

16 April, 2019.

Mr. Mark Griffin
Secretary General
Department of Communications, Climate Action and Environment
Adelaide Road
Dublin 2

Re: National Broadband Plan

Dear Mark,

You will be aware that the PWC report on the National Children's Hospital is very critical of the management of major infrastructural projects. The Government, in its Statement on the Report, said that we will learn lessons from the experience to be applied in future capital projects such as Broadband and Metro. Against that background, I feel I must write to you again in relation to the National Broadband Plan.

Having expressed our concerns on a number of occasions at this stage in relation to the affordability and value for money of the proposed contract for the National Broadband Plan, I wish to re-emphasise one further time this Department's fundamental concerns in relation to the unprecedented risk that the State is being asked to bear in the event that the current NBP contract is recommended for approval by Government.

Costs v Benefits

Any decision to approve the current contract and commit funding of up to €3 billion to this project over 25 years represents a major 'leap of faith' on the part of Government in relation to the benefits that will accrue from the project. Regarding the Cost Benefit Analysis that has been undertaken on the project as a whole (which has had to be revised on a number of occasions and with which we still have some queries in relation to the calculation of costs), we do not believe this CBA justifies the use of scarce public funds on this scale. The external, as opposed to private, benefits of this project do not warrant such large investment.

For example, I am very concerned with the economics associated with some of the individual connection decisions that will have to be made under the contract. I understand that the standard connection charge that any household or business will be required to pay is to be set at €100, even though the actual cost of connection could run to several thousand euro. Only where the connection cost exceeds €5,000 will an excess charge be applied, based on the cost above the €5,000 threshold. This represents a major subsidy from the taxpayer for private benefits. Are there equivalent subsidies available towards the economic cost of other utility connections, such as electricity, gas or water? Also, I understand that for aesthetic reasons, customers can opt to have their connection made other than by the most cost effective means (e.g. putting their cable connection underground instead of on poles). Can you confirm that any costs arising from exercising such discretion, with increased cost implications, will be fully borne by the customer, without any element of subsidy from the State?

The key point here is that the backhaul infrastructure is being funded by taxpayers and this could be justified, but what is the rationale for the large connection subsidies? This assumes benefits to households of broadband of a scale not suggested by any study or by the willingness of households to pay for such connections.

Risks to the State

In terms of the long-term sustainability of the project, I believe that there are unprecedented risks to the Exchequer posed by this proposed project. The Government is being asked to commit up to €3 billion of Exchequer funding – up to €2.275 billion of which will be required by 2026 – in an area where technology is changing rapidly and where we face a number of significant risks to the successful completion of the project. New technological advances, or a lack of take-up of the service by intended customers, or a decision by the private operator to abandon the project, for whatever reason, could result in a ‘stranded’ obsolete asset, despite Exchequer investment of up to €2.275 billion by 2026 – in an asset that we will not even own.

As against this €3 billion Exchequer investment that is at risk, the private sector operator is only risking ██████ of their own funds. I note that by 2028, the private operator is projected to have received ██████ in dividends and interest, together with a repayment of ██████ of the initial share capital, while the State will have spent up to €2.44 billion by that stage. In effect, the private operator will have all of their monies paid back while the Exchequer could have paid out almost ██████. And this is before significant connections have been made by service providers. In these circumstances, I would question whether the future risk associated with guaranteeing service provision over 25 years is genuinely transferred to the private operator or, in reality, actually retained by the Exchequer.

Furthermore, despite this huge imbalance in terms of the project risk that I believe is being borne by the State, the private operator is still entitled to ██████ of any excess profits that may be generated over time. In effect, the private operator is being insulated from project risk while being afforded a massive upside potential in terms of any excess profitability. I also understand that the operator is projected to have a rate of return of ██████ which seems very high given the risk profile of their investment.

All in all, I find it difficult to see how such a contract represents value for money for the State or is in the best interests of the taxpayer. I also find it difficult to believe that a convincing case can be made for this project, when these facts emerge.

In relation to how this very substantial risk for the State, associated with the long term viability of the project, is to be mitigated, I note that there are potential break points at Year 4 and Year 6, when the State has a right to halt the project entirely or take back the assets or the business where the project costs are materially trending off track. However, the projected cumulative cost of the State’s investment at these two break points is potentially €1.19 billion and €1.95 billion respectively. Please advise me as to the measures in place to protect the State’s investment in either of these scenarios. For example, would the State automatically take over ownership of the assets in the event that it was decided to terminate the project or appoint a new operator at one of these potential break points, or would the existing operator have to be paid for the assets or otherwise compensated?

I also understand that there is another potential break point at Year 10, when there is to be a significant assessment of the viability of the project for the remainder of the 25 year term, with the State again having the right to halt the project entirely or take back the assets or the business where the project is deemed to be unviable and the private contractor is unable to continue.

Again, what implications would this have for the State – e.g. would compensation be payable to the operator? If so, what value would attach to the asset at that point, given that the State could have invested [REDACTED] by then while the operator would have effectively recovered [REDACTED] of their initial investment by that date?

Finally, I am also concerned in relation to the operational risk that is posed by the complexity of the contract, and the challenge that managing a contract of this nature poses for your Department in terms of ensuring full compliance by the operator with the various provisions on charging, clawback of cost savings, profit sharing, etc. Please advise me as to the how you can ensure that this challenge is effectively managed by your Department.

I would welcome your views on this project's compliance with the Public Spending Code and on how the unprecedented risk for the State that is associated with this proposed project can be managed by your Department to ensure that value for money is achieved for the level of investment that is proposed.

Yours sincerely,



Robert Watt
Secretary General