

DÁIL ÉIREANN

**AN COMHCHOISTE UM NA MEÁIN, TURASÓIREACHT, EALAÍONA,
CULTÚR, SPÓRT AGUS GAELTACHT**

**JOINT COMMITTEE ON MEDIA, TOURISM, ARTS, CULTURE, SPORT AND
THE GAELTACHT**

Déardaoin, 20 Bealtaine 2021

Thursday, 20 May 2021

Tháinig an Comhchoiste le chéile ag 12.30 p.m.

The Joint Committee met at 12.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Alan Dillon,	Malcolm Byrne,
Ímelda Munster,	Shane Cassells,
Johnny Mythen.	Fintan Warfield.

Teachta / Deputy Niamh Smyth sa Chathaoir / in the Chair.

General Scheme of the Online Safety and Media Regulation Bill 2020: Discussion (Resumed)

Chairman: Apologies have been received from Deputies Christopher O’Sullivan and Mattie McGrath, and Senator Hoey.

I bid a warm welcome to our guests who are with us this afternoon virtually. It is great to have them with us and we are looking forward to the presentations on pre-legislative scrutiny.

I will go through some housekeeping first so please bear with me. The format of the meeting is such that I will invite our witnesses to make opening statements. This will be followed by questions from members of the committee. As the witnesses are probably aware, the committee may publish the opening statements on its website following the meeting.

I will invite witnesses to deliver opening statements, which are limited to three minutes for each organisation. Please adhere to the time limits as much as possible.

I will set out the position on parliamentary privilege. Witnesses are reminded of the long-standing parliamentary practice that they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable, or otherwise engage in speech that might be regarded as damaging to the good name of any person or entity. Therefore, if the statements of witnesses are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction.

As our witnesses are attending remotely from outside the Leinster House campus, they should note that there are limitations to parliamentary privilege and, as such, they may not benefit from the same level of immunity from legal proceedings as a witness who is physically present.

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

I remind members of the constitutional requirement that they must be physically present within the confines of Leinster House or the Convention Centre Dublin to participate in public meetings. They are all well used to that now. Members should identify themselves when contributing for the benefit of Debates Office staff preparing the Official Report and mute their microphones when not contributing to reduce noise and feedback. Please remember to use the raise-hand button to indicate a wish to contribute.

Without further ado I will call on our first guest to make his presentation. Mr. Alan Esslemont is director general at TG4. He is most welcome. He has three minutes.

Mr. Alan Esslemont: Labhróidh mé as Béarla ach, ar dtús, gabhaim buíochas leis an gcléireach agus leis an bhfoireann chléireachais as a bheith ag comhoibriú liom trí Ghaeilge agus mé ag réiteach don lá seo.

Over the past decade the media landscape has changed beyond recognition. There has been fast growth in subscriptions for streaming services such as Netflix and Amazon Prime and competition for audiences is intensifying as they spend billions of dollars on new content. Households with smart televisions are on the increase and this has had a significant impact on

the audience for live television viewing. This makes it even more critical for TG4 to have a first-class funding scale to maintain competitiveness and create impact with audiences. We must also maximise the relevance and discoverability of TG4's content.

Members have a crucial role to play in ensuring that citizens are properly represented and served by the media in Ireland and in Ireland's languages. Members ensure the conditions for plurality of voices, diversity of content and, crucially, the findability of that content.

A head must be included in this legislation to provide for prominence of public service content across all platforms and all content distribution mechanisms established in the State and outside the State. The prominence of Ireland's public service media must be safeguarded in law. There are critical linguistic reasons this is important. While Irish is a national language, it functions as a minority language. The habitual Irish-speaking community continually face the danger of what is known as language shift and language diminution. Irish language media has little market power and, unlike Ireland's English language media, exerts little influence on commercial content platforms. An example is TG4's attempt to get its app onto Sky's platform. This has seen years of foot-dragging by Sky. Unless Irish language media is vigorously supported and given legal and regulatory prominence, it will lose relevance, especially for young Irish audiences who are growing up in a global media environment. The media commission envisaged in the legislation needs muscular powers to enforce public service content prominence and to apply an ethos which values the role of the Irish language in broadcasting.

TG4 has stated to the Future of Media Commission that contestable funds have a role to play in ensuring plurality and diversity in Irish media. We welcome the provision for a fund in head 77. Head 77 should specify that a minimum of 25% of the funding shall be allocated to programming in the Irish language or bilingual, as happens with the Broadcasting Authority of Ireland, BAI, Sound and Vision fund. Any decrease in that percentage would mark yet another diminution of the status of Irish language media in the public broadcasting ecosystem. I look forward to discussing these matters further with the committee.

Chairman: I thank Mr. Esslemont for sticking so tightly to the time constraints. I do not believe anyone would disagree with the reference in his opening statement to the importance of our native language and its importance in public service broadcasting.

Mr. Rory Coveney from RTÉ will now address the committee.

Mr. Rory Coveney: I thank the committee for the opportunity to discuss what we believe is significant legislation and perhaps a recognition of how much our media has converged in recent years.

I imagine committee members had the opportunity to consider our written submission made some months ago and our briefing paper submitted earlier this week. I do not propose to go into all the elements in which we have an interest but I am keen to focus on three things.

Mr. Esslemont has touched on the point around prominence in some detail. The findability of Irish public service channels and programming within a myriad of international channels and content on major platforms is critical if Ireland is to maintain a distinct national culture and Irish identity in future. I agree with the comments made by Mr. Esslemont on the Irish and English languages. We noted the statement yesterday from the Minister to the effect that she would insert a prominence head into the Bill. That is a welcome development. I do not intend to say more about that. We can talk about it afterwards in questions if it is useful.

Mr. Esslemont also referred to the content levy in heads 76 and 77. Article 13 of the audiovisual media services directive, AVMSD, allows member states the opportunity to create levies or investment obligations on audiovisual services that target audiences in the member state, even if they are located elsewhere. In total, nine countries within the EU currently do this. The intention of this section of the directive is to promote the production of European works and support investment in local programming. At present, significant revenue is derived by media service providers located elsewhere, which target Irish audiences, but which have no obligation to invest in Irish content. In RTÉ's view, the Bill provides a unique opportunity for the lawful imposition of a levy on media service providers which target audiences in Ireland. The funds derived from such a levy would provide an invaluable stimulus for the independent production sector here that has been devastated, first by the economic crash and, more recently, by Covid-19.

I know that next week the committee will be talking with representatives of the Joint Creative Audiovisual Sectoral Group, which prepared a detailed submission, informed by independent research conducted by Indecon. I hope that members will give them a fair hearing. It is a very substantial piece of work and, hopefully, an important contribution to this process.

I am finally going to touch on the issue of online harm. The real-world consequences of online behaviour have never been more apparent. From the increasing evidence of misuse of online data in the electoral process, to the consequences of online bullying and hate speech, to the increasing blurring of the editorial and the commercial, to the insidious rise of misinformation and fake news, online harm is no longer an abstract issue. It is a material risk to the well-being of citizens, societies and nations. RTÉ, therefore, welcomes the ambition to create greater monitoring and enforcement around online harm in this Bill. RTÉ notes that it is not proposed to define harmful online content as a singular concept, rather the approach of the general scheme is to enumerate definitions of categories of material considered to be harmful online content. RTÉ would support and agree with this approach.

At present, however, the Bill excludes misinformation, disinformation or fake news as a category from the definitions of online harm. In RTÉ's view this is a very significant omission. Accuracy in news and information is extremely important, regardless of how content is delivered. We know that content that is designed to deliberately mislead or confuse, distributed at scale online, can cause real harm. This is an area which RTÉ believes needs to be specifically addressed, in the context of regulating harmful content.

RTÉ would suggest that the regulatory codes regarding accuracy, fairness, impartiality, transparency and accountability that have sustained our broadcast media for many years could be a useful guide in considering how to protect the public from online misinformation, while at the same time balancing the right to freedom of speech.

Commercial communications on broadcast media in Ireland have long been regulated. Again, there are lessons here for the regulation of online commercial communications. Underpinned by primary legislation, the Broadcasting Authority of Ireland's general commercial communications code sets out very clear objectives. For example, to ensure that the public can be confident that commercial communications, that is, ads, are legal, honest, truthful, decent and protect the interests of the audience and ensure that commercial communications do not impinge on the editorial integrity of broadcasts. These objectives, among others, are as relevant and appropriate in the context of the regulation of harmful online content as they are on broadcasting.

Harmful and often misleading commercial communications have long been a feature of the Internet, for many years. Online video ads are now sharing the same screens as broadcast ads.

Finally, I will just touch on the issue of online harm and democracy. This of particular concern to politicians more than anyone else perhaps and, particularly, in the context of elections. We have a complete asymmetry between the rules which govern how broadcasting is governed versus how online communications and online media behave. The area of political advertising is just one example and the moratorium is another. These are real issues which need to be considered, in the context of when all of these services are existing on the same smartphone and the same television. I thank the Chair and I hope we can elaborate further in the questions.

Chairman: I thank Mr. Coveney. He raised some very interesting points, in terms of the omission of fake news and, of course, the constant erosion of democracy through social media platforms and the inhibitions that remain because of that.

I now call on Mr. Peter McCarthy from Virgin Media Ireland to make his presentation to the committee.

Mr. Peter McCarthy: I thank the committee for the invitation to speak today. Virgin Media welcomes the work of this committee on what is truly important legislation. The committee already has our detailed submission of 18 March 2021. I propose to go through some summary comments this afternoon.

The Bill the committee is examining will establish a framework that is fit for the digital age, online and media content in Ireland where, through our own research, we know there are on average ten Internet-connected devices being used by every home in the country, in addition to mobile Internet, digital platforms and what is, as we know, the Internet, everywhere.

The regulation and restriction of harmful content is clearly one of the most important measures and intentions of the legislation. This is something we care very deeply about, having taken many initiatives of our own in this area, as outlined in our submission.

In particular, we are supportive of the sections of the Bill that will define categories of harmful content and that will extend those definitions, including measures for the protection of children from age-inappropriate content, the regulation of online user-generated services and video-sharing platforms. However, when it comes to Internet service providers, ISPs, like Virgin Media, it is truly essential for members to understand that ISPs provide actual infrastructure or a means of connectivity - the cable, the fibre, the actual physical network that one accesses. This should not be confused with the regulation of hosted content. The intention behind Part 4 of the Bill, in terms of regulation, is principally to regulate online user-generated services and video-sharing platforms, rather than ISPs.

Two further points of interest include the proposed content levy and the ongoing need for the modernisation of broadcasting legislation. It is important that the levy imposed on regulated entities is fair and transparent, with all those who will be regulated paying their fair share. There is already a distortion in the market between licensed broadcasters and digital players, in terms of levies, revenue generation and advertising standards and regulations. To impose a levy only on traditional broadcasters would further compound this imbalance. The issue of levies is complex and, in considering their imposition, it is essential that over the top, OTT, and subscription video on demand, VOD, players are included in a levy system that also supports the continuing creation, production and availability of Irish-produced content.

Ireland needs to modernise its broadcasting legislation. The committee is aware of the work being done by the Future of Media Commission, as it looks to the future of public service broadcasting. This Bill which the committee is examining should encompass the findings of the Future of Media Commission to ensure that what is put in place will serve the audiovisual sector well into the future, including issues of licensing, the manner of funding of public service broadcasting and digital platforms for public service media, all of which we mention in our submission.

I thank the Chair and members of the committee.

Chairman: I thank Mr. McCarthy. I am sure there are lots of issues he has raised that members will look forward to teasing out a little further. Before that, I call Dr. Mark Carpenter, who is representing Sky Ireland, to make his presentation to the committee.

Dr. Mark Carpenter: I thank the Chair and members of the committee for the invitation to participate in this meeting. Brevity is of the essence, so I will briefly outline some key points from Sky Ireland's more substantive submission. I welcome any questions in the forthcoming discussion.

Sky plays an important role in the Irish media sector. We are the number one television platform in Ireland, watched by more than 2 million viewers and delivering over 500 channels, including the Irish public service channels, to our customer base. While we have been offering our services in Ireland since the early 1990s, in 2013 we significantly ramped up our presence with the opening of our headquarters in Dublin. Since then, we have increased our Irish workforce substantially from 40 to approximately 1,000. We have continued to create new jobs throughout the Covid-19 pandemic, hiring more than 100 people in each of the last two quarters.

Sky also makes a direct contribution from a content perspective. In 2021, this will include the "Deirdre O'Kane Show", which will be recorded live in the Olympia Theatre, and the Jim Sheridan documentary, "Murder at the Cottage", a five-part series that examines the murder of Sophie Toscan du Plantier. Our two Ireland correspondents, David Blevins and Stephen Murphy, continue to provide regular coverage of Irish stories to Sky News viewers, both in Ireland and further afield.

We also make an annual contribution to the Exchequer, in corporation tax, VAT and employer PRSI in excess of €150 million. We set this out both to show our commitment to, and investment in, the Irish market and to demonstrate how we have a very real stake in policy decisions taken in this area.

We support the establishment of a media commission and in particular bringing the regulation of traditional broadcast services, on-demand services and video-sharing platform services together, under a single regulator. This makes sense, given that the audiovisual media services directive, AVMSD, explicitly seeks to ensure a level playing field between all media players in the market.

We also welcome the focus on online safety in the Bill, particularly the proposed introduction of online safety codes, underpinned by statute. Without statutory-backed frameworks, including sanctions for non-compliance, there are no guarantees that sufficient companies sign up to any voluntary codes of conduct, or that signatories actually abide by their terms.

A possible future content levy has received significant attention in some quarters. As the es-

establishment and functioning of any content levy scheme is likely to be highly complex and may result in unintended consequences, we agree that the media commission should first carry out a review of its viability. It is notable that most other EU member states have not introduced a levy scheme. In those that have, no two member states have opted for the same approach, thereby demonstrating the complexity of the issue. Member states that have introduced levies typically allow media service providers to fulfil certain investment obligations in lieu of paying the levy. This is also recognised by the AVMSD. The media commission should examine this in detail as part of its research. If a levy scheme is considered viable, it is highly likely that the best way to deliver positive results for the audiovisual sector and for the Irish economy as a whole will be to encourage investment while also providing media service providers with a level of flexibility. Should policymakers wish to secure additional funding for domestic production, we believe this could be achieved via other avenues which are less distortionary than content levies have the potential to be. We note, for instance, that licence fee evasion and non-declaration of TV sets result in an annual loss of up to €50 million to public service broadcasters, PSBs, primarily RTÉ. It seems clear, then, that introducing measures either to reduce this level of evasion or, alternatively, to replace the licence fee with a new system which brings more households into the net should be the first port of call.

I thank the committee for its time.

Chairman: Thank you, Dr. Carpenter. I am sure there will be lots of questions for you too when we get to the members' round, which we have come to now. Members, as you will all be aware, you have a speaking rota. I hope you have copies of the rota out in front of you so you know when you will be called. I remind you that you have five minutes to use in whichever way you see fit, whether to make a statement or to ask questions. Just be mindful that you also have to elicit responses from our guests within those five minutes, so allow enough time for that. I will get straight to it. I ask Senator Cassells to take the floor. You have five minutes, Senator.

Senator Shane Cassells: Good afternoon to all our witnesses. If I may turn to RTÉ and Mr. Coveney first, I welcome the second part of RTÉ's Truth Matters campaign, which it launched this week. It is very much welcome in the context of addressing the dissemination of misinformation, which, as we have seen, has been highly important during the pandemic. I note the language RTÉ used this week when it said that young people are turning away from traditional sources of information and that truth can be the first casualty of this. In that respect, we had the major social media giants before the committee yesterday and RTÉ admitted this week that more and more young people are turning towards social media giants for their news content. I put it to the witnesses yesterday that there should be a levy on these giants that take news content, whether from traditional print media or television media, and then get revenue from broadcasting it. There was a big pushback against that suggestion. I would like to hear the opinions of today's witnesses on this. Mr. Esslemont from TG4 touched on this point when he was with us before Christmas.

When there were no social media giants, television benefited mainly from advertising revenue and one could dictate how much the rate card was because of years of figures. Mr. Coveney points in his submission to political ads and claims that social media giants can benefit from them, that such ads are distributed largely through social media and video-sharing applications and that that is of concern to RTÉ. Is RTÉ seeking to level the playing field such that politicians and political ads are not prevalent on social media or is Mr. Coveney saying levelling the playing field should mean that they should be prominent on mainstream media as well?

Finally, Mr. Coveney touched on the issue of advertising flexibility and RTÉ's seeking of

same in terms of the minutes allowed. Commercial radio representatives have touched on this as well. I would like to hear the witnesses' views on this.

Turning to Virgin Media and Sky, one aspect of one of the submissions that interested me particularly was the fact that it was stressed to us that it is essential for us legislators to understand that Internet service providers are different in that they do not host content. I noted the analogy that they are like motorways that simply allow traffic to move down the network. Motorways have management companies as well. Motorway crashes do not just happen. If there were no motorways, there would be no cars on them and crashes would not happen. That was an interesting analogy.

Head 56 of the Bill has been pointed to. It is very important to say that the Bill states that it does not imply that services will or will not be designated but gives them the scope further down the line in terms of the avoidance of loopholes. It touches on cloud storage services, online search engines, online gambling services and, yes, Internet service providers. I would like to try to understand the very big pushback. We now see Virgin Media and Sky from a commercial point of view in the world of Internet service providers, getting ahead of the game and realising that that is where things are going. There has been a notable kickback this morning against that provision and I would like to understand that, given that the Bill does not dictate that services will be designated but just provides the scope. Why the kickback, given that we are trying to create online safety?

Chairman: Thank you, Senator Cassells. The first question was directed at Mr. Coveney.

Mr. Rory Coveney: I thank Senator Cassells. I think he asked three separate questions: one about a digital tax, a second about our view on political ads and what should happen to them and a third about flexibility and minutage.

As for the digital tax, what we have been party to, as has Mr. Esslemont in TG4 and a broader sectoral group, is looking at how content levies have been introduced across Europe and how they might be applied in Ireland. I know the committee will deal with that substantive issue next week in the context of the submission we made. That is somewhat different from a digital tax. A digital tax is an equally valid issue which is largely to do with the exchange of value between publishers, largely news publishers, and social media platforms. The two are therefore somewhat different things. The content levy envisaged under the AVMS directive and set out in head 77 of the Bill as an option to be introduced is specifically about premium feature content - long-form content, drama, animation, etc. - and how it can be sustained and grown in Ireland. Our unambiguous view is that, ultimately, there are people making an awful lot of money from subscription services, advertising services and a range of other services from Irish households, and we do not believe the corresponding investment in Irish programming is happening. The whole purpose of the proposal we have put forward, in conjunction with a range of innovative producers and with TG4, is to see how this could be remedied over time. It is a proposal. The Bill sets out that the media commission, once established, would have to consider this and a range of issues and the impact of all them. We think it is certainly a valid area of inquiry and potentially a valuable source of investment for Irish IP.

Chairman: Mr. Coveney, could I just ask you to conclude? I am sorry. I have to move on to give everybody a chance.

Mr. Rory Coveney: Just on the issue of political ads, which is an important one, we are not advocating that RTÉ or indeed other broadcasters - I will speak on behalf of RTÉ - should carry

political advertising, but I think there is a somewhat strange asymmetry in a world where RTÉ and TG4 services coexist on devices with online services in respect of which there is no such prohibition. Ultimately, the purpose of keeping political ads out of broadcasting was to allow the airwaves to be free of that type of communication or negative campaigning and to allow discussion to happen freely on its merits. It also had been-----

Senator Shane Cassells: Does Mr. Coveney think such advertisements should be banned from social media and that political parties and politicians should not have paid advertisements popping up on people's Facebook timelines?

Mr. Rory Coveney: What I will say is that the purpose of this was, first, to keep that type of communication out of the national conversation in one sense on broadcast services and, second, to keep money out of politics. The impact of TV ad spending in the US in particular involves massive amounts of money. We are now seeing an arms race in online video ad targeting among political parties all over the world and in various jurisdictions. The UK also has a prohibition, as Senator Cassells will be aware, on political advertising on broadcast. Whether or not the exact same obligations are on both sides of this is a matter for the committee to consider, but at the moment there is one set of rules for one-----

Chairman: Mr. Coveney, I will have to ask you to conclude because we have gone way over time. I will bring in Dr. Carpenter very quickly. I am sorry you are getting such a short straw, Dr. Carpenter, but there was a question directed at you too.

Dr. Mark Carpenter: I think it was Virgin Media's submission that was being referred to around the-----

Senator Shane Cassells: It was a question more to the representative from Virgin, a Chathaoirligh.

Chairman: I beg your pardon, Senator. I call Mr. McCarthy

Mr. Peter McCarthy: I can give a quick summary of that. The call-out is about Part 4 and the regulative online services. The clarification we sought was about Internet service providers. We do not host material on the Internet. As I think I mentioned in my submission, we provide the pipe that provides the end-to-end. We do not want to go in that door because then we are into the whole area as to what has been prevented since the start of the Internet, which is of checking and watching what is going on with users. There is the Data Protection Act, and the universal service obligation, but there are also other elements. What I am trying to say is that we do not host the content. In summary, as I said on the motorway piece, we build the road but if there is a problem with the user on that road one does not ring the guys who built the road, but contacts An Garda or the emergency services with these problems. Similarly, we can describe ourselves as being somewhat similar to An Post, as it does not check the letters that are posted.

Chairman: My apologies to Mr. McCarthy as I will have to ask him to conclude there. We will have plenty more time as we are only on the first of our members' questions. I call Deputy Dillon to speak, who has five minutes.

Deputy Alan Dillon: I thank the Chairman and welcome our witnesses here today and thank them for their time. I will move straight to my questions as we are limited in time and this is a great opportunity for us as members to listen to our witnesses' contributions and not for us to over-elaborate.

I will put my first question to RTÉ on the Minister's proposals on the broadcasting functions of the media commission and that it would be part-funded to a maximum of 50% from the television licence receipts. We are well aware that the licence grants to RTÉ are substantial. They were €196 million in 2019 and account for 50% of its overall revenue for the financial year. What is RTÉ's position and views on this and on the funding schemes? Should the content levy be based on a similar model to the sound and vision scheme? What would RTÉ like to see here and what improvements could be made to the model of funding?

I have a question for Mr. Esslemont of TG4, given TG4's responsibilities to Irish language broadcasting. Does there need to be a resource within the new media commission to enable this to work and to promote the Irish language within it?

Finally, I ask Dr. Carpenter of Sky a quick question on the investment obligations, the advantages and the disadvantages for the media providers, and where he sees this within the Bill. How does he envisage the use of the investment obligations in place of content levies? I thank the Chairman.

Chairman: I thank the Deputy and I will put the first question to Mr. Coveney.

Mr. Rory Coveney: I thank the Deputy. On the Minister's announcement yesterday, the issue of the licence receipts part-funding the cost of regulation has been coming for some time. We do not disagree with the ambition of the Minister which is to relieve the regulatory burden on broadcasters. We point out, however, that this provision will be a net cost to RTÉ and we will receive less licence fee funding on the back of it. We have not worked out the exact figure but it will be something in the region of €1 million.

On the broader issue of the licence fee, which was touched on by Dr. Carpenter, the licence fee is the subject of a substantial review at the moment and in the context of a reform of the licence fee system, this particular provision is not unwarranted. It needs, however, to be acknowledged that it will cost RTÉ money in the short term.

On the sound and vision scheme and whether the content should mirror its aims, it should not, if I am honest about it. It should be additional to those aims. There are slightly different views on this within the group of people who put the proposal together. In our view, it should focus on the creation of Irish intellectual property and should be about Irish writers, producers, directors and production companies producing things for the world and the types of content that will meet the needs of Irish audiences but that will also attract international investment and be exportable. Typically, the types of programming that do that are high-end TV drama, animation - which has a huge export role already - and to a lesser extent, feature documentary. A slightly different emphasis would be appropriate for this, so there is additionality rather than just enlarging an existing scheme.

Chairman: The next question is directed to Mr. Esslemont.

Mr. Alan Esslemont: Gabhaim buíochas leis an Teachta. There are two key questions for the future public service media in Ireland and these are funding and findability. Funding is key and we have already pointed out that the funding model is monolithic. If we are to get diversity and plurality we need to change that funding model. Funds are part of it but we also need to look at the funding of TG4 and of Screen Ireland.

TG4 came on air, in my reading of it, as a *de minimis* settlement. Basically, the State did the least it could to get it over the line. That has not really changed. Breandán Ó hEithir said

almost 45 years ago that the heart of the State is with English. That was shown year in, year out and that is the message given to the communities that speak Irish. The Irish language is more than just a genre. I praise Michael O’Keeffe, who is retiring, because the BAI has an Irish language ethos. That needs to be renewed and strengthened within the new media commission in its approach to the Irish language. I agree totally with Mr. Coveney and we are on one voice about this new levy fund. The creation of Irish intellectual property is key to going forward. It cannot be just about the biggies coming in, doing stuff here, and taking their intellectual property back to England or America.

Chairman: I thank Mr. Esslemont very much and finally I call Dr. Carpenter to speak.

Dr. Mark Carpenter: I thank the Chairman and I first need to reiterate the point I made earlier that anything with levies is reasonably complex and the media commission is going to be required to do a great deal of thinking on this. The reason I made the point on investment is twofold. First, if one has a levy scheme that is only a levy, clearly that creates additional administrative expense that is not there with investment obligations. With investment as well, one is effectively creating a floor as opposed to a ceiling. For example, let us look at a scenario where Sky is asked to pay X or to invest X. If it has to pay X, that is what it has to pay but if it has to invest X and it identifies the right project or projects that may cost a little bit or somewhat more than X, it will still invest in those projects because ultimately that is what is going to get the best return. There are ways to do that while retaining and not going against the point about Irish intellectual property, IP, that both Mr. Coveney and Mr. Esslemont have made. There are various mechanisms that can be put in place in order to retain Irish IP within any such scenario.

Chairman: I thank Dr. Carpenter and Deputy Dillon for all of those questions. I now call Senator Warfield.

Senator Fintan Warfield: Gabhaim buíochas leis an gCathaoirleach. I want to focus on the content levy. Sky has made a number of observations about it that depart somewhat from the statements from the other witnesses about how the introduction of the content levy would possibly be distortional, be complex and might have unintended consequences. I do not really agree. The conversation we should be having is whether a content levy is best or whether an investment obligation is best. To be honest, I read the Sky statement as an attempt to delay, or worse even, to spook the Department or Government about the introduction of a content levy. My question, therefore, is why is Sky comfortable with the content levy in other countries but is effectively pushing back on a levy for local content here in Ireland?

Chairman: I thank the Senator and will ask Dr. Carpenter to deal with that point, please.

Dr. Mark Carpenter: Can I just get clarity on that last section of the Senator’s question about other countries, please?

Senator Fintan Warfield: Why is Sky comfortable with the content levy or even an investment obligation in other European countries? Sky Italia pays an investment obligation, which I believe is 12.5%. A levy in Germany dates back to the 1960s. Why are Sky’s companies in those states comfortable with the content levy while it is pushing back against it here or seeking to delay it?

Dr. Mark Carpenter: Sky Group does not take a different position on content levies in different markets. While an investment obligation exists in Italy, we would have taken the exact same position in that country that we take in Ireland in our engagement. The same applies to

the Germans. To be fair, it is not the case that Sky's approach or tack in Ireland is different from that in Italy or Germany. I agree that the regulatory circumstances are different but it is not that Sky is taking a different approach.

In fairness, many who are not here, including viewers and other platforms, might take a different view. It is not particularly surprising that someone who feels he or she would benefit from a content levy because of the type of business he or she has would be more in favour of one. Many of our viewers are paying the licence fee so there is potential for double taxation or additional charges as a result of a levy. It is not just a question of Sky as there are also Netflix, Amazon Prime, Disney+, etc. Individuals could find themselves having to pay on the double as a result of the content levy if they are paying for subscription services and the relevant companies are paying taxes. One is potentially creating circumstances in which people are paying on the double. That is not to say for a second that it is not a worthwhile goal of policymakers to have greater investment in Irish content. What we are saying is that we believe there are ways of doing this that are better than levies. It involves working with the companies investing in content to encourage them to do more so more Irish content will be created.

Senator Fintan Warfield: That is fine. I have made my point that a levy is a standard tool for supporting domestic production on mainland Europe. It might not be very British or Irish but I do not believe we should delay it. By delaying, we are losing investment in Irish production.

Mr. Esslemont mentioned the difficulty in getting fair play from Sky. Are there other platforms that display a lack of prioritisation when it comes to the Irish language or TG4?

Mr. Alan Esslemont: It is very difficult. All of the other broadcasters that broadcast in English do sweetheart deals. They stitch up, through algorithms, their own prominence. That is very difficult for us because we are not regarded as having market power. In some areas, people ask why they should go the distance when Irish is a foreign language. That has been very difficult. I am in my post for four and a half years. The first thing I wanted was to get TG4 on Sky because it was such an important carrier of content. Four and a half years later, we can see that it carries RTÉ and Virgin Media. Can we see TG4? It is not that we are unable to do what is required because our app is one of the most advanced in Europe. However, through sweetheart deals and Sky dragging its feet when it deals with us, it is very difficult for TG4. That needs to be addressed in legislation and regulation. That is the only way. It is only when there is a firm direction from the State that the company will do anything. Otherwise, it will just carry on regardless. That is the way it has been.

Dr. Mark Carpenter: I do not want to get into a back and forth on this but I am a little surprised by Mr. Esslemont's comments because I am aware that there is a project in place to get the TG4 content up on the Sky box. I know from communications with colleagues in Sky and colleagues of Mr. Esslemont that there have been technical issues on both sides in delivering that content. There have been technical delays on both sides but the project is happening. If Mr. Esslemont feels it is not happening at the pace he wishes, I will be happy to have the relevant conversations. As I said, however, I have had feedback from colleagues of both Mr. Esslemont and my own colleagues suggesting there have been technical reasons for the delay.

Mr. Alan Esslemont: Dr. Carpenter can take the feedback from all my colleagues but he should also consider the time this is taking. What is happening is quite clear. It is not a matter of technical delays on TG4's side.

Senator Malcolm Byrne: I want to focus on content more generally. I thank all the witnesses for their presentations. We are in a changing media environment. For us, as a small country, it is very difficult for us to get Irish stories out, through either Gaeilge or Béarla. It is important to do so regardless of the landscape we put in place. I have several questions on that. We have heard from Mr. Coveney on the issue of prominence. Does Sky agree with the view on the requirement for prominence for some of the broadcasters based in Ireland?

My second question is on the funding models. Dr. Carpenter touched on this but others might do so as well. My question follows on from Senator Warfield's question. I am not necessarily hung up on a particular model for the content levy but I want to ensure Irish stories are told and that there is an angle in this regard. What are the ideal models? Do we continue with the licence fee? Do we consider a content levy? Do we have specific requirements for anyone operating within the State?

Tá ceist agam le haghaidh an Uasail Esslemont faoi TG4. Seachas maoiniú, cén ról a fheiceann sé don choimisiún i bhforbairt agus i ndul chun cinn tionscadal d'ábhair nua i nGaeilge?

Mr. Alan Esslemont: Gabhaim buíochas. I will reply in English. It is better for the record. We have said that funding is crucial. I have explained that. We need to achieve balance in broadcasting in Ireland. To achieve true diversity and plurality, the funding model needs to be addressed. We have been quite clear that RTÉ needs the funding it needs to be a top-class broadcaster, but so does TG4. It is through funding that matters can be addressed. There are various models. In our submission on the Future of Media Commission, we laid out many European models that are possible. Currently, the State funds us directly and it funds Screen Ireland directly. A mix between a renewed licence fee, administered differently, and a continuation of State funding is probably the best way forward for the Irish language.

Let me mention journalism. Irish language journalism needs to take a big jump forward. It really has not done so for the recent period. I get the message that the truth happens only in English. It is important that it be seen throughout the State that the truth also happens in Irish.

Senator Malcolm Byrne: I have a specific question from Dr. Carpenter on prominence. A question arises as to what constitutes the ideal funding model. Could we hear from Dr. Carpenter, Mr. Rory Coveney and Mr. Peter McCarthy on the model we should consider? For me, it is about the creation of content.

Dr. Mark Carpenter: I am happy to answer on prominence. In a linear environment, we already have RTÉ at 101. Prominence is provided in that regard. In our catch-up menus, RTÉ's content is first, and it is followed by that of the other public service broadcasters. It is already the case that on our platform those PSBs are in the most prominent positions in the cache of menus. I appreciate that, as others have touched on, there is a plethora of new ways of accessing content, but from a Sky perspective, we are comfortable that we are providing those PSBs with prominence and we are open to having conversations with them and with other people, such as members of the committee, on how that landscape is adapting and evolving and how the PSBs can continue to have the prominence on our platform they have now.

Mr. Rory Coveney: On the issue of funding, Deputies and Senators are probably sick of hearing RTÉ speak about the broken licence fee system, so I will not talk about it today, except to say it is the subject of a substantial review in relation to the Future of Media Commission. It is clear the system is losing huge amounts of money each year and as such the current model

is neither fair on the people who pay the fee nor adequate in terms of the amount of money it generates to support the level of investment in content all of us need and, I would wager, the country needs.

On the reform mechanisms, there are many examples being considered by the commission and on which it has taken submissions from everyone here and many more people besides on what the future models might be. We put our best foot forward. We think a household based media charge collected by the Revenue Commissioners is, probably, the most efficient and simplest way to reform the current system. Others have different views on that, but I think it is sensible.

On the issue of whether a content levy or licence fee reform is best, we are in the most competitive media market in the world. RTÉ, TG4 and Virgin Media television compete with the best resourced TV channels and on-demand platforms anywhere on the planet in the English language. There is a notion that it is just about fixing the licence fee and everything will be fine. A range of measures will be needed to sustain the level of investment in Irish content, Irish storytelling and Irish journalism that public representatives want to see but also the public want to see. We survey the public all the time on what they want RTÉ to do. It is never that they want less; they want us to do more and to do more better. It is not about either or any of the measures, it is a collective of measures that seek to balance a range of different things.

Mr. Peter McCarthy: The committee will be aware from our submission that Virgin Media is supportive of the content levy. The big call-out from our perspective is that, when it is put in place, there is transparency around how it is used and it is invested in areas such as media literacy or training in talent development. As stated previously by Mr. Coveney, it is a small pool in Ireland. We should be trying to foster, enhance and nurture the talent we have in Ireland. There have been situations where good talent in Ireland has been poached by international companies. We need to foster and support that talent. We should be promoting content but also creation across drama, factual documentaries and new formats, including, for example, animation, which has been recognised internationally, including at the Oscars recently. It is all about independent and fostering talent.

Deputy Imelda Munster: My apologies if I ask questions that have been previously asked. My first question is for TG4. Head 77 of the Bill references a 25% spend on Irish language programming, as is currently the case under the BAI. We need to ensure that is retained in the new Bill. Are there any specific measures the witness thinks would help promote Irish language media that are not currently provided for in the Bill? For example, should there be a section or a commissioner dedicated to Irish language media?

Mr. Alan Esslemont: On the 25%, at present that is the practice under the sound and vision scheme. I have seen lower percentages in drafts. I would be very worried we would end up with a worse position than pertains at present. As I said previously, the way forward is not to see the Irish language as a genre or a tiny subset. The Irish language, as a minority language in Ireland but also as the first official language, needs to be recognised as a language. This means the Future of Media Commission has to have an ethos that is strong towards the Irish language. We have suggested in our text that rather than putting the Irish language as a genre in the text of legislation, higher up there should be reference to programming in the English and Irish languages. We think that is the way forward.

Deputy Imelda Munster: I thank Mr. Esslemont. My next question is to the witness from RTÉ. Does he have a view on who should receive funding from the content levy? Mr. Coveney

mentioned the difference in standards for advertising online versus traditional media. Does he think online advertising should be brought under existing regulation for TV and radio?

Mr. Rory Coveney: My apologies, I missed the first question.

Deputy Imelda Munster: Does Mr. Coveney have a view on who should receive funding from the content levy?

Mr. Rory Coveney: The content levy proposal, or the proposal we are a part of, at least, is that it should be for the independent production sector. It should be a contestable fund, with the best projects being funded, and there should be an obligation for it to be accessible to Irish audiences. In essence, this is about supporting Irish production and Irish storytellers. The broadcasters and the subscription video on demand, SVOD, players who carry the programming ultimately would be part of it as well. As I said, it should be a contestable fund.

Deputy Imelda Munster: I ask Mr. Coveney to comment on the difference in standards for advertising online versus traditional.

Mr. Rory Coveney: We recognise they are different mediums, but it is the principles of it I wanted to stress in my opening statement. It surely is not beyond the regulator to ensure the public can be confident that commercial communications are legal, honest, truthful, decent and protect the interests of the audience both online and on air. How to do it is, probably, complicated. Those ambitions should be part of any regulation of online commercial communications. As I said, how it is applied in practice is for the regulator to consider and for the Oireachtas in terms of what powers it would require.

Deputy Imelda Munster: I thank Mr. Coveney. My next question is to the witness from Virgin Media. He mentioned in his opening statement that the content levy needs to be fair and transparent. I ask him to outline what that might look like. If the levy is introduced, who should be liable to pay it and who should receive funding from it?

Mr. Peter McCarthy: I will be brief. On who I think should pay it, I think all players should pay it and everybody should pay a fair and equitable share, not just broadcasters. I said that in my opening statement. Perhaps the Deputy would repeat the second element of her question.

Deputy Imelda Munster: If the content levy is introduced, who should receive the funding?

Mr. Peter McCarthy: I echo Mr. Coveney's point, that it should be contestable and for the independent sector to promote production of Irish content within Ireland.

Deputy Imelda Munster: I thank Mr. McCarthy.

Chairman: There is some time remaining to Deputy Munster if she would like to continue.

Deputy Imelda Munster: I am fine for now, thanks.

Deputy Johnny Mythen: I will be as quick as I can. I understand RTÉ and TG4 put forward a proposal to deal with prominence, with which I agree. I think we should protect our indigenous broadcasting and our domestic news. Mr. Coveney spoke about the electronic programme guide, EPG, and the primary user interface and he mentioned an advanced EPG being integrated into smart TVs. How can this legislation address the disadvantage of that technology to RTÉ and TG4? What are the existing jurisdictional anomalies mentioned in the submission?

On one of the bones of contention, RTÉ agreed with the media commission being given robust enforcement powers equal to the Data Protection Commissioner and deemed that necessary. It then went on to say there is no requirement for the regulatory powers to be extended in the context of investigating broadcasting contracts or proposed extended financial sanctions. Can Mr. Coveney explain this because it sounds like a contradiction?

On a question to Sky, is a premium paid by companies to boost their programmes up the prominence list through the EPG?

Virgin Media speaks of a clear definition of public service content and how it should be funded. What is its definition of public service content and to what degree does it think it should be funded?

On the Irish language, there is the issue of the pay disparity between Irish language broadcasters and the rest.

With regard to CyberSafeKids, the recent study showed that 82% of eight to 12-year-olds are signed up to social media, 92% owned a device and 28% are online whenever they want. These are startling figures. How can we collectively respond to this? Do the witnesses have suggestions as to how to strengthen the Bill on these grounds?

Mr. Rory Coveney: On the issue of EPGs, the Deputy will be aware that television interfaces are dramatically changing and everyone's personal experience is dependent on what platform they access television through, and there is Saorview, Sky, Virgin Media, Vodafone and so on. On one level, there is the EPG, which is what most people are familiar with, and within that prominence is accorded to the channel numbers of the Irish public service media channels and Virgin Media. What the insertion of heads of Bill around this will do, or what we are hoping it will do, is create an underpinning in law to enshrine prominence, so this does not become a commercial negotiation and is a regulatory compliance issue. That is the core issue. It applies not just to channels but also to content, so content is surfaced in all sorts of ways through algorithms, on-demand libraries, recommendation engines and so on. These interfaces are increasingly sophisticated. The simple two-step process that is envisaged was outlined by the Minister yesterday, whereby the core issues would be enshrined in primary legislation and the media commission would develop codes of practice to ensure that compliance was adhered to by the various platforms. That is what is envisaged.

With regard to the jurisdictional issue, that relates to the capacity of the regulator to reach across into countries, and it is a country of origin issue. Therefore, if a platform is based outside of Ireland, the media commission would have jurisdiction to enforce the codes on those platforms that are targeting Ireland, and that previously was not the case.

Deputy Johnny Mythen: There was a question on the regulatory powers.

Mr. Rory Coveney: I am sorry, I am trying to place where that was in my submission. I might come back to the Deputy.

Deputy Johnny Mythen: I thank Mr. Coveney.

Mr. Alan Esslemont: We have had a joint approach with RTÉ on this. Looking across to the UK and the development of something called Freeview Play, there is an opportunity for Irish public service content through Saorview. Saorview is an opportunity that has not been grabbed and we would very much welcome looking into that. If there was one brand that be-

came a tile that took people from a landing page straight into Irish public service content, we think that would be very useful. In general, the only way forward with this is regulation to ensure there is transparency in how algorithms are used and how people are promoted or relegated in the list of priorities.

Dr. Mark Carpenter: People do not pay to boost prominence on the EPG. The most prominent channels are the Irish public service broadcasters both in linear and in catch-up, and obviously they do not pay for this. We have an open and transparent EPG policy, which we publish online, and I am happy to share it with the Deputy if that is helpful.

Mr. Peter McCarthy: In terms of the public service content definition, which was the question, that is something we have been calling for and discussing at length over the past couple of years from a Virgin Media television perspective. There is no definition of public service broadcasting or public service content, and we believe it should be defined and now is the time to do that. It should be clear and there should be guidelines on what public service content is. Virgin Media television is normally left out of discussions about what public service broadcasting is, and it is typically RTÉ and TG4, whereas we provide a key public service to the Irish public. The time is now. That is why I welcome our involvement in discussions such as today's, and in the Future of Media Commission. We can be part of that definition. As the Deputy probably hears us say constantly, it is important it is transparent and fair, and that the public funds go towards content for Ireland and it is transparent where that goes.

Chairman: I thank Mr. McCarthy. I understand Mr. Coveney wants to come back on one question.

Mr. Rory Coveney: The Deputy had a question on the issue of regulatory powers. The point we were making in our submission was that the powers that exist currently within the BAI, and which are being transposed across in regard to broadcasting, are pretty far-reaching. As people will recall, RTÉ was the subject of a substantial regulatory investigation in 2012, and the powers that are now being extended to other players already exist. That is the point we were making. We do not believe they need to be strengthened in regard to broadcasting as they are already there.

Chairman: I thank Deputy Mythen for his questions and there may be more time at the end if he wants to come back in again.

I thank the witnesses for their presentations and it is good to have them here today, having had the tech giants in yesterday. I made the point that I feel the social media platforms are not just platforms, and they really have moved into the publishing space. Mr. Coveney touched on the erosion of democracy and how social media platforms are undoubtedly feeding into all of that. He spoke about additional categories of online content, such as fake news, disinformation, harmful information, misleading commercial communications and political advertising. Do the witnesses believe a regulator will need additional resources to regulate these areas and what resources might be needed? I will come to Mr. Coveney first because he raised this issue in his presentation.

Mr. Rory Coveney: On the issue of resources, I did not get to say it because of the time restriction but, at the end of my submission, I pointed out that it is an enormous undertaking to expand the regulator's powers to all of these platforms. I very much hope this committee, and the broader Parliament and Government, recognise that and give the media commission the resources it needs to do the job correctly. The resources that will push against some of this

regulation, and that are available to some of the platforms that are now due to be regulated, are very considerable and the State will need to tool up, frankly, if it seeks to implement these standards and codes adequately.

In regard to the Chairman's comments on my submission on these kinds of areas, we are just not there at the moment and, for example, the issue of misinformation or disinformation is not listed as a category of online harm. I am not remotely saying that is easy to define. However, when television started 50 years ago, concerns were expressed about its capacity to pollute the culture and to influence people in particular ways, and so on, yet regulation has evolved over time to balance the issues of freedom of speech and protecting people from harm over many years. It is a complicated balance to get right but it is not appropriate that we just say misinformation or disinformation is too hard to deal with. It is overly pervasive across the world, not alone in Ireland, and its impacts are incredibly harmful and increasing, if anything. It is an area that needs real consideration. In terms of advertising, everyone has seen the rise of social media influencers as a key new means of commercial communications. The blurring of editorial and commercial is something we all need to be careful of. There are very specific codes which permit all sorts of commercial activity that are long established in broadcasting. There are a lot of lessons in that. This is ultimately about transparency, that the audience or user knows exactly what they are seeing, its provenance, who is saying it to them and for what purpose. There are a lot of lessons to be learned from broadcasting in the context of the regulation of some of these platforms in terms of advertising.

In response to the point about democracy, it is really about acknowledging that a complete asymmetry exists between what broadcasters - independent radio broadcasters, national public service broadcasters, commercial TV broadcasters and public broadcasters - are allowed to do when it comes to advertising towards a political end. That is not just advertisements for political parties but all sorts of campaigning if an event goes on around that and public advocacy is prohibited in terms of advertising. I think that is a good thing, personally, and RTÉ thinks that is a good thing. The reality is this activity has just moved online as a result, and they are effectively highly tailored broadcast advertisements being published to different audiences using online platforms. It is video. It is exactly the same thing, it is just the means of distribution is different. In fact, it is even more complicated because different people are getting different versions of the same advertisements depending on the targeting and the approaches used. I am not pretending RTÉ has the solutions to this, other than to point out that the goals of the prohibition on political advertising in broadcasting are solid.

Chairman: I would love to let Mr. Coveney go on for half an hour because I am so interested in this part myself, but I must give the other witnesses an opportunity to come in. I invite Mr. Esslemont to give his views.

Mr. Alan Esslemont: First, I want to praise the BAI. When it was introduced it was very much a question of a monolithic media system in Ireland and it created an overarching regulator. It has been very successful. It has almost written a playbook on how to do this. It stood out in that it also managed to create a respect for the Irish language. Going forward, the number of staff it has, which is probably under 50, will not suffice for what Mr. Coveney referred to as the huge task of regulating audiovisual services. It needs a huge amount of reality.

Part of the problem with media is that the Government never listened to the very well-weighted requests for proper funding for the ecosystem we have here. If that happens again, it could be a car crash. The new media commission needs to be properly funded with the correct level of staff and the correct level of expertise.

Mr. Peter McCarthy: Yes, I agree. All of the indications are that the audiovisual media industry and the consumption of non-air content is growing, and it will continue to grow. It is not something that is going to stand still. We have seen the sea change even in the past ten to 15 years. The regulator will need to tool up and be able to deal with the amount of regulation it will have to apply and enforce. I agree with Mr. Esslemont's comments.

Dr. Mark Carpenter: I am conscious that on other issues we have not always been on the same page but on this one we are. All broadcasters are very familiar with the regulation that goes with that. Every single minute of content that goes out on any Sky channel is watched by an extensive compliance department and it is regulated after that fact. As Mr. Coveney said, they are going to have to deal with some of the largest global online content intermediaries and that is going to require a significant resource to be able to regulate that effectively. I concur with what previous witnesses have said on the issue.

Senator Malcolm Byrne: This is becoming a quite interesting conversation. One of the things I would like to praise all of the witnesses, from Sky, TG4, Virgin Media and RTÉ, is their role in news and current affairs programming in covering the pandemic and providing factual information. It does stress the importance of quality trusted news. How we want to address it is going to be one of the biggest challenges for media generally. I was conscious of Mr. McCarthy's comments earlier on the Future of Media Commission. I am disappointed the commission has chosen not to make a submission to the committee or to appear as a witness before it. It would still be appropriate that it would do it before we make the decision.

I am interested to hear from the witnesses, first, how we can ensure we get the quality of news content we expect. That is on the regulatory side regarding news and current affairs, but also what we need to do as a State - it is not just the commission, obviously - to address issues around media and digital literacy and what approach can be taken.

Chairman: Who would Senator Byrne like to comment first?

Senator Malcolm Byrne: I am happy to hear from-----

Chairman: I will ask the witnesses to indicate if they wish to respond on this round, as they may not all want to. Mr. Esslemont had his hand up first.

Mr. Alan Esslemont: We have just finished a survey on what Irish speakers expect from news. The public sphere in Ireland needs good journalism to exist. For the population that speaks the Irish language, a minority language needs its own public sphere which intersects with the national public sphere but is not totally subsumed by it so that we do not end up with just translations. We will be able to share the survey with the committee, probably in early summer when it comes out. It is very interesting that there is a demand for more journalism in the Irish language, more regional journalism, and more distribution of journalism through media that young people use. There is a lot for both us and RTÉ to look into as far as Irish language journalists are concerned.

Mr. Peter McCarthy: It was a good point that Senator Byrne made regarding the news because, in particular over the past 14 months during Covid, we have rolled out an amount of new technology to make sure our news reporters were on the front line and at the daily conferences but were safe as well, so we gave them the technology they could operate on the road. We have seen an increase in viewing of nearly 50% in our news. That is something Virgin Media television is really promoting, pushing and enforcing to ensure that happens. Senator Byrne probably

saw from my comments on the content levy that media literacy is vital, and that is why we asked that if there is a content levy, it would be put towards media literacy and supporting journalists. The big thing we are seeing is that fake news is out there, and with the US and everything else that has happened, Ireland is still turning to the broadcasters for news at 5.30 p.m. and the different news alerts for their updates. That is the case in particular over the past year and we need to keep it going and promote it.

Chairman: I totally agree with Mr. McCarthy.

Dr. Mark Carpenter: I will be brief. In Sky we take news very seriously. A very long-term commitment has been made to Sky News as part of the transaction where Comcast purchased Sky a number of years ago. That means both for our dedicated Ireland correspondents and bringing Irish viewers news from around the world. I think we provide a very valuable service in that respect. I know we are a very trusted news brand, not just in the UK but in Ireland as well. I would also like to take this opportunity to praise the Media Literacy Ireland network. We have been part of it, as have all the other broadcasters. It was an initiative spearheaded by the Broadcasting Authority of Ireland and Martina Chapman. It has done good work with the Be Media Smart campaign and others, which we have been delighted to support. I take this opportunity to praise that organisation and all the work it has been doing in this respect in recent years.

Chairman: I will bring in Mr. Coveney.

Mr. Rory Coveney: I thank the Senator for his questions. It is worth reflecting on what the public think of all this in terms of news and particularly Covid. It has been useful that the Department of Health has tracked public opinion every two weeks on all sorts of issues regarding the pandemic. That last three slides of that deck, which was done by Behaviour and Attitudes on behalf of the Department of Health touches on what media sources we rely on for our information regarding Covid and the Government response to it. It is no coincidence the four most significant sources of news are all Irish owned and Irish entities. RTÉ is at 85% in terms of the source of news people got, Virgin Media Television is at 40%, *The Irish Times* is at 25% and the *Irish Independent* is at 22%. It is instructive when we are discussing converging the regulation around different platforms to note the percentages of some of the media platforms as a source of news for people during the pandemic. Twitter is at 10%, Instagram is at 2% and Facebook is at 12%. The public have made their choices based on trusted sources of news which they know and understand to be regulated on one level and also to have proven themselves over many years to be at least trying to tell the truth. I will be the first to admit we do not always get it right. A core part of our job as broadcasters is that we are obligated to be truthful, accurate, impartial and fair. By and large, it shows what the public are doing as a result of that. It also shows how important this job is.

Senator Malcolm Byrne: I would praise all the witnesses for their work in that area. The challenge in an increasingly global media environment when we are using more and more devices is that this will be difficult. What should we be seeking to ensure the media commission does to allow all of broadcasters as news channels to be able to provide that trusted voice?

Mr. Rory Coveney: We keep banging on about it but, critically, it is about resources and putting in place not just amounts of money but also predictability over times. We can make the necessary investments in technology and long form reporting, for example, investigative reporting. They are very expensive genres to deliver well. Much of what one ends up investigating is never broadcast because in the end it does not make sense to do so. Those issues un-

derpinning journalism are about the predictability of funding, creating a pathway for journalists to make a living in this country and ensuring there is a rebalancing, but that is not the subject of this discussion. I refer to a rebalancing between publishers which largely started as newspapers but are now big digital publishers and those massive third party platforms which are hoovering up digital advertising. Some 80% to 90% of digital advertising is going to two companies. Until we start to address some of the asymmetries in those markets with appropriate regulation, the danger for small countries, or small regional papers in big countries would have the same challenges, are enormous. Finding a sustainable path for journalists and journalism is a major challenge for the commission.

Chairman: I will have to draw that to a close.

Senator Fintan Warfield: I wish to return to Saorview which was mentioned in the last discussion in terms of how viewers might receive terrestrial stations and content in the future. For now, the number of television homes with Saorview or Saorview combined with a British terrestrial service is growing. I know a lack of resources is at play here but my concern is that it is not the only issue. The Commission for Communications Regulation, ComReg, published a market review in May 2020 and made a preliminary view about RTÉ having the ability and incentive to engage in exploitative and exclusionary behaviours. My concern primarily for viewers of Saorview is what was the switch over to terrestrial television for, if not for more choice, more stations and better quality in terms of higher definition. The only higher definition channels on Saorview are RTÉ's channels. Ultimately, can this be sorted out because viewers are losing out?

Chairman: Who would like to respond?

Mr. Alan Esslemont: TG4 made a submission on the national development plan. We think the State should reinvest in Saorview and rather than Saorview being basically RTE's vertically integrated platform, it should become something that is much closer to the way Freeview Play is in the UK where the state has a role in it. Mr. McCarthy spoke about public service and the role Virgin Media Television plays in doing public service. We think something could grow out of that. More and more people find that having a decent portfolio of Irish channels and adding to that their Netflix and Disney plus subscriptions they probably have all the television they want. We think Saorview could present a major opportunity. As I said previously, if we all stood together on that public service content, a brand could emerge. As is happening in the UK there is Freeview Play, which can then become a pane on the landing page of all the broadcasting channels or carriers and which can be a way into Irish content. We strongly believe Saorview is an opportunity for Irish broadcasting that is being missed.

Chairman: I thank Mr. Esslemont for that. Mr. McCarthy indicated.

Mr. Peter McCarthy: There is no secret about Virgin Media Television's view on Saorview. We believe it is inefficient and not fit for purpose. Perhaps it was when it was set up but, as we said previously, broadcasting, media and everything in that area has move on massively in recent years. It is interesting what the Senator said about higher definition. Our biggest complaint during the broadcast of the Six Nations Championship was that it was standard definition on the Saorview box and the people were giving out as if it was a Virgin Media Television issue. We have been trying to get higher definition channels on Saorview but the cost is not acceptable. We cannot put higher definition on there. I agree with Mr. Esslemont's point. Collaboration is something we have been talking with TG4 about. In terms of Irish content, we have seen what has been done with BritBox. There is nothing to say we cannot have an Irish version of

that and promote Irish context. Rather than competing with Netflix services of the world, why would we not create an Irish version of that and get the best of everything?

Chairman: I call Mr. Coveney.

Mr. Rory Coveney: The story of the switch to digital television in Ireland is a long one. The Saorview or free-to-air service that emerged was not the one envisaged and it is not the one that is still envisaged in the broadcasting legislation. There was always supposed to be a complementary set of commercial multiplexes - a hybrid of free-to-air and pay terrestrial services. There was a series of attempts by the Broadcasting Authority of Ireland, BAI, to create a series of competitions to deliver the commercial multiplex. It never came. As a result, we ended up with a scenario - at enormous cost to RTÉ, I might add - to build out the service and to provide a digital switch over that allowed the State to make close to €900 million in terms of a subsequent spectrum sale.

The history of this is by no means perfect from a regulatory perspective. It was not the service that was intended in terms of the Broadcasting Act 2009. What we have ended up with is a regulated service, where we do not control the price. We would love to have more services on it. If more services come on it, it will get cheaper for everyone. The reality is, however, that it is a regulated service. We do not have the discretion to which the Senator referred to incentivise channels to come onto it, unfortunately.

The bigger question in the medium term, or in the next decade, is what does free-to-air, FTA, look like in a fully Internet provided, IP, world? It is a very different scenario where one has ISPs deciding on what access people have. What does free-to-air look like in a world where it is delivered over the Internet and Internet broadband connectivity is provided by a whole series of third parties as an intermediary between that? What does free-to-air look like in a scenario when everything is "on demand"? There are much bigger questions on the future of Saorview, a brand in relation to the channels that are on it. The long-term future of linear distribution as IP technology evolves is a really big question.

Senator Fintan Warfield: Is a significant State investment needed to ensure that the people who pay their television licence get a high definition, HD, TG4 on terrestrial, rather than having to pay for Sky, where they will get a HD TG4? Would it be a significant State investment to ensure that for the next decade we have a fully HD range of channels, including a kids' TG4, for example?

Mr. Rory Coveney: I refer to the need to reconsider the regulation of the Commission for Communications Regulation, ComReg, which governs the tariff model that exists on Saorview. It is not an RTÉ choice. This is the reality of the model that emerged out of an aspiration for a much broader, commercially-based digital terrestrial television, DDT, service, that never came to pass. Were the spectrum costs being shared among a much broader number of channels and providers, the model would be very different than it is today, unfortunately.

Mr. Alan Esslemont: As a model it is broken. I do not think we can say that because we do not know where linear broadcasting is going, we are not going to change it. It is really important to change it. At present the model suits RTÉ. It has all of its services on it - all of the +1 services, kids' services and radio services. There is an awful lot more public service content available, but is not on it. Something is wrong and it needs to be fixed.

Mr. Rory Coveney: Just to be clear on that, Chair, RTÉ has also got enormous debt that it

has to take on to deliver the transmission network and to basically fund the transition. It is not that this is some sort of free pass. This service has cost RTÉ an awful lot of money over a long period of time.

Chairman: I will move on to Deputy Johnny Mythen who has a question for our guests.

Deputy Johnny Mythen: I thank the Chair. To finish up, I asked a question on the Cyber-SafeKids recent study. It said that 92% of kids between eight and 12 years old owned a device and that 28% can go online whenever they want. Do the witnesses have any suggestions on how to strengthen the Bill on these grounds? I would also ask the witnesses to give an opinion on the case of the pay disparity between the Irish language broadcasters and the rest.

Mr. Rory Coveney: On the issue of the pay disparities, there has been some commentary on this and on the grading structures at Raidió na Gaeltachta versus RTÉ. RTÉ has given a commitment in the context of a broader organisational review around grading, which we are doing, to look around this issue again. It was the subject of an internal industrial relations tribunal, IRT, ruling a number of years ago and adjustments were made. Again, the issue is that RTÉ has 160-odd grades within its business. We gave a commitment very recently to our staff - actually in the last week - to engage a full review of our grading structures, which will encompass any of the issues that relate to Irish language disparities.

Mr. Alan Esslemont: Again the research that was done by NUIG and Red C showed that Irish speakers use TG4 and Raidió na Gaeltachta at the top for their news, so they differ a lot from English speakers in Ireland. Journalists, people who work within our media but are employed by RTÉ at present, feel that they are being penalised for being bilingual. I think that is long-standing. It is good that RTÉ is looking at that, just now.

Chairman: I thank Mr. Esslemont. Does Mr. McCarthy have any last comments on this?

Mr. Peter McCarthy: I might comment on the question of the protection of children. That is something that we are quite passionate about in Virgin Media. As a business, we have sought over the last number of years to get behind it. In particular, we have parental controls on our set top boxes and devices. Also, we have partnered with the National Parents Council, NPC, over the last number of years on free Internet safety training. Education is the big piece for the protection of children across online services. I think it should get a lot of focus. We totally agree with Deputy Mythen's point. Education is the key point on how to do this, as well as to get in early. We should all be a part of it. Virgin Media has been driving it for the last number of years.

Chairman: I thank Mr. McCarthy. I call Dr. Carpenter.

Dr. Mark Carpenter: In the interests of collaboration, it makes sense to raise the point Mr. Coveney made earlier about the necessities of resources within this new online commission. It does not make sense that the potential areas where there is most harm are the least regulated. That is the situation we find ourselves in today. That is why it is going to be so important for this new media commission to be appropriately resourced, particularly in the area of online safety, to correct that current anomaly.

Chairman: I thank the witnesses. Does Deputy Mythen have any further questions?

Deputy Johnny Mythen: That is fine. I thank the Chair and the guests.

Chairman: I thank all of the witnesses for their engagement and presentations and for the robust discussions that we have had with our various members. These will, of course, assist the committee as it continues its pre-legislative scrutiny on online safety and media regulation.

That concludes our business for today. The committee stands adjourned until Wednesday, 26 May at 11.30 a.m. for a meeting in private session. This will be followed by a meeting in public session at 12.30 p.m., when we will meet with representatives of the Irish Human Rights and Equality Commission, which will be followed by a session with representatives of Digital Rights Ireland and the Irish Council for Civil Liberties to continue the committee's scrutiny of the online safety and media regulation Bill. Go raibh míle maith agaibh agus slán go léir.

The joint committee adjourned at 2.08 p.m. until 12.30 p.m. on Wednesday, 26 May 2021.