

DCENR Submission to Review of State Assets and Liabilities

Introduction

This submission by the Department of Communications, Energy and Natural Resources is in response to the letter of 23rd July last from the Chair of the Review Group on State Assets and Liabilities. The submission has the full approval of the Minister for Communications, Energy and Natural Resources. The Minister would also stress that ultimately any decisions in this area will be a matter for the Government.

The Terms of Reference of the Review Group as set by the Minister for Finance are as follows:

1. To consider the potential for asset disposals in the public sector, including commercial state bodies, in view of the indebtedness of the State;
2. To draw up a list of possible asset disposals;
3. To assess how the use and disposition of such assets can best help restore growth and contribute to national investment priorities; and
4. To review where appropriate, relevant investment and financing plans, commercial practices and regulatory requirements affecting the use of such assets in the national interest.

It was indicated in a letter of 28th July last to the Chair of the Review Group from the Secretary General of Department of Communications, Energy and Natural Resources that “the Minister has asked me to indicate that in his view there must be a strategic policy context which must inform the work and conclusions of the Group. This is particularly important in the Energy area.” This view has informed the contents of this submission. Specifically, the Department of Communications, Energy and Natural Resources suggests that the Review Group should, in carrying out its task, also consider:

- The ability of the existing energy utilities to raise finance and stimulate large scale investment in an economy where other capital investment is contracting
- Consistency of any proposals with settled Government policy especially in the areas of Energy, Telecommunications and Broadcasting
- Delivery of long-term national strategic infrastructure and public service needs
- Preservation of public interest mission elements carried out by semi-state bodies (SSBs), (e.g. independence in broadcasting, e.g. universal service stipulations)
- Delivery of non-economic public interests carried on by SSBs (e.g. public amenities, protection of environment)
- The necessity of maintaining competitive markets in key infrastructure areas where such competition is helping to improve our competitiveness.

The Review Group has also invited and received submissions from specified SSBs under the aegis of the Department of Communications, Energy and Natural Resources. The Department understands that there will be engagement by the Review Group with it and with the various SSBs in relation to the submissions. The

Department of Communications, Energy and Natural Resources submission encompasses areas additional to the areas encompassed by the SSBs written to by the Review Group.

Summary View of Minister for Communications, Energy and Natural Resources

The position of the Minister for Communications, Energy and Natural Resources can be summarised as follows:

- The Minister fully recognises the urgent imperative of corrective action in relation to the public finances and the need to put a robust medium-term budgetary plan in place. He also recognises that there is potential in this context for extracting value for the Exchequer from the disposal of some of the assets under his aegis. This paper sets out his views and he looks forward to discussing these and other options, as well as related policy matters, with the Review Group.
- The commercial SSBs under the aegis of DCENR are in the main profitable, contributing significant dividends to the Exchequer, provide secure employment which is regionally dispersed and most crucially play an important implementation role in delivery of core services. The following table is a summary for the last full year of the financial and employment performance of the Commercial SSBs under the aegis of the Department of Communications, Energy and Natural Resources referred to in the Appendix to the Chair's letter of 23rd July last.
- The Minister for Communications, Energy and Natural Resources believes that the sale of ESB or Bord Gais would not be in the long-term interest of the State. Both companies are working effectively in competitive markets and investing in network and generation infrastructure which is of real benefit to the economic development of our State. Separate or part sale of such companies could lead to a significant loss of competitiveness and would lead to a reduction in critical infrastructural investment.
- The Minister considers that the review should examine how additional investment might be encouraged in the development of biomass for energy services using the skills and resources of Bord na Mona and Coillte, and innovative new private financing models including the use of pension funds. Particular attention could be given to the development of new forestry and using the land banks within each company for the provision of environmental services.
- The Minister welcomes consideration by the Review Group of the future ownership structure of the RTE transmission network in a post 2012 scenario, subject to ensuring the successful nationwide switch-off of the Analogue Transmission System and its replacement by Digital Terrestrial Television.
- The Minister is agreeable in principle to maximising revenue from assets under his aegis e.g. through Spectrum fees, Exploration and Mining fees. This

commitment is again conditional on compatibility with sectoral policy. This is particularly the position in relation to Spectrum where Ireland's competitive advantage must be utilised to advance high speed mobile broadband with full account taken of the need to generate Exchequer revenue from this valuable natural resource.

- The Minister would point out that in the event of agreement to proceed with an asset disposal once-off costs will arise for his Department both in terms of human resources to oversee the transaction and consultancy costs.

Company	ESB	BGE	BnM	RTE	An Post	EirGrid	NORA	TnG
	2009	2009	2008/09	2009	2009	Sep-09	2009	2009
	€m	€m	€m	€m	€m	€m	€m	€m
P&L								
Revenue	3,015	1,349	402	175	791	411	93	3
Deprt grants/licence fee				200				36
EBIT (post exceptionals)	615	182	24	(25)	(7)	9	56	(0)
Share of JV profits	62				(11)			
Profit after tax	580	104	16	(28)	(29)	9	43	(0)
Dividends paid	(267)	(39)	(13)	0	0	0	0	0
Balance Sheet								
Net Assets	4,034	1,402	201	145	(48)	90	229	8
Cash	0	534	64	59	290	154	83	0
Gross Debt	(2,224)	(2,357)	(120)	0	0	(124)	(444)	0
Net Debt	(2,224)	(1,823)	(56)	59	290	30	(361)	0
Pension asset (liability) per BS	(516)	(20)	(45)	9	(403)	(22)	0	0
Unrecognised actuarial gains/losses	(1,669)							
Actuarial surplus /(deficit)	(2,184)							0
Average number of employees	7,783	1,006	2,064	2,297	10,086	267	5	83

DCENR Responsibilities

Background

DCENR has responsibility for a range of commercial and non-commercial semi-state bodies. DCENR also has roles in relation to the regulation and exploitation of certain national resources and assets.

The DCENR Mission Statement is as follows:

“To promote the development of communications and energy infrastructure and markets that contribute to sustainable economic development and to harness our natural resources in a productive and environmentally responsible manner.”

The mission statement reflects the key impact of energy and communications policy on competitiveness and growth. It also reflects the highly important role of energy policy and regulation of certain natural resources in meeting the environmental, climate change and energy security challenges faced by Ireland.

It should be pointed out that the sectors and SSBs under DCENR stewardship vary greatly and it would not be appropriate to take a ‘one size fits all approach’ in analysing any aspect of the sectors or SSBs. Therefore, this paper deals with the State Assets and related assets under the aegis of the DCENR by reference to a number of headings.

These headings are:

- Commercial Energy Sector (ESB, BGE, BnM, EirGrid)
- Non-commercial energy sector (NORA)
- Land Use Policy (BnM, Coillte)
- Public Service Broadcasting (RTE, TG4)
- An Post
- Spectrum
- Natural Resources

Relevant legal and regulatory matters

Legislative Underpinning

There is considerable legislation underpinning the commercial SSBs being reviewed. The eight relevant state bodies under the aegis of the Department were established and continue to be governed by statute.

1. ESB- Electricity Supply Acts 1927 to 2004;
2. Bord Gais Eireann (BGE) –Gas Acts 1976 to 2009;
3. Bord na Mona – Turf Development Acts 1946 to 1998;
4. Eirgrid - European Communities (Internal Market in Electricity) Regulations, 2000 and the Electricity Regulation (Amendment) (EirGrid) Act 2008
5. An Post- Postal and Telecommunications Services Act 1983 and 1984
6. RTE – Broadcasting Act 2009
7. TG4 – Broadcasting Act 2009
8. National Oil Reserves Agency – National Oil Reserves Agency Act 2007 and the Energy (Biofuel Obligation and Miscellaneous Provisions) Act 2010

In the event of a decision to approve the disposal of any part of or all of the above bodies, a detailed review of this legislation would be required which would also necessarily encompass a review of the regulatory regime pertaining to these bodies. A disposal would necessitate legislation to, amongst other things, enable the Minister to dispose of his interest in the bodies; to repeal existing provisions governing the relationship between the body and the Minister; in certain cases to repeal the founding objects of the bodies; to put in place any new arrangements deemed necessary to ensure the continued achievement of policy aims; to ensure compliance with relevant European Directives; and to provide for adequate safeguards in the event that a body that had been disposed of was in financial difficulty. Consequential amendments to other legislation would also likely to be required. Given the breadth and depth of the existing legislation, the foregoing should be treated as indicative only of the legislative issues that would need to be addressed.

Regulatory Frameworks

The energy, communications and broadcasting sectors are regulated by different bodies – the Commission for Energy Regulation, the Commission for Communications Regulation and the Broadcasting Authority of Ireland.

The roles of these regulatory bodies have evolved under Irish legislation and European legislation reflecting changes in policy and sectoral make-up over time. Liberalisation and competition have been themes in the communications and energy sectors, and independent broadcasting (commercial and community) has developed alongside public service broadcasting. All sectors are developing rapidly on foot of technological change.

Regulatory frameworks in Ireland have developed in sectors where the significant provider of service was usually a state-owned entity. With state ownership certain underlining presumptions with regard to the ongoing provision and development of services could be made e.g necessary investment in the service. The experience with eircom (as well as with other sectors not under DCENR’s remit, and indeed in the

UK) suggests that such presumptions are not necessarily valid where key entities are privatised. Where the privatisation of any significant entity of importance in Irish economic or social life is considered, it is clear that a fundamental analysis and review of the applicable legal and regulatory framework must be undertaken well in advance. Such a review must include an assessment of the powers of sanction available to Irish regulators in protecting the national interest.

Commercial Energy Sector (ESB, BGE, B na M, eirgrid)

Principles concerning State Asset Ownership in the Energy Sector

The State has a significant range of energy asset ownership. The current position reflects the development of energy infrastructure by the State from 1922 onwards as well as the geographic and demographic characteristics of the island. The overall energy sector now consists of both state and private entities competing in independently regulated market places heavily defined by EU legislation. The markets are open, liberalised and contain some assets sold on by state companies.

The three pillars of Government energy policy, articulated in its 2007 Energy Policy Framework, are security of energy supply, sustainable energy supply and use, and competitiveness. The pillars remain the foundation of Government Energy policy. State energy companies are playing a key role in delivering on these objectives, developing and maintaining the vital energy infrastructure which underpins economic growth, inputting to Ireland's sustainable and renewable energy targets, and delivering real competition in the market, which has been translated into lower business and consumer prices.

DCENR is opposed to any sale of energy networks, noting that it is stated Government policy to keep the energy networks as national strategic assets in State hands. DCENR is of the view that sale of the generation and supply businesses attached to such electricity and gas networks would have a detrimental effect on the ability of such businesses to make further investments and would hamper our ability to meet our mandatory EU renewables and energy efficiency targets. Market interest is more likely to centre on the grid assets rather than the supply or generation businesses. Moreover, experience in the UK has pointed to fundamental flaws in the privatisation model for energy infrastructure with a serious gap in generation capacity now emerging. In the absence of State owned assets, regulation has failed to deliver the investments required to ensure networks and generation capacity are adequate to meet demand.

Investment Plans by Energy SSBs

The submissions by the SSBs set out to varying degrees their commercial strategy and company investment plans. These are based on multi-annual Corporate Plans approved by the Department of Communications, Energy and Natural Resources and the Department of Finance. The investment strategies are dictated by the commercial remit of the companies and also reflect Government policy.

On foot of their investment strategies the major Energy commercial state bodies have put in place elaborate and keenly priced debt financing facilities to fund the investment. These can be discussed in more detail by the Review Group with the SSBs in question. It is important to point out, however, that many of these facilities contain covenants which to some extent effectively impede the discretion to dispose of assets and /or include a requirement for repayment of the facility in question.

Publicly-owned Energy Networks

The White Paper on Energy states:

'The retention of the gas and electricity transmission and distribution networks and strategic energy infrastructure in State ownership is Government policy and these assets will never be privatised.'

This policy is reiterated in the Programme for Government. The gas networks are owned by BGE and the electricity networks by ESB. The most immediate and urgent challenge facing BGÉ, ESB and EirGrid is the unbundling of transmission networks, as required by 2012 under the EU Directives 2009/72/EC and 2009/73/EC. In the electricity sector, Government policy anticipates the transfer of ownership of the electricity transmission assets to EirGrid, with a view to improving transparency for market players and reducing costs in grid operation. Analysis of the various options allowed by EU law in this area including full unbundling is currently near finalisation by consultants in a process chaired by Mr Fergus Cahill. This analysis encompasses, inter alia, the costs and benefits, commercial implications and operational implications for both ESB and EirGrid of the options. The final Report as approved by the Minister will be submitted to Government. Clearly the eventual decision in this regard will have implications for the value of both the ESB and EirGrid.

In the case of BGE, the Minister, following detailed consideration has chosen the Independent Transmission Operator model for unbundling the network. The Minister's decision has been communicated to management and Unions of BGÉ and work is ongoing to progress the implementation of the model.

The process of unbundling for both ESB and BGÉ involves sensitive and complex IR and shareholder issues. Uncertainty around future ownership of assets generated by the Review will pose a challenge to management of the utilities and to the Department in terms of, not least, implementing the two Directives.

Network assets are the lifeblood of the national energy infrastructure system. The model historically employed for the provision of this core socio-economic function is State ownership. The experience with Telecom Eircom is a salutary lesson in terms of the potential impact on the quality and resilience of vital infrastructure if there is a departure from the State ownership model.

Development and maintenance of energy network assets is a key national priority. EirGrid's Grid25 grid development programme anticipates a major upgrade of the high voltage transmission grid over the coming 15 years. This upgrade is vital from a security of supply and regional economic development perspective, and in order to fully integrate renewable electricity onto the grid, thereby meeting Ireland's renewable energy targets. Grid development poses a serious challenge in terms of public acceptability in the context of the planning consent process. The fact that the grid is in State ownership, mitigates this challenge somewhat.

The Department will need to work closely with EirGrid in order to overcome significant challenges to grid build-out, and state ownership of the transmission system operator is significant in terms of delivering on a shared agenda for grid development. State ownership of network assets ensures that the necessary

investment is provided in accordance with economic and societal needs taking full account of the commercial remit. Any sale of network assets inevitably raises difficult challenges for the State in ensuring continued and appropriate investment. It is against this backdrop that Government policy, as expressed in the Energy Policy Framework 2007 – 2020 commits so strongly to the retention of network assets in state ownership.

Publicly-owned Power Generation

Conventional Generation Assets

As an island market with very limited interconnection at present to Britain, Irish conventional power generation (oil, gas) capacity remains vital for security of supply. It is important to note that currently 51 % of all-island generation capacity falls under state ownership and 49% under private ownership. Critical business decisions are made with regard to ongoing investment in generation capacity and in this regard there will always be a balance between ‘sweating assets’ for short-term gain and investing for long term. As state-owned entities, ESB and BGE will be expected to achieve this balance. A privatised Eircom chose an asset-sweating route with regard to the Telecom Eireann network and assets, with serious consequences for modern service provision, particularly outside of Dublin.

Strategic Generation Assets

Certain power generation assets play a unique and strategic role in ensuring energy supply in Ireland. In particular, hydropower stations, pumped-storage at Turlough Hill, peat stations and the Moneypoint power plant play important roles in the Irish electricity system. Hydro and peat fuel generation activities also carry statutory and legal duties associated with other national concerns such as water management, river and fish protection, security of supply (through the provision of indigenous energy resources), and have significant socio-economic impacts in terms of regional employment. State ownership of these assets is central to ensuring long-term security of supply benefits.

Renewables

Renewable development, primarily wind, is being significantly developed in Ireland. The energy state companies are in a unique position to contribute to Ireland’s ambitious renewable energy target of 40% renewable electricity by 2020, which is commensurate with Ireland’s legally binding EU renewable energy target. Many of these assets are still in development and state energy companies are in a position to invest and ensure that the potential of these assets are fully realised. The short to medium term focus must be on construction and delivery in what is still a nascent sector. A sale of these assets at this stage might not realise the equivalent of their long-term value.

Value of Generation Assets

The networks are of significantly more financial value than the power generation stations. They are also of greater importance from a strategic perspective. As referred to above there is already significant private ownership (about 50%) of generation.

State-owned Energy Supply Businesses.

ESB is the primary state-owned electricity customer supply business. Competition is now provided in the domestic market by BGE and Airtricity, and full deregulation of the domestic market is underway. Competition is robustly provided in the deregulated industrial/commercial markets by Viridian, BGE, Airtricity and Endesa. BGE is in the gas supply business and in 2009 entered the electricity supply business, providing strong competition to ESB, for the first time in the residential market. Customer supply businesses consist primarily of branding and billing systems and are therefore of limited value. It is generally considered that no entity would take on an electricity customer supply business without also owning some generation capacity, and experience across the European energy sector bears out the importance of having a balanced and integrated portfolio. Without such a model, an entity takes on significant risk in providing electricity at a given price with exposure to world fuel price fluctuations in generation price, without exposure to the generation upside. Any consideration of some disposal of generating assets would need to address a related disposal of supply business.

BGE is still the predominant overall seller of gas in the Irish market (including to the power generators). The Irish gas market was opened fully to competition in 2007, although CER still regulates BGE tariffs for all but the largest users. Alternative suppliers are competing against BGE in all market segments. BGE's market share in the industrial/commercial sector has reduced significantly - for larger industry, BGE now holds less than 26% of the market.

Changes in the structure of energy markets

The energy market in Ireland has changed significantly over recent years. Government policy has resulted in new players entering the market. In 2008, ESB sold assets to the Spanish utility Endesa, on foot of the CER agreement on asset disposal in 2007 designed to reduce ESB's market dominance by 2010.

The emergence of dual fuel offerings both in the generation and supply markets, is a welcome and direct feature of increased liberalisation of energy markets. Companies, including state companies need to adapt to the liberalisation agenda if they are to remain profitable over the medium to long term, while delivering for consumers.

BGE entered the domestic electricity supply market in 2009, attracting to date over 400,000 customers and providing an effective hedge against its generation portfolio. BGE's entry into the electricity market is in line with Government policy as stated in the Energy Policy Framework, and is designed to mitigate against the impact of opening of the gas supply market. The involvement of other state companies in renewable energy generation (i.e. BnM and Coillte) is a function of their significant land-holdings and the commercial imperative to maximise value for the company and shareholder.

Returns from State Companies

The mandates of the major state companies in the energy sector reflect ongoing Government policies aimed at improving the social and economic well-being of the State. In addition, State energy companies deliver on a wide range of Government objectives which would not be addressed effectively through a private sector model. Within the overarching framework of security of supply, sustainability and cost competitiveness, specific measures carried out by the State Companies, include smart meters, electric vehicles, renewable generation, and energy cost reduction strategies. The experience of working with State energy companies during the cold weather last winter, where freezing of machinery posed a real threat to supply, points to the value of retaining key assets in state ownership.

In recent years, State companies, as well as reinvesting profits in their core activities, have also paid substantial dividends to the Exchequer. Over the last three years ordinary dividends paid to the Exchequer (i.e excludes ESOP dividends) by ESB, BGE and BnM amounted to c€553m (ESB: €255m, BGE: €74m, BnM: €24m). In addition a special dividend of €176m to the Exchequer, arising from the proceeds of sale of power plants by ESB, was used to keep costs down for large industrial users and there was also a customer rebate of €300m provided by the ESB to keep costs down for all customers.

Timing and Other Factors.

A number of substantial processes are underway that, from an Energy Policy perspective, are pertinent. These include, as mentioned, the network unbundling processes in both ESB and BGE and the move to significant renewables which is at an early stage of the investment cycle. Other processes include the development work in relation to smart networks and electric vehicles. Any structural interruption to these developments would be opposed by DCENR and it is our strong view that the sale of generation or supply assets at this point would be premature, potentially impacting on the delivery of key Government policies, and not realising the full value of the assets.

Furthermore, any proposed asset sales inevitably have IR consequences, and the role and rights of the relevant ESOPs would have to be taken into consideration. The challenge in overcoming these issues should not be underestimated.

In the case of companies such as Bord na Móna, the individual business units are inter-reliant, with resource recovery providing the feedstock to replace peat in electricity generation, solid fuel supplies and horticulture products. Bord na Móna's strategy aims to grow the company in new directions with a view to protecting its long term viability as the use of peat in energy and horticulture products diminishes.

As already indicated, any asset sales would also be likely to have consequences in relation to borrowing covenants, which might prove expensive for companies [i.e a sale of assets may trigger a covenant whereby the debt would have to be prepaid].

Current market trends and potential value

It should also be pointed out that both in terms of the capacity of international investment markets and the decreasing demand for electricity in Ireland, it is likely that any asset sales would achieve sub-optimal valuations in the short and medium term.

The value of an energy business is dependent on a number of factors including;

- stage of execution of its business plan (has the business been de-risked due to execution of its business plan and hence would obtain a higher value);
- fuel prices being higher than they currently are (positive correlation between energy prices and profitability); and
- existence of a number of potential purchasers (utility companies in Europe are engaging in significant asset disposal / capital raising programmes – some analysts estimate that there are over €35bn worth of utility assets up for sale at present – meaning that the market for investment in utilities across Europe is likely to be very limited with consequences for value realisation in any asset sale.

Where networks are privately owned, international utilities are increasingly looking towards disposal, recognising that the return on investment and opportunities for investment are limited. EU policies on de-carbonisation are simultaneously resulting in a large capital investment requirement in generation, which currently exceeds the rate of utility investment spend. These policies also require substantial investment in transmission and distribution networks, distributed heat generation and smart meters.

Non-commercial energy sector (NORA)

The National Oil Reserves Agency (NORA) is the non-commercial State Agency responsible for ensuring that Ireland meets its EU obligations as well as its obligations to the International Energy Agency, in relation to strategic oil stocks. Under these legal obligations, Ireland is required to hold 90 days of oil stocks, calculated in accordance with the previous year's consumption. NORA currently holds the majority of Ireland's obligation, which are held through a combination of stocks held in Ireland and stocks held abroad.

NORA has been given statutory responsibility for the implementation of Ireland's Biofuels Obligation. NORA is fulfilling this obligation through the levy on oil products, which has now been extended to include biofuels.

NORA receives no Exchequer funding and its ongoing activities are 100% funded by a levy imposed on certain oil products (i.e. the industry) while it borrows from commercial banks in order to purchase NORA wholly owned oil stocks. The levy is 2.0 Euro cent per litre. NORA does not buy or sell oil for commercial purposes and under its governing legislation, the NORA levy must be used only for the purposes of carrying out its strategic oil storage and biofuel obligation functions. NORA also has considerable borrowings, which are also required to fund its activities. At the end of 2009, these borrowings amounted to €445m and are counted as Government borrowings. The Agency has commenced an aggressive debt repayment programme which will see €130m of its debt eliminated in 2010 alone.

The Government's Energy Policy Framework 2007 – 2010 recognises the key role of NORA in ensuring security of supply in the event of an oil supply disruption and mandated NORA to further strengthen Ireland's strategic reserve by providing more storage on the island of Ireland. This policy was further endorsed by a report commissioned by the Department in 2008, which pointed to weaknesses in Ireland's oil supply and distribution infrastructure. NORA has worked assiduously to rebalance Ireland's strategic reserves with new facilities now coming on stream at various locations on the island of Ireland and with stocks being repatriated from abroad. This policy has additional positive impacts in terms of construction and operation contracts in Ireland.

In view of the risk of international disruptions and emergency situations, it is vital for ongoing social and economic life in Ireland that measures are undertaken to ensure the availability of key oil supplies. This is a security of supply activity paid for through a levy. DCENR is strongly of the view that the legal requirement in relation to strategic oil stocks, reflecting IEA and EU obligations, must be carried out by a state agency, and that any consideration of a sale of NORA or its assets is wholly inappropriate.

Bord na Mona and State Land Use Policy

Bord na Mona, with the agreement of the Government, has been engaged in a diversification strategy for some years as its core peat business continues to decline. The Company faces significant challenges particularly in the current economic climate which has impacted on profit in 2009/10. It remains a significant employer in the Midlands. Bord na Mona has developed alternative businesses in energy generation (Cofiring at Edenderry peat fired station and wind), horticulture, resource recovery and environmental air and water treatment solutions. A key challenge for Bord na Mona is to optimise the synergies between the resource recovery, fuels, energy and environmental businesses while progressively reducing reliance on peat-based activities. Bord na Mona owns 88,000 hectares of peatland (1% of the landmass). Coillte, the State Forest Company, owns over 440,000 hectares (7% of the landmass).

There is potential for greater synergies between Bord na Mona and Coillte given their land portfolios and their shared interest in biomass and wind energy. Focus should be given to maximising the value of the State land assets of both Bord na Mona and Coillte. While the suggestion that the two entities should be merged has been mooted, there is no obvious business case economic or rationale for such a proposal. The scope for synergies merits further consideration, particularly with regard to biomass.

Public Service Broadcasting (RTE, TG4)

Principles concerning State Asset Ownership in the Broadcasting Sector

Public Service Broadcasting in Ireland

State ownership in the broadcasting sector comprises the two statutory-based public service broadcasters, RTÉ and TG4, and RTÉ's wholly-owned subsidiary RTÉ Networks Limited.

The essence of public service broadcasting is that it is not determined by market forces alone and can be characterised as a form of broadcasting which treats its audience primarily as citizens with needs and interests rather than as consumers of advertisers' products. It is for this reason that the State's public service broadcasters need to remain in State ownership, maintaining a level of independence that is free from both political and commercial interference. This is especially important in the context of news and current affairs.

The principal objects of both RTÉ and TG4 are set out in the Broadcasting Act 2009 and these provide the companies' statutory mandates and encapsulate national policy in terms of public service broadcasting.

These objects include specific requirements, inter alia, to provide national, free-to-air public service broadcasting services; to support orchestras, choirs and other cultural performing groups; to maintain libraries and archives; to operate, where practicable, public service broadcasting services for Irish communities outside of Ireland; and to operate, where practicable, free-to-air public service community, local, or regional broadcasting services.

In their pursuit of these objects, the companies are required to be responsive to the interests of the whole community, ensure that the programmes reflect the varied elements which make up the culture of the people of the whole island, and have special regard for the elements which distinguish that culture and in particular for the Irish language. They are also required to uphold the democratic values enshrined in the Constitution, especially those relating to liberty of expression, and have regard to the need for the formation of public awareness and understanding of the values and traditions of countries other than the State, including those of other Member States. They also need to ensure that programme schedules provide a comprehensive range that reflect the cultural diversity of the whole island and include programmes that entertain, inform and educate, provide coverage of sporting, religious and cultural activities and cater for the expectations of all age groups in the community generally as well as particular interest groups.

These statutory objects clearly set the State-owned public service broadcasters apart from their commercial counterparts.

RTÉ

RTÉ was established under the Broadcasting Act, 1960 and is the main public service broadcaster.

In undertaking its role as Ireland's main public service broadcaster RTÉ operates two television channels, RTÉ 1 and RTÉ Two, a number of analogue radio channels (RTÉ Radio 1, RTÉ fm2, Raidió na Gaeltachta and Lyric FM). It also operates a number of digital radio channels that are currently only broadcast on the DAB digital radio service. In addition it provides an online service by way of the RTÉ Player, RTÉ's web TV catch-up service which was launched in April 2009.

RTÉ also engages in activities and businesses that are ancillary to and support the achievement of its public service objects and these include RTÉ Publishing, RTÉ Performing Groups and RTÉ Networks Limited. RTÉ Publishing has a portfolio of five brands: RTÉ Aertel, the RTÉ Guide, RTÉ.ie, the RTÉ player and RTÉ News Now. RTÉ Performing Groups encompasses two orchestras (the RTÉ National Symphony Orchestra and the RTÉ Concert Orchestra), two choirs (the RTÉ Philharmonic Choir and RTÉ Cór na nÓg) and the Vanbrugh String Quartet.

RTÉ Networks

RTÉ Networks Limited (RTÉNL) RTÉNL was established in 2003 as a wholly-owned subsidiary of RTÉ to operate and maintain the nationwide analogue terrestrial broadcast transmission network for RTÉ Radio and Television, which had been built-up in public ownership since the 1920s. RTÉNL also hosts other national and local broadcasters, as well as telecommunications and other service providers.

TG4

TG4 was established by statute in 1996 to deliver a full range of high-quality Irish language programming on a national free-to-air basis. After operating under the aegis of RTÉ for a decade as Teilifis na Gaeilge, it was established as an independent statutory body in April 2007.

The basis for TG4's activities is reflected in its principal objects or statutory mandate which, as with RTÉ, is set-down in the Broadcasting Act 2009. Under this legislation, TG4 is required to provide a national television broadcasting service as a free-to-air public service which is made available to the whole community on the island of Ireland. This is for the purposes of promotion and development of the Irish language and culture. It is widely accepted that TG4 has been the most positive, accessible and creative measure implemented by the Government to promote and bring a sense of enjoyment to the Irish language.

Funding of Ireland's Public Service Broadcasters

As with public service broadcasters in general, RTÉ and TG4 receive an element of public funding. In RTÉ's case, it receives approximately half of its annual funding through a licence fee and the remainder from commercial revenues. In 2009, total licence fee receipts were €26.2m. An Post was paid €12.4m for running the collection and enforcement system. The remaining receipts were previously split 95% RTÉ and 5% Broadcasting Fund (the Broadcasting Fund grant-aids programming reflecting various criteria and is open to all free-to-air broadcasters). This percentage split was revised in October 2009 after the enactment of the Broadcasting Act, 2009

which provided for 93% of net television receipts to be allocated to RTÉ and the remaining 7% to the Broadcasting Fund. In 2009, therefore, RTÉ received €201.9m in licence fee receipts and €1.9m went to the Broadcasting Fund.

The allocation of €201.9m in licence fees to RTÉ can be compared with RTÉ's commercial income of €174.7m. For 2009, therefore, RTÉ was 53.5% licence fee funded.

In TG4's case, it receives over 90% of its funding by way of Exchequer grant-in-aid and the remainder from commercial income. In 2009, the break-down for this amounted to €36.4m in gross Exchequer Grant-Aid (including current and capital) and Commercial Income of €3.4m.

Licence Fee Funding of RTÉ

The fundamental rationale behind the TV Licence is the creation of an independent and reliable income flow for the Public Service Broadcaster.

The funding of Public Service Broadcasting is unique in Europe in that the 'Amsterdam Protocol' to the European Treaties allows Member States to fund Public Service Broadcasters as they wish, without the general application of the normal State Aid rules. Unlike the UK model of the BBC (fully funded by the TV licence) RTÉ is part funded by commercial advertising income (reflecting the size of the country and economy). While this means that RTÉ is not entirely independent of commercial concerns, it has the guaranteed base income arising from the licence fee that allows it a substantial degree of independence. The licence fee is set in broadcasting legislation. The licence fee is provided to RTÉ as it is the broadcaster with the general remit for public service broadcasting to the Irish population generally (43% peak TV viewing) and the only significant creator of independent Irish audiovisual news and current affairs. TV3, while bringing choice to viewers and competition to the advertising market, is a purely commercial, privately owned broadcaster, with some limited public service obligations. TG4 is a niche public broadcaster (2.7% peak viewing) and is almost fully funded by the taxpayer in any event.

State Aid Examination of Irish Public Service Broadcasting

It is important to mention that the European Commission, in the context of both general competition policy and the Amsterdam Protocol, carried out a detailed assessment of the Irish system of funding and authorisation. Negotiations with the Commission resulted in various 'oversight' powers being granted to the Broadcasting Authority of Ireland, in the Broadcasting Act 2009. The model in place, therefore, is endorsed by the European Commission as appropriate from a competition perspective. This endorsement includes the technological development of Irish public service broadcasting, as RTE and TG4 move into the online, 'non-linear' content sector.

Digital Media Development

With regard to the 'non-linear' audiovisual media services and digital media content generally, the Minister has signalled his intent to establish a new forum to consider how Ireland can best embrace the advent of the digital era. This forum will examine, inter alia, what new digital markets and platforms provide an opportunity for economic and media development in Ireland.

TG4's Grant-in-Aid

As mentioned, TG4 is a niche public broadcaster with slightly less than 3% of the peak viewing audience.

In recognition of TG4's 'niche' status and its particular mandate in regard to promotion and development of the Irish language and culture, TG4 has been funded directly from the Exchequer by way of an annual grant-in-aid (even when it was part of RTÉ). The station does accrue an amount of its funding (under 10%) from commercial revenues but it is recognised that it would not be able to operate without most of its funding being sourced from the Exchequer.

It should also be noted that, under the legislation, RTÉ provides TG4 with 365 hours of Irish-language programming (mainly news programmes e.g. Nuacht) per annum free of charge. This amounted to a subvention of approximately €10.5m in 2009 according to RTÉ Annual Report & Accounts for that year.

Assets

The main assets of RTÉ consist of the following:

- RTÉ's Television and Radio Channels
- RTÉ's Publishing business
- RTÉ's property at Montrose
- RTÉ's Archives
- RTÉNL's Network Assets

In relation to TG4, its main asset is its headquarters building at Baile na hAbhann in Connemara. It also has some archive material although this is not considered to be of any significant commercial value.

Nature of Public Service Broadcasting

In the case of RTÉ, its annual report and accounts give an insight into the costs associated with providing a comprehensive broadcasting service. The following table sets out the level of licence fee revenue attribution across services in RTÉ for 2007 (the last year that RTÉ recorded a significant surplus).

Service	RTE One	RTE Two	Radio 1	2 FM	Lyric FM	R na G	TG4 Support	Perform. Groups
Output Cost	174	101.3	45.2	14.1	8.4	13.9	11.5	17.5
Licence Fee €m	83.3	43.6	20.3	0	7.8	13.9	11.5	15.1
Commercial Revenue	111.3	52.7	22.3	20	0.6	0	0	2.4

Certain services are provided by RTÉ that generate little or no commercial income and are in fact subsidised by commercial income from other services. Lyric, RnaG,

Performing Groups and the statutory provision of television services (1 hour per day) to TG4 cost €1.3m per annum but generate just €3m by way of income. Significant commercial income is generated by the primary TV and radio stations and this contributes towards the cost of supporting the public service activity.

In general terms, therefore, any attempt to sell or dispose of the profitable elements of RTÉ's broadcasting activities (including publishing) runs the risk of increasing the organisations dependence on public monies to fund its public service activities, requiring a counter-balancing increase in the licence fee.

In addition, it needs to be borne in mind that an important aspect of the provision of a public broadcast service is that it provides a broad range of services that reaches all segments of society, not just particular minorities. RTÉ's constituent parts should be viewed as part of an overall package aimed at delivering a comprehensive public service to the whole community. If it is being proposed to dissect this overall package through sale or disposal, it will have a serious impact on RTÉ's ability to deliver on its public service mandate.

Impact of proposals for Disposal of Assets

The following comprise some of the main issues that need to be taken into account when considering whether to dispose of any of the above mentioned State broadcasting assets:

Timing

A number of substantial processes are currently in train or planned in the Irish Broadcasting sector that will impact any proposed disposal of State assets. These include the current digital terrestrial television investment programme, the related roll-out of the digital transmission network, and the proposed switch-off of analogue transmission signals by end-2012. The DTT programme involves both RTÉ (as the public service multiplex operator) and RTÉNL (as the digital broadcast transmission system provider and operator).

Sale of the Transmission Network - Loss of Strategic Assets

RTÉNL's broadcast transmission network is the single most important communications network remaining in State hands and, as such, is an important strategic national asset. It has been built up over the last 50 years and is currently undergoing a major redevelopment through its upgrade from analogue to digital. It is expected that this work will be completed by the end of 2012. The network comprises upward of 140 transmission and relay sites in excellent locations throughout the country. RTÉ has estimated that, if this network was to be replicated, it would cost in the region of €400-500m to construct, although this could not be considered to be the valuation it might attract if it was to be sold.

From an emergency planning perspective, it is important to have complete control of the national broadcast network in times of national emergency. Maintaining natural monopoly assets, such as the broadcasting transmission network, in State ownership and not selling them into private sector monopoly ensures the protection of infrastructure users' interests. Looking towards the future, the continued ownership of the broadcast network also provides the State with a ready-made platform for the

roll-out of any future radio-based communications and broadband platforms that may develop, and provides the State with research and development opportunities.

Sale of the Transmission Network – Disruption to the DTT Rollout

RTÉ and RTÉNL are currently undertaking the roll-out of digital terrestrial television and this involves a €70m replacement of the current analogue infrastructure. The timescale for completing this work is end-2012. RTÉ has already spent or committed approximately €40m on this project and is currently engaged in discussions on financing €40m of the total spend by way of commercial arrangements.

The roll-out of Digital Terrestrial Television (DTT) and the switch-off of analogue system by Q3 of 2012 is a key Government priority. The analogue switch-off will release valuable and top quality Spectrum which will be available to be refarmed for the purposes of mobile broadband in particular. This has major licence value for the State and will deliver significant additional revenue to the Exchequer. The project is a major undertaking involving DCENR, RTÉ and RTÉNL, ComReg and BAI. It is being delivered within an extremely strict timescale and must not be subject to disruption.

Any attempt to sell the assets at this current time would also have a serious impact on RTÉ's ability to raise the necessary funding. Any asset sales would be likely to have consequences on foot of borrowing covenants which might prove expensive for the company [i.e a sale of assets may trigger a covenant whereby the debt would have to be prepaid].

Post the successful launch of DTT and analogue switch off at end 2012 consideration could be given to the sale of RTÉ Networks, although such consideration would need to be taken in light of the strategic importance of maintaining national network assets under State control for the reasons outlined above.

Impact on the Independent Production Sector

Based on the findings of a PwC Report for the Irish Film Board, the audiovisual content production sector has been estimated as contributing over €550m to the Irish economy (0.3% of GDP) in 2008 and the public sector broadcasters are important players in this area.

RTÉ plays a significant role in the creative economy in Ireland in the manner in which it maintains a number of key Performing Groups mentioned earlier, in its support for the arts in general and, in particular, through its commissioning of independent productions both in television and radio.

The Broadcasting Act 2009 imposes a statutory obligation on RTÉ to spend a minimum of €40 million per annum on commissioning independent television and radio productions. The vast majority of this spend is on Irish-made productions. In addition, RTÉ as a matter of course commissions beyond the minimum requirements of its statutory obligations and, while the level of this non-statutory expenditure dropped in 2009, it remains significant. Overall, the direct expenditure incurred by RTÉ on such commissions (excluding overheads) in 2008 and 2009 is as follows:

	2008	2009
	€m	€m
<i>Statutory Expenditure</i>	34.4	40.4
<i>Non-statutory Expenditure</i>	37.8	14.2
<i>Total Direct Expenditure</i>	72.2	54.6

TG4

TG4 also plays a central role in the development of the independent production sector, commissioning original programmes produced in Irish and as noted already, sourcing most of its programmes from in particular, production companies in the Gaeltacht areas. Over the past seven years alone, it has commissioned programmes with a value of over €100m from this sector, thereby supporting the regionalisation of the independent production sector in Ireland, the nurturing of Irish creativity and talent and overall, having a significant impact on its viability and employment levels. Almost 300 full-time jobs in the sector are directly sustained by TG4 commissions. Many but not all of these jobs are located in Gaeltacht areas and this fact, in conjunction with the presence of TG4 itself, makes it a vital part of the economic and social fabric of the Gaeltacht areas.

Sale of Montrose

While it is not possible to put a current market value on the property, RTÉ's Montrose campus is undoubtedly a valuable property, given its location and attractiveness in terms of potential property development. That said, with the downturn in the current property market, it would undoubtedly be an unfavourable time to dispose of such a property.

RTÉ has its own plans for the property that envisage the development of a multi-media centre on the Donnybrook site by 2025 positioning the company at the centre of the Irish media landscape well beyond that timescale. Proposals to dispose of the site at this stage would have to take into account the impact on this proposed development by the company.

Archives

The broadcasting archives of both RTÉ and TG4 are part of the nation's heritage and provide a window on our national development, in cultural, economic and sociological terms over the last 50 years. While these resources certainly have some commercial value, they also form a valuable public resource that has been created through the use of public monies and should be maintained in public ownership in perpetuity.

It should be noted that the Broadcasting Act 2009 places new obligations on RTE and TG4 vis-à-vis the archives. The broadcasters are required to develop schemes whereby archival material is made available on a non-commercial basis for public

access and educational and research purposes, and on a commercial basis for exploitation by third parties. These new obligations will increase the availability of archive material and permit transparent commercial benefit to the broadcasters, reducing the need for public funding.

Impact on the promotion of Irish Language and Culture

Both RTÉ and TG4 have obligations set out under their principal objects in the legislation regarding such matters as the upholding of democratic values and liberty of expression, being responsive to the interests and concerns of the community, and ensuring to reflect the culture of the people of the who, of the island, and in particular, the Irish language. This is a fundamental part of being public service broadcasters.

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An Post

An Post is the state owned postal company established under the Postal and Telecommunications Services Act 1983. It has a statutory obligation to provide a nationwide postal service and post office network.

Sale of Assets

An Post is facing an extremely difficult operating environment over the next few years. The company is under pressure resulting from a decline in its core business, the prospective impact of full postal liberalisation and a continuing relatively high cost base. The company is actively engaged in devising and implementing strategy to meet these challenges. It is not considered that in these circumstances An Post is a candidate for asset disposal. The focus of management must be on ensuring a sustainable future for the company by following the appropriate strategies.

Financial Information	<u>2008</u>	<u>2009</u>
Turnover	€50m	€04.m
<i>70% of turnover comes from mail items and the remainder from post offices.</i>		
Operating Profit	€1.m	€6m
Margin	3.7%	0.7%
Cash balance	€50m	€90m
Employees (FTE)	10,970	10,854
Subsidiaries:	€4m	€4m
	€m (Air Business)	€m (Air Business)

Financials to end June 2010

Total Income to end June 2010 - €369m (on target)

Group Operating Profit Ytd - €8.m (excludes JV losses of €4.7m and FRS17 losses of €1.6m)

Cash balance – €25m

Although provided for in legislation, An Post has never been requested to make a dividend payment to the Exchequer.

Challenges

- Significant drop in postal volumes with allied drop in turnover. Some of this business will not come back to An Post (declining postal volumes is a worldwide phenomenon)
- Continuing threat to both the postal and post office business from electronic substitution
- Postal market to be fully open to competition from next year. Possible threat from competitors for large volume business (this issue is not as big as electronic substitution)
- IR challenge of aligning the An Post fixed cost base to declining revenues particularly in the postal business.
- Cost and associated funding of the USO in a declining market
- Windup of Postbank by the end of this year.
- Finding a replacement value added financial services business for Postbank.

Longer Term Challenges

- Finding a new business model based on long term strengths.
- Enhancing the value of the An Post brand probably through online activities

Spectrum

Radio spectrum is an important national resource allocated for various commercial and non-commercial purposes. ComReg has responsibility for the award of licences relating to most spectrum while some parts of it are outside the control of ComReg (e.g. marine, aviation and emergency services).

European and international law and agreements set the parameters for assignment of spectrum in Ireland. International treaties made under the auspices of the International Telecommunications Union allocate spectrum to various services at the global or regional level and establish rules for its management with the aims of (i) maximising inter-operability and (ii) minimising interference between services in adjoining jurisdictions.

Given that spectrum is a finite resource, market mechanisms are used to ensure optimal outcomes in terms of (i) efficient assignment for commercial applications and (ii) appropriate return to the exchequer. Spectrum pricing is made up of two components: (a) appropriate payment in return for rights to use the spectrum (i.e. reflecting the economic value of its use) and (b) appropriate payment to cover the cost of administering and managing the spectrum.

In the 5 years to 2008 spectrum licence fees (excluding annual usage fees) returned €23 million to the Exchequer. ComReg is currently finalising an auction for 13 blocks of very valuable spectrum (in the 800 MHz or “digital dividend band”, the 900 MHz band, and the 1800 MHz band). The spectrum will be used to provide high quality wireless broadband services and enhance competition in the broadband market. ComReg will set appropriate minimum prices (which are the sum of the reserve price and annual spectrum usage fees) for the bids. It is anticipated that the minimum prices will be €25 million in respect of each of the 13 pairs of 5 MHz spectrum available at 800/900 MHz, implying a total of €325 million at minimum price. (The 1800 MHz spectrum would not be expected to be so highly valued by the industry and ComReg is taking expert advice in this regard.)

It is important to also highlight that the 800/900Mhz spectrum will facilitate the development of innovative mobile broadband services and applications which will be particularly important for remote areas of the country.

Natural Resources Sector

Overview

Minerals and Petroleum Exploration and Extraction - introduction of Auction system

With the notable exceptions of Tara and Lisheen mines and Kinsale and Corrib offshore gas finds, Ireland has had limited success in mineral/hydrocarbon exploration and currently approx 25% of Ireland's land area is licensed for mineral exploration with 4% approx of Ireland's offshore area licensed for exploration. Details of the current licensing system are set out in the pages following. While it is sometimes suggested that an auction system will enhance interest and generate greater activity and exploration, little or no analysis is advanced to underpin the proposition. An auction-based system requires multiple, competing bidders, or at least the expectation that there are likely to be multiple bidders for the same areas. Given the extent of unlicensed acreage available, there is no evidence this will be the case and the introduction of an auction system is not recommended.

Minerals and Petroleum Exploration and Extraction - Taxation/Royalties

While a review of Petroleum Exploration and Extraction terms was completed in 2007 and revised taxation terms introduced that year, it is many years since the financial incentive package to the minerals sector has been reviewed. Internationally countries are reassessing the State's 'take' from the sector and the structure of the industry evolving, e.g. Far Eastern entities emerging as far more significant players. It is recommended therefore that in the medium term (post major legislative initiatives in the exploration sector – the Minerals and Geothermal Bills), a fundamental review be commenced of the taxation terms applicable to the minerals sector, to be jointly lead by DCENR and the Department of Finance.

Inland Fisheries/Geological Survey

In the case of inland fisheries and Geological Survey, the first is primarily concerned with the conservation, protection and management of inland fisheries resource with a very significant role in contributing to meeting the State's obligations in relation to environmental and ecological obligations, while the role of the Geological Survey of Ireland (GSI) is the provision of geological advice and information, and the acquisition of data for this purpose. The organisational structure for inland fisheries has been fundamentally reformed in 2010 with the consolidation of the eight fisheries boards into a single organisation and significant reduction in its budget. In the case of GSI, access to its databases has been free of charge since 2007. Any reconsideration of this position should await the findings of a value for money study being undertaken in consultation with the Department of Finance.

Ordnance Survey

In view of the statutory mandate of OSi as a national mapping authority, the considerable business and financial challenges faced by OSi at the present time, and its pension liability estimated at circa €170 million, disposal of OSi at this time cannot be recommended.

Detailed Background and Analysis

Minerals and Petroleum Exploration and Extraction – Introduction of an Auction System.

The current system permits application for exploration licensing (some differences between minerals and hydrocarbons), which are assessed as to quality, feasibility, etc., and if acceptable, exploration licences are issued for defined periods with specified work programmes. The proposition has been advanced that all available ‘acreage’ (i.e. not subject to existing licence) should be auctioned to the highest bidder.

Petroleum

Ireland’s experience in the past decade would suggest that auctioning acreage would be unlikely to result in any real financial gain or increase in activity. In the case of offshore hydrocarbons, due to the size of the offshore area and the relatively small number of licence applications¹, there have been very few cases where exploration companies were actually competing for the same acreage. For an auction-based system to be successful, auctions require multiple bidders, or at least the expectation that there are likely to be multiple bidders for the same areas. In the current Atlantic margin round, almost 1,000 blocks are on offer (ranging in size from 230 to 280 Sq Km approx), it is most unlikely there will be competing bids and it could reasonably be anticipated that applicants for licences would bid very small sums on the basis that applicants would expect that in most cases there would not be competing bids. Accordingly, introducing a licensing regime based on auctions would be unlikely to generate any meaningful additional revenue.

Minerals

In the case of minerals, the exploration sector in Ireland is relatively small, and is based on small- and medium-sized enterprises. Virtually all of the country is freely accessible for exploration. Currently, approximately 25% of Ireland is under licence. Detailed geological information on the location, quality, extent and viability of mineral deposits in the remaining 75% is patchy until such time as exploration takes place. The fact that these areas are available indicates poor or no interest which is unlikely to be increased by an auction process. As in the case of hydrocarbons, there is no evidence that an auction system would increase interest, or more practically, increase Exchequer receipts.

Actions being taken to stimulate exploration interest and activity

The key target for Ireland is to generate more exploration interest, with a view to discovery of commercial hydrocarbon/mineral discoveries. In this regard, while an auctioning system offers little, in addition to promotion campaigns and dissemination of exploration data, measures are being taken to generate greater exploration interest.

- In the case of hydrocarbons, the Atlantic Margin licensing round offers almost all of Ireland’s Atlantic basins for licensing in a single round, fees have been reduced and licence period commitments shortened and work programme obligations reduced.
- In the case of non-petroleum minerals, incentives are offered to generate interest in areas not currently under licence, by means of reduced fees,

¹ In the last three licensing rounds there were four, four and two bidders

expenditure requirements and promotional literature. Furthermore, a major legislative consolidation and modernisation of minerals legislation is underway to enhance certainty and clarify legislative obligations for the industry.

In conclusion, given the extent of unlicensed average available, the absence of any analysis that suggests an auction system would ignite greater interest, but possibly diminish receipts, and measures being taken to promote exploration activity, the introduction of an auction based system is not recommended at this time.

Petroleum/Minerals Taxation (incl. Royalties)

A corporation tax rate of 25% is applied to the mining industry in Ireland; the general corporation tax rate is 12.5%. While hydrocarbon production is subject to a similar 25% rate, a sliding scale of escalation of up to 40% applies depending on the profitability of the field².

State royalties for mining are negotiated on a case by case basis, and for metalliferous mining are normally based on a percentage of net smelter return (NSR). Globally most NSR type royalties range from 0 to 5%. Ireland currently applies a royalty rate of 3.5% on average for State owned Minerals which is in the upper part of this range. A reduced royalty normally applies in the early years taking account of the high start up costs.

Receipts from Industry (€millions)

Item	2005 (€)	2006 (€)	2007 (€)	2008 (€)	2009 (€)
Mining Receipts (Royalties)	3,176,770	5,891,755	7,145,805	6,169,742	3,690,229
Exploration Receipts (Prospecting Licence fees)	36,080	160,625	192,180	334,466	200,765
Other	*223,190	*74,831	*8,021	*1,682	*1,005,502
TOTALS	3,436,040	6,127,211	€7,346,006	€6,505,890	4,896,496

*This figure is in respect of refunds received from a mining company for payment of compensation by the Minister to private mineral owners

Gross value of metal production (Lead & Zinc) (€millions)

2005	2006	2007	2008	2009
392	731	676	340	314

Note: While the decrease in value in 2009, from the highs of 2006 and 2007, is primarily due to a fall in metal prices rather than a decrease in production, future zinc production in Ireland will be reduced with the closure of the Galmoy mine.

In addition to taxation and royalties, there are fees for exploration activities (see Appendix)

² Changes introduced in petroleum are following publication of "Expert Advice and Review of Irish Petroleum E&P Licensing Terms" Indecon, 2007

Changing taxation provisions attaching to minerals

In terms of prospectivity, Ireland is a small country in terms of area and is mature in its mineral prospectivity. There has been a significant amount of exploration over the years (currently approximately 25% of the country is under exploration licence), but the consensus in the exploration community is that there are no longer any easy exploration targets. Ireland's main potential still lies in its zinc/lead deposits. Companies exploring for deposits now have to test the potential at deeper depths.

Carrying out exploration for deeper deposits is more difficult and costly, as is developing any economic deposits when found. There is a long lead in time (6- 10 years) from discovery to development to production. Coupled with the high cost of operating here compared to other jurisdictions (labour, energy, environmental compliance etc), this makes the decision to invest in mineral exploration a finely balanced one for investing companies.

Apart from corporation tax, mining companies are significant contributors to the local economies both in the form of direct spend and earning power of employees. Contributions to local authorities are significant. Tara Mines, for instance, is the single largest rate payer in Co. Meath. It is important to note that that Ireland competes in a global context for finite mineral exploration activity. Mining tax is complex; this is because mining is particularly sensitive to tax-imposed effects because of its cost structure and vulnerability to substantial market-driven demand and price swings. The most recent report of the Fraser Institute³ placed Ireland in 40th place out of the 72 jurisdictions for our tax regime⁴.

Conclusion

While Petroleum Exploration and Extraction terms was completed in 2007 and revised taxation terms introduced that year, it is many years since the financial incentive package to the minerals sector has been reviewed. Internationally countries are reassessing the State's 'take' from the sector and the structure of the industry evolving, e.g. Far Eastern entities emerging as far more significant players. In the circumstances there is a strong argument for a fundamental review of taxation of mining along the lines of that applied to petroleum licensing terms in 2007. However, in current circumstances, funding for this seems unlikely. Given the challenges for Exploration and Mining Division in the Department in terms of legislative activity (Mineral Development Bill circa 350 Sections; Geothermal Bill circa 170 Sections), negotiation of new terms for TARA and putting in place an entirely new regime for Kimberley diamonds, the reality is the Division is not currently in a position to resource real participation in a fundamental review of minerals taxation terms.

³ The Fraser Institute is an independent non-partisan research and educational organization based in Canada. It conducts peer-reviewed research into critical economic and public policy issues including taxation, government spending, health care, school performance, and trade.

⁴ Overall, the top 10 jurisdictions are Alberta, Finland, Quebec, Yukon, Saskatchewan, Chile, Newfoundland and Labrador, Botswana, Alaska, and Nevada.

In the circumstances, for the reasons set out above, it is recommended that action be commenced in the medium terms (post both major Bills – likely end 2011/early 2012) to commence a fundamental review of the taxation terms applicable the minerals sector, to be jointly lead by this Department and the Department of Finance.

Inland Fisheries

State involvement in inland fisheries addresses the conservation, protection and management of the inland fisheries resource including a very significant role in contributing to meeting the State's obligations in relation to environmental and ecological obligations as provided for in National and EU legislation such as the Habitats Directive, Water Framework Directive, etc. Inland Fisheries Ireland (IFI) has over 70,000 kilometres of rivers and streams and 144,000 hectares of lakes under its jurisdiction.. Consistent with of the current Exchequer position and the recommendation of the 2009 Review Group report⁵, the seven Regional and the Central Fisheries Boards have been consolidated into a single body, IFI, with effect from 1 July 2010 and the Exchequer Grant to IFI reduced by €2.5 million (2009-2010). IFI will continue to pursue efficiencies and the discharge of its statutory functions with reducing resource commitments.

Geological Survey of Ireland

The role of the Geological Survey of Ireland (GSI) is to provide geological advice and information, and to acquire data for this purpose. GSI produces a range of products including maps, reports and databases, acts as a knowledge centre and project partner in all aspects of Irish geology and works in conjunction with a number of national and international organisations. Prior to 2007, GSI generated revenues of up to €30,000 per annum through charging for information sought from its databases. However, in 2007, the then Minister for Communications, Energy and Natural Resources, directed that all GSI databases be made available free of charge to all users in order to maximise their usage. The question of whether charges should be applied again may be considered in the light of a Value For Money (VFM) study being conducted jointly with the Department of Finance, which will be made available to the Minister for Communications Energy and Natural Resources by year end. It has been suggested the GSI should seek to increase income by circa 20% - however the principal client base of the GSI comprises public authorities (local authorities, OPW etc.) and endeavouring to secure revenue form these bodies would simply transfer monies within the public sector and generate transaction charges for both GSI and clients, with charges ultimately having to be levied on users.

Ordnance Survey Ireland (OSi)

Ordnance Survey Ireland (OSi) is the State mapping agency and advises Government on all matters relating to the policy and practice of survey, mapping and geographic information, having been established as an independent body on 4 March 2002 under the Ordnance Survey Ireland Act 2001. Responsibility for OSi resided with Minister for Finance up to 31 December, 2008, after which date responsibility was transferred to the Minister for Communications, Energy and Natural Resources from 1 January 2009.

⁵ Report of the Special Group on Public Service Numbers and Expenditure Programmes

Section 4 of the OSi Act sets out a series of statutory functions of OSi, viz;

- maintain/develop the underlying physical infrastructure mapping applications, including national grid and the national geodetic and height frameworks.
- create and maintain for the entire State mapping and related geographic databases
- provide mapping and related geographic information to the public and private sectors
- advise the Government, a Minister of the Government, a body established by or under statute and other public sector organisations on matters relating to the policy and practice of survey, mapping and geographic information
- protect the Government copyright on OSi records, databases, products and published material including copyrigh

Notwithstanding OSi's statutory mandate for development /maintenance of State mapping, OSi derives the bulk of its revenue from its trading activities with the balance being met from a State grant-in-aid. 90% of OSi's business is providing business solutions for a broad range of public and private sector customers in multiple market segments However public service providers (local authorities, utilities, etc) are the largest source of OSi's income and present indicators are that there will be no change in this trend for the foreseeable future.

While OSi has significantly increased its income over the last decade, from €18.617m in 2001 to €28.2m in 2008. OSi is significantly impacted by declining demand for maps and mapping products due to the contraction in the construction, development and utilities sectors and has been impacted by legacy pension cost for those staff (approx 80%) that transferred with defined benefit entitlements on the establishment of OSi without funding provision.

This Department has been working with OSi on a five-year financial plan to assure its financial sustainability into the future. OSi has incurred trading deficits in the past 4 years but it has taken action to stabilise this situation and is budgeting for a breakeven position in 2010. Commercial sales amounted to €19.7m in 2009 a decrease of 11% on the 2008 figure. In response to the decline in its traditional market OSi is modifying its traditional business model and developing new approaches e.g. the development of GIS business solutions for existing and potential new customers. OSi is also engaging in strategic partnerships to develop innovative products and services.

However, the main financial issue facing OSi is the cost of pensions which are borne from current revenue because a superannuation fund was not set up when it was established in 2002. This cost will increase in future years and represents an unsupportable burden on the Body's finances. The Department has been engaging in intensive negotiations with the Department of Finance over the past year on measures to alleviate this situation. This matter is being considered at present in the context of the 2011 estimates process.

OSi assets

OSi occupies its H.Q. premises in the Phoenix Park rent-free from OPW. Similarly it does not own, or pay rent for, its 6 regional offices. This is a considerable financial advantage but on the other hand means that OSi's tangible fixed assets are limited to

its fixtures/fittings, motor fleet and computer equipment. In the 2009 Financial Statement these were valued, after depreciation, at €3.415m.

Recommendation re OSi

The view of the Department is that in view of the statutory mandate of OSi as a national mapping authority, the considerable business and financial challenges faced by OSi at the present time, and its pension liability estimated at circa €170 million, it would not advocate an attempt to dispose of it at this time. The Department is closely engaged with OSi in terms of management and control of costs and development of a sustainable financial plan. Once the pensions liability issue has been definitively resolved, the Department will consider in consultation with the Department of Finance, the best structural model for the organisation moving forward.

Petroleum Exploration and Extraction Fees– January 2009

1. Fees to be paid on submission of an application

(Page 6 of the licensing terms)

Petroleum Prospecting Licence €1,520

Licensing Option €1,520

Exploration Licence €9,122

Reserved Area Licence €9,122

Lease Undertaking €3,040

Petroleum Lease €9,122

2. Annual Rental Fees to be paid on issue of an authorisation and thereafter on the anniversary date of the issue of the authorisation

Petroleum Prospecting Licence (Page 9 of the licensing terms) €7,601

Licensing Option (Page 10 of the licensing terms)

Calculated on the basis of €9 per sq km.

Standard Exploration Licence (Page 11 of the licensing terms)

For the first three years of the licence fee is calculated on the basis of €82 per sq km, increasing to €365 per sq km thereafter.

Deepwater Exploration Licence (Page 12 of the licensing terms)

a) For the first three years of the licence, fee is calculated on the basis of €91 per sq km.

b) In years 4, 5 and 6 of the licence, fee is calculated on the basis of €82 per sq km.

c) Fee is calculated on the basis of €365 per sq km for the remainder of the licence.

Frontier Exploration Licence (Page 13 of the licensing terms)

a) For the first phase of the licence, fee is calculated on the basis of €9 per sq km.

b) In the second phase of the licence, fee is calculated on the basis of €60 per sq km

c) Fee is calculated on the basis of €21 per sq km for the remainder of the licence.

Lease Undertaking (Page 15 of the licensing terms)

For the first year, fee is calculated on the basis of €1,216 per sq km increasing by €52 per sq km. in each subsequent year.

Petroleum Lease (Page 17 of the licensing terms)

Calculated on the basis of €2,643 per sq km until the date of first production. From the date of first production fee is calculated on the basis of €1,133 per sq km.

3. Fees payable for an assignment or transfer of interest

(Page 23 of the licensing terms)

An application fee of €1,520 plus an administration fee of €3,040 are payable on application.

4. Contributions to Research Funds

(Page 13 of the licensing terms)

Contributions to the Petroleum Exploration and Production Promotion and Support (PEPPS) Programme are as follows:

- a) Irish Shelf Petroleum Study Group (ISPSG) €87,361 per licence per annum.
- b) Expanded Offshore Support Group (EOSG) €17,472 per company per annum.

The above fees will be revised annually in line with the Consumer Price Index as published by the Central Statistics Office.