



## SEANAD ÉIREANN

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*Déardaoin, 15 Feabhra 2007.*  
*Thursday, 15 February 2007.*  
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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Paidir.*  
*Prayer.*  
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### Business of Seanad.

**An Cathaoirleach:** I have received notice from Senator Browne that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

An gá atá ann don Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta áiteanna a chur ar fáil do dhaoine óga chun spraoi a bheith acu agus iad ag labhairt Gaeilge, agus chun iad a spreagadh an teanga a labhairt níos minice le linn spóirt agus cluichí éagsula á imirt.

I have also received notice from Senator Mansergh of the following matter:

The need for the Minister for Education and Science to take in charge the extra classroom accommodation and other badly needed facilities which have been built by the authorities at Clerihan National School, County Tipperary, at their own initiative and expense to meet the needs of the rapidly growing schoolgoing population there.

I have also received notice from Senator Finucane of the following matter:

The need for the Minister for Education and Science to explain the delay in progressing the development of a new community college at Coláiste Ciarán in Croom, County Limerick, and to indicate a timeframe for the construction and completion of the new college.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

### Order of Business.

**Ms O'Rourke:** The Order of Business is No. 1, Communications Regulation (Amendment) Bill 2007 — Order for Second Stage and Second Stage, to be taken on the conclusion of the Order of Business until 1.30 p.m. with the contributions of spokespersons not to exceed 15 minutes and those of other Senators not to exceed ten minutes, and the Minister to be called upon to

reply not later than ten minutes before the conclusion of Second Stage; and No. 2, Statute Law Revision Bill 2007 — Committee Stage (resumed), to be taken at 2 p.m. and to conclude not later than 4 p.m., and with Report and Final Stages to be taken on the conclusion of Committee Stage if Committee Stage concludes before 4 p.m. There will be a sos from 1.30 p.m. to 2 p.m.

**Mr. B. Hayes:** In the past 24 hours it appears the Government is at sixes and sevens on the future of the Mahon tribunal. When is the House likely to have a debate on the Moriarty tribunal? When the other House debated the matter yesterday, the Tánaiste, who once campaigned with the slogan "One-Party Government? No thanks", refused to use his speaking slot. The tribunals were established by the Oireachtas, which means they do not belong to the Government or even to one wing of the Government. As they are accountable to the Oireachtas, they report to it. When will the Government make its position known and end the schism within the coalition parties about the future of the tribunal?

Most Members of the Oireachtas feel that two issues need to be resolved at this stage. I refer firstly to the spiralling costs of the tribunals, particularly the colossal and unjustified fees which are being obtained by certain people on foot of their performances at the tribunals. The former Minister, Mr. Charlie McCreevy, promised more than three years ago that he would rein in those fees, but that has not happened. I refer secondly to the decision to appoint two additional judges to the Mahon tribunal, the intention of which, as I understood it, was to facilitate the undertaking of three simultaneous investigations at any given time. I was under the impression that the three judges would not preside over a single module of the investigation. Will the Government make a definitive statement on this issue? I would like to hear the Leader's views on whether the Government has an agreed position.

I would like to mention the wise words we heard yesterday from a former Senator and Supreme Court judge, Mrs. Catherine McGuinness. She advised the Government and all politicians not to rush the children's rights referendum because the various issues need to be carefully thought out. Given that the Government will not be able to introduce the legislation to facilitate the referendum before Easter, would it not be wise for all the political leaders not only to agree a wording for the referendum, but also to agree to set a date for the referendum in the autumn? It would be useful to reach agreement to have the referendum well after the general election, regardless of who is in government at that time, in order that the issue of children's rights does not become politicised during the shenanigans which will inevitably take place between now and May or June.

**Mr. O'Toole:** When the progress of the tribunals was discussed previously in the House, everyone who spoke agreed the tribunals should continue to do their work. We agreed that perhaps the terms of reference might be changed slightly and narrowed to give a more focused approach. There can be no case for closing down the tribunals. Those of us who are Independent Members would not be as sophisticated in our view of politics as our colleagues who are party members—

**Ms O'Rourke:** Mr. Sophistication.

**Mr. O'Toole:** —because we thought this was just politicking with two parties in Government trying to establish their different identities going into a general election. We thought this was just an attempt to win back headlines in a week when things were going in the wrong direction. The Leader may explain this to the House in her reply.

It has come to my attention recently that the names of primary and post-primary school websites have been taken over by people in other countries and are being used as a conduit into pornographic websites. The only way to stop this is to protect the names of the schools. The name of every town in Ireland is protected on the .ie domain. One cannot enter *dingle.ie* or even *andaingean.ie* and try to do something wrong with it as it will not be accepted. It is a protected name on the .ie domain but this is not the case on the .com domain and other domains.

It should be brought to the attention of the Department of Education and Science that a threat exists. The Department could register the name of every school in Ireland with a .ie domain and it is then protected, or else give the name of every school in Ireland — at no cost — to the people in charge of the .ie domain. The name of every school is then protected and cannot be used by anybody else for any other purpose.

This House has regularly debated the dangers of the Internet and the dangers of access. We can take simple steps and this is one of them which would be very useful. People like to look up the website of the local school or their own school and this would be a simple way of protecting them. I ask that the name of every school and educational institution in the country be registered to protect the names from being used by people who have devious reasons for doing so.

**Mr. Ryan:** Like Senator Brian Hayes I would be delighted to find out what the Government really thinks about tribunals. The Tánaiste was in one of his flights of fantasy recently when he was on his Ronseal flight. I am grateful to a letter writer to *The Irish Times* who points out that on the Ronseal tin there is a warning that it is toxic and that—

**Mr. Finucane:** It is also volatile.

**Mr. Ryan:** —prolonged contact is not recommended. I suggest my friends in Fianna Fáil might bear that in mind.

**Mr. Finucane:** It should be kept away from children.

**An Cathaoirleach:** On the Order of Business, please.

**Mr. Ryan:** Yesterday the European Parliament accepted the report of its special committee on rendition. If our Government is capable of being embarrassed, it should be embarrassed because, as the Leader well knows, we spent a year or two trying to get the most rudimentary information out of the Department of Transport about aircraft landing in Shannon Airport. This is long before anybody had accepted that rendition existed. We simply wanted to know what the Department knew but it would not tell us. The Minister for Transport came to the House and he obfuscated. All sides of the House wrote and asked for information. The country now has the profound embarrassment of being labelled a collaborator in fundamental abuses of human rights.

**Mr. B. Hayes:** The Seanad was mentioned as proof.

**Mr. Ryan:** I wish to move an amendment to the Order of Business that we at least have statements on that report this morning before taking the first item because this report is such an embarrassment to the country.

I have raised on many occasions the need for a debate on competitiveness. I know many fine economists who are sceptical about the concept of national competitiveness, but it is part of the stuff of debate in this country. Reports from the National Competitiveness Council have recommended a return of third level fees. It seems to me that a particular individual, as he migrates from the Department of Education and Science to the Higher Education Authority to the National Competitiveness Council, brings this particular bit of baggage with him and manages to insert it.

This House should reiterate that this country will not re-introduce third level fees and the subject should be moved off the agenda as it is a distraction. I ask for a debate on the report of the National Competitiveness Council because there are many aspects of it which need to be debated.

I ask for a debate on the UNICEF report which could be in conjunction with a measured debate on the proposed referendum. This report is a profound embarrassment to this country. Having read it yesterday in detail, the only reason we are not at the bottom is because, among other things, our families are very stable and we do not have large numbers of children living in single parent families. If one takes those issues which are entirely outside—

**Dr. Mansergh:** And education.

**Ms O'Rourke:** We have a significant educational attainment.

**Mr. Ryan:** The educational attainments do not appear to be that good in mathematics and science.

**Ms O'Rourke:** We are number four in educational attainment.

**Mr. Ryan:** In terms of material deprivation we are so close to the bottom that we should be ashamed of ourselves, given the resources this country has. I ask for a debate on the report as it is a score card or a report card and it gives serious food for thought.

**Mr. Dardis:** I suggest we refer Senator Ryan to the Department of Health and Children to have his embarrassment threshold investigated because it seems to be at an horrendously low level.

**Ms O'Rourke:** It seems to be at a high level.

**Mr. Dardis:** No, his embarrassment threshold is at a low level.

**Mr. Ryan:** How long would I have to wait?

**An Cathaoirleach:** Order, please.

**Mr. Dardis:** In the Senator's case, I imagine it would be several years. The other aspect of this matter is the degree to which newspaper reports now seem to be the currency of the Order of Business. Yesterday the House debated at length an incorrect newspaper report regarding the cervical cancer vaccine. When the vaccine becomes available, as it will in the next few months, it will be available to everybody regardless of whether they have a medical card or are with the VHI.

The same situation pertains this morning based on a newspaper report and the matter was dealt with in the morning's news bulletins. Like the Taoiseach, the Tánaiste has concerns about the costs of the tribunal and, as we all do, about the length of time the tribunal might go on. It was confirmed this morning that the figures being quoted were basically correct but what nobody has suggested is that the tribunal should end. The House could usefully debate this matter. As Senator Brian Hayes stated correctly, tribunals were established by the Houses of the Oireachtas. It is my understanding there can only be one chairman of a tribunal while he or she can have the assistance of others, but the chairman cannot be put aside.

I thank Senator O'Toole for his helpful comments with regard to the identities of the parties in Government—

**Mr. O'Toole:** We were becoming concerned that the Senator's party was getting lost.

**Mr. Dardis:** The Senator need not worry about us.

**Ms O'Rourke:** I am very content.

**Mr. B. Hayes:** For the moment.

**Mr. Dardis:** It would be useful to debate the EU report on special rendition but I doubt if it can be done this morning. The opinion of one person is now regarded as being the authentic view of the European Parliament. I understand there are more than 200 amendments to that report. It is not nearly as clear cut as is being represented. The Minister would be quite capable of dealing effectively with this matter in this House and a debate would clear up much of the confusion about that matter.

**Mr. Finucane:** On a point of clarification, the point made about Gardasil yesterday was that it was not available on the medical card scheme and neither was it available on the drug refund scheme. The point was made by all sides that in many cases people on medical cards would be forced to borrow money to proceed with the drug. That is the point that was being made. We all know it is available on the market—

**An Cathaoirleach:** This discussion is not in order.

**Mr. Finucane:** I wish to clarify the point because the Senator seemed to misconstrue it. I agree it would be a good idea to have a discussion about the Moriarty tribunal. The report was released immediately after Christmas when both Houses were in recess and there was no opportunity for politicians to discuss the report. At the time of his statement on the matter, the Taoiseach indicated that everyone engaged in the practice of signing blank cheques during the period in question. I remind him that during the 1980s, which were not economically buoyant times, most people filled in cheque stubs and cashed cheques were returned to allow payees see how they had been processed. I am astonished that the Taoiseach, who was in Fianna Fáil Party headquarters at the time, did not know the destination of the cheques he signed.

**Mr. Leyden:** The Minister for Health and Children, Deputy Harney, is having a full review carried out of the medical cards system. Fewer than 60,000 doctor-only medical cards have been issued despite provision being made for 200,000 of them. I encourage people to apply for the doctor-only medical card.

At present, 1.2 million people, including children, are covered for full medical care under the medical card scheme. I ask the Minister, as part of the ongoing review of the medical cards



[Mr. Leyden.]

system, to consider giving free medical cards to all children aged under 10 years.

**Mr. B. Hayes:** The House is under attack from mobile telephones.

**An Cathaoirleach:** I have made several appeals to Senators to switch off their mobile telephones. It is pointless to switch them to silent mode as they continue to interfere with the sound system.

**Mr. Finucane:** The speaker is the culprit.

**Mr. B. Hayes:** We knew he was wired.

**An Cathaoirleach:** This is a serious matter.

**Mr. Leyden:** I ask the Leader to arrange a debate on the guidelines governing medical cards.

**Mr. Finucane:** The Senator is now free to switch off his mobile telephone.

**Mr. Norris:** I second Senator Ryan's proposed change to the Order of Business. The House must have a discussion on rendition. It is time for honesty, which we have not had from the Government. The Minister for Foreign Affairs, Deputy Dermot Ahern, has equivocated and refused to answer or evaded direct questions. Every time he has been asked about our complicity in rendition flights he has stated there is no proof prisoners were transported through Irish airports. No such allegation has been made in the House. What we said was precisely what the European Parliament has now found, namely, that Ireland is clearly implicated — directly, physically and practically — in what is described as the rendition circuit. We assisted and collaborated in refuelling the aeroplanes in question and knew what they were involved in. It has been known for a long time. The registration numbers of the aeroplanes were made known and in my correspondence with the Minister I sent him all the relevant details. I also made a complaint to the Garda Commissioner. The Government did not want to know what was taking place but it was aware of it.

I am shocked at Senator Dardis. The Senator can be sharp but he is usually honest. To describe the report passed overwhelmingly by the European Parliament as the view of one man is less than the truth. Let us not argue that this is a case of party political point-scoring. It is the people of Europe speaking about a shameful practice in which Ireland has been involved. It is about time the House did what the majority of Senators agreed, on my suggestion, to do, namely, establish a committee of inquiry into rendition flights. The resolution passed by the European Parliament asks us to do precisely this. We know the law has been broken so let us not have any equivocation. If we had established the inquiry when I proposed to do so, we would not be in the current mess, nor would we have been shamed before Europe.

**Mr. Dardis:** We have no right to enter aircraft.

**Mr. Norris:** I join my colleagues who seek a debate on the tribunals. While I am in favour of finding out the truth and believe the behaviour of some political figures in selling out has been shameful, €1 billion is a large sum of money. An audit of the costs of the tribunal should be carried out. It shocks me that the banks, which have been exposed over the years as being guilty of financial malpractice, have routinely charged more than €13,000 to carry out an inquiry into a notice for discovery. They slap in a bill for €13,000 and it is paid straight away. That is milking the system.

I ask for a debate on democracy in local government. I noted in a report in one of the newspapers yesterday that the management of Dublin City Council has signed a contract with a French advertising company to place large advertising hoardings all over the city. The city council will not receive money in return but will, instead, get a couple of bicycles and a free map. The proposal was not put to local representatives on the city council for discussion. What is happening to local democracy when the city authorities can sell off city spaces without recourse to the citizens of Dublin or their elected representatives?

**Ms White:** On a separate but related issue, I do not know what is happening to the city of Dublin, particularly the area in which I live. It is about time someone shouted "stop" to prevent petrol stations being closed down willy-nilly and sold for apartment developments. Petrol stations on Clonskeagh Road, Taney Road, Breamor Road and Stillorgan Road have all closed and this morning I learned that the site of the Esso garage on the Sandford Road is for sale.

**An Cathaoirleach:** The House does not have power to require petrol stations to remain open.

**Ms White:** The issue here is one of democracy. What are the planners doing? Will we have to travel to Saudi Arabia to obtain petrol?

**An Cathaoirleach:** Planners cannot keep petrol stations open.

**Ms White:** I am making a serious point.

**An Cathaoirleach:** The Seanad has no power to intervene if someone wants to close a business.

**Ms White:** People in the city are discussing the issue non-stop.

**An Cathaoirleach:** The House has no power in the matter.

**Ms White:** If Senators raise the issue, Dublin City Council managers will read about our intervention in newspapers or hear about it on television.

**An Cathaoirleach:** The city council cannot keep petrol stations open either. This is ridiculous.

**Ms Terry:** What is the position regarding legislation on the trafficking of women, an issue Senators have raised on a number of occasions? It is a disgrace that, as we approach the end of the Government's term in office, legislation has not been introduced to address this problem. I understand the Leader has drawn up a Bill on the issue.

**Ms O'Rourke:** That is correct.

**Ms Terry:** I am concerned that it has not come before the House. Ireland does not have legislation in place to address the problem of large numbers of young women being trafficked into Ireland for the purpose of prostitution. It is unacceptable that women from eastern European countries are subject to a form of modern day slavery. Many of those lured here are not aware they are coming to Ireland or that they will work as prostitutes. Is it possible, even at this late stage, to introduce legislation to prevent many young women being abused in this manner? The House owes it to them to act.

**Dr. Mansergh:** I would welcome a debate on the report of the Moriarty tribunal on which I would have plenty to say. A good number of the blank cheques filled out in the period  
11 o'clock from 1982 to 1987 were made payable to me for my salary and allowances as head of research for Fianna Fáil. I often wish I had been sufficiently well-off to have left one uncashed and kept it as a souvenir of a cheque signed "Haughey, MacSharry and Ahern". It would be a great exhibit for the debate.

With regard to the so-called Ronseal factor, I am proud of Fianna Fáil's partnership with the Progressive Democrats over the past ten years and the successful government it has delivered. If things had gone otherwise, we could have been in Government with the Labour Party for ten years.

**Mr. Ross:** It will come to pass.

**Mr. B. Hayes:** It is called political cross-dressing.

**Mr. Ryan:** Two years was enough.

**Dr. Mansergh:** Ireland was rated quite highly overall with regard to the treatment of children. Child benefit has been increased fivefold in the past ten years from €30, where it was left by Proinsias De Rossa who had raised it somewhat, to about €150 today.

I am not disposed to accept as part of the European Parliament motion, Proinsias De Rossa's criticisms of Ireland on the subject of rendition. Mr. De Rossa had no problem with the human

rights record of the communist bloc or North Korea.

**Ms White:** Hear, hear.

**Dr. Mansergh:** He has a quite notorious record of anti-Americanism right through his political record. We make our foreign policy here.

**An Cathaoirleach:** He is not in the Chamber. Order, please.

**Mr. Finucane:** It is disgraceful. He is not present to defend himself.

**Dr. Mansergh:** There is nothing further to discuss on the matter. It is my belief that the practice of rendition is over.

**Mr. Ross:** After that, I think there could be no finer destination for those cheques than Senator Mansergh.

**An Cathaoirleach:** The Senator should speak on the Order of Business.

**Mr. Ross:** We have solved that problem. I wish to say a word on the tribunals. I welcome what the Tánaiste said yesterday. If we are honest about it, it is a subject that is somewhat taboo in the Oireachtas and among politicians generally. All the tribunals are especially effective and laudable inquiries but they do have politicians in their sights. In discussing tribunals, we all tend to tread around them rather softly. The reality is that whereas their objective is something we share in that everyone wants to see the truth, they have lost their way. As Senator Norris and others have said, these tribunals are simply an industry at this stage. They are not inquiries. They manufacture substantial sums of money for people of very modest ability. I include in that some of those sitting there and some of the lawyers involved as well. It is in the interests of those involved in the tribunals to keep them going because they earn so much money. There is a danger that people involved in the tribunals, although not necessarily those presiding over them, are perpetuating them for the sake of earning that particularly easy money. Senator Norris quite rightly pointed that out.

I heard on "Today with Pat Kenny" and other shows that the banks are getting €13,000 for making an inquiry. If that is true, it is crazy. The banks reveal discovery of someone's account and send in a bill to the tribunal for €13,000 per inquiry. This is madness and a waste of the State's money. The Tánaiste has rightly and courageously raised an issue which should be discussed seriously in this House. It is not undermining the purpose, objective and final results of the inquiry to say "Stop". These tribunals have got out of hand and are a waste of money. They are making privileged people of modest ability very rich.

**Mr. O'Toole:** On a point of order, for the record of the House and the constitutional position, members of the Judiciary sitting on those tribunals do not earn one extra penny, so they can have no additional interest in keeping them going.

**An Cathaoirleach:** That is not a point of order.

**Mr. O'Toole:** It is a point of order.

**Mr. Ross:** It certainly is a point of order.

**Mr. J. Walsh:** I seek a debate on the tribunals and have sought one before now. It is a scandal that these Houses have allowed matters to get to this stage, although the tribunals have undoubtedly done some good work. As a child growing up, I remember watching films about runaway trains. What we have is a runaway gravy train. It is time we called a halt to it. Unless we can get the new fees set by the Government implemented immediately, we should call a halt to the current tribunals. Outstanding issues should be referred to commissions of investigation where they will be dealt with much more expeditiously and at a much lower cost.

I have great sympathy for many people who have been brought before the tribunals, some of them for offences for which they have paid dearly financially and in other ways concerning their reputations. After nine or ten years, these issues are still being played out in the media because of the pedantic approach of many of the tribunals. The system needs to be changed and I hope this House will stand united in seeking an immediate change in that regard.

I support Senator White on the general issue she raised. The House should debate planning. I viewed with some concern not just—

**An Cathaoirleach:** I point out that planning had no effect on the issue Senator White raised.

**Mr. J. Walsh:** I seek a debate on the general issue of planning. It concerns not only filling stations but also licensed premises and fine hotels. Many such landmarks in this city will be demolished for residential accommodation.

**Ms White:** Hear, hear.

**Mr. J. Walsh:** We need to have proper, effective planning for the future. Otherwise all we will have are apartment blocks without the social facilities people require. We should have a debate on that matter.

**Mr. McHugh:** I appreciate Senator White's ongoing efforts concerning ageism, including the paper she produced on that subject. She should also try to highlight an anomaly with respect to people with disabilities. When one reaches the age of 65, one is not entitled to a motorised car

grant, which is discrimination against people in that age group.

I wish to refer to health carers working outside the mainstream health system. When a man is looking after his wife, both their pensions are taken into consideration and means tested, so he is not entitled to the carer's allowance. A second anomaly arises in the case of a woman who cares for her father and mother. Her father is confined to a wheelchair while her mother is bedridden following a stroke. We have a responsibility to such people who work around the clock, seven days a week. Caring is a stressful occupation so carers not only need remuneration for such work but also other support also.

The Leader has a wide knowledge of the education system and is also aware that diligent special educational needs assistants work hard throughout the secondary school sector. Some of them have been working for up to eight years but still have no entitlement to long-term contracts or permanence. We also have a responsibility to special educational needs assistants who work outside mainstream education. We should get them into the system because they provide an important primary function. Will the Leader raise that matter with the Minister for Education and Science, Deputy Hanafin?

**Mr. Mooney:** I support Senator Terry's comments on human trafficking, which she has raised regularly. In recent months, the UK government has shifted its emphasis to the victims of such trafficking. Heretofore — and this country is equally to blame in this regard — victims were deported while the perpetrators were allowed to get off scot free. That is what Senator Terry and others were referring to. I hope there will be an opportunity to have a longer debate on the matter in this House.

The word "taboo" was mentioned earlier but another taboo subject, immigration, does not seem to warrant widespread debate. I was prompted to raise this matter following newspaper reports on the forthcoming St. Patrick's Day parade, which is essentially an international showcase for Ireland and what the country represents. This year, the theme is multiculturalism, with 20 countries being represented. I praise those political leaders outside the House who have raised this issue in recent times. People are afraid that if they raise their heads over the parapet on immigration, they will be accused of being racist or of being exclusive rather than inclusive. I ask the Leader to consider having a debate on the issue before the Easter recess to allow an opportunity for all sides of the House to reflect on it.

We need to know the make-up of the immigrant community in our society. I come from one of the lesser-populated counties yet there are Kurdish refugees in Carrick-on-Shannon, as well as other nationalities. Our school children perhaps know more about the social mores and cul-

tural values of other nations than we adults who are legislators.

We have our own country and we welcome people to this country. However, I am becoming seriously concerned that we may ghettoise many of the nationalities coming here. I walk the streets and do not hear English being spoken because of the large cohorts of people from other nations.

**An Cathaoirleach:** The Senator has made his point.

**Mr. Mooney:** I would like to think there would be a coherent approach to integrating all of these nationalities into our society, if they wish to stay here. I say this as a former emigrant who adapted to the cultural mores of the country in which I went to live. That is all I ask.

**Mr. Quinn:** I support Senator Ryan's call for a debate on the competitiveness report, which I requested some weeks ago. I recently read a book by the husband of one Member, Senator White, and the father of another Member, Senator MacSharry, about the Celtic tiger and its success. It is almost essential reading because it tells what happened but also points to the dangers of what could go wrong. The competitiveness report reminds us of some of those dangers. One of the issues to emerge from the book is that one of the essential reasons the economy succeeded was the investment in education. Senator Ryan suggested we should debate whether third level education should be free or available only to those who have difficulty affording it, and whether we should invest in education in that way. It is a worthy debate and one that should take place.

Reference was made to civic pride. Since we introduced the smoking ban, there seems to be an untidy doorstep outside almost every workplace. We do not need a law in this regard but we must ask, particularly in this city, although I am sure it applies in other towns also, whether we can arrange a system whereby people would have a pride in their city, town and the footpaths outside their workplaces, and make sure they are kept clear of the huge number of cigarette butts that seem to litter everywhere in this city.

**Ms O'Rourke:** They should get out their brushes.

**Mr. Quinn:** It does not apply to some streets, such as Grafton Street, but it applies to others. If we have that pride, this sort of thing will not happen.

**Mr. Daly:** I support Senator McHugh with regard to the anomalies he raised, in particular those relating to people with disabilities and special needs. Yesterday, I asked whether we might have an overview on how this area is developing. There has been much legislation and administrative change and it is necessary to keep

in touch with how these have affected people at local level.

I previously referred to the situation with regard to younger people who suffer the effect of strokes, given that there are not sufficient facilities for them. In my constituency, a small unit is attached to the geriatric hospital in Ennis which caters for people over 65, but if a person is 64, he or she cannot get admission there. Such a person would be put on a waiting list for several months for the national rehabilitation unit in Dublin, which is over-burdened. There is a vacancy in the services which has not been filled nationally or locally.

This is a problem in many constituencies for younger people suffering the trauma and side effects of stroke, which are very debilitating, and it must be dealt with urgently. People have been waiting for months to get into the centre in Dún Laoghaire. There is an obligation on the Health Service Executive to put in place a facility for younger people who suffer in this regard. We might have some indication from the Minister for Health and Children, through the Leader, as to how it is proposed to deal with this matter.

**Mr. Coghlan:** We have the highest inflation in Europe and the worst value for money. Prices have risen 26% faster than in the rest of the euro area, inflation is close to 5%, there are approximately 50 stealth taxes and the price of electricity and gas has risen considerably and is probably still rising. IBEC has stated that the price of basic food products, such as bread, cereals and canned foods, will rise further in the coming weeks due to spiralling costs. In view of these and other serious factors, I strongly support Senator Ryan's call, supported by Senator Quinn, for an urgent debate on competitiveness.

**Ms O'Rourke:** Senator Brian Hayes referred to the tribunals and, in his own words, the colossal fees being charged. He asked, as he did yesterday, when we would have a debate on the Moriarty report. The House will deal with a considerable amount of new legislation next week and we will have the debate on the Moriarty report during the following week.

Senator Brian Hayes also referred to the former Senator and revered judicial officer, Mrs. Justice Catherine McGuinness, who advised not to rush the children's referendum. Senator Hayes's view was that we should agree the wording and set a date for the autumn, regardless of the result of the vote in May. That sounds eminently sensible to me.

Senator O'Toole made the point that the tribunals are established by the Oireachtas and, therefore, it is up to us to debate them and put forward our views. The Senator also spoke interestingly about school websites, which, if they did not have a .ie domain, could perhaps be taken over by nefarious groups or persons who would use them for their own purposes. He suggested



[Ms O'Rourke.]

all schools should be given a .ie domain, thereby granting them a measure of safety. This could be done as each school puts itself on the web.

Senator Ryan noted that the European Parliament accepted the report on rendition. In that regard, he proposed a change to the Order of Business, which was seconded by Senator Norris and with which we will deal.

The Senator also called for a debate on competitiveness. I read the part of the report concerning third level fees. While I accept it is just one aspect of the report, it struck me that those who wrote the report on competitiveness can well afford to pay to have their children attend third level, which is why they want us to reconsider the fee issue. The Government has made it clear it is not in the marketplace with regard to reintroducing third level fees, and rightly so. Nonetheless, the Senator seeks a debate on the issue.

Senator Ryan also called for a debate on the UNICEF report. I downloaded the report yesterday and went through it, and I went through it again last night. There is no doubt we rate very highly on many aspects, including with regard to health and safety, education, and how children feel about one another and their place in society. Instead of concentrating on areas where we do not rate highly — I accept measures must be considered — we should recognise we are above the halfway level. It is wrong to put forward the negative view.

I took part in a debate on radio yesterday in which everybody but myself was on the negative side. I asked whether the other participants had read the report but they had not done so. It is all very well to talk about a report but people should read it.

**Mr. Ryan:** I have read it.

**Ms O'Rourke:** I did not mean the Senator because he said he read it and I am sure he did so. It is startling how well we measured with regard to some aspects of life. I was particularly pleased that children felt happy within themselves and with their peers. I thought that would make for a well-adjusted person later in adult life. In any case, we will have a debate on the issue but not yet. At the risk of repeating myself, we must clear the legislation.

Senator Dardis referred to newspaper reports and stated that nobody suggested the ending of any of the tribunals. He also agreed a debate on rendition would be useful.

I made inquiries yesterday about the availability of the vaccine against cervical cancer and it will be available to all women, regardless of income.

Senator Finucane asked for debate on the Moriarty tribunal. Senator Leyden suggested the current review of the medical card system should bring forward the granting of free medical cards for children under ten years of age.

Senator Norris seconds the motion put forward by Senator Ryan. He said all the details were provided to the Minister for Foreign Affairs and the committee of inquiry. He is amazed there has been no audit of costs of the Mahon tribunal.

Senator White raised the issue of the selling off of petrol stations. They are privately owned and as private property is guaranteed under our Constitution, anybody who wants to sell his or her petrol station can do so.

**Ms White:** Planners have to give decisions for change of use.

**An Cathaoirleach:** Order please. The Leader, without interruption.

**Ms O'Rourke:** I am coming to that. If I want to sell my house, I can do so. It is my business. The same is true with regard to a petrol station. It is the owner's business to sell. We will come to the planning issue later as it was raised by somebody else. It is a separate matter. I hope we do not end up in a State where it is forbidden to sell private property.

**Ms White:** The fact is one cannot get petrol.

**An Cathaoirleach:** Order please, the Leader on the Order of Business.

**Ms O'Rourke:** Senator White will not be deprived of petrol. Senator Terry spoke about the trafficking of women. The Tánaiste gave a commitment that legislation in that area would be introduced this term. I will contact him on the matter and perhaps he will use my Private Members' Bill as the vehicle to deal with the issue. I do not know whether he will, but we will see where we get. I agree that trafficking of women for prostitution is a form of modern day slavery. Women come here thinking they are coming to the promised land, but they find something different.

Senator Mansergh also raised the issue of the Moriarty report. What a useful nugget of information he provided in the detail of cheques he received. Of course the Senator needed to cash the cheques to raise his children and keep his wife. It would have been useful to have kept them. I am glad the Senator got them. The Senator also spoke about the EU rendition report.

Senator Ross welcomed what the Tánaiste said about tribunals and agreed they must stop. Senator Jim Walsh thinks the approach is too pedantic and wants a debate on the issue of tribunals as he feels they are on a runaway gravy train. He also wants a debate on planning, which is a separate matter. That debate would be welcome.

Senator McHugh praised Senator White for her ongoing efforts on ageism. He is concerned about people with disabilities because he says

when they come to the age of 65, they do not get VAT deductions. Is that right?

**Mr. McHugh:** They do not get the motorised grant.

**Ms O'Rourke:** Does the grant for changing and adapting a car stop?

**Mr. McHugh:** They are not entitled to it.

**Ms O'Rourke:** It is worth raising that point. The matter concerned a lady caring for two parents. The Senator also raised the issue of SNAs which is ready to explode. When a primary school employs an SNA, this is for a particular child who goes through the system. The same is the case at second level. The system is in place eight years now but SNAs do not have long-term contracts. SNAs are tied to the child in need and if the student leaves school and there is not another child in need of care, the SNA has no job. This is the difficulty with regard to giving shape or structure to salaries and appointment grades for SNAs.

Senator Mooney asked for debate on the trafficking of women. He said St. Patrick's Day celebrations this year would have a multicultural theme. He wants a debate on immigration.

Senator Quinn spoke about the book about the Celtic tiger written by Pádraic White and Ray McSharry and suggested it should be mandatory reading. He also sought a debate on competitiveness. He raised the matter of litter as a result of smoking outside premises and suggested people should clean up outside the front of their houses and premises. I remember when I attended primary school people, mostly women, were out with their scuab sweeping. People working in office complexes should take the same pride in their surroundings and keep them tidy.

Senator Daly raised a matter he mentioned yesterday and sought a review of disability legislation. He mentioned that many younger people are getting strokes and asked where they can go for rehabilitation because the waiting list for rehabilitation in Dún Laoghaire is huge. Senator Coghlan spoke about high prices and stealth taxes and seeks a debate on competitiveness.

**An Cathaoirleach:** Senator Ryan has moved an amendment to the Order of Business, "That statements on the report adopted by the European Parliament on extraordinary rendition be taken today." Is the amendment being pressed?

**Mr. Ryan:** Yes.

Amendment put and declared lost.

Order of Business agreed to.

### Message from Dáil.

**An Cathaoirleach:** Dáil Éireann has agreed to the amendments made by Seanad Éireann to the Health (Nursing Homes)(Amendment) Bill 2006.

### Communications Regulation (Amendment) Bill 2007: Order for Second Stage.

Bill entitled an Act to amend the Communications Regulation Act 2002 to confer additional functions on the Commission for Communications Regulation; to make further provision for the enforcement of that Act; to provide for the establishment and operation of an Emergency Call Answering Service (ECAS); to amend the Electronic Commerce Act 2000 with respect to the registration of domain names; and to make consequential amendments to certain other acts and to provide for related matters.

**Ms O'Rourke:** I move: "That Second Stage be taken now."

Question put and agreed to.

### Communications Regulation (Amendment) Bill 2007: Second Stage.

Question proposed: "That the Bill be now read a Second Time."

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** I am pleased to present the Communications Regulation (Amendment) Bill 2007 for the consideration of the House. This Bill is a key part of the Government's priority legislative programme and, when enacted, will greatly strengthen the power of the Commission for Communications Regulation, ComReg, to enable greater competition in the electronic communications market.

It is a result of consultation between officials of my Department, the Commission for Communications Regulation, the key market players and other stakeholders in the industry. Before going into the details of the Bill, I would first like to give Senators some background on the electronic communications sector in Ireland and the rationale for the Bill. The electronic communications market is of key importance to the national economy and is a significant factor in determining national economic competitiveness. It is estimated to account for over 3% of GNP, with total revenues for fixed, mobile and broadcasting markets now estimated at almost €4.5 billion per annum.

Creating an open and competitive market is the key challenge for the national regulatory authority, ComReg. The EU regulatory framework for the electronic communications sector, which is in place since 2003, is based on competition law principles. The framework was designed to reform the European regulatory structure for the

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sector in light of the experience of market liberalisation. It replaced the previous system of telecommunications licences with a new general authorisation system and changed the way the significant market power of operators was determined and regulated.

The regulatory framework aims to ensure fair competition between service-providers, some of which are dominant for historical infrastructural reasons and, as a result, enjoy a market advantage. Relevant remedies are applicable under the regulatory framework to stimulate competition and discourage the abuse of dominance, thus leading to a better range of competitively priced services for consumers. It is essential the framework be implemented in full in Ireland to realise the objective of promoting competition for the benefit of consumers.

ComReg primarily operates in a commercial environment where decisions in respect of operators can have a significant financial impact. In analysing telecommunications markets, ComReg has found significant market power in both fixed and mobile markets. Where dominance is found, ComReg is obliged to impose remedies to improve the competitive environment.

To encourage compliance among market players, especially the larger players, ComReg requires a suite of enforcement options ranging from minor sanctions for less serious breaches of the regulatory framework to more stringent sanctions for major breaches. Enforcement is a key element of effective regulation, and appropriate remedies and sanctions are vital to secure regulatory compliance.

It is in that context the enforcement proposals in the Communications Regulation (Amendment) Bill 2007 have been drafted. Both ComReg and the European Commission have cited the lack of strong enforcement measures as an obstacle to the implementation of the regulatory regime in Ireland. The primary purpose of the Bill before the House is to increase the enforcement powers of ComReg in order that it can better achieve its primary function, the promotion of competition in the market, thereby leading to better and more competitively priced electronic communications services for consumers.

Apart from the regulation of the market, the Bill also provides for the establishment of an emergency call answering service, ECAS, to be operated by a private sector undertaking. The ECAS is currently being provided by Eircom and funded from its own resources.

Eircom has approached the Department and has indicated that it is no longer minded to provide that service. It is proposed, therefore, that the service be provided by a new undertaking and funded by a fee per call, to be determined by ComReg and paid by public-access telecommunications providers that forward emergency calls to the centre. It is also proposed that Com-

Reg monitor the quality of the service and report annually to the Minister on its operation.

The Bill also provides for the regulation of the .ie Internet domain name by ComReg. With the increasing importance of Internet addresses to economic activity, there is also an increasing need to ensure the operation of the .ie domain name is technically and operationally secure.

I now turn to the text of the Bill itself. As a detailed explanatory memorandum on the Bill has been published, I do not propose to go into the detail of the text but rather to highlight the main provisions of the Bill in the order they appear in the text.

The Bill is divided into four Parts. Part 1 contains standard preliminary provisions. Part 2 contains the main provisions giving additional functions and enforcement powers to ComReg. Part 3 amends the Electronic Commerce Act 2000 to provide for the regulation by ComReg of the .ie domain name. Part 4 of the Bill amends the Competition Act 2002 to give ComReg powers under that Act to investigate and prosecute offences such as the abuse of dominance.

In Part 1 of the Bill, section 5 amends the Communications Regulation Act 2002, hereafter referred to as the principal Act, to confer additional functions on ComReg. The following additional functions are included: monitoring the operation of the ECAS, to be established pursuant to section 17 of the Bill, to which I will return later; collecting and disseminating information from undertakings for the purpose of contributing to an open and competitive market, and for statistical purposes.

While ComReg has a variety of information-gathering powers under the regulatory framework, none of them clearly envisages their being used for general statistical purposes such as the compilation and publication of ComReg's quarterly key data reports on the Irish communications market. While most operators comply with ComReg's quarterly report data requests, the regrettable fact remains that some of the major operators either do not provide data for some quarters or fail to supply any of the data that ComReg requires.

There is also a lack of any express power in the various regulations implementing the regulatory framework for ComReg to collect data for the purpose of market analysis. That is a far from ideal situation, since the market analyses that ComReg conducts are the cornerstone of its regulatory function. Any regulatory intervention by ComReg in the market must be evidence-based. Such evidence must be reliable and thorough. In that regard, accurate statistical data are crucial. ComReg also has reporting obligations to the EU Commission and to the Central Statistics Office and supplies data from the quarterly reports to the OECD and the International Telecommunications Union on a voluntary basis.

Deficiencies or delays associated with the provision of information to ComReg have a direct



effect on its ability to share information with other organisations. It should be noted that ComReg is mindful of the burden that data collection imposes on operators and has sought to assist operators by specifying particular data requirements that do not apply to them.

A third additional function conferred on ComReg by Section 5 is to carry out investigations on its own initiative. Currently, ComReg can carry out investigations only as a result of complaints from undertakings and consumers. This widening of its powers to carry out investigations into matters relating to the provision of electronic communications services, networks or associated facilities on its own initiative will increase its effectiveness as regulator of the industry.

Section 6 is a new provision that enables the Minister to obtain information from ComReg and undertakings that will assist him or her in formulating policies and plans to deal with network and security issues that may arise. Section 7 provides protection for whistleblowers who disclose appropriate information to ComReg. That provision will encourage employees of undertakings to report any wrongdoing to ComReg and conforms with Government policy to provide such protection in new legislation.

To improve the transparency of ComReg's operations to the industry and public, I have included new provisions under section 10 requiring it to prepare and publish, before the end of each financial year, annual plans and associated budgets setting out the principal activities that it proposes to undertake in the following year. It is reasonable that companies in the communications and postal sectors that fund ComReg's activities should have more information on how the levies paid to ComReg are spent. Those provisions will enhance the transparency of ComReg's operations.

Section 11 provides ComReg with the power to require persons to appear before it to give evidence or produce a document that relates to a matter concerning the performance or exercise of any of its functions or objectives. That power will assist ComReg in its investigative functions and will improve ComReg's ability to gather information on suspected breaches by operators of their obligations under the regulatory framework.

Under the principal Act, authorised officers have the power to enter, search and inspect premises and take copies of books, documents or records relating to the provision of electronic communications services, networks or associated facilities or postal services. That power, however, may not be appropriate in all circumstances. Many of the regulated firms are very large and occupy several sites. Without precise knowledge of what documents or files may be stored in a particular location, those search powers represent a blunt instrument. The power to require persons to appear before ComReg to produce evidence or documents would allow ComReg to place on

the operator the onus of producing relevant documents and answering questions about them.

That power, which will substantially increase the effectiveness of ComReg's investigatory powers, is important in the context of proper enforcement and is based on a similar provision in the Competition Act 2002 that empowers the Competition Authority to summons witnesses to attend before it.

Section 14 introduces a new offence of overcharging by an undertaking. The current regulatory framework provides ComReg with powers regarding consumer protection but does not specifically allow ComReg to investigate overcharging. The Director of Consumer Affairs has the primary role in consumer protection, but given ComReg's overarching regulatory remit for electronic communications, I consider it appropriate to extend ComReg's consumer protection role to include powers to allow the specific investigation of overcharging. Previous incidents of overcharging by operators highlighted ComReg's absence of powers to intervene in such matters. The provision will rectify that situation.

Any investigation of suspected overcharging under this section may, if ComReg considers it necessary, include an audit of an undertaking's billing system to ensure its accuracy and to determine whether the overcharging arises from a system failure or from one-off or other factors.

The current regulatory framework under which ComReg operates was transposed into Irish law by regulations made under the European Communities Act 1972. Section 3 of that Act prohibits the creation of indictable offences. Accordingly, the current regime only provides for summary offences with a maximum fine of €3,000 and the option of civil proceedings for non-compliance with obligations under the regulatory framework.

Section 15 of the Bill provides a mechanism to enable me to create indictable offences for the purpose of ensuring that penalties in respect of certain serious breaches of obligations are effective and proportionate and have a deterrent effect. As I already stated, enforcement is a key element of effective regulation and appropriate remedies and sanctions are vital to secure regulatory compliance.

In reports on the Implementation of the EU Telecommunication Regulatory Package, the European Commission has found that effective competition is often precluded by the lack of enforcement of national regulatory authorities' decisions. In particular, in its 11th report published in February 2006, it identified the limitations of the power of the Irish national regulatory authority, ComReg, to enforce decisions as an obstacle to the further development of competition in the fixed and broadband markets. Where a national regulatory authority has strong powers of enforcement, this of itself encourages operators to comply with their legal obligations.

I am also making provision in section 15 on civil and criminal proceedings on the admissibility



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of expert evidence, the provision of documents to juries, presumptions as to the authenticity of certain documents and the admissibility of statements contained in certain documents. These provisions are based on similar provisions in the Competition Act 2002. As in competition law, legal proceedings relating to the electronic communications regulatory framework can be technical, specialised and complex and these provisions will facilitate the effective administration of such proceedings.

Section 16 provides for an amendment to section 57 of the principal Act, which provides for physical infrastructure sharing by infrastructure providers. Currently, where agreement cannot be reached on physical infrastructure sharing, ComReg can intervene to ensure access to the operator who requests it. However, sharing can only be enforced by ComReg against operators through conditions attached to their authorisations.

Some physical infrastructure providers, such as property developers, who are not subject to an authorisation, have entered into exclusive contracts with only one operator to provide electronic communications services to the occupiers of new developments, thus denying other operators the opportunity to provide a service. In such situations, ComReg cannot ensure access to other operators. In some cases the universal service provider — in this case Eircom — cannot gain access to provide a service which it is obliged to do under the universal service regulations.

The amendment to section 57 will enable ComReg to enforce access to physical infrastructure against operators and other infrastructure providers by way of an application to the High Court for a compliance order with a decision made by it in any dispute on sharing. ComReg may also apply to the court for an order directing the respondent to pay to ComReg a financial penalty of such amount as is proposed by ComReg having regard to the circumstances of the non-compliance. The effect of this provision should be increased competition between operators, more choice for the consumer and lower prices for services.

Section 17 inserts a new Part 6 into the principal Act that provides for me as the Minister to enter into a contract with an undertaking for the provision of an emergency call answering service. This section also provides for ComReg to regulate the price the undertaking shall charge for the handling of emergency calls. It also provides for a payment regime where the undertaking shall charge the operator who forwards emergency calls on a per call basis.

Part 3 amends the Electronic Commerce Act 2000 to provide for the regulation of the .ie domain by ComReg. It provides for the powers given to me as Minister, pursuant to the Electronic Commerce Act, to be transferred to ComReg. This Part also provides ComReg with

powers to designate an interim authority and to have access to the registry files to ensure that the functioning of the .ie Internet domain name is secure at all times.

At the National Telecoms Summit in April of last year, I announced that I proposed to give ComReg competition law powers in an attempt to improve the competitive environment in the broadband sector. In order to improve access and services in this sector, full local loop unbundling is essential. It increases competition, innovation and choice on the DSL network for consumers. It is also a legal requirement under the EU regulatory framework. Without it Ireland will never reach its potential.

Part 4 amends the Competition Act 2002 to provide ComReg with the same power that the Competition Authority has under that Act, to investigate and prosecute breaches of sections 4 and 5 of the Act relating to restrictive agreements and practices and abuse of a dominant position — but only in the communications sector. These powers are similar to those which the UK regulatory authority has in the telecommunications sector and which have proven effective in opening up the broadband market in the UK. Strong powers to prosecute specific anti-competitive behaviour are needed in order to encourage compliance among market players, especially the larger players.

The Competition Authority is the national agency responsible for enforcing Irish and European competition law. However, given ComReg's detailed sector specific knowledge of the dynamic and rapidly changing electronic communications sector, the Minister, Deputy Noel Dempsey has decided, in agreement with my colleague the Minister for Enterprise, Trade and Employment, that ComReg be given similar powers of investigation and prosecution as the Competition Authority has under Part 2 of the Competition Act 2002. Such powers will only apply to suspected instances of anti-competitive agreements, decisions and concerted practices and abuse of dominance in the electronic communications sector. These powers will significantly enhance ComReg's powers to enforce the competition law principles on which the EU regulatory framework is based. I am confident that they will strengthen ComReg's ability to open up the broadband market to more market players and I look forward to an increase in broadband penetration throughout the country as a result.

This Bill is an important measure in contributing to a fully open and competitive electronic communications market in Ireland. The proposals it contains are measured and proportionate responses to the challenges facing the Commission for Communications Regulation in meeting its mandate. They do not radically change ComReg's enforcement functions, but merely enhance and strengthen them within the existing framework. Unless ComReg's decisions can be adequately enforced, its overall competence to

carry out its functions is restricted. As I stated in my opening remarks, enforcement is a key element of effective regulation and appropriate remedies and sanctions are vital to secure regulatory compliance.

I am confident that the strengthened enforcement powers being made available to ComReg will result in improved services and more choice for the consumer, particularly in the broadband market, and will provide the regulatory certainty to encourage more players to enter the market. Operators will also benefit from a growing market and compliant operators will have nothing to fear from the proposals contained in this Bill. At the end of the day, however, it will be the individual consumer, the business sector and the wider economy that will benefit from increased competition and a broader range of services, and that is the ultimate aim of this important Bill.

Apart from some amendments of a technical legal nature that are being examined in conjunction with the Attorney General's office, I do not intend to introduce any substantive amendments to the Bill on Committee Stage. I look forward to hearing the views of the Members of this House on the Bill and their assistance in facilitating its early passage into law. I commend the Bill to the House.

**Mr. Finucane:** Of course my party will assist and facilitate the early passage of the Bill into law. On many occasions the Joint Committee on Communications, Marine and Natural Resources, of which I am a member, has had ComReg before it and ComReg has been subject to a certain amount of criticism. I am rather surprised that the Minister, in the dying days of this Government, is introducing legislation of this kind. I anticipated that he would react much sooner.

Many see ComReg as fairly indecisive in administering its current functions. This Bill can be seen as taking on one particularly big player, Eircom, which is the true competition in the marketplace. Indeed, the Minister's party in Government privatised Eircom and we have seen over a period of years where, as a commercial entity, the end game of the shareholders is to increase their profit margin. What has created problems for people is that they cannot state that the level of telecommunications service received since the status of Eircom changed is superior to that provided previously.

Has the Minister of State at the Department of Communications, Marine and Natural Resources, Deputy Browne, experienced the frustration of phoning Eircom regarding the installation of a business or domestic line? I had this experience recently and found myself referred to five different operators over the course of 45 minutes with a simple request to install a telephone line. I can empathise with the people who rang "Liveline" complaining about the level of services.

There may be deficiencies with regard to competition and what stimulus will competition in this country receive when section 15 of the Bill refers to fines of up to €4 million or 10% of turnover? If I were a competitor considering entering the Irish market, seeing such a draconian fine would act as a deterrent to joining. If this Bill is supposed to stimulate competition, it is going about it the wrong way with fines of this nature.

ComReg often paints Eircom as the big, bad wolf and there seems to be an ongoing saga between the two. I would like to put the issues between ComReg and Eircom since 1997 on the record. ComReg issued 118 directions and 101 of these were relevant to Eircom, which shows that Eircom dominates ComReg's attention. Eircom complied with 95 of these directions, challenged six and challenged four in court. The courts found against Eircom in one of these cases while three challenges were resolved before substantive court hearings. Eircom challenged three directions on appeal and all of these were resolved before substantive appeals panel hearings. Before coming to the attention of the courts or the appeals panel there are no challenges and no appeals so there is no enforcement crisis.

It is suggested that there is serious resistance to regulatory action and, in many ways, the Bill is flawed in this regard. The points I have made highlight this. Perhaps the Government has created a monster by privatising Eircom. Employees point out that there has been a dramatic reduction in staffing resources at the company. This kind of reduction means the same level of efficiency of service as in the past cannot exist. The new owners, Babcock & Brown, will grapple with the situation and effect the necessary changes to create a viable company. There is a lack of competition in the domestic telecommunications market and we recently saw Smart Telecom fail to establish itself in the business.

We may consider broadband as an example of the Government's activity. There are metropolitan area networks, MANs, throughout the country and €63 million has been spent to date on broadband provision. The Government is suggesting it might spend a further €100 million. Can the Minister of State say how many subscribers are accessing broadband as a result of the €63 million spent? Rather than spending a great deal of money on MANs, does the Government consider that it may be in its interests to enter into commercial arrangements with existing operators to provide a service, especially where subscribers are spread thinly? The laws of economics suggest that other routes may be a great deal more expensive.

The Minister of State referred to emergency call answering services and he should not have been surprised to hear Eircom is no longer interested in providing this service. Why would commercial entities that have no responsibility for subscribers who are not their customers and have no way of accessing the €6 million necessary

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to provide emergency call answering services wish to provide the service anyway? The Minister of State should not have been surprised that Eircom told him it was not interested and suggested he provide a service of his own.

I do not know how long it will take for this legislation to pass through this House but it is understandable that commercial entities like Eircom should seek funding from the State for providing these services. Companies cannot exist as charitable organisations if they have a commercial mandate. Eircom is concerned it will continue to carry costs until this legislation is implemented and a new service provided. I understand the company appealed to the Minister of State for appropriate funding for provision of the service and if this had been forthcoming, Eircom may have continued to provide the service.

Fine Gael has made no secret of its dissatisfaction at ComReg's pathetic performance in protecting consumers. Competition is low, prices are high and choice is often non-existent. Our communications markets remain dysfunctional and the purpose of the regulator seems only to offer the Minister a way to escape political accountability for what has come about. I give a guarded welcome to the new powers and the potential for higher fines because such fines are probably required. However, as I mentioned, the penalties are draconian and will not help achieve the ultimate objective of creating competition to benefit consumers. Rather they will act as a deterrent.

The recent Smart Telecom saga, involving the disconnection of 45,000 land lines, was a disgrace in 21st century Ireland. Regardless of the nature of the dispute between Eircom and Smart Telecom, and the actions of Eircom relate to its commercial mandate, it is outrageous that tens of thousands of innocent customers were disconnected. Such anti-consumer activity makes a hollow mockery of the Government's claims that we have a competitive telecoms market and a dynamic information and communications technology, ICT, infrastructure.

The Minister of State must immediately set up a mechanism which requires Eircom to inform ComReg when it is poised to disconnect an operator's customers at least one month before taking that final step. ComReg would then be required to give public warning that the operator's customers are likely to suffer loss of service, allowing them time to make alternative arrangements with another operator. It is vital that steps are taken in the long term to wrestle the network away from Eircom as much as possible to allow real competition to thrive and stop situations like the one we witnessed last night from happening again. There is practically no competition in the telecommunications system in this country.

It is highly unlikely that anyone seeking to enter the telecoms market could secure the capi-

tal for such a venture. This will inevitably lead to a reduction in the potential for growth in the sector and will have a knock-on effect on jobs.

Outside the telecoms sector it is clear Ireland has taken a knock. Anyone observing the mass disconnection of telephone lines will be of the opinion that such an occurrence is like what happens in a banana republic rather than a dynamic, knowledge-led economy. I am convinced the perception of a dysfunctional telecommunications market, which is clearly what obtains, will damage our efforts to attract foreign investment.

For customers in general, the real danger is that consumer inertia will become even more deep-rooted. Consumers will view Eircom as the only safe bet for an uninterrupted telephone service. This will lead to even less competition and upward pressure on prices. This is where ComReg must play a proactive role. At times when I listen to the commissioner, I feel ComReg has become very defensive of its position. This has become the norm.

One of the greatest inequities in the telecommunications sector is the dominance of Eircom and its stranglehold on the network. ComReg has raised the issue on many occasions but has done little or nothing about it. It raised the issue in the hope of generating discussion resulting in greater competition which it hopes will benefit the consumer. This will not necessarily be the case unless the break-up results in independent ownership and administration of the two or more companies.

If the network is to be sold off, it is vital that no existing market player, no matter what size, be allowed to seize control of it. Such a move would leave us exactly where we started. There are deep-seated problems associated with the privatisation of Eircom, which are manifesting themselves very forcefully. The privatisation was botched such that one company still has a near-monopoly of landline telephony in the country while the telecommunications infrastructure remains below par thanks to a lack of investment. It is important that this be considered.

When Telecom Éireann was in existence, it provided the money for infrastructure. There have been so many company changes over the years that infrastructure is not being put in place to a degree that would allow for a strong telecommunications industry in Ireland. This is one the obvious results of privatisation. I would like to see ComReg generating a proper debate to outline its proposals to end Eircom's dominance of the market once and for all.

I referred briefly to broadband. Ireland has slipped dramatically from among the leading five countries in Europe to the bottom two, which is in itself a serious obstacle to both the domestic and industrial sectors, which have had expectations far in excess of what has been delivered. It is quite obvious that deregulation has not worked to the advantage of the consumer and that there was no proper plan and no driving



force to link up the service providers, Government and regulator. The initial targets announced by the Minister some two years ago have not been met and it is now time for him to assume responsibility for the direction in which the industry goes. This will require immediate negotiation with all parties involved, driven by the Minister with a view to removing all obstructions that have so far impeded the development of this most important information technology. Time is running out. Other European countries are advancing at a remarkable rate and those that started late have already passed us by.

I will make my other points on the various sections of the Bill during the Committee Stage debate. The Bill is overdue but at least it is before us. We hope to strengthen it on Committee Stage but we will support it on Second Stage.

**Mr. Kenneally:** I welcome the Minister of State to the House. He seems to be spending a lot of time here lately. I welcome the arrival of this Bill, which deals with some very important, but not well-publicised, issues and makes provision for the safeguarding of essential services for citizens. It deals in essence with fixed and mobile telephony and has particular relevance to electronic communications, particularly the Internet and the less well-known “.ie” domain name registry.

I welcome in particular the strengthening of the enforcement powers of the Commission for Communications Regulation, ComReg, which need to be formalised in a world in which few actually understand the system other than the specialists who operate it. The regulations under which the commission is working at present were introduced under the European Communities Act 1972, more than 30 years ago, which is, for some, a whole lifetime ago. There is no primary legislation to underpin what the regulator is doing. It cannot provide for indictable offences, for example, and has only summary jurisdiction under which to work.

When we consider the vast sums of money that the telephone companies turn over each year and the enormous profits they generate, we realise there is insufficient oversight of their operations and insufficient provision for bringing them to heel when appropriate. We need these mechanisms, which the Bill proposes, to make them toe the line.

I am pleased ComReg will be given the same kinds of powers the Competition Authority enjoys under Part 2 of the Competition Act. These new powers will also allow ComReg to investigate abuses of a company's position, such as is suggested in the case of Eircom's fixed-line network. Up to now, there was no effective communications legislation to deal with this and people will be glad to see that such an essential service as our telephone system is finally being brought into line in this regard. As a result of this legislation, ComReg will be in a much stronger position to prevent or eliminate abuse by a com-

pany in a dominant position, and will be able to impose substantial fines to bring some realism into the sector.

I note that under section 6, the Minister and the commission are being given information-gathering powers in regard to the technical operation and performance of telecommunications networks. This is essential because, from what we have seen so far, the various networks have not exactly been forthcoming with information in regard to their businesses. On the occasions when members of the Joint Committee on Communications, Marine and Natural Resources tried to question representatives of the telephone companies, particularly the mobile operators, they were stymied at every turn and put on the long finger. Senator Finucane will be well aware of this because he is a member of the committee. We found it almost impossible to obtain information and details on customer bases, how charges are linked to income, activity details, etc. The proposed measure will give the Minister and the commission the power to extract the information we require to properly balance and regulate the activities of the telecommunications companies. The net effect will have to be a better deal for the public.

Section 11 provides for the commission to require providers to attend before it and produce relevant documentation. With this clearly stated in legislation, the providers will not be able to seek the protection of the courts to stymie the intent of the Oireachtas. There are plenty of protections built into the section to provide for cases where it would be undesirable for someone to divulge information. However, where one has been found guilty of an offence, the fine of €5,000 per individual should focus minds. The penalties reflect the seriousness of the circumstances as we see them. With telecommunications likely to be a continually expanding business, we should get it right at this relatively early stage.

It is highly appropriate and practical for the Minister to have similar powers in the event that we need to react to the loss of one of the networks or some major upset affecting day-to-day business. Someone would have to be able to step in, establish all the facts quickly, take the necessary decisions and restore normality to the network in order that commercial and social Ireland would not experience the major disadvantage of not having a communications service.

One of the areas of difficulty and sometimes hardship for network subscribers is the high cost of roaming charges levied on them when they are abroad. They are scandalously high in some instances. In the case of Vodafone, roaming charges have been eliminated for users of its network in the United Kingdom, but this must be achieved for other networks also. Call charges are steep enough without criminally high roaming charges being imposed in addition. Call charges are steep enough without criminally high roaming charges being imposed as well. With the imple-



[Mr. Kenneally.]

mentation of this measure, the commission or the Minister can establish all that information and act appropriately on it. In any event, we do not yet know to what extent technology will catch up with these conventional systems. I am not altogether familiar with them, but there are methods by which calls can be made by way of computer and telephone lines, which can deliver a lengthy call to the US for instance, for only a few cent. With the ongoing expansion of the world wide web, there will surely be many more developments in the future and who knows what systems may be used a decade hence.

In the meantime, the vast majority of people are dependent on the companies and networks we have and it is up to us to see that charges and service are at an acceptable level or be able to adequately determine why not. For many years we have depended on the goodwill of a wide range of companies to provide services on a goodwill basis in this country. One of these is the provision of an emergency call answering service. In ordinary terms, this is the 999 system as we used to know it and the 112 service being used on mobile phones today. Perhaps because the telephone system in Ireland developed from that provided directly by the Department of Posts and Telegraphs, we took it for granted that the emergency service would be provided and maintained free of charge for every subscriber and from every phone.

Traditionally, when someone dialled 999, prominent red lights lit up on the switchboards in front of the operators and someone would immediately answer the call and connect to the relevant emergency service. That is the way it has been up to now and we should acknowledge the co-operation of the particular network operators which kept the service going. It is time now to bring this service into line with modern trends and requirements and Part 6 of the Bill provides for the formalising of this service between the Minister and an appointed EGAS agency. The service will be put out to tender and a private contractor appointed to administer it. It will be funded by all of the operators across the networks, who will exchange charges as appropriate.

I am glad to see that the Bill proposes to formalise the situation in regard to domain registry in respect of web sign “.ie”. I want to acknowledge that this service is being administered in a very controlled manner, appropriate to its level of importance as a national service and resource. The .ie was allocated to this country by the International Organisation for Standardisation and is similar to the letters allocated to other countries in accordance with the two-letter code in the international standard. It is regulated to some extent under the Electronic Commerce Act 2000, but a great deal has happened within e-commerce since the passage of that legislation. The purpose of its inclusion in the Bill is to facilitate fairness, transparency and promotion of fair competition

in the allocation and administration of domain names under the .ie extension.

The approval and allocation of such a domain name is administered privately, but in a very fair and disciplined way, with very little scope for abuse of the system. While it may be very easy for someone to register under the .com or .eu domain names, .ie is very tightly controlled and it is a requirement on every applicant to fully establish and justify his or her entitlement to a registration. This has maintained the integrity of the system which the Bill seeks to underpin and the administration of .ie will now come under the control of ComReg and the Minister.

Far from having been abused in the past, the system of domain registration for .ie was if anything, too restrictive, but with the number of Internet sites now being set up and requests for the registration of domain names with .ie, the same level of vetting is not possible. According to its own site:

The IEDR is the registry for .ie Internet Domain Names and maintains the database of .ie registered Internet names. The IEDR is an independent not-for-profit organisation that manages the .ie country code Top Level Domain (ccTLD) namespace in the public interest of the Irish and global Internet communities. The IE Domain Registry is not a governing or regulatory body, but provides a public service for the .ie namespace on behalf of the Internet community.

I am told by reputable companies which register domain names that the IEDR is very well structured and managed at the moment. It is not slow to refuse or revoke a domain registration where appropriate, on the basis of a company not fulfilling its undertakings or even placing inappropriate material on its website. For instance, all applicants applying for a .ie domain name who are not situated in the 32 counties of Ireland, must demonstrate a real and substantive connection with Ireland. Examples of acceptable documentation demonstrating substantial trade or commercial activity within Ireland include copies of invoices; showing trade to or from Ireland; high-quality brochures displaying a significant intention to trade in Ireland; and a signed letter on headed paper from a bank manager, firm of chartered accountants, registered auditors and tax consultants — where the tax advisor identification number is displayed — or solicitors, confirming the applicant's trade relationship with Ireland.

All this demonstrates how seriously registration has been taken so far, but it is a growing responsibility. It is such an important resource for the country as a whole that its future effective and honest administration justifies this being guaranteed by giving ComReg an official watchdog status in the process, to avoid mistakes and unfair situations, as happened under other domain registrations. For example, there was the

high-profile case some years ago of the domain name of Waterford Crystal.com being registered by a young person and subsequently sold to the company. As currently constituted, and with the level of vetting applied to applications, that would not happen in the case of .ie. Proof of a bona fide business is required and there is cross-checking with the Companies Office and other agencies before a .ie domain name is registered. We have to maintain the integrity and stature of .ie as a domain register and its inclusion in the Minister's and the commission's remit will help towards that end.

Section 16 has a very important and welcome provision in regard to infrastructure sharing. There has been a certain amount of abuse in the past in regard to the ducting and cabling installed by developers into new housing estates, whereby the subsequent occupiers of the houses were tied to one telecommunications provider in almost a monopoly situation. This is now being addressed and will eliminate such restrictive practice in the future.

I am very pleased to see that Section 7 provides for what we refer to as a whistleblower's charter for wrongdoing within the communications industry. We have seen the value of disclosures made by courageous individuals in the past, often with adverse consequences because they had no protection in legislation. It is only proper that anyone who makes a disclosure as regards wrongdoing in the communications industry should have legal protection against civil and criminal liability. We have to avail of every opportunity to maintain the integrity of one of our most important industries and the Bill goes a long way towards dealing with many of the deficiencies in communications in Ireland at the moment. I commend the Bill to the House.

**Mr. Quinn:** Senator Norris has asked whether he can share some time with me. I believe I have 15 minutes. All he requires are the last three or four minutes.

**Acting Chairman (Mr. Finucane):** Is that agreed? Agreed.

**Mr. Quinn:** I welcome the Minister and the Bill, although it is, perhaps, ten years too late. I am very impressed at what Senators Finucane and Kenneally have been able to determine from the Bill. I do not see myself as someone who is expert in this area, as regards going through the Bill and recognising the challenges it presents. I recall the time, 25 years ago, or more, when I became chairman of An Post and there was a great rivalry within the old Department of Posts and Telegraphs involving postal staff who would be left behind in what was regarded as the second cousin or the poor relation. An Post people thought their company would be a poor relation to the new sexy modern Telecom Éireann. In fact, Telecom Éireann was very far behind due to the

lack of investment over many years before that. Our hopes were high for what could be achieved in the years ahead.

I am disappointed when I reflect on the direction we have gone, especially taking account of the Lisbon Agenda. It outlines that we intend to be the new knowledge-based competitive market in Europe. When I reflect on the progress we have made, I discover that while we thought we had skipped a generation in the 1980s and would have in place a modern telecom system, it appears others have moved even faster. I welcome the Bill on the basis that it is an attempt to close that gap.

I pose two questions in regard to the Bill, namely, will it help us to become more competitive and will it create more competition in which I am a great believer? I come from a background where competition is crucial. When I observe the changes that have taken place in other businesses, I examine this area from that point of view.

We first began passing laws to regulate the communications sector in 1997, ten years ago, and our history has been consistent across our successive attempts to control this sector, namely, we have been too timid, too shortsighted and too unaware of the vast importance to the nation of what we were dealing with. Today we are paying the price for what I regard as those shortcomings over those years.

In our approach to regulating communications we have been slow to realise this is not only a commercial matter of simply holding the ring between rival commercial interests and seeing that fairness is done between them. That is not enough. I spoke on this area ten years ago. That was a fair description of the approach taken in the first of these Acts, namely, to be fair to the different competitors. I pointed out at the time that this was far too passive a role for the State to take. I argued there was a clear public interest in how the communications sector developed in this country. It was not a matter of indifference to the State how the sector developed. I took that view because I believed then that the economic future of this country could depend crucially on the extent to which we could harness the new potential of communications to develop our role in the emerging new knowledge society that is outlined in the Lisbon Agenda.

My belief has proved to be right. If anything, I underestimated the importance the sector would have. However, my views were not listened to in 1997 and, as a result, we were saddled with legislation that proved ineffective in regulating the communications sector. From the beginning it was clear that the regulator had not been given a proper hand to deal with. In terms of the legislative powers at his disposal, he had a great difficulty. This weakness was immediately recognised by the commercial players involved who engaged the regulator in a long series of lawsuits that were designed to challenge his regulatory powers and to confine them as much as possible.

[Mr. Quinn.]

Many court decisions went against the regulator, but that was not the fault of the regulator or the courts, rather it was our fault in that weak legislation was the cause of that problem. The result has been that the communications sector in this country has been run for the past decade entirely from the viewpoint of the short-term commercial interests of the players involved. The national interest has not got a look-in, rather it has been blatantly ignored and perhaps defied on many occasions.

Nowhere has this been more true than in the roll-out of broadband. It is clearly in the national interest that this should have taken place long ago. Some other countries have done a much better job and we are very far behind them in this area.

**Mr. Ryan:** Hear, hear.

**Mr. Quinn:** That is one of my main criticisms of what went wrong in those years. The fact that we have not managed the roll-out of broadband and that we still languish at the bottom of the European league table of broadband penetration is entirely due to the ability of the commercial interests involved, in particular Eircom, to go their own sweet way in clear defiance of the often repeated wishes of the political leadership of this country and in clear denial of the national interest in the matter.

**Mr. Ryan:** Hear, hear.

**Mr. Quinn:** That happened over those years. Let us not waste time blaming Eircom or others like it. It has only been doing what private sector companies always do, namely, looking after the interests of its shareholders. I have got great support from Senator Ryan on this. He does not hear me say those words often.

**Mr. Ryan:** They do a better job of looking after their own interests than the State does of looking after ours.

**Mr. Quinn:** That is exactly how it should be. The real people to blame in this matter are we, the legislators, who allowed this to happen by the laws we enacted ten years ago. If we did not foresee what would happen back in 1997, we have had ample opportunities since then to see the error of our ways. Despite this, we have been very slow to do what is necessary to impose our will in this area, even with all the support we have had from Brussels and the direction it has given us.

The stark fact remains that the sector has operated as it has for the past decade. If we wish the communications sector to be run in the national interest, as it is our right to do, then we must assume the powers to make that happen. To whatever extent this Bill represents a step in that direction, which is desirable, and I am not sure

exactly how far it does go in that respect, it must be welcomed, however belated its arrival.

I have a number of questions for the Minister of State which I hope he will be able to answer. Will this legislation deliver competition which we have not had up to now? With the best will in the world, is there a danger the heavy penalties provided for in the Bill will act as a disincentive to competition? Will those operators considering joining this race, which should yield them high profits, find the heavy penalties provided for in the Bill a disincentive to do so? I have always had a difficulty trying to explain to myself and others how the electricity system works here where the ESB is the power provider as well as the retailer. That is similar to a case where a large supplier in the business I have experience of is a manufacturer and also a retailer. How do we make sure that such a system can work? Is there fair competition if the producer of a product is also the retailer which deals with the customer? In this case Eircom seems to be the network as well as the retailer. Does Eircom have a view on this? It is such a large player in this area that we must know the direction it intends to take. Is it enthusiastic about splitting and separating what it does? It is difficult to understand how that system can work if the network and the retailer is the same operator.

Senator Kenneally referred to the system of emergency calls, which the Minister of State also mentioned. I was not sure how the system worked in the past but I gather Eircom is not terribly enthusiastic about maintaining it because it involves a considerable cost. From my reading of the Bill I assume that some effort is required to put this right to ensure we have an effective and efficient emergency system, which luckily I have not had to use too often. If the system is operated by only one of those retailers and it is not terribly enthusiastic about doing so, perhaps that explains why we hear complaints about the emergency system not working nearly as effectively as it should.

A provision covering whistleblowers is also provided in section 7, which is worthy. However, if we include a provision for whistleblowers in the communications sector, does that mean a similar provision must be included in every Bill introduced? If so and if we have to wait 10, 20 or 30 years before it is implemented, is it worthwhile considering the introduction of whistleblower legislation to cover every area to ensure we do not have to remember to include a similar provision in every Bill introduced, given that there may be areas of society not covered by legislation?

My last question is on broadband. I have been impressed by the progress made in this area in other countries. I am mindful particularly of Singapore, which identified many years ago that it wished to be the hub in Asia, and perhaps even in the world, for handling the knowledge society. It did that by giving every citizen an e-mail

address. Have we taken the right steps in that sector in this country? Have we identified that Ireland could be a similar centre for Europe or the world? We are so far behind other countries that we have ended up at the bottom of the league table. Is there a danger that it is too late? I do not believe so because technology moves so fast that sometimes it is useful to come in behind the others. We may not be burdened with the old equipment and we can buy the modern equipment.

These are some of my concerns. I am confident the Minister has looked at this and that his objective is the same as all of us. However, I remember ten years ago when many of us clearly stated that the objective was not just to be fair between different competitors in this market, but actually to encourage competitors to come into the market in the first place. It is not just a question of being fair. It might have been better not to privatise something if the only objective was to make fairness the only common area between different competitors. In such cases, there might be other ways of doing it. In this case, it is right that we encourage competitors to come in, we encourage fairness between them, but we also make sure that competition gives us the sort of service we want in Ireland. That service may mean broadband only, broadband or emergency services, or it may mean that we get an advantage in a competitive marketplace to take the lead in this world. I welcome the Bill inasmuch as I understand it is an effort to go in that direction, and I wish the Minister well.

**Ms White:** I welcome the Minister of State to the Seanad and the progress of this Bill through the Houses. This Bill will allow ComReg to facilitate increased competition in the Irish telecommunications market, a goal of which I am very much in favour. Increased competition will enhance the provision of vital telecommunications infrastructure and should result in lower prices and greater choice for consumers. It should also encourage greater uptake of broadband across the country. Like Senator Quinn, I know that competition is the driving force in change and innovation. Competition is critical because nothing will improve if we do not have it in every area, including in elections to the Oireachtas. I wish the Minister of State success in the forthcoming general election.

Even though broadband uptake is increasing, it is nowhere near the level we should expect of a country as rich as Ireland. In its broadband telecommunications benchmarking report for 2004, Forfás ranks Ireland in first place in international broadband connectivity. This means Ireland is ahead of Denmark, Luxembourg, the Netherlands, Sweden and France. International connectivity means the ability of a broadband user to connect to users in other countries through international broadband networks. At the launch of the 2004 report, Adrian Devitt, senior policy ana-

lyst at Forfás, stated that this is why we can attract companies such as Google and eBay. Broadband is critically important for multinational or indigenous companies that are producing goods for export, since the ability to move information is as important as the ability to move goods. For small businesses and households, broadband promotes IT skills and increases productivity in the economy. I have wireless broadband at home and it is a great pleasure to move my laptop all over the house with no wired connections. That encourages people to use it more often. It is quick and fast and there is no big deal about it.

Martin Cronin, chief executive of Forfás, stated last November that broadband services are critical for the attraction of foreign direct investment, for the development of indigenous industry and for the promotion of the knowledge economy. The increasing importance of services to the economy, particularly those structured around electronic transactions and information flows, makes it essential that Ireland has access to reliable and cost-competitive communications services. The broadband benchmarking update, also produced by Forfás last November, highlighted the need for increased competition in the sector. Countries with the highest broadband take-up rates are those that have competitive markets for the supply of broadband services. The protection and promotion of competition that will be ensured by this Bill is to be welcomed wholeheartedly. I sincerely hope the Bill heralds a new era for telecommunications in Ireland.

**Mr. Ryan:** Cuirim fáilte roimh an Aire Stáit. Tá súil agam go bhfuilimid ag druidim i dtreo deiridh leis an bpraiseach atá déanta ag an Rialtas seo don infrastructúr telecumarsáide.

ComReg is toothless and I always wondered why. We knew it was toothless because we could all see it. We saw it when Citibank encouraged people to buy Eircom shares about two years ago, citing Eircom's ability to circumnavigate around the regulator. It is beyond me why we did not sit up and take notice of such a statement by an international adviser. ComReg is also indifferent to consumers. Its willingness to deal with individual consumer complaints is not impressive. Its unwillingness to deal with such complaints is what one would notice. An example is the recent controversy involving NTL in Dublin, in which ComReg apparently claimed it was not its problem.

The cable component of our telecommunications system is in a mess. It is mostly used in television, but it should be used for so much more. There is an extraordinary variation in provision and price from region to region, yet ComReg apparently felt it did not need to worry about such a variation. Why does it cost more to have a basic digital television service in Cork than it does in Limerick or Dublin? I keep asking officials from ComReg and they tell me that there



[Mr. Ryan.]

are some mysterious factors at work. They have tolerated poor customer services from cable companies and from Eircom. They have also tolerated bullying tactics.

I availed of a low-cost option for international calls, which did not mean leaving Eircom. When I registered with a company to do this, I promptly received a letter from Eircom telling me I had left its service. I knew I had not left Eircom and I was not going to leave Eircom because it is far too complicated. The letter informed me that I would not be receiving any services if I had problems with my line as I had abandoned Eircom. I wrote to ComReg and I was assured that ComReg officials were in touch with Eircom and that Eircom was sorry about the mistake. When I telephoned Eircom, I was told it was definitely not a mistake, but I could not be informed of what company I had chosen as that was confidential. I chose a new provider but Eircom would not tell me the name of the provider I had chosen. Eircom would only put me through to someone who, for a fee, would re-establish my connection with Eircom. It was rip off upon rip off and it was organised and planned.

ComReg eventually succeeded in getting Eircom to sort it out and I was told by ComReg that Eircom was sorry. I wrote to Eircom, but I have not received an acknowledgement from the company of its high-handed attempt to frighten me into paying money for something I did not need to pay for. Having listened to the Minister of State, I now know why and I will come to that.

However, I want to return to the issue of cable television. We pay one licence fee per household, no matter how many televisions are in the house. However, there is a rip off in Cork where cable television viewers are charged extra for multi-room viewing. I have no idea why that is the case. The signal does not break down or dilute because one has it in two rooms instead of one. It is a rip-off and an abuse of a local monopoly. If ComReg was any good, it would not allow the service providers to do such things. Instead, it stands back and leaves them alone. We are all familiar with the universal complaints about customer service. One of the problems is that most of these companies no longer have a physical base, such as an office. One cannot visit the headquarters of these organisations because there is no such place — they exist somewhere in cyberspace. Judging by the universal accent I hear every time I deal with Eircom, I am convinced its call centre is entirely staffed by people from Asia, or based in Asia. That would not be a problem if the service were any good, but it is not, through no fault of those at the other end of the telephone line.

The provision of cable broadband services is a basic requirement. Ireland is unique because of the extent to which cable has been installed in its urban areas, probably as a result of the demand for British television 20 years ago. All of our domestic areas should be able to avail of the high-

est quality cable broadband services because we got started early. The cable broadband that is on offer is slow by the standards one would expect nowadays. It is limited and it is expensive. ComReg's toothlessness has made it unable to do anything about the limitations and expensiveness of the broadband service. When one reads the stuff on its website, it is clear it is too obsessed with complicated technical issues relating to spectrum allocation, etc. It has not really got around to focusing on consumers. The astonishing manner in which it rolled over and allowed Eircom to impose increases in the cost of line rental does not do it any credit. Why should it be getting more and more expensive to rent a fixed line? It is dreadful that increases were sanctioned to give Eircom a little boost in the one area it controls, after it was squeezed out on the call side.

I have picked up on one extraordinary thing throughout my dealings with ComReg. It seems the regulator starts from a position of accepting the bona fides of the companies it is regulating. It presumes the people with whom it is dealing are nice guys who need to be brought into line. A means of regulating the communications sector was developed as a recognition that those involved are not nice guys — they are out to make as much money as they can, using whatever legal ways they can. I do not suggest for a second that such people behave illegally. They try to maximise their profits in a legal manner, which is what their shareholders expect them to do. It would be naive to expect patriotism from telecommunications companies, but such naivety is widespread and extensive.

The private telephone monopoly that was established when Eircom was privatised is regulated with such a light touch that Eircom, when it was a publicly quoted company, could boast throughout the world about its ability to defy the regulator. ComReg was established to prevent the abuse of that monopoly, but it has failed to do so. The legislation that was used to establish the regulator continues to be inadequate, five years later. The process of defending consumers, which involves going to the High Court to make people do certain things, seems to be the most incredibly tortuous way of providing the most straightforward services, such as roads and water, to consumers, who should be able to take them for granted. There are many problems in our local authorities, but at least they are able to provide water and sewerage services — the ESB provides electricity connections — when new housing estates are built. People tell me it is increasingly difficult to get a telephone line installed or repaired. It is the privatised monopoly that is causing the biggest problems.

I would like to respond to some aspects of the Minister of State's speech. I could make a speech about the broadband mess, which is the only way to describe it. The ideology that competition can solve such problems is probably driven by the Department of Finance. First year economics

students could tell one that real competition exists if there are so many players in the market that the departure of one participant would not affect the market. It is probably impossible to get a sufficient number of players in the telecommunications market. I have no problem with maximising competition, but the belief that it will lead to the provision of broadband in Castletownbere and its hinterland is nonsense. In a country like Ireland, which has a fairly substantial population outside its major towns and cities, universal access to high-quality and high-speed broadband cannot be achieved without the State involving itself in the market.

When one listens to the Minister of State, Deputy Browne, one wonders on what planet people are living. While I do not want to quote too extensively from his speech, I would like to comment on some revelations about the nature of Irish society which seem to have dawned on the Government. The Minister of State said that “both ComReg and the European Commission have cited the lack of strong enforcement measures as an obstacle to the implementation of the regulatory regime”. How many speeches on enforcement, in areas like drink driving and speed limits, etc., have been made in this House in the past 20 years? We have finally realised, five years after the establishment of ComReg, that organisations of that nature will fail if they are not given strong enforcement powers. Words rarely fail me, but we are getting close to it now.

The Minister of State stated baldly that “the regrettable fact remains that some of the major operators either do not provide data for some quarters or fail to supply any of the data that ComReg requires”. That sounds like cowboyism. The major participants in the market have been given something that is a privilege, particularly in the area of mobile telephony. They are allowed to use the radio spectrum, which is a limited resource. They have responded by telling the State regulator to get lost. They do not tell ComReg what it wants to know. I started to wonder about the country when I read an astonishing statement in the Minister of State’s script. I refer to his announcement that ComReg “is planning the introduction of a fully automated data capture system that will allow operators to submit data online.” It seems it is impossible to submit data on-line to the regulator of our telecommunications system, which is supposed to be ensuring the whole system is modernised. I presume one can submit data in paper form only. If the communications regulator has not yet enabled itself to be communicated with electronically, what does that say about the vision within that organisation? Such complacency suggests to me that the whole thing is a mess.

I was glad to hear Senator White quoting my classmate in college, Mr. Martin Cronin, who is now the chief executive of Forfás, about the need for broadband services. I am sick of talking about the need for broadband. This country’s failure to

provide such basic infrastructure is its biggest problem. The American Chamber of Commerce Ireland has stated bluntly that 40% or more of its US executives do not want to hold meetings in Ireland — they think it is too difficult to get around this country because of the state of its roads. It has said the absence of a reliable——

**Ms Ormonde:** Senator Ryan knows that is not true,

**Mr. Ryan:** That is what it has said. The member businesses of the American Chamber of Commerce Ireland employ 100,000 people. In the businesses’ submission to the Government on the national development plan, they pointed out that more than 40% of their US executives did not want to come to Ireland for meetings. They mentioned broadband again and again. Given that this small country has a small population and is not short of money at present, why can it not sort out its infrastructural problems? The revelations about telecommunications which have dawned on the Government——

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern):** The Senator is not being very positive.

**Mr. Ryan:** ——have come about five years too late.

**Mr. M. Ahern:** He is running down the country. His negative type of talk does not help at all.

**Acting Chairman (Mr. Finucane):** I call the Minister of State to order.

**Mr. Ryan:** Who set up a telecommunications regulation system that had no enforcement powers? I did not do so, the Government set it up and it takes five years for it to dawn on the Government that if the telecommunications sector is to be regulated, the regulations must be enforced. I am not being negative; I am pointing out the fact. International competitiveness reports, mostly from the World Economic Forum, which state that one factor showing deterioration in Ireland is the capacity of the Government to respond flexibly and rapidly to new situations. This is as good an example as one could ask for.

**Mr. M. Ahern:** I fundamentally disagree.

**Mr. Ryan:** Slow, late and inadequate is the only way to describe it. Our telecommunications infrastructure is a mess. We should be looking to what telecommunications will be like in 20 years time instead of being last behind places like Estonia and Hungary and wondering why modern telecommunications and other industries are moving to those countries rather than staying here.

We go on about cost competitiveness, which I acknowledge is not unimportant, but there are all sorts of factors entirely within the Government’s

[Mr. Ryan.]

hands and one of those is telecommunications infrastructure. From the series of astonishing admissions in the Minister of State's speech, we know what the problem is. A private sector quasi-monopoly has been bullying ComReg for four or five years, doing what it liked, and unable to be dealt with. It is now whingeing to people about the possibility of significant penalties. This is the core of the matter.

I know that some people in the Government share my view that it was a mistake to privatise the infrastructure and the solution ought to have been to keep the telecommunications infrastructure in public ownership and to privatise the service providers. That is my view. To see the classic and ultimate example of what the private sector does when it has an infrastructure monopoly is to go out to the WestLink any day of the week and watch the most glorious rip-off the State has ever invented. It is a bad service at an exorbitant price making enormous amounts of money and which will have to be bought out at a cost which will nearly equal the cost of the tribunals which worried so many people on the Order of Business this morning.

**Mr. M. Ahern:** Can ComReg do anything about that?

**Mr. Ryan:** The Government can.

**Mr. M. Ahern:** The Senator is jumping around from one issue to another.

**Mr. Ryan:** I am not referring to the roads but to the inability of Government to react quickly and flexibly and to see where the world is going. The Government believes that the old model is the new model but the old model is out of date.

I am more than a little worried about the emergency service. I can understand the Government's position in this case as Eircom, apparently, does not regard itself as having any public service obligations and it is trying to get out of those that it has. Given that the same agency which is supposed to be responsible for the quality of cable television services, the customer service quality of the mobile phone services and many other services, will now take responsibility for the quality of the emergency service, people have cause to be nervous in terms of customer service.

This is a welcome Bill and would have been a lot more welcome four years ago when it was needed. At the core of the Bill is the belief that there is some mythological form of competition which will miraculously and suddenly give us all high quality broadband. I repeat that it will not unless somebody and the State takes charge. I do not care whether this is a public private partnership—

**Acting Chairman:** I have allowed the Senator some latitude.

**Mr. Ryan:** I will conclude. The legislation is welcome and complicated and the penalties are proportionate in terms of the apparent abuses that have been going on. I hope it passes through both Houses reasonably quickly and is enforced with the vigour it deserves.

**Ms Ormonde:** I welcome the Minister of State to the House. I have listened to Senator Ryan's contribution. While I like the Senator as a person I would hate to sit down to table with him because of his doom and gloom and negative thinking. In his view, no matter what the Government does, it is wrong. I do not understand that approach.

Extra powers are being given to the consumer. The telecommunications regulator, ComReg, will provide additional powers to the consumer. For too long the consumer has not had sufficient influence when it comes to interacting with telecommunications companies. The consumer has had very little option when it comes to complaining about the services or about price. I hope the Bill will change the situation. I ask the Minister of State to reassure Senator Ryan that the Bill will give power to the consumer. Listening to Senator Ryan, one would think that the Bill is a non-starter.

The Bill will give ComReg the power to investigate, to prosecute breaches of competition law, such as abuse of a dominant position or price fixing. This set of powers will have implications for all the main telecommunications companies, particularly those operating in the fixed line business. The most dominant player in this system is Eircom which, according to the most recent figures, had a 72% share of the overall fixed line market in the third quarter of 2006. In this time of open competition this is a very high proportion of the telecommunications market.

All but 28% of fixed phone lines in the domestic and business sectors and Internet and broadband and fax connections are Eircom lines. The next five companies only make up 20% of the entire market share. There will never be fair competition in that kind of market place and the dominant players could abuse their position and engage in price fixing. The Minister and his Department have correctly realised this kind of situation could not be allowed to continue and is the reason this Bill is vital for the telecommunications infrastructure of the country.

Telecommunications companies will face fines of €4 million or more if they fail to comply with the rules laid down by ComReg. This level of fine will make the companies involved take notice and should help to drive competition, generate more movement in the market and ultimately protect consumers. ComReg will effectively have the same powers as the Competition Authority, meaning that its bite will be just as bad as its bark. It will be able to carry out investigations following on from complaints or even on its own initiative. The regulator will have the power and influ-



ence to gather evidence and even to compel people to appear before it under oath, produce documents and other evidence and to fine and protect whistleblowers. These provisions should benefit the consumer and ensure that companies taking advantage of their market dominance becomes a thing of the past.

The Bill also gives the Minister the power to lay down regulations to bring EU directives into Irish law, a mechanism which should allow for more effective and efficient governing. This should have a further impact on opening up the market.

Overcharging and charging consumers for services they do not want and failing to supply services sought by consumers will also be outlawed under this legislation. The last of these points is of particular importance, given the difficulties in obtaining broadband services in certain parts of the country. The recently published national development plan also contains a number of measures in this area and together with this legislation it is hoped delays in the provision of broadband will be a thing of the past.

While certain sections of the telecommunications sector require further improvements to meet the demands of consumers, considerable consumer successes have been achieved in the industry over the past year or thereabouts. The decision by Vodafone and other mobile telephone companies to scrap roaming charges in the North and the United Kingdom was a positive development, which has made a significant difference to business people travelling to and from the North and Britain, while also benefiting the casual telephone user calling home from trips to the North or the UK.

The mobile telephone sector appears to be faring much better now that greater competition has entered the marketplace. With four operators enjoying a significant presence, competition has offered consumers choice and payment options to best suit their needs. Nevertheless, considerable criticism is still levelled at the fact that we have the highest mobile telephone bills in Europe. While I accept the mobile telephone operators' arguments that this is due to Irish people spending longer on the telephone than their European counterparts, more should be done to reduce telephone bills. I hope ComReg will be able to take action in this area.

I am in favour of several other measures on the Bill. I agree that ComReg should have responsibility for the oversight and management of the .ie domain name. Given that the Internet and telecoms are one and the same in the digital age, it is essential that ComReg takes over the management of our national domain name. I also agree that the Minister should have further information-gathering powers in the area of telecommunications. If Government wants to be effective in having responsibility for telecoms, we need to

have as much information as possible at our fingertips.

Once the legislation has been enacted, a public information campaign will be needed to ensure consumers are aware of what it entails. Consumers must be informed of legislative change. I am concerned that the strong powers provided for in the Bill will not be enforced. For this reason, the regulator must monitor breaches. The provisions for the establishment of an emergency call answering service should also be supported.

This is a worthwhile Bill which will finally offer consumers protection from over-charging and address the dominant role of Eircom. What impact will the legislation have on Eircom's retail network? The consumer will be pleased with the changes introduced by the Bill provided he or she is informed of them. I ask the Minister to ensure the message is reinforced through a public awareness campaign.

**Mr. Leyden:** I welcome the Minister of State at the Department of Communications, Marine and Natural Resources, Deputy Browne, to the House and wish him well in his portfolio. I had the honour of serving in the Department of Posts and Telegraphs in 1982 before it was broken up and Telecom Éireann and An Post were formed. I was later appointed my party's spokesperson on posts and telegraphs.

I welcome the opportunity to speak on the Bill. It is important that the nation's communications providers are regulated in line with the European Union regulatory framework. It is also important to grant ComReg powers to enforce best practice and fair pricing in the communications sector. By granting ComReg increased powers to investigate and prosecute anti-competitive behaviour among communications providers, the Bill will help ensure consumers secure a better deal from certain communications providers which are ripping them off. Increased enforcement powers and powers of information gathering granted to the Minister under the legislation will result in better information being passed on to the consumer and greater effectiveness in the enforcement of other provisions of the Bill.

The case of Eircom illustrates the reason the Bill is necessary. Since deregulation Eircom has become much less accountable, leading to complaints of poor service and unsatisfactory broadband roll-out. This problem must be investigated and resolved. The investigation and enforcement of communications providers' responsibilities to the consumer must be addressed. I hope the Bill marks a step in the right direction.

Eircom has indicated it will not continue to provide the emergency call answering service it and its predecessors provided in the past. It has been suggested that this service be put out to tender. Does this mean that essential life or death services such as 999 calls will be offered for tender? If a provider is found for the emergency service, will steps be taken to ensure sufficient



[Mr. Leyden.]

operators are available to answer life or death telephone calls?

I pay tribute to the work of the former Department of Posts and Telegraphs. Under the old system, before automation, telephone operators provided an excellent emergency telephone service to the public. What system will be in place to ensure private providers do not attempt to cut back on emergency call answering services? There could be unthinkable consequences if this matter is allowed to slip by without proper public debate.

Recently, it has come to my attention that mobile telephone providers have been placing essentially hidden fees on customers' accounts. These roaming fees are another example of the hidden costs of rip-off Ireland and exploit customers' lack of knowledge of the ins and outs of call charges. Before discussing the role of Vodafone, I will declare an interest. As a result of my shareholding in Eircom, I have become a small shareholder in Vodafone, from which I receive a small dividend. I also pay high charges to the company. Vodafone's roaming fees are ludicrously high for customers visiting other countries. If one is not careful, one could find oneself paying €15.90 to receive a ten-minute call in Britain or Northern Ireland. To secure an exemption from roaming charges, one must, ostensibly, inform Vodafone before travelling abroad. I do not believe this facility exists. While Vodafone is the worst offender in this regard, it is also unacceptable that a similar service offered by Meteor costs up to €9.90.

According to recent figures, Vodafone has 2.17 million mobile telephone customers, many of whom travel abroad for business and leisure. They are being ripped off by mobile providers' excessively high roaming charges. The company, the largest mobile operator in Ireland, is abusing a captive market. Mobile telephone users do not receive a message informing them how much they must pay when taking or making a call in other countries. Bill payers receive a shock when their statement arrives. While abroad, public representatives pay for the privilege of receiving calls from constituents seeking information on issues of concern.

Pay-as-you-go customers will only find out what they have been charged for calls made while abroad when they run out of credit. These hidden costs must be stamped out or made obvious to customers. No one knows how much it costs to receive a call. Given that mobile roaming fees vary widely, it is important to shop around and inform oneself of what is involved. The *www.callcosts.ie* website, established by ComReg, provides full details about the hidden costs of mobile telephones, broadband and home telephone services. While I commend the regulator for taking this step, not everyone has access to a computer or time to research the cost of calls.

The Bill addresses important issues, while also raising new questions. The hidden fees charged by telecommunications providers should be investigated. This is comprehensive, timely and necessary legislation which I hope will become law shortly. When the Opposition parties were in Government, they gave away——

**Acting Chairman:** We are about to have a history lesson.

**Mr. Leyden:** Senators are required to be reserved while in the Chair.

**Acting Chairman:** It was hard to resist making a comment.

**Mr. Leyden:** The 1982-87 coalition Government gave away our rights to satellite broadcasting to Atlantic Satellites, a £1 shelf company. This happened in advance of the advent of satellite broadcasting at its current levels. Ireland was allocated a slot over the Indian Ocean which was a footprint into all of Europe, including Britain and Ireland. Nobody seems to be able to locate the relevant file in the Department. I was not in the Department after that period, so I could not research the matter but it is on the record and I have a good recollection of it. A fellow countyman of the Minister of State, a Mr. Stafford from Wexford, was the main promoter of Atlantic Satellites at that time. It was a shelf company.

**Acting Chairman:** Mr. Stafford cannot defend himself.

**Mr. Leyden:** Before Sky got off the ground, we had an opportunity to have our own footprint over Europe, yet we blew it. We threw it away and I regret that very much. It is possibly a historical point of view but these were important allocations to our country. We are currently at the cutting edge of the communications sector in which a large amount of jobs are being created. The roll-out of broadband is vital in this regard.

Perhaps the Minister of State could outline the situation concerning broadband. I cannot understand how, as most towns have now been ducted, we are getting wireless broadband instead of ducted systems. Perhaps the major contributors are getting broadband through the ducted system. Work has been carried out in most towns to install broadband facilities but I do not see much benefit coming from it due to recent changes in technology. A large degree of broadband penetration is vital for the development of this country. We should be at the forefront in this regard.

I commend the Bill to the House. I wish the Minister of State well in his Department. It is an exciting one in which to work because it covers a wide variety of interests. It is important to have a watchdog for consumers' interests.

**Minister of State at the Department of Communications, Marine and Natural Resources**

**(Mr. Browne):** I thank Senators for their contributions to this debate. I welcome the opportunity to respond to the various comments and observations made on the provisions of this important Bill. Of course, I will ask my officials to see whether they can find the missing file Senator Leyden mentioned, particularly as it refers to a Wexford man.

As Senators have agreed, the Bill is necessary to ensure that the independent regulator, ComReg, has the tools required to ensure that the electronic communications sector is open and competitive, and that individual and business consumers benefit from increased choice and lower prices for the services they need. As I outlined in my opening statement, the Bill contains a number of provisions designed to achieve this objective. In this regard, sections 11 and 15 are particularly important. I note the general support of the House for these provisions. Effective investigatory and enforcement powers are essential if ComReg is to carry out its function of ensuring compliance by all operators with their obligations under the regulatory framework. I welcome the support from Senator Finucane and others for the measures proposed in the Bill. It is important to get the legislation right. Broadband was slow to take off but approximately 500,000 people are now availing of it and 31% of households have broadband.

A number of Senators referred to the level of fines provided for in the Bill. Fines of up to €4 million, or 10%, of turnover apply only to serious non-compliance within the framework, that is, to a very limited range of offences. In fact, this will help rather than hinder competition. New players will know that big operators with large market share face serious penalties if they do not play ball concerning their obligations.

The telecoms sector is mainly subject to private sector investment and naturally these firms will only invest where they get a return. The Government has invested, and will continue to invest, in order to promote regional broadband initiatives, including the MANs system and the proposed national broadband scheme, which will bring broadband to under-served areas. We are all aware that in certain areas of the country it is difficult to get broadband and consequently the private sector will not go there. It is important for the Government to continue to fund broadband initiatives in such areas.

Senator Finucane raised the issue of Smart Telecom. I understand that ComReg has a protocol to deal with this type of situation should it recur. The provisions under Part 4 — giving ComReg powers under the Competition Act to investigate and prosecute anti-competitive behaviour and abuse of dominance, together with its increased investigative and enforcement powers — give ComReg an effective set of regulatory

tools that will have an appropriate deterrent effect on the industry and encourage compliance.

Senator Quinn referred to shortcomings in the Irish communications sector and the contributions made to these shortcomings by the weakness of the regulator's powers. This Bill is designed to ensure that ComReg will have the necessary powers to address these shortcomings as well as ensuring competition in the market and providing a better service for consumers. Senator Finucane referred to the development of networks and access to them. The Bill's provisions will ensure that ComReg can provide access to those networks for operators who require it, and particularly to those networks belonging to dominant players in the market. This will encourage operators to invest in improving the services they provide to their customers. It will also result in a more competitive and responsive communications sector. These issues were raised by Senators Finucane and Kenneally who cited examples in support of their remarks. I hope the Bill will deal effectively with the matters they raised.

I welcome the input by Senator Ryan. Under the Communications Act 2002, ComReg is obliged to promote the interests of customers. The Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey, is always anxious that the interests of customers should be promoted.

I understand that the National Consumer Agency has engaged with NTL on customer service issues. I am glad Senator Ryan welcomes the level of fines proposed, which will improve the competitive position in the industry. I also welcome the support from Senators Kenneally, White and Ormonde on a number of issues raised in the course of debating this legislation.

The provisions of the Bill for the establishment of an emergency call handling service and the regulation of the .ie domain name are extremely important measures. A number of Senators referred to these measures and I welcome their support for them.

I thank Senators once again for their contributions to and interest in the Bill. I welcome the support of this House for its provisions. I look forward to Senators' early consideration of the Bill on Committee and Report Stages with the overall objective of placing it on the Statute Book as early as possible. I wish to thank my officials for their support and all the work they have done to enable me to bring this legislation before the House. I look forward to the Bill's early passage through both Houses.

Question put and agreed to.

Committee Stage ordered for Tuesday, 20 February 2007.

*Sitting suspended at 1.20 p.m. and resumed at 2 p.m.*

**Statute Law Revision Bill 2007: Committee  
Stage (Resumed) and Remaining Stages.**

SCHEDULE 1.

Question again proposed: "That Schedule 1 be Schedule 1 to the Bill."

Question put and agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

**Ms O'Rourke:** I thank the Minister of State, Deputy Tom Kitt, and the officials from the Attorney General's office and his own office for the work on the Bill. We have all developed great affection for the Bill during the time we have dealt with it. It is odd to have affection for legislation, but that is how it has turned out for us and others listening to the debate and commenting on it.

The task set involved a massive amount of work. Any colonial country, or any country which was overrun — we might as well make it plain — must have much of this type of work to do. Whether they have made as much progress as we in Ireland have, I do not know, but whoever decided to undertake this task did not fully realise the path they were beginning to tread. It is clear the work is only beginning. We see this not just with regard to the Acts to be repealed but also with regard to those which are being retained because they might affect a component of a present Bill or a component of life. That is another task which must be undertaken.

I thank the Minister of State, Deputy Tom Kitt, for giving the House so much of his time. I recommend that the work should continue. When so much work has been begun, and so enthusiastically and learnedly, it would be a pity and a waste if it did not continue. I hope the Government, if it is returned, or some type of alternative, would recommit to this work. While it is a massive task, it is necessary. Any country is bound by laws, but these should be modern and up-to-date, as befits a modern democracy, which we are. We are a young democracy in terms of breaking free, particularly so within Europe, given that daily life is governed by strictures, directives and all the rest. To clear the undergrowth of centuries past is a positive step. I commend the Bill and commend the Minister of State, the Department and those who helped the process.

**Mr. B. Hayes:** On behalf of the alternative, as the Leader called it, I reaffirm our commitment to the process should we find ourselves on the

other side of the House in a few months' time. It is necessary, no matter who is in Government, that this work continues. Great credit is due to the Minister of State, his officials, the Attorney General's office and the specialised unit that was established some time ago. I am glad they have dealt with this issue in such a comprehensive way and made themselves so available to all Members of the House when queries were raised.

Those queries were raised in a genuine way. It is important — this was explained to me by an official yesterday — that we err on the side of caution, particularly in respect of Schedule 1. We do not want to simply take out of commission a statute or piece of legislation which could still have a modern-day application, difficult as that may be to foresee. An excellent job has been done and those responsible for the legislation have used common sense and erred on the side of caution. The job will continue and we hope to be in a position where all the legislation referred to in Schedule 1 will be repealed in future Bills that come before the Houses.

I thank the Government Chief Whip. One wonders whether he will be remembered in history as the man who obliterated virtually all pre-independence legislation in one fell swoop.

**Ms O'Rourke:** He got rid of the British, one might say.

**Mr. B. Hayes:** This is a remarkable achievement for such a mild-mannered man.

**Mr. T. Kitt:** My late father would have been proud of me.

**Mr. B. Hayes:** Indeed he would. Nonetheless, I congratulate all involved. The Bill is not normal legislation where the Opposition would produce amendments on Committee and Report Stages. We gave the Bill a fair hearing and had a useful debate on Second Stage. No doubt, queries raised in respect of specific Acts were heeded and good advice was given to the specialised unit dealing with the issue over recent years. I congratulate all involved and encourage the other House to deposit the issue before May or June is upon us.

**Mr. Ryan:** I support the comments made. The legislation is a journey through our history. I wondered what I had got myself into when, as leader of my party in the Seanad, I was presented with the Bill, but when I began to read it, I wanted to read more about it and the interesting questions it raised. The production of the explanatory document may not have done much other than slow us down and give us more to talk about but it was very helpful. I intend to hold on to it because it is full of information.

I am still intrigued by the fact that we intend to retain legislation going back as far as 1204. One of the earliest pieces of legislation included in Schedule 1 dates to then and is retained



because a court action taken in connection with it might involve the courts having to adjudicate all the way back to then.

Not many countries in the world have gone through a process similar to this, where after 700 or 800 years of being governed from another place, the country set off on its own. I can think of other countries that were colonised for 100 or 200 years but we had a form of colonial relationship for 700 or 800 years. Therefore, there is an enormous amount of legislation. The work is worthwhile and the trawl through history is fascinating. The information provided to us by the Minister of State and officials, both in his Department and the Office of the Attorney General, was interesting and stimulating.

I wish the Minister of State well in the work. It is a great service to the country to simplify and codify the legal base of our State. It may mean lawyers may have to be paid a little less in the future as they will not have to trawl back through 800 years of legislation.

I only make this comment out of good humour. I am still intrigued by the fact that we must retain a Bill about the tithing of turnips severed from the ground. I am intrigued that perhaps this may have something to do with the production of forage foodstuff for livestock. It is entertaining that we must hold on to such legislation.

I wish the legislation well. I am sure it will not get as good debate in the other House.

**Ms O'Rourke:** I bet it will not.

**Mr. Ryan:** It may not even get debated in the other House, judging by the pile-up of legislation from the Seanad waiting for debate there. I wish the Minister of State well with the legislation which is worthwhile but which will not bring him a single vote in his constituency. None of us will get a vote on that basis either, but it is still more than worth doing.

**Dr. Mansergh:** I disagree a little with the literal accuracy of what has been said. I raised the issue of the Erasmus Smith Trust in which the Abbey school in Tipperary is involved and I received a thorough reply giving the legislative basis, post 1660, on which it is based and which I think will be very useful to the school. This is an indication of the thoroughness which has gone into the work on the legislation. What is involved is not just a matter of glancing at titles and knocking them off our list. An in-depth study has been carried out. I thank and congratulate the Minister of State and his team and the Office of the Attorney General for undertaking the work.

I wish to return to a reference I made last night to Victorian legislation.

**An Cathaoirleach:** We cannot go back to last night's debate.

**Dr. Mansergh:** I will not hold up the House. An obvious example of what I mean is the Offences against the Person Act, which deals with the abortion issue. Until we are ready to legislate for this ourselves post independence, that legislation will stay on the Statute Book. This raises issues which are anything but simple, straightforward or uncontroversial. Some pre-1922 legislation presents us with knotty issues with which we must deal.

Another point implicit in what has been done is that certain foundations and charities value their legislative base, even though it may arise from pre-independence legislation. Out of respect for them and the ethos of their traditions, such Acts should not necessarily be repealed.

**Minister of State at the Department of the Taoiseach (Mr. T. Kitt):** I thank the Cathaoirleach and Senators for their comments. It has been an honour to be here. This is our second time round on this process.

What we are doing with this legislation is truly historic. The Bill will repeal 3,188 statutes, which is far more than any previous statute law revision measure and is more than the entire number of public general Acts of the Oireachtas enacted since Ireland achieved independence in 1922. This Bill is different from what we did previously which repealed previous legislation. Now we have a white list which we will retain, which consists of 1,348 Acts.

Senator Ryan mentioned the tithing of turnips. We could speak all day and night on such issues. I did not get the opportunity to respond to the Senator last night, but as someone who was involved in education, I agree with him that we should try to link with schools on this topic. I will ask officials to follow up on the suggestion made last night that we try to link with students on this subject. If I were a student again, I would love to have the opportunity to delve into the subject. We will do our best to try to link up with the education system. The white list contains all the statutes that will continue in force after the enactment of the Bill, but these statutes will be re-enacted.

I agree the work should continue. The process has been very much driven by the Taoiseach and the Attorney General. I thank our team of officials and those involved in the process over the past two years. They have done tremendous work and provided a great service to the State. We are eternally indebted to them for that.

The Bill is not the end of the process of modernisation of our Statute Book but it is an important step in the process and will provide a blueprint for future measures, not just of statute law revision but also of substantive statute law reform. Our ultimate objective, as Senator O'Rourke stated, is to provide the Irish people with a single legislative code that is clear and accessible. That code will contain only laws enacted by the democratically elected Oireachtas



[Mr. T. Kitt.]

or under European law, Ireland being a member of a Community of equal nations. The Bill will be a major step towards clarity and democratic credibility in the Statute Book.

Clearly, we are dealing with the flow of new legislation and the existing stock, which one might term the “dead wood”. It is important to repeat that the flow of new regulations is being tackled through regulatory impact analysis, something introduced across all Departments in June 2005. The approach requires them to consult each other extensively before regulating and to analyse in greater detail the likely impact of Bills and significant statutory instruments before presenting them to the Oireachtas. It is obviously important to state that the Taoiseach and the Government are very keen. Having put in place a good system for the flow of new legislation that has been supported by both Houses, we are now dealing with such dead wood in a very comprehensive fashion.

I sincerely thank the Seanad. We have debated the Bill here several times, and although we did not attract a major audience in the Gallery, we have left our mark on this legislation, and I am privileged to have had the opportunity to steer the legislation through this House.

Question put and agreed to.

**An Cathaoirleach:** When is it proposed to sit again?

**Ms O'Rourke:** At 2.30 p.m. next Tuesday.

### Adjournment Matters.

### Seirbhísí do Dhaoine Óga.

**Mr. Browne:** Cuirim fáilte roimh an Aire.

Seans go bhfuil a fhios aige go bhfuil gael scoil agus gaelcholáiste i gCeatharlach, agus ba mhaith le roinnt de na daltaí go mbunófaí áiteanna speisialta le haghaidh daoine óga ionas go mbeidís ábalta dul ann agus spraoi a bheith acu agus iad ag labhairt Gaeilge. Tá an laghdú atá ag teacht ar an méid Gaeilge a labhraíonn daoine óga go huafásach agus, faraor, ag éirí níos measa le gach cluiche Playstation nua. Tá an cumas atá acu chun í a labhairt ag laghdú, agus tá an tsuim atá acu inár dteanga dhúchais beagnach imithe.

Níl iarracht ar bith á cur isteach ag an Rialtas an fhadhb seo a réiteach. Níl éinne ag iarraidh, fiú, í a aithint, mar bheadh náire orthu dá bhfeicfidís an fhianaise agus an easpa oibre agus dul chun cinn atá á dhéanamh acu. Thit leibhéal Gaeilge sna bunscoileanna le blianta beaga anuas, agus níl an Ardteist oiriúnach do shaolta na n-óg. Tá daltaí ag iarraidh pointí agus grádanna arda a bhaint amach, ach bíonn sé an-deacair dóibh de bharr a gcaighdeáin Ghaeilge. Tá scrúdú béil le déanamh acu, ach níl aon taithí acu an teanga a labhairt. Mar sin, conas a gheobhaidh siad na

25% atá tuillte ag an chuid is mó acu agus iad ag dul a staidéar. Tá sé fíor-dheacair, agus tá an t-am sroicthe againn anois rud éigin a dhéanamh faoi seo.

Is é mo thuairim go bhfuil áit shóisialach ag teastáil ó dhéagóirí chun dul ann agus a bheith lena gcairde le seans Gaeilge a labhairt. Ní féidir leis na múinteoirí ach an méid a dhéanamh atá sa téacsleabhar. Mar sin, tá sé suas do dhaltaí, do thuismitheoirí, agus don phobal an chuid eile a dhéanamh. Chabhródh na háiteanna seo go mór lena gcumas Gaeilge agus an smaoinemh atá acu uirthi. Níl féin-mhuinín acu labhairt as Gaeilge sna ranganna. Is rud deacair é muna bhfuil taithí ag duine air. Bheadh seans ag déagóirí Gaeilge a labhairt i dtimpeallacht dheas. Bheidís in ann feabhas a chur ar a gcuid Gaeilge agus iad ag imirt cluichí lena gcairde. Tá fíor-riachtanas na háiteanna seo a chur ar fáil. Scaipfidís grá don teangain i measc aos óg na hÉireann aríst, agus dá mbeidís in ann an teanga a labhairt, bheidís ag iarraidh dul ag obair chun feabhas a chur ar a gcuid Gaeilge scríofa i gcónaí.

Ní féidir linn seasamh siar ag féachaint ar an lagar mór seo atá ag tarlú lenár dteanga dhúchais. Tá orainn an grá a chur ar ais i gcroíthe na ndéagóirí. Ní féidir le múinteoirí agus tuismitheoirí íde béil a thabhairt dóibh muna bhfuil caighdeán sásúil acu. Níl an milleán go hiomlán orthu, agus tá orainn lámh chabhrach a thabhairt dóibh. Mar a deireann an seanfhocal: mol an óige, agus tiocfaidh sí. Is iadsan na síolta, agus beidh na caifeanna Gaeilge seo mar uisce orthu.

**Minister of State at the Department of Transport (Mr. Gallagher):** Tá áthas orm an deis seo a fháil freagra a thabhairt ar an Seanadóir de Brún. Tá mo bhuíochas ag dul dó as ucht an cheist seo a ardú.

Tá deis agam anois an méid atá á dhéanamh ag an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta agus ag comhlachtaí áirithe a thagann faoina scáth maidir leis an chúram fíorthábhachtach seo i leith na hóige a chur ar thaifead an Tí.

Maidir le hóige na Gaeltachta, tá cláir ar leith á stiúradh ag an Roinn le deis a thabhairt do dhaoine óga dul agus spraoi a bheith acu agus iad ag labhairt na Gaeilge. Is é an chéad cheann acu ná scéim na bhfoghlaimoírí Gaeilge. Faoin scéim seo, tugann daoine óga as gach cearn den tír — breis agus 25,000 acu anuraidh — cuairt ar na Gaeltachtaí le trí seachtaine a chaitheamh ag foghlaim na Gaeilge, mar aon le himeachtaí taitneamhacha eile ar nós cúrsaí spraoi agus spóirt de gach uile chineál. Cuirtear an cúnamh seo ar fáil le cabhrú le muintir na Gaeltachta na scoláirí óga a choinneáil ar íostas ina dtithe cónaithe le go mbeidh deis acu teacht isteach ar bhlas agus líofacht nádúrtha na Gaeltachta.

Chomh maith leis sin, tá scéim na gcampaí samhraidh ann. Faoin scéim seo, faigheann páistí na Gaeltachta féin — breis agus 5,000 acu anuraidh — deis sóisialú a dhéanamh agus caitimh aimsire éagsúla a bheith acu trí Ghaeilge i seisiúin

a mhaireann ar feadh seachtaine, nó i gcásanna áirithe coicise. Tá sé mar aidhm ag na campaí seo an Ghaeilge a threisiú trí réimse d'imeachtaí oideachasúla agus spóirtiúla a eagrú, mar shampla, ríomhaireacht, ceardaíocht, drámaíocht, ceol, stair shóisialta áitiúil, seanchas agus gach cineál spóirt.

Tá áiseanna caitheamh aimsire ann fosta. Tá scéim deontas ag an Roinn freisin le deis a thabhairt do phobal na Gaeltachta áiseanna caitheamh aimsire a chur ar fáil mar infrastruchtúr d'imeachtaí na hóige. Cuirtear cúnaimh ar fáil do choistí áitiúla le páirceanna imeartha, hallaí pobail, coláiste Gaeilge agus mar sin de a chur ar fáil.

Tá ról tábhachtach ag Údarás na Gaeltachta chomh maith maidir le seirbhísí óige sa Ghaeltacht. Is é an príomhchuspóir atá leis na seirbhísí seo ná forbairt phearsanta an duine óig a threisiú trí mheán na Gaeilge. Chun an cuspóir sin a bhaint amach, tá tacaíocht shubstaintiúil á cur ar fáil do choistí le cuidiú leo iarratais a ullmhú le deontas caipitil a aimsiú d'fhoirgnimh i gcomhair cúram leanaí. Go dtí seo, tá sé cinn acu seo tógtha sa Ghaeltacht, agus tá airgead ceadaithe do chúig cinn eile le tacaíocht ó Údarás na Gaeltachta. Tá comhlacht neamhspleách bunaithe le freastal ar an aoisghrúpa trí go dtí a cúig, is é sin, Comhar Naíonraí na Gaeltachta Teoranta. Tá breis agus 75 naíonra cláraithe leis an chomhlacht, a dhéanann freastal ar bhreis agus 1,000 páiste. Cuireann Údarás na Gaeltachta maoiniú suntasach ar fáil do Chomhar Naíonra na Gaeltachta gach uile bhliain.

Tá Óige na Gaeltachta Teoranta bunaithe. Is comhlacht neamhspleách eile é seo, atá ag freastal ar óige na Gaeltachta san aoisghrúpa seacht ar aghaidh. Tá an comhlacht á riaradh ag ógcheannairí agus á mhaoiniú ag Údarás na Gaeltachta. I gcásanna faoi leith, cuireann Údarás na Gaeltachta foirgnimh nó suíomh ar fáil le freastal ar éilimh na hóige.

Taobh amuigh den Ghaeltacht, tá an fhreagracht maidir leis an bpobal a ghríosú i leith na Gaeilge ar Fhoras na Gaeilge. Cuireann Foras na Gaeilge maoiniú ar fail do ghrúpaí chun campaí samhraidh lán-Ghaeilge lasmuigh den Ghaeltacht a eagrú. Is bunchritéar é go mbeadh sé mar phríomhaidhm ag na campaí samhraidh an Ghaeilge a threisiú trí imeachtaí oiriúnacha a eagrú trí mheán na Gaeilge do dhaoine óga. Tuigim gur fhreastal beagnach 1,400 daoine óga ar 32 campa samhraidh le linn 2006 faoin scéim seo.

Tá scéim nua fógartha ag an bhForas i mbliana: sceim na hóige, le himeachtaí trí Ghaeilge don aos óg a chur chun cinn. Bhí na fógraí sna meáin an tseachtain seo chaite agus is féidir iarratas a chur isteach chuig an bhForas suas go dtí deireadh mí Mharta. Molaim do ghrúpaí iarratas a chur isteach.

Sa scéim nua seo, tá béim ar imeachtaí óige trí mheán na Gaeilge lasmuigh den Ghaeltacht. Ní mór go mbeidh sé mar phríomhaidhm ag na himeachtaí seo deiseanna cumarsáide a chruthú

do dhaoine óga trí mheán na Gaeilge. Fáiltím go mór roimh an tionscainm nua seo ó Fhoras na Gaeilge agus tá suil agam go mbeidh torthaí fiúntacha air.

Ta céimeanna stairiúla curtha i gcríoch le déanaí ó thaobh thodhchaí na Gaeilge ar fud na tíre de: tháinig forálacha uile an Achta Teanga i bhfeidhm i mí Iúil seo caite; tháinig stádas mar theanga oibre agus oifigiúil an Aontas Eorpaigh i bhfeidhm don Ghaeilge ar 1 Eanáir 2007; agus foilsíodh ráiteas an Rialtais i leith na Gaeilge díreach roimh an Nollaig.

Tá se beartaithe ag an Rialtas plean 20 bliana a chur le chéile thar thréimhse dhá bhliain, plean a leagfaidh amach céimeanna praiticiúla chun an Ghaeilge a láidriú mar urlabhra agus teanga cumarsáide sa tír. Tá cóipeanna de ráiteas an Rialtais á scaipeadh ag an Roinn faoi láthair ar eagraíochtaí deonacha, scoileanna, leabharlanna agus araile, d'fhonn aighneachtaí agus moltaí i leith an phlean straitéisigh a lorg. Tá mé cinnte go mbeidh go leor daoine agus eagraíochtaí sásta a moltaí a nochtú agus a chur isteach chuig an Roinn.

Sa chomhthéacs seo, glacann an tAire, an Teachta Ó Cuív, go hiomlán leis an bpointe atá taobh thiar de cheist an tSeanadóir. Is gné lárnach den chúram seo an Ghaeilge a láidriú mar theanga pobail taobh amuigh den Ghaeltacht, go háirithe i gcomhthéacs naisc a chruthú idir pobail a labhartha, na daoine óga agus gael scoileanna áitiúla. Tá sé ag súil leis an díospóireacht a bheidh le Fóram na Gaeilge agus an plean straitéiseach a ullmhú. Tá sé ag súil go mór freisin le moltaí agus aighneachtaí a fháil ón bpobal agus ón lucht spéise uile ar fud na tíre. Tá sé ag súil go mbeidh roinnt moltaí fiúntacha i leith an ghné áirithe seo ar fáil dó agus arís gabhaim mo bhuíochas agus buíochas an Aire leis an Seanadóir as an cheist seo a ardú agus déis a thabhairt domsa, ar son an Aire, an freagra choimsithe seo a chur os bhur chomhair.

### School Accommodation.

**Dr. Mansergh:** I welcome the Minister of State to the House. Clerihan, a village approximately five miles from Clonmel, is rapidly growing into a new town, but it has limited facilities. It has no sports pitch but one is being prepared, partly grant-aided by the Department. There used be a post office when it was a tiny village, but now that the population has expanded it has none.

The school, which was built approximately 12 years ago, is expanding rapidly. For example, there were 55 pupils in 1994, there are now 162 pupils and there is every indication from the state of the town, which is effectively almost a building site, that the number will continue rising.

There is an active and enterprising board of management, chaired of course by the parish priest Fr. Ó Bric, which wants the best for their children and to provide the facilities needed. A fine new school with two classrooms was built in 1995. In 1999 permission was granted for an extra

[Dr. Mansergh.]

classroom, and then there was a question of further accommodation. Following much correspondence, permission was given for two classrooms, but the board of management decided the school would need four classrooms and proper facilities for the principal, and it funded this itself. Simultaneously, it also undertook to build a fine sports hall — not funded by the Department. The school had to raise and borrow significant sums of money. There is a sense of injustice in that it is having to pay for a basic classroom facility and it is encountering an almost punitive attitude from the Department because it moved ahead and provided the facilities itself.

To be fair to the Department, it has, particularly in the case of small schools with the devolved grant, moved in the direction of giving more responsibility and block grants to school managements. However, as I stated, the sports facility in Clerihin is being funded entirely by the school. It is a big building and it looks as if the school will not have sufficient funds to complete it unless it can get some of the money allocated for the classrooms, which the Department would have to fund, whether by temporary or other accommodation.

I appeal to the Minister to show some flexibility in this regard and to honour, rather than take a disapproving attitude with, parents and boards of management who have the enterprise to undertake to provide proper facilities for their schools. I can easily understand their impatience.

Of course I must be fair to the Department of Education and Science and accept that it must ensure an orderly system of development of educational facilities but, as I stated to a previous Minister, Deputy Noel Dempsey, who took note of it, in the context of south Tipperary this is a unique town because it is growing exponentially in a way that no other town or village of its size is doing and it will have to cater for pupils from a very large population.

Before people get into the trenches, I appeal to the Department to reconsider this matter and see if it can at least reimburse the board of management for the extra classrooms that were needed and that were provided for by the foresight of the parents and the management. I admit to having reservations about so many areas of policy being centralised and everything having to go through a Department. Should we move towards giving more responsibility to people, supporting those prepared to take initiatives and put money towards facilities? This would be the enlightened way to conduct our education system and these are very worthy people with a fine school, the core of which was built by the Department of Education and Science. Those involved have taken this issue further than they were permitted but their behaviour is totally justifiable on the basis of the huge increase in pupils.

I appeal to the Minister for State and the Department of Education and Science to enter

discussions to resolve this matter and clear what is a justifiable sense of grievance.

**Mr. Gallagher:** I thank Senator Mansergh for raising this matter and providing me with an opportunity to respond on behalf of the Minister for Education and Science. In doing so I wish to outline her strategy for capital investment in education projects and to outline the position on capital funding for Clerihin National School, Co. Tipperary.

This year, over €300 million will be invested in large-scale building projects concentrated mainly in the provision of school accommodation in rapidly developing areas. This level of funding will facilitate construction work on over 150 large-scale projects which will deliver over 15,000 additional permanent places in new schools and the extension and modernisation of facilities in existing schools for over 45,000 pupils.

It will also enable the purchase of sites to facilitate the smooth delivery of the school building programme, again with the focus being on site requirements in rapidly developing areas. The balance will be used to fund the other elements of the school building programme such as the summer works scheme, the small schools scheme and the permanent accommodation scheme. In total over 1,500 school building projects will be delivered in 2007.

As Senator Mansergh said, Clerihin national school was built in 1996 as a new two classroom school. In 1998 the Department gave approval for a one-classroom extension and this was completed in 1999. The management authority of the school then made a further application in August 2000 requesting two additional classrooms, a general purpose room and appropriate ancillary accommodation for a five classroom school. In 2002 the school accepted an all-in grant towards the cost of two permanent classrooms in lieu of prefabricated units.

The management authority of the school decided at this time to build a third classroom and ancillary accommodation, which was funded, as Senator Mansergh said, through the board of management and the parents association. At no time did the Department of Education and Science approve this accommodation and this is where the problem lies.

In 2006 the management authority of the school requested retrospective grant aid from the Department for the unsanctioned classroom. Funding for this room was not approved by the Department as it is considered that a request for retrospective funding, for which there is no provision in the capital budget, would militate against the published prioritisation criteria which were agreed with the education partners.

The management authority of the school has applied for two additional classrooms under the permanent accommodation scheme 2007. All applications under this scheme are being assessed and I understand that an announcement on this

list of successful schools will be made shortly. The school's application for a general purpose room has also been assessed in accordance with published prioritisation criteria and has been assigned a band 4 rating. Progress on this application will be considered in the context of the school building and modernisation programme from 2007 onwards.

I appreciate Senator Mansergh's strong views and assure him I will relate them to the Minister. The Senator has referred to the pragmatism, courage and enterprise of the board of management, parents association and the families with children at the school. He has given a balanced contribution and can see, I believe, the position of the school authorities and the department. I will advise the Minister of Senator Mansergh's request on review, reimbursement and the uniqueness of this school that began in 1996 with two classrooms. This matter is a microcosm of what is happening around the country and is indicative of a successful economy and population growth. Senator Mansergh can be assured that I will advise the Minister of his strong views at the first opportunity.

**Dr. Mansergh:** I thank the Minister for State for his reply and understanding of the situation but I query the inflexible attitude to retrospective funding he presents. If this is a blanket policy then I think it is wrong.

### Schools Building Projects.

**Mr. Finucane:** I wish to share my time with Senator Brennan.

**An Cathaoirleach:** There is great co-operation in Limerick.

**Mr. Finucane:** It is a great show of solidarity. This issue relates to Coláiste Chiaráin in Croom, County Limerick. Recently, a deputation of parents met me to express their concern at the lack of activity in replacing the old school with a new structure. The existing school was built over 20 years ago and at that stage it consisted of five classrooms, a staff of 12 and a student population of 86. It is now recognised locally and nationally for its commitment to the provision of quality education to students of all abilities and denominations. The school has an unrivalled subject choice for State examinations and has been highly acclaimed for initiatives in information technology.

The difficulty facing the school is due to its success because student enrolment has soared to 729 pupils, with a complement of 65 staff. The present school campus is contained on a site of less than 6 acres and all of the green areas have been eroded to accommodate 50 temporary prefabricated buildings. As a result, there has been a depletion of playing fields, there is no gym and assembly and canteen and staff facilities are totally inadequate. It is clear that Coláiste Chia-

ráin has out grown its boundaries due to its success.

The school was invited to join the common applications system for Limerick city and county because of its progress and success. This process will yield up to 150 students for enrolment from September 2007, surely an expression of solidarity from parents regarding the educational success of the school. Parents are frustrated because they feel there is a lack of motivation on the building of the new campus and that the project is still at the concept stage.

The recent meeting held between the school's parents council and the vocational education committee led parents to the conclusion that the VEC has not yet delivered a site and they feel a controversy is growing around long-term pupil enrolment. Parents are very frustrated at this delay and I raised this issue today hoping the Minister for State will give a response indicating that progress is being made on this matter.

Documentation I received indicates that parents consider the school should aim to accommodate 800 pupils in the long term. I look forward to the Minister's response.

**Mr. Brennan:** I welcome the Minister for State to the House and thank Senator Finucane for sharing his time on this matter. I support the points raised by the Senator. The school in Croom has 729 pupils and a staff of 65, and it is to take in 150 students next September under the common enrolment system. It is a very valuable campus situated on less than six acres of fully serviced land in the centre of the town.

The concerns of the community, including the parents, were raised at recent meetings with the VEC in an effort to clarify the committee's and Minister's commitment to providing adequate facilities to meet the demand. As Senator Finucane stated, the long-term pupil-teacher ratio is of concern in determining the future enrolment of the college.

The school has attracted students from Limerick city, which has solved the problem for the Minister. However, four years ago, when both Senator Finucane and I were members of Limerick County Council, the Croom town development plan was adopted and the present college facilities were on the lands zoned for educational use. At the time, the VEC was trying to identify adjacent suitably zoned lands. In light of the long-term plan for the town and the ring road, the Department and VEC should consider the surrounding lands to determine how a phased building programme could reach the standard they require.

The college is a tremendous asset to the town of Croom. Suitably zoned and serviced land is scarce and I therefore ask the Minister to address the concerns of the parents and clarify the future enrolment of the school and the timeframing and commitment of the Department in providing the required facilities.



**Mr. Gallagher:** Ba mhaith liom mo bhuíochas a chur in iúl do na Seanadóirí as ucht an ceist tábhachtach seo dá cheantar a ardú ar an Athló agus deis a thabhairt dom freagra a thabhairt thar ceann an Aire Oideachais agus Eolaíochta. I thank both Senators for raising this matter as it affords me the opportunity to outline to the House, on behalf of the Minister for Education and Science, the strategy for capital investment in education projects and also the current position on proposed developments at post-primary level in Croom.

Modernising facilities in our 3,200 primary and 750 post-primary schools is not an easy task given the legacy of decades of under-investment in this area and also the need to respond to emerging needs in areas of rapid population growth. None the less, since taking office, this Government has shown focused determination to improve the condition of school buildings and to ensure that appropriate facilities are in place to enable the implementation of a broad and balanced curriculum.

Under the National Development Plan, 2007 to 2013, launched some weeks ago, funding of €4.5 billion will be invested in first and second level schools modernisation and development programmes. This unprecedented level of investment will allow us to meet the needs of a growing school population, modernise existing school facilities and provide for curriculum reform and innovation.

A total of 7,800 individual schools building projects were delivered on foot of the €2.6 billion investment under the last national development plan. Building projects under the €4.5 billion investment in the new national development plan will benefit from recent innovations in delivery mechanisms that have allowed for fast-tracking of priority school developments. Schools are seeing that the activity under the new plan is already under way, with 1,500 school building projects due to be delivered in 2007.

On the specific matter in hand, Coláiste Chiarán is the only post-primary school in Croom and it is a co-educational provider with a current enrolment of 554 mainstream pupils. It has 175 students attending post-leaving certificate courses. The school's accommodation comprises some permanent accommodation and an extensive number of prefabricated buildings, which

were provided to the school over the years to address its growing enrolment.

County Limerick VEC has applied to the Department of Education and Science for funding towards the provision of a new school building for Coláiste Chiarán. Given the restricted nature of the existing site of some six acres, the Department has given the necessary approval to County Limerick VEC to purchase a site to facilitate the development of a replacement school. The VEC has identified a suitable site for that purpose.

The Department of Education and Science is currently preparing the long-term projected enrolment on which the school's accommodation needs will be based and will shortly notify the VEC of same. When the long-term projected enrolment has been finalised and agreed with the school authorities, the Department will draw up schedules of accommodation for the new building. The building project will then be progressed in the context of the schools building and modernisation programme.

I thank the Senator for contributing to this important debate concerning the future of many young people in the catchment area of Croom. The Senators' raising this matter allowed the Minister to outline, through me, the progress being made under the schools building and modernisation programme and the position of Coláiste Chiarán in Croom. I have listened attentively to both Senators, who have an intimate knowledge of the case in question. Reference was made to the many prefabricated buildings. I hope progress can be made when the details of the schedules of accommodation are available and the long-term enrolment is determined. There is no point in catering for the present; one must also cater for the future.

**Mr. Finucane:** The Minister of State said, "The Department of Education and Science is currently preparing the long-term projected enrolment on which the school's accommodation needs will be based and will shortly notify the VEC of same." Does he believe the VEC will be notified within a month?

**Mr. Gallagher:** I will indicate the Senator's concerns to the Minister.

The Seanad adjourned at 2.55 p.m. until 2.30 p.m. on Tuesday, 20 February 2007.