



Dáil Éireann

An Coiste um Chuntais Phoiblí

An Chéad Tuarascáil Eatramhach

**maidir le Tuarascáil Bhliantúil an Ard-Reachtair Cuntas
agus Ciste agus Cuntais Leithreasa 2002, i ndáil le**

**Caibidil 9.1 - An tIonad Taispeántas agus Seónna i mBaile
Fuinse**

Márta 2004

Dáil Éireann

Committee of Public Accounts

First Interim Report

**on the Annual Report of the Comptroller and Auditor
General and Appropriation Accounts, 2002 on**

**Chapter 9.1 - The Exhibition and Show Centre at
Punchestown**

March 2004

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- Letter of 7 th January, 2004 from the Committee, to Mr. Dick O'Sullivan, General Manager, Punchestown Racecourse on issues relating to the Punchestown site.	
- Letter of 27 th January, 2004 from Mr. Dick O'Sullivan, General Manager, Punchestown Racecourse, responding to letter of 7 th January 2004.	
- Letter of 30 th January, 2004 from the Committee, to Mr. John Malone, Secretary General, Department of Agriculture and Food, seeking an up-date on the position in relation to the drawing up and signing of the legal agreement between the Department and Punchestown.	
- Letter of 2 nd February, 2004 from Mr. John Malone, Secretary General, Department of Agriculture and Food, responding to letter of 30 th January 2004.	
- Letter of 30 th January, 2004 from the Committee, to Mr. Brian Kavanagh, Chief Executive Officer, Horse Racing Ireland, seeking an up-date on the position in relation to the ratification of the agreement between HRI and Punchestown.	
- Letter of 2 nd February, 2004 from Mr. Brian Kavanagh, Chief Executive Officer, Horse Racing Ireland, responding to letter of 30 th January 2004.	
- Event Schedule for Punchestown Centre.	
- Guidelines for the appraisal and management of Capital Expenditure Proposals in the Public Sector, July, 1994 (Department of Finance).	

Orders of Reference of the PAC

156. (1) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a Standing Committee, to be known as the Committee of Public Accounts, to examine and report to the Dáil upon—
- (a) the accounts showing the appropriation of the sums granted by the Dáil to meet the public expenditure and such other accounts as they see fit (not being accounts of persons included in the Second Schedule of the Comptroller and Auditor General (Amendment) Act, 1993) which are audited by the Comptroller and Auditor General and presented to the Dáil, together with any reports by the Comptroller and Auditor General thereon:

Provided that in relation to accounts other than Appropriation Accounts, only accounts for a financial year beginning not earlier than 1 January, 1994, shall be examined by the Committee;
 - (b) the Comptroller and Auditor General's reports on his or her examinations of economy, efficiency, effectiveness evaluation systems, procedures and practices; and
 - (c) other reports carried out by the Comptroller and Auditor General under the Act.
- (2) The Committee may suggest alterations and improvements in the form of the Estimates submitted to the Dáil.
- (3) The Committee may proceed with its examination of an account or a report of the Comptroller and Auditor General at any time after that account or report is presented to Dáil Éireann.
- (4) The Committee shall have the following powers:
- (a) power to send for persons, papers and records as defined in Standing Order 83;
 - (b) power to take oral and written evidence as defined in Standing Order 81(1);
 - (c) power to appoint sub-Committees as defined in Standing Order 81(3);
 - (d) power to engage consultants as defined in Standing Order 81(8); and
 - (e) power to travel as defined in Standing Order 81(9).
- (5) Every report which the Committee proposes to make shall, on adoption by the Committee, be laid before the Dáil forthwith whereupon the Committee shall be

empowered to print and publish such report together with such related documents as it thinks fit.

- (6) The Committee shall present an annual progress report to Dáil Éireann on its activities and plans.
- (7) The Committee shall refrain from—
 - (a) enquiring into in public session, or publishing, confidential information regarding the activities and plans of a Government Department or office, or of a body which is subject to audit, examination or inspection by the Comptroller and Auditor General, if so requested either by a member of the Government, or the body concerned; and
 - (b) enquiring into the merits of a policy or policies of the Government or a member of the Government or the merits of the objectives of such policies.
- (8) The Committee may, without prejudice to the independence of the Comptroller and Auditor General in determining the work to be carried out by his or her Office or the manner in which it is carried out, in private communication, make such suggestions to the Comptroller and Auditor General regarding that work as it sees fit.
- (9) The Committee shall consist of twelve members, none of whom shall be a member of the Government or a Minister of State, and four of whom shall constitute a quorum. The Committee and any sub-Committee which it may appoint shall be constituted so as to be impartially representative of the Dáil.

Report of the Committee of Public Accounts on the Event and Exhibition Centre at Punchestown

1. The facts

- 1.1 Punchestown Racecourse submitted its initial proposal to the Minister for Agriculture and Food in November, 1999 seeking €6.9m in funding for a project in Punchestown to be known as the National Agricultural and Eventing Exhibition and International Show Centre (the Centre). The project comprised an indoor facility, entrance complex, a new stabling block and additional car parking and landscaping.
- 1.2 In June, 2000 a revised proposal costed at €12.78m was submitted by Punchestown. The revised proposal was for an indoor facility with a “clear span” construction which increased the cost of the facility, increased car parking, increased stabling costs and additional access roads.

The chronological sequence of events is as follows;

16 November, 1999	Punchestown seek funding for the project of €6.9m
19 January, 2000	Department officials recommended funding of €6.9m to the Minister for Agriculture and Food
20 January, 2000	the Minister wrote seeking funding of €6.9m from the Minister for Finance
27 January, 2000	Minister for Finance acceded to the request. This information was not conveyed formally to Punchestown
6 April, 2000	Punchestown informed the Department of Agriculture and Food (the Department) that changes were being made to the initial proposal
26 April, 2000	the Department wrote to the European Commission proposing funding should not be considered a State Aid
5 May, 2000	Planning application made to Kildare County Council on the basis of the revised proposal
10 May, 2000	the Commission said it was satisfied that State Aid was not involved
2 June, 2000	a revised proposal was submitted by Punchestown costing €12.78m. The revised proposal increased the costs of the indoor facility from €3.17m to €6.49m, increased stabling costs by €0.743m and increased access road costs by €0.52m. Total sundry costs (outside the cost of the indoor facility itself) of the project increased from €3.73m to €6.29m
23 June, 2000	the Minister for Agriculture and Food wrote to the Minister for Finance requesting additional funding of €6.4m for the project
7 July, 2000	the Minister for Finance agreed to the request
9 August, 2000	an agreement was made with Punchestown by an exchange of letters. One of the conditions of the agreement was to cap Exchequer funding for construction costs to €13.3m
12 December, 2000	Planning is issued for the revised proposal with conditions attached
3 October, 2001	Punchestown sought an additional €1.5m for additional work, mainly roads, to satisfy planning requirements
31 January, 2002	the additional funding was approved by the Minister for Finance

Total Exchequer funding for the project amounted to €14.8m

2. Proceedings of the Committee

- 2.1 The Committee has met on two occasions with the Accounting Officer of the Department of Agriculture and Food (6 November, 2003 and 16 December, 2003) and with the Chief Executive Officer of Horse Racing Ireland (HRI) (16 December, 2003). The transcripts of these meetings are appended and also available on the Oireachtas website. In addition, several of the Committee members paid an official visit to the facility and met with the Punchestown and Kildare Hunt Club authorities on 19 November, 2003. The Committee completed its consideration of the report in private session on 26 February, 2004.

3. The questions

- 3.1 While there are many interlinked issues involved in this matter the main public accountability questions surrounding the Punchestown project are;
- A. Was the project properly evaluated?
 - B. Is the State's interest in the project adequately protected?
 - C. To what extent, if any, are the facilities developed of benefit to the racecourse e.g. entrance complex, stables and parking?
 - D. Does the project represent good value for money?

4. Examination of the questions

A. Evaluation of the project

- 4.1 The guidelines for the appraisal and management of capital expenditure (Department of Finance, 1994, appended) are the appropriate guidelines to apply in determining whether or not a project merits Exchequer funding. The Committee notes that these guidelines are currently being reviewed, however, in the context of this project which was initiated in 1999 the existing guidelines are the guidelines to be applied to this and all other projects until such time as they are changed. These guidelines state that a preliminary appraisal followed by a detailed appraisal are the first two necessary stages to evaluating a project.
- 4.2 The Accounting Officer gave evidence that there was a belief in his Department of the need for such a Centre, that there was consultation with interested parties, that the project was a public good in nature and was a once-off project. He also gave evidence that the project was evaluated "against a number of criteria, including the suitability of Punchestown, whether alternative sites could be used and the likely events which would take place" in the Centre. The Committee notes that no evidence was adduced of a formal assessment based on these criteria or of any public statement of intent at any time by the Department of the need to

address this perceived infra-structural gap. No business or marketing plan was sought by the Department from the promoters to assist it in its evaluation.

The Committee is of the view that consultation with parties who might potentially use the facility but who have no financial interest in the project could not be considered as a substitute for a formal appraisal as required by the guidelines. The Committee notes the evidence of the Accounting Officer in relation to the public good and once-off nature of the project but considers that such characteristics do not of themselves obviate the need for a more thorough assessment of expenditure proposals of this nature. No evidence was adduced either during the audit by the Comptroller and Auditor General or the Committee's examination of the Accounting Officer that an evaluation appropriate to a multi-million euro project and in keeping with the 1994 guidelines had been carried out.

- 4.3 The Committee notes that the submission of the revised proposal which effectively doubled the cost of the project did not appear to cause undue concern either in the Department of Agriculture and Food or in the Department of Finance or to cause a rethink of the way in which the project was being assessed. The Committee believes that the evaluation of the project was inadequate overall.
- 4.4 The Department of Finance in its evidence has argued that it has no function in evaluating such projects. However, it is not evident to the Committee how the Department of Finance ensures that projects submitted to it for approval have been evaluated under the 1994 guidelines and that such evaluations as have been done are adequate. The Committee would like to see greater clarity on the role of the Department of Finance in this regard.

B. Protection of the State's interests

- 4.5 This section deals with two separate agreements; firstly a corporate restructuring agreement between HRI and Punchestown and secondly, the legal agreement governing the disbursement of funds to Punchestown to build the Centre.

Corporate arrangements

- 4.6 The Kildare Hunt Club owns the land at Punchestown. It carries on its business through three operating companies in which the Hunt has 100% of the share capital. It has leased 250 acres of its 466 acre land bank for 250 years to Punchestown Development Company Limited which owns the racing facilities at Punchestown. The 250 acres includes the race course, associated car parks, entrance facilities, stands, enclosures and stables. A sister company, Blackhall Racing Company manages the events that take place at the racecourse. A third company Punchestown Enterprises Company Limited owns and operates the Centre.
- 4.7 Punchestown Holdings Limited is the proposed new holding company for the three trading companies. It will be owned, by an agreement, on a 50/50 basis by the Kildare Hunt Club and HRI. This joint venture has been established in an interim capacity. The agreement provides that on repayment by the KHC of all loans advanced by HRI at any time before 31 December 2016, full ownership of Punchestown Holdings Limited would revert to Kildare

Hunt Club. Failure to repay by that date would see the loans converted to equity and ownership of Punchestown Holdings Limited transfer to HRI. A loan of €1.65 million from the Irish Horseracing Authority (IHA), now the HRI, was paid to Punchestown in 2001. Further funding from HRI comprising a €2.5 million loan is subject to the clarification of certain tax issues with the Revenue Commissioners and the modification of certain leases. When these matters are resolved this would leave a total of €4.15 million to be repaid by Punchestown by the end of 2016.

- 4.8 The Committee believes that the involvement in this way of the HRI, whose accounts are audited annually by the Comptroller and Auditor General, will strengthen the protection of the State's investment into the future. However, the involvement of the HRI which was not foreseen as part of the original project is, nevertheless, beneficial. Nonetheless, the Committee believes that for good governance reasons the restructuring agreement should be fully implemented as soon as possible.

The legal agreement

- 4.9 The central question here is the capacity of the legal agreement entered into in August 2000 to protect the State's investment in the Centre into the future.
- 4.10 The funding for the Centre was secured with an exchange of letters between the Department and Punchestown, as distinct from a specific corporate entity, setting out the grant conditions and acceptance thereof in August 2000. The Accounting Officer has stated in evidence that this form of agreement was consistent with the normal type of agreement used by the Department in awarding grants. He accepts that many of the conditions in the agreement related to the project and its completion. To this extent the Committee is of the view that the existing legal agreement only partially protected the State's interests in the matter. It would not appear to be comprehensive enough to recognise the complexity of the Punchestown corporate structure which existed at the time of the agreement.
- 4.11 The Committee also notes that the August 2000 agreement provided that there would be no call on State funding for construction costs in excess of €13.3 million. By acceding to a request from Punchestown in October 2001 for an extra €1.5 million to complete the project, the Department of Agriculture effected a *de facto* amendment to the agreement.
- 4.12 In addition, it would appear that only the land on which the Centre itself is built has been leased to the company operating the Centre viz. Punchestown Enterprises Company Limited. The land on which the ancillary facilities were built remains as an asset of Punchestown racecourse.
- 4.13 The Committee is of the view that there was a failure to fully secure the State's interest by way of an appropriate legal agreement which governed both the arrangements for the construction of the project and its viability going forward. Following the concerns expressed by the Comptroller in his report the Committee notes and welcomes the fact that the Department has consulted with its Legal Services Division with a view to concluding a more detailed legal agreement. The current position as at the time of writing is set out in the

appended correspondence received from the Department on 2 February, 2004. The Committee would wish to see the legal agreement completed and signed as soon as possible. It is concerned that this has not already been done given that this weakness was identified in the initial audit of the 2002 Accounts.

C. Cross benefits of the project facilities to the racecourse

- 4.14 Some synergies have developed arising from the building of the Centre on the Punchestown racecourse site. The entrance complex, car park and stables are of benefit to the racecourse on the 18 days of racing which take place there every year. Evidence was given that a charge is levied by the Centre on the racing company for the use of the Centre's ancillary facilities on race days. Equally, Mr Kavanagh, Chief Executive Officer, HRI stated in evidence that a management charge was levied by the Punchestown management on the Centre for its management time spent in running the Centre. The location of the Centre in Punchestown gave access to the adjacent land in Punchestown for cross country and eventing purposes.
- 4.15 The Committee sought evidence as to how these transactions were dealt with among the companies which have an interest in Punchestown. Punchestown have confirmed in writing the details of the internal charging system in operation. The correspondence is set out in this report. This additional information should help in analysing the project and in clarifying the issue of cross benefits.
- 4.16 One further point emerged from the visit of the Committee to Punchestown on 19 November, 2003. The Centre is considered by Punchestown management to be phase four of the overall development of the facilities at Punchestown.

D. Value for money

Project location

- 4.17 The location of the project in Punchestown is to some extent a reward for the initiative shown by the proposers for putting forward the proposal in the first instance. The Department did not advertise the availability of public funds for this type of project. The Committee notes the evidence of the Accounting Officer that the Punchestown proposal was the only viable option. It might be argued that the principles of fairness and transparency which underpin public expenditures would demand that all parties should at least have been made aware of the potential availability of public money for such a project through a general call for proposals. In that way there is a higher probability that value for money could be maximised. This is arguably more important in a project which has been called a "once-off" project as this in all probability means that no such other similar projects will be funded in Ireland.

Construction costs

- 4.18 The two building contracts viz. (i) the Centre and (ii) the ancillary facilities, were the subject of competitive tenders and the lowest tender was accepted in each case. The same contractor was successful in both competitions. The lowest tender for the centre came in at about 10% higher than the estimate provided in the cost plan. There were no overruns on the construction contracts. The Committee notes the report of the Comptroller and Auditor General which has found that proper tendering procedures were observed in connection with the placing of the contract and that the Department had satisfactory controls in place in relation to the processing of payment claims in terms of on-site inspections and detailed administrative checks.

Usage of the Centre

- 4.19 Another way of assessing the need for the Centre is to look at the agricultural and equestrian events that have been held or are to be held at the Centre. The usage of the Centre for the purposes for which it was built would strengthen the view that the need for the Centre was not properly evaluated.
- 4.20 It appears from the evidence before the Committee that the Centre was hardly used at all for the first year after it was built. According to information supplied on past and forthcoming events it appears that about one-third of the use of the Centre is for agriculture and equestrian purposes. Many of the remaining events could as equally have been held elsewhere in Ireland but were taken into the Centre as revenue raising events.

General

- 4.21 The Committee notes the view of the Accounting Officer that the value of this project should be measured over the long term and that over that term it will prove to be a valuable asset to the agriculture sector. In the absence of a business or marketing plan for the project or a formal evaluation the Committee is not in a position to take a view on this matter at this time.

Findings and Recommendations

The Committee of Public Accounts finds and recommends:

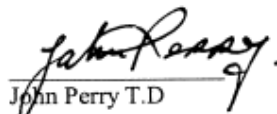
Specifically that

1. the Committee is critical of the evaluation process carried out by the Department of Agriculture and Food on this project. The need for the centre was not properly evaluated. The Accounting Officer should have ensured the proper application of the 1994 Guidelines.
2. the corporate restructuring arrangement between HRI and the Kildare Hunt Club should be fully implemented as soon as possible to further strengthen the protection of the State's interests.
3. the revised legal agreement should be completed by the Department of Agriculture and Food and signed as soon as possible, again to further protect the State's investment.
4. a post project review should be undertaken by the Department of Agriculture and Food as stated in the 1994 Guidelines and presented to the PAC by 30 March, 2005.

And in general that

5. the 1994 Guidelines (issued by the Department of Finance) should be applied in all circumstances involving voted funds with a full appraisal of projects being carried out in accordance with the Guidelines.
6. the Department of Finance clarifies its role in respect of the approval of projects and in particular how it can ensure adherence to the Guidelines by project sponsors.
7. the appropriate legal agreements should in all cases be put in place for such projects to fully protect the State's investment.
8. with the existence of cross over benefits the inter-company internal charging system should be kept under review to ensure that there are no hidden subsidies to non-granted activities.

Adopted by the Committee of Public Accounts


John Perry T.D.
Chairman

26 February, 2004

