

DÁIL ÉIREANN

AN COMHCHOISTE UM IOMPAR, TURASÓIREACHT AGUS SPÓRT

JOINT COMMITTEE ON TRANSPORT, TOURISM AND SPORT

Dé Céadaoin, 24 Eanáir 2018

Wednesday, 24 January 2018

Tháinig an Comhchoiste le chéile ag 9 a.m.

The Joint Committee met at 9 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Mick Barry,	Frank Feighan,
Imelda Munster,	John O'Mahony.
Catherine Murphy,	
Kevin O'Keeffe.	

I láthair / In attendance: Deputies Michael Healy-Rae and Alan Kelly and Senators Martin Conway and John Dolan.

Teachta / Deputy Fergus O'Dowd sa Chathaoir / in the Chair.

Business of Joint Committee

Chairman: Apologies have been received from Senator Ned O’Sullivan. Before we proceed I ask that members turn off their mobile phones or switch them to silent mode.

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

The joint committee went into private session at 9.10 a.m. and resumed in public session at 9.20 a.m.

Scrutiny of EU Legislative Proposals

Chairman: Before we commence I must turn to matters relating to EU scrutiny following on from last week’s meetings. The proposals listed in schedule A COM (2017) 648 were discussed in full but I reiterate them here for the purposes of transparency. It is proposed there are no subsidiarity concerns with this proposal and that this proposal warrants further scrutiny. It is further proposed to request that the Department update the committee once its examination of the implications of the reporting obligations contained within the proposal has concluded. Is that agreed? Agreed.

Regarding COM (2017) 406 and COM (2017) 726, it is proposed that the proposals listed in schedule B warrant no further scrutiny. Is that agreed? Agreed.

Road Network: Transport Infrastructure Ireland

Chairman: We will now engage with Transport Infrastructure Ireland, TII, to discuss three matters. We will deal with them in the order listed: unopened motorway service stops, the reduction in the budget for maintaining national roads and tolling issues on the M1. I welcome Mr. Michael Nolan, chief executive, Mr. Peter Walsh, director of capital programmes, Mr. Nigel O’Neill, director of commercial operations, and Mr. Pat Maher, director of network operations.

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

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

I invite Mr. Nolan to make his opening statement.

Mr. Michael Nolan: Along with my colleagues, I thank the committee for its invitation to attend today. I understand that it wishes to focus on the issue of unopened motorway service stops, the reduction in the budget for maintaining national roads and recent issues regarding toll collection on the M1.

Before turning to the specific issue of unopened motorway service areas, I must set out the context to the TII's motorway service area policy and delivery programme. When the major inter-urban motorway plan was announced, which would connect Dublin to Belfast, Galway, Limerick, Cork and Waterford, concerns were raised regarding the impact on passing trade that a partial or completed motorway would have on towns and villages across the country. During the early years of the motorway upgrade programme, the TII, or the National Roads Authority as it was at that time, was not active in the area of developing motorway service areas. It had been incorrectly assumed that the private sector would deliver service facilities at motorway junctions.

The matter was attracting considerable public debate over the absence of service areas on the emerging motorway network. Concerns focused on the lack of rest areas for heavy goods vehicle, HGV, drivers, easy access to food, fuel and toilet facilities as well as the non-availability of safe and secure parking facilities for drivers who wished to break from their journeys.

In 2005, the TII responded to these concerns by reviewing its policy on the provision of service areas on the motorway and high quality dual carriageway sections of the national roads network. In 2006, we announced a strategy in which we would be proactive in the provision of 14 on-line service areas in the interests of all road users on the motorway and dual carriageway network. The TII would become directly involved in securing on-line service areas only. Service areas with direct access to the motorway do not directly compete with existing fuel and other retail facilities in the immediate locality and do not become destinations in their own right. It is also important to note that, under the provisions of the Roads Act, only the TII or road authorities are permitted to develop on-line service area facilities. By the end of 2009, a total of seven service area schemes had received An Bord Pleanála approval and one, proposed at the M6-M17-M18 junction at Rathmorrisy, did not.

I will turn to the first tranche of service areas. In October 2009, the TII awarded a contract for the design, construction, operation and financing of three service areas, one located on the M1 at Castlebellingham, a second on the M1 at Lusk and the third on the M4 at Enfield. Each of these is the subject of a 25-year concession contract. The service areas were constructed and opened within 12 months of the contract award. These service areas are producing significant benefits for road users as demonstrated by the growing number of users availing of the facilities provided. A survey undertaken in 2013 noted a high level of customer satisfaction.

The construction of the first tranche has not only demonstrated to private sector interests the level of demand for these services, but also the high level of services and infrastructure required to meet all road users' needs, including HGV drivers. The turn-in rate achieved speaks for itself.

We delayed the launch of the second tranche of service areas for some years pending an improvement in the economy. In March 2013, the Government published the Road Safety Strategy 2013-2020, which set out actions to support the reduction of accidents on the road network, recognising the safety benefits brought by the development of service areas. This element of the Government's road safety strategy is aligned with the position of the European Commission, the Road Safety Authority, RSA, and the TII that the provision of service areas is an es-

sential component of a safer and efficient transport network. Service areas serve the needs of road users and seek to reduce fatigue-related collisions on the high speed national road network.

In line with policy objectives, the TII proceeded with the appraisal of the second tranche of service areas and the tendering for same. This second tranche is composed of the construction and operation of service areas on the M6 motorway east of Athlone and the M9 motorway south of Kilcullen. It also includes the outfitting and operation of a service area on the M11 motorway approximately 10 km north of Gorey, which was constructed as part of the Newlands Cross and M11 Arklow-Rathnew scheme.

The second tranche of the service areas programme is being procured with a 25-year concession. The appraisal of this tranche, carried out in accordance with the Department of Transport, Tourism and Sport's common appraisal framework, finds that the benefits of these areas outweigh the costs. The service areas are single-sided facilities, reflecting the lower traffic volumes on the adjacent sections of the network compared with the first tranche. Access to the service areas will be provided using a grade-separated junction on the motorway, with a new bridge connection to facilitate access from both directions. This reduces the overall footprint and the construction and operational costs of the service areas compared with two-sided facilities.

The TII commenced the second tranche tender competition with an eTenders notice in March 2014, with the tender documents issuing to the short-listed tenderers in June 2014 and final tender submissions received on 24 March 2015. In August 2015, before the award of the contract, one of the unsuccessful tenderers issued legal proceedings seeking a judicial review of the tender evaluation process that resulted in the selection of the preferred tenderer. The tender award process was suspended pending the outcome of the legal challenge. The judicial review was heard in the High Court in June 2016. In December of that year and before the delivery of the ruling, the challenger requested the court to put a stay on the case and the legal challenge was subsequently withdrawn by the appellant at the end of April 2017.

Following the withdrawal of the legal challenge, the TII resumed contract discussions with the preferred tenderer. Given the significant delays between the submission of the original tenders and resumption of the process, the preferred tenderer has had to remobilise a project team and review proposals having regard to the duration of time since submitting its tender. This process is nearing conclusion and the TII anticipates a contract award early in the third quarter. Construction works will commence shortly after that.

The unopened Gorey service area and its junction on the M11 motorway were constructed as part of the Newlands Cross and Arklow-Rathnew scheme and completed in 2015. In parallel, the TII undertook advance works contracts to provide motorway service area junctions at the M6 and M9 service area locations. The M9 Kilcullen works commenced in April 2014 and were completed in March 2015. The M6 Athlone works commenced in September 2014 and finished in July 2015. The capital cost of constructing these two junctions was €19 million. All of these activities were programmed with the objective of ensuring site access before the date of contract award for the second tranche concessionaire contractor, which was anticipated to occur in early 2016 by maintaining a degree of reasonable float within the programme.

The legal challenge and the consequent delays to the award of the motorway service area contract have resulted in the TII arranging for the protection of the investment in the Gorey service area building and facilities. It is necessary to safeguard the expenditure already invested in the Gorey service area by providing measures for security and daily upkeep of the building.

The expenditure to the end of 2017 in this regard was in the order of €600,000, with monthly costs of €19,500 until the handover to the concessionaire. There are also social costs associated with the challenge of the procurement decision. Resolving this legal challenge introduced significant delays to the delivery of this important infrastructure project. These social costs relate to the unavailability of these facilities, which will provide safety benefits to the road user.

Taking all costs into account, including the legal costs associated with the procurement challenge which amount to €575,000, it is expected that spending on the development of the service areas will outturn at less than the predicted cost. In accordance with the tender received, TII will not be contributing to the construction costs and similar to the first tranche concession, there will be no ongoing payments to the concessionaire during the contract term while TII and the taxpayer will benefit from revenue share payments. I expect that following the contract award, the Gorey service area fit out-operational readiness could be completed within a four-month programme while the construction period would be approximately 15 months for both the M6 and M9 facilities, which will be constructed concurrently.

I will now discuss the reduction in the budget for maintaining national roads. While the increase in funding for pavement capital renewals in the 2018 budgets was very welcome, our current funding allocation for road maintenance was cut by approximately €6 million, or approximately 16%, to €31.6 million. This unanticipated cut again accelerates the ongoing cuts to maintenance budgets that have taken place since 2008. By way of comparison, TII received an annual road maintenance allocation of €58 million in 2008. This was subsequently reduced as part of the measures implemented during the financial crisis at that time and in the intervening period, TII's annual allocation for road maintenance has been progressively cut. Our modern state-of-the-art roads systems incur significantly more maintenance and operational costs than the older legacy roads but instead of increased maintenance funding to cater for this, our funding has been sharply reduced. Furthermore, we are now required to have more sophisticated winter maintenance arrangements than existed before 2008. Consequently, our winter operations costs are higher. Also, increases in energy costs associated with public lighting significantly exceed the CPI over the period in question again further eroding available budgets. All of the above means that the current level of maintenance funding for roads is totally insufficient. Benchmarking our maintenance expenditure against peer roads administrations across Europe has demonstrated that Ireland is very much at the bottom of the league table when it comes to expenditure on national road maintenance. An inevitable consequence of the erosion of maintenance budgets is that much essential routine repair and maintenance of pavements and other road assets is not taking place. If current levels of maintenance funding are not increased, there is an increasing deterioration in the condition and capital value of our national roads network. Even with increased funding for capital pavement renewals, if routine maintenance is not adequately funded, we will see pavements and other assets deteriorating more quickly and having to be replaced earlier than otherwise would have been the case. A proper balance between ordinary maintenance expenditure and capital renewals investment is essential in order to deliver the best value for money. At present, that balance does not exist. In relation to our 2018 maintenance allocations, we have been forced to substantially cut our allocations to local authorities. We have reduced our provision for salt purchases for 2018. While salt stocking levels are adequate, we will review the situation following the winter season. We have also cut our allocations for traffic route lighting. The budget provisions for maintenance of the high-speed motorway network has been maintained.

I will now address recent issues regarding toll collection on the M1. Last week, the Chairman of this committee alerted TII that certain users of the M1 were subjected to an incorrect

toll charge. I can report that Celtic Roads Group (Dundalk), the company responsible for the operation and maintenance of the tolled M1 motorway, has confirmed that a small proportion of customer journeys were subject to an incorrect charge. The toll by-laws for the M1 Drogheda bypass provide that where road users exit the toll road having paid a toll and within three hours re-enter to continue on their journey in the same direction, a second toll payment is not required. The operator has been engaged in an upgrade of the toll collection system since mid-April 2017, which is nearing completion. It has stated that, during the upgrade works, a limited number of tag customers entitled to a free passage based on the above three-hour rule were in fact charged at the second toll point on continuing their journey. TII was informed on 10 January 2018 that re-entry transactions in respect of a limited number of tag trips had a second toll incorrectly applied. TII met with the operator on 11 January to establish the extent and cause of the issue. On 12 January, the operator confirmed its assessment of the extent of the issue and has arranged for full refunds to be dispatched to all relevant tag holders. The data provided indicate that the overcharging relates to approximately 1,500 tag customers affecting about 2,000 individual transactions amounting to a total value of €6,000. This issue arose only for those using electronic tags for payment and does not affect cash customers. The number of toll transactions eligible for free passage under the three-hour rule is approximately 8,000 per month. Analysis of the data indicates that the start of the problem coincides with the commencement of the toll collection system upgrade project in mid-April 2017. Since becoming aware of the error, we have conducted spot checks and verified that the three-hour tag re-entry mechanism is now performing as intended. TII will continue to monitor the issue and in addition, we will secure an external audit of the technology which governs the transaction charging regime that applies the three-hour re-entry benefit to customer tag accounts. The operator has engaged with the various tag providers and others involved in the overall electronic tolling system so as to ensure that customers' tag accounts that have been affected by this issue are credited as soon as possible and is confident that this will be achieved by the end of January. Celtic Roads Group (Dundalk) has issued an apology to affected customers for the error. These customers will receive formal notice confirming the refund in their next monthly statement.

Before concluding my presentation, I will update the committee on the outlook for TII's strategy for the improvement of the national road network having regard to three strategic priorities, namely, asset management, network rehabilitation and operations; minor and safety works; and major improvement projects. I welcome the recent announcement by the Minister of enhanced funding arising from the mid-term review of the capital investment plan. This year will see a modest increase in investment in asset renewals and traffic management and bottleneck projects. We will also see more minor and safety improvement schemes reaching the construction stage during the coming year. However, TII is still faced with a shortfall in annual funding for the asset network we manage and operate, although the shortfall has reduced since I last reported to this committee. This capital underinvestment, if allowed to continue, would ultimately impact on both safety and reliability and result in greater costs to renew our assets in the long run rather than maintaining them sustainably. The Minister has also indicated his support for the revitalisation of the planning programme for national roads schemes for the purposes of creating a pipeline of worthwhile projects for progression through the planning stages over the life of the ten-year capital investment plan. The selection of these roads projects will have regard to the fit of the project to the principles set out in the emerging national planning framework. This is a welcome development given the long timelines to achieve planning consent for major infrastructure.

On the public transport side, having recently opened the extension to the Luas green line, TII's focus on new public transport infrastructure is now firmly concentrated on the provision of

metro for Dublin. The National Transport Authority's, NTA, transport strategy for the greater Dublin area, 2016-2035, provides a framework for the planning and delivery of transport infrastructure and services in the greater Dublin area over the next two decades. The strategy defines metro as a high-speed, high-capacity and high-frequency public transport link from the city centre to Dublin Airport and Swords. The city centre section is to be underground. As described in the transport strategy, it is anticipated that the metro will ultimately tie into Dublin's existing Luas green line system enabling through running of metro services from Swords to Sandyford. TII, in collaboration with the NTA, is engaged in the process of developing the design of the metro project with the objective of the commencement of the project's construction in 2021. Consultations around the emerging preferred route will commence in the coming months.

While my opening statement has addressed the specific points raised by this committee, we will be happy to answer questions on any particular issue raised or indeed on any other matters of interest. Should we not have the information requested to hand, we will follow up with a written response.

Chairman: We will deal with the first and second items separately. I welcome Mr. Nolan. Significant issues have been raised regarding the operation of TII and its activities, particularly the fact that so much public money is being spent. I think over €1 million was expended, which Mr. Nolan itemised, between the legal costs and other costs. Not one cup of tea was sold or one bar of chocolate consumed by people travelling on the motorways as a result of that. What exactly is the infrastructure in Gorey which is costing €19,000 a month to maintain?

Mr. Michael Nolan: In Gorey we have a facilities building, a service area. We have the shell and all the utilities infrastructure, the parking areas, security, the septic tank systems and the rainfall harvesting systems. It is a fully functional motorway service area without the branding.

Chairman: In other words, the concessionaires have to move in and establish themselves.

Mr. Michael Nolan: They have to move in and do the final fit out and branding.

Chairman: It has cost a lot of money; €1 million has been spent so far.

Mr. Michael Nolan: Correct.

Chairman: Why does TII not open it? Mr. Nolan is talking about another four month delay if I understand correctly what he is saying. It seems to me the public need would be met by opening it up immediately. Why does TII not do that?

Mr. Michael Nolan: Having gone on this journey to fulfil the Government's strategy and meet the requirements of the European directives on service area development, we are on the cusp of reaching financial closure with the preferred bidder. We imagine that over the next three or four months we will close the contract. The preferred bidder is an expert in delivering this type of infrastructure and we are so close to reaching financial close that it would not make for us to step in at this stage. It would take us longer because we would have to go through procurement to get a different operator in there while there is a live procurement process going on, which will conclude in the next few months.

Chairman: It is an appalling waste of money. I appreciate that TII did not initiate the legal process but it has been extremely expensive as TII is paying over €500,000 in legal costs. It

is an appalling vista and is absolutely unacceptable. Following today's meeting we will need to invite TII here again to discuss its annual report and other issues such as that TII seems to penalise compliant motorists by overcharging them, certainly in Drogheda, but it has not collected €10 million in uncollected tolls from non-compliant motorists. That is a matter of great concern.

I would also like TII to address the question of value added tax, VAT, for non-commercial vehicles. I appreciate today may not necessarily be the day to go into this in detail but it is estimated that over €100 million is owed to private motorists in VAT refunds which they have not received. What is TII's position on that? In the public perception tolling, and this is part of it, is a waste of public funds. The compliant people are not getting value for money and those who break the law are enjoying it. It is not acceptable.

Mr. Michael Nolan: Is it all right to address that point in detail?

Chairman: Yes. I am in the hands of the members but I am very concerned about that. I welcome the witnesses' presence here today but there are huge problems around TII's operation. It is a huge company with a turnover of over €1 billion a year but the taxpayer is not getting value for money. The driver is being penalised if he is compliant.

Senator John O'Mahony: I agree with many of the Chairman's points. Mr. Nolan mentioned the costs of providing services now and its journey. I gather it has gone so far down the road that it has to complete this now in the way he has suggested. In the case of the current tender on the provision of the motorway services at Gorey, Moate and Kilbeggan, which I understand were awarded to Topaz, subsequently appealed and withdrawn, what was the cost of the infrastructure provided by TII and, previously, the National Roads Authority, NRA, to support the tender and the works envisaged in the tender in advance? What was the total cost of professional fees associated with the tender and the works? What was the cost of the land on which the sites were to be developed? Can Mr. Nolan explain further the cost of maintaining and-or securing the sites during the period of the judicial review and to the present date, which, as the Chairman has pointed out, is money down the drain?

At least one of these sites duplicates a service being provided by the private sector. Why is the TII spending public money which could easily be provided by the private sector with no risk to taxpayers? I note that in his presentation Mr. Nolan said TII stepped in because the private sector was not providing the services particularly in the recession.

In the context of the cost beyond that incurred by the private sector in the provision of motorway service sites and the reflection of that cost in the tender price to a successful bidder on a TII site, does the TII accept that the position put forward by the industry that the onerous costs spread over 25 years conflicts with good economic planning? The viability of these sites is based on the sale of fossil fuels but that will change in less than 25 years. It needs to change and that may render these sites unviable to people given a 25 year concession. I would like Mr. Nolan's comment on that?

Would the TII prefer not to be involved in the provision of motorway services to allow the organisation concentrate on its core objective of motorway provision? The witness spoke about the reduction in maintenance costs handed out by the Government, which we will tease out later. Does it make sense to be investing so much in the services when the money could be used in other ways?

Chairman: Deputy Munster said she had an urgent appointment. If she wants to she can comment now on the first item.

Deputy Imelda Munster: I asked if I could ask all my questions together, when it is my turn.

Chairman: I want to deal with the Drogheda issue first, if I may. I would like the Deputy to ask her question about Drogheda after I give her some information she does not have. If she wishes to go ahead now that is fine.

Deputy Imelda Munster: What I had said to the Chairman was that I wanted, when my turn came, to ask all my questions at the same time rather than to jump back and forth. I am not looking to skip.

Chairman: I have issues around Drogheda which I want to raise first. The Deputy is not aware of them, but I have no problem with the other issues.

Senator Frank Feighan: Senator O'Mahony has asked a few of the questions I had. Regarding the increase in energy costs for public lighting, I note that a lot of the lighting along the N4 and in a lot of the towns on the route is low-energy or solar lighting. Surely, modern technology means costs should be reduced. I understand that in the interests of safety we in fact overdid it 15 or 20 years ago. There was a public light in every area. When I joined my local authority, everyone wanted an extra public light. Surely, there should be savings now. What is TII doing to ensure those savings are made and the planet is not affected?

Chairman: I asked about Gorey. The legal case cost an awful lot of money. I appreciate that citizens and companies are entitled to take cases. The problem is that the case went to a hearing, the High Court was asked to stay it and it was then withdrawn. What happened to TII's fees at that time? Surely, it should be able to recoup them if someone brings it to court but then withdraws the case. Is TII going to recoup those fees?

Mr. Nigel O'Neill: No. The proceedings were withdrawn by the challenger based on an arm's length commercial agreement between the challenger and the notice party. We were the respondent. The arrangement was that each side would bear its own costs.

Chairman: Did TII agree to that?

Mr. Nigel O'Neill: We did, yes. There are trade-offs to these things. The benefit to us was that we achieved legal certainty when the case was withdrawn. We were not at risk of an adverse outcome or further ongoing legal costs. We were able to get on with the process.

Chairman: TII gives the franchise. It had a procurement process and gave it to company A. Company B objected and challenged the veracity of TII's decision making and brought it to the High Court at TII's expense. Was the case heard at all?

Mr. Nigel O'Neill: Yes. It was a seven-day trial.

Chairman: Seven days is hugely expensive.

Mr. Nigel O'Neill: Indeed, yes.

Chairman: TII was a notice party.

Mr. Nigel O'Neill: No. We were the respondent.

Chairman: TII was the respondent and had to deal with all of this. The other party reached a deal and TII suffered the loss of all its costs.

Mr. Nigel O'Neill: Yes, but the other parties have costs too which they bear. That is their business.

Chairman: Yes, but they commenced the process against TII. Should TII not recover its costs? It is €500,000, which is a lot of money.

Mr. Nigel O'Neill: Yes. If judgment were delivered, the risk is that it could be adverse to us. There could be a positive chance that it would be in our favour. Certainly, in that case costs typically follow the event and we would have a basis to recover some costs. One does not get all of one's costs in these challenges, however. Typically, if the other side does not agree on costs, they go to taxation and one typically gets between 60% and 70%.

Chairman: The point is that there was a seven-day hearing. Was that over two or more weeks? There were probably three days one week, for example.

Mr. Nigel O'Neill: It was over a period of 12 calendar days.

Chairman: That is a lot. One defends a case in the first place because one feels one's defence is strong enough. Quite often, there are negotiations even during the process of a legal case. In other words, a without-prejudice offer to settle may be made. TII could have negotiated its costs down or reached an agreement after day 1. It seems to me that if someone presses the button, the fees run and run.

Mr. Nigel O'Neill: We are a public body and we have to use public procurement processes to procure our projects and operations. We have no choice in that matter. We are a target and a good mark in that sense.

Chairman: Does TII employ in-house lawyers?

Mr. Nigel O'Neill: Yes.

Chairman: Did they act for TII in this?

Mr. Nigel O'Neill: No, we used external lawyers. This litigation is a particular specialist area.

Chairman: Was there a contract for those services as to which firm would be used?

Mr. Nigel O'Neill: Our legal services are subject to public procurement also and they are competitively procured.

Chairman: It seems to be an awful waste of money.

Mr. Nigel O'Neill: It is risk management. If we try to seek our costs and the other side says "Fine, we will go to judgment", that could work against us. This is about balancing risk. It is making commercial decisions.

Chairman: Were there other legal costs other than the €500,000 we are talking about?

Mr. Nigel O'Neill: Yes.

Chairman: What did they amount to?

Mr. Nigel O'Neill: This is the security and-----

Chairman: No, there are other costs. Does the €570,000 sum include all legal costs, including TII's costs?

Mr. Nigel O'Neill: No, those were our legal costs of defending the challenge.

Chairman: Right.

Mr. Nigel O'Neill: A significant part of that, as the committee will know from our common law system and the way cases are administered and managed, was discovery. Discovery is a significant part of a case and it is seldom relevant to the issues to be decided. Nevertheless, a huge amount is sunk in discovery costs.

Chairman: Discovery takes place pre-trial. If I want to discover documents and I am not given them, I will ask the court to order that I get them. It should not be a very expensive process.

Mr. Nigel O'Neill: It should not be but it is. That is the reality. We are talking about many documents. Typically, the categories of discovery sought by a challenger include information which is confidential and commercially sensitive and so there is a redaction process that must take place which is time-consuming and costly.

Chairman: What was the net point in the legal case, without going into the detail? There was a procurement process, which was publicly advertised and bids were submitted.

Mr. Nigel O'Neill: The net point was that the applicant did not win the tender and it challenged our evaluation. That is the net point.

Chairman: Was it the lack of transparency of the evaluation?

Mr. Nigel O'Neill: No. The grounds were extensive. It was not a simple thing. It was many things and the grounds were worded around public procurement matters one sees in these kinds of cases.

Chairman: It is such an expensive legal challenge and so costly to the taxpayer and there are precedents for processes like this.

Mr. Nigel O'Neill: There are, yes.

Chairman: As such, there must have been something exceptional in this process that was different to warrant a legal case. I do not have the detail.

Mr. Nigel O'Neill: Indeed. There is a strong commercial incentive for bidders who have not won a competition to judicially review a decision where they think they can get the decision overturned. It could well be worth their while. Large companies will have the balance sheet reserves in money to fund cases. The cost of a case is not typically an obstacle for them. Challenges in public procurement are becoming more frequent. We have seen delays in our sector and others because of challenges. By and large, the public authority has been vindicated at the end of the process.

Chairman: Of course, yes.

Mr. Nigel O'Neill: That is the track record. However, it takes too long. There needs to be

more case management in procurement cases in order that the substance of issues can be tested early and unmeritorious cases weeded out quickly but the judicial system is under-resourced and we are not seeing as much active case management as there ought be. That is a lesson learned.

Chairman: Were the applicant and the other party that was successful part of the case? In other words, were they represented as well? How many lawyers were in court altogether?

Mr. Nigel O'Neill: There were lawyers for each party-----

Chairman: For the three parties. It is hugely expensive and it is not acceptable that that should continue. If TII has views on arbitration and so on that we could recommend to the Government or the Minister, it would make sense. I accept the intention is to have a public procurement process and that would be watertight. However, Mr. O'Neill has pointed out that people make a legal play at the taxpayers' expense to make a financial gain for their company and that is not acceptable either from a moral or ethical point of view. I accept the TII's bona fides in entering this process fairly and openly but there is something radically wrong when we end up with an unopened service station costing €20,000 a month and a bill for €1 million. I do not say that was Mr. O'Neill's intention but that was the outcome.

Mr. Nigel O'Neill: I do not control the judicial review process. It is an entitlement of companies and citizens to avail of that.

Chairman: I accept that.

Mr. Nigel O'Neill: We have a system that takes considerable time to-----

Chairman: Mr. O'Neill stated that TII will not contribute to the construction costs and there will be ongoing payments to the concessionaire. By implication, those payments would continue normally. In other words, if the legal process had not happened and company A was in there, the TII would help it with the construction costs-----

Mr. Nigel O'Neill: No.

Chairman: I apologise. Will Mr. O'Neill explain this?

Mr. Nigel O'Neill: The basis of the tender was that the company would not require a subvention from us. That has not changed.

Chairman: Were there tenders previously where a subvention is paid?

Mr. Nigel O'Neill: Yes

Chairman: The Committee of Public Accounts commented yesterday that there is a lack of detail in the TII's PPPs. Was it referring to issues such as this?

Mr. Nigel O'Neill: I do not think so. The committee was looking for publication of post-project reviews, which we are happy to do. We have been complying with central guidance, which is that they should not be published. That is under review and it is my understanding that will change. We will take that on board and we will publish post-project reviews of PPPs.

Senator John O'Mahony: The Chairman has asked about the legal costs. I asked questions about the other costs, including the cost of land, and I would like Mr. O'Neill to comment on those.

Chairman: I welcome Mr. O'Neill's comments about the effectiveness of the existing service stations because I use them every day, particularly along the M1. They are efficient but they are not cost competitive. They are closed shops and motorists pay more for petrol and diesel, although they are more convenient. The contracts are for 25 years. What can be done to test or proof charges in these service areas? Petrol stations are often cheaper than a typical Applegreen along the motorway where the costs are higher. Does the TII examine this? Is a service area a licence to print money in some cases? I appreciate the convenience and the quality of the service but we are being ripped off in many service areas.

Mr. Michael Nolan: I am a daily user of the service areas. There is not much of a price differential between the N4 service station and my home town. They are convenient. The difference is 2 cent or 3 cent per litre but it is down to market forces. The stations operate commercially and they will not create a differential to the extent that people will stop calling in. They have proven to be successful. There is quite a high turn-in rate, which is what this is all about. We are trying to get as many people as possible to leave the motorway network to take breaks from driving and to reduce fatigue. That is the ultimate function of the motorway service areas.

Chairman: I accept that but I disagree with Mr. Nolan. One pays 5 cent or 6 cent per litre more on average. I appreciate there is a premium. Notwithstanding the fact that an owner has the concession for 25 years, is it part of the agreement that the charges cannot be excessive? I have a choice not to go in but if someone is driving two or three hours, he or she will want to go into the service area. It seems to be a bit of a rip-off. I do not know if anybody else thinks that.

Deputy Michael Healy-Rae: With all due respect, I do not know about accusing people in businesses like this of ripping people off.

Chairman: I am sorry. I have to take Deputy Munster first.

Deputy Imelda Munster: According to the PAC report, funding overall for roads is €27 million lower than it was in 2008. According to the TII, there is a deficit of upwards of €100 million per year for roads maintenance and it reckons only 30 km of the 400 km motorway network is maintained on an annual basis. The officials stated the continued underfunding will have a significant cost long term. When did the TII first become aware of the cut in this year's funding? What was its initial reaction? Did officials speak with the Minister about the effects that would have? More important, what was his reaction to that? Did he give a rationale for the €6 million cut? It will affect every local authority. Louth County Council, for example, expects a 30% cut in its funding and an 18% reduction in the number of road projects. Those figures are shocking. When TII received word that its funding would be cut further, did officials speak with the Minister and relay their fears about the detrimental effects that would have on our roads infrastructure, both short term and long term? What was his reaction? I read somewhere that funding for motorways was to be maintained at the same level. What percentage do PPP partners and toll operators pay towards roads maintenance in comparison to TII and the Government?

I refer to the difference in the quality of materials used. For example, I rarely encounter a pothole on the motorway but when I travel on a regional or local road, the potholes are almost like craters even where they were filled in three months previously. Are local authorities so starved of funding that they have to source inferior products for resurfacing? Do the officials know anything about that?

On the specific improvement grants, at the moment we have the safety improvement grants

which are a pittance when it comes to road safety measures for junctions etc. Was it TII's decision to scrap the specific improvement grants or was it the Department's? Has TII made representations to have the specific improvement grants reinstated? Many road safety issues around the country are not being addressed because of the absence of those grants.

I know the Minister is well aware of the opposition to the slip-road tolls in Drogheda; it is the only town in Ireland where people are taxed to drive from one side of the town to the other. I know he has been in contact with TII. Any progress on removing the slip-road tolls is painfully slow. I raised the issue with the Minister and I am raising it with the representatives of TII today. Fleadh Cheoil na hÉireann 2018 will take place in Drogheda. We do not want it to turn into an unmitigated disaster because we are going to tax tens of thousands of visitors in Drogheda to drive from one side of the town to the other. I have requested the Minister - I am sure he has contacted TII - to remove the slip-road tolls for the duration of the fleadh, just as an interim measure because it will have a detrimental effect on Fleadh Cheoil na hÉireann 2018 and it will have a detrimental effect on Drogheda ever having a second run at the fleadh. I sincerely hope that TII will leave no stone unturned and ensure this happens for the duration of the fleadh.

Chairman: I know other members have come in.

Senator John O'Mahony: We are waiting until the end-----

Chairman: I will take the Senator shortly. I want to get the order right so that I do not get into trouble with anybody. I will call members of the committee, starting with Deputy Catherine Murphy. Obviously, two members have come in since. Sorry, Deputy Barry came in-----

Senator Frank Feighan: I want to ensure-----

Chairman: Sorry-----

Senator John O'Mahony: We do not want the questions we have asked to be lost.

Chairman: They will not be.

Deputy Catherine Murphy: Can we just have the answers to those questions first?

Chairman: Just to be helpful to everybody-----

Deputy Catherine Murphy: I am happy to wait until we hear the answers because I might have specific questions on that.

Chairman: Just to be helpful to everybody, including Deputy Murphy, I am conscious that there are people who are not members of the committee here and who were not here at the beginning. That is their privilege; I am not being critical. We agreed that we would deal with each item separately and therefore we would answer all the questions that people ask on each item. As Deputy Munster has to go early, she properly requested and we allowed that we would move off the first item. That is where the process is. I am happy to take everybody; I just want to ensure everybody knows what we said earlier. I will come back to Senator Feighan. We will deal with the questions that were asked on item 1 first. That is fair enough.

Senator Frank Feighan: I have a meeting at 11 o'clock.

Chairman: I accept that totally.

Senator Frank Feighan: I have questions I would like to ask on the capital programme. I have been here since 9 o'clock.

Chairman: The Senator has, of course. I am not trying to stop anybody.

Senator Frank Feighan: I could come back at 11.30, but-----

Chairman: I am happy to be as helpful as I possibly can. I reiterate that I want to be fair to everybody. I would be very happy if the questions the Senator asked were answered now. I have no issue with that. The only reason we deviated from that was that another member wanted to go and I facilitated that. That is all. I ask Mr. Nolan to answer the questions from Senator O'Mahony and Feighan first.

Mr. Michael Nolan: Senator O'Mahony asked about the cost of the motor service areas and specifically costs other than the capital costs. He asked about the cost of land. The land was €2.61 million for that scheme. We mentioned the cost of €19 million for doing the two the junctions.

Senator John O'Mahony: For what was that €19 million?

Mr. Michael Nolan: There was €19 million for the capital cost of the M6 and the M9 junctions. We had some archaeology costs of €100,000. We had utility costs of €150,000. We had design costs of the order of €2.8 million.

Senator John O'Mahony: Is that for professional fees and-----

Mr. Michael Nolan: It was for professional fees and going through applying stages and doing all environmental route selection, site selection, all investigation, ground investigations and whatnot. Just to give a context of the overall cost, while we are incurring, unfortunately, additional costs forced on us by the results of the legal challenge and defending the State's place in that, I am confident that we will bring in the overall scheme for less than our original budget.

Chairman: Will Mr. Nolan circulate those to members?

Mr. Michael Nolan: Absolutely.

Senator John O'Mahony: What is the total figure for all the ones we are talking about including legal, everything that we have-----

Mr. Michael Nolan: The overall budget we have for the three service areas is of the order of €68 million. It is likely that the outturn costs will be of the order of €60 million or less. Our business case is built on €68 million. From what we see at the moment and given that the tenders that came in were much more favourable than we expected, we believe we will see significant savings in the overall context for that project.

Senator John O'Mahony: I also asked about the duplication of services.

Mr. Michael Nolan: We are developing the service areas on foot of Government policy, national policy and fulfilling our requirements under the EU directive. Our policy that we put out in 2014 and previous policies was to develop online service areas. There are a number of reasons there are benefits for online service areas vis-à-vis offline service areas. I will go through them since the Senator asked the question. Online locations provide the most convenient access for drivers. The increased convenience encourages more frequent use of service

areas for drivers wishing to take rest breaks and to avail of facilities. There is a higher turn-in rate, higher usage for online services.

The Road Safety Authority identified fatigue as a factor in 27 fatal collisions and the greater the usage of service areas by drivers, the greater the benefit in terms of safety and reducing fatigue-related road accidents.

Access directly off the main line ensures the separation of longer-distance high-speed traffic from local roads, resulting in road safety and traffic-movement benefits. The mixing of local and higher-speed longer-distance traffic does not arise in an online facility. A preference for online service areas on roads of motorway standard is consistent with the pattern of development in other EU countries.

Importantly, online services do not directly compete with existing fuel and other retail facilities in the immediate locality and do not become destinations in their own right.

Senator John O'Mahony: Therefore, it is not TII's policy to duplicate services.

Mr. Michael Nolan: It is not policy to duplicate services. Our original policy was to develop 14 service areas. We got planning permission for seven; one was refused at Rathmorrissey in County Galway. We had planning permission for one at Cashel but we decided not to pursue that because the private sector fulfilled that need on a service area adjacent to the motorway junction that was of a standard equivalent to the standard that we had set. At the moment we have six service areas with planning permission, three of which have been constructed since 2010 and are open for business. We are today discussing the second tranche of three. They are the M9, M6-----

Senator John O'Mahony: Mr. Nolan spoke about the private sector not providing the services. The point I am trying to get at is that it would be preferable if private enterprise were willing to provide the services with no risk to the taxpayer. We have just heard the story about the inordinate cost when public money is being used. Would it be better if the private sector were providing it?

Mr. Michael Nolan: Where the private sector has given a real indication it will provide services we have withdrawn from our proposals to develop in those areas. This has happened in Cashel and a few other locations that I can list. We have real examples of this. We take cognisance of the private sector delivering standard service areas. I am not just talking about an off-road petrol station with minimum facilities and no parking. It is where the standards are met. We create standards equivalent to European or UK norms and the private sector service area industry in the main is reaching these standards. We are not in the business of directly competing where the private sector will deliver.

Senator John O'Mahony: What about the 25 year concession on the climate change issue? Could service areas become unviable through the changes that need to and will take place?

Mr. Michael Nolan: That is a relevant question not just for motorway service areas but the entire service industry, including offline, regional roads and urban areas. There will be a huge swing over the next ten to 15 years from fossil fuel based combustion engines to more hybrid and, hopefully, predominantly electric in time. It will have an impact. The biggest income of service areas in the private sector, such as Applegreen stops, is from retail and food. It is common that most of the profit margin for offline service areas comes from non-fuel. I will ask Mr. Maher to speak on this.

Mr. Pat Maher: There are electric charging points in the three online service areas. As we speak, additional electric charging points are being installed in those locations.

Senator John O'Mahony: Are they fast charging points?

Mr. Pat Maher: Yes, that is correct. They are with one operator and we anticipate other operators will follow suit. One of the advantages of the online sites is that the space is there. Over time, as the car fleet evolves the service facilities can evolve also. We have already started this process. We do not foresee the attraction of these service areas reducing in any way, either in terms of the services provided in the service building or in terms of refuelling. The change towards electric vehicles that is beginning to happen is not just about private cars. We also have the heavy goods vehicle fleet, which will not disappear overnight. We will need the road haulage industry. Private cars and the haulage industry will continue to need the services available in these service areas.

Senator John O'Mahony: The facts are there to state this is not an issue. Is that what Mr. Maher is saying?

Mr. Pat Maher: Yes.

Senator John O'Mahony: I do not want to hog the meeting.

Senator Frank Feighan: I would like an answer to my question on the cost of public lighting.

Mr. Pat Maher: The reference to public lighting costs was a historical note in so far as since the point ten years and more ago that we were comparing, there have been significant increases in public lighting costs. Our maintenance funding has not kept pace as a proportion of our overall maintenance costs for public lighting. The Senator is correct in what he has said. There are opportunities, and we have implemented and are implementing initiatives on the network that will see a significant reduction in public lighting costs over the coming years. For example, last year we commenced a pilot on four motorway junctions to turn off excess lighting, as compared to our current standards. Our standards for lighting have changed in comparison with practices in other countries. Traditionally, we have lit motorway junctions quite heavily. More recently, that level of lighting has been reduced. We are now looking to implement a lower level of lighting generally across the motorway network. To do so we have had to validate that safety implications were not arising. This is why it started as a pilot. Based on the information we have to date, it is our intention to continue with other motorway junctions. There will be a reduction in lighting and we feel this will be at no cost to motorway safety. This will lead to a significant reduction in energy usage on our motorways.

Separately, we have a project dealing with two-lane roads and bypasses in the north-west of the country, including Mayo, Donegal, Sligo, Roscommon and Leitrim, whereby we will implement energy-saving measures by means of turning off excess lighting, changing the lighting units, the use of more efficient dimming and trimming and reducing the periods when lighting is on. We have a number of ongoing programmes and we will continue to implement them over the coming years. We will make savings in our maintenance budget as a consequence.

Chairman: Will the TII send us the evidence that there is no diminution of safety when lighting is reduced? I have the opposite view. I drive an awful lot, as everybody here does, and I always welcome lighting on the motorway. I use the M1 almost every day, particularly very early in the morning as I did today. It is very hard in darkness to see vehicles. I know we are

all going in one direction, but motorway lighting at intersections and, indeed, where there is not an intersection, is very helpful. It is a huge safety issue. I would not like to see a diminution or reduction in it. Will the witnesses circulate their analysis?

Senator Frank Feighan: I am from the north west. I live near the N5 and N4. Getting back to the national infrastructure project, I have seen where yellow and orange lights have been replaced with white lights. It is amazing that we have come full circle, as 30 years ago we had white lights. I would like to see the type of savings being made. I would not like to see this being dealt with just in the west and north west because we do not have motorways.

I want to ask a question on infrastructural projects because I must leave to go to another meeting. I am sure the witnesses are aware of the Carrick-on-Shannon bypass issue. The town is on the N4 and the issue is getting much worse. There was an accident there two weeks ago and traffic was blocked for two hours. This is not an average town. It is on the River Shannon and there are no small routes around it. We need to look at a Carrick-on-Shannon bypass. It is very serious. The witnesses know how serious it is. We have the Scramogue to Ballaghaderreen and the Collooney to Castlebaldwin programmes coming onstream, but the north west needs a motorway to keep up with the pace of getting to and from Dublin.

Chairman: I ask the witnesses to reply to Deputy Munster's questions first because she will kill me if I do not get to her questions.

Mr. Michael Nolan: Deputy Munster mentioned a figure we threw out at the Committee of Public Accounts. An easy way to measure deficit is that, with regard to renewal and pavement work, we should be doing approximately 400 km of new paving each year on our road system. Our funding levels over the past three years were approximately €50 million or €60 million per year, which translates to only 130 km being repaved or renewed each year. This is a long way short of where we should be to maintain the value of the asset and keep it in serviceable condition and a state of good repair. The good news is last year we had approximately €50 million for pavement renewals but this year we have in the order of approximately €100 million. There has been a significant increase in funding for pavement renewals in 2018. We are heading in the right direction. There was a shortfall over the past number of years and it will take some time to recover from that. I am happy to say there has been almost a 100% increase in the funding going to pavements in 2018 over 2017 levels. That translates to between 260 km to 300 km being done this year, rather than the 400 km figure.

Mr. Pat Maher: There are a couple of matters. We are very appreciative of that increase in pavement renewals funding. It is worth mentioning there are two sides to the matter of road pavements, road maintenance and road renewals. Capital maintenance is typically defined as the renewal of the asset. It is work that takes place over a time cycle and in pavement terms, it could be from 12 to 20 years. That is funded from capital resources. As Mr. Nolan indicated, we have had a substantial increase in terms of funding in the current year and it will allow us to undertake pretty much double what we have been able to undertake in the past number of years. It is very important. That relates to pavement and other assets on the network. It is a very important element but it is one side of the coin.

The other side is the routine maintenance and operations money. It is in routine maintenance and operations that we have a reduction in the current year of approximately €6 million. The big issue with respect to routine maintenance and operational funding is that this is a further cut on foot of almost ten years of reductions. Routine maintenance has traditionally covered the basic housekeeping activities, including minor pavement and pothole repairs, rou-

tine bridge maintenance and repair of crash barriers and signage. It also covers lining, repair of boundary fences when they are hit, drainage maintenance, litter collection, road sweeping, grass cutting, verge maintenance and footpath repair. It is very much the day-to-day bread and butter housekeeping activities that go on year on year, as opposed to the major capital reinvestment in order to maintain the condition of the network. Over recent years, traffic management costs have become significantly greater by virtue of the fact we have increased regulation and we are far more mindful of road operative safety, as are local authorities. On our motorways, as incidents increase, the cost of incident response and management goes up. We have far more sophisticated winter service delivery than we had ten years and certainly 20 years ago. We also have intelligent transport systems, variable message signs etc. and all those come within the ambit of the maintenance allocation. Between 2008 and 2010, we opened a large section of the motorway network so we have been hit quite hard by the cuts in maintenance over the period.

There is no one correct figure for maintenance and we get what we pay for. The level of service that can be delivered depends on the available funding. The reality is if the funding is not available on the ground, certain elements must be cut. That is what we do. We manage within the terms of the operational budget but it is an increasing challenge to deliver the level of service required in the context of the modern motorway network on one hand and the existing two-lane network on the other hand. We are talking about approximately 1,200 km of motorway dual carriageway versus 4,100 km on the two-lane network.

The Deputy asked why the pavement seemed to be worse on regional roads and I would say it is the same for national secondary roads. Our modern motorways are built to the highest specification. They are modern and have large depths of pavement construction. Much of our legacy roads, including unimproved roads, regional roads and much of the national secondary routes, fall into the same kind of category. They do not have the same construction so they are more prone to failure. They do not have the same drainage so the water sits there and the pavement fails earlier. When a pothole or an area is treated, there is always the risk it will fail again. That is an historical legacy. Much work has been done on non-national roads and the national roads over the past two decades or more in terms of upgrading and replacing legacy pavements but there is still work to be done.

Deputy Imelda Munster: I thank the witnesses for the response. When it became apparent there would be a further cut of €6 million - the effects of it have been outlined to us - did the witnesses speak with the Minister and outline its consequences year on year? What was the Minister's response?

Mr. Michael Nolan: We became aware of the cut when it was indicated to us by departmental officials in October 2017. On the back of that we decided to write to all local authorities, as we were aware they were trying to establish estimates and budgets for 2018. We wanted to alert them that the cut in the maintenance budget was coming. We do not deal directly with the Minister on this but rather with the Minister's senior officials. I am sure they communicated this to the Minister directly. We took the initiative to write to local authorities and alert them to this in order that they could plan and react to the cut. They could also ensure their estimates and budgets for the year would reflect the cut.

The cut of 30% has been mentioned but that was in a very narrow area within the overall maintenance budget. Mr. Maher could speak to this in more detail but it concerned one element. It was in the area dealing with grass cutting, litter picking, sign cleaning and very minor and basic repairs. We maintained the funding in a few areas where we have commitments. The public private partnerships, PPPs, were also mentioned, as well as the maintenance of motorways. We

are in a contract with three private sector specialists for maintaining 750 km of the motorway network. We are committed to meet those bills and contractual obligations and maintaining the high-speed network in a safe condition for the next few years. The public private partnerships have a contractual obligation to maintain the network to a certain standard. It is funded through a combination of revenues from tolling and operational payments that we make on a monthly basis. That varies by scheme. They have an obligation to meet certain standards and are not affected by the cut in the ordinary maintenance budget. We oversee that and monitor the delivery of those obligations. The motorway network is dealt with by a combination of public private partnership, concessionaires and private contractors contracted to Transport Infrastructure Ireland, TII. Those commitments are honoured and that is why the motorway network will retain the level of maintenance seen in 2017 in 2018 and beyond.

Deputy Imelda Munster: Could we get a breakdown of the contributions from the Department and the companies in the PPPs as they relate to motorway maintenance funding?

Mr. Michael Nolan: I am not sure it is that easy to break down. The Department's funding is from subhead B3 of the Vote. It goes to TII and most of it is used to fund the national road network. It does not go to PPPs, however. It is 100% non-PPP money. Zero money of the €31.6 million fund we get from maintenance goes to PPPs.

Deputy Imelda Munster: However, any other funding TII would-----

Mr. Michael Nolan: We make availability and operational payments to the PPP companies annually. We will provide the Deputy with a list of these.

Deputy Imelda Munster: Will Mr. Nolan also provide comparisons between that funding and the contribution made by the PPPs?

Mr. Michael Nolan: We will work out something.

Deputy Imelda Munster: Will the witnesses comment on the specific improvement grants?

Mr. Michael Nolan: The Deputy mentioned specific improvement grants and, I think, safety grants. Some of these were scrapped. She made a call to have them reinstated. I think the Deputy is referring to non-national roads grants, that is, the regional and local roads grants. Regarding the safety side and the national roads side, we are increasing our contribution towards safety schemes. Because we won the VAT case last year, we are now able to put more money towards the capital cost of safety schemes on the national road network. We see, I think, eight schemes, or perhaps ten, going to construction this year and we will see perhaps a further three or four in the following year. The allocation for safety schemes, as I said in my opening statement, is increasing substantially for national roads.

Deputy Imelda Munster: Yes, but Mr. Nolan must be aware of the complete shortfall from every local authority seeking funding for what would have once qualified for specific improvement grants, bigger jobs, road safety issues, junctions, etc. That funding is no longer available.

Mr. Michael Nolan: That concerns the non-national road network-----

Deputy Imelda Munster: I beg Mr. Nolan's pardon.

Mr. Michael Nolan: -----so it is perhaps a question to ask the Department directly.

Deputy Imelda Munster: Finally, will the witnesses comment on the lifting of the slip

road toll for the Fleadh Cheoil?

Mr. Michael Nolan: I am aware of the Deputy's representations on this matter through the Minister and directly over the years. We carried out a study in 2012 on the impact of lifting the toll at Donore Road in which we modelled what would happen to the traffic movement and where traffic would go if the tolling regime were changed. I do not know whether other members are aware of the layout of the area. There are north-facing toll ramps at Donore Road going into Drogheda, and people coming south off the motorway pay a toll at that point to go into Drogheda. Removal of the toll at that point would put approximately another 18,000 cars each day onto Donore Road and Duleek Road, which would create rat runs through the south Drogheda area, heading for south Drogheda and going down towards Julianstown. If there were political support for removal of the toll and if one could get through a new toll scheme and go through all the environmental impact assessments of the extra traffic on the local road system in the area, one would have to subsidise and subvent the private sector operator to the tune of about €8 million per year for the next 17 years. It would be a huge burden on the taxpayer and there would also be major environmental disbenefits for the local road system south of Drogheda. However, I am aware that much of the traffic in that part of Drogheda has been generated by the development of two out-of-town retail parks, that is, the M1 retail park and Drogheda Retail Park beside Donore Road. We are aware that Drogheda has in the local area plans and the county development plan an aspiration to develop a new bridge linking these two development centres. That would take a lot of pressure off traffic in that area. I think the bridge was proposed as a solution to a lot of the additional traffic coming onto that part of the network arising from the development of two successful out-of-town retail parks.

The Fleadh is probably the Deputy's focus at present. I am not too sure-----

Deputy Imelda Munster: It is doable.

Mr. Michael Nolan: It is doable. We must get a direction from the Minister and then the Minister and the Department must provide an allocation to compensate the toll operator for the loss of revenue for that period. It is therefore a matter for the Minister and the Department.

Deputy Imelda Munster: That is fair enough. Mr. Nolan quoted the amount that would have to be given to compensate the toll operator. The figure seems to increase every time I raise this matter. According to the original figure, the operator would have to be compensated to the tune of €6 million. That figure has jumped this morning to €8 million. It is a question of the lifting of the toll in order that it not be the ruination of the Fleadh Cheoil in Drogheda.

Mr. Michael Nolan: I understand.

Chairman: Deputy Catherine Murphy is next. I will make just one point. Mr. Maher talked about safety, lighting and so on, on motorways. I wish to bring to the witnesses' attention one matter. I travelled on the M1 last night back to Drogheda. Work is ongoing on the road near Balbriggan and is proceeding apace. There was a person placing or replacing bollards on the road. While he was wearing reflective gear, he was not properly visible. TII should insist on the highest possible standards of reflectivity for people working on motorways. I almost did not see the man. Such workers need to be absolutely visible. This is not a criticism. He is a decent man and he was doing his job, but I was just worried someone else might hit him.

Mr. Pat Maher: I assure the Deputy that we take motorway operations extremely seriously.

Chairman: I accept that.

Mr. Pat Maher: We are happy to go back-----

Chairman: There was no reflection. Does Mr. Maher know the way reflective wear should reflect the light?

Mr. Pat Maher: Yes.

Chairman: One could see what he was wearing but it did not reflect the light back. It is just a safety issue.

Mr. Pat Maher: We are happy to look at the matter.

Chairman: Please do, if only for his own safety. I apologise to Deputy Murphy.

Deputy Catherine Murphy: There has been much talk of the overall amount of money available for national roads. I wish to explore a little how TII distributes the funding. I know a condition survey is done. Are there parts of the country that stand out where there are particular problems or is there a general problem or a problem that will emerge by virtue of the fact that the spend is not adequate? Will we see a deterioration in the condition of roads?

Mr. Pat Maher: There are regional variations in the condition of pavements across the country. We undertake an annual survey. The complete national road network is surveyed for pavement condition every year.

Deputy Catherine Murphy: Are there very big regional disparities, or is it-----

Mr. Pat Maher: The modern pavements tend to perform better, and for good reason. They are constructed to modern standards, etc. In the legacy network, which is by and large the un-improved network, pavement quality tends to be worse, so the national secondaries-----

Deputy Catherine Murphy: Where is that?

Mr. Pat Maher: The national secondaries typically have a lower quality of pavement than national primaries. The west of the country tends to have poorer-quality pavement. This arises primarily from the basic fact that ground conditions are not as good there. It tends to be wetter and boggy in the west and pavement condition reflects that.

Deputy Catherine Murphy: I have figures from TII for 2015, 2016 and 2017 regarding maintenance and improvements. Regarding what Mr. Maher says about the regional variations, I note that Mayo - I apologise to Senator O'Mahony - got €32 million for maintenance and Dublin city got €34,000. Over the three years, combining the allocations, Galway got €19 million, Kerry €18 million and Donegal €17 million. This certainly shows that the allocations are happening in a very different way. Could Mr. Maher come back to us with some indication of these regional disparities, where the underspends are and whether each spend is a good one? Should there be a different kind of improvement on the roads that could cut down on the spend?

Mr. Pat Maher: I will make a number of points in response to the Deputy's comments. We survey nationally; we also prioritise nationally. We prioritise on the basis of need and condition. We therefore allocate the funding to those areas where it is most needed where the condition indicates that the pavement deterioration warrants it. I am confident, and we can demonstrate, that the money is going where it is needed.

On the issue, the Deputy quoted Dublin City Council. There are no national roads in the

Dublin City Council area bar a very short section between the northern quarter of the port tunnel and the Turnapin interchange. By and large, we have very little funding to give to Dublin city.

Deputy Catherine Murphy: Yes, but if Dún Laoghaire-Rathdown County Council, South Dublin County Council, Fingal County Council and Dublin City Council were combined, it would total about €4 million over those three years.

Mr. Pat Maher: Yes.

Deputy Catherine Murphy: Does density of traffic play a role? I assume that would have a bearing on the road condition.

Mr. Pat Maher: It does, particularly heavy goods vehicles. The effect of a heavy goods vehicle is 500 or 1,000 times greater than the effect of a car, and that is just down to axle load. Where we have high volumes of heavy goods vehicles we have greater wear resulting but, depending on the pavement construction, motorway pavements are better able to handle that level of wear and tear. It is one of the factors; it is not the only one.

Deputy Catherine Murphy: A motorway is designed with a lifespan and after, say, 20 years Transport Infrastructure Ireland, TII, will have to do a 4 inch surface or whatever to get the extra lifespan out of it.

Mr. Pat Maher: Yes.

Deputy Catherine Murphy: Is TII postponing any of those? Are they working to the original specification?

Mr. Pat Maher: We are not postponing works on the motorways. As the Deputy will be aware, quite a large proportion of our motorway network opened in the late noughties, particularly 2008, 2009 and 2010. If we take a 12 to 14 year horizon for the kind of surfacing we have, from approximately 2021 or 2022 we will see a significant need for a greater level of motorway overlay works and that is in accordance with our plans. We are planning to undertake the works on motorways as and when the need arises.

Deputy Catherine Murphy: In terms of TII's funding, obviously there is motor tax revenue, which I believe goes initially to the Department of Communications, Climate Action and Environment.

Mr. Pat Maher: My understanding is that a proportion of the take from motor tax goes to funding non-national roads - regional and local roads. TII does not receive a set proportion of the motor tax take.

Deputy Catherine Murphy: It is central funding.

Mr. Pat Maher: It is central funding, yes.

Chairman: Senator Feighan wants a reply.

Senator Frank Feighan: I have to go to another meeting with the Minister.

Chairman: I am sorry, Deputy Murphy.

Senator Frank Feighan: Could I get a response on the Carrick-on-Shannon bypass? Is

Mr. Maher aware of the serious situation there, and what will happen?

Mr. Peter Walsh: I will answer that. With the review of the capital plan, the Department announced on 16 January support for the revitalisation of a pipeline of projects. It is referred to as appraisal and prioritisation of various major projects. Carrick-on-Shannon is one of the projects. There are 17 we had identified as part of a group of projects. Where work had been done previously, we are seeing in our own transport model projections that there will be distress in future years. With the support of the Department and arising out of that review, we can now recommence an appraisal of those projects. We have written to the local authorities to emphasise that we should not get too excited about it in that not all of the projects will proceed. It is to prepare projects for a pipeline for the next capital plan, and the appraisal of those projects will be the first phase of that. In a sporting analogy sense, this is a kind of fitness test to see if they will make the general panel, never mind the team. We do not want to raise too many expectations but Carrick-on-Shannon is one of the projects on that list.

Chairman: Is the Senator happy with that?

Senator Frank Feighan: Yes.

Deputy Catherine Murphy: To come back to the condition survey and the secondary roads, from my experience there is quite a lot of bogland in Kildare. Good roads on bogland can be difficult, and a different approach was taken in the way the foundation was laid that resulted in a better long-term outcome. In terms of road improvement, are there measures that could be taken in the way the foundations are laid that could reduce the cost of maintenance?

Mr. Pat Maher: I suppose the challenges of pavements on bog roads on the non-national road network are pretty much ubiquitous in Ireland. I have acknowledged that we have those kind of challenges as well, particularly on our national secondary network. The difficulty is that, historically, a great deal of our attention has been on keeping those roads together so if we want to diminish the longer term maintenance I would say it requires heavier capital investment. There are technological solutions but anybody involved would acknowledge that construction across boggy ground is both expensive and technically challenging. There are no easy solutions.

Chairman: Mr. Nolan talked about my wonderful town of Drogheda earlier. Obviously, it is of great interest to me but he mentioned the potential for a bridge on the west side of the town to allow for frequent transport between one side of the town and the other without having to use the toll bridge. What is the status of that proposal?

Mr. Michael Nolan: The status of that proposal is that it is currently listed in the county development plans. It is an objective but it is a non-national road, a regional road, so I am not too sure about the-----

Chairman: How can we get issues like that funded nationally?

Mr. Michael Nolan: The cost of that would be funded directly by the Department of Transport, Tourism and Sport to the council.

Chairman: The local authority, yes. It would make a huge difference to the local population.

Mr. Michael Nolan: It would. Over the weekend, to prepare for this meeting, I checked the

planning status of all the initiatives around Drogheda. There is another bridge further east-----

Chairman: Yes. That is hugely important as well.

Mr. Michael Nolan: That is more a transport and cycling type of route. A heavier bridge is planned inside the motorway on the west side of the town, which would link the two key areas.

Chairman: Could Mr. Nolan give me a note on the information on those, please?

Mr. Michael Nolan: I would not have that information because it is not an actual road-----

Chairman: Can I ask Mr. Nolan a different question if he does not have that information?

Mr. Michael Nolan: Yes.

Chairman: He certainly knows about it, and that is good in itself. On the question of the northern cross route in Drogheda, which is a link road to the motorway linking up to the other bridge Mr. Nolan spoke about, if he does not have a note on that I can send him a communication on it because it is a very important issue for the development of the entire area.

Mr. Michael Nolan: That is from the junction at Mell-----

Chairman: Yes.

Mr. Michael Nolan: -----and the link road.

Chairman: It links up to the old M1.

Mr. Michael Nolan: I spent three or four years of my life working on the design of that.

Chairman: Did you?

Mr. Michael Nolan: Around the bridge. We teed it up for it to be a-----

Chairman: The junction is there.

Mr. Michael Nolan: Yes, and it is perfectly located to aid and facilitate further development of that part of the town. Again, that is a non-national road link so I would not be aware-----

Chairman: It is a non-national road so therefore it is a matter for the Department of Transport, Tourism and Sport.

Mr. Michael Nolan: I say “non-national” but it will probably be a strategic regional road development at some stage.

Chairman: Yes, and that would be funded directly by the Department.

Mr. Michael Nolan: By the Department of Transport, Tourism and Sport through the local authority.

Deputy Michael Healy-Rae: Not that it has anything to do with anything, but at the same time as we are told to do it, I want to declare that I have been the owner of a small petrol station for many years.

Mr. Nolan spoke about motorway services. I am grateful to and thank those involved in the private sector. I am thinking of the Fitzpatricks, Pat McDonagh and others who have done

great work in providing services where TII or its predecessors did not see fit to do so, because of which people had to travel many miles on motorways without having anywhere to stop. I take grave exception to the following which I am reading from a newspaper:

Documents on file with Wicklow county council show TII lobbied against the development by fuel retailer Applegreen of facilities on the M11 near Ashford in county Wicklow. Documents on file with Clare county council show the authority lobbied against similar facilities near the Ennis bypass which had been proposed by Mr. Pat McDonagh, developer of the Barack Obama Plaza along the M7 in county Offaly. The letters show TII raised issues with county planners in each instance, including the fact that it was working on submitting plans for its own service areas.

Regarding Clare county council, the report reads:

Records from last year show TII saying ‘it is considered premature to grant planning permission’ for Mr. McDonagh’s proposed development near the Ennis bypass. TII reminded the council of its own plan for services on a site between Ennis and Sixmilebridge.

Chairman: Somebody’s phone is ringing. I apologise. We must find out whose it is.

Deputy Michael Healy-Rae: The report continues:

Ultimately, TII failed to develop its own services and opened the M8/M7 without service areas over a distance of 101km. The authority’s latest position is that the earliest date for services is 2020, but this is subject to finance and planning permission.

Chairman: I am sorry, but somebody’s phone is interfering with the communications equipment.

Deputy Michael Healy-Rae: We do not have a service in this room.

Chairman: I am not saying whose it is, but it is not mine. I am not accusing anybody, but we have to be fair.

Deputy Michael Healy-Rae: I will return to something Mr. Nolan said in which he insinuated that he had no problem with the private sector opening service stations, but at the same time TII used its position to make objections to those looking for planning permission to build them. That is outrageous. Neither the Fitzpatricks, Mr. McDonagh nor anyone like them has contacted me or asked me to raise this matter. I do so because it is extremely unfair if TII is not in a position to provide service stations for it to object to someone else who wishes to do so. Those who are willing to step up, borrow money or use their own resources to provide an excellent service station on a motorway should be encouraged in every way possible to do so. The National Roads Authority tried in every way possible to hinder the Fitzpatricks when they were opening their service station by not allowing them to put up signage to advertise the services they were providing. It was outrageous that instead of assisting them, the NRA blocked them in every way it could. That is why one sometimes sees services using a lorry inside a field to advertise because TII or its predecessor, the NRA, would not allow them to erect signage indicating that there was a service station ahead. There is a complete lack of joined-up thinking.

On the reduction in the budget for maintaining national roads, I heard one of the delegates refer to regional variations. I can highlight one regional variation between other parts of the country and my county, for which more funding is needed because County Kerry has so many

roads that are not classed as national roads. Some of the worst roads in the country are in north Kerry. The N69, from Tralee to Tarbert, requires major investment. It is the only national road in the Listowel municipal area. Everyone here recognises the importance of the Ring of Kerry, the N70, from the point of view of tourism and the large numbers of local residents who use it in travelling to Kenmare or Killorglin. Many sections of it badly need to be widened and improved.

On safety issues in County Kerry, I refer to problems on two sections of the N22, the main Killarney to Cork road. The first is the junction where it meets the R569 at Poulgorm, at which there have been so many accidents, because of which everyone has asked for the provision of traffic lights, which should be very simple to do. However, TII is talking about removing traffic lights in other places. Because of the number of accidents recorded, this section of the road must be illuminated at night. I would like TII to deal with that issue specifically.

With other members of Kerry County Council, I have been drawing attention to a serious problem in the village of Glenflesk where recently a young lady sadly lost her life while crossing the road. The speed limit needs to be reduced in the village. On one side of the road is O'Brien's service station, a bus stop and the post office, while on the other there is the church. On leaving the church many have to cross the road to where they parked their cars. In doing so they take their lives in their hands as it is a place where any driver can legally travel at 100 km/h. We have begged for a speed reduction. It is the only place of which I am aware in Ireland where someone can legally drive through a village at 100 km/h. The village has industrial units, a football field and a community hall. I want something done about this issue.

I seek an update on the Macroom bypass on the N22. There has been some progress, but can we have specific dates on which construction will start and the work will be completed?

I have referred numerous times to the Dale Road on the R556 from Tralee to Ballyduff. It is one of the worst sections of road of which I know in County Kerry. In fact, I would vote it as the worst road in all of Ireland and want TII to examine it. It will take considerable funding to improve it. The delegates spoke about roads being built on a bog. I readily admit that the problem is that the road was built on a bog and that it will take substantial funds to trunk it properly because while it might look good for a while after putting a new surface on top, it would sink again. A section was done some years ago and the work proved to be very successful, but funding is required to bring the road up to the required standard. In its current condition it is a complete hazard. Those who drive vans or jeeps or pull trailers or something similar take their lives in their hands. Someone has some hope if he or she is travelling in a car, but if someone is towing something, it is like travelling on the sea.

A special case for can be made for the provision of extra funding for roads in County Kerry. That is because we are coming from such a low beginning. We have many roads and we have missed out on money over the years so we should be treated as a special case and we should get additional funding. I would like the TII to look at the situation in County Kerry, and if we could deal with the specific issues that I have raised here, I would be very thankful to the witnesses.

Chairman: As somebody who travels to Kerry - my ancestors came from that wonderful county - I know that after many years, significant improvements have commenced on the road from Tralee to Dingle. They made the journey somewhat safer this year and I hope they will continue. It is very welcome. Going from Tralee to Dingle takes at least an hour and if there is a slow-moving vehicle in front, one is delayed forever. There are many tourists and they rely on the local economy for transport.

Senator John O'Mahony: The Chairman travels to Mayo as well.

Chairman: Very rarely.

Senator John O'Mahony: It is the only time-----

Chairman: I want to finish my point. I compliment the TII on the work it is doing in the area.

Senator John O'Mahony: Since coming into this House, it is the only time I have heard complaints that the west and rural side of the west is getting higher grants than the east coast. That is historic. Along with Kerry, Mayo and all the other counties have the biggest percentage of non-national roads and they need that funding and they need more of it. That is the main point.

Chairman: There is generally worse weather in those places.

Mr. Michael Nolan: Could I have an opportunity to respond to Deputy-----

Deputy Alan Kelly: Let Mr. Nolan answer the questions and I will ask mine afterwards.

Mr. Michael Nolan: I am happy to wait so long as I get an opportunity at some stage.

Chairman: I would prefer to take Deputy Kelly's questions now.

Deputy Alan Kelly: I have four questions. For the Chairman's information, representatives of the TII appeared before the Committee of Public Accounts a few months ago. I cannot remember the date although I am sure they remember. We released a report yesterday on that engagement.

When we met in the other committee, I spoke in detail about the criteria used for capital projects. There was a commitment given to provide the criteria. They have not been provided. The level of detail-----

Mr. Michael Nolan: Sorry-----

Deputy Alan Kelly: Sorry, I have not finished. I know what-----

Chairman: I do not want to get into an argument with anybody. For the moment, we should restrict ourselves to Nos. 1 and 2 and when we are finished, if there is a problem we will deal with it. We will deal with issues on the national roads or the service stations and then we will deal with the other issues.

Deputy Alan Kelly: With regard to national roads, the criteria for the provision of funding should be better set out. The detail with regard to the criteria needs to be provided to this committee and to the Committee of Public Accounts. It needs to be provided in a very defined way with regard to weighting, the interaction with the national planning framework, which has to be gutted anyway, climate change proposals and Road Safety Authority data, which was a finding of the report launched yesterday. Some information has been provided to members of the Committee of Public Accounts. The level of detail I expect is not there. This is the real issue for me. The decision-making process which will come about for the national capital plan is critical. I want to be confident that I can see in advance in a transparent way the methodology and criteria used to make those decisions. It is good for the TII as well. We are from three different counties and we are all fighting for our own counties, which is fine. Independently, the TII has to

make its decisions. That is its job and I respect that. We should be able to see, in a transparent way, the full criteria and the weighting on the criteria. In previous evidence I was told that time saving was the biggest part of it, that safety issues were a huge part and that there were a number of other issues. Other issues are the interaction with the requirements under the national planning framework and the changes that are coming about regarding the movement of vehicles and changes under the climate change legislation. All of these things are a component of that.

I would like to see all of that wrapped up in a nice bow and given to both committees in a level of detail I have not seen yet so that we can do that. I would appreciate if we could get all of that soon and well in advance of the capital plan. When I see the capital plan coming out, I want to be able to put each one of them in, be able to stand over it and not have to engage in any political bickering about why some projects were selected over others. I urge the TII to go on more than less, by which I mean to give out as much information as possible. The TII will have to put it all together and make decisions. I will raise it with the board if I do not feel those criteria, including the detail, are provided.

Chairman: I fully agree with the Deputy. The purpose of today's meeting was to discuss three specific issues. I appreciate Deputy Kelly was not here at the beginning but I made it clear that we want to get the TII in here again. I spoke to my clerk about it and about having it as soon as possible to deal with all of these and other issues that have arisen. I am with the Deputy 100%.

Deputy Alan Kelly: I will conclude. In addition to getting the criteria beforehand, I will be delighted if, subsequent to the announcement of the capital plan, I can tick all the boxes as regards the criteria. As politicians, we often get accused of reacting to things afterwards. If it does not happen, I will replay what I have said here after the announcement of the capital plan. The days of political jockeying have to stop.

Chairman: I could not agree more with the Deputy.

Deputy Alan Kelly: That goes across all politics.

Chairman: We all agree on that.

Deputy Alan Kelly: That goes across all politics. The Chairman has a track record, to be fair to him. My second issue relates to something that all Deputies should be very sensitive towards, which is the very good, honest and direct evidence that Mr. Nolan gave in the other committee. I want to get an update on it because it is genuinely concerning. Everybody will be concerned about it. In the TII seven-year plan, there are 150 minor road safety schemes projected. As of a few months ago, between seven and 11 were being implemented. It was expected over the duration of the plan - I reread the transcript - that 50 to 60 will be done. That means there is no funding for 90 or 100 projects. I asked Mr. Nolan about this directly and I compliment him because he was very honest. I asked him whether as a result of this people will die on the roads and he said, unequivocally, that they would. As a result of the lack of funding over the seven-year plan to implement these 150 minor safety schemes, which are effectively blackspots and which are in every one of our counties, people will die. That is a priority for us as legislators and Oireachtas Members. It is also a priority for the Department of Transport, Tourism and Sport and the TII. We should support the TII in getting the funding to do this because timing and safety are the two biggest issues in decision-making. I ask that question because it ties into the first question about how we allocate funding. I would like an update on it. It is certainly something I will raise with the Department of Transport, Tourism and Sport.

For the committee's information, I will raise a Topical Issue matter with the Minister on this very same topic in a couple of hours.

My last two issues are quite topical. I have a serious concern with the layout of the M7 from Roscrea to Birdhill at the intersection of Laois, Offaly and Tipperary, on which I drive eight to ten times a day along with hundreds of thousands of people. It does not just affect my constituency because thousands of people go to Limerick, Cork, Dublin and in every other direction. A number of people have been killed on this road in the past year and I knew some of them. May they rest in peace. The section between Roscrea and Moneygall is particularly concerning because of crosswinds. Obviously, bad weather and foolish driving contribute but it is hard to maintain the car at times, even when the winds are not high. The on-off ramps at Roscrea and Moneygall are not the same as any other on the motorway but are shorter and sharper. I do not know if the former NRA ran out of money but there is no long run-up to them. I have seen many people, especially in heavy goods vehicles, not realising this and they nearly go out into the main traffic as they approach the road.

Chairman: Is the Deputy talking about the Obama Plaza?

Deputy Alan Kelly: Yes, the Obama Plaza.

Chairman: That was built privately.

Deputy Alan Kelly: I am also talking about Roscrea. I have seen near misses with trucks and cars coming out. I ask Transport Infrastructure Ireland to look at this again. There have been a number of tragedies at Birdhill, including one recently involving a person I knew. There is an issue which I cannot define. It took a long time to create Birdhill because it was built on a swamp and the road dips but there is some issue which I am not qualified to speak about. The accidents are happening in more or less the same areas. I would appreciate the help of colleagues in respect of these issues as they have been raised by people throughout the country.

I am very interested in the N24 Waterford-Limerick road, which goes through Tipperary town. It needs huge investment, given our road strategy which attempts to link freight and goods to the ports, and to link Foynes, Limerick, Shannon Airport, Rosslare and Waterford. It links to the M8 and connects Dublin to Limerick, as well as Cork. Given the potential economic value of this and from the perspectives of climate change and the planning framework, this route needs deep consideration.

Chairman: We have now had two interesting contributions on specific roads and on safety and other issues, in particular relating to transparency in the capital plan.

Mr. Michael Nolan: Deputy Healy-Rae asked about the motor services areas at Ashford and Ennis. I completely reject the allegation made by the Deputy and will give the background to it. The offline service area facilities brought forward by private sector developers are subject to the normal planning requirements and procedures. The TII examined the service area proposals notified by planning authorities in our role as statutory consultee under planning legislation, in which we are confined to considering potential implications for the operation, capacity or safety of the national road concerned. We did not lobby against either of the offline service area proposals in submissions made to the planning authorities concerned. Our submissions clearly outline that the TII neither endorsed nor proposed the provision of such facilities at the application sites. The TII service area proposals are always advised to applicants to ensure all parties are aware of the TII's stated intention, as outlined in our service area policy 2014. We

did not appeal any decision to grant planning permission at either site.

Deputy Michael Healy-Rae: I said that the TII objected.

Mr. Michael Nolan: We did not appeal any decision to grant planning permission at either site. There was a comment on prematurity. The reference to prematurity was based on two specific points.

Chairman: Somebody's phone is ringing.

Mr. Michael Nolan: The first related to the Wicklow service area. We identified that technical assessment for the design of the retaining wall adjoining the N11 embankment was required prior to a decision on the application.

Chairman: I hear the phone again.

Deputy Michael Healy-Rae: It is a ghost.

Chairman: The staff cannot operate properly with a phone ringing. I ask everybody to double check if it is their phone. We have to be fair to the staff. If I hear it again I will adjourn until we get it sorted out.

Mr. Michael Nolan: The TII determined that effluent disposal was required to be resolved before granting planning permission for the Ennis service area proposals, as there was no detailed design provided in the initial proposals to confirm that the N85 overbridge structure across the M18 could accommodate proposals for routing around the N85. The matter was resolved by the submission of further information and revised proposals for effluent disposal. These were the two specific issues which were identified as being premature.

The TII never has objected to private sector offline developments on the grounds that they would compete with online facilities.

Deputy Michael Healy-Rae: I never said the TII appealed any planning decision. I said it objected to planning applications and I have information that this is a fact, in the shape of a letter from the TII to Clare County Council stating it was considered premature to grant planning permission for Mr. McDonagh's proposed development near the Ennis bypass. The TII also reminded the council of its own plan for services on a site between Ennis and Sixmilebridge. This is a matter of public record as it is on the planning file. I am factually correct in saying that the TII made objections to other people's planning applications and I never said the TII appealed a decision to grant. Mr. Nolan can call it an observation, but when a person writes a letter stating their concerns, and it is attached to a planning application, I call that an objection and I live in the real world. If one is not supporting something and raises concerns about it, it is an objection. I am not saying the TII is not entitled to do this-----

Chairman: The Deputy has made a very strong case. Mr. Nolan said the TII was a notice party for planning applications meaning that, by default, observations must be sought from the body.

Mr. Michael Nolan: We make observations related to technical issues on the site to assist the local authority to come to a conclusion on the application. We did not object or appeal.

Chairman: The letter is on the file, though.

Mr. Michael Nolan: No. I think the Deputy is reading from an incorrect newspaper report.

Deputy Michael Healy-Rae: Is that not factually incorrect?

Mr. Michael Nolan: Yes.

Deputy Michael Healy-Rae: Is Mr. Nolan telling me that, on the file, in no way does he reference his plans for his own service station?

Mr. Michael Nolan: As I said in my statement earlier, we always remind the applicants of our service area policy.

Deputy Michael Healy-Rae: I am asking again because I do not want to ever wrong anybody. Is it on the file or not that Mr. Nolan states his own plans to build a service station?

Mr. Michael Nolan: As I just said twice, we always remind the applicants of our service area policy, which includes our own proposals.

Deputy Michael Healy-Rae: So what I said is correct. The only disagreement we have is that Mr. Nolan is calling the letter an observation and I call it an objection. That is the only difference between us. I do not want it to appear that I said anything wrong here because I did not. What I have said is factually correct.

Mr. Michael Nolan: I disagree but I do not want to be argumentative.

Chairman: The facts are that a letter was written and it is on file. Whatever it is, it is there. I accept Mr. Nolan's bona fides.

Mr. Michael Nolan: But it is reported incorrectly.

Chairman: TII must follow its statutory duty. Of that there is no doubt. Whatever way TII words it, that is its business. Clearly, somebody else felt that there was something different.

Senator John O'Mahony: I think Mr. Nolan stated earlier that TII would welcome private investors. This seems to contradict that.

Deputy Michael Healy-Rae: Exactly.

Chairman: I think Mr. Nolan went further. I think he said that if they had a practical proposal that made sense, TII would withdraw its proposal.

Senator John O'Mahony: There is a contradiction in that.

Mr. Michael Nolan: There is no objection to the development *per se*. There were technical issues regarding the adjacency of the site to the national road and we said that if they would build a wall to certain standards, they would be fine. On the Ennis bypass, it was a question of how they were going to dispose of sewage going across a bridge and a motorway. Once we agreed the details, that was it.

Deputy Michael Healy-Rae: And TII was worried about its own plans for its own service station.

Chairman: Mr. Nolan mentioned them. I think those who read the letter - the Deputy has and I have not - can form their own opinions. In fairness, Deputy Healy-Rae and Mr. Nolan has each made his case. I would like to move on to the other questions.

Deputy Michael Healy-Rae: Yes, to the question of funding - inadequate funding for our roads.

Mr. Peter Walsh: May I ask for clarification on one point? There was mention of a village and I did not catch its name.

Deputy Michael Healy-Rae: The road is the R556 regional road from Tralee to Ballyduff. The section of road from Ballinclogher Cross to Abbeydorney is built on a bog rampart, which has number of undulations. Minor works have been carried out over the past five years, most recently in 2014, to the worst section of the road. A full reconstruction is required to adequately improve the poor riding quality and thus safety of this carriageway. A 2.5 km section of the road north of Ballinclogher Cross was improved in 2009 under a specific improvement grant at a cost of approximately €3 million. Similar grant funding is required to address the 2.2 km section of the road south of Ballinclogher Cross. The specific improvement grant funding available to Kerry County Council for this scheme was suspended in 2014. A limited amount of funding was provided in 2014 and 2015 to complete outstanding projects where construction works were ongoing. The reconstruction of the roadway south of Ballinclogher Cross to Rathscannell will require a specific funding mechanism from the Department of Transport, Tourism and Sport. That is the specific grant that is required for that road.

Mr. Peter Walsh: I probably should have interrupted the Deputy. That is a regional road. As the Deputy says, the funding is directly from the Department. It is not a matter for TII.

Deputy Michael Healy-Rae: That is that section of road but there are others that I highlighted that are and issues such as safety issues as I highlighted in Glenflesk and at Poulgorm, the Ring of Kerry road and the Macroom bypass, they are all issues for TII.

Mr. Peter Walsh: My colleague, Mr. Maher, will take one of those items.

Mr. Pat Maher: On the issue of speed limits at Glenflesk, I have to say I am not familiar with the specific issues in question. The Deputy described them in some detail. By way of background, there has been a review of speed limits undertaken nationally. I am not sure if it has been fully completed in Kerry yet but I am happy to take the issue back to colleagues on that. It can be discussed with Kerry County Council. The new guidelines were launched by the Minister in 2015 in respect of the setting of speed limits. The review that has followed since April 2015 has endeavoured to bring consistency and appropriateness to speed limits. One of the big issues we have had in the past is the difference in standards in terms of the application of speed limits within and between counties. The national review has endeavoured to address that. On the specific issues that prevail at Glenflesk, I am happy to take it away and discuss it with colleagues.

Deputy Michael Healy-Rae: Also, the very serious situation where the R569 meets the N22 at Poulgorm cross.

Mr. Pat Maher: That is the issue of lighting.

Deputy Michael Healy-Rae: Yes. I appreciate what Mr. Maher said. TII is trying to reduce the number of lights. If it takes them down somewhere else, it can give them to us there because that would save an awful lot of accidents.

Deputy Alan Kelly: There is the solution.

Deputy Michael Healy-Rae: Just to tell how serious it is there - all jokes aside - coming from Cork or going from Killarney at night time, because the junction is not lit, a great number of local people actually pass their own crossroads. They come upon the latter and have gone by before they realise it. An amount of accidents have happened there. Senior executive engineers and excellent people working for Kerry County Council have reliably told me that, in their opinion, lights would change the whole junction and make it so much safer. It is not unrecorded accidents that happen there; they are of such severity that people report them and ambulances and gardaí attend. They are notified accidents so TII could actually get records from the Garda as to how many accidents have occurred at that particular junction. For visitors and locals alike, it would mean so much if there were four lights or something around that put up there just to brighten up the junction. Deputy Alan Kelly knows it himself.

Deputy Alan Kelly: Very well.

Deputy Michael Healy-Rae: He would be travelling that road an awful lot as well to visit his relations. He knows exactly what I am talking about and could back up the arguments.

Mr. Peter Walsh: On the other areas of funding that were mentioned, the N70 Ring of Kerry-----

Deputy Alan Kelly: That is a very important road.

Mr. Peter Walsh: There is a significant pavement allocation to Kerry County Council this year for pavement on national roads and four of the locations are on the N70.

Deputy Michael Healy-Rae: Yes, and we have welcomed that funding very much. We are like the boy going up with the empty bowl for more porridge. The reason we are putting in our say for more funding now is because we appreciate what is coming this year. We will spend it well and will not waste it. It will be put to good use. But we will need sustained funding over next year and the year after to bring us up to an acceptable level. There are so many buses using that route, as well as all the people who want to come to south Kerry and the locals. They deserve to have an improved roadway. With the volume of traffic and heavy vehicles using it, there is a justification for sustained funding in respect of the road in the coming years.

Mr. Peter Walsh: It is our ambition to provide sustained funding. It will be a needs-based distribution but that is our ambition. In fairness to the Department of Transport, Tourism and Sport, the funding that is being made available for pavement has been improving. This year is an improvement and the projection is that it will improve, in line with the strategic investment framework for land transport, towards the desirable levels by 2020 or 2021.

Deputy Michael Healy-Rae: It is not all negative by any means. I want to put on record my thanks and gratitude to TII and the NRA for every euro that has come to Kerry in the past. We appreciate it very much but it is my job to fight for more and that is important.

Mr. Peter Walsh: The Deputy asked about the Macroom bypass and the date for construction. The date we had set for the commencement of construction was quarter 1 of 2020. The review of the capital plan announced on 16 January allows some flexibility, which we hope to exploit. Whereas there was no provision for funding for acceleration of the schemes, there is a prospect for future year funding which may allow us some more flexibility. If we can achieve it, Cork County Council will go out to tender as soon as possible for the project. We have an ambition to get the tender out as soon as possible and we will progress it as soon as we can. The date we have given is quarter 1 of 2020.

Deputy Michael Healy-Rae: We might advance that.

Mr. Peter Walsh: We will do everything we can in respect of it. We are currently reviewing what flexibility the mid-term review allows us.

Deputy Michael Healy-Rae: I will put on record that excellent progress has been made so far. The land has been purchased, the contract was awarded and the fencing has been erected. The carriageway is there and the work just needs to be done.

Mr. Peter Walsh: The archaeological resolution of the site is under way and has been for some time.

Deputy Michael Healy-Rae: Whatever is done, do not let snails or anything hold us up. We do not want any hold-ups. All we want to do is drive on and put the road in place.

Mr. Peter Walsh: We could not agree with the Deputy more.

Chairman: Perhaps it could be called the “Healy-Rae Pass”?

Deputy Michael Healy-Rae: We already have a Healy Pass in Kerry.

Chairman: We could have another, a Healy-Rae one.

Mr. Michael Nolan: I will address Deputy Kelly’s questions. He mentioned four different areas of interest. The first was how we prioritise schemes. We made a detailed submission to the Committee of Public Accounts after our-----

Deputy Alan Kelly: What Mr. Nolan considers detailed and what I consider detailed are obviously totally different.

Mr. Michael Nolan: The chairman of the Committee of Public Accounts said it referred a very detailed response from TII. If there are deficiencies in it, the Deputy might let me know exactly what area they are in so I can focus on them. It might be helpful. I am happy to circulate our submission to the Committee of Public Accounts to this committee for its information.

Deputy Alan Kelly: I will make a suggestion on that. The criteria, the weightings, the way in which weightings are set up, the review periods relating to the criteria and weightings, and the interaction documented with regard to all other Government strategies, some of which I have listed, all need to be in this document.

Mr. Michael Nolan: As my colleague, Mr. Walsh, mentioned earlier, we have granted some small amount of funding to local authorities to do a pre-appraisal on a number of schemes this year. We are doing a fitness test on those schemes to see how they rate against the Department’s strategic investment framework priorities. We ask if they complete missing links on the network, address safety-critical issues and provide access to poorly served regions, which would be in agreement with what the Deputy is saying. We also ask if they address integration and peripherality, issues of capacity, access to large-scale employment, and improving connections to key seaports and airports - the Deputy mentioned the N24.

Deputy Alan Kelly: It is all good stuff.

Mr. Michael Nolan: We investigate whether schemes support identified national and regional spatial planning priorities, and if so, then they are fit. When the national planning framework comes out, it will be part of that.

Deputy Alan Kelly: I welcome all that. I am not trying to catch Mr. Nolan out. I share something with the Chair. My issue is that what was brought forward was fine but, for me, it was not comprehensive. For TII to protect itself, dare I say it, in its whole interaction with Government policies, it should state how that fits into the criteria and the individual weightings for every one of them, and it should state when they will change if they are going to change. If a capital plan comes out and certain projects are picked which do not fit in to what is in front of me when I get the updated version, then we will all have serious problems. We have had enough of that. There cannot be backfilling. This protects TII also. Everyone is open to pressure. That is what I am trying to adhere to and provide here. I accept everything the witnesses are saying. I understand all the Government policies; I would say I created half of them in previous lives.

Chairman: Some of them.

Deputy Alan Kelly: Some. It needs to come into the weighting and criteria. The weighting process for all projects needs to be shown in tabular form.

Chairman: There needs to be an open book.

Deputy Alan Kelly: There need to be links to define why and how projects exist. If they change at any juncture, it should be stated why they changed, what influenced that and what policy changed that, including policies relating to population, infrastructure, the national planning framework, decisions on climate change policy, TII's interaction with the Road Safety Authority, or anything else. That is fine but it should be shown where it happens. If it happens subsequently and I ask why a certain road was funded and am told it was for some reason, and the weighting was not there beforehand, then I will be calling the hotline. That is why I am asking for that.

Chairman: The other roads mentioned there-----

Deputy Alan Kelly: The witnesses might want to respond to that.

Mr. Peter Walsh: I suggest a meeting to explain the process that is deployed in the assessment and progression of projects. I was at the Committee of Public Accounts, or at least observed it, and think there may be a misunderstanding relating to the manner in which schemes can be assessed and progressed.

Deputy Alan Kelly: Nobody said that.

Mr. Peter Walsh: It might be useful. There is an extensive requirement-----

Chairman: Is Mr. Walsh suggesting a meeting in the interim?

Mr. Peter Walsh: I am suggesting that we would be happy to go through the process for Deputy Kelly. We do not want to provide something that is inadequate.

Chairman: That is acceptable.

Deputy Alan Kelly: I know the process. I was a Minister in that Department for three years. I will happily take Mr. Walsh up on that suggestion.

Chairman: That is constructive.

Mr. Michael Nolan: I will address the target of delivering on 150 minor scheme projects within the lifetime of the Government's Road Safety Strategy. Deputy Kelly mentioned a lack

of funding in the seven-year plan. The seven-year plan started in 2016. The Road Safety Strategy started in 2013. We suffered a serious deficit in funding after the downturn. We did not deliver what we hoped to deliver in 2013, 2014 and 2015 because of lack of funding. That has continued. I will give the Deputy an update of where we stand with that. To date, 42 minor road schemes have been completed under the plan. Six were completed last year, nine minor schemes are currently under construction and a further three are to be awarded this month. Another four schemes will progress to construction this year, including the N59 at Kilmeena, the N67 from Ballinderreen to Kinvara near County Clare, the N80 Maidenhead realignment and the N81 Knockroe bend realignment. We have a further six schemes with planning approval which will be progressed to tender documentation preparation this year, with a view to progressing these schemes over the next year or so. In anticipation, there will be a further four schemes tendered in each of the years 2019 and 2020. The target is 150 schemes. We reported between 50 and 60 at the Committee of Public Accounts. The outlook is getting better than that, as I said in my opening statement. We would be grateful for additional funding coming for that. We will probably get to between 60 and 70 schemes, hopefully closer to 70 than 60. We will probably not get a glowing A+ or H1 now on that target, but we have a long list of schemes ready go through this process. Funding is the issue.

Deputy Alan Kelly: I appreciate that. There is no issue with TII, I am trying to help it here.

Mr. Michael Nolan: I understand that. I am just trying to give the Deputy an update.

Deputy Alan Kelly: I thank Mr. Nolan for that.

Mr. Michael Nolan: With a fair wind behind them, these types of schemes are well received. The Ardee bypass is one such scheme. There is considerable public favour in the locality of these schemes and seldom any objections. Normally, we can go through a compulsory purchase order without objections. We appreciate the co-operation from the local community and landowners.

Deputy Alan Kelly: Can Mr. Nolan estimate, off the top of his head, the average cost for one of these schemes?

Mr. Michael Nolan: The average cost is between €7 million and €10 million. It is a lot of money but in the context of major schemes, there is little waste in going through the planning process. They have a high impact because of high positive benefits. They are of low cost in the context of the things we do overall in the major schemes. They are lower-cost but high-value and have high benefits. They are well-received.

We are slowly taking off with the programme of works. After the downturn there was a serious drop in funding. We can switch small schemes on and off quickly. It is possible to get a scheme from inception through opening within a three to five-year period. For a major scheme, the period is between eight and 15 years. It is far easier for smaller schemes. We have a long list. We try to keep 50 of these schemes in planning and design all the time to have a preparation pool. We keep getting the compulsory purchase orders.

Deputy Alan Kelly: The cost is between €7 million and €10 million per scheme. If there are 150 such schemes we are talking about a significant amount of money, but it corresponds to what was projected.

Mr. Michael Nolan: It is what was projected at a time-----

Deputy Alan Kelly: There is an issue for me. I am trying to help the representatives of Transport Infrastructure Ireland. It might be a matter for the Chairman to talk to the Minister or the Department. We have considerable commentary on road safety on a range of other issues. This is the most glaringly obvious. I have to respect Mr. Nolan's commentary in the Committee of Public Accounts, where we verified that people will die because these are not being done. There is a grand scheme of things as regards volumes of money. I realise things slip but the scale of this suggests not even half of the schemes will be done.

Chairman: Could analysis be done on what are potentially the most serious schemes?

Deputy Alan Kelly: I assume TII has prioritised based on danger.

Chairman: Could we go to the Minister?

Mr. Michael Nolan: They are all safety schemes. There are bad bends. They relate to parts of the network that were long-fingered for many years because-----

Chairman: Are they all equally bad?

Mr. Michael Nolan: Yes.

Deputy Alan Kelly: How does TII chose one over another?

Mr. Peter Walsh: I wish to comment on that point. One of the difficulties with small schemes of this nature is the high resource requirement. We go through practically the same stages as we do for a major scheme. Local authorities, regional offices and project offices are taking these through the statutory process. It is right to say that they are well-received and that there is not the same level of difficulty getting through the planning process but it is still a planning process. Generally, we progress them as soon as we can. If we see one being progressed ahead of another, the reason is not directly related to criteria of safety. Several factors arise, including readiness to go to construction. We are progressing them as fast as we can.

Deputy Alan Kelly: I means no disrespect but I am more confused now. There are 150 projects each at a cost of between €7 million to €10 million, which is not Mickey Mouse money. There must be some criteria on which TII picks the projects. Are the TII representatives saying readiness to go is the main criteria?

Mr. Peter Walsh: I think we should have the meeting-----

Mr. Michael Nolan: They are all safety schemes. They are all coming along because of safety criteria in the first place. We always try to have 50 schemes in planning and design and prepared for the Part 8 process and compulsory purchase orders.

Deputy Alan Kelly: How did TII pick them? That is what I want to know.

Mr. Michael Nolan: We use accident cluster analysis. There are criteria with regard to getting rid of the worst.

Deputy Alan Kelly: TII must have criteria for picking the top 50 over the other 100.

Mr. Michael Nolan: It is a question of safety.

Deputy Alan Kelly: Is there a list of schemes from one to 150?

Mr. Michael Nolan: We have a long list of schemes. As each scheme go through the construction and tender phase, more schemes come from the long list onto the planning phase.

Deputy Alan Kelly: I understand all of that. It is a simple question. There are 150 schemes. How did TII pick the first 50 over the other 100? It is like the previous conversation. There must be criteria and I want to see them.

Mr. Peter Walsh: Yes, if we could proceed with the meeting, we can discuss that. I think it would help in the understanding.

Deputy Alan Kelly: That is phase two of the meeting, Chairman. I look forward to it because I need to see why Ardee was picked up – It was nothing to you with you, Chairman.

Chairman: Our deal is being done.

Deputy Alan Kelly: I want to know why one is picked over another.

Chairman: I got a letter one day saying it was not being done and then the next day it was.

Deputy Alan Kelly: That is the power of being Chairman. That is fine. Obviously, there is a scoring chart. I need to see it. Can the TII representatives deal with my last two questions?

Mr. Michael Nolan: Deputy Kelly's third question related to concern with regard to the section of the M7 between Birdhill and Roscrea.

Mr. Pat Maher: I wish to pick up on that question. Issues have become apparent not only on that particular stretch of the M7 but near Birdhill, Nenagh and Roscrea as well. It is relevant for the M18 from Limerick to Ennis and points north as well. The issues were further highlighted by the weather last week.

Deputy Alan Kelly: There was surface water.

Mr. Pat Maher: There was surface water, but more specifically the issue was hail. We had hail on three days last week, on 16, 18 and 19 January. There were significant numbers of hail-related collisions between Roscrea and Birdhill.

Deputy Alan Kelly: I was caught in the middle of them. I was lucky.

Mr. Pat Maher: It affected the M18 as well. It was more or less split evenly between the two routes. There is a regional factor. All motorway operators have up-to-date information. We get the information from the motorway operators on collisions. We can identify collision clusters and we analyse them.

A specific regional factor is associated with the mid-west and the western parts of the M7. Hail showers come in off the west coast. They come across the M18, going from north to south. They come in to points on the M7. The precipitation might fall as rain off the coast but it falls as hail once it comes in. There is hilly terrain, including the Silvermines and Arra Mountains and Slieve Barna. I have no wish to give Deputy Kelly a geography lesson on his own area, but that is a factor.

Deputy Alan Kelly: I know it well.

Mr. Pat Maher: The information we have from last weekend's events suggest hail in particular as the common factor. As a result, we have looked at issues. We have been discussing this

with the Road Safety Authority, RSA. Committee members may have heard RSA advertisements on the radio during last weekend giving people guidance in respect of how to drive in the event that they encounter hail. The RSA undertook the work of putting in place a new YouTube video. Committee members will be aware of the suite of winter driving videos produced by the RSA. We have added one that deals with hail. Frankly, hail is probably the greatest hazard in winter driving. The problem with hail, for a start, is that it is unpredictable. There are narrow tracks that intersect and run across a road. Perhaps one or two kilometres of the road may be affected. A driver could be driving on an otherwise perfect road only to hit a section with hail. If the driver brakes, he or she is in trouble. Hail cannot be treated for. Pre-salting will not prevent hail staying on the road.

Deputy Alan Kelly: It is about vision.

Mr. Pat Maher: It is about vision but it could happen at night as well. There are issues and we are aware of them. We have been in discussion with the RSA and the Garda. Speed is a factor. Many drivers do not slow down or moderate their speed when they encounter such conditions or when there is a risk of such conditions. We need to get a message out to drivers in this regard. I believe there is a perception that since roads are treated nowadays there is no problem with regard to hail or ice. The problem is most pronounced in the specific area we are speaking about. We are looking at addressing the issue.

Deputy Alan Kelly: I understand all of that. I certainly agree with everything Mr. Maher has said. However, there are other issues as well, it is not only that. The on-off ramps at Roscrea and Moneygall are a safety hazard and a problem. I have seen it with my own eyes. They are too short. People are used to longer ramps. There is significant traffic on both ramps. Roscrea interconnects with Templemore. The Barack Obama Plaza is one of the main stops on that journey.

Chairman: Somebody raised that with me and I made an inquiry. I do not know if this is correct but I was told that the NRA or TII wanted a different configuration from what was built. Is it a fact that it was constructed privately?

Mr. Michael Nolan: No, it was not. The local authorities-----

Chairman: Somebody said there was supposed to be an extra roundabout there.

Mr. Michael Nolan: The Deputy is correct that they have a different configuration from what one would normally see. However, we had modified those two junctions over the years. In the last few years there has not been a high occurrence of incidents at those junctions since we modified them. The Deputy is correct that they come in very fast. We widened the approach-----

Chairman: It is very steep as well.

Mr. Michael Nolan: Yes. They are operating effectively, but they are non-standard. It would cost a significant amount of money to retrofit the type of junction one would normally see on the network. However, we take the Deputy's point on that.

Deputy Alan Kelly: There are a few issues here. First, I understand it would cost a significant amount of money but it would save people's lives. The accident does not always occur at the junction. It can happen a little way from the junction because people are joining up with the traffic. Second, if TII is not going to change them over a planned period of time, the local

people are significantly worried about this. I wish to put it on the record that I believe those junctions are not safe and I have no wish to have to play back this video. I have seen bread vans, not even massive vehicles, being unable to take the bend because the drivers do not realise it is so sharp. They might be driving on it for the first time when doing deliveries or they might be new drivers.

Chairman: Could a report on that be sent to the committee?

Mr. Michael Nolan: Yes.

Deputy Alan Kelly: That would be great. In the interim, I would appreciate if TII would consider some type of safety mechanism or signage in that regard. The next issue is the Birdhill side. I cannot explain this but there have been a number of fatalities there.

Chairman: Before the motorway was built I was always conscious of Birdhill and the need to be particularly careful there. Were there accidents on that stretch historically before the motorway was built?

Deputy Alan Kelly: No. It was a nice zone for An Garda Síochána to catch people. That is probably why most people slowed down.

Chairman: I thought it was because if one is travelling from Dublin to Limerick, one needs a break by the time one gets to Birdhill. People would be tired driving through there.

Deputy Alan Kelly: Matt The Thresher is a good place.

Chairman: That was my experience in the past.

Deputy Alan Kelly: I live only a few miles from there but I am not aware of there having been a huge number of accidents. There might have been. I will ask locally.

Chairman: There were.

Deputy Alan Kelly: There is a problem there and I ask TII to get an engineer to study it. I suspect it relates to the dip in the road. We all know the trouble there such as when a JCB that was left overnight there disappeared.

Chairman: Was that the Tipperary Co-operative Creamery Limited?

Deputy Alan Kelly: It was an incredibly difficult part of the road to build. It took a considerable amount of time. There is an issue there but I am not qualified to say what it is. People are very concerned because there have been a couple of fatalities. One was not long ago and I knew the individual and the family concerned. It must be examined, whether it is when people are turning off the road, the dip in the road or something else. I would appreciate if TII would do that.

Mr. Michael Nolan: Pat Maher might comment on that.

Mr. Pat Maher: We are happy to have a look at that. We have the data. However, I return to what I said earlier, that speed and appropriate speed in adverse conditions are significant factors in causing incidents on the motorways at present.

Deputy Alan Kelly: My last question is about the N24.

Mr. Michael Nolan: I will ask Mr. Peter Walsh to comment on this. The N24 is one of schemes we are considering this year with regard to pre-appraisal and, again, going through the process of looking at criteria to see if it meets our objectives for moving forward to detailed design from 2019 onwards.

Mr. Peter Walsh: We have yet to see the outcome of the national planning framework but we are anticipating-----

Deputy Alan Kelly: Hopefully it will be a different outcome from the one that has been drafted. The draft one will murder rural Ireland and is not good for Dublin either.

Mr. Peter Walsh: For that reason we cannot be definitive about what it is in it. We anticipate that the focus on Limerick, Cork and Waterford and connectivity between them will be included as an aspiration or requirement. That is the reason we included the N24 in the list of projects to be considered for pre-appraisal. The N24 between Waterford and Cahir is a vague reference. We do not anticipate that it will be the entire length but we need to look at the entire length because we have not been in a position to progress a project on that segment of the network for some time. That is the process we will go through during 2018.

Deputy Alan Kelly: This partly goes through Tipperary but it is a far bigger issue. It goes from Waterford through to Limerick. The plans for Foynes, as the second largest deep-water port in Europe, are critical to the future of this country. Obviously there are changes with regard to Moneypoint nearby. There are also issues surrounding how we are going to use the ports. There are multiple ports at either side of this route. The route is critical for the future of the country. It ticks many boxes. I was speaking earlier about the famous criteria. This is a critical route for meeting our requirements when it comes to climate change, moving freight, not transporting everything through Dublin, the carbon footprint and so forth. That is the reason I continue to ask about it.

Mr. Peter Walsh: I probably should mention that we also include the Cahir to Limerick Junction section on that list. It is not just Waterford to Cahir.

Deputy Alan Kelly: Of course. I thank the witnesses for their responses.

Chairman: I will suspend the meeting until 12.15 p.m.

Sitting suspended at 12.08 p.m. and resumed at 12.15 p.m.

Chairman: I thank the witnesses from Transport Infrastructure Ireland, TII, for their patience while we were in private session and for answering all our questions. Senator Dolan wishes to raise some issues.

Senator John Dolan: I thank the Chairman. I will not delay the committee. I am also under pressure to be out of here.

My overriding interest in the Oireachtas is with regard to accessibility and inclusion for people with disabilities in all domains. The witnesses have a stake in providing public transport and supporting public transport. There is a public sector duty as the Government is about to ratify the UN Convention on the Rights of Persons with Disabilities. Transport and access are key areas in this regard.

My first query relates to accessible bus stops. TII has responsibility for the national road network. If the bus stop is not accessible, then the bus service is not accessible. If the bus is

not accessible but the bus stop is, then we do not have an accessible service. The issue was raised by Mr. Ray Hernan at the committee last week with regard to bus stops also needing to be accessible.

My second and allied point is about the service stops located throughout the road network and the importance of having changing places and enhanced changing and toilet facilities for people who have disabilities. I have no doubt that this is an absolute necessity at different points of the national network, at each end and throughout it, for people's comfort and safety.

These are my two questions on which I am looking for reassurances that those aspects are being dealt with and that we will have updates as to when the network will be accessible with regard to these issues.

Mr. Michael Nolan: I thank the Senator. On accessible bus stops, we have no remit for that area of public transport. It may be a matter for the National Transport Authority.

Senator John Dolan: TII has no remit at all on a national level?

Mr. Michael Nolan: No. On the service area stops, I take the Senator's point that we should make sure there are enhanced, accessible and good changing facilities. I cannot answer the question straight away on how we are doing in that aspect. We review the performance of these areas on a regular basis and I will be very happy to check into it and send the Senator the information through the committee.

Senator John Dolan: Is it okay with the Chairman that TII might come back on that, because I am aware there is a theme ongoing with the committee with regard to transport and disability access?

Chairman: I believe it is a very important question.

Mr. Michael Nolan: We will review where TII stands on this and we will report back on that.

Chairman: TII will include information on how it disability-proofs all its policies, investments, infrastructure and so on. Senator Dolan is a national campaigner of this issue.

Mr. Michael Nolan: I appreciate that.

Chairman: We have had hearings from people who have disabilities and from transport organisations. If TII has any statutory role, or by implication policy, then we would like to know about it. The witnesses should come back to us and to Senator Dolan. Is the Senator happy enough with that?

Senator John Dolan: Yes.

Deputy Kevin O'Keeffe: I have been watching the proceedings. I am sure the witnesses are nearly burnt out at this stage as almost the whole country has been covered.

Chairman: I have not started yet.

Deputy Kevin O'Keeffe: My patch has even been covered by Deputies from other areas. I wish to inquire about offline and online services. Given the amount of planning permission that has been given in recent years, mainly for offline services, what impact has there been on neighbouring towns? Offline services provide access to people within the catchment areas in

addition to those using the motorway. Originally service stations were principally supposed to be online. There is a concern that some of them are turning out to be as big as shopping centres and are affecting local villages and towns as they are pulling business out of the urban centres. Will planning permission continue to be given for offline service stations as opposed to online service stations in the context of motorways?

We all welcomed the Taoiseach's recent commitment to the construction of the M20. Could the witnesses give a gilt-edged guarantee that TII in its route study is just focusing on the construction of a motorway from Cork to Limerick via Mallow, Buttevant, Charleville and Croom and that in time a few road signs will be changed and we will hear the motorway is going to Limerick via other counties, for example, Cork and Mallow via Tipperary? The Taoiseach's commitment is great news but I would like an assurance from TII that we will not waste more time on looking at alternative routes which would affect the development of this very important western corridor that will help to progress the economic growth of the region into Clare, Galway, Mayo and Donegal in time to come. That said, money has been allocated for the development of a relief road in Mallow and I welcome the funding for it. If the relief road is to get priority, will it also be developed in such a way as to incorporate a motorway from Cork to Limerick?

Money was allocated recently for the N73, which is becoming a very busy road for economic, tourism and other reasons from Mitchelstown to Mallow and on from there. It incorporates the N72 which goes to Killarney. CPOs are in place for various stretches but how can we fast-track the development to upgrade the road for modern day traffic as there are stretches of it where heavy goods vehicles cannot pass each other safely?

I wish to raise the east Cork area. When I became involved in local government more than 20 years ago, the EU proposal was that there would be a trans-European network from Cork to Rosslare. Apart from the bypass in Youghal, all we have got in east Cork is the Jack Lynch tunnel. In recent days there was another fatality between Midleton and Castlemartyr. We know street paving works are going ahead in Castlemartyr but there are junctions on the road that will eventually give rise to further fatalities.

Funding for roads is an issue everybody raises. How do we progress road resurfacing and restrengthening?

Mr. Michael Nolan: I will respond to Deputy O'Keeffe's questions. Regarding offline service areas, there is potential to take away business from existing facilities. One of the reasons we do online service areas is that it does not interfere with or take away business from existing facilities and towns. Offline service areas go through the same planning regime with An Bord Pleanála as any other development. Local authorities assess the impact and whether they are in accordance with local area plans, zoning requirements and the proper planning and development of an area. It has happened that An Bord Pleanála has refused permission for service areas. One example is in near Urlingford where it said it would suck business out of Urlingford. There are occasions when the local authority gives permission but An Bord Pleanála recognises that there would be an impact on businesses and facilities in local towns. The online service areas that have been developed by TII are online and one cannot get at them from local road networks so they are not in direct conflict with local towns and facilities. However, the Deputy has raised a fair point.

Deputy Kevin O'Keeffe: It is ironic that An Bord Pleanála makes the call but it acts in accordance with the policy of the TII. I raise the issue in the context of farmers' sons that

have been refused planning permission along a national primary route or a national secondary route because of TII policy. An Bord Pleanála can overturn a local authority's decision. Why does TII not have the same policy approach in the context of services based on it being for the good of rural economies, namely, focusing on online service stations? That is the irony. TII is speaking from both sides of its mouth. It is pointing the finger of blame at An Bord Pleanála but at the same time it can tell it that no planning permission should be allowed for additional family members into a farmer's yard. I accept that I have become a little side-tracked but when a farmer's son applies for planning, having him on site would reduce traffic flow from the farm onto the road.

Chairman: Is that because the TII mandate is for national primary routes only?

Deputy Kevin O'Keeffe: No, it is also responsible for secondary routes.

Chairman: Any other road would be a matter for the county council.

Deputy Kevin O'Keeffe: Yes.

Chairman: Yes, but Deputy O'Keeffe is saying is that TII writes regulations for some roads.

Deputy Kevin O'Keeffe: No, what I am saying is that TII writes regulations in this situation to restrict planning access but it cannot write the regulations and terms of reference for where we put online service stations.

Mr. Michael Nolan: Our objectives at this point to individual planning applications and to notify the planning authorities is set out in the special planning and national roads guidelines for planning authorities which is published by the Department of Communications, Climate Action and Environment. We do not set the policy for planning considerations. That is set by the Government.

Chairman: That is what I thought.

Mr. Michael Nolan: We apply the policies.

Chairman: While TII is mentioned, it is not the body that wrote the policy. That is its statutory role.

Mr. Michael Nolan: It is set out in the national roads guidelines.

Deputy Kevin O'Keeffe: I would like to clarify the position because in response to questions the Minister has said it is the TII which has said there should be no planning permission granted to anyone. I am just giving the example of an application from a farmer's son or daughter. We are told TII set the regulation.

Mr. Michael Nolan: In the past four years, we received approximately 4,000 applications from local authorities on which we have to make observations. We have only appealed 0.8% of 1% of those applications. We have had no applications for the past few months and currently there are no appeals to An Bord Pleanála on any developments. It is rare that we object to or appeal a planning permission given for local communities on national secondary and national primary routes.

Chairman: I believe the point the Deputy is making is that it will not be considered, but turned down.

Deputy Kevin O’Keeffe: It will. I respect Mr. Nolan’s answer but the reason the numbers are going down is that the council engineers do not want to be getting egg on their faces. I have been a member of a local authority. Cases were granted by that local authority but then were appealed and refused. Later, the engineer would say to me, in my capacity as a councillor, that there was no way the planning permission would be signed off on because he would get more egg on his face when the application was turned over again by TII. That is why the numbers are going down.

Mr. Michael Nolan: I do not mean to be argumentative but our approach is to uphold official policy and guidelines outlined by the Department. The local authority is playing to the same rules, guidelines and policies as those set up by the Department. They understand our thinking and we understand theirs. We are obligated, as a public authority, to comply with Government policy.

Deputy Kevin O’Keeffe: Could I clarify it is Government policy?

Mr. Michael Nolan: It is set out in Spatial Planning and National Roads - Guidelines for Planning Authorities, published by the Department of the Environment, Community and Local Government in 2012.

Deputy Kevin O’Keeffe: I thank Mr. Nolan. I had a few more questions on roads.

Mr. Michael Nolan: Mr. Peter Walsh might address the question on the N20 and our plans for that.

Mr. Peter Walsh: I will refer to the outcome of the mid-term review and the Minister’s statement, which we welcome. It names the section of the network to be the subject of a planning development, namely, the Cork-Limerick route. The Deputy is seeking a cast-iron guarantee but there can be no cast-iron guarantee given. There will be two sets of approvals for any project being brought forward. The first is the approval of the business case and the cost-benefit analysis. Separately, there is planning approval for the CPO by An Bord Pleanála. What I can say is that one of the objectives of the scheme will be to address the deficiencies of the existing N20. I hope that provides some clarity.

Deputy Kevin O’Keeffe: That is very disheartening. Our Taoiseach is telling the people of Cork and Limerick about a motorway for the route. I asked my question to obtain clarification. Could I be given a guarantee that the route will be from Cork to Limerick? Otherwise this will drag on for another couple of years.

Mr. Peter Walsh: The route will be from Cork to Limerick.

Deputy Kevin O’Keeffe: I know that, but one could just change a few road signs and go down to Wexford and back across again to get to the link on a motorway.

Mr. Peter Walsh: An objective of the scheme will be to address the deficiencies of the existing N20.

Chairman: That is for existing roads.

Mr. Peter Walsh: A project that does not address the deficiencies of the N20 would not be a viable option.

Deputy Kevin O’Keeffe: I presume the deliberations of the chambers of commerce in both

cities and the communities are being taken on board. This is not just about getting people from Cork to Limerick safely; it is also about local safety.

Mr. Peter Walsh: Absolutely

Deputy Kevin O’Keeffe: As Mr. Walsh knows, the roads would have been straightened to some extent had the money existed. The Mallow-Cork road was straightened somewhat but it is still becoming dangerous.

Chairman: There would be less traffic on the existing network if a new motorway were built.

Mr. Peter Walsh: I am trying to be careful in what I say in that a project will have to be developed that addresses the deficiencies of the existing network in that area. The outcome of the development of the design is not something we can pre-empt. Limerick County Council has commenced a process. Thankfully, with the commitment from the Department, that can now proceed during 2018. The next phase of the project will be to engage a multidisciplinary team, an engineering-led team, that will also include environmental experts to develop a project that will address these deficiencies. We will bring forward the project through the planning process as quickly as possible. We cannot pre-empt the outcome. We in the Department are keen to make people aware there are two approval processes to be got through in respect of whatever project is identified. One involves the business case and the second involves the planning approval. Does it feel like I am avoiding the question?

Deputy Kevin O’Keeffe: Very much so. He let the Taoiseach off the hook as well. There will be a big fight by the people from places such as Mallow, Charleville and Buttevant to ensure they have a good road in the future.

Mr. Michael Nolan: On that, we are very aware of the issues and deficiencies on the N20. We get fed a lot of data from the Garda as soon as serious and minor accidents and fatalities happen. The existing N20 route has been identified as one of the pieces of legacy network that experiences a rate of head-on collisions resulting in fatalities higher than one would expect on a road of that type. From data we get directly from the Garda and the Road Safety Authority, we have identified, over a number of years, that the N20 is seriously deficient in terms of capacity and safety. Our legal remit is to maintain, upgrade, manage and modernise in order to have a safe and efficient road network. Therefore, safety and congestion are issues. The N20 is a very inefficient route, as the Deputy knows. The towns and links between them have serious capacity issues. Based on the data we are getting directly from the Garda and Road Safety Authority, we identify the route as a red route with regard to fatalities. We recognise the deficiencies and have to target them.

Deputy Kevin O’Keeffe: With regard to the N72, N73 and the relief road, will that come into play in Mallow?

Mr. Peter Walsh: In my opinion, it possibly will but the progression of the relief road - that was a nominated scheme in the building and recovery capital plan - is independent. It is being progressed by Cork County Council with funding from ourselves. It will progress in any event. As the development of a design to address the deficiencies of the connection between Limerick and Cork is clarified, it may well be that it will be incorporated. Certainly, they will not be mutually exclusive. They will have to work together. The project was nominated in the building and recovery plan and it will progress as such.

Deputy Kevin O’Keeffe: As regards the N73, Annakisha and the associated project, we welcome the funding there this year but it will obviously not be enough for the upgrade.

Mr. Peter Walsh: It is part of a number of projects on our pre-planning list for minor improvements. As soon as planning approval can be obtained, it will be progressed. As Mr. Nolan said, we are trying maintain progress on about 50 projects, and it is one of them.

Deputy Kevin O’Keeffe: What about east Cork? I refer to the junctions on the national primary route from Cork.

Mr. Michael Nolan: On the N25, we are adding two schemes to our portfolio of schemes going through pre-appraisal this year. There is Waterford-Glenmore and also Carrigtohill-Midleton. We recognise that the dual carriageway section with at-grade junctions seriously requires an upgrade. It is a question of providing proper junctions and proper control. There are also opportunities between Castlemartyr and Killeagh. It is a question of funding at this stage. We are testing two of the 15 schemes this year to see how they fit with the criteria and priorities of the national planning framework, as well as two of the N25 in that portfolio.

Deputy Kevin O’Keeffe: In the course of the Castlemartyr project, local roads will become rat-runs, as happened during the Killeagh project. I am surprised there were not serious accidents on those roads. Is it possible that in advance of the roadworks at Castlemartyr small local roads could be upgraded to cater for additional traffic because it is obvious that during the Castlemartyr roadworks slip roads will be used as rat-runs?

Mr. Michael Nolan: I will raise the issue with Cork County Council.

Deputy Kevin O’Keeffe: Will Mr. Nolan be asking for an open cheque book?

Mr. Michael Nolan: It makes sense if there is going to be a sustained level of diversion over a lengthy period that designated routes on the local road network would be improved and upgraded in advance of the works. I do not know Cork County Council’s timing in relation to the works in question. I take the Deputy’s point and I will engage with the council in that regard.

Deputy Kevin O’Keeffe: In Fermoy, the N73, from the town park boundary to the Church of Ireland has been cordoned off for safety reasons. I was led to believe 12 months ago that Transport Infrastructure Ireland, TII, would provide funding for the necessary works in that area. The bollards used to cordon off this area have been an eyesore for the last six-plus years and they are frustrating the efforts of people in Fermoy involved in Tidy Towns and so on. They are also preventing access to the town park, which is a public amenity. Will TII give urgent consideration to progressing this project?

Mr. Michael Nolan: I am not sure of the detail of the project but I will look into the matter and communicate directly with the Deputy in that regard.

Chairman: We will move on now to the issue of tolling charges. I have read TII’s submission but I am still unclear on what actually happened. There are 8,000 motorists per month who are entitled not to be charged for a second trip. What went wrong with the system such that 2,000 of them were charged?

Mr. Pat Maher: Of the 1.2 million transactions per month, approximately, 8,000 are transactions relating to use of the facility to enter and return from Drogheda within three hours.

Chairman: That is not the issue. The issue is one of overcharging. Owing to a fault with

the software people were overcharged. At the time I became aware of this issue, which is when people came to me to complain about it, TII was not aware of it and Celtic Roads also did not know about it. Can anybody tell me what went wrong?

Mr. Pat Maher: I accept the Chairman's point that there was overcharging and that that is the issue. The information we have to hand is that the issue commenced in conjunction with the upgrade of the tolling system.

Chairman: That was in April 2017.

Mr. Pat Maher: Yes.

Chairman: So, there has been a problem since April 2017 and neither TII nor Celtic Roads Group was aware of it until I brought it to their attention in January of this year.

Mr. Pat Maher: That is correct.

Chairman: That does not make sense.

Mr. Pat Maher: The issue that arose was intermittent. Over the period concerned, 2,000 transactions were affected.

Chairman: Thus far.

Mr. Pat Maher: Only 2,000 individuals were affected over the period in question.

Chairman: That is not stated in the report.

Mr. Pat Maher: The figures I have to hand indicate that there were 2,000 impacted transactions for approximately 1,500 users. This represents approximately 5% of the overall usage of the re-entry system.

Chairman: Mr. Maher is not answering the question. I asked why the system malfunctioned, not what percentage of transactions were wrong.

Mr. Pat Maher: There is a problem with the operation of the tolling system while its being upgraded. There is a technological error at the heart of the issue.

Chairman: That is a more appropriate explanation. That is not what was stated in the submission.

Mr. Pat Maher: We did say in the submission that we are going to arrange have an audit undertaken.

Chairman: An independent audit is necessary.

Mr. Pat Maher: It will be a technical audit of the system to determine how this particular arose. The problem was intermittent. It affected approximately 5% of re-entrant customers. Had it been universal, in terms of re-entrant customers using a tag system - obviously cash customers were not affected - it would have been picked up on sooner. We monitor the monthly reports etc. The change in terms of the figures that we had arising from that 5% versus the normal fluctuations in terms of income is quite difficult to pick up. The issue has arisen and we have to deal with it and we are dealing with it.

Chairman: Is it a software issue?

Mr. Pat Maher: There was clearly an issue in relation to the application of the software.

Chairman: Effectively what Mr. Maher is saying is that some customers were overcharged but as yet nobody knows why or how that happened and also that the problem was intermittent and thus far it appears 2,000 transactions were affected.

Mr. Pat Maher: That is correct.

Chairman: It is unacceptable that the problem continued for so long. In some cases, the overcharging dates back to April 2017.

Mr. Pat Maher: Potentially.

Chairman: I am very concerned that the software is not adequate to ensure such problems do not arise. Trust is hugely important. When I pass through a toll I trust that the system will deduct only the amount owed and that I will not be overcharged. Trust in the system is now broken because it appears it is faulty.

Another matter was brought to my attention in recent days. I am happy to share this information with the witnesses. It appears that in some cases the toll displayed for a car on approaching a toll booth is the toll applicable to a commercial vehicle and when the motorist raises the issue with the attendant in the booth he or she raises the barrier for them and they are not charged. There is other evidence of malfunctions of the system, although they are not major. People are complaining to me. They no longer trust the system. I appreciate that the witnesses were not aware of this issue until I brought it to their attention but I am not happy with that.

Mr. Pat Maher: Vehicles come in all shapes and forms.

Chairman: Of course they do but I am speaking about cars.

Mr. Pat Maher: Cars often transition to become an MPV or a van.

Chairman: I accept that.

Mr. Pat Maher: Sometimes detection might not be 100% but the person has the opportunity at the point of transaction to ensure they are not overcharged. This issue does not arise with tag customers because they are registered with a particular vehicle at a particular rate.

I accept, however, it can happen in other situations and it is not absolutely infallible.

Chairman: It is happening and I have had a complaint. The infallibility is always on the side of the toll operator, not the customer. I have never known anybody to be undercharged at a toll yet.

Mr. Pat Maher: They may not have complained.

Chairman: That is wisely put. Maybe the people from whom the €10 million has not been collected are not complaining. However, I am. It is unacceptable that those who do not pay are not pursued and that the money they owe has increased in Transport Infrastructure Ireland, TII's, accounts from 2015 to 2016. There is €10 million in unpaid tolls, yet users elsewhere are being overcharged. From the point of view of the user, this is a rip-off.

Mr. Michael Nolan: We are disappointed with the performance of the operator of the M1 toll plaza for not alerting us to this issue earlier. We will follow up on this.

Chairman: The operator told me it did not know about it before January 2018 until I told it. I want TII to challenge that.

Mr. Michael Nolan: We will challenge that. As Mr. Pat Maher said, we will be doing an independent audit on this in the coming weeks. If the Chairman has more information on any other malfunction concerning toll machines, we would be happy to take them to the operator.

Chairman: I will give TII the data.

Mr. Nigel O'Neill: In October 2017, the Chairman will be aware we reported on the issue of €10 million in unpaid tolls in our 2016 figures to the Committee of Public Accounts. I mentioned to the committee then the 97% compliance rate which we had achieved in 2016. We are in the midst of our end-of-year reporting for 2017 but I can confirm that our compliance rate for 2017 is 97.6%. We are improving.

Chairman: How much is owed?

Mr. Nigel O'Neill: We wrote off €3.56 million in 2017.

Chairman: In 2016, €5.2 million was written off and €4.9 million in the previous year. This is a small reduction. It is hugely damaging to the operation that people who pay and comply get one outcome while those who do not can get away with it. While 97% sounds great, the fact is that this involves millions of euro. What steps is TII taking to get some of this money back? I understand if, say, Johnny Murphy does it once or twice. However, significant commercial companies and certain categories of people are not complying all the time. One example given was of somebody who did it at least 300 times. What is TII doing about this?

Mr. Nigel O'Neill: We can pursue unpaid tolls as a civil debt, which we do. We do not have unlimited access to court time. Accordingly, we are rationed a number of summonses, claims, or both, which we can issue each month. We also have particular repeat offenders which involve criminal cases. Again, the volumes of these we can pursue are rationed.

Chairman: I agree with the pursuit of significant repeat offenders.

Mr. Nigel O'Neill: I am an occasional user of the toll. I normally use public transport but my wife uses it a lot. It is frustrating if I am paying and others are not. We put much effort into enforcement and we have done from day one. We have increased our efforts year on year and measured improved returns.

Chairman: However, millions of euro are still owed.

Mr. Nigel O'Neill: We are approaching the same kind of compliance as achieved with the local property tax.

Chairman: I thought nobody escaped that tax. Nobody should escape the toll.

Mr. Nigel O'Neill: One has to pay one's local property tax. If one does not, then one cannot sell the property or it will be taken off the final price. We have nothing in that way. We have gantries which detect the car and which are linked into the national vehicle and driver file or read the tag. There is nothing physical there. One can get rid of a car. There may be no asset-----

Chairman: That is a good point. Will TII send the committee a report on how it pursues

repeat offenders?

Mr. Nigel O'Neill: Yes, we will be happy to do so.

Chairman: I accept somebody might drive through a toll and forget to pay. However, there are repeat offenders.

What penalties will be imposed on the operator for the overcharging in Drogheda?

Mr. Michael Nolan: The operator has contractual obligations and must comply with the toll road by-laws. As a result of its failure in this regard, we will apply a penalty of €3,801.

Chairman: Is that what TII calls liquidated damages? I did not realise it was going to be so small. The operator rips off customers to the value of €6,000 and then pays €3,000 in compensation. Is that all?

Mr. Michael Nolan: The operator must also pay back the €6,000 to the customers affected and go through the administrative burden associated with that.

Chairman: That is a poor penalty in my opinion. I do not know how TII calculates that. Will it send me on the details of how it arrived at this figure? This operator needs to know that if its systems are not working, it needs to tell TII straightaway. I do not believe its claims that it said that it did not know about this in April 2017.

On the VAT refund on the tolls for the Dublin Port Tunnel and the M50, is it the case that TII never charged VAT on these, instead took it out of its income stream and then sent the €110 million to Revenue? Will it get that money back?

Mr. Nigel O'Neill: I wish it was as clearly laid out as that.

When the tolls on the M50 and the Dublin Port Tunnel started, the NRA, National Roads Authority, confirmed at the time that they were exempt from VAT. This went on for several years. In May 2010, Revenue had determined tolls were no longer exempt from VAT and gave us a direction that from July 2010 TII needed to start accounting for VAT. It was open to TII to add VAT to the toll charges. We thought Revenue had got it wrong and we took steps to appeal the determination. It has taken an extraordinarily long time for this appeals process. It was mostly outside of our control and included a reference to the European Court of Justice. Pursuant to that ruling, the appeals commissioner came to us on 19 January 2017 and at the end of February 2017 Revenue accepted that we should no longer account for VAT on tolls. We had to change our systems so that we could put that into effect from 1 April. The moneys we were remitting to Revenue accounting to VAT on tolls could then be put back into the capital programme and reallocated to safety projects mentioned earlier by Mr. Nolan, which was a positive step. Since then, Revenue has considered its position. We met with Revenue officials in July and they sought backing and supporting information from us, which we provided to them in November. We are now in an iterative process with Revenue whereby it has questions and we are providing materials to it. I do not know what the outcome of that will be. There is an attempt to reach agreement between TII and Revenue. The agreement is not likely to be terribly appealing to either side but there will be an outcome on the refunds to which we say we are entitled and on which Revenue has a view and negotiations will continue in that regard.

Chairman: TII hopes to receive a significant portion of the €100 million.

Mr. Nigel O'Neill: I hope that is the case but there is no representative of Revenue present

to give its side of the story.

Chairman: Was there any charge on commercial companies in that regard? Private drivers did not pay VAT on those two tolls.

Mr. Nigel O'Neill: TII was required to account for VAT. We did not add VAT to the tolls for users but under VAT laws were required to show it in statements and so on.

Chairman: I accept that. However, there was no charge on business or private users rather TII took the hit.

Mr. Nigel O'Neill: We paid the VAT bill out of our total receipts.

Chairman: In terms of other toll operators, such as the one beside the Point Depot-----

Mr. Nigel O'Neill: The East Link.

Chairman: The East Link. That company charged VAT and reduced its toll from €1.90 to €1.40.

Mr. Nigel O'Neill: Yes.

Chairman: It is operated by Dublin City Council.

Mr. Nigel O'Neill: Yes, as of December 2016.

Chairman: That company reduced its VAT as a result of the ruling.

Mr. Nigel O'Neill: It started as a concession and a concession is not VAT exempt. Only tolls charged by public authorities are exempt; those charged by concessions are not. There was-----

Chairman: That operator reduced its VAT and, therefore, there should be a refund to people or they should not be charged. What point is Mr. O'Neill making in that regard? I am trying to clarify this issue.

Mr. Nigel O'Neill: The East Link toll road is not operated by TII.

Chairman: I am aware of that but it is a toll I pay every day and in which I am interested.

Mr. Nigel O'Neill: The Chairman may be interested in it but it is not a TII-operated toll road.

Chairman: From the public point of view, there is VAT on some tolls but not on others.

Mr. Nigel O'Neill: Correct.

Chairman: The East Link is operated by a public body that formerly charged VAT but now does not as a result of the decision of the Court of Justice.

Mr. Nigel O'Neill: As I stated, one must bear in mind that it was a concession-----

Chairman: I understand that but it is open for public usage. Mr. O'Neill is defining a concession as some-----

Mr. Nigel O'Neill: A concession is very specific. It is not like TII charging tolls on the

M50. We are not a concession because-----

Chairman: It was a private operator. What about other toll operators, such as that on the M1?

Mr. Nigel O'Neill: That is a concession.

Chairman: They all charge VAT.

Mr. Nigel O'Neill: They charge VAT on tolls and that is quite clear and proper.

Deputy Kevin O'Keeffe: Is the operator on the M7 in Cork a concession?

Mr. Nigel O'Neill: It is a concession.

Chairman: A concession gives an operator a contract to charge a toll for a certain period of time but in the case of State-owned roads such as the M1 or M7 TII allocates the concession by competitive competition.

Mr. Nigel O'Neill: Yes.

Chairman: Why should those concessions not also pay back the money to the drivers?

Mr. Nigel O'Neill: That is not a question for me to answer because European directives on VAT state that a company must charge VAT on tolls unless it is a public authority, in which case it has an exemption. That is what the case referred to the Europe Court of Justice concerned.

Chairman: It is about how one defines a concession.

Mr. Nigel O'Neill: Yes.

Chairman: Mr. O'Neill has stated that no refund is due to motorists or businesses arising from the European decision.

Mr. Nigel O'Neill: That is correct.

Chairman: That clears that up.

Deputy Kevin O'Keeffe: One always uses local examples in regard to tolling. There is a fine motorway from Cork to Dublin with tolls on the M7 and the M8. However, there is uproar in Fermoy because of the non-usage of the motorway by people avoiding the toll. What relevant information can we present in that regard to people, communities and hauliers, many of whom, in fairness, acknowledge the cost benefit of using the motorway? Has there been any recent study to show the savings for a lorry using the motorway and bypass for a week rather than going through the town? Are there any figures such as that which could be used to get into the mindset of hauliers or car users? More traffic lights have recently been installed in Fermoy and have caused further build up of traffic, which may be a reason for this issue coming to a head in the area. I acknowledge that there is a cost saving if one uses the motorway but we need an updated economic study to show that one will save money by using the motorway and bypass rather than travelling through Fermoy or on nearby byroads.

Mr. Nigel O'Neill: We have today committed to doing a number of studies. The annual average daily traffic in Fermoy is 19,000, which is an increase of 11% on 2016. It has been consistently increasing in recent years. There would be more traffic on the Fermoy bypass if it

were not tolled. I would expect there to be 10% to 15% more traffic on it because it captures much of the long-distance demand. The question about getting rid of tolls to encourage more vehicles to use the-----

Deputy Kevin O’Keeffe: I am not asking for the tolls to be abolished but for a study to be done to show that the users who pay tolls are saving money. There might not be direct savings but I want the indirect savings in terms of time, wear and tear and so on to be highlighted.

Mr. Nigel O’Neill: Yes, there are savings in that regard.

Deputy Kevin O’Keeffe: I appreciate that but it is not currently being acknowledged by some road users. Putting in a couple of hard speed ramps in Fermoy may be of assistance. I was last week contacted by hauliers who claimed that the axles of their lorries are being destroyed by ramps but that has not stopped them and they are still going through the town of Fermoy.

Chairman: I thank the witnesses for their attendance and interaction with the committee. I appreciate it has been a long morning and early afternoon for them. We hope to have them in attendance once again in the near future. When is the next annual report of TII due for publication?

Mr. Michael Nolan: In June of this year, approximately.

Chairman: I am unsure if the committee dealt with the 2016 report. We will be in touch with the witnesses again in regard to having a meeting sooner rather than later. I thank the witnesses and look forward to the report on the M1 toll.

The joint committee adjourned at 1.10 p.m. until 1.30 p.m. on Wednesday, 31 January 2018.