

DÁIL ÉIREANN

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

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

Dé Céadaoin, 16 Nollaig 2020

Wednesday, 16 December 2020

Tháinig an Comhchoiste le chéile ag 2 p.m.

The Joint Committee met at 2 p.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí/Senators
Mick Barry,	Pat Casey,
Pearse Doherty,	Aidan Davitt,
Bernard J. Durkan,	Alice-Mary Higgins,
Mairéad Farrell,	Marie Sherlock.
Jim O'Callaghan,	
Neale Richmond,	
Peadar Tóibín.	

I láthair/In attendance: Senator Ollie Crowe.

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

Insurance Issues: Minister of State at the Department of Finance

Chairman: I ask members and all present to turn off their mobile telephones. If the Minister of State, Deputy Fleming, wishes to remove his mask when making his contribution, it might make it easier for the recording of the meeting. We are dealing with insurance issues.

On privilege, those who are in attendance in the House or in the precincts of the Dáil are covered by privilege. Members who are not are not covered by privilege. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing 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 welcome the Minister of State, Deputy Fleming. You are a regular attender with your officials. I invite you to make your opening statement.

Minister of State at the Department of Finance (Deputy Sean Fleming): I thank the committee for the invitation to appear before it today to give it an overall view of the Government's new insurance reform agenda. This marks the first time I will do so in my role both as Minister of State with special responsibility for financial services, credit unions and insurance and as a member of the new subgroup on insurance reform under the Cabinet committee on economic recovery and investment. It is important to listen to and consider the views of as many key stakeholders as possible. This committee plays an important role in holding the Government to account in this regard. Accordingly, I look forward to today's engagement on this issue.

Since taking up my appointment in July 2020, I have had a series of meetings with a number of key stakeholders. These include the chief executive officers, CEOs, of the largest insurance companies in the Irish market, the Alliance for Insurance Reform, the State Claims Agency, Insurance Ireland, the Law Society of Ireland, the Bar Council of Ireland, the Central Bank, Brokers Ireland, Irish Public Bodies Mutual Insurances Limited and the Motor Insurers Bureau of Ireland. I discussed with them the Government's insurance reform agenda and asked them to outline what opportunities and challenges they see at present. I hope I will hear the committee's views today on the various opportunities and challenges, as all Members of the House have a common interest in moving forward on the insurance agenda.

Members will be aware that much work has taken place in the area of insurance reform over the past four years. Indeed, in 2016, the committee produced its own report on the cost of motor insurance, which fed into the cost of insurance working group's report in the Department of Finance. Both the committee and the cost of insurance working group found that there is no single policy or legislative fix to remedy the cost and availability of insurance. This position remains true.

I will outline progress to date on the cost of insurance working group reforms. Members will be aware that this group published its last progress report on 30 October 2020. It showed that the majority of its recommendations were implemented. These included improved transparency through the introduction of the national claims information database, the implementation of the Personal Injuries Commission recommendation to replace the book of quantum with the new personal injuries guidelines, the strengthening of requirements to co-operate with

PIAB and civil liability law changes to make it more difficult to make fraudulent claims.

It has been shown that these reforms have largely stabilised the motor insurance market. The data from the CSO and EUROSTAT show reductions in the cost of private motor insurance of about one third since 2016. I would like to recognise the contribution of all sides of the House on this issue. Without cross-party support, I genuinely believe many of the issues might not have been able to be progressed to the extent that they have. This is an example of how, when we work closely together, we can make progress.

Nevertheless, more needs to be done. We are all aware of the stories from businesses, charities, voluntary groups, childcare operators and leisure operators of the increase in public liability insurance. This includes a series of inconsistent awards levels for injuries. In some cases, injuries appear to be relatively minor but this inevitably creates difficulties for the businesses, such as crèches and play centres, in securing insurance thereafter. In addition, data from the national claims information database demonstrates that Personal Injuries Assessment Board, PIAB, settlements in recent years continued to decrease. This is despite it being shown that PIAB represents a much more cost-efficient and time-efficient settlement channel than going through litigation.

Our economy and society need a stable and affordable insurance environment. The programme for Government recognises this and sets out a range of commitments to reform the insurance sector in Ireland, including reducing the size of personal injury awards, increasing competition through new entrants and enforcement, improving transparency and minimising the need for costly litigation through reforming the system.

It was also recognised that, to address these issues, a whole-of-government approach was needed. In order to achieve this and to elevate the reform agenda to a group closer to the Cabinet, the Government decided that a subgroup on insurance reform, under the Cabinet Committee on Economic Recovery and Investment, would be the most effective vehicle to drive the implementation of these commitments. The subgroup was formally established at the end of September and is chaired by the Tánaiste, and it also includes the Ministers, Deputies Donohoe, Michael McGrath, McEntee and O’Gorman, the Minister of State, Deputy Troy, and myself.

One of the first tasks of the subgroup was to commence progressing a number of key areas of reform and to produce an action plan. The plan was launched on 8 December by the Tánaiste, the Minister, Deputy McEntee, the Minister of State, Deputy Smyth, and myself. The action plan has generally been well received. It recognises a number of the key issues where progress is needed in the short term and we anticipate that 97% of these actions will be completed by the end of 2021. The subgroup will continue to meet on a regular basis to monitor the ongoing implementation of those actions due in 2021, and the small number that fall into 2022.

The action plan sets out 62 actions to bring down costs for consumers and businesses, introduce more competition into the market, prevent fraud and reduce the burden on businesses and community and voluntary organisations. The action plan will replace the book of quantum with new guidelines on the appropriate level of personal injury awards. It will enhance the role of PIAB. It will examine the duty of care to strengthen waivers and notices in order to increase protection for consumers, businesses, sporting clubs and community groups. It will further strengthen transparency through the expansion of the national claims information database and monitor whether personal injury awards need to be capped. It will reduce insurance fraud, including by placing perjury on a statutory footing, making the offence easier to prosecute. It will strengthen the enforcement powers of the Competition and Consumer Protection Commis-

sion, examine dual pricing and establish an office within the Government to encourage greater insurance market competition.

I will provide an overview of the plan's principal aims. First, members will be aware that the Judicial Council has been tasked with adopting new guidelines as to the appropriate level of court awards in personal injury actions. The new guidelines must be adopted by the Judicial Council no later than 31 July 2021, which is three months earlier than had originally been planned. While I do not have any influence on these guidelines, I believe that at the very least they will bring both certainty and clarity to the settlement of personal injury actions in the courts. I further believe that since PIAB assessment levels will also be based on these new guidelines, there will be less incentive for claimants to reject a PIAB settlement and proceed to litigation. The action plan seeks to examine the duty of care to strengthen waivers and notices to increase protection for consumers, businesses, sporting clubs and community groups. The Department of Justice is reviewing the legislation in this respect and will bring its findings, including any recommendations, to the subgroup in the very near future.

It is also important to progress the Perjury and Related Offences Bill 2018, which it is hoped can be passed by the Oireachtas in early 2021. For the first time, there will be a statutory offence of perjury which will make it a criminal offence. It is expected to have a significant deterrent effect in regard to fraudulent insurance claims, particularly if these claims are being made attractive. The Department of Justice is also increasing co-ordination and co-operation between the Garda and the industry, and examining the publication of insurance data fraud details.

The national claims information database reports have shown the clear benefits of PIAB to consumers. It plays a critical role in the success of what we are trying to do. We have seen its impact previously in regard to the cost of insurance and we hope it will have a similar impact again. The Minister of State, Deputy Troy, is considering the role and remit of PIAB and, in particular, how to increase the number of cases which are settled by PIAB without having to go through the recourse of litigation. It is also worth noting the national claims information database report and that PIAB has commenced an advertising initiative recently to increase awareness of the clear benefits of using PIAB.

Encouraging competition in the insurance sector is another innovation in this action plan, and it is one that I believe can benefit the industry as much as it will benefit consumers going forward. In this regard, I am pleased that an office has been established within the Department of Finance tasked with encouraging greater competition in the insurance sector. I believe this can provide a far more joined-up approach between State bodies in the area and will adopt a strategic approach to reduce existing barriers to competition. I chaired the first meeting of this office yesterday. We will be holding regular meetings and reporting on the ongoing work of this office to the Cabinet subgroup.

Linked to this, the action plan contains a number of important actions to strengthen competition enforcement. In this regard, the Department of Enterprise, Trade and Employment is currently preparing the draft general scheme of a competition (amendment) Bill. The Bill will include the transposition of the relevant EU directive, which will represent a step change in competition enforcement in Ireland. Included in the provisions are a new civil enforcement regime for the Competition and Consumer Protection Commission. This will include the power to levy significant administrative sanctions, arrange for statutory immunity and leniency and measures to enhance the enforcement of competition law in Ireland.

As members will be aware, on Monday the Central Bank published its interim report on

differential pricing in the motor and home insurance sector. I know this is an issue that is important to members of the committee and I believe it needs to be considered further. That said, we need to recognise that the interim report notes the issue is complex, and there are winners and losers. I believe, therefore, it is sensible to await the outcome of the Central Bank's full review before deciding what action is required with regard to dual pricing. That report will be completed in the coming year.

In conclusion, I remind members of the commitment Insurance Ireland made to this committee that if award levels came down, so would the premiums charged by its members. I believe this continues to be a very important statement, and it is a commitment the Government intends to hold the insurance industry to. Yesterday, I met with Insurance Ireland and also with the Alliance for Insurance Reform. As we begin to emerge from Covid-19 next year, I believe the industry will play a key role in helping to reopen the economy and wider society. I believe that should costs fall for insurers, whether as a result of the reforms or through lower claims costs as a result of the pandemic, insurers need to reflect these savings to their customers. I believe this is consistent with the previous statement by the industry that it should treat its customers honestly and fairly at all times. In that regard, I am personally writing to the CEOs of the main insurers in the State within the next week to outline my views and to ask for a further commitment on how these reforms may reduce premiums.

I hope I have outlined a number of the key elements of our work. I believe last week's launch demonstrates this is an issue the Government will prioritise. Once implemented, the key reforms should begin to ease affordability and availability difficulties that consumers and businesses have been experiencing. I would welcome the views of members and I am open to questions.

Deputy Jim O'Callaghan: I thank the Minister of State. The Government obviously has a lot of actions set out, as described in the Minister of State's opening statement. I commend and support the approach of the Government. In summary, it appears to be the case that if we can reduce the size of awards, stop or reduce significantly fraudulent claims, and reduce legal fees, premiums will inevitably come down afterwards. The Minister of State mentioned in his opening statement that Insurance Ireland said that if the size of awards decreased, there would be a reduction in premiums. A reduction in premiums is the objective of everyone here. How confident is the Minister of State that once we reduce the value of awards and legal fees and get tougher on fraudulent claims, premiums will come down? Is it simply a commitment that was given by the insurance industry to the Minister of State and this committee?

Deputy Sean Fleming: The representatives gave that assurance to this committee publicly on behalf of the insurance companies they represent. They gave it directly to the Department of Finance more recently. In my meetings with insurance industry representatives over the past two months, I referred to the action plan for insurance, with its specific deadlines. The vast majority of the actions are to be completed within 12 months. I am now writing to representatives with the action plan on the basis that it is to be implemented in light of a commitment on premiums. I am writing to those concerned on a one-to-one basis and I will get responses back on a one-to-one basis early in the new year. I cannot operate collectively because it could be seen that there is a cartel or an effort to fix prices. Second, the Government cannot dictate prices in the insurance market. Therefore, my work and the work of the new office promoting competition will be to deal with the insurance companies on a one-to-one basis because doing so collectively could be seen as a breach of competition rules and regulations. I await responses to my letter, which I am sending out to members of the industry this week with the action plan.

When I receive information back, I will be happy to share it on an industry-wide basis but not on a company-by-company basis.

Deputy Jim O'Callaghan: Regarding the industry as opposed to the claims area and the courts, one of the objectives is to improve and increase competition. Is that correct?

Deputy Sean Fleming: Yes.

Deputy Jim O'Callaghan: When it comes to assessing how much premiums should be, it should be realised that insurance is a very effective industry and it is very difficult to assess whether there is "price gouging" going on unless there is a broader and more detailed view of the insurance industry itself. Is the Government considering any proposals in respect of requiring greater disclosure from insurance companies regarding, for instance, their profits and how much is paid out in awards on foot of premiums?

Deputy Sean Fleming: There are two halves to that question. The second half concerns information on profitability and costs. The Central Bank of Ireland is the regulator and has complete access to all that information on a company-by-company basis. Part of our work will involve greater liaison with the Central Bank from a governance point of view without interfering with its independence or regulatory role. It has much data and information. We saw this with the dual-pricing report issued last week. The Central Bank has a mountain of information that can be of help to policymakers without requiring discussions between us and the Central Bank that cut across its independent regulatory role. We will be able to get that information.

I have stated in the action plan that we want a breakdown of all the costs associated with what makes up an insurance premium. For example, it goes without saying that claims are the main element. Legal fees and company overheads are significant, as are the companies' profit margins. The reinsurance moneys paid are interesting because, of the top eight or nine insurance companies I met, which represent more than 90% of the insurance market in Ireland, only one is locally owned. One can take it that practically all the insurance policies being written in Ireland for cars, houses and businesses are being written by foreign multinationals selling into the Irish market. That means two things. While the companies are big employers, employing 28,000 in the sector, they are mobile. The main message I got from them in meetings was that up to now, Ireland has been a volatile market. There have been ups and downs, and profits and losses can vary depending on what happens. As a result of what has happened in the industry in recent years, every policyholder in Ireland has been lumped with 5% as part of his or her premium to cover stamp duty and levies, primarily as a result of what happened more recently with Quinn Insurance. Prior to that, we had the PMPA. If we go back far enough, we had the Insurance Corporation of Ireland. A point that might never have been made publicly before is that Ireland has a bad history when it comes to its own insurance companies. There is only one of any substance today, FBD. Every other insurance policy provider in Ireland is not an Irish company. That is a major issue and it has added to the volatility of the Irish market.

It also leads to a second issue, which is related to getting further information on costs of the insurance companies. In one-to-one discussions with me, the representatives of some of the companies were relatively open, or as open as they could be given that they could be quoted on stock markets. There is a certain amount of information they cannot disclose. Some of the individual companies were much less open because they were not in a position to breach arrangements with their organisation's head office. I queried every one of the companies on the cost of reinsurance, which tends to be about 10%, based on the information I picked up. Some of the companies say they are in the market for reinsurance and that they can show me how

they get it. I asked how they fix what they pay for reinsurance. One said that the head office in Zurich just states what the figure is. These are the issues I am now dealing with, especially when the companies are not home-grown. I want to make sure that the payments to the head office do not include an element of profit on top of the normal dividends.

The last two costs I want to concentrate on are the costs of fraud and exaggerated cases, which have been difficult to prosecute in the past. Notably, I met representatives of the Motor Insurers' Bureau of Ireland last week and they told me that, on the day, there were 165,000 uninsured drivers on the Irish roads. That is 7% of all cars here. They are uninsured or those driving are not insured to drive them. The cost has to be met by the people who are paying for policies. That is why there is a levy to cover some of the costs of the Motor of Insurance Bureau of Ireland. There are significant elements making up the cost a driver's premium, which may be €500. Claims are a major issue. That is what we are delving into now. I have given the Deputy a flavour of the work we are doing.

Deputy Jim O'Callaghan: I thank the Minister of State. I have just one more question. We know from the report of the Central Bank that when a claimant goes to PIAB, legal fees are modest, but that when they go beyond PIAB to the courts, there is a significant increase in legal fees. Has the Minister of State any proposals to put more pressure on claimants or encourage them to accept awards from PIAB as opposed to going to PIAB and straight to court afterwards?

Deputy Sean Fleming: I have met representatives of the Law Society of Ireland and the Bar Council of Ireland on that issue. Their view is that their members are brought in only if a client comes to them. They say their members are not out looking for business. That is a moot point but what we are doing, as part of a key element, is engaging in PIAB reform. Under the action plan, there is to be public consultation in the first quarter of next year. By June 2021, we will have legislative proposals to reform PIAB. We want it to be the case that when people bring cases to PIAB, they should know that it is the end of the road, by and large, and that by going to court, they will not get any more.

This brings me directly to the book of quantum. Some people believe that if they go to court, they might get a bigger award. They might get an extra 5% but it is minimal because there are substantial legal costs when going to court. Therefore, the book of quantum is the issue. It has been set by PIAB but people feel that if they go to court, they might get more. What is happening now, which is already well under way owing to previous legislation, is that the book of quantum is going to be set by the Judicial Council. The last Government had legislation in place. The council was to report by the end of October next year. When the council sets the book of quantum, everyone will know it is fixed because it will have been set by the judges. The judges are not going to set it and have it changed when people go to court after going to PIAB. Due to the work we have already achieved, we passed legislation in the House last month that brings forward the date for the Judicial Council's report from the end of October next year to the end of July of next year. We have brought it forward by three months. That and the PIAB legislation work together.

Deputy Jim O'Callaghan: I thank the Chair and the Minister of State. I am finished.

Deputy Peadar Tóibín: I welcome this plan of action being put in place. Many people, however, may feel that there has been much talk about insurance in recent years but not the necessary level of action. They might also think that there is an element of horizon politics at work, because these initiatives are still on the horizon and in the future. If we look at many sectors of the economy, the structure of the market itself has enormous influence on how those

sectors function, whether that is in housing, banking, the beef industry or insurance. Those are dysfunctional markets, to a certain extent, in that a small number of players exert enormous influence. Six car insurers have 80% of the market, while eight insurers have about 90% of the market in house insurance. Even if we do not bring in the Competition and Consumer Protection Commission, the structure of that market is not one which a Government should be looking to create. We should be seeking to create a far more diverse market so that there is more competition and there are more opportunities for people. What is going to be done to increase the number of players within the market?

There has also been an EU investigation into the insurance market here, and the Competition and Consumer Protection Commission has carried out an investigation. What plans are there to strengthen the ability of that agency to ensure there is functional competition? Another issue is that there are no caps on claims. I understand the absence of a cap in a catastrophic accident case scenario, because that kind of situation would necessitate some judicial understanding of the needs of individuals before making a decision. For 80% of cases, however, those which are run of the mill, such as soft tissue type of accidents, we should be introducing a cap. Why has that not happened? In February, Deputy Michael McGrath, who is now Minister for Public Expenditure and Reform, said he would be bringing in caps. Why has that not been brought into place in this plan? Perhaps the Minister of State could address those three questions first.

Deputy Sean Fleming: That is fine. The first aspect concerns getting more players and competition into the market so that we will not be just relying on eight or ten insurance companies. That is exactly the reason the new office was established. It was created to promote competition and it held its first meeting yesterday. We saw that one of the key problems was exactly as the Deputy described it. The structure of the market is very small and dependent on companies from outside the State. That is our number one objective.

I chaired the first meeting of that committee yesterday, and that is an aspect on which I would be happy to come back to the committee and report on. It has been set up specifically in respect of the purpose mentioned by the Deputy. If we achieve much of what is in the action plan, that in itself will help. Bringing a bit of stability to the market will be the best way of attracting new businesses into Ireland. If companies feel that the market here is one where it is not possible for them to predict awards and costs, then that is going to put companies off coming here.

Turning to the second issue, I have also noticed in my meetings with the companies that some of them have scaled back their activities. The representatives from those companies told us that they had been big in the leisure and hospitality areas, but there were so many trips and falls and people crossing the thresholds of businesses that they had been scaling back their activities. Others, however, have increased their activity in the market. Some car insurance companies told us that they have scaled back on providing insurance for those aged under 25 years old, while another company has heavily stepped into that same market. We can, therefore, increase competition in the various insurance sectors by getting all eight or nine companies already there to compete in all the segments in the sector. The purpose of this new office is to promote competition in the Irish market, by bringing in new businesses and getting those currently in the field to do more business. Those companies, however, will want a stable market in respect of the cost of claims. Regarding the EU agency issue mentioned by the Deputy, I do not have the answer in front of me now. We will send a note on that issue to the committee, if that is okay. I might get a note on it now, but I will give a comprehensive answer in writing in any event.

Turning to the cap on claims, that is something which many people before the previous election, including us, said would be considered. We said it would be “considered”. That was the word used, because nobody could make a blanket statement that we would guarantee to do something. That is because there may be constitutional implications, especially for the very catastrophic cases. A young child involved in a car accident could live for 60 or 70 years. Who can know that? The Law Reform Commission recently published a report on that specific issue. That report is independent of all of us and we will be guided by it. It is stated in that report that we could pass legislation to set awards at a particular level based on the level of injuries, provided that a judge stepping outside those awards in exceptional cases had to state the exact reasons for doing so.

The idea of having an absolute cap could require a constitutional amendment. Some people will say that would be great, and it would allow certainty in 99% of cases and flexibility in 1% of those cases where judges require it. Other people might suggest that once some people get their foot in the door with the 1% flexibility, there will then be expansion. We are therefore being guided by the report of the Law Reform Commission. Having the Judicial Council set the book of quantum will ensure that it will be written by the judges, and the people will know that. When claimants go to the PIAB seeking awards, they will know that it is not an award which the PIAB made up but an award which the Judicial Council has given to the PIAB to implement according to the book of quantum document. There will be little incentive to take that award before the judges who have already written that book of quantum.

Deputy Peadar Tóibín: If there is flexibility for judges on payouts, then there may still be an incentive because an individual judge could still deviate from the book of quantum. As a result, a space is left for the possibility of expansion, to which the Minister of State referred, to remain.

Deputy Sean Fleming: The only way of absolutely removing discretion from the Judiciary, however, is by constitutional amendment, and that is an issue. Some people might agree with doing that, but others might cite the example the Deputy gave at the beginning of a catastrophic case in which it is estimated that a person might live for 50 years when an award is being settled, but it might turn out that he or she lives for 70 years. Setting awards in catastrophic injury cases is a difficult issue to resolve. We cannot have caps for 99% of the cases and then an exception for the other 1%. It would be difficult to do, but the constitutional amendment aspect is something that can still be looked at.

Deputy Peadar Tóibín: That is fine.

Deputy Sean Fleming: A constitutional amendment would, however, be required to provide for a legally binding set of awards in respect of the Judiciary.

Deputy Peadar Tóibín: According to previous figures I have looked at, insurance companies often have a low rate of pursuance of claims and testing them to the full extent. One of the reasons the companies claim that is difficult is obviously the costs involved. I have seen cases where the legal costs could be €20,000 while the claim could be about the same. There is a decision to be made regarding whether it is worthwhile to continue a case in that kind of circumstance. How will it be possible within the courts system to reduce the costs faced in challenging claims which could be spurious?

Deputy Sean Fleming: If there is certainty regarding the level of awards, then the insurance companies will feel they are on firmer ground going into the courts. As the Deputy said,

some insurance companies are currently shy about going to court and they pay to settle cases. Representatives from Insurance Ireland told me yesterday that its members accept 90% of PIAB settlements while challenging 10%. The reason those companies probably do not challenge enough is that, in general, they feel that the courts are on the side of the claimant rather than a foreign multinational insurance company. That is the perception of the insurance companies regarding how they think cases will be looked at in the courts. The best way out of that situation is having the book of quantum being written by the judges themselves. I think everybody knows that it will be enforced by the judges if they write it.

Deputy Peadar Tóibín: I urge the Minister of State to increase the pace of delivery on these elements, because we have been looking at each other and talking about this issue for several years. The deficiencies in this regard have had a serious impact on small businesses throughout the country.

Deputy Bernard J. Durkan: I thank the Minister of State for coming in and for his work to date in reforming the insurance business, which continues. I wish him well in his Department. A number of questions have come to mind. Insurance companies are in a good position to maintain good cash flow. What do they do with the cash on hand? Do they invest it in short-term investment proposals or is it held in reserve? What do they do with it?

My second question is on competition. As we know, competition can be positive or negative. If an insurance company is acting irresponsibly in the way it operates - and we have had occasions of that in the past - it may create competition but this may be negative competition in the sense that other insurers may wish to follow that example, with disastrous consequences. I wish to ascertain the degree to which it will be possible to eliminate over-reliance on unsavoury or unreliable competition. I will leave it at that for now, although I have a couple more questions to ask.

Deputy Sean Fleming: With regard to competition, I have already mentioned that we are paying the price for the cheap policies that were on the market for a number of years. They were so cheap as to prevent the companies issuing them from being viable. Quinn Insurance is the most recent example of a company that went under because it did not have the necessary reserves. As a result of that, we are all paying the extra levies I mentioned. There is a 2% levy and a 3% stamp duty in place to cover the costs arising. One of these levies raises approximately €40 million per annum and comprises a percentage of every insurance premium. The legislation requires that a fund of €200 million be built up, which will then be held in reserve on the State's behalf and can be used if another insurance company goes bust so as to avoid having to introduce a new levy every time an insurance company goes bust. It will take a couple of years to build up that fund. As we speak, every policyholder in Ireland is paying for the cheap policies that were available earlier because the reserves were not there when needed. We have now had to introduce levies to build up a fund to prevent that happening again.

On cash flow, I do not have a clear answer but I will come back to the Deputy on the issue. Generally, these companies invest in Government bonds because they are looking for stability. They obviously have to hold a significant amount in reserve because the industry is regulated. They must always maintain some cash to meet current claims. I will seek further information on that issue as part of my ongoing work in my role in the Department.

Deputy Bernard J. Durkan: I thank the Minister of State. Another issue arises from those points. It was suggested to us that, during the financial crash, some insurers had made what would be regarded as unsafe investments which had the potential for dramatic short-term gains

for the companies investing but which eventually had disastrous consequences for the insurance industry and consumers. Will the Minister of State comment on that?

Deputy Sean Fleming: We covered that when discussing the company which was most recently found not to have adequate reserves. That company no longer exists. It has been taken over and other people are running the business. I compliment the company that took over the business. It has been the most keen on helping young drivers under 25 years of age. It concentrates on that market, which is good. I hope it continues in that way. The cost of insurance for young drivers is a big issue but that cost has been coming down. I have met representatives of many youth organisations and they have said that, while it remains a big issue, the costs have been coming down. The first year of insurance can be very dear but many young people have said that, by the second or third year, the cost comes down. I hope this company, which is strong in that market, continues to do as it is doing but I also want more competition. We all know that if a company makes bad investments or does not follow Central Bank regulations and ends up going to the wall, we all end up paying for it.

Deputy Bernard J. Durkan: That is true. I am glad the Minister of State mentioned that because I am concerned that, no matter what level of insurance cover is provided, if the entity providing that cover decides to invest foolishly in high-return investment proposals, it will eventually undermine the solvency of the company offering the cover, which will create a problem for insured members of the general public.

The question of capping has already been mentioned. Like everybody else, I have looked at this again and again. I am not so sure of its merits. As far as I am concerned, the jury is still out. One has no way of assessing the extent of an injury in a particular situation and how it might develop in the future. A classic example is a child receiving serious, life-altering injuries at the age of ten or 12. Such a child may receive an award that seems to be consistent with the degree of the disability arising and the need to provide a reasonable quality of follow-up services to that person but, unfortunately, with the passage of time even a high award will diminish and may be insufficient to meet modern-day demands. I and, I am sure, everybody else have seen cases in which large awards were given to children who had become wards of court. In these cases, the awards came to be less significant over time and it became very difficult to eke out sufficient funds to cater for these people, who were now adults of 45, 50 or 60 years of age. I would like such people to be borne in mind.

I have two or three last questions. I know many motor insurance claims are said to be exaggerated and that there are questions around whiplash and so on. We have looked at these issues but, at the time and the site of an accident, it is not always possible to have all information made available. The person directly involved may not be in a position to give such information and his or her recollection of the accident may be flawed due to shock or other factors. I believe we have a responsibility to look after the people who are injured in such situations and that we should try to ensure that they are not disadvantaged because, it is to be hoped, they have a life to live afterwards.

My next point relates to when an insurance company informs the insured that he or she is liable and must accept responsibility. This is classic stuff. That is an arbitrary decision on which people should be very slow to come to a conclusion. Again, the person involved in the accident, whether that accident was little or large, may not be in the best position to judge whether he or she was liable. I know that, like myself, everybody here has dealt with cases in which people asked why they were liable only to be told it was because the injured party was crossing the road at the time of the accident. There is a failure to mention that the insured party was stopped

at the time and that a vehicle coming in the other direction ploughed into them. The owners of this vehicle manage to walk off with no liability whatsoever whereas the person who followed due process, who stopped when an accident was about to occur, is held liable. That also needs to be borne in mind. The advice of the insured person's insurance company may sometimes be wrong, leading to a liability on the part of the insured which should not arise.

The Chairman will be glad to know I only have two last points. The first is on health insurance and, in particular, death benefit. Every one of us could paper the walls with correspondence on the cases we have had to deal with regarding people who were not really covered at all when one read the small print. In these cases, if the insured people had read the small print more carefully, they would have realised they were not covered. There are other cases in which people were found to have already been suffering from an illness which could then have related to their later demise. As a result, it is argued that no liability arises as far as the insurance company is concerned even though medical evidence was made available in such cases demonstrating that the person died from a totally different illness or complaint. The theory seems to be that the existing illness might have led to the later complaint and that the insurance company cannot be sure. We do not know about that and we will never know.

The last thing I want to talk about concerns drivers who were not born in this jurisdiction, although they may be Irish citizens, and who are involved in a road traffic accident. Sometimes they may not have the best English to explain themselves. Not so long ago I dealt with a case where the person was summoned to court, fined and deemed to be liable for the accident. I am not a lawyer, and I apologise to all the lawyers present and the police outside, but when I examined the case, there was no way the driver was liable as he had observed the rules. The insurance company said he was liable beyond all doubt. However, the person took the case to court and won. We went back to the insurance company stating that it had been clearly demonstrated that the insured person was not liable and asking it whether it was in a position to resolve the matter. Reluctantly, after an awful lot of hand-wringing, the result was accepted. That is the kind of everyday thing that we, as representatives, have to deal with. I am sure the Minister of State has had to deal with such cases as well. A balance must be struck between the outrageously high awards and a need to ensure the general public is protected and that the State does not have to come in help the people who should have been sufficiently provided for in the first instance by the insurers.

Deputy Sean Fleming: I take the comments on board. I have listened carefully but I do not have the answers. I refer to cases being settled by companies without the policyholder's knowledge. He or she is not told about it until he or she goes to renew the premium and finds that it has increased. On 30 September we commenced sections of the Consumer Insurance Contracts Act, as Deputy Doherty will be aware. At least there is a communication at an early stage between the insurance company and the policyholder to advise him or her about what is going on. Other elements of the legislation are scheduled to be implemented next September.

Deputy Pearse Doherty: I will pick up on the delay in respect of key sections of my legislation later.

I welcome the Minister of State to the committee and wish him well. I intend to work with him in trying to tackle some of these issues. I am concerned about the speed at which the Government moves and, indeed, the fact it is frustrating my legislation at the request of the industry but I will discuss that later.

The Minister of State mentioned the action plan in his opening statement. He said that

policy developments in the insurance sector in recent years have undoubtedly been a factor in helping to reduce motor premiums since the peak in 2016. He said also that they had fallen by nearly one third since 2016. Can he outline the reforms he believes have reduced the insurance premiums?

Deputy Sean Fleming: Does the Deputy mean currently or previously?

Deputy Pearse Doherty: The Minister of State has claimed that insurance premiums have dropped by one third since 2016.

Deputy Sean Fleming: Yes.

Deputy Pearse Doherty: The Minister of State claimed that reforms and policy developments have undoubtedly been a factor in helping to reduce motor premiums. What reforms and policies brought about a reduction?

Deputy Sean Fleming: I will give the Deputy a straight answer. He has asked me a question about the previous four years, which is before I came into office. I will get a detailed response for the Deputy. I am more concerned about where we are now with the action plan we have developed since the election that is based on the programme for Government rather than a look-back. The figures I have quoted came from the Central Bank and the Central Statistics Office, CSO. I undertake to give a specific note to the Deputy.

Deputy Pearse Doherty: The claim is contained on page 4 of the report and there is a picture of the Minister of State above it.

Deputy Sean Fleming: Yes.

Deputy Pearse Doherty: There has been no reform in the past four years to drive down insurance prices. I am interested to hear the Minister of State point to any one.

Deputy Sean Fleming: I will give the Deputy some but it is not a comprehensive list. We have established the Personal Injuries Commission and it published two reports that have fed into increasing knowledge in the area. The Central Bank has published the national claims information database, which did not exist prior to this. The cost of insurance working group in existence for a number asked for this information. When information comes out it helps the industry and the public to become more aware of the cost of claims. The information database mainly deals with the motor insurance and that is the one to which I referred.

The Insurance (Amendment) Act implements the relevant elements of the insurance compensation framework and that arose from the Setanta Insurance issue. There are levies as a result of that. The Civil Liabilities and Courts Act 2004 makes it easier for businesses and insurers to challenge cases.

The Personal Injuries Assessment Board (Amendment) Act 2019 strengthened PIAB by increasing operational issues to ensure greater compliance with the PIAB process and encourage more claims to be settled. While that has had some impact we all accept that more cases need to be settled, concluded and finalised by PIAB.

There has been additional work done in the past couple of years with the Garda Síochána in regard to enforcement as part of the Garda National Economic Crime Bureau that deals with issues like fraud. Some of those cases have been highly reported when they go before the courts, which makes people and the industry more aware of fraudulent claims.

Deputy Pearse Doherty: Some of that concerns reports and transparency.

Deputy Sean Fleming: Yes.

Deputy Pearse Doherty: Some of that work still has not-----

Deputy Sean Fleming: Correct.

Deputy Pearse Doherty: -----reported in terms of claim costs. The Minister of State claimed that one of the big reforms has been the national claims information database.

Deputy Sean Fleming: Yes.

Deputy Pearse Doherty: The Minister of State repeated his claim that insurance costs have reduced by one third since 2016. Is that what the national claims information database found when it examined more than 2 million policies across 96% of all policies written in the State in 2019? Is he disputing the figures produced by the national claims information database?

Deputy Sean Fleming: I have quoted figures from the data released by the Central Statistics Office. Two groups produce information. One is the Central Bank that has detailed information on the insurance industry and the other is the CSO that collects statistics on behalf of the State. They use different methodologies. The CSO tends to collect data by a sample basis whereas the Central Bank uses specific granular information.

Deputy Pearse Doherty: I am well aware-----

Deputy Sean Fleming: I quoted figures from the report produced by the CSO.

Deputy Pearse Doherty: Has the Minister of State relied on the CSO figures? I have addressed the following matter on numerous occasions. The CSO emails a sample to insurance companies and asks for a premium for a product. It is only a very small sample.

Deputy Sean Fleming: Correct.

Deputy Pearse Doherty: The sample taken by the national claims information database consists of 2,048,683 policies.

Deputy Sean Fleming: Yes.

Deputy Pearse Doherty: The national claims information database contradicts the claim made by the Minister of State that insurance premiums have reduced by one third since 2016. They have increased by 13%. Is the Minister of State going to undermine the work of the national claims information database by relying on the CSO figures? The CSO figures are now completely irrelevant now that we have a massive amount of data on the database. The claims made by the Minister of State and by the Tánaiste, Leo Varadkar, in the plan are not borne out by the results from a massive sample of more than 2 million policies.

Deputy Sean Fleming: Most people accept that the data produced by the CSO as being reasonably valid. That is a long-established method for collecting statistics across every sector in Irish society and I do not believe for one minute that it does not do its job properly. However, in my role in respect of insurance, and this is a personal view, I will rely more on the information from the Central Bank than the CSO for the obvious reasons the Deputy mentioned. I refer, for example, the report it produced on Monday on differential and dual pricing. A couple of months ago it wrote to the CEOs saying it had evidence. That was the first statement. The second part

of the work was that thousands of customers were surveyed, which gave us the information we got recently. It has also said that the final and largest piece of the work will involve computer analysis of millions of documents on policyholders, claims and costs of insurance. The Central Bank, as the regulator, which has the access to most of the information of the insurance companies, will have the definitive information.

Deputy Pearse Doherty: I appreciate that. We will get to the issue of dual pricing and I welcome the Minister of State's statement that he will rely on the national claims information database. It stated in its report that insurance premiums have increased by 13% since 2016. This undermines what the Minister of State told the committee half an hour ago that insurance premiums during the same period were reduced by one third.

This is important. I have spent quite a number of hours in this committee with insurance companies trying to get transparency with figures. We need to be honest with what is happening if we are to address the problems.

Recommendation No. 1 of the cost of insurance working group stated insurers would set out the reasons for large increases in premiums to consumers. That recommendation is complete and from the report published in October. Did they set out the reasons? Did they do that in the way required under law to act honestly, fairly, professionally, in the best interests of the consumer and to maintain the integrity of the market? When was the last time the Government published an update on the report on the cost of motor insurance? Was it October this year?

Deputy Sean Fleming: It was in October.

Deputy Pearse Doherty: Was it under the Minister of State's remit?

Deputy Sean Fleming: Yes.

Deputy Pearse Doherty: It stated that recommendation No. 1 is complete. Is the Minister of State satisfied insurers did set out the reasons for large increases in premiums to consumers?

Deputy Sean Fleming: There are ten previous reports from the group over the past four years. Some of those matters were concluded over that period. When I came into office, there was a small handful of ones that had not been concluded yet. I took the view that I would close off the cost of insurance working group and integrate it into the group reporting directly to the Cabinet to elevate all its recommendations.

Deputy Pearse Doherty: This one is not in it because the Minister of State signed off stating it was complete.

Deputy Sean Fleming: It had been done before my time.

Deputy Pearse Doherty: I have been challenging this issue for well over a year. Insurers have not been acting honestly, professionally or with integrity. The Government has been hoodwinked by the industry. The Government has stated the recommendation is complete and insurance companies will publish the reasons premiums would increase at renewal. On Aviva's website, for example, how many times does the Minister of State think it mentions dual pricing?

Deputy Sean Fleming: I have no idea.

Deputy Pearse Doherty: It does not mention dual pricing.

Deputy Sean Fleming: That is why the Central Bank is doing the report on dual pricing.

Deputy Pearse Doherty: It has issued its second report which stated that the reason prices are going up at renewal is because of dual pricing. It has stated that home insurance will go up by 35% and motor insurance by 25%. These companies, which have a legal responsibility under the consumer protection code to act fairly, honestly and with integrity with their consumers, have basically lied to the Government and their consumers, as well as having false documents on their website, because they are hiding the fact that dual pricing is an issue. I made a major complaint, as well as a submission of 130 pages, to the Central Bank on dual pricing over a year ago. Page 12 outlined exactly what the Central Bank found, which is that the longer one is with an insurance company, the more one will be fleeced by it. The graph is the same as that in this report.

What is the Minister of State going to do now that the insurance companies have lied to the Government and to their consumers in not acknowledging that dual pricing, price-walking or price optimisation - whatever one wants to call it - is a factor in premiums being pushed up? What is he going to do about the fact that they have breached the consumer protection code? Is he going to challenge them?

In 2015, the then Governor of the Central Bank, Patrick Honohan, wrote to the then Minister for Finance, Michael Noonan, stating that representatives of regulated entities, insurance companies, were providing deliberately false information to the Central Bank but it had no remedy to deal with this issue because there was a lacuna in the legislation. I have challenged Governments upside down, inside out and produced legislation to close that gap. Insurance companies are able to do what they are doing because the Government has not closed the gap to allow for somebody who deliberately provides false information to the Central Bank to be penalised or held to account.

Deputy Sean Fleming: I am happy to take up this issue in my role as Minister of State. The Deputy will appreciate I was not at this committee when he was making those points over the previous years.

There is legislation due which will allow the Competition and Consumer Protection Commission to implement administrative fines without having to go to court. That legislation is referred to in our action plan. Up to now, it would have had to go through normal court procedures. It will be given legal authority in legislation early in the coming year to allow it to issue administrative levies directly to the companies.

I agree with the Deputy and it is one of the reasons I want to get the final report from the Central Bank this coming year on dual pricing. I agree that the insurance companies have treated their older customers as a soft touch. They get the renewal premium and send in the cheque.

Deputy Pearse Doherty: I will talk about dual pricing in a minute. That is not the issue, however. I congratulate the Minister of State on his appointment and I am sure he wants to tackle this issue. However, he signed off on a report in October stating that this action was satisfactorily completed and that insurance companies were telling their customers why premiums were increased.

It is odd if the Minister of State did not know that dual pricing was an issue at that time. He cannot take the insurance companies at their word. He can have as many meetings with them as he wants. They are under investigation, however, at European level. Now they are looking

at criminal investigation by our authorities into price-rigging. They have been lying to and fleecing their customers for so long. The Minister of State should not sign off on a report and take the word of the insurance industry that it is being upfront, honest or acting professionally or with integrity with its consumers. That is not happening. Unfortunately, that is what the Minister of State did.

The problem is that we have had too many Governments which have spun the industry's message. Then we are trying to battle against all the false narratives. For example, one of the final sections of the Central Bank report refers to false narratives such as costs of claims increases and fraud. While there are issues in that regard which have to be dealt with, none of this is the reason insurance premiums have been increasing. One of the main reasons is actually price-walking or dual pricing which is about boosting the profits of the industry. The Minister of State should not take the industry at its word. He needs to challenge everything it says. It is unfortunate that one of the first things the Minister of State did was suggest that recommendation No. 1 was implemented when, clearly, it was not. There are questions whether the companies should be legally pursued as a result of it.

Deputy Sean Fleming: On requiring insurance companies to treat their customers fairly and honestly, since I have come into the Department of Finance, the Minister for Finance has made public statements on several occasions to the insurance companies on this matter. In my meetings with them, I made it clear that they are required to treat their customers fairly and honestly. The Central Bank is the regulator. The Deputy knows there is a division between the Central Bank and the Department of Finance. If it highlights issues to us that require policy and legislative change, it is our job to deal with those. It is up to the Central Bank, which is the regulator. It will come back with the granular information on insurance companies treating some of their customers as a soft touch in dual pricing.

Deputy Pearse Doherty: Does the Minister of State believe insurance companies have acted honestly, fairly and professionally, and in the best interests of their consumers, when they published information like this which did not acknowledge the fact they were involved in dual pricing?

Deputy Sean Fleming: The Deputy knows full well that I may not have seen that document in his possession. It is clear that they have not at all times treated their customers fairly or honestly. I am quite happy to say that.

Deputy Pearse Doherty: Dual pricing has been written about by the likes of Charlie Weston for many years. I have had a serious number of engagements with the Central Bank in the past year in written correspondence, a private meeting with the Governor and a submission of the major report. The two key findings in that report were that dual pricing was widespread and that the tables show the longer a customer is with the company the more he or she is penalised. Page 12 in my report looks at what the Central Bank has done. They nearly coalesce. It is in the same ballpark. After nine years or more the premiums charged are 30% higher. After the first year and into the second and third years, it is approximately 10% higher. We talk of this as the loyalty premium.

I have asked for dual pricing to be banned for more than a year. I asked the Central Bank to carry out an investigation, which it agreed to do, on receipt of my report. The Central Bank has confirmed everything in my initial claim. In Trump's America, dual pricing is banned in 20 states. In Britain, it will probably be banned in the second quarter of next year. In fact, it is not probably; they are going to ban it. The Financial Conduct Authority, FCA, in the UK has

made it clear that it will ban dual pricing. Yet, the Government here is not willing to make a policy decision that this practice will end. Let us be clear about what this means. The Central Bank's report conclusions are, as we can extrapolate, that some 2.5 million policy holders in the State were charged annually €187 million more than it costs to insure those policies. In Britain, where they have done far more research on this, they estimate that the banning of dual pricing would benefit the consumers there by between €4 billion and €12 billion. The FCA says that average prices would decrease by between 10% and 15% for consumers and that it would encourage competition in the market. Why is the Government delaying on this issue?

Deputy Sean Fleming: As I said, the staff of new office to promote competition in the insurance market only met yesterday for the first time. That was one of the key elements of the action plan we published, based on Cabinet approval earlier this month. We will tackle that issue when we get the exact information from the Central Bank. I hope the Deputy would see the importance of that, given that the Central Bank is now examining the issue on a detailed, company-by-company and policy-by-policy basis. The big element of this work on the dual pricing issue is now being undertaken, and the Central Bank has issued its first commentary and second interim report. The third and final report in the coming year will, I hope, be the definitive word on the issue. On receipt of that report, we will respond immediately. It would not be appropriate for us to respond with a legislative proposal now, knowing there is detailed information coming through from the Central Bank in the months ahead. I want to get that information so that when we do pass legislation as a result of that it will be based on evidence produced by the Central Bank. We all believe that is to happen. I do not want to introduce legislation on what I believe without any evidence backing up what I believe. The Central Bank will provide that evidence and we will act immediately when we get it

Deputy Bernard Durkan took the Chair.

Deputy Pearse Doherty: I welcome the Central Bank's reports, which confirm everything I have said, but the organisation has a role in consumer protection and should have been doing this itself. The Central Bank should not have had to be told by a Member of the Oireachtas to carry out this work. It is way behind the curve on this matter. These insurance companies have been practicing dual pricing for ages. What we know from the Central Bank's work is that this is happening and that people are being price gouged the longer they stay with an insurance company. It is not just about not renewing a policy; these insurance companies gather information on their consumers. They gather data through legal means, which the customer gives in the renewal policy or when taking out a new policy. The companies can also gather the information by purchasing third party information about our shopping and other habits, and they can gather information from social media posts and videos that people put up. This information is gathered for one purpose: how can they increase prices before we decide to move to a competitor. It should be banned. The Government should make a statement of intent that this practice will end and that it is going to protect consumers. In the middle of next year, for example, Aviva will not be able to price gouge their customers, motorists and homeowners in Belfast, Newry or Derry. Aviva here, however, will still be able to engage in dual pricing. Every major insurance company, with the exception of one, operates in both markets.

Deputy Sean Fleming: I accept what the Deputy said about the various methods the companies have of collecting information on consumers, but from my experience so far the most important information they collect relates to whether they can treat them as a soft touch when it comes to renewal of policies and whether the customer contacts the company directly to see about getting a better price. When a person gets a renewal notice and automatically sends back

the cheque the insurance company knows that this person never contests the costs of their policy and the person is deemed a soft touch. If a person rings the insurance company and says “I want to check the price” and then rings back a fortnight later, because he or she must be issued with the renewal premium notice one month in advance, they will be able to tell the customer that he or she rang three weeks ago at such a time. The company then knows who is following up the prices and who is not inquiring about the prices. They know who the soft touch is.

Deputy Pearse Doherty: I know that. There are 2.5 million customers with policies of this nature who are renewing and are being fleeced. It is our job to protect them. I will make a final comment on this because other members want to come in. I am publishing legislation. We have worked for a number of months on this and have worked with the Office of Parliamentary Legal Advisers on good legislation that will ban this practice and bring it into line with what has happened in Britain and will make sure that insurance companies cannot involve in this type of price gouging with customers who are renewing, or have a loyalty premium. I ask the Minister of State to support that legislation, which will be before the House in January, and to let it go through all the different phases here with pre-legislative scrutiny and so on, and I am sure we will have the benefit of the Central Bank’s final report then. As I said in my opening remarks, I want to work with the Government to try to end the price gouging and the rip-off that is happening in the insurance industry. I hope the Government will see there is real intention here and good legislation that will end a practice that is banned in 20 states in America, and that will be banned in Britain next year. I further hope that the Government will support the legislation and allow it to go to this committee for proper scrutiny and all the necessary steps it will have to go through.

Deputy Sean Fleming: I look forward to seeing a copy of that when it is published. I do not know the details of the Deputy’s proposal. Is he talking about banning dual pricing wherever it exists across all sectors or in one particular sector?

Deputy Pearse Doherty: No, it is for motor and home insurance. It will seek to ban dual pricing and give the Central Bank the powers to address issues, for example, to finesse the policy. It will ensure that a renewal customer has to be treated in the same way as if that renewal customer was a new customer with the same firm. As the Central Bank has found, and as the FCA and others have found, if a person is with a company for nine years the person will be charged 35% more on motor or home insurance. That cannot happen anymore. The insurance industry would have to ensure that the same price is given to a renewing customer as if he or she was a new customer with that company. It affects some 75% of customers, which is 2.5 million people, and costs €187 million per annum above the cost of insuring these individuals.

Deputy Sean Fleming: I look forward to seeing that when it is published. The only caveat I would put on it at this stage, without having seen sight of it and without having seen the Central Bank’s final report on the matter, which is coming next year, is that I would like to have evidence backing it up. The Central Bank will be producing the exact granular evidence, which will make any legislation on this issue more specific. The Deputy gets the point I am making. If there is a lot of information to come from the Central Bank I would like to see that before any legislation is enacted in the House. It can be discussed. The Deputy gets my point.

Deputy Pearse Doherty: I am aware that the Minister of State is relatively new to the position. I encourage him to read the FCA’s interim and final reports. I also encourage him to read the cost-benefit analysis that suggests up to €12 billion benefit from the industry to consumers, and also suggests how banning dual pricing would increase competition. It is interesting when one tracks what the FCA is doing. It is relevant because the same companies operate in both

markets. The FCA did not originally have the view of banning it outright but has come to that conclusion very concretely in its final report. It will increase competition, in its view, decrease premiums by 10% to 15% and end a practice that affects elderly people, people with restricted access and people with disabilities.

Senator Pat Casey: I have spoken to the Minister of State about the insurance industry on a number of occasions. I wish him well in his role and I know that he is committed to it. More than 25 years ago, a gentleman walked into my premises and fell and broke his hip. He was an English gentleman and claimed through the English system, to the relief of the Irish insurance company, because the claim was capped. That was 25 years ago and we have much to catch up on with regard to claims. A key issue in Ireland is that one does not know what the payout will be.

I welcome the whole-of-government approach to the insurance industry. I know it spreads across a number of Departments and is quite complex. Equally, I hope that the Government will look at individual sections, because much can be done that does not necessarily require other Departments to be involved. Most people have spoken about high-level matters. I want to focus on the clients, the role of clients and their interaction with insurance companies. Having run my own business for more than 30 years, I have had numerous engagements with insurance companies, some of which have been positive, while others have been negative. As the Minister of State mentioned, transparency about what one is entitled to know as a client and the information one is given has been an issue. I went to court on one occasion to give my evidence and the claim was settled while we were at lunch. I am still waiting to find out what exactly was settled and how exactly the settlement was reached.

Companies are being held to ransom more and more because there is not competition in the insurance industry. We are getting more fearful about what we can or cannot do. Another example of a practical experience is a claim a number of years ago, which we were not aware of until it arrived in the post from a solicitor. We rang the insurance company to say there was a potential claim. The insurance company said it was not notified of that claim when it occurred and I said that I was not notified of it either. The company said that I must notify it if there was a potential claim. Now when one is looking at renewing insurance, one looks at the number of potential claims that are on one's books that may never turn into a claim, yet one is penalised because of them. One then has a number of actual claims on one's books. Some might be genuine while many are fraudulent. They can hang in a system for six to eight years before they are settled. During that process, one has to pay a premium because the claim sits on one's books, unresolved. I would like to see much more focus on transparency and reform.

I feel that as a client, I am not treated fairly or getting enough information to allow me to understand why the premiums that I am presented with are coming. Having had a 15 year clear record, my insurance jumped by 300% in two years, and almost made the company unviable. Even my own brother, who is a chartered accountant, looked at the option of providing our own insurance, because we could not pay the premium we were being asked for. That happened because we had three claims after 15 years without any. The three claims, which are now four years old, still have not progressed anywhere and no settlement has been made on any of them, but we pay a premium on that year after year. There is no clawback on that. The insurance company will not say that because the claim was never settled and nothing was paid out on it, one will get the premiums paid for the last four years back. I would like to see more work on transparency and what we are entitled to as clients with regard to the operation of the insurance industry.

Under GDPR, we are not allowed to hold our video evidence for longer than a month. It is a simple, practical thing. One thing that worked in our favour was that when we were told of a potential claim, we had CCTV on file. Unless that claim comes within a month, that CCTV information has to be wiped. If somebody makes a claim in six months, I have no evidence. I have nothing to back me up, as a client, to try to mitigate that claim. I find it frustrating that when I hold my hands up and say that a genuine accident took place and think I was liable, the person on the other side will be put through the same process even though we are holding our hands up. The fraudulent ones drag things out and every year that they drag it out is another year with excess on my premium. The Minister of State mentioned the level of competition. There is no competition for the hospitality sector at the moment and one is held to ransom.

Deputy Sean Fleming: I have listened carefully to the Senator. I am here to give an update and to hear the committee's views. Members have made clear that we all have a common interest in this. The Senator is clear that if one notifies an insurance company of a potential claim, it marks it on the book as a potential claim and makes a provision for it, stating that it might cost €6,000 whenever it comes to be settled. It is marked against the policyholder and the company makes provision for it. If that potential claim never materialises into an actual claim, is there a write-back or clawback for the extra increase? I am conscious of that and will take it up with the insurance companies and Insurance Ireland. It would seem fair if a company makes a provision on the basis of something happening. Banks do it all the time, making a provision for loans in financial statements. If it reassesses the provision a year later and finds that it was too generous, it will write it back and it will go back into the system. The same should happen here, with insurance companies writing back provisions they make and passing it on to the customer.

The Senator mentioned the situation with regard to video evidence. I do not know the answer to that but we will look at it. Businesses can be defenceless if somebody waits for a significant period before making a claim, at which time there will be no video evidence in place to prove otherwise. While that legislation has good points, it has downsides related to these issues. While I am sure other people will have a different view, if the law provides a certain period in which a person can make a claim, logic would say that the person against whom the claim has been made should have an equal right to be able to defend himself or herself for the same period by having CCTV available. I am not giving that commitment but I am saying that logic suggests that it should be looked at. It is an issue that we will have to take up with the Data Protection Commissioner, the Department of Justice and many people in wider society. It is not fair that one side of litigation can be disadvantaged by not having access to information that it had but was required to destroy, or is not allowed to use in a case to defend itself. I take the Senator's points and we will look into it.

Deputy John McGuinness resumed the Chair.

Senator Pat Casey: Actual claims made could drag on for ten years. One has to pay a premium for a ten-year period and the claim might not add up to anything. It is a matter of transparency. If one can clearly see a potential claim as a policyholder, one should see what the claim costs in a premium, and if there is an actual claim, one should see the cost of the premium for that. It drags on and takes a long time to get to the end date. It is very hard to keep track of that. Those are my few comments. I thank the Minister of State for being present.

Deputy Sean Fleming: We will follow up on those.

Senator Marie Sherlock: I thank the Minister of State for his presentation. I am conscious he has been asked a number of questions on competition in the insurance market but that is the

issue on which I want to touch. It is welcome that this new office has been established. I am sure the Minister of State has a clear vision for what he wants to come out of the review or the work of that office. Does he accept there is market failure in the insurance industry market here? Does he think it is acceptable that some enterprises, particularly in the leisure sector, cannot source an insurance product within this jurisdiction and have to go abroad to source it?

Deputy Sean Fleming: There are two elements to that question. I am conscious of the areas to which the Senator is referring regarding particular sectors of the economy having had a major problem getting insurance and no insurance being available to them. That issue was satisfactorily resolved by a company, and brokers had to go abroad to get the insurance policy. The particular issue was dealt with. The Senator might note my earlier comment that this is the problem with insurance in Ireland. We have only one Irish insurance company. I am sure more than 80% of all insurance policies written in Ireland are written by foreign companies. As I said, I have met the eight largest insurance companies operating in Ireland. Only one, FBD, is Irish owned. The rest of them are foreign multinationals. The issue the Senator highlighted of a person having to get cover from a foreign insurance company is what happens in the case of 85% of all insurance policies in Ireland. That is an issue with which we need to deal.

I highlighted that the history of Irish insurance companies has not been good. All we need do is note what happened with Quinn Insurance. We are now paying a levy to pick up the cost of that. There was a levy for PMPA insurance which went bust several years ago. That levy might still not be fully paid. We are picking up the cost of that, and prior to that the Insurance Corporation of Ireland also went bust. Three major Irish insurance companies have gone bust. That is not a good track record for any country to have. We have only one Irish insurance company left. We are relying on foreign multinational insurance companies to provide insurance cover for almost everything in Ireland. I want increased competition in that area to increase what is available.

Senator Marie Sherlock: I heard the Minister of State say this issue has been satisfactorily dealt with in terms of-----

Deputy Sean Fleming: Yes.

Senator Marie Sherlock: I am dealing with a company involved in adventure services that cannot source insurance here. I am not talking about the ownership of insurance companies that write insurance policies or operate here. I am simply asking about those companies which are regulated by the Central Bank and write insurance policies here. I am less interested in their ownership than that they are regulated within this jurisdiction. Some enterprises are still unable to purchase insurance in this jurisdiction and have to go abroad to do so.

From what the Minister of State said, he would agree there is a market failure there but he does not seem to agree a new insurance company should be set up here. I take it that is what he is saying. He gave us a history lesson of the failures in the insurance sector. Proposals have been put forward to pool insurance among a number of organisations or enterprises within a sector with a very similar risk profile. Is that something he would support?

Deputy Sean Fleming: I did not say there were market failures or that no Irish business should set up an insurance company. I did not say either of those things but the Senator might have drawn that conclusion. I just pointed to the difficulties. That is not preventing insurance companies in Ireland getting it right into the future.

Senator Marie Sherlock: To be clear, the Minister of State does not think there is a problem in sourcing insurance here at present.

Deputy Sean Fleming: Based on the information I have, there is a problem for particular customers depending on the level of the risk. Every application for an insurance policy is considered case by case. There may be particular circumstances where a risk is especially high, the cost of a premium is prohibitive, and people, in essence, may feel they cannot afford an insurance policy. Some people may not be able to get a quote depending on previous claims, the nature of the business and the level of insurance risk that attaches to it. We have the insurance ombudsman. A person who has a particular issue who has not got satisfaction through a broker or in the Irish market can contact the insurance ombudsman who will deal with such matters. We would always recommend that on a case-by-case basis.

Senator Marie Sherlock: Therefore, there is sufficient competition within the Irish market.

Deputy Sean Fleming: No. Certainly not. There is competition but not enough active competition. That is why we set up the new office which held its first meeting yesterday. There is a level of insurance available in Ireland but there is not adequate competition by a long shot.

Senator Marie Sherlock: By definition, there would be market failure if there is not sufficient competition.

Deputy Sean Fleming: The market is insufficiently serviced.

Senator Marie Sherlock: On the question of a pooled insurance product, is that a proposal the Minister of State would support?

Deputy Sean Fleming: I would but that would be a matter for the particular people involved to come together. I was at a meeting immediately before I came here with a group who are working with a small group of people who are trying to get insurance for a bouncy castle type of industry group. The insurance company that was providing the cover was a UK company and was governed by UK standards with respect to the annual testing of the equipment. Those standards did not apply in Ireland. People thought they had insurance cover only to find their claim was not accepted, and when somebody checked the small print for them, they found their claim did not apply. Such a company would not have cover if it made a claim because it would not meet the UK standards of inspection. Clear issues arise.

That group raised with me exactly the point the Senator has made, namely, to see if something could be done across the sector. Some of those involved are voluntary and community groups as well as some very small businesses that might have one employee or be a self-employed person. The issue of the community groups was raised. I asked about the Tidy Towns groups and where they get their insurance. The 500 or 600 Tidy Town groups around the country generally make their own individual arrangements. If there is a federation operating at a county level for Tidy Town federations or community groups through the public participation networks, PPNs, in the local authorities, I would see a great opportunity for somebody to work on a collective basis bringing groups together engaged in similar activities to get a group insurance policy in place. That would not be something the Department of Finance could do on behalf of those groups. We would encourage people to do that themselves.

Senator Marie Sherlock: The Minister of State's office intends to try to promote competition and ensure there are greater options for those who are facing very high premiums. Surely that is something the Government-----

Deputy Sean Fleming: That is a very good suggestion and we will certainly take it on board as part of our work on competition. To take the example of any county, if there are 40 towns and villages in the Tidy Towns competition and they all have to insure equipment, people who do work and different considerations like that, there would be tremendous value if they were to come together as a group because they would have purchasing power in seeking cover from insurance companies rather than the insurance companies picking them off one by one. Definitely there is scope there.

Senator Marie Sherlock: It is important to state very serious challenges are faced by a number of social enterprises. There is a horse riding centre in Cherry Orchard and a number of childcare facilities which face this problem.

With regard to dual pricing, on which there has been considerable discussion, while there is much outrage and we accept there is a problem, I am not clear what the Minister of State intends to do. I heard him say he wants to wait for the final report, but I was struck by a comment by the Central Bank's director of financial conduct who said that immediate action might be previous as dual pricing might be of benefit to some customers, specifically those who shop around. Is that a view that the Minister of State shares?

Deputy Sean Fleming: I want to wait for the Central Bank report. That was a judicious statement by that lady on television the other night. In that market there are winners and losers. The winners are the people who shop around and get the best price. The losers are the people who lose out financially by not shopping around and they probably pay more than they should. We are looking at the option of banning dual pricing as that might change the situation. There may be winners in that case, but we also want to make sure people will not lose out.

It is like everything else. One can drive down the road and get fuel in one filling station at one price but at a different price in another filling station a mile down the road. A level of competition between companies in a given area of activity on the same product is valid and helpful. It gives consumers choice if they shop around. Having said that, not everybody goes to the filling station that sells the cheapest fuel. If that was the case, none of the more expensive ones would do business. People make choices on a number of bases, one of which is the price of the insurance. In some instances, people might be happy with the personnel they have dealt with in the company or the service they have received. It may be the case that they had claims years ago which were looked at satisfactorily. Quality of service comes into it as well; it is not just a matter of the price of the product. Price is a major element in people's decisions but the quality of the product is also important, as is the small print because there can be several exclusions.

When looking at the issue of dual pricing and at introducing legislation to deal with it, we must ensure everything is on an equal footing because we do not want people to lose out financially. That is why I want to see the detailed information from the Central Bank before a decision is made. My instinct tells me we should wait for the detailed information so that we will be better informed to have the debate we are now having rather than making changes to legislation without the benefit of the full information.

Senator Marie Sherlock: Will work on the legislation only commence upon receipt of that final report, notwithstanding that a report is to be published by Deputy Doherty and that my colleague, Deputy Nash, published a Bill in this space on Monday? It would be useful to get an understanding of the timeline. Will the Minister of State's legislative process and the drafting of his legislation only commence when he gets the report or will he be looking at this in advance? To be fair to those insurance holders out there who are being penalised, it would be good to get

a sense of how quickly the Government is likely to act on this issue. Will it be the end of next year, well into 2022 or beyond? That will obviously be coloured by the length of the legislative process but getting that Bill drafted is the starting point. When is it that going to start?

Deputy Sean Fleming: In the programme for Government and the action plan produced last week, we gave a commitment to get the Central Bank report and to make a policy decision then rather than ahead of time. I am not saying we cannot look at the matter but there is no commitment to draft legislation in advance of receipt of that report.

Senator Marie Sherlock: So 2022 is the earliest we could expect legislation.

Deputy Sean Fleming: I did not say that.

Senator Marie Sherlock: I know that. I am just surmising based on-----

Deputy Sean Fleming: The Senator is surmising. When we see the Central Bank report, we will be able to move immediately.

Senator Marie Sherlock: My last question relates to personal injuries. There was a recommendation to establish a specific and dedicated bureau within An Garda Síochána to deal with fraudulent claims. As I understand it, the Government has now decided to train gardaí right across the force to combat insurance fraud. Will the Minister of State outline why this decision was taken as opposed to setting up that dedicated bureau? Will this training take place across every division and every rank? More information on this decision would be very helpful.

Deputy Sean Fleming: That issue is being dealt with in consultation with An Garda Síochána. Commissioner Harris has indicated that rather than establishing stand-alone operations in each of the 17 divisions, he wants one national approach which will involve training and guidance for police officers in each of the divisions. The structure will be based centrally within An Garda Síochána. There will be one uniform approach and one uniform training method for the entire country. The officers will be deployed rather than serving in separate units in each division. This was the decision of Commissioner Harris.

Deputy Mick Barry: I hope the Minister of State can hear me okay. He can. I will talk about motor insurance. I am reminded of the words of the late great Woody Guthrie who said that, as he travelled through life, he met many kinds of men; some would rob him would rob him with a six-gun and others with a fountain pen. I certainly think that is applicable to the insurance industry in this country. The area of motor insurance really underlines that point. I put it to the Minister of State that the issue here is, first and foremost and overwhelmingly, one of plain old-fashioned profiteering. Even a cursory look at the facts underlines that this is the case.

I will not try to blind the committee with science or with an avalanche of facts and figures, but let us have a look at a few. Between 2009 and 2019, the volume of claims decreased substantially, by 45%. The cost of claims was also down 9%. One would expect that, in those circumstances, premiums would have fallen but not only have they not fallen, they increased by 35% between 2009 and 2019. It is little wonder that profits of €142 million were raked in by the motor insurance sector. This was once again an increase on the previous year, and not by a small amount but by 9%. That is quite a hike in this space over only 12 months. How does this compare to other jurisdictions? Many of the big insurance corporations that operate in this State also operate in the UK. Do they get more bang for their buck in the UK or in the Republic of Ireland? There is no comparison. They make nearly double the profits per unit of investment here that they do in the UK.

Fundamentally, a stop must be put to this profiteering. There is only question really worth considering. What is the best and most effective way to put a halt to profiteering and to provide an efficient service of good quality for the population? That is only real issue here. From many of the contributions to this discussion, and certainly from those of the Minister of State, it seems to be taken as a given that it is all about competition. Motor insurance could actually be organised in such a way that there would be zero competition while providing a far better and cheaper reliable service for ordinary people. It happens in other jurisdictions. In some other jurisdictions, the cost of motor insurance claims for a given year is calculated and a little bit more is added to allow for rollover of certain investments. The number of motorists using petrol and diesel respectively is calculated. An additional charge is then levied on petrol and diesel which then builds up the fund to pay the costs of motor insurance payouts. That has been done in the past in New Zealand and in various provinces of Canada. It is not a particularly complex scheme to work out. That would be one way of doing it.

I would favour focus on and debate around the idea that the people have been bled dry for years by the motor insurance rip-off. Let us look at the idea of public ownership and nationalisation. Does that mean compensation for shareholders? Yes it does if it is a pension fund or an ordinary person who has invested a few bob in shares, but for millionaire and billionaire shareholders, then no, it does not. Then the resources available to society are used for the common good and providing a decent service but eliminating the profit motive from it. I am open to a discussion and debate around those points but it should be on the basis of how we get to the root of the issue here, and the root of the issue is profiteering. The debate has to be around the best way to eliminate profiteering from the insurance industry. Does the Minister of State accept the proposition that the fundamental problem here is profiteering? If he does not accept that, I want to hear an argument against it because it seems that the facts speak very clearly to it and the majority of ordinary people who have experienced the insurance racket and the motor insurance rip-off would be interested in hearing the argument against that because I think they are convinced that is the case.

Chairman: We are caught for time again, so I will also put some questions before the Minister of State answers. To give an example, Irish Life issues a premium to one of its clients for life assurance of €1,049. This year, it went up by €360 per month, a colossal increase. There is no justification for it. The policy is for elderly people and so they are finding it really difficult to grapple with a huge company like that and get some form of justice. Charlie Weston's article in the *Irish Independent* which quotes from the Central Bank, is headlined "Elderly hit hardest". It is the elderly and vulnerable who find it most difficult to move around and change insurance companies to test the cost of premium against another company. They are really suffering badly. Out of respect for those who are marginalised or elderly, we should do something specific about their cases now to assist them in the context of the rip-off that is taking place and the fact that their vulnerability is what is playing against them. It is shocking in the extreme that a big insurance company that is profiteering, gouging and into price fixing, to a degree, will target the elderly in the way it does and make it impossible for them to exercise their right to change insurance companies. I ask the Minister of State to address that specifically or give me information on how a Member of the House can address it directly to the company because it is an outrage.

Second, for the last term in Government, I listened patiently here to the arguments around the insurance companies and what they were doing and the rather big talk about reform and very little action. The Tánaiste, in particular, in the foreword by him to this document, has a brass neck to make the comments he has made. One would be led to believe that he had just

been elected to the Dáil and that he had no input on this in the previous Government when he did. This committee listened to many contributions giving us the impression that we are actually moving to a point where the insurance companies were going to be stopped in their tracks in how they treated their customers and that did not happen. Now we are embarking on a new Government, of which the Minister of State is part, and I will be looking for actions, not reports. In this foreword the Tánaiste says, “It is my firm intention to have updates on these timelines on a quarterly basis.” He is making a mockery of what is going on here and he needs to be challenged on it in the Department of Finance because all we have had for the past four years has been this type of play on words and play on presentation to give the impression that actually we are doing something positive and people will feel a reduction in their premiums. I know from my premium and those of business that they have all gone up and not gone down. I would say the same, and the Minister of State is photographed beside him, to Paschal Donohoe.

The content of that foreword must disgust people because of what they know is happening in the insurance industry. I ask for clear action across the board to bring down the cost of insurance. Insurance Ireland made presentations here, as did others. The one thing that came across in every presentation that was made - there was one side against the other, the insurance companies on one side, and the customers on the other - was that the insurance companies and their umbrella organisation were simply not making the information available about what is happening in Ireland in terms of insurance. Therefore an outside player comes in blind rather than being fully informed. That, in short, is the problem. We will certainly have engagements with the Minister of State over the duration of the Government, but on reflection, our engagement with the previous Administration and Minister was hopeless. I would like to be able to say differently but that is not the case. The Minister of State says the subcommittee is dealing with this. How many times has it met?

Deputy Sean Fleming: There is a Cabinet committee on economic development and employment which consists of five Cabinet Ministers chaired by the Tánaiste. It has a subgroup which also includes myself and the Minister of State, Deputy Troy.

Chairman: How often has that met?

Deputy Sean Fleming: It met in July, November and December.

Chairman: But it was formally established in September.

Deputy Sean Fleming: No, it met in July.

Chairman: The Minister of State’s statement says that it was formally established at the end of September.

Deputy Sean Fleming: We had an informal meeting in July to get it up and running.

Chairman: So it has had some meetings. Some groundwork has been done.

Deputy Sean Fleming: Yes. There were informal meetings of the people who are involved.

Chairman: I ask the Minister of State to reflect on the contribution he has made here today and to reflect on the previous Minister’s contributions to this committee. He will see that adds up to very little action at the end of the day. That is supported by the vast number of people who have to fight with their insurance company for their due rights under a policy. We have met the publicans in Dublin and the country and we have met general businesses, and they all have the

same story. There must be nothing short of definitive action from the Minister of State and the Ministers in this term.

On all the various reports and so on, we need further information on levies, including what has or has not been collected. Rather than all the words I want to see the actions that will be carried out and I would impress that on the Minister, Deputy Varadkar. Again, I ask the Government to put the elderly and vulnerable first, and give them a break because the way they are being treated is not right. The way the insurance companies are treating the economy and society is not right either.

Deputy Barry did not get a response to his main question. Perhaps the Minister of State will revert to the Deputy and me with responses to the queries that have not been answered.

Deputy Sean Fleming: I will respond briefly now. Deputy Barry asked about insurance. The gross premiums issued in the year in question was €1.4 billion and profit was 10% of that, or €142 million. If the Deputy believes the core of the problem with the insurance industry is the 10% profit, I disagree. The core of the problem lies with the other 90%, the costs, because the number and cost of claims are by far the principal cost involved in insurance premiums.

Chairman: I ask the Minister of State to respond to Deputy Barry in writing providing greater detail. The Deputy is anxious to get his views on these matters.

Deputy Sean Fleming: I will do so, and I will also respond to the Chairman's questions.

Chairman: I thank the Minister of State for his attendance.

Scrutiny of EU Legislative Proposals

Chairman: It was agreed in private session earlier that in respect of schedule A, COM (2020) 593, 594 and 673, and schedule B, COM (2020) 389 to 398, inclusive, no subsidiarity issues arise and none of the proposals warrants further scrutiny.

I thank members for their patience and also their contributions.

The joint committee adjourned at 4 p.m. until 2 p.m. on Wednesday, 13 January 2021.