I am only looking at the number of claims as such but I understand the point Mr. Brennan is making about the value. Zurich believes that in 3% of its personal injury claims it found sufficient evidence of fraud. In those 100 cases, the company did not pay the claims. Is that correct?

Mr. Anthony Brennan: Correct.

Deputy Pearse Doherty: They were not paid because the company believed it had strong evidence that they were fraudulent. Is that correct?

Mr. Anthony Brennan: We would have challenged the people making the claims, and in some cases they withdrew their claims. Some cases moved forward towards the court process and we simply said that we were not paying. Some cases would have been dismissed.

Deputy Pearse Doherty: Only four of those were reported. The company believed there were around 100 fraudulent cases but it only reported four of them, or 4%, in 2018.

Mr. Anthony Brennan: There were 100 cases in which there was a suspicion of fraud, and in some instances that suspicion was real and we went further. We reported four of those cases where we felt we could be of material assistance to An Garda Síochána. We work very closely with gardaí and co-operate with them through the fraud round table and so on. We pass cases on to gardaí that we feel would be of material assistance to them.

Deputy Pearse Doherty: I do not understand this. Here we have an insurance company that did not pay out on claims that were made because it believed those claims were fraudulent. They were not paid out so those involved did not get any money. They obviously did not challenge that but only four of those cases were reported to gardaí. How does that sit with section 19 of the Criminal Justice Act 2011, which imposes an obligation on insurers to report suspicions of fraud to An Garda Síochána? Under that Act, failure to do so can result in up to three years in prison.

Mr. Anthony Brennan: We work very closely with An Garda Síochána. There is a protocol in place for reporting claims to An Garda Síochána. The section to which the Deputy refers includes a piece on providing "material assistance" to the gardaí. I do not believe that sending those 100 claims forward would be of material assistance. We would not have had court level proof of fraud in all 100 cases. That is quite important, even from a civil liability point of view, and then we must move on to a level of evidence that allows for prosecution for fraud. It is quite a difficult offence to prosecute successfully. We work very closely with gardaí and will continue to do so. I welcome the fact that An Garda Síochána announced recently that it has increased resources in this area, and we look forward to working with it. We would be very happy to take gardaí through the other 96 cases if there is a change or improvement in the guidelines around what would provide material assistance to them.

Deputy Pearse Doherty: It is not about whether Mr. Brennan is happy to work with the Garda or provide further information. There is a legal obligation on insurance companies to report suspicions of fraud. Mr. Brennan's company, Zurich Insurance, determined that there were 100 fraudulent claims made in 2018 and in 96% of those cases the information has not been passed on to the Garda. Zurich is therefore in breach of section 19 of the Criminal Justice Act 2011. It is up to the Garda to decide whether it has enough information to warrant a prosecution, once it is given that information. The requirement in that section is that one has to provide the information where there is a suspicion of fraud.

Mr. Anthony Brennan: I am not sure what I else I can say to answer the Deputy's question. We have worked very closely with the Garda and will continue to do so.

Deputy Pearse Doherty: We heard from Zurich that 3% of its 2018 claims were fraudulent. What percentage of claims did AIG believe to be fraudulent, following investigation?

Mr. Declan O'Rourke: The 2% to 3% that we reported to the Garda.

Deputy Pearse Doherty: Is Mr. O'Rourke saying that AIG reported every claim it believed to be fraudulent to the Garda?

Mr. Declan O'Rourke: Yes. We reported all cases where we had proof that they were fraudulent.

Deputy Pearse Doherty: How many fraudulent claims were made to AIG in 2018?

Mr. Declan O'Rourke: Ten.

Deputy Pearse Doherty: What percentage of the total number of claims is that?

Mr. Declan O'Rourke: It is about 2% or 3% of the motor bodily injury cases.

Deputy Pearse Doherty: Okay. That is a very low level of claims.

Mr. Declan O'Rourke: Unfortunately, the level of convictions is even lower. Of those ten cases, only one resulted in a conviction. It can be difficult to get convictions in these cases because much of the evidence is gone and CCTV is often needed to prove one's case. We only won a conviction in that case because we could prove that the person who claimed they were in the car was not as they were visible elsewhere on CCTV. We spent a lot of money on that case. It went to court and the person was given community service for the offence.

Deputy Pearse Doherty: I will rewind a bit. Mr. O'Rourke says that AIG reported all fraudulent claims to the Garda. There were ten cases in 2018, which is 3% of AIG's overall personal injury claims. Is he saying that only 300 personal injury claims were made?

Mr. Declan O'Rourke: That is 3% of the suspicious cases.

Deputy Pearse Doherty: Mr. O'Rourke said that AIG reported all fraudulent claims. What is the overall figure?

Mr. Declan O'Rourke: Some 2,500 motor claims for bodily injuries were made, of which 450 were suspicious. Ten were reported after investigation and there was one conviction.

Deputy Pearse Doherty: Of the other 440 cases that were deemed suspicious, did AIG concur that they were not fraudulent, having looked into them further,?

Mr. Declan O'Rourke: We typically let such cases run to the courts and let the judge decide. We tend to make the plaintiffs prove their cases in the courts.

Deputy Pearse Doherty: Did AIG challenge every one of the 440 cases?

Mr. Declan O'Rourke: In such cases many people will withdraw and we might win a small percentage. We tend to put the onus on the plaintiff to prove the case through the courts at that stage.

Deputy Pearse Doherty: How many court cases did AIG challenge in 2018? Is Mr. O'Rourke telling me that AIG has 440 cases before the courts?

Mr. Declan O'Rourke: No, because by the time the cases work their way through, between withdrawals and other types of cases-----

Deputy Pearse Doherty: How many cases does AIG have before the courts, or how many did it challenge?

Mr. Declan O'Rourke: I do not have that number right now. If there is any suspicion, we let a case run through the courts, so most of them would go that way.

Deputy Pearse Doherty: Are there fewer than 20 before the courts?

Mr. Declan O'Rourke: I would say there are more than that.

Deputy Pearse Doherty: Would there be many more than that?

Mr. Declan O'Rourke: I do not have the exact numbers right now.

Deputy Pearse Doherty: Mr. O'Rourke said that all suspicions of fraud were reported to the Garda. Does AIG therefore believe that other 440 cases that are not in the courts system were not fraudulent?

Mr. Declan O'Rourke: That is up to the courts to decide. The bar for proving fraud is very high, and in many cases we did not have the evidence as it was gone.

Deputy Pearse Doherty: I do not want to go around the house on this. The witnesses need to read section 19 of the Criminal Justice Act 2011. It is not for insurance companies to decide whether the evidence reaches the threshold for prosecution. That is a matter for the Garda and the Director of Public Prosecutions, DPP. The witnesses and their companies have a clear responsibility to report any suspicions of fraud to the Garda and allow its members to do the work for which they are trained.

Mr. Declan O'Rourke: Absolutely.

Deputy Pearse Doherty: I ask the representatives of Aviva the same question.

Mr. John Quinlan: I will give an overall direction of travel before I pass over to my claims director for the refined figures. According to our internal legal advice, we are compliant with the relevant Act in our reporting of fraud. We have 80 people working on fraudulent claims and the division is headed by a former Garda superintendent. We have taken a proactive and aggressive stance on fraud detection and prevention, of which the Deputy will be aware. I will pass over to our claims director, Mr. Farrell, for the facts and figures on fraud cases, the percentages, numbers brought to court, and so on.

Mr. John Farrell: This is a real problem area. Over the past three years, we have reported more than 500 claims to the Garda under section 19 and have reported an additional 100 this year alone. The issue is not with the cases that are not reported, the vast majority of which will not provide material assistance to the Garda. The real problem is with the ones that are reported. Of the hundreds that have been reported, there have been virtually no convictions. Gardaí are incredibly hard-working, professional and dedicated people, but there is simply not sufficient capacity in the Garda with enough dedicated resources to follow up on fraud. We are fighting fraud in AIG, with 30 employees backed up by 50 full-time investigators.

I refer to what happens when a case goes to court. Take for example the case of a businessman who burns down his premises, against whom we plead fraud in open court to defend that case on behalf of innocent policyholders, as is our obligation. We are forced to spend 21 days in the High Court, at a cost of more than €1 million. That man then simply walks away from his claim, and that €1 million has to be paid by SME customers around the country. That is why their premiums have gone up despite not having made any claims. As long as claims in this country are a free-risk endeavour, people will continue to make fraudulent claims. We need assistance in this area. There needs to be far more effective follow-up on fraudulent crimes, because they are crimes and they have a real impact.

In another case, one of our customers rear-ended a third party. The cost of the damage was €80 and no personal injuries were reported at the time of the accident. Some time after the accident we were presented with two personal injury claims, which is not unusual. The first claim that went through the court was awarded €105,000. The legal fees were €98,000, though that was subsequently adjusted to €65,000. That was only for one of the injuries. There is a very real problem with the compo culture in this country and it has to be addressed.

Deputy Pearse Doherty: Okay.

Chairman: Did Mr. Farrell say €80?

Mr. John Farrell: There was €80 damage to a bumper.

Deputy Pearse Doherty: Serious questions must be asked about how our Judiciary operates if those are the types of awards being given out for €80 worth of damage to a bumper with no other personal injury damages.

Mr. John Farrell: Unfortunately, it is a common occurrence in court, as is widely reported. People submit fraudulent claims that did not happen in the manner they are presented. In some cases they are staged. Even when these people are thrown out of court, there is no effective follow-up or prosecutions. There needs to be a deterrent. Our awards are worth 4.4 times the value of similar claims in the UK, which is a huge magnet. Some people come into this country with no other purpose than to perpetrate crime by committing fraud. We are currently defending ourselves from a fraudulent claim by a gentleman from England. When he came to Ireland to attend a medical examination for the claim, he caused another single car accident that same day. This is a very real problem that we have to address. It will ultimately be addressed by bringing down the high cost of awards. If we reduce the figure from 4.4 to one, many of these problems will go away. Our customers cannot understand why the Minister has not signed the Judicial Council Act into effect. Why are we waiting one more day? We call on him to sign it today.

Deputy Pearse Doherty: I appreciate that. Our guests will hear from many members of

the committee that we want additional action in respect of an insurance fraud unit and to ensure there is not a revolving door in the courts, with those who make fraudulent claims just walking out with no losses. Deputy Michael McGrath has prepared legislation in that regard. Nevertheless, this meeting is about the industry and I wish to address the figures, not anecdotes or stories. Mr. Farrell stated Aviva reported 100 fraudulent claims to the Garda. What proportion is that of the overall number of suspected fraudulent claims?

Mr. John Farrell: The figure of 100 relates to this year to date. For the three-year period before that, it was 500, or approximately 20%. A total of 20% of all the claims we suspect to be fraud are reported.

Deputy Pearse Doherty: There are two issues with that. Every claim that is believed to be fraudulent needs to be reported. What percentage of claims made to the company does Mr. Farrell believe are fraudulent? What proportion of the total number of claims made to Aviva are the 100 cases that were reported to the Garda?

Mr. John Farrell: In a typical year, we identify approximately 800 fraudulent claims-----

Deputy Pearse Doherty: Aviva reported 100 claims in 2018. For what proportion of the overall number of claims made to the company does the figure of 100 account?

Mr. John Farrell: I apologise but I cannot answer that in respect of the 100 claims. I know the overall numbers-----

Deputy Pearse Doherty: Does Mr. Farrell know how many claims were made against the company in 2018?

Mr. John Farrell: It was approximately one third of 800.

Deputy Pearse Doherty: How many personal injury claims were made against Aviva in 2018?

Mr. John Farrell: In any one year, there are approximately 4,000 injury claims.

Deputy Pearse Doherty: I have worked the figure out. It is 2.5%. Is that correct?

Mr. John Farrell: No, of the 800-----

Deputy Pearse Doherty: I do not mean the 800. I am asking for the ratio of fraudulent claims to personal injury claims made to the company. There are 4,000 personal injury claims each year and Aviva reported 100 of them to the Garda, which is 2.5%. Is that correct?

Mr. John Farrell: No, I apologise but I will try to be clearer. Of the 4,000 injury claims we receive, we estimate that approximately 20%, or 800, are fraudulent. Of those 800, we report 20%, or 160, under section 19.

Deputy Pearse Doherty: What does Aviva do with the other 700?

Mr. John Farrell: The Deputy stated we have an obligation to report all of them but we do not. Under section 19, the obligation is to report them where they would provide material assistance. We have regular engagement with the Garda. For example, there could be an instance where the Garda is already aware, through other channels, that fraud is present and, therefore, a section 19 report would provide no assistance, material or otherwise.

Deputy Pearse Doherty: Let us say somebody makes a fraudulent claim, which is a crime. Aviva believes that passing on the name and address of the criminal and the details of the crime is not of material assistance to the Garda, whose job is to prevent and detect crime.

Mr. John Farrell: We examine all our fraudulent claims and report those under section 19 that we believe are reportable. We are increasing the number of section 19 reports we make and amending our systems to make more section 19 reports-----

Deputy Pearse Doherty: I return to the question of what happens to the 700 that Aviva does not report to the Garda.

Mr. John Quinlan: The 80 people we have employed to fight exaggerated claims or fraud do so and we will bring the claimants to court. Despite the level of the fees we pay, even when someone walks away scot-free for something that was obviously wrong, that is what we do. The cases we report to the Garda are those that offer material assistance, as adjudicated by our legal counsel and head of fraud, who is a former superintendent with the Garda. We could tick a box, dump over all our claims and say we report every single one. We saw what the Criminal Assets Bureau did to the criminal fraternity and we need the same in the form of a dedicated fraud unit in the Garda. It will not change anything if we just tick a box and send over everything.

Deputy Pearse Doherty: Are our guests suggesting that Aviva fights every one of the 700 claims?

Mr. John Farrell: Yes, we do not pay claims we regard as fraudulent. The purpose of the meeting is to consider the cost and availability of insurance. I can categorically state that if we increase the number of section 19 reports we make, it will make absolutely no difference to the cost or availability of insurance. The issue is with those that are reported. All stakeholders need to come together to ensure there is a far more effective deterrent against fraudulent activity.

Deputy Pearse Doherty: We have heard that but we need to move on to other questions and perhaps Mr. Quinlan might be able to answer them. What is Aviva's claims ratio? I refer to the number of claims, or the amount that is paid out in claims, for motor insurance versus the premium earned.

Mr. John Quinlan: That is not a problem but I will pass to Mr. Mahon, our chief underwriting director, who covers underwriting and pricing.

Mr. Brian Mahon: Our claims ratio is 65%.

Deputy Pearse Doherty: I would like to hear the figure from each of the companies.

Mr. Anthony Brennan: Our figure is 63%.

Mr. Declan O'Rourke: Our figure is 66%.

Deputy Pearse Doherty: The claims ratio, that is, the amount that is paid out in claims as a proportion of the premium earned, is below the European average. European insurance companies have a higher claims ratio. They pay out more on claims compared with the earned premium they bring in. Do our guests accept that the European average is 76%, which means that each of our guests' companies has a claims ratio of approximately 10% below the European average? It is well below Britain, which has a ratio of 92%, and Germany, Poland, Portugal, Turkey, the Netherlands, Spain, France and Italy. Do our guests accept that?

Mr. Anthony Brennan: I am not familiar with the numbers but I have no reason to disbelieve the Deputy.

Deputy Pearse Doherty: Is Mr. Brennan familiar with Insurance Europe and its work?

Mr. Anthony Brennan: Yes, but we tend to focus on the Irish marketplace because that is where our business is.

Deputy Pearse Doherty: All our guests have told us that the cost of claims is the major issue. When one considers the cost of claims compared with the premiums the companies bring in, however, the three companies appearing before the committee paid less in claims compared with the premium as a ratio. Do our guests accept that?

Mr. John Quinlan: I am not familiar with those figures. The ratio of 92% for the UK, which the Deputy mentioned, would create an ultimate combined operation ratio well in excess of 100%.

Deputy Pearse Doherty: The UK's combined operation ratio is 110%. As Mr. Quinlan will be aware, insurance companies offset that loss by investment returns.

Mr. John Quinlan: There are few or no investment returns-----

Deputy Pearse Doherty: At present. I can outline the figures-----

Mr. John Quinlan: I do not believe that the point being made could lead one to believe that the cost of claims is not the root cause of the cost and availability of insurance. It is not appropriate.

Deputy Pearse Doherty: Let us examine it. Has the number of claims made in respect of motor insurance in the past four years for which we have statistics, from 2014 to 2017, dropped or increased?

Mr. John Farrell: The average cost of claims has increased-----

Deputy Pearse Doherty: I refer to the number of claims that have been made in respect of motor insurance.

Mr. John Farrell: It is not about just the number of claims but also the cost of claims, which is a significant driver-----

Deputy Pearse Doherty: Would any of our guests be surprised to learn that there was a 25% reduction in the number of motor insurance claims across the industry between 2014 and 2017? It is a reduction of 55,000 claims.

Mr. John Farrell: I would not be surprised because car safety technology has improved the accident rate. Equally, however, the cost of claims has increased, which is a fact we must acknowledge.

Deputy Pearse Doherty: Let us deal with the following facts. In the four years in question, there was a reduction in the number of claims by 25%. Mr. Farrell stated the cost of claims has risen but it has not. The industry, as a totality in Ireland, saw the amount provided for claims reduce from 2014, from €978 million to €954 million, or a reduction of €24 million. Does Mr. Farrell accept those figures? They are from Insurance Ireland and I can provide the fact file if necessary.

Mr. John Farrell: Figures are figures but the Personal Injuries Commission, which was established-----

Deputy Pearse Doherty: Mr. Farrell stated it is not about the fact there is a 25% reduction in the number of claims but rather that the cost of claims has risen. I have given him the facts. Does he accept that the cost of claims to the insurance industry has reduced by €24 million in recent years?

Mr. John Farrell: I do not comment on the industry but specifically on Aviva. The cost of our claims has increased. I draw attention to the independent Personal Injuries Commission, which was attended by the Law Society, the Bar Council, consumer groups and medical professionals. Its overriding recommendation related to the fact was that our claim level was 4.4 times higher than the level in the UK.

Deputy Pearse Doherty: In the past four years, the number of claims has fallen by 25%, or 50,000 claims, and the amount being paid out in awards by the industry has reduced by €24 million. What has happened to premiums in that time? Would Mr. Farrell be surprised to hear that his company, along with 14 other companies, increased motor insurance premiums by €669 million during that period?

Mr. John Farrell: I have no comment to make on premiums.

Deputy Pearse Doherty: I will finish on this question, but I will come in again. I direct this question to Mr. Quinlan. Regarding price optimisation and dual pricing, he may have read in the media that I have asked the Central Bank and the Competition and Consumer Protection Commission, CCPC, to investigate the issue. I will be providing evidence next week to the CCPC. Dual pricing is controversial. It punishes loyalty and targets vulnerable policyholders. The Financial Conduct Authority, FCA, across the water is investigating this practice and its initial investigations show that not all companies operate price optimisation. Will Mr. Quinlan clarify whether his company, Aviva, operates price optimisation and dual pricing?

Mr. John Quinlan: We have done much detailed work on this issue in preparation for this session. I will hand over to our underwriting director to give precise details.

Mr. Brian Mahon: We do operate differential pricing in the Irish market. We have also contributed to the FCA review. We were a branch of our company in the UK, Aviva Insurance Limited, until February 2019 and we are working very closely with our counterparts there on differential pricing.

Deputy Pearse Doherty: Aviva is operating dual pricing, which looks at the behavioural attitudes of customers and how to get the best price from them.

Mr. Brian Mahon: It is no different to any other industry. Aviva offers a lower new business price point and we look at renewals. Some 33% of our renewal customers are offered prices lower than our new business price. Other customers are offered prices higher than our new business price. On average, however, we come in at about 3% across the piece.

Deputy Pearse Doherty: Price optimisation punishes loyal customers. Does Mr. Mahon accept, given the findings so far, that the more loyal customers are, the more likely it is that they will have a price premium? Aviva's experts in price optimisation need to understand behavioural attitudes so that people willing to renew repeatedly will be penalised with higher premiums. Is that what this really means?

Mr. Brian Mahon: From 2015 to 2018, the vast majority, if not all, of our renewal customers received a lower price than the new business price. While the FCA has a number of issues with the practice, and its interim report is being released tomorrow morning, it stated in its initial review that differential pricing is not inherently unfair, harmful or always results in poor customer outcomes. Differential pricing encourages new business competition within the market. We are here to talk about cost and availability of insurance. Adjusting differential pricing will have no impact on the cost of insurance. It will, instead, harmonise it. Costs will be increased for new business customers, of which there are roughly 500,000 in the Irish market each year. It will also marginally reduce costs for renewal customers, but the average cost will remain exactly the same. I argue that because competition will be reduced on the new business side, availability may be reduced.

We would welcome a review of this issue. Our sister company in the UK has led the market there with Aviva Plus. Interestingly, this initiative, which has been in operation for 12 months, involves making a commitment to customers who take out the company's product that their renewal price will be no more than the new business price. Despite that product being available, the company sells more on its standard product with a lower price point than it does on the Aviva Plus point. Customers, therefore, are choosing not to go down the route of level pricing. They still want to go for the cheapest price in the majority of cases. When our UK colleagues test a product that may well work within the Irish market, we will look at bringing in something similar. We are working closely with our underwriting colleagues in the UK and reviewing with interest their offering.

Deputy Pearse Doherty: I will get a chance to come back in later.

Deputy Michael McGrath: I welcome the witnesses and thank them for their attendance. This an important engagement and an opportunity for us, on behalf of the people we represent, to hold the insurance companies to account, tease out issues and get some answers. I will start by continuing with the issue raised by Deputy Pearse Doherty regarding differential pricing, as it has been described. How does it work in practice? What is it?

Mr. Brian Mahon: It is a costing initiative. We use it, as many other industries do, to supplement new business pricing in the market. It allows us to be more competitive within that market. In my experience, in the area of broadband, for example, I pay four times the new business price for broadband. I am also paying 70% more for my bank charges than a new business customer would pay at the same bank. Similarly, in utilities, I am paying about 30% more. That is my experience. Differential pricing is not, therefore, uncommon across a number of industries. We do it to stimulate competitiveness within the market. From the point of view of insurers, differential pricing is not a profit-generating initiative but more of a means of generating new business. If it was removed, it would be beneficial overall for the insurance industry. That is why we are pushing in the UK to see if we can road test that product. We would then be selling on key differences, such as brand, product and financial stability. Those would be the main reasons customers make decisions.

Deputy Michael McGrath: I would like to bring this issue down to the level of Aviva policyholders who get their renewal notice in the post. In effect, Mr. Mahon is stating that if they just renew at the premium quoted on the renewal documentation, they will probably pay more than they would if they were a new customer or simply went online to get a new quote, which might well come from Aviva Ireland.

Mr. John Quinlan: I will come in here. The question concerns customer fairness. Pricing

sophistication is trying to get the right price for the right risk. There is a secondary issue of new business versus renewal pricing. The theory behind this is that we are trying to do is stimulate competition and new business flows by offering a lower new business price. How is that fair for me as an existing customer? Over the course of my time as a customer with Aviva - we have an average policy duration of between five and seven years - he or she would expect to pay the identical amount, notwithstanding that he or she might have come in on a cheaper price point.

Can people tweak the system, as was done with fronting, by going back in and claiming to be a new business customer? Yes, that is possible. The level of that difference for us is 3%, on average. It can be higher or lower, depending on individual circumstances. It is something we are looking at. We have launched a big pilot in the UK. It is not really working as we thought it might and other companies have not followed suit. We await the findings of the FCA to see if this becomes mandatory. If that is the case, we will welcome that in this market because we will go-----

Deputy Michael McGrath: That is fine. If we break this down to brass tacks, however, is it not the case that loyal customers, those policyholders with Aviva who renew year in and year out and do not ask questions, are the biggest losers? They are not availing of the cheaper premiums that would be available if they were new customers. Is it not that simple at the end of the day?

Mr. John Quinlan: I do not think so and there are a number of reasons for that statement. Some 85% of our business comes through brokers who do their own checking of cover and pricing. We have a high retention rate. People will look at an opportunity with a new business promotion. It can involve utilities, banks, etc. With a company such as Aviva, however, customers will look to see if they will be treated fairly over time. They will want to know if their premiums will average out to be the same as they would have been if they had shopped around every year.

Deputy Michael McGrath: Is it not the case that Aviva is taking advantage of consumer behaviour? To take the example of motor insurance, many people get their renewal policy in the post. That document will still not tell them what they paid last year. It is necessary to check up on that information. Customers look at those policy renewal documents and think that the figure presented is roughly what they paid the previous year. Most people are busy and just renew the same policy. They do not even ring up to try to get a reduction. If they do ring up, however, and state they had contacted one of Aviva's competitors and were offered a policy some €100 cheaper, then Aviva will probably match that competing policy. That is the reality. Is the lesson here that loyalty is punished?

Mr. John Quinlan: In the media, for many years and certainly going back to 2014, we have seen a call for people to shop around for all types of utilities and financial services products. If trust or loyalty is broken with customers, the company involved will lose those customers. People have that ability to shop around. As I stated, some 85% of our business comes through brokers. We retain our customers because we treat them fairly. We are more than happy to change the practice, if that is provided for in legislation. All companies would need to be involved to bring that about and ensure that the 500,000 people who benefit from a new business discount or quote every year maintain those savings. We got a detailed set of questions from Deputy Pearse Doherty that we will come back to and answer fully.

Deputy Michael McGrath: We have seen this issue in the banking system as well. The witness referred to it in utility companies. Of course, they do it. They offer a better deal if

one is a new customer signing up whereas if one is locked into a contract, one cannot avail of that until the contract expires. This is not the only industry that is doing it. Banks are doing it for the biggest transaction that people have in their life, which is their mortgage. They are not proactively trying to tell a customer he or she could get a better deal, even by switching to a different product with that bank or by switching bank. That is not happening.

It is a job for all of us to address the issue of inertia among consumers and we will do that. We also have an issue in ensuring that there is fairness in the way that the industry treats its customers. Mr. Charlie Weston wrote, in January of this year: "It is hard not to conclude that loyalty is for losers." It is hard to argue with that conclusion.

Mr. John Quinlan: I am not sure that is the case when one looks at our pilot in the UK where people choose to go down the road of our new business approach in the knowledge that over time it will move to an average of someone who is an existing customer.

Deputy Michael McGrath: Mr. Quinlan is saying this is the reality of commerce and let the buyer beware.

Mr. John Quinlan: It is customer choice.

Deputy Michael McGrath: The consumer needs to shop around and he or she will probably achieve a saving if he or she shops around.

Mr. John Quinlan: I am not sure that is the case. I am not sure that is a conclusion that I would draw. The research we are doing in the UK will give us empirical evidence on which to base that consumer behaviour and, moreover, on how we ensure we treat customers fairly.

Deputy Michael McGrath: I assume the same policy applies with Zurich and AIG.

Mr. Anthony Brennan: It does. I would point again to what Mr. Quinlan said about brokers because we get over 90% of our business through brokers. It is a commercial reality. It is the way the marketplace works. However, I would point out that, similar to Aviva, in a five-to-seven year duration, one is looking at a 15% to 20% switch rate. If one looks at those other industries we talked about, such a switch rate would be a very high one for those industries. We are making it easy for customers to move around. The broker community enables that.

One of the challenges, if one looks at this, is it seems easy to say one can legislate for it but when one starts to figure out how it would work in practice, it would create all sorts of other loopholes that would make it more difficult. The effect it would have on the marketplace in the short term is difficult to know.

Deputy Michael McGrath: Is the broker obliged, on receiving the renewal quotation from the insurer, to shop around for that consumer and advise him or her that the broker can get a better deal elsewhere?

Mr. John Quinlan: They do that.

Deputy Michael McGrath: Does it happen in practice?

Mr. Anthony Brennan: Brokers would not only look at price. It is important to say that price is one element. The quality of the product that they have and the sustainability of the business they are dealing with, being around for many years to pay their claims, is also an important factor that a broker would take into account.

Deputy Michael McGrath: In practice, I have come across older people in particular who would happen to show me what their renewal is, maybe on home insurance. They might have been with the same firm for 20 years. They are paying through the nose because they never did anything about it. They never made an inquiry. That is the reality. There are such customers out there and the insurers are benefiting from that. Anyway, I will move on.

Mr. Declan O'Rourke: We are a little different in that our renewal premium on average is considerably lower than our new business premium. We try to reward our loyal customers. We know much more about them and we can price the risk differently. Also, during the period when prices increased, we probably capped many of our increases for existing customers as opposed to bringing them straight to market rates.

Deputy Michael McGrath: Deputy Pearse Doherty spent much of his time on fraud. I will not go into it in any great detail. Mr. Farrell referred to 500 cases being referred to the Garda over the past four years.

Mr. John Farrell: Three years.

Deputy Michael McGrath: Plus a further 100 this year. Is that right?

Mr. John Farrell: Yes.

Deputy Michael McGrath: There were 600 cases, let us say, in the past four years. How many of those have ended with a conviction in the courts?

Mr. John Farrell: Very few. One could probably count them on one hand. Two.

Deputy Michael McGrath: Two.

Mr. John Farrell: The number is very low.

Deputy Michael McGrath: What do the gardaí tell Mr. Farrell in private about their ability to take these cases the distance if they believe they are fraudulent? We are not involved in the detail of those investigations. We do not know exactly what is going on. Maybe they are not fraudulent. I would assume, if Mr. Farrell refers them, he is fairly sure that those cases are fraudulent.

Mr. John Farrell: There are two issues. This is why it requires genuine engagement among all stakeholders. First, the gardaí are incredibly hardworking professional and dedicated people but we must have dedicated gardaí in this area for effective change to happen. That is why we supported the call for a dedicated fraud area within the Garda, and we would repeat that support. We would very much like to see a dedicated unit.

Deputy Michael McGrath: Is it not the truth that they are swamped? They are drowning in cases across all areas of fraud-----

Mr. John Farrell: We need to give them more help.

Deputy Michael McGrath: ----and they cannot handle it. How many of those 600 ended up in court? Mr. Farrell stated two ended up with a conviction, but how many went to court?

Mr. John Farrell: Less than a dozen. We have the additional problem, and the challenges, of going to court. I have covered some of the examples. There must be a more effective deterrent. It is too easy in this country for people to go into court, submit a fraudulent claim and

walk out the door.

Deputy Michael McGrath: What happens in those cases in relation to the legal costs? If one is in the High Court for three weeks defending a case, the claimant eventually walks away and does not bring it to the end point. The insurer must pay its costs. What happens to the costs of the claimant?

Mr. John Farrell: The costs of the claimant are not visible to us and we do not know if the plaintiff's solicitors or legal team get paid or not. That is not something we would be made aware of. What we know is the costs that we have paid. Ultimately, when we say we have paid, the reality is our policyholders pay these costs. The reality is our policyholders will pay these costs through increased premiums or we must get these costs back from the fraudster, which, of course, is difficult to do. We attempt to do that but often these are not people of substance from whom we can recover costs. We urgently need greater and more dedicated resources in the Garda to work with us and we need to work on a more effective deterrent for fraud cases in the courts.

Deputy Michael McGrath: All the insurers gave a profile of the make-up of premiums, with typically, 60% to 65% going on awards for settlement. How much is going on legal costs? Did they give that figure?

Mr. John Quinlan: I gave a typical example of motor premia. Out of the €100 in premia, €19 represented legal fees or 30% of that €65.

Deputy Michael McGrath: In awards in the area of motor insurance, 30% of those awards are accounted for in the round by the legal costs.

Mr. John Quinlan: That is correct.

Deputy Michael McGrath: Would that be broadly similar?

Mr. Anthony Brennan: It is slightly lower for us. They are closer to 25%

Mr. Declan O'Rourke: It is important to look at that a little differently. If one looks at a typical whiplash case, when one zones in on one case there could be up to 70% legal costs on the case. On average, it is 25%.

Mr. Anthony Brennan: I would highlight as well that where cases are settled through the Personal Injuries Assessment Board, the typical costs are 5% to 6% but the costs of going to court tend to be more in the 40% plus bracket on almost every case that goes through the court process.

Deputy Michael McGrath: Can I get a handle across the personal injuries awards, whether it be motor insurance or in the liability area, such as public liability? The settlement channels are court, the Personal Injuries Assessment Board, PIAB, and out of court settlements. Can Aviva give the committee the broad profile in percentage terms of how its personal injuries claims are settled through those three channels?

Mr. John Farrell: Yes. Broadly, in volume terms, we would expect on the motor side to settle approximately 40% direct, 20% through the injuries board and approximately 30% through various stages of litigation. If one looks at that in value terms, it is a little different: approximately 15%, by value, would be settled directly; 5%, by value, through the injuries board; and the vast majority, 80%, would go through some form of litigation-type process, not neces-

sarily to full court but involving a litigation-type process.

Deputy Michael McGrath: And Zurich?

Mr. Anthony Brennan: I will ask the chief claims officer.

Ms Siobhán Corbett: If we look at the claims that we settled in 2018, approximately half of those settled via litigation and the other half were either via the injuries board or we settled them out of court directly with no solicitor involved on our behalf.

Deputy Michael McGrath: Would Zurich have a similar issue that, in value terms, it is far higher in court?

Ms Siobhán Corbett: Litigation is a much higher proportion, in terms of value, of the total amount.

Deputy Michael McGrath: And AIG?

Mr. Declan O'Rourke: It is: pre-PIAB, 25%; PIAB, 20%; post-PIAB pre-litigation, 12%; litigation, 400%; and trial, 2%.

Deputy Michael McGrath: In value terms, would it be leaning higher towards the litigation and the courts?

Mr. Declan O'Rourke: Correct.

Deputy Michael McGrath: Those figures are by far the highest.

Mr. Declan O'Rourke: The difficulty is we all want to support the Personal Injuries Assessment Board, PIAB, and make it successful but the economic incentives for solicitors to move business out of PIAB process are significant in terms of the fees for them. We would love to see 90% of those cases settled through the PIAB process, if possible.

Deputy Michael McGrath: Ultimately, until we get to a point where the court awards just match the PIAB awards, people will continue through the journey.

Mr. Declan O'Rourke: And the legal fees.

Deputy Michael McGrath: That is the bottom line.

Mr. Declan O'Rourke: The economic incentives are the major issue, in particular, for the plaintiff's solicitor and the claimant.

Deputy Michael McGrath: We got all the numbers for turnover and profitability given by the witnesses earlier. Are there inter-company flows of management charges with the companies' international groups, which the figures given would be net of, which would impact on the figures presented to us?

Mr. John Quinlan: Our figures are for a stand-alone business.

Deputy Michael McGrath: Okay.

Mr. John Quinlan: Any services we get from the group are on a third party, arm's length basis. We seek to minimise our costs by using the group where we can.

Deputy Michael McGrath: Those figures are not distorted in any way-----

Mr. John Quinlan: Absolutely not.

Deputy Michael McGrath: ----- by flows internationally within the group.

Mr. John Quinlan: They would only be improved.

Deputy Michael McGrath: Let us be very clear on that.

Finally, do any of the witnesses' firms offer insurance to the leisure sector, in particular bouncy castle businesses, outdoor activity centres or playzones? Are any of witnesses' firms offering cover in that space?

Mr. Brian Mahon: We operate in the leisure sector and have a 10% market share in it. We primarily focus more on hotels. We are one of the largest providers of cover for sports clubs and sporting associations in the country and our connection with the Football Association of Ireland, FAI, and the Irish Rugby Football Union, IRFU, has only served to cement that. That would be our specialist area within the leisure sector. There may well be others who specialise in the areas the Minister described. We might have a handful of cases but it would not be our core segment.

Deputy Michael McGrath: I assume it is similar for AIG and Zurich and that they are not operating in that sector.

Mr. Anthony Brennan: Other than providing for a handful of long-term customers, Zurich is not operating in the leisure space.

Deputy Michael McGrath: That sector is currently at the coalface of the insurance crisis and the issue is not even about affordability, rather it is the non-availability of insurance with the effective withdrawal of LeisureInsure from that space. As those businesses' insurance renewals come up and no policy is offered to them, they face closure. Many have closed and many more will close. Have the witnesses any hope to offer that sector that it is an area of business their firms would be prepared to consider and to write business in or is their message that until the personal injuries climate is improved they will not be prepared to consider it? What is the bottom line?

Mr. John Quinlan: I am happy to give the Deputy feedback on that question. We are absolutely looking to cover these areas when we can. I spoke to a leading Lloyds broker this week to understand what was going on from a Lloyds' perspective. Lloyds would have been a safety valve for the giving of cover, often at higher prices. I can give the Deputy verbatim the feedback I got. Lloyds itself is struggling to retain some of its capital providers. The Minister of State, Deputy D'Arcy, was over in its offices recently. It has introduced a new syndicate-in-a-box initiative where over a three-month period one can become a writer of business. However, what is happening is that under a new regime they have to write for underwriting profit. We have seen many syndicates which wrote business here not getting their business plans approved. Amlin Insurance had business of £250 million sterling, a chunk of which would have been Irish business, which will no longer be written. It has not got permission to do so. C.V. Starr and R&Q Insurance were also affected. The fact that Excel Insurance and AXA Insurance - AXA being the general insurance company in Ireland and one of the biggest in the world - cannot see a way to write their leisure insurance business gives us an indication of the real challenges. The sector that will benefit most immediately from the reforms we are calling for

will be the leisure sector. In the medium term we would be prepared to work, certainly at Insurance Ireland level, on alternative approaches to give some sort of cover here but it is complex. It is not without its challenges.

Deputy Michael McGrath: How would Mr. Quinlan's firm do that?

Mr. John Quinlan: There are many different alternative risk transfer type models I could reference. I know a particular Lloyds broker was speaking to the Minister, Deputy Coveney, about certain vehicles for this particular sector. There is always a way but there is a level of risk that needs to be retained by the customer. Each and every excess is there already. We are talking about a crisis where no cover is being given and we need to come together to see if we can address it and maybe even accelerate reforms in this particular area.

Mr. John Farrell: I would add that in our statement we called for two principal measures to be taken. We called on the Minister to sign the proposed judicial council into effect immediately without any further delay. We also called out the additional problem people face in the small and medium enterprise market where the issue is not only the size of the awards but the automatic entitlement to compensation. That is the "compo" culture. We have seen examples of that where a person can sit down at a table in a restaurant and simply knock his or her knee off the leg of a table and get an award of thousands of euro. We are calling for the law of negligence to be reviewed to ensure it is put back into a more affordable and sustainable area where genuine negligence is compensated for but simple accidents are not.

Deputy Michael McGrath: To be clear on this, are any of witnesses involved in any discussion or process at industry level currently to ensure there is the supply of insurance cover to that sector?

Mr. John Quinlan: Not that I am aware of.

Deputy Michael McGrath: There is nothing under way in which Mr. Quinlan is involved through-----

Mr. John Quinlan: Only my engagement with the said brokers in the Lloyds market who approached us to see if there is something we could do and that took place only during the past two weeks.

Deputy Michael McGrath: On the timeline for the key reform all the witnesses are seeking - they have all pointed to the awards being the key issue - we have been teasing this out in the Oireachtas during Question Time with the Minister for Finance and so on but I am not filled with confidence that this will happen quickly. There are still sections of the Judicial Council Act that have not commenced. As to when a judicial council will be up and running, perhaps it will be by the end of the year. The personal injuries committee then has to be set up, which would probably take a further few months, and it would then have to draw up the personal injuries guidelines. I do not get the sense there will be any great solution to this quickly from the process that is under way. Is Mr. Quinlan's feedback to us that this is the only way to do it in terms of a game changer which would result in a more competitive insurance market for consumers and, ultimately, improve the availability of insurance and reduce premiums for consumers?

Mr. John Quinlan: That would certainly be our view.

Deputy Michael McGrath: That is where it is at.

Mr. John Quinlan: Absolutely. As we have seen recently with overseas insurers traditionally passporting into our market, their pulling out of the market completely is a big concern. When we consider what happened on the back of the Setanta Insurance collapse with the collapse of Gable Insurance, Enterprise Insurance and Qudos Insurance, many of these businesses look at Ireland and wonder what is going on. We need to change that and make it more attractive to existing players because we have all got parent companies that we have to convince to keep our capital here and we want other capital to flow in equally.

Deputy Michael McGrath: In the context of Brexit - I am sure all of the witnesses' firms have their regulatory status in order and so on - do the witnesses envisage there will be any dislocation in terms of the insurance market here in the event of a no-deal Brexit at the end of October? We have replies to parliamentary questions that show there is a number of firms that have not aligned their regulatory status and, therefore, they will lose the right to passport in the sale of insurance services in the Irish market from 1 November. What is the witnesses' sense of what potentially might happen in a no-deal scenario to the insurance market in Ireland?

Mr. John Quinlan: It is a risk which the deputy governor of the Central Bank has called out in the terms of the preparedness of insurance companies writing business in Ireland. It is an absolute risk. It is a real concern. I know that around the Insurance Ireland table all the big firms have planned for a hard Brexit but there is a concern. One of the feedbacks from Lloyds is that the concern about Ireland in terms of volatility, levels of profitability and Brexit really dampen down enthusiasm to write business here so it is a concern.

Mr. Brian Mahon: I would add that we have restructured our business to be Brexit ready. As part of that we have facilitated more than 600,000 Irish customers who were with a provider which was not going to be ready for Brexit when it was to happen on 1 April. From 1 February we have taken on board and are servicing those customers to give them an option post a hard Brexit.

Deputy Michael McGrath: I thank the witnesses.

Chairman: Does Deputy Pearse Doherty want to come back in?

Deputy Pearse Doherty: Yes. I have a few questions. What is each of the witnesses' firms premium per licensed vehicle?

Mr. Brian Mahon: Our average premium is about €650.

Deputy Pearse Doherty: What was it in terms of an increase on last year's premium?

Mr. Brian Mahon: We have reduced our premium in 2018 and 2019 by 14%

Deputy Pearse Doherty: What was it in 2018?

Mr. Brian Mahon: In 2018, it would have been 2% higher.

Deputy Pearse Doherty: It was 2% higher.

Mr. Brian Mahon: In 2017, it would have been 12% higher again.

Deputy Pearse Doherty: Okay. What is premium charged by the other witnesses' firms, starting with AIG?

Mr. Declan O'Rourke: Our average is €660 at the moment. It is a drop from what it was

last year. I cannot remember the exact figure, but it is a smaller drop than that.

Deputy Pearse Doherty: Are these 2018 figures?

Mr. Declan O'Rourke: Yes.

Deputy Pearse Doherty: What about Zurich?

Mr. Anthony Brennan: I do not know. I do not have the numbers with me but I know there has been a single digit reduction from 18% to 17%.

Deputy Pearse Doherty: Those figures are in line with the industry average. Insurance Ireland's estimate for 2017 indicated an average premium of €680, which is up by 50% in the past four years. The Central Statistics Office tells us that motor insurance premiums have reduced by a much higher percentage. The percentages that the witnesses have told us here are very small - 1% or 2% in some cases.

Mr. Anthony Brennan: I am not sure how the CSO number is calculated. I think it overestimated the increases. The Deputy said 50%. The CSO said it was 70% and it is now showing 24%. I can only speak for my own company. We did not see a 70% increase and we did not see a 24% reduction. It is a basket of currencies and it may need to be looked at again. The Insurance Ireland fact file gives the information across the whole industry.

Deputy Pearse Doherty: The fact file shows that it went up by 6% in 2014, by 12% in 2015, by 22% in 2016 and by 6% in 2017.

Mr. Anthony Brennan: That sounds like the market we were in.

Deputy Pearse Doherty: The CSO and Government tell us that insurance premiums have dropped by 23% in the past three years.

Mr. Anthony Brennan: I cannot comment on exactly how it is calculated.

Deputy Pearse Doherty: Mr. Brennan's experience is that it has not dropped that much.

Mr. Anthony Brennan: Not to that level.

Deputy Pearse Doherty: What proportion of the witnesses' motor insurance business auto-renews?

Mr. Brian Mahon: It is about 20% in Aviva's direct book and it is much smaller in our broker book.

Mr. Declan O'Rourke: AIG invites renewal in all cases.

Deputy Pearse Doherty: What percentage renews with the company?

Mr. Declan O'Rourke: Probably 70%.

Mr. Anthony Brennan: Zurich invites renewal and approximately 70% renew.

Deputy Pearse Doherty: Those are people who do not contact the company and just renew their policy. It is 20% for Aviva?

Mr. Brian Mahon: It was 20% a couple of years ago. I checked the number and it is 10%.

Deputy Pearse Doherty: Does that mean that Aviva loses 90% of its customers?

Mr. Brian Mahon: The terms of our renewal are on a roll-over direct debit so there is no action from the customer to renew the policy.

Deputy Pearse Doherty: How many policyholders renew?

Mr. Brian Mahon: It tends to be approximately 80% for motor insurance.

Deputy Pearse Doherty: If I were to go onto the companies' websites, disregarding the incentive for new business and that reduction which may be anything from 10% to 20%, and got a renewal quote from the company, entering exactly the same details into the website, would it exactly match if I disregarded the 10% or 20% offered at the time?

Mr. Brian Mahon: More than one third of Aviva's customers would receive a lower renewal price than the new business price. Others would get the same price and others would receive more. As we pointed out, there is an average of approximately 3% across the piece. A third of our renewal customers get lower prices than our new business price.

Deputy Pearse Doherty: So for a third of the renewal quotes from Aviva, if the customer went onto the website, they would get a better quote.

Mr. Brian Mahon: I am talking about direct business. For brokers-----

Deputy Pearse Doherty: I am talking about direct motor insurance. That is disregarding the incentive for new customers.

Mr. Brian Mahon: We do not discount. We just have new business at a different rate.

Deputy Pearse Doherty: Why can they get a better rate on the Internet?

Mr. Brian Mahon: It is not just the Internet. Our call centre customers would also avail of that.

Deputy Pearse Doherty: Aviva is sending out a renewal quote to its customers. People who have already been with the company have the same details, contact the company through the Internet, and a third of them get a better rate. It is not related to new customer incentives.

Mr. Brian Mahon: There are many different variables with different customers. We try to achieve our target retention rate of 80% and different customers will get different prices.

Deputy Pearse Doherty: Can I ask the other companies the same question?

Mr. Anthony Brennan: We do not offer online motor insurance.

Mr. Declan O'Rourke: As I said earlier, our renewal premium is lower than our new business, on average. We occasionally have offers online that are usually time barred. There are many factors as part of a renewal premium. Some of our business is capped. We know a lot about the claims and such. On average, our renewal premiums are lower than our new business premiums. There could be differences.

Deputy Pearse Doherty: What percentage? We know that one third of Aviva's customers would be better off going on to the Internet instead of accepting the renewal quote.

Mr. Declan O'Rourke: I do not have that number right now. We do not tend to look at the

business like that.

Deputy Pearse Doherty: I want to go back to dual pricing. What I heard from the industry was that this is the incentive that is offered for new business. It is a good line but that is not what dual pricing is about. It is about identifying behavioural change and punishing loyalty. It is not about incentives for new businesses but the fact that the companies employ people who have skills related to the behavioural attitudes of their customers and looking at algorithms to identify people who are more likely to renew automatically, and punishing them with higher premiums. Would that not be a fair summary of what dual pricing is?

Mr. Declan O'Rourke: That is what it would be considered to be in the industry. It is not something AIG does.

Deputy Pearse Doherty: Does Aviva do it?

Mr. Brian Mahon: We do not have any dedicated personnel for differential pricing. A good number of our customers receive a lower price at renewal than new business. Some receive higher but on average, it is 3%. It is not to generate profit but a profit neutral initiative to generate competition in the market and try to attract more customers.

Deputy Pearse Doherty: Mr. Mahon says Aviva does not have anybody dedicated to this practice.

Mr. Brian Mahon: That is correct.

Deputy Pearse Doherty: Did Aviva not recently advertise to recruit a head of price optimisation?

Mr. Brian Mahon: That was for a head of actuarial function, on the reserving side.

Deputy Pearse Doherty: I have the document here and can read it to Mr. Mahon. One of the skills required was understanding the behavioural attitude of the customers.

Mr. Brian Mahon: We did not hire someone to lead on price optimisation. We have a team within Aviva and, on average, half of one full-time employee per month would look at our retention and renewal models.

Deputy Pearse Doherty: Here is the document. Aviva was hiring a "GI Pricing Team Leader". The job is described as expired because it is now filled, for a person that Mr. Mahon tells me does not exist. The description states that a number of price leads are being recruited in both the personal and commercial lines, so there was not just one but a number. It goes on to state that Aviva would like the applicant to have knowledge and experience of the full range of standards, risk modelling, customer behaviour modelling and price optimisation.

Mr. Brian Mahon: The Deputy has described a pricing team leader. That is not a dedicated price optimisation person, which is the question the Deputy asked. They have some of the skills but a number of skills are required for our pricing team.

Deputy Pearse Doherty: The document also states that Aviva would like the applicant to, "Support the UK based Technical Pricing & Analytics function in the development of best in class technical pricing and customer behavior models for the Irish market." Do the witnesses want to have another try?

Mr. John Quinlan: These are models that are used by every insurance company.

Deputy Pearse Doherty: That is fine but do not tell me that there is nobody working on this within the industry.

Mr. John Quinlan: We have nobody working to optimise pricing to penalise loyal customers. That is absolutely not true. We outlined a process where, to stimulate competition in the marketplace, there can be a difference between a new price offer and a renewal, but over the lifetime of the policyholder, the customer will pay the same amount. Can a person play the system by pretending to be new versus renewal? Potentially. We have seen fronting in the past. It is not our intention to treat our loyal customers unfairly.

Deputy Pearse Doherty: I am not asking about the incentives for new customers, which is common in the industry. Why is Aviva recruiting people who need experience in customer behavioural models? Is Aviva recruiting people who have to have experience in customer behavioural models? Is it not the case that the Financial Conduct Authority, FCA, report, which Aviva is involved in across the water, states that if people renew with an insurance company they are likely to be penalised in their premium? Let me quote some statistics: a person who renews four times with the same company will pay on average 20% more as a loyalty premium. That will be 28% if they renew five times and up to 40% if they renew over ten times. This is a result of price customisation or what is called dual pricing, something that Aviva has just recruited.

Mr. John Quinlan: We have led the research on this in our biggest market, the UK. We have a dedicated team on Aviva plus where renewals and new business are exactly the same. That pilot is one year old. The figures are not encouraging in terms of getting more business. People like to shop around and they like the dynamic of going in with a lower new business price knowing that they will pay more over time. We are certainly not hiring people to play any fast tricks with consumer behaviour. There is a broad definition of consumer behaviour, including where people live, fewer buying houses, new types of cover, etc. It certainly is not to penalise our customers in any way.

Deputy Pearse Doherty: Does Mr. Quinlan accept that if a person renews with the company on average, because of these algorithms and because of identifying customer behaviour, he or she will pay an additional 20% on the premium?

Mr. John Quinlan: I could not accept those figures without doing the research that underpins them.

Deputy Pearse Doherty: They are the FCA's figures.

Mr. John Quinlan: I cannot accept them when I have not reviewed them.

Deputy Pearse Doherty: Would he suggest that is broadly what the FCA is examining? Has he heard, for example, that if a person renews ten times or more he or she is likely to be paying an additional 40%?

Mr. John Quinlan: I have not reviewed the research yet.

Deputy Pearse Doherty: Aviva is operating in Britain. On 1 April 2017 what new rules came in for policyholders?

Mr. John Quinlan: I am not aware.

Deputy Pearse Doherty: On 1 April 2017 was it not the case that new rules stated that customers who renew over four times with an insurance company will have to be prompted again to shop around, even though there is a requirement for every renewal policy to be prompted, but those who renew on four occasions or more need to be given an additional prompt by the insurance company to shop around for better value?

Mr. John Quinlan: I am not aware of that. I apologise.

Deputy Pearse Doherty: That has been introduced because of this information. Does Aviva do any work with Milliman, an actuarial and consultancy firm?

Mr. Brian Mahon: No, we do not.

Deputy Pearse Doherty: Are the witnesses familiar with its work?

Mr. Brian Mahon: Yes.

Deputy Pearse Doherty: It is a reputable organisation and it states that optimisation algorithms, which the witnesses agree that Aviva has, can push prices up for loyal customers who have been renewing their policies with the same insurer for a few years because the model perceives them to be less price sensitive. Is that not the model? Is that not why Aviva is talking to people with expertise in behavioural analysis, is that not the point of big data mining? The company targets individuals using these algorithms to say that this individual has renewed several times, is less price sensitive and therefore it can charge an additional premium.

Mr. Brian Mahon: We are focusing on the additional premium. Over 33% of our customers get a premium reduction and within that analysis customers are identified who receive lower prices than our new business pricing. It does come back to our wish to achieve our target retention rate. We want to achieve our average differential which is 3%. From a loyalty point of view we are monitoring very closely what we do in the UK. We would be more than happy to replicate that. Even without that we brought in a new loyalty programme over two years ago whereby we award a 15% discount for multiple product holdings and free travel insurance to our renewal customers. We do believe in rewarding loyalty within our customer base.

Deputy Pearse Doherty: Would Aviva also be open to following the practice in Britain which prompts those who renew a policy on four occasions or more to shop around?

Mr. Brian Mahon: If that was to come into this market we would support that and we are already supporting the new disclosure requirements which are coming out on 1 November for renewal regulations.

Deputy Pearse Doherty: My insurance contracts Bill will come to the Dáil for Report and Final Stages before the end of the year. It is hoped to require all insurance companies to notify their premiums over the past three years, and the claims that have been made, to bring transparency for motor and other lines of insurance. Would Aviva welcome that?

Mr. John Quinlan: We would certainly welcome full transparency. It is critical that we do not lose sight of the real issues. That is my greater concern. Full transparency from the industry is critically important and we would certainly welcome that.

Deputy Pearse Doherty: What about the other companies?

Mr. Brian Mahon: In respect of that Bill we would really appreciate a longer lead time to

bring that in.

Deputy Pearse Doherty: We understand that a lead time will be required for information technology systems to facilitate some of this work.

Mr. Anthony Brennan: All renewal notices will show last year's premium, extending that to three years-----

Deputy Pearse Doherty: Only in motor insurance, not public liability.

Mr. Anthony Brennan: We have no particular objection but there are practical points. Anything that makes the Irish market different from other markets can make it more difficult for other insurance companies to come in here. For example, the insurance disc which we are all used to and causes us no problem might be a source of friction for an insurer looking into the Irish market.

Mr. Declan O'Rourke: We would support it. I think when there is a broker involved that happens anyway in business insurance. For individuals and consumers we would have no problem with doing that.

Senator Maria Byrne: I apologise for not being here earlier, but I was in the Seanad.

I was at a meeting of a voluntary group last Friday and the cost of insurance for all community and volunteer groups was raised. The group found that when it applied for insurance for a men's shed or whatever it was almost treated as a commercial entity. Are there any plans to treat community and voluntary groups differently when they apply for insurance?

Mr. Anthony Brennan: Unfortunately, the challenge is that from the point of view of the claims environment they are no different from commercial organisations. We have recently seen claims against community groups which might not have been made years ago. The environment today is that people do take claims even against a group of people who have put their time in for free, doing valuable work for their community. That makes it very difficult for us to price any other way than by considering the cost of claims that these groups will incur and allow for that. It goes back to delivering on the cost of claims. Reducing those will help the community groups.

Mr. John Farrell: We would support that. That is why we called specifically for a review of the law of negligence because too many claims are being paid out. There are two significant problems, first, the cost of the claims in this country, which is 4.4 times that in England and Wales. That has been validated by the excellent work of the retired judge, Mr. Nicholas Kearns. Second, an additional problem for the groups the Senator speaks about is the sheer frequency of claims and the fact that every accident now requires compensation. It is part of the "compo" culture. We are calling for a fresh review to determine what can be done so that payments are made only where actual negligence happens. That is critical to help in that area.

Deputy Pearse Doherty: The witnesses have to acknowledge that the frequency of claims has been reduced by 25% over the past four years. There are arguments the witnesses can make but they need to talk about it in facts instead of spin. I am sorry to interrupt.

Mr. John Farrell: I referred to the reduction in frequency of motor claims. That has not been our experience in the area of liability. We have seen increases in the frequency of liability claims and in their cost. It is a twofold problem that underpins why groups the Senator refers

to have such real problems in the affordability and availability of insurance. Until we address that as a real problem these groups will be left in trouble.

Mr. Declan O'Rourke: We have to consider the claims. Two of my children fractured their fingers this summer playing hurling and camogie. They went to the local clinic, the finger was strapped up and they were back playing in a few weeks. A fractured finger is not a big deal but if someone is responsible for it or it happens in a play centre or a men's shed, according to the book of quantum in Ireland, a fractured finger with no long-term complications is worth €17,500. One can expect to spend €10,000 on the complainant fees, while the defence fees will be €3,000, all for a fractured finger that will be fine in a few weeks in uncomplicated cases and which thousands of children get playing hurling every Sunday. Two of my kids had them this summer.

Chairman: I assume there was no claim arising. That should be made clear.

Mr. Declan O'Rourke: Yes. There was an argument that they wanted to get back more quickly. A private clinic tries to get people to have an MRI and one has to tell them an X-ray is fine as it is not so serious. We sought the view of our claims managers throughout Europe of what would happen in their country. In comparison to the 17,500 whiplash cases in Ireland, there were 4,100 in the UK and the legal fees were €932. A lawyer needs to find ten broken fingers in the UK to pay for one in Ireland. Germany has more people in its court system and not so much of it is outsourced to lawyers but the injury value was €1,500 while legal fees were €250. In a men's shed, a broken finger is a common injury and the book of quantum has to change as regards these awards.

Senator Kieran O'Donnell: I have been looking at previous profit figures. Is AIG Insurance part of the AIG Europe group?

Mr. Declan O'Rourke: Yes. We are a branch of the European business.

Senator Kieran O'Donnell: Mr. O'Rourke said there were €30 million in losses on €280 million of premiums. Is there a group management charge from AIG Europe that is distorting the figures?

Mr. Owen Kelly: We pay 3% as a global service fee to our parent in Europe.

Senator Kieran O'Donnell: So the figure for losses of €30 million is not distorted.

Mr. Declan O'Rourke: No. The fee is for listing, for a financial strength rating or compliance-----

Senator Kieran O'Donnell: AIG is a bit of an outlier in the insurance industry in Ireland in that it made a loss of €30 million in 2018, while all the other insurance companies appear to have made substantial profits. Is this because it is a member of AIG Europe?

Mr. Declan O'Rourke: No. It has nothing to do with it.

Senator Kieran O'Donnell: My next questions are for Aviva and Zurich. In 2018 the normal target margin was 5% but Aviva made 11.4% and Zurich 8.98%. Aviva made superprofits of €33 million and Zurich €12 million, which are 6% and 4%, respectively. Axa was before us, as were FPD and Allianz. In total, the five companies other than AIG made superprofits of over €122 million in 2018. We have spoken about claims and legal fees but, given that the companies are making margins way in excess of their target margins, why are they not reducing

fees? They are saying they will only reduce premiums when they keep the 5% margin. Why are Aviva and Zurich not passing back these superprofits, of €33 million and €12 million, respectively, to customers in the form of reduced premiums? Why do many customers feel they are being ripped off by insurance companies?

Mr. John Quinlan: We have discussed transparency this morning. We often pay claims seven years down the road and we are not making superprofits. If we were, there would be far more competition from companies interested in participating in the Irish market. Our figures for 2012-18 suggest we are making a 97% core, which is 2% below our target. It was 101% in 2012 but 92% in 2018. For motor insurance we wrote €1.2 billion between 2012 and 2018 and made a €14 million underwriting profit, €71 million in total, which is a gross return of 1.7% and nothing like 5%. Our liability was €400 million.

I was asked about claims increases but we lost €37 million on that figure at underwriting level, and lost €10 million of the total, yet I am trying to convince the group to stay with Ireland and to keep deploying capital. We are certainly not making supranormal profits. We need to make sure we are here to pay the claims of the future. Quinn Insurance cost us €2 billion because the premiums were not right. We will pass back profits as soon as we can see the reductions in average claim cost.

Senator Kieran O'Donnell: Mr. Quinlan is putting all the onus back on fraudulent claims and legal fees. How long does it typically take for an insurance claim to be settled?

Mr. John Quinlan: It depends on the claim. Property claims have a very short timeline.

Senator Kieran O'Donnell: Is it less than six years?

Mr. John Farrell: On average, liability takes six years but we are dealing with some claims that are 15 years old.

Mr. Anthony Brennan: We had a 6% margin in 2018. On top of that is investment income, which is the money we put aside to put back into our business and into reserves we all need to hold. A lot of claims take a long time to pay back so I would not describe our figures as superprofits. There have been reductions in home and motor insurance but not liability, which is a problem for us and a challenging area. The reductions will feed through to lower margins in the years to come and the danger of us of getting back into a boom and bust cycle, in which we compete strongly with each other, is that we drive the margin down to a level at which we start making losses again and require premium increases. Customers want stability. They all want reductions in premiums but they do not want big increases followed by big reductions. We plan for a sustainable level of profit and we plan three years ahead. I look at the profit level in three years' time and it will be a bit lower than 2018, which means I need to grow my business. I want to get into more lines of business because that will mean the cost of claims becomes more reliable and more predictable.

Senator Kieran O'Donnell: The general public are being told by insurance companies that it is a tough environment but according to the 2018 profits, five or six companies were making a very health profit. The average person will ask why their premiums are so high. It is a legitimate question and I ask the insurance company to look at premiums for hard-pressed customers, though I accept they have to make a profit. They need to ensure cover is provided across many areas, because people in leisure, crèches and the SME sector cannot get insurance. That is unacceptable.

Chairman: We will consider the Senator's points in the context of a short report, after these sessions.

Deputy Eugene Murphy: A lot of the discussion before I had to leave for another meeting centred on fraudulent claims, which seems to be a massive issue. Fraudulent claims, however, involve not one person but two. What responsibility do the insurance companies have to the legal representative of a claimant when an allegedly fraudulent claim comes before them? I would welcome a response from each of the witnesses to that question.

Mr. John Farrell: Is the Deputy asking if the insurance companies have a responsibility with regard to the legal representative of the claimant?

Deputy Eugene Murphy: Yes. In most cases, a claimant will have a legal representative. Where a claim is identified as fraudulent, do the insurance companies have any responsibility in regard to the legal representative in that case or is that a matter for the law?

Mr. John Farrell: In the first instance, we have deployed substantial resources in this area. We have employed 30 dedicated staff to handle specifically fraud cases, backed up by a network of 50 personnel to carry out comprehensive investigations. Fraudsters need enablers. They cannot put forward fraudulent claims on their own. They need and get assistance from various professionals. We would ask those professionals to look closely at claims to ensure there is proper behaviour and that in addition to us they are carrying out significant investigation into claims. In terms of the cases getting to court, it is a little difficult to believe that some of the people who are involved were not aware that there were grounds for suspicion.

Deputy Eugene Murphy: In how many cases per annum to date has it been expressed in court that a legal representative did wrong?

Mr. John Farrell: I cannot recall where it has been said in court that a legal representative had done wrong.

Deputy Eugene Murphy: Mr. Farrell is saying they are not being held responsible.

Mr. John Farrell: My point is that if the fraudsters were not enabled with professional assistance, they could not bring these claims through the system and they certainly could not get them paid. We have deployed our resources and made our investment. We will make a further investment, but we need help in this area. We call on the various professional organisations that provide professional assistance to examine what is going on and to carry out investigations similar to those carried out by the insurance companies so that they can address these suspicious events.

Deputy Eugene Murphy: When an insurance company receives a case from a legal representative which appears to be odd or out of the ordinary, does the insurance company have a responsibility to immediately bring that matter to the attention of the Law Society?

Mr. John Farrell: Where we become aware of a matter which is potentially fraudulent, which we believe would be of material assistance to the Garda, we are required to make that report under section 19. In the past, we have exercised that responsibility.

Deputy Eugene Murphy: I would welcome a response on those issues from the other witnesses.

Mr. John Quinlan: From memory, the first time I heard a judge comment on the role of

a professional was in a recent case presided over by a female judge, which was a gross case of fraud. We would welcome tighter restrictions on all professions in terms of bringing cases and a duty of care to ensure that there is no exaggeration of claims and no sense of fraudulent behaviour.

Mr. Anthony Brennan: It is an adversarial system. We are in the business of paying valid claims. All claimants are entitled to representation. We have to assume that claimants are going to be professionally represented. It is an adversarial process and we do not always agree with the people on the other side of the bench. For us to report to the Law Society would be very difficult. These issues are more appropriately addressed to the courts, to which one or two cases have been referred recently.

Mr. Declan O'Rourke: We have never seen any solicitor taken to task in regard to any particular representation.

Deputy Eugene Murphy: Do all of the insurance companies represented today provide flood insurance?

Mr. John Quinlan: We do.

Mr. Anthony Brennan: We do.

Deputy Eugene Murphy: How difficult is that in the context of climate change? In my constituency, people who have been hit by flooding have made claims which, in fairness, have been paid but they are now finding it difficult to have their insurance renewed, even where there may have been works carried out by the local authority and so on.

Mr. Brian Mahon: We work closely with the Office of Public Works, OPW, and the local authorities in regard to areas where works have been carried out. We need greater information sharing on the part of the OPW in regard to works carried out such that we can recognise them. We have had some representations from various Members of the Oireachtas. Once we are able to verify that works have been done, we are more than happy to reinstate cover if we are not offering it in a particular area.

Mr. Anthony Brennan: There is a process in place in terms of working with the OPW. The OPW is doing some great work but it needs to share the information with us as quickly as possible to allow us to update our understanding of the risk involved. Where permanent defences have been installed, it is much easier for us to step in and offer flood cover again. Temporary defences cause challenges because we need to understand exactly how they will work in a period of stress.

Chairman: I thank the witnesses for their responses and for attending today's meeting.

The joint committee adjourned at 1.25 p.m. until 2 p.m. on Tuesday, 15 October 2019.