

DÁIL ÉIREANN

AN COMHCHOISTE UM THITHÍOCHT, RIALTAS ÁITIÚIL AGUS OIDHREACTH

JOINT COMMITTEE ON HOUSING, LOCAL GOVERNMENT AND HERITAGE

Dé Máirt, 2 Feabhra 2021

Tuesday, 2 February 2021

Tháinig an Comhchoiste le chéile ag 10 a.m.

The Joint Committee met at 10 a.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí/Senators
Thomas Gould,	Victor Boyhan,
Emer Higgins,	John Cummins,
Paul McAuliffe,	Mary Fitzpatrick,
Jennifer Murnane O'Connor,	Rebecca Moynihan,
Cian O'Callaghan,	Mary Seery Kearney.
Richard O'Donoghue,	
Eoin Ó Broin.	

Teachta/Deputy Steven Matthews sa Chathaoir/in the Chair.

General Scheme of Electoral Reform Bill 2020: Discussion (Resumed)

Chairman: The committee is meeting to resume pre-legislative scrutiny of the electoral reform Bill 2020. We will later suspend for ten minutes to reconvene in private session to discuss correspondence. This morning, we are joined remotely by Dr. Theresa Reidy, head of the department of government and politics at UCC, and Dr. Jane Suiter, associate professor in the school of communications at DCU. Professor David Farrell, head of the school of politics and international relations at UCD also contributed to the presentation but is unable to attend due to the rescheduling of this meeting. Members have been supplied with the opening statement. I will ask our witnesses to make their opening statement and members will then be invited to address their questions.

Members attending from their Oireachtas offices or within the confines of Leinster House are protected by absolute privilege in respect of their participation in this meeting. This means they have an absolute defence against any defamation action for anything they say at the meeting. However, they are expected not to abuse this privilege and it is my duty, as Chair, to ensure that this privilege is not abused. Therefore, if their statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks and it is imperative that they comply with any such direction.

For witnesses attending remotely, there are some limitations to parliamentary privilege and as such, they may not benefit from the same level of immunity from legal proceedings as a person who is physically present. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

The opening statements submitted to the committee will be published on the website after this meeting. I welcome Dr. Reidy and Dr. Suiter to the meeting. They attended a meeting of the joint committee a number of years ago in connection with similar subject matter. I thank them for being here today and for their assistance with this pre-legislative scrutiny. We have a new committee with only two members from the previous one. Each member will have about five minutes to ask a question. Could the witnesses could answer within those five minutes? If members could identify themselves before they speak and confirm that they are within the confines of Leinster House, it would be very helpful for us. I invite either Dr. Reidy or Dr. Suiter to make their opening statement.

Dr. Jane Suiter: I will make the opening statement on behalf of myself, Dr. Reidy and Professor Farrell. The three of us thank the committee for the opportunity to contribute to pre-legislative scrutiny of the electoral reform Bill 2020. Overall, we very much welcome this Bill and the pre-legislative scrutiny. We think it will allow for extensive engagement with the structure and functions set out for the electoral commission. As we all know, Ireland is an old democracy and has a proud tradition of free and fair elections. However, our democratic processes are long due for updating in the digital age and for a more diverse and fragmented electorate. It is great that the establishment of the electoral commission has cross-party support and has widespread backing from civil society groups. There is enormous potential with this Bill

to create an innovative and robust institution that will really shepherd Irish democracy through the next decades. Ireland could be held out as a beacon in establishing an electoral commission fit for the 21st century.

The general scheme is a very detailed document of more than 300 pages. In our approach we very much take an overview, or a helicopter approach, and focus on aspects of the composition of the commission and the roles that are ascribed to it. It has taken us nearly two decades to get to this point, which is why we believe that perhaps the most concerning aspect of the general scheme is the overall lack of ambition envisaged for the commission.

In the format outlined, the electoral commission will consolidate the roles of many of the existing agencies in this space and the franchise section of the Department of Housing, Local Government and Heritage into a single management body. That is to be welcomed. However, the scheme heavily prescribes the structures and functions of the commission leaving very little room for expansion of current election management activities to allow for its evolution in the decades to come or for its capacity to adapt to electoral integrity challenges of the future.

Overall the document is really strong on detail about how the commission will be set up and what functions it will take over from existing bodies but there is very little information on how it might grow, apart from six lines, on page 60, that refer to functions that might be transferred at a later stage, which are an oversight of electoral events and political funding. In essence, this is a static design for a dynamic environment. The initial design must have more ambition to allow the commission to grow. For the three of us, this is the big missing piece of the document.

The proposed composition of the commission has largely been modelled on the Irish Human Rights and Equality Commission but, internationally, electoral commissions follow different models. The large size of the board, the requirement that the leadership be drawn from the judicial community and the inclusion of the Clerk of the Dáil, the Clerk of the Seanad and the Ombudsman, are all consistent with Irish administrative practice but this approach is unusual internationally. The electoral commission of New Zealand has a board of three members which includes the full-time chief executive. Australia's electoral commission has just three board members. The electoral council of the Netherlands has seven members. While electoral commissions always have strong internal legal sections, few require that the chairperson is a judge. For example, the chairs of the UK, Dutch and New Zealand commissions are not judges.

Looking at the financial arrangements, the costs of running the electoral commission will be included in annual voted expenditure and it will have its own Accounting Officer but this may well lead to negotiations and discussion with the line Department on the annual budget. In contrast, the IFAC and the Houses of the Oireachtas's costs come from non-voted expenditure and that would seem to us to be more appropriate given the need for complete independence and autonomy.

As noted, the list of functions on page 57 consolidate the roles of existing bodies but notably do not broaden the scope of electoral management in Ireland. Crucially, the commission is not given a specific function of maintaining the integrity of electoral processes.

I will highlight a few areas from within those chapters. Political advertising is conceived very narrowly and there is an impractical separation of the regulation of online and broadcast media, which is not in line with recommendations from the BAI. There is no substantive engagement with the possibility of disinformation and interference in elections. The 1997 definition of political purposes, which has proved very limiting for civil society organisations,

is maintained. Promoting political participation should also be a stand-alone function of the commission. This should cover the promotion of voting, provision of political information and some role in encouraging and supporting candidacy.

The research function is very tightly defined and unambitious. It involves layers of approval that may prove unrealistic in the event of unplanned electoral events such as snap general elections. In sharp contrast, the section on voting registers contains extensive information on how current provisions and practices are to be updated. However, it still allows very little ability for the commission to influence the approach to registration. Specifically, the provisions for postal voting are still very limited in section 14 and are only mentioned under voter registration. Will the new electoral commission be able to contribute to and expand on the provisions outlined?

We welcome this really concrete step towards establishing an electoral commission. Our comments are intended to enhance the final design and operation of the institution we hope the committee will be able to contribute to under the process of pre-legislative scrutiny. We have been discussing electoral reform in Ireland for many years. Recently, we participated in a network with wide-ranging expertise on many issues. I know the committee has invited in quite a few others. However, it may also be interested in engaging with some of our colleagues, including Ms Fiona Buckley, University College Cork, UCC, on equality, diversion and inclusion; Ms Liz Carolan, Digital Action, on political campaigning and advertising; and Mr. Liam Herrick, Irish Council for Civil Liberties, on participation and advocacy on electoral matters.

Ms Reidy and I are open to answer any questions the committee might have.

Chairman: I thank Dr. Suiter for her submission and opening statement and the recommendation on further people we may want to engage with. One of the problems we have with committee meetings is that we are very restricted in time, so what we may do is seek a written submission from those recommended. We will move on to questions.

Deputy Paul McAuliffe: I thank Dr. Suiter and Dr. Reidy for being with us today. This is a little bit like the bus we have all been waiting for and now that it has arrived we want it to be the best response to what we have been waiting on for a long time. At a previous meeting with the Department, I acknowledged the importance of this legislation, the delivery of it and the work that took place in the Department under the previous Government. There are two areas of concern I would like the witnesses to speak to. I am persuaded by both the governance and ambition arguments made.

Two issues of concern for me are the management of the local register and political advertising. It would appear that in this legislation we are permitting political advertising from organisations which are largely multinational and do not have a strong track record of preventing interference in elections. On the other hand, we have independent radio stations and Irish television channels prevented from gaining that advertising revenue. I am not making the argument we should have that advertising but is there a case to be made for preventing online advertising during elections?

The second question is on the management of the register. It would appear we are leaving the responsibility and the resource at local authority level but some sort of oversight or management function with the commission. What potentials for error do the witnesses see in the management of that process?

Dr. Jane Suiter: Perhaps I will ask Dr. Reidy to go first because I took up her time. I will

then respond.

Dr. Theresa Reidy: I will speak about the electoral register and then I will let Dr. Suiter come in. It is not unusual to have a relatively modest sized electoral management board that works in tandem with a network of local authorities managing electoral registers. That is a pretty common model internationally - in fact, our nearest neighbour, the UK, operates along those lines. One of the difficulties with the register at present is that we know it is significantly over estimated in some areas but then quite under estimated in other areas. In urban communities, in particular, we think there are far fewer people on the register than there should be. Part of the reason for this is that there are no overarching guidelines, structures or requirements that local authorities have to adhere to. One of the strengths of this Bill is that it changes that. It puts in place a set of guidelines, reporting requirements and policies and procedures that local authorities will have to adhere to. That is a step in the right direction.

We also need to look at the evolution of how voter registration is potentially going to develop in the future. One would expect that the balance of registration will move towards online registration. We will probably see much more of that, particularly if there is a referendum on external voting rights for emigrants. This is going to change how we deal with voter registration. It will require significant policy development which will have to be managed at a national level and then filtered down.

We must remember that we need to keep electoral expertise on the ground in terms of the organisation of polling. That is one of the strengths of our system. In the audits of electoral procedures in Ireland, we know that works very well. The processes of organising polling and counting is done very efficiently and effectively. To some extent, it makes a degree of sense to have franchise expertise at local level. We will need to maintain some of that to consolidate this in the area of voter registration as well. This comes back to Dr. Suiter's point as to what role the electoral commission will play in oversight. As the Bill is currently written, annual reports will go to the Minister and only after a period of time will they go to the electoral commission, once that part of the Act is commenced.

There are also questions about when the electoral commission will begin to get oversight and the ability to inform policy. Under head 80, reference is made to how the electoral commission can undertake research on electoral registers and the processes but it is not clear at what point that will begin. It is also not clear whether it will have the ability to inform and shape the procedures that are currently written into the Bill, particularly in relation to postal voting. Should the referendum be passed, the registration requirements are going to change significantly. The idea of having local authorities still involved is a good one because there are strengths in that but the issues of oversight and ensuring that that purpose can grow and develop and be evaluated and analysed needs to be teased out a bit more.

Deputy Paul McAuliffe: What about the issue of advertising?

Dr. Theresa Reidy: I will leave that to Dr. Suiter. She is our national expert on that.

Dr. Jane Suiter: I could spend a good deal of time on advertising, and perhaps others will, but I am aware of taking up a lot of time. The Deputy's point on the difference between what we allow on international platforms and what we allow in national media is very marked. The Broadcasting Authority of Ireland, BAI, has made a submission stating this is not best practice in its view. We know the big platforms - the Facebooks, the Twitters and the Googles - operate according to their own rules. They all have idiosyncratic definitions. Twitter may announce a

ban on something and Facebook may not while YouTube may do something else entirely. There is a big question as to whether we allow the regulation of that to be decided by big US platforms rather than by ourselves. In addition, their responses are usually driven by US politics and not by Irish politics. There are many questions there and others around the fact that we are narrowly keeping it to electoral periods when we all know there is much political activity between elections so that seems problematic. There is the issue around transparency. It is good that we are looking for transparency but we are only going to have the archive available afterwards rather than in real time. Obviously, journalists, researchers and political parties would like to see that kind of archive in real time. While the moves on political advertising are welcome there are quite a few holes or lacunas and there are ways it could be substantially improved.

Chairman: I think there will be quite a few questions on the online advertising aspect of this. I will invite Senator Moynihan to ask her questions now because she has to attend another engagement.

Senator Rebecca Moynihan: I thank the Chair and the committee for indulging me. I will try to be as brief as possible. I am interested in online advertisements and Dr. Suiter's experience in this regard. Could she give us an idea of any comparable legal changes that are taking place in other countries around the area of disinformation? Are any of them put on a legal basis or are they just guides and policies for companies to follow? One of my big concerns is not paid online advertisements and transparency around that but disinformation and nefarious actors coming into that area. Are there any examples of best practice from other countries?

I am also interested in the point on the evolution of the electoral commission and on it not being able to evolve into a 21st century commission. Does Dr. Suiter consider there is sufficient flexibility in the Bill to allow the electoral commission to develop guides around, for example, who can take part in party leader debates so that it is not simply up to RTÉ to set the policy? Is there a role for something like an independent electoral commission in that? I am interested in the archive being made available afterwards. Does she think that is worthy of an amendment to the Bill so that tech companies make online articles available in real time?

Head 80 states that the electoral commission can inform policy and Dr. Reidy said that there is no detail provided on when that will begin. What type of issues does she envisage it looking at? Is it simply around electoral reform? Is it simply around the register or does it cover a wider area beyond that?

Dr. Jane Suiter: In terms of best practice, everybody is looking at this at the moment so it is a very live issue. Some of the best guidance is coming out of the EU. It is important to note the EU's Digital Services Act is likely to make provisions in this regard. It could happen that because of the way the Bill is currently drafted it would need to be redrafted in order to take that into account. We very much need to look at this. I can send the committee links to the various European documents, if the Chair wishes. However, it will be important to ensure the Bill is in line with European legislation which is most likely coming down the track this year. It would be a pity to do something that would then have to be changed in light of changes in Europe. That is probably the main area where most of the European legislation is coming from. Notably, that calls for it to be a year-round affair with perhaps additional measures during an election period, rather than only having measures during an election period. It is also very strong on the transparency issue.

This brings me to the third question posed. The platforms make these databases available almost in real time. They are updated at least once a day, if not two or three times a day. It

would seem odd to us that the Bill would state they be made available afterwards given that they are made available by the platforms in real time. It would seem to make sense to use that capability and make them available in real time as well through the electoral commission. There does not seem to be a particularly good reason to hold those back until afterwards.

I will let Dr. Reidy address the issue of flexibility. Regarding the broadcasting regulations, some of those are governed by court judgments on topics such as balance, while some are BAI regulations. Operational and editorial decisions, such as who is allowed to be in a debate, are internal editorial matters for RTE, and I am not sure that area would be within the purview of an electoral commission. It is an editorial decision. Perhaps there could be negotiation on best practice guidelines but I am not sure that aspect should be in legislation as it would seem to be micromanagement of the media process.

Dr. Theresa Reidy: On the issue of debates, it is not so much electoral commissions that manage debates or set down guidelines. A couple of countries have set up stand-alone small commissions to deal with this question separately. I think Canada was the first country to do that. Its Leaders' Debates Commission provides guidance on how many debates there should be and if there should be shared platforms across different broadcasters. A Bill in the UK was designed to do the same thing but I am not sure if that has passed into law. It was definitely on the agenda in late 2019 and 2020. It is not an issue that is so much dealt with by electoral commissions *per se*, although other countries have come up with mechanisms for dealing with this.

Regarding the question on the evolution of-----

Chairman: I am sorry but I think we have lost our connection to Dr. Reidy temporarily. Can Dr. Suiter still hear us?

Dr. Jane Suiter: Yes, I can. Dr. Reidy's Wi-Fi must have dropped. What was the question for Dr. Reidy and I will try to answer it? I think she is back with us now.

Dr. Theresa Reidy: I am sorry about that interruption.

Chairman: Would Dr. Reidy like to start again on the last point she was making?

Dr. Theresa Reidy: Did the committee hear what I said about television debates?

Chairman: Yes, we did.

Dr. Theresa Reidy: On the evolution of the electoral commission, what we are saying specifically is that the roles and functions ascribed to it are tightly defined. They consolidate existing electoral administration functions, but there do not seem to be any open functions which would allow the commission to develop its role and expand into new areas.

I will address some of those points in more detail. At present, there is no function providing that the electoral commission has a role in auditing each electoral event and assessing how it operated in the various parts of the electoral cycle. That means we do not have a consistent evaluation after every event. If we take the provision of voter information, because the referendum Acts are consolidated into this legislation, a specific set of requirements mandates the electoral commission to be involved in providing information at referendums. It is not specified anywhere, however, that the electoral commission will be responsible for doing this at elections. We have the odd situation where if a referendum is scheduled at the same time as an election, the referendum commission provides excellent information concerning when the

referendum will be, what the issue is and how long the polls will be open, but there is no mention of the election running at the same time. Reading this Bill, there does not seem to be any provision to allow the electoral commission to step into that role and provide this more general information. It is the same with, for example, the promotion of candidacy, encouraging people to run for election and providing supports for them. There are not functions set out in the current general scheme, as we read it, that would allow the electoral commission to evolve in that way. This is the first step, though, so it is possible that these things can be built into the Bill.

In response to Senator Moynihan's question about the role the electoral commission would have in providing policy advice, and with respect to the voter registration processes, it will be interesting to know if the commission will be able to provide advice as we move towards more online registration. These things interact. If we were to trial much wider use of postal voting, for example, that would have very important implications for the electoral registers, where people are registered and the point at which the electoral commission would be able to advise on those things. What is written there now is that when the electoral commission comes into play, many of these decisions on postal voting will already have been made, which really limits the ability of the commission to shape what are very important decisions.

The other very important thing about registration is that if we were to trial early voting, which is common in a lot of countries, it would also have implications for voter registration. In general, though, there are some very welcome developments and advancements in voter registration. There are some really important changes in the general scheme that will be very good if they come into play. It is just that there are other challenges ahead, and it is not entirely clear how the electoral commission would be able to shape and evolve that policy.

Chairman: Dr. Suiter referred to the EU's Digital Services Act and how the Bill may require redrafting or amendment. Perhaps we could come back to that at some point and Dr. Suiter could elaborate.

Deputy Eoin Ó Broin: I am upstairs in Leinster House 2000, for the information of the clerks. I thank Dr. Suiter, Dr. Reidy and Professor David Farrell not only for their presentation but also for their ongoing work in this area. To pick up on Deputy McAuliffe's bus analogy, it is not only because we have waited so long for the bus but also because, like in so many parts of rural Ireland, we know the next bus will not come for quite some time that we want to make sure that this one is as good as possible. We all want this Bill but we all want the best Bill we can get. My questions are with a view to the fact that this committee will produce a report and that the report will have recommendations. As we all know, the more focused our recommendations are the greater the chance that the Government and the Department will listen to some of them. I am really keen to get the witnesses' specific high-level asks, that is, the things they would like to see added to the Bill in a number of key areas.

First, Dr. Reidy mentioned the audit, but are there any other key functions the witnesses would like to see in the Bill at this stage? Do they have any concern about the independence of the structure as it is set up in terms of being reliant on voted expenditure and other aspects of the Department and the Minister almost being a kind of line manager to the board in some respects?

Second, regarding voter participation, which is a very distinct piece of work, what is the good practice? What should we be looking to insert in the Bill to ensure that this commission has a really strong role in increasing participation, particularly among sections of the population such as young people, lower income communities, migrants, etc. Dr. Suiter mentioned election and referendum research at the start, but I would like the witnesses to bring their experience of

previous election research to bear. What do we need to see in this Bill to ensure that the kind of good work that previous governments funded the witnesses and others to do becomes mainstream for all elections and referendums?

Finally, we were told by the officials at the previous meeting that the set-up budget will be at the upper end of €2.7 million within an annual operational budget at the upper end of €1.7 million. Obviously, it is hard to compare this with other jurisdictions because their populations may be bigger and so on, but is that adequate? What is the norm for comparably sized western European liberal democracies? I would also be interested, if the witnesses get a chance, to hear them further expand on some of the online stuff, but that has been well covered so far so perhaps they could concentrate on those other questions first.

Chairman: Would Dr. Reidy or Dr. Suiter like to contribute on those points?

Dr. Theresa Reidy: On the question of what we would like to see in the Bill, the functions are worthy of further attention. The Deputy highlighted those that we homed in on. It is important that there be a type of election audit or evaluation at each election, not just of the election day process itself but of the whole electoral cycle, including the operation and organisation of the event. This would involve rolling research.

That connects to the Deputy's question on what would be good in terms of referendum or election research. It is important that we learn about how voters engage with politics and what information is useful for them. We need to do this over a couple of periods. We must engage with voters at the start of the process, prior to election or referendum day, and after the day with a view to enhancing the processes and practices thereafter. This would not have to be done at every electoral event, but we should ensure that it was done reasonably regularly and that the commission had the independence to do so.

Regarding what is good in terms of voter participation, it is crucial that there be a function specifically related to voter participation at all electoral events, not just at referendums. This would connect with the voter registration processes and involve ongoing voter information and education on, in general, the political system, the electoral events in question and the roles of the people being elected. We have good practices in this area. The Referendum Commission has been doing this work quite well in recent times, but it should be done at all election events. Participation should be understood broadly. We would want to encourage people to become involved in politics and see candidacy supports and a role for candidacy. Our colleagues who work in the fields of equality, diversity and inclusion are keen to see this dimension being understood in terms of participation in voting and standing for election. This relates to a recurring theme.

We should leave the Bill sufficiently open so that the electoral commission could evolve this work itself by trialling different techniques. This would particularly be the case around what works to mobilise voters. The commission would be able to try different techniques, evaluate them and roll them out if they have been successful or trial something else if they have not. For example, many techniques have been tried in France around contacting voters, including by text, to let them know where their respective polling stations are and what times those are open. Some of that has worked well whereas some has not. We want the electoral commission to have the autonomy to trial techniques, evaluate them and move on.

A great deal of good referendum research has been done. It is obvious to us that every referendum should be evaluated, not just the ones where the Government did not get the results it

believed it would. It would be good if an evaluation was an automatic decision of the electoral commission. Referendums have started working well, as shown by some of the Referendum Commission's research. There is a strong core, but an evaluation needs to happen at every referendum.

I do not know the operating budgets of electoral commissions off the top of my head, but we have examined this issue previously and spoken to committee members. Internationally, the Canadian electoral commission is considered the exemplar, but it is a very large commission, covers diverse territories and is probably not the best model for Ireland to consider. Rather, we should probably consider the Electoral Commission of New Zealand. It has a relatively small staff and works with local authorities. When discussing budgets, we must remember that the model envisaged in this Bill, albeit a good one, would involve a great deal of this work being done by local authorities. Budgets are involved in that too, so the total cost of electoral administration would be considerably greater than just what is included in the budget for the electoral commission.

Senator Mary Seery Kearney: I thank the witnesses for their contributions. My concern comes from a focus on digital identity, the manipulation of digital presence and what happens to that in the context of democracy as a much wider subject. I am quite influenced by the writings of people such as Dr. Shoshana Zuboff on the age of surveillance capitalism and looking at what is happening on social media and with those social media giants. Today we have newspaper reports of a misinformation campaign claiming that hospitals are lying about their capacity and that they are empty. There is a pattern of online content that is repeated through several countries and we are just the latest country to exhibit this. It is a deliberate disruption campaign that is being orchestrated by somebody or some parties. My concern is that we are reliant on the Facebook definition of community rules to examine that content or do something about it and there is not, *per se*, anyone with the powers for a mandatory order to remove content. That is not currently in legislation. One can act on defamation but there is otherwise no limit on content.

I welcome the Bill and note the witnesses' comments on it. My concern is that it is a narrow definition of advertising, limited to the campaign period. I do not believe that that reflects the reality of our lived experience day to day, especially in the context of today's campaign and similar campaigns. I am mindful of the Digital Services Act coming. I would rather get it right or examine the possibility of getting it right, whether we do it in this legislation or in the transposing legislation when the Digital Services Act comes into being.

I look at the online safety and media regulation Bill, the creation of a media commission with broader parameters and jurisdiction, the Data Protection Commission, with which I am especially familiar, and at the electoral commission. Given their boundaries, jurisdictions and focuses, do the witnesses think that this power should be legislated for separately? Can it be done effectively within the commission? Is it too much to ask of the electoral commission? What are the witnesses' thoughts on how that can be tackled? My overriding concern is that we will publish legislation that implements rules regarding political advertising that are already out of date by a number of years with regard to reflecting the day-to-day experience.

Dr. Jane Suiter: In Ireland, we have been doing quite a lot of work on disinformation. It has been led by the Department of the Taoiseach, which has been quite involved in it. As the Senator knows, parts of this are being addressed by the Future of Media Commission. I could not say for sure where I think it best sits, but looking at election and political misinformation, what we have transposed here is text that we came up with in the previous century. As a result,

this does not in any way tackle the problem of disinformation in elections and so on, yet we know some things that will do that. I am not sure that it is the place for the commission. Obviously, this is something that is evolving. There was a call last week but, unfortunately, there were technical problems so it was difficult to understand exactly what is happening with that. The European Commissioner on data had a piece in the *Irish Independent* just yesterday on issues relating to data protection of which we must be cognisant and to which the Senator may have been referring. This is probably one of the good places to put some of that detail in and start trying to think about how we might legislate for it. If we rely on US corporations or even European legislation, it is not clear how far we will go in terms of content yet we know that the content itself matters - not just the transparency, which is where Europe is going. One of the researchers who works with me, Eileen Culloty, has been on the websites of a number of the far-right groups that are manufacturing some of this disinformation, on places like Parler and Gab, and has found a very clear pattern which shows that some of the discourse that is starting in QAnon groups in the US is arriving in Ireland. We are beginning to see more of that appearing in Facebook groups and people start to believe it so it is something that would be of concern for all Members of the Oireachtas. This is where it might be good to start thinking about how we might tackle that.

Senator Victor Boyhan: I am not sure whether Deputy O'Donoghue is linked in.

Chairman: Senator Boyhan is next on the list if he wishes to go ahead.

Senator Victor Boyhan: I thank Dr. Suiter and Dr. Reidy. This is a really interesting discussion. Of course, we all know the importance of elections, which are fundamental to our democracy. Therefore, it is important that they are properly managed and evaluated. This goes without saying. I have been involved in the OSCE so I am familiar with the monitoring of elections and indeed was in the US during the mid-term elections. It was interesting to observe the discourse there. We had a workshop as part of that process a few days before polling. It was interesting to engage with different groups and discuss the major concerns about misinformation or disinformation. It is an extraordinary set-up that can in no way be compared with the Irish system.

I know Dr. Reidy has talked about it so I am particularly interested in hearing from Dr. Suiter about the auditing of electoral events, the cycle and how we can evaluate all of that because that is where the learning will be - how we can audit and learn from that system. Could the witnesses tease out international best practice regarding the auditing of electoral events, the cycle, evaluation and the learning from that in other countries such as Canada, which was mentioned by them, or New Zealand, with which we might be more familiar? I think that is critical but it has not been addressed in the heads of this Bill.

Dr. Jane Suiter: Does Dr. Reidy wish to go first.

Dr. Theresa Reidy: There are different approaches to auditing electoral events around the world. When we talk about the electoral cycle, we are often talking about a 12-stage electoral cycle - everything from voter registration to party registration to voter information to the campaign period itself to polling day. There is often an appeals process or the potential for an appeals process afterwards. We are talking about what is sometimes called an election ecosystem when we talk about auditing it. One would really want to ensure that one had capacity to evaluate each of these stages - perhaps not all in the one go, although there are processes for undertaking what is called a full electoral audit. There are different systems in place. If the Senator is particularly interested in this, we have a UK-based colleague, Professor Toby James,

who works quite a lot on this area. He has developed a number of systems, on which he has written a number of books, and these have been adapted and taken on board by electoral commissions around the world. He would certainly be a good person to contact to get more detail on how it is done.

The election work we do much of the time relates to understanding how people voted, why they voted and what information they found useful, with the intention of feeding that back into the system. Our work tends to be more post-election evaluation.

Work done specifically on Ireland that is worth mentioning includes work done by the Electoral Integrity Project, which is based out of Harvard University and Sydney University. It does an expert evaluation of the electoral process after elections. Ireland was included in that in 2011 and 2016. The evaluation includes everything, for example, party finance regulation and evaluation of the electoral registers. That project is interesting because it involves experts evaluating how they think the election worked, rather than having an audit team going into the commission and evaluating the documents. It is an expert evaluation.

There are a number of different ways in which this can be done. One probably wants to have the flexibility to allow different models. Some of this work can also be done external to the electoral commissions. There are international research projects, for example, the International Institute for Democracy and Electoral Assistance, involved in this kind of work. In the case of Ireland, there is potential to engage more effectively with some of these international projects and also to ensure that capacity is built into the electoral commission so that it can do some of this work as well. Some of this international work is being done but Ireland is not often included in these studies because we have a decentralised model and we do not have budgets. For example, our elections were covered by the Electoral Integrity Project in 2011 and 2016 but not in 2020.

Chairman: adfafaf

Dr. Jane Suiter: Dr. Reidy is correct that there are a variety of models, etc. One interesting question is whether this is done following an electoral event as an audit of a process that has happened or it is done in real time and is ongoing. Now that we are in this hybrid media system, it is important that we think about some real-time monitoring. That would be particularly the case for the information environment. Senator Boyhan was concerned about disinformation. Certainly, if one brings out a report on disinformation three months after it has happened, the learnings are fairly limited. The commission needs to have the ability to get people to do this kind of monitoring of the information environment in real time rather than following an event.

Chairman: I have a question on the digital registration process for people who can register remotely or online. Rule 28 says something along the lines of “where practicable”. Does Dr. Suiter or Dr. Reidy have any concerns about the way that is written? Does this refer to it being practicable for the person register online or remotely or practicable for the local authority to enable it? We all know that many local authorities are better resourced to deal with that than others and I wonder whether that would create a division among local authorities with some people being able to digitally register.

Dr. Jane Suiter: I think the Chairman needs to talk to the Data Protection Commissioner who, I think, will appear before the committee. In an ideal world, to ensure there were not geographic vagaries of that nature, part of the oversight function of the electoral commission would be to allow a centralised digital or online registration function. It would also seem sensible that

one would not have to then build different systems in every local electoral area. There is a possibility a centralised system could even be used for the preregistration of the younger people we were talking about. That is a personal view. I do not know if Dr. Reidy agrees.

Dr. Theresa Reidy: I would just add that digital registration has many advantages. One is that it would reduce the costs of running the registration process. It would eliminate all the form inputting that must be done afterwards, and it would eliminate a lot of error because incomplete forms are not submitted. It is very advantageous for accessing younger cohorts who are much more familiar with this technology. It would require verification and validation processes so there is confidence in the system. That is where the conversation with the Data Protection Commissioner would come in.

We are all moving in this direction and a number of countries are at a much more advanced stage on digital registration. We could learn a lot from them. Many states in the USA have been doing this since around 2007 and 2008. Several EU states are at an advanced stage. France is one where there is still some self-registration and we could learn a lot from it. We need to keep in mind that there will be people who will not use digital registration. That goes back to the original question of whether it is a good idea to have-----

Chairman: Unfortunately, we have lost Dr. Reidy again.

Dr. Jane Suiter: I think she is saying that is why it is a good idea to have the local authorities involved.

Chairman: There is still that local knowledge.

Dr. Jane Suiter: Yes, or some will not want to register digitally, such as older people. There could be a dual system.

Chairman: We discussed real-time access to information in previous conversations. Do the platforms on which that information would be accessed archive that information? Is that information then available afterwards?

Dr. Jane Suiter: They archive the political advertising. One can go into the Facebook ad library or the Twitter ad library and look to see what they have. There are issues. We completed a couple of reports for the Broadcasting Authority of Ireland, BAI, which were then used by the European Regulators Group for Audiovisual Media Services, ERGA, on political advertising in the local and European elections here. There are still problems with that but it is something on which the Commission is working with the platforms. The ads are archived and it is possible to look at the material. It is the archive that this legislation seems to refer to. That is what would be made available whereas they are available in real time and so the technology to deal with that would be preferable.

Chairman: Does the archive information contain the same extent of information as the live information?

Dr. Jane Suiter: It does but it is only on the adverts that the different platforms have said are political. There is some debate about that. That is one of the problems with this legislation, that it does not deal with issue-based ads, yet we know that many of the ads are issue-based rather than having been put out by a political party. Take the USA, where influencers were paid by different actors. Those do not come under the legislation. It is still pretty narrow.

Chairman: On communication expertise, this committee asked whether the commission should have any role in regulating posterage during elections and referendums, as in limiting the numbers of posters. When the posters go up, it is something that sparks a lot of conversation. There does not seem to be much conversation when the posters come down. Would that be too prescriptive? We spoke about the editorial rights of a television station to agree who should be on, but do the witnesses have any view on whether there should be any limitation on posters to even the playing field across an election campaign?

Dr. Jane Suiter: There is debate about posters. In some ways we have relatively high turnouts and there is some evidence to suggest that seeing posters alerts people to the fact an election is on. They are something children see when they are walking around and there is some evidence this will spark conversations about politics and about issues within families. In some jurisdictions where posters are much more limited the overall engagement can be more limited. Certainly from a political engagement and political education point of view, limiting posters is not necessarily the ideal way to go.

I know people have some environmental concerns around them in terms of what they are made of, or Tidy Towns committee sometimes have concerns because they think they look messy. There are also concerns about people spending various amounts. If we think about it in terms of new candidates and new parties, it is one way for them to get their faces out. If we limit posters, it gives an advantage to incumbents whom people already know rather than to challengers.

The electoral commission could certainly be involved in a debate on the amount of spending that could be allowed on a poster campaign by candidates, especially when it comes to SIPO being incorporated. If some of these functions were allowed to be expanded, that is something the commission could do. I do not think we would want to put into legislation that the commission necessarily must act to limit posters. It could be that there is some way to limit them and the amount a major party or an individual candidate can spend.

Deputy Cian O’Callaghan: I thank Dr. Suiter and Dr. Reidy for coming before the committee. I have a number of questions related specifically to the Bill and what changes should or should not be made and what recommendations the witnesses have. Potential disinformation from online campaigning is a challenging area because one person’s disinformation is another person’s strongly held opinion. It is more about trying to limit external influence and have transparency about people trying to influence voting in referendums. Is the Bill flexible enough to deal with the potential changes that will continue to happen with regard to online influencing and campaigning? Do changes need to be made? With regard to the EU Digital Services Act, what do the witnesses think is the best way for us to ensure there is alignment with it?

My next two questions are on potentially extending postal voting. What changes in the Bill would the witnesses recommend? With regard to early voting and allowing for it, what changes might be made to the Bill to facilitate this?

Dr. Jane Suiter: Has Dr. Reidy managed to make it back?

Chairman: I do not see her on the screen any more.

Dr. Theresa Reidy: I am here.

Dr. Jane Suiter: I can see Dr. Reidy now. I will address the questions on disinformation and perhaps Dr. Reidy can speak about postal voting and flexibility. In a way, they both speak

to the same thing, which is our overarching concern that this is a pretty prescribed piece of proposed legislation that does not allow much flexibility, yet we know that in the ten or 20 years that committee members have been involved in politics there have been huge changes in campaigning, the information environment and everything else. Therefore, it would seem necessary that some sort of flexibility for functions would be built into the legislation.

Specifically relating to disinformation, there simply is not the flexibility for the commission to deal appropriately with that and this would need to be considered. Some electoral commissions deal with fact-checking. Our Referendum Commission has done some work in this area but again it is limited and more could be done in that regard. We do not want to get into contested political areas but there are some claims that are manifestly false and not factually based. That is important and not just in referendums. The text from the Referendum Commission has been copied but it has not then been addressed to election periods. It does not apply outside election periods. There is a tightly defined political area but we all know there are issues with influencers and bots, for example, and there are many ways in which this can happen. The flexibility just is not there for this commission to deal with that kind of matter.

Dr. Theresa Reidy: Picking up on the second part of the Deputy's question, which relates to postal and early voting, we do not have much research on Irish elections in this regard. In the aftermath of the 2007 election, it was possible to do some research on the reasons people did not participate. The evidence indicated a ratio of 2:1 for voters who did not participate but would have done so if facilitated; they could not make it to polling stations, they did not know where those polling stations were, they did not know if they were registered or they were away for unspecified reasons. Facilitation mattered for two-thirds of the people who did not participate. That is why postal and early voting matters. We believe there is a reasonable number of people who would participate if it was made a little easier for them to engage with the electoral process.

As it currently stands with the Bill, postal voting is confirmed for diplomats, polling workers and people with specific illnesses but there does not seem to be potential for broadening the criteria or the scope of those criteria. As we have said, under head 80, the electoral commission is allowed to advise and provide policy recommendations on this but it seems this is a relatively straightforward area in which the electoral commission should already be making progress in broadening the scope for postal voting and making it much easier for people who are travelling or away from their home for whatever reason to be able to access a postal vote. That is not currently in the legislation. Generally, over many of the evaluations of the electoral process, there has been support for that.

Early voting is somewhat different and we do not currently have facilities for early voting other than, for example, what happens on the islands or with the special voter list. That is not covered. This is one of the places where we would want the electoral commission to do some research before proceeding to making recommendations about early voting. It has implications on the production of registers and management of polling stations. This is an area where we would definitely want the electoral commission to do much detailed work. We would probably want the electoral commission to trial this in an area. This is something we have come back to a couple of times as there must be scope for testing, evaluation and decisions thereafter. As currently constructed, that type of flexibility does not appear to be present.

Deputy Cian O'Callaghan: I thank the witnesses. What must we do to ensure this aligns with the EU Digital Services Act?

Dr. Jane Suiter: It's main provision will be around transparency. It will provide real-time transparency for all periods, perhaps with additional measures for election time but not limited to that time.

Deputy Cian O'Callaghan: That is very clear. I thank Dr. Reidy as well. The comments on postal voting and the Bill are also clear enough and there could be a change or strengthening to facilitate extensions.

Senator Mary Fitzpatrick: I thank the witnesses. I am here in LH 2000 as well.

I have a couple of questions for the witnesses. While the Bill is very welcome, I get their point that it is too limited and not ambitious enough. I wonder if it is trying to be all things to all men. I am thinking in particular about the points we have raised with the witnesses on the veracity of communication and the messaging. Should this Bill not be dealing with those issues? They are issues that do not relate just to elections or referendums but ones we are contending with on a daily basis in the political discourse and the political environment.

The witnesses spoke about the Digital Services Act and other legislation and policies that are being pursued. Would it be better if the electoral commission did not deal with any of those issues? Those are issues we recognise have to be dealt with in real life on a constant basis and the electoral reform work of this Bill should focus exclusively on the activity that takes place on polling days, be they referendums or local, European or general elections. That is a strategic question in respect of the Bill.

The other issue I wish to raise is more operational in nature. It has to do with the register of electors. I listened closely to what the witnesses said about what is currently proposed but there is one aspect I do not get, and I come from a local authority background and have a great deal of respect for those working in franchise. I have also had my challenges with the register of electors so I have a real interest in this issue. I believe we have an opportunity to improve it but I am not convinced by the idea that on the one hand we are proposing to have a centralised rolling register of electors and on the other hand we will continue to maintain the maintenance and management of it in each of the local authorities. What is the witnesses' opinion on that? I appreciate that there will be an initial transition that would have to be managed but I refer to setting as the objective having one centralised register on a national basis, which would obviously have to be digital, online and verifiable.

The other two points raised were about having reports on elections and referendums and not just when the Government does not get the result it wants. Do the witnesses believe it should be a statutory requirement to prepare such a report within six or 12 months? In what sort of timeframe should a report be required? Should it be prepared by the electoral commission and what would be the parameters of that report?

In terms of penalties, what are the witnesses' views on compulsory voting and requiring compulsory participation? Do they believe that is a good or bad thing? Would it work? If it was to be made compulsory what type of penalties would be imposed? I believe the current penalty is a class A fine or something like that. What are their views on that? I thank both witnesses and Mr. Farrell also.

Chairman: Who wants to go first?

Dr. Theresa Reidy: I will take the question on the electoral registration if that is okay. The main reason we continue to have local authorities involved is because there are layers of com-

plexity involved in voter registration. Envisaged in the Bill is some ongoing type of door-to-door canvass in terms of adding people to the electoral register. There are provisions in respect of postal voting and special polling stations. There are very welcome developments with regard to the provisions for including people who have temporary residence or are of no fixed abode on the register. All of that, which is very welcome, requires some kind of structured organisation and offices across the country. That is one of the reasons continuing to have agencies on the ground is very welcome.

Many countries have automatic registration but if we dig into how that actually works, it means one presents to City Hall, usually within three months of moving to an area, and registers with one's local authority. That automatically updates the electoral register and one's voting enfranchisement entitlements follow one. It involves a process of engagement with local government. Accordingly, the model we have is not that different. Some of the improvements and reforms built in will make us a little more dependent on knowledge on the ground and having the capacity to process postal voting, special voting, as well as improving registration opportunities on the ground.

The crucial point is that appropriate oversight and procedures are put in place which have to be adhered to. One wants to eliminate the geographic variation that one has at the present time where some local authorities are more effective at delivering this than others. That is where the real emphasis needs to be regarding the reporting requirements to the Minister and the electoral commission, along with the capacity of both of those to require improvements and expansions of activities on the ground. The idea of having local authorities involved is not unusual and is quite typical around the world. It retains this connection and keeps the voting services close to the people.

There is a school programme envisaged and pre-registration for 16-year-olds and 17-year-olds. Again, it would make some degree of sense that this would be organised by franchise staff on the ground working reasonably closely to the schools. Otherwise, we will be looking at a much larger electoral commission. If the commission staff were to be involved in the voter registration processes, there would have to be suboffices and outreach abilities when we already have that structure in place.

One thing we do in Ireland is we strip roles away from local authorities before we actually look at how they could be improved and work better. There is a real tendency towards centralisation. We need to keep that in mind when we are addressing these matters.

On whether research should be put on a statutory function, ascribing a research role to the commission is crucial. We want different types of research. As Dr. Suiter said, on some occasions, one wants campaign research and reports afterwards. There needs to be some degree of autonomy regarding the design and deployment of that research. The commission has a research function which is a positive point. Giving it a little more flexibility would require the approval of the Minister and the Oireachtas. Freeing that up a little bit might be the direction to go rather than putting in more prescriptive statutory obligations.

Chairman: Thank you, Dr. Reidy. We are out of time but we might return to answer Senator Fitzpatrick's question later.

I call on Deputy Gould.

Deputy Thomas Gould: First, I want to let the officials know I am in my office in LH2000.

I thank Dr. Reidy and Dr. Suiter for their thoughts on this legislation.

I welcome the Bill and the setting up of the electoral commission for several reasons. In the constituency I represent, Cork North Central, we have fierce variations in the number of people who vote. In some parts of the constituency, only 30% of people vote while in other areas, it is more than 71% vote. That comes down to the demographics of the areas. Those in more settled and affluent areas have a tendency to vote. In areas where there is disadvantage, deprivation, marginalised communities or much rental accommodation, fewer people vote. This Bill is vital to making it more possible for more people to vote. We need to make it easier for postal voting and opening polling stations earlier, for example. Voter registration, as it stands, is a shambles in certain areas. People who have unfortunately been deceased for ten or 20 years are still on the register. People say to me that when they turn 18 they are cut off from children's allowance but not automatically registered to vote. The question of data sharing comes in then. The data commissioner will give us some insight into this. We know, from either a tax or a health point of view, when people turn 18. We need to make it possible for them to be automatically registered. This should also apply when people move. Many people are fed up with politics and do not want to engage. That is why we want to make it as easy as possible for them to register and be able to vote. Where is the best practice that the witnesses have seen for postal voting? Is this Bill doing enough to engage with people to ensure they vote?

Then there is the whole issue of education. We do a sample ballot paper in advance of elections because we find that many people still do not know how to vote. On young people particularly, I welcome the preregistration but early school leavers will miss out on that. What can we do to engage with those people?

Dr. Jane Suiter: As Dr. Reidy has said, preregistration is important. We have to go in and deal with the different schools, or talk to the Data Protection Commissioner, so that we know when people turn 18 through their PPS numbers or whatever else and they automatically get put on it. That needs to be worked out. It is the same thing when people are deceased. The State knows when people are deceased but it is a question of whether that data sharing is permissible and if it is something we want to do. If it is, then when somebody's State pension is no longer being paid, maybe they should be taken off the electoral register. To do this means some element of centralisation and, as Dr. Reidy has said, we do not want to strip functions from local government. Some of these things with regard to moving addresses and so on cannot be done unless there is an overall system that different local authorities feed into. Under such a system, it could be seen and understood that somebody has moved from Cork North-Central to Cork North-West, for example. There has to be some element of this. For that to happen, there has to be some element of data sharing. It would be useful to engage with the Data Protection Commissioner on such questions.

The Deputy spoke about more vulnerable people not voting and lower turnout in disadvantaged communities and communities with higher numbers of young people. This is where it is important to have a strong engagement and education function in the commission, including proper campaigns involving text messages to let people know that it is election day and where their polling place is. We need campaigns on social media, where people will see them. Those functions of the commission are important for precisely those reasons.

Dr. Theresa Reidy: We have very good practice on voter education with the Referendum Commission. It is pretty good at running advertising campaigns and alerting people to the date and the content of referendums. It is a question of using that existing expertise, broadening it out and ensuring the commission has a role to play there. If we had regular advertisements

before elections which showed the content of the ballot paper and how to vote down the ballot paper, that would help significantly. These are all modest changes, but cumulatively they could be very important for our most vulnerable voters.

As for good practice in regard to postal voting, the UK recently undertook an expansion of postal voting, and while there have been problems with it, there is much we can learn from what it has been doing because it has been moving significantly into this space. That is where the electoral commission would begin its investigations. Postal voting is a crucial issue because if the proposal to enfranchise emigrant voters is passed in a referendum, those voters will have to vote by post. There is significant potential, therefore, for this to have to be examined in great detail.

To pick up on Deputy Gould's point about preregistration in schools and the issue of school-leavers, this reinforces why local authorities are needed on the ground. They need to continue with door-to-door canvassing. It is mentioned in the Bill that local authorities might organise events to boost registration and they will have some autonomy in that area. Those are important reasons and they reaffirm why we want some people to be on the ground. The centralised rolling register will facilitate and improve data-sharing but the Bill is cautious in that it makes clear that the commission will have to engage with the Data Protection Commissioner and the Attorney General regarding how these matters will be managed and operated.

Chairman: On the educational aspect, should it be left to the commission to present voters with a sample ballot paper, rather than a political party, which might fill in some of the numbers? Should it be left as a purely presentational and educational purpose?

Dr. Theresa Reidy: If the electoral commission were doing it, it would not fill in the numbers.

Deputy Thomas Gould: The Chairman is absolutely correct. Where there is a lack of education or information, we step into the breach, although one could call us old-fashioned in that way.

Chairman: It seems to work.

Deputy Thomas Gould: In regard to education, when there are multiple elections at one time, it can be off-putting for people who are not confident about voting. There might be a referendum, and a European election and a local election, or a general election, all in one day, and referendums can be complicated. Even though the Referendum Commission does excellent work, more needs to be done in this area.

Senator John Cummins: I thank our two guests, Dr. Reidy and Dr. Suiter, for their insightful contributions. They made a good point about non-voted expenditure versus voted expenditure and the committee will have to reflect on it in compiling our report on this legislation. They were quite critical of the heavily prescribed nature of the structure and function of the commission and gave examples of other countries, including New Zealand, whose board has three members, and the Netherlands, where there are seven members. Do our guests accept that within the structure proposed in the legislation, four people will be appointed through the Public Appointments Service and that, therefore, those independent laypeople will effectively have a majority on the commission? If that is not acceptable, what do they propose in regard to the make-up of the commission?

Turning to the issue of the register, much of this will be teased out with the Data Protection

Commissioner when she appears before the committee. However, when I was asking questions of the Department on this last week, I asked about how the two systems, involving both the existing register and the use of PPS numbers to confirm that people are located at the locations specified, would be married. It was stated that three attempts would be made to confirm whether somebody is at a particular location. I am a little concerned about that answer because it could lead to an inaccurate register for a hell of a long time. Does Dr. Reidy agree that if three attempts must be made to confirm whether somebody is at a location, they should be made within a prescribed timeframe, be it over a three-month period or a six-month period? I am acutely conscious that if we are to do this exercise and improve our register, which both delegates have accepted has not been up to scratch in that it has been oversubscribed in many cases and undersubscribed in others, we really need to tackle the issue of people being registered at multiple locations and people who are not registered at all. If we really are to tackle it, we will have to remove people after making a reasonable effort to check whether they are at a location. Should this be within a prescribed timeframe?

Dr. Theresa Reidy: I will address the composition first. We are not overly prescriptive in terms of whom we suggest should sit on the commission. Our point is that a quite large board is envisaged. As we all know, the larger the board, the greater the potential for long, protracted discussions and things not getting done. When we looked around the world, we saw that there are many models for electoral commissions. It is not as if there is one dominant model but many of the countries identified as having effective electoral administration tend to have smaller boards.

On the question on composition, it is legitimate to ask why the Clerk of the Seanad would be sitting on the electoral commission given that most aspects of Seanad elections are not related to national elections involving the entire electorate. The same applies to the Ombudsman. We tend to have a default number of people we put on all these boards. We want to ask why we are putting these people on the boards because it does not happen in other countries.

On leadership, we have in Ireland a tendency to appoint members from the judicial community as chairpersons of boards but it is worth asking why they have to be judges. What specific skill sets do judges have that would mean they should necessarily or always chair commissions? Judges do not always chair commissions around the world. Often, it is senior civil servants. It is actually people from political backgrounds who are appointed to the positions. We are asking questions rather than prescribing an alternative model. Although we always appoint the Ombudsman, the Clerk of the Dáil and the Clerk of the Seanad, we are evaluating whether it is necessarily the way we want to continue to do our business.

Specifically on the other question, I am very sorry but I do not have an answer. This is exactly the kind of question that the electoral commission should determine in respect of the transition arrangements because these types of questions are quite technical. The commission would need to draw on its own electoral expertise but also on what is international best practice for managing transition arrangements such that when voter registration processes are changed and new structures and systems are created, it can identify what can be learned from what has been done in other jurisdictions. I do not know whether I can specify a number of months or years. It would be random.

Senator John Cummins: Does Dr. Reidy have examples of locations where systems have been married up or where systems that were in existence for a long period have been modernised?

Dr. Theresa Reidy: Again, our nearest neighbour is a very good example. It changed its registration processes in the past decade. It moved from family registration to individual registration and experienced many teething problems regarding that. I know the Scottish section of the Electoral Commission in the UK, with which I have done work, was involved in that. They are definitely a group of people one would want to engage with around the practicalities and modalities of what worked well. Tying into some of the other bigger questions we had today, that is why one would have an electoral commission which would set the guidelines for all local authorities and be mandated for everyone. One would therefore reduce the disparities and variation that have crept into electoral administration practice.

Senator John Cummins: Finally, the previous contribution touched on people who pass away. In my view, a person's personal public service number, PPSN, essentially dies with him or her. Does Dr. Reidy agree that in the event of a person's death, it should be the case that he or she is automatically removed from the register through this modernisation process? One of the things that upsets many families is not getting the polling card that comes in for an election, even though that does upset some people; it is often when somebody is called for jury duty. That is obviously linked to the electoral register. I am sure Dr. Reidy would agree the appropriate way to deal with this is by having a person's PPSN essentially removed automatically.

Dr. Theresa Reidy: Some of that is certainly envisioned in the Bill. There are discussions in the later sections around the electoral register about data sharing with specific other Departments. Death is obviously one area. As I said, it is tentative because this would need significant checking with the Garda as to its legalities and operation.

Senator John Cummins: In principle, I am sure Dr. Reidy would agree.

Dr. Theresa Reidy: Yes, absolutely.

Chairman: I thank Senator Cummins and Dr. Reidy. I will move on now to Deputy Higgins.

Deputy Emer Higgins: I thank the Chairman. I confirm I am in a very cold Leinster House today. I will perhaps follow on from some of what Senator Cummins mentioned. I totally agree with what he said about the cleaning up of our register of electors. It is critical it is done in a sensitive as well as an efficient way. With my background coming from private sector employment, it frustrates me no end that we do not have a streamlined database we can manage for all our services.

That really came into its own this year during the stay-and-spend initiative, which we had to do through the Revenue Commissioners because it had to be a tax-back process. We did not have any easily identifiable, user-friendly database we could use to target all of our citizens who were aged over 18. That, to me, is incredibly frustrating. If, therefore, we can in any way use this Bill to help clean up our act in that regard, it would be a definite positive. I quite like what Senator Cummins said about the linkage with a person's PPSN. If that is going to be a person's footprint from a Government and State perspective in Ireland then it makes sense.

I agree also with an awful lot of what the witnesses said in their presentations, for which I thank them. They have been insightful. I agree, in particular, with the need to future-proof this Bill. In response to some of our contributors today, Dr. Reidy has given some interesting ideas on how we can potentially do that. I understand well the concerns around the political advertising element of things. Our next pre-legislative scrutiny session will probably focus quite heav-

ily on the advertising element. I understand we are bringing representatives from some of the social media platforms before the committee. It will certainly be interesting to hear what they have to say on this. I do not want this to be case of self-regulation, however. I do not believe that is the right way to deal with it. I have, therefore, certainly taken on board what Dr. Reidy said in that regard. She raised a valid point on the referendum advertisements. I would love for us to make sure the electoral commission has the authority, ability and expertise to be able to run information campaigns. It never ceases to amaze me how few people understand our single transferable vote system. We could certainly do with some information campaigns around that as well. I believe it was in 2019 that I stood in the by-election. It is awful that I cannot remember. We had a historically low turnout. Information in advertisements encouraging people to vote and reminding them that election day is coming would have been helpful. Advertisements are really helpful for referenda.

Regarding representation on the commission, I appreciate Dr. Reidy's comment that we need to rethink why we are putting people there rather than just doing it because that is what we have always done in Ireland. One of the positives of living in Ireland but perhaps a constraint is the Constitution. New Zealand, for example, which has been cited a few time, does not have a constitution. Ireland, therefore, probably has a different perspective and that is why it is quite important that our commission should have members of the judicial system, judges, and clerks of both Houses of Parliament because they have useful experience and expertise in dealing with the Constitution.

If we were to give the electoral commission the power to run information campaigns, could it run an information campaign that encourages people to check whether their details are correct on the register of electors and if they are registered under one address? I am thinking of young people, in particularly, who may hop from rental accommodation to rental accommodation and who may also be registered at their parent's address and might not be aware of that. A campaign could encourage people to check the register before letters reminding them were sent and before we consider removing people from databases. This would put the onus on them to check the register and ensure they are on the register correctly and at the right address as there is so much duplication. Do the witnesses think a campaign would be effective?

Chairman: I thank the Deputy. The witnesses have quite a lot of ground to cover and not a lot of time.

Dr. Jane Suiter: The Deputy comments were more statements than questions. One would want to be careful about taking people off the electoral register. I refer back to the previous point made about three times, which I had not heard about, and that was mentioned at the previous meeting with the Department. Again, this is an issue that must be checked with the Data Protection Commissioner. Almost everybody has some dealing with the State and, therefore, the Revenue Commissioners or the Department of Social Welfare or somebody has an address for people that is linked to their personal public service number, PPSN. If it is deemed acceptable for a PPSN to be used, then the default position could be to use whatever address is registered for a PPSN then it would be the address for voting and if one wanted to change that, then one would do so. So one could check one's address on the register to see if it is the current address-----

Chairman: We have lost sound.

Dr. Jane Suiter: -----taking people off the register. Obviously information campaigns could be run on how to vote and what a single transferable vote looks for. We even get some misin-

formation about it in some of our newspapers sometimes in terms of how the counting actually works so that would be really interesting.

Of course, self-regulation is up. Even Europe is now moving to co-regulation with the platforms. Very much, when one talking to the platforms it is co-regulation. Interesting, in terms of who is in charge, and this comes back to a previous question that we did not have time for, Australia has some of the most developed regulation with the media. The Australian Electoral Commission, AEC, deals with a lot of the disinformation. They got very involved after the Christchurch shootings in New Zealand and so on. Regarding the composition of an electoral commission, obviously there are issues related to the Constitution and without doubt legal expertise is needed. Whether the relationship with the Constitution is the primary function of the electoral commission and, therefore, it must be a judge rather than it might be a judge, I think is something that is maybe worthwhile questioning.

Chairman: I thank Dr. Suiter. I am moving onto the third round of questions now-----

Senator Victor Boyhan: I apologise to the Chairman but what about the second round? It is done by party groups. We Independents are in the second round and we have not been called.

Chairman: I have Deputies Ó Broin and McAuliffe and the Senator himself. If we stick strictly to five minutes we will-----

Senator Victor Boyhan: I apologise for cutting across the Chairman but we are talking about the second round. It is done by groupings.

Chairman: Is Deputy O'Donoghue present?

Senator Victor Boyhan: No, but it is done by groupings not by the presence of the member. It is the grouping's allocation.

Chairman: That is not my understanding. I am trying to take every member in and give every member an opportunity and then I will allow members-----

Senator Victor Boyhan: I am sorry but it is based on my understanding-----

Chairman: That is my interpretation and I am chairing the meeting, Senator Boyhan. I call Deputy Ó Broin.

Senator Victor Boyhan: On a point of order, a Chathaoirligh, it is the understanding-----

Chairman: We have 15 minutes left. As I said, we have Deputies Ó Broin and McAuliffe and the Senator. If everybody sticks to five minutes, the Senator will get in. He is wasting time now.

Deputy Eoin Ó Broin: In our interaction on online regulation we are having two separate but parallel discussions. One is the regulation of platforms generally, and I am a strong advocate that they be treated as publishers not as platforms. The second is the regulation of online advertisements in elections. Dr. Suiter and Dr. Reidy have both referenced the BAI recommendations. Will they give us a little information about those? We can read the detail of those afterwards but what is the BAI is recommending on that that would be helpful?

Second, will they give us a little more information on the election and referendum research as distinct from the audits? Dr. Suiter and Dr. Reidy have presented to the committee about that

work before but members would benefit from knowing about it.

Third, I have just been looking at the annual report of the New Zealand Electoral Commission. Its annual budget in a non-election year is equivalent to €14 million and in an election year, it is equivalent to €44 million. We could be comparing apples with oranges because they could cover many of the costs our local authorities cover in an election year. However €14 million in a non-election year is quite a lot of money when compared with what we are allocating. I am just giving that by way of information because Dr. Reidy raised it.

Finally, there was a question about compulsory voting. If it was answered and I was not listening then the witnesses should ignore it but if not I would appreciate it if they responded because it is a good question. I think it was asked by Senator Fitzpatrick.

Chairman: I thank the Deputy. There are just three minutes left on that slot now.

Dr. Jane Suiter: I will just answer on the BAI. Dr. Reidy has done some work on compulsory voting so I will leave that to her. The BAI has said the controls should be media neutral, unless one has transparency mechanisms for a particular medium. If one is going to allow on-line political advertising then one must allow it on linear media such as radio and television. To do otherwise is problematic. It used to be that linear broadcasting services were the only place where someone could advertise but now if they are the only place singled out for prohibition, despite it being allowed online, then it is problematic not just for the broadcasters but also in terms of what is allowed. It must also be remembered that online they can actually have a higher impact in some ways because of their ability to micro-target. Those were the BAI's points.

On the funding, it is really interesting that it is €14 million. What I would wonder about is why it is €1.7 million or whatever it was. One might ask what is that to pay to have done. Even having the budget so fixed in advance speaks again to this kind of control and lack of flexibility for the future.

Dr. Theresa Reidy: On the election and referendum research, we have been in before talking about how there should be research conducted at every election and referendum. At a bare minimum it should be done at every general election, because throughout Europe and many of the advanced industrial democracies, it is quite standard that research is conducted on why people vote, why people did not, their experiences of the campaign, what information they acquired and when they decided to vote. This information is in essential in informing policy development on the conduct and management of elections. It is also vital for sharing with all political parties and candidates so that they can understand it. We are aware that a lot of political parties are doing this research by themselves at the moment. One of the additional advantages of involving the electoral commission is that this is non-partisan research done by an independent commission and done up to international academic standards, which must meet the standards of the international studies to which all of this research contributes. It is also shared with everybody, including all the political parties and civil society organisations. It can inform the strategies of the individual parties and candidates and it can inform policy. There are a lot of advantages to conducting impartial, independent research and ensuring that it can be shared widely.

If I may, I will make an academic point. With referendums, for example, and because of Ireland leading the way in deliberative democracy, a lot of things have happened in Ireland that have been of interest to the global research and policy communities. We have not necessarily had the data after these events to be able to share those experiences. This has been a real

limitation with regard to the marriage referendum and the abortion referendum. We did some small research but it was of a very limited nature because we do not have an automatic research function, which is in most other advanced industrial democracies. It is very important to make the point that it would be to the advantage and benefit of everybody in the political system and it would reduce costs and barriers for political parties.

Chairman: I call Deputy McAuliffe and ask that he stick to five minutes for questions and answers.

Deputy Paul McAuliffe: I will take less time, to allow Senator Boyhan in. We have dealt quite extensively with all the implications of the different tools within a campaign. Many of them become less significant when we have a ban on corporate donations because the potential for advertising to go the way of the United States of America is perhaps less important, although still significant.

The Minister has indicated, in writing, to all the general secretaries of different parties his desire to see greater transparency around the two jurisdictions on the island and the possibility of donations on one side that are not permitted on the other side. Are there any international examples of where political parties operate in different jurisdictions that have different rules as a result? Are there any models that would allow us or future parties to operate on both sides of the Border and at the same time provide transparency? We saw the case where €4 million was allowed to be donated on one side of the island but there is a €100 limit for a corporate donation on the other side of the island. I do not ask the witnesses to get into the political long grass in this but to keep it in the bigger picture.

Dr. Theresa Reidy: Off the top of my head I cannot think of any circumstance that is exactly the same. If I was to direct the Deputy anywhere, it would be to look at the European party families that operate in the European Parliament. They have funding mechanisms that operate across jurisdictions. This might be a starting place, but for political parties that operate at multiple levels. I am sorry to not have a more useful answer for the Deputy.

Deputy Paul McAuliffe: That is another unique thing about Ireland. For clarification, I ask the witness also to expand on the questions asked by my colleague, Deputy Fitzpatrick, which were unanswered.

Dr. Theresa Reidy: I am sorry. That was on compulsory voting, which was also raised by Deputy Ó Broin. Very briefly, compulsory voting is in place in a small number of European countries and it is most notably used in Australia. It means there are very high levels of turnout and compliance is important. In general, the view is that participation should be voluntary. In my view, I believe we should be looking at ways of facilitating voters before we go down the road of making it compulsory.

There is a philosophical reason behind compulsory voting, which is that the views of all citizens should be reflected in the political system before us. In a lot of European countries we have tended to emphasise candidacy in relation to that point. We have, for example, looked at gender quotas and steps to address bringing people from minority backgrounds into politics. Our emphasis has been on the supply side, whereas countries that have compulsory voting get at that in a different way in that they ensure all voters vote. In that way, one might get a political system that reflects the diversity of societies. If one looks at Australia, that is not necessarily what has happened in its politics. It may be more diverse than it is in Ireland but it is not fully diverse. There is a philosophical argument behind this that can be teased out. We have tended

to emphasise candidacy, while other countries have opted for compulsory voting. There is definitely something to be said for us looking at facilitation and helping voters before we go down the road of compulsion. If we were to go down the road of compulsory voting, we would have to be absolutely certain we could facilitate all voters.

Was the second question in regard to political advertising?

Senator Mary Fitzpatrick: It was to do with the strategic direction of an electoral commission and whether it should not be responsible for the regulation of political messaging. The electoral commission will be restricted to referendums and elections. Should those issues be dealt with outside of this legislation and an electoral commission?

Chairman: I want to bring in Senator Boyhan at this point. Time permitting, the witnesses can respond later to the Senator's question.

Senator Victor Boyhan: I have one particular question. Before asking it, I want to thank Dr. Suiter and Dr. Reidy for their engagement with us today. We will not have an opportunity to engage with them directly outside of this meeting so I might forward some supplementary questions to them. If they could facilitate me, I would appreciate it.

I would welcome a comment from the witnesses on former political party members being members of the commission. It is suggested and provided for in the heads of the Bill that members of the commission cannot be sitting Oireachtas Members but when Members retire their political affiliations do not cease and their associations certainly do not. I would like a comment from the witnesses on that.

Dr. Jane Suiter: In lots of places, former political members are involved. The expectation is that they would not be acting in a particularly partisan manner and they would just be one among many. The type of experience and expertise that they have would be very useful to a commission. I would not like to rule out the involvement of former civil servants, public servants or politicians.

Dr. Theresa Reidy: I agree with Dr. Suiter. It is quite common around the world to have people from political parties on commissions. There are extensive provisions in the Bill around the removal of a person should there be dissatisfaction in regard to how he or she is behaving. I will leave the question from Senator Fitzpatrick to Dr. Suiter, who, I think, mentioned the issue earlier.

Dr. Jane Suiter: In regard to electoral commissions, as in the case of Australia and Canada, they are generally the bodies that oversee political and issue-based misinformation and advertising. Advertising and information provision prior to elections and referendums is a crucial part of the process. If this role was to be removed from the commission and put into some other general regulation, it would become problematic. One would also be wondering when that would be done and about the specific electoral impacts. We are concerned about issues such as Covid misinformation, but when it comes to misinformation that is related to voting, referendums and elections, it is very serious. To take that away from the electoral commission would hobble it and would not allow it to fulfil all of its functions. Again, I point to Australia. Earlier, Deputy Ó Broin mentioned the second part of the committee's discussions about platform regulations. I am sure the committee will have looked at some of the measures the Australians have taken to try to protect their information environment. Again, it is their electoral commission that leads on this. It is not necessary and I would not die on this cross on this, but, overall, the

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electoral commission is probably the most appropriate place for this legislation to be.

Chairman: I thank Dr. Suiter and Dr. Reidy for their attendance, for their insight and knowledge on this matter and for their previous contributions to the committee. Their work has led to us getting to this stage. I thank them for that and for their recommendations on people to engage with.

The meeting will suspend until 12.15 p.m., when we will reconvene in private session.

The joint committee suspended at 12 noon, resumed at 12.17 p.m. in private session and adjourned at 12.57 p.m. until 1 p.m. on Tuesday, 9 February 2021.