

Cross Cutting Issues – Regulators and Ombudsman Offices

Summary

This paper examines the potential for efficiencies at the main economic regulators and the ombudsman offices (as classified for the purposes of this paper only). The opportunities for savings involve the rationalisation of state agencies, reduced expenditure on pay and non pay costs and the accelerated release of reserves built up by certain regulators. However, not all of the savings will accrue to the Exchequer as most of the regulators are funded from payments by regulated entities. The figure below summarises the impact of the proposed measures in terms of Exchequer savings and industry savings (i.e. reductions in levies payable by regulated entities).

Summary of savings for the Exchequer and Regulated Entities

	Measure	Annual savings Exchequer €m	Annual savings for regulated entities €m	Total
A	Rationalisation of agencies	2.5	2.9	5.4
B	Pay costs	0.0	2.0	2.0
C	Non pay costs			
	Regulators	0.0	8.9	8.9
	Ombudsman offices	0.5	0.4	0.9
	Total	3.0	14.2	17.2
D	Release of reserves – €5.3m for reduction of levies and €0 .1m release to Exchequer			

The total proposed annual savings amount to €17m or 18% of the 2007 operational cost base of the regulators and ombudsman offices under review. €3m of this total relates to Exchequer savings. Additional one off savings of €5.3m are proposed based on release of reserves by regulators. Given that the reserves arise due to excesses of payments by regulated entities compared to expenditure, the surpluses should be used to defray future payments by regulated entities.

Further details on the individual proposals are set out below.

Draft Recommendations for Discussion

Rationalisation

The proposals below would have the effect of reducing the number of main regulators and ombudsman Offices from 17 to 11 generating an estimated annual saving of €6m. These savings are not dramatic but the rationalisation of regulators and ombudsman offices should be seen as an opportunity to scale back the number of public bodies, to bring together complimentary functions and to create a unified approach to similar sets of activities. Many of the measures below are based on the rationale of merging bodies which have a common sectoral focus:

- Amalgamation of the Health Insurance Authority with the insurance supervision department of the Financial Regulator yielding potential savings of €0.4m¹ for regulated entities.

¹ The savings resulting from the proposed measures are estimates based on 2007 spending levels and broad assumptions about the potential for staffing reductions and efficiencies in non pay spend. Further analysis is required to validate these figures.

- Amalgamation of the Irish Take Over Panel with the Competition Authority generating a potential saving of approximately €0.3m for regulated entities.
- Amalgamation of the Pensions Board and the Pensions Ombudsman with the Financial Regulator yielding potential savings of €2m by removing some of the state support for activities carried out by these two bodies. The option of removing the requirement to regulate State pensions schemes should also be considered. Such a move could save the State up to €1.5m. Operational savings of €0.8m should be achievable through savings in support costs which will reduce the industry funding requirement.
- Amalgamation of the Broadcasting Commission (including the Broadcasting Complaints Commission) with ComReg yielding potential savings of €1.4m for regulated entities.
- Amalgamation of the Ombudsman's Office with the Children's Ombudsman and the Data Protection Commission yielding potential savings of €0.5m for the Exchequer

It should be noted that this set of rationalisation measures could not be carried out immediately as changes to legislation would be required.

The potential for the creation of a super regulator was considered but it was decided that the case for this measure was not sufficiently robust to warrant recommendation due to the potential risk of concentrating substantial regulatory power in one body and the challenge of devising adequate accountability arrangements for such a body. Similarly, the merger of the CER and ComReg was examined and considered to be a worthwhile proposal in the medium term pending the implementation of efficiencies at both organisations and the successful amalgamation of the Broadcasting Commission of Ireland with ComReg.

Pay Costs

- The disparities in staffing levels among regulators and ombudsman offices and the large increases in staffing for certain organisations suggest potential for staffing reductions. Although it is not possible to precisely cost the impact of staff reductions, it is estimated that approximately €2.0m could be saved by reducing staff at ComReg and the CER corresponding to an overall decrease in numbers of around 37.

Non Pay Costs

- There is scope to reduce operational costs at the regulators and ombudsman offices by cutting back on consultancy, legal services, public relations and publication costs. It is estimated that approximately €9.8m could be saved in this area,

One off measures

- A number of regulators have built up reserves due to regular surpluses of income over expenditure. While maintaining a certain level of reserves is prudent to provide for possible future capital requirements, contingencies or reductions in future income, these regulators should consider using excess reserves to reduce the levy burden for regulated entities. The total amount proposed for release is €5.3m. It can be argued that the reserves for these bodies would eventually be discharged anyway but regulated entities should see reductions in the levy burden in the short term rather than the medium term.

In addition, the Exchequer funded Pensions Ombudsman has a reserve of €0.1m (as at end 2007), this should be released to the Exchequer.

Additional revenue generation

- The potential for raising revenue through charging a fee for ombudsman office services was considered. It was concluded that the amounts raised would be insignificant relative to total costs. Setting a fee would however have the benefit of ensuring more targeted allocation of resources to genuine complaints as the number of less legitimate complaints would decrease (based on the principle that people value what they pay for). On balance, it is recommended not to set a fee for ombudsman services due to the long standing tradition of offering free services and the relatively small amounts which would be raised.

General Measures

- In addition to the specific measures detailed above, a number of general recommendations emerged arising from the work carried out.
 - There is a need for some mechanism to make regulated entities accountable for the value for money obtained through spending of levies and licence fees, particularly with regard to support costs. This could involve the use of consultative panels of a reasonable size (i.e. 8 members or less) with unpaid membership drawn from relevant industry and consumer backgrounds.
 - The merits of outsourcing the joint collection of levies and licence fees for a range of regulators and ombudsman offices should be investigated.
 - Annual reports should follow an annual output statement format outlining outputs and impacts using performance measures, targets and international benchmarks.
 - The variety of corporate governance arrangements which exist for different regulators and ombudsman offices should be reviewed to determine their continued validity. Although the costs are relatively small, there should be consistency across the various bodies.

1. Introduction

This paper on regulators and ombudsman offices (as classified for the purposes of this paper only) is one of a number of cross cutting papers which was requested by the *Special Group on Public Service Numbers and Expenditure Programmes*. The focus of this paper is on a number of regulators and ombudsman offices chosen by the Special Group. Therefore, it does not explore the entire regulatory framework in the State. It considers the potential for Exchequer savings through administrative efficiencies and rationalisation of the number of regulators and ombudsman offices.

Section 2 of this paper looks at the recent developments in the regulation agenda and the policy approach to regulation in Ireland. Section 3 outlines the rationale for the regulators and ombudsman offices under consideration and their functions. Section 4 examines the costs, staffing levels, and the funding of regulators and ombudsman offices. Section 5 looks at outputs. Section 6 considers effectiveness. Section 7 outlines the main savings proposals.

Figure 1 sets out the regulators and ombudsman offices which are examined in this paper together with the relevant year of establishment and the line departments to which they report.

Figure 1: List of Regulators and Ombudsmen by line department

Regulators / Ombudsman Offices	Line Department	Established
Competition Authority/ National Consumer Agency ^a Irish Takeover panel	Enterprise, Trade and Employment	2002 1997
Commission for Communications Regulation (ComReg) Commission for Energy Regulation (CER) Broadcasting Commission of Ireland	Communications, Energy and Natural Resources	2002 1999 2001
Commission for Aviation Regulation Commission for Taxi Regulation ^b	Transport	2001 2004
Pensions Board Pensions Ombudsman	Social and Family Affairs	1990 2005
Defence Forces Ombudsman	Defence	2005
Office of the Children's Ombudsman Health Insurance Authority	Health and Children	2004 1994
Financial Services Ombudsman Office of the Ombudsman	Finance	2005 1984
Garda Síochána Ombudsman Office of the Data Protection Commissioner	Justice, Equality and Law Reform	2005 1989
An Coimisinéir Teanga	Community, Rural and Gaeltacht Affairs	2003

Source: Websites of regulators and ombudsman offices

Note

a In the October 2008 budget, the government announced plans to merge the National Consumer Agency with the Competition Authority.

b The Commission for Taxi Regulation is to be merged with the Dublin Transport Authority

The Financial Regulator has not been included in this analysis as the Central Bank and Financial Services Authority of Ireland, of which the Financial Regulator is a constituent part, does not fall within the remit of the Special Group due to its financial independence from the Exchequer.

2. Regulation in Ireland

Figure 2 below summarises the expenditure and staffing position for the main economic sectoral regulators and the ombudsman organisations for 2007². The total expenditure in 2007 for the regulators and ombudsmen covered by this review is €93m. The regulators account for 71% of this total. Overall, the regulators and ombudsman offices employed approximately 559 staff as at 2007.

Figure 2: Staffing and expenditure for selected regulators & ombudsman offices

	Staffing 2007	Expenditure 2007
Economic Regulators	362	67
Ombudsman Offices	219	27
Overall total	581	94

Source: Annual Reports, 2005 to 2007 & E-Estimates information system , 2005 to 2007

Rationale for Regulation

The OECD³ defines regulation as the diverse set of instruments by which governments set requirements on enterprise and citizens. Regulations include laws, formal and informal orders and subordinate rules issued by government and rules issued by non governmental or self regulatory bodies to whom governments have delegated regulatory powers. In Ireland, regulation refers to primary and secondary legislation passed by the Oireachtas. Regulation is also more generally taken to mean the general regimes that govern particular sectors. The Department of the Taoiseach defines a regulatory body as one that has statutory recognition and one that can act as a “rule maker” or “rule enforcer”. Ombudsman offices broadly fit into this definition as they investigate adherence to regulations and make recommendations for improvements.

Regulators are usually established to promote the public interest. Their function is to intervene in markets to address market failures, improve competition, increase economic efficiency and promote consumer choice. The following section outlines the specific economic rationale underlying the establishment of the main regulators and ombudsman offices under consideration for this paper:

Economic Sectoral Regulators

The oligopolies in the energy and communications sectors and the state owned airports are regulated by the Commission for Energy Regulation, ComReg and the Commission for Aviation Regulation respectively. These regulators were originally set up to prevent monopolies in these sectors from abusing their market position to the detriment of consumers and to manage the liberalisation process for these markets. The rationale for their continued existence is based on their current activities aimed at promoting the efficient functioning of markets and the improvement of consumer welfare.

The Commission for Taxi Regulation was set up to promote competition in the market through maximum fare regulation, to further the integration of taxi services into the public transport system and to improve the quality and safety of taxi services for consumers. The ongoing need for a Taxi Regulator derives from the continuing deficiencies in disabled access and other quality of service issues for consumers.

The Pensions Board was established to realise the social and economic benefits of an efficient and high quality pensions system by protecting the members of occupational pension schemes, developing an efficient national pensions structure and ensuring that citizens have adequate retirement income. The ongoing requirement for a Pensions Board derives from the need to improve retirement pensions security for future pensioners. This should

² 2007 is the most recent year for which audited expenditure figures are available

³ Regulatory Reform in Ireland, OECD, 2001

have positive economic benefits in terms of increased private pension provision and reduced reliance on state supports. In addition, the Pensions Board can potentially improve the efficiency of the pensions industry by enhancing the information on pensions products made available to consumers.

The Broadcasting Commission of Ireland is intended to develop the indigenous market for the broadcast sector. It also controls entry into the radio and television sector to promote diversity in the broadcasting services and to increase customer choice. The continued rationale for the Broadcasting Commission is based on the achievement of social objectives such as the promotion of public sector broadcasting.

The Health Insurance Authority regulates entry to the Irish health insurance market and aims to promote consumer welfare by providing independent guidance on choosing health insurance products. The ongoing justification for the Health Insurance Authority is also based on achieving the social impacts of risk equalisation, open enrolment and lifetime cover.

Competition Authority and Takeover Panel

The Competition Authority was established to improve the efficiency of markets by reducing the barriers to entry for various industry sectors and addressing anti-competitive practices such as cartels. The Competition Authority's role is the means by which competition law is enforced to achieve the benefits of increased competition for consumers ie lower prices and increased choice. As such, there is a continued requirement for this authority to enforce existing legislation and pursue continuing levels of anti-competitive practices in protected markets.

The Takeover Panel was set up to ensure that all takeovers take place in an orderly fashion in compliance with the principles enshrined in the Takeover Panel Act 1997. The rules are intended to promote the efficient functioning of takeover transactions by increasing transparency and reducing information asymmetries. The rules are also intended to ensure fair treatment for all shareholders.

Ombudsman offices

Ombudsman offices are impartial, independent bodies which investigate complaints made by citizens usually against government agencies and make recommendations. They are intended to promote administrative fairness. They can provide alternative dispute resolution services, which may reduce the propensity for costly and time-consuming grievances and litigation. In particular, the offices aim to reduce the reliance on the courts as the sole mechanism for addressing complaints. The findings of ombudsman offices are generally not legally binding. The broader impacts of ombudsman offices include the uncovering of systemic problems with public administration and the recommendation of changes which lead to improvements in customer service.

In 1984 the Office of the Ombudsman was established to address complaints against government departments, the health boards and An Post but in recent years, a number of additional ombudsman offices have been established for specific industries (e.g. financial services) or specific policy themes (e.g. children). A number of other ombudsman offices may potentially be introduced e.g. an ombudsman for the elderly.

Risk associated with Regulation

There are a number of risks associated with the establishment of regulatory agencies. Regulatory capture can occur whereby the regulators act in the interests of the regulated industry instead of the public interest. This can occur because regulators lack the in-house expertise for effective regulation and rely on the co-operation of regulated entities to carry out their functions.

Regulatory failure can occur where the costs of regulation exceed the benefits to society. The costs of regulation include the policy costs incurred by regulators in designing and implementing regulations and the administrative costs incurred by regulated entities in complying with regulatory requirements.

There is also a trade off between regulation and innovation. The imposition of regulations can hinder regulated entities in the development of innovative products and services. This can arise due to lengthy procedures required to approve new products or onerous periodic reporting requirements.

Recent Policy Developments

Regulatory reform in Ireland began in earnest in the 1990's with the privatisation of state owned commercial firms. Public policy became increasingly concerned with market liberalisation, increasing competition and the promotion of consumer welfare. This led to the establishment of regulators to regulate the energy, communications, aviation and financial services sectors. These bodies were set up as agencies independent of government and granted the power to raise funds using levies and licence fees.

The pace of regulatory reform has quickened in recent years with the work of the Better Regulation Unit at the Department of the Taoiseach. The most significant development was the publication of the Government's white paper, *Regulating Better*, which set out the principles of good regulation and outlined an action programme to improve regulation. Significant measures have included the introduction of a requirement for regulators to carry out regulatory impact analysis (government decision 2005), initiatives to consolidate existing legislation and the mapping of the functions of all regulatory bodies in Ireland. Figure 3 presents some of the main developments of the better regulation agenda.

Figure 3: Summary of developments in regulatory reform

Year	Measure
1999	Reducing Red Tape, an action programme launched as part of SMI
2001	OECD Peer Review on Regulatory Reform in Ireland
2004	White Paper on Regulatory Reform 2004 published
2004	Establishment of Better Regulation Group
2007	Better Regulation Survey of Business by ESRI
2007	Review of the Economic Regulatory Environment in Ireland by external consultants commences

Source: Better Regulation Website, Department of the Taoiseach

It should also be noted that much of the regulation in Ireland is driven by regulations and directives designed at EU level.

A number of issues concerning the efficiency and effectiveness of the regulatory system have emerged in recent years. The risk of duplication and overlaps between regulators has been raised as the number of regulators has increased. The effectiveness of individual sectoral regulators has been questioned, particularly in relation to the level of competition and the need for price reductions in the energy area. The Competition Authority itself has stated in its submission to the OECD review of the Public Service, that the real impact of RIA reforms and consolidation processes have yet to be seen. Finally the burden of regulation has been highlighted by industry representative bodies as a contributory factor influencing competitiveness.

Recent rationalisations

A number of agency rationalisations were announced as part of budget 2009. There were two amalgamations involving regulatory bodies:

- The National Consumer Agency with the Competition Authority
- The Commission for Taxi Regulation with the Dublin Transport Authority

The Minister for Finance also recently announced a new round of rationalisation involving financial regulatory bodies. It is envisaged that the Financial Regulator (excluding its consumer education and information activities) will be amalgamated with the Central Bank. This new structure will replace the current board structure of the Central Bank and the Financial Services Regulatory Authority

3. Objectives and Functions

The regulators considered for this paper include the main economic sectoral regulators such as the Commission for Energy Regulation, ComReg, the Commission for Aviation Regulation and the Commission for Taxi Regulation. These organisations have a variety of functions ranging from overall industry regulatory matters such as licensing, tariff setting, investigation and enforcement to more general activities such as information provision, monitoring and policy advice. In addition there is the Competition Authority which carries out activities across all industry sectors as well as a number of smaller regulators which regulate specific sets of commercial activity such as the Irish Takeover Panel, the Health Insurance Authority the Pensions Board and the Broadcasting Commission of Ireland.

The Ombudsman offices share similar objectives with each other. They investigate complaints made by citizens or consumers and make recommendations based on the findings of their investigations. The offices can be categorised between those which investigate complaints against government organisations and those which deal with complaints made against specific industry sectors. The ombudsman offices which deal with the public sector include ombudsman offices for specific government sectors (Garda Complaints Ombudsman and Defence Forces Ombudsman⁴), an ombudsman office for a particular policy theme (Ombudsman for Children) and an ombudsman investigating complaints made against a range of government departments, local authorities and the HSE (the Office of the Ombudsman). The ombudsman offices investigating complaints against industry comprise the Financial Services Ombudsman and the Pensions Ombudsman. The Broadcasting Complaints Commission investigates complaints against television and radio broadcasters.

⁴ The Defence Forces Ombudsman is somewhat anomalous as it does not deal with complaints made by the public against the Defence Forces but rather acts as an industrial relations mechanism investigating complaints made by serving and former members of the Defence Forces

More detail on the specific functions of each regulator and ombudsman office is set out at appendix A. Figure 4 below outlines the main functions performed by the Regulators under consideration.

Figure 4 Main functions and activities of regulators and ombudsman offices

	Licensing new entrants	Tariff Setting	Competition	Investigation	Enforcement	Information	Consumer Protection	Monitoring	Policy Advice
Regulators									
Competition Authority/National Consumer Agency ⁵			✓	✓	✓		✓		
Commission for Energy Regulation	✓	✓	✓		✓		✓		
ComReg	✓	✓	✓	✓			✓		
Broadcasting Commission of Ireland	✓			✓		✓		✓	
Commission for Taxi Regulation	✓	✓	✓	✓	✓		✓		
Commission for Aviation Regulation	✓	✓		✓	✓		✓	✓	
Pensions Board				✓	✓	✓	✓	✓	✓
Irish Takeover Panel	✓							✓	
Health Insurance Authority	✓			✓		✓	✓	✓	✓
Ombudsman Offices									
Office of the Ombudsman				✓					
Children's Ombudsman				✓		✓			✓
Office of the Data Protection Commissioner				✓	✓	✓	✓		
Garda Síochána Ombudsman				✓	✓				
An Coimisinéir Teanga				✓		✓		✓	
Ombudsman for the Defence Forces				✓					
Financial Services Ombudsman				✓	✓		✓		
Pensions Ombudsman				✓	✓		✓		

Source: Websites of Regulators and Ombudsman Offices

⁵ The Competition Authority will soon incorporate a consumer protection role when it completes the amalgamation with the National Consumer Agency

4. Costs and Resources

Cost of regulation

Figure 5 below presents the operational costs for the regulators and ombudsman offices under review. The gross cost of regulation is higher as the costs below do not include all the costs to business of complying with relevant regulations. Conversely, the wider social and economic benefits of regulation are not quantified and reported by regulators.

Figure 5: Costs of selected regulators, 2002 to 2007

	2002	2003	2004	2005	2006	2007	% Increase
	€m	€m	€m	€m	€m	€m	
Regulators							
Competition Authority	Not available	3.3	4.3	4.6	4.8	4.8	n/a
Commission for Energy Regulation	6.0	9.6	7.1	9.8	12.8	14.6	143
Communications Regulator	12.9	13.3	16.3	21.7	18.6	19.2	48
Broadcasting Commission	Not available	Not available	4.8	5.8	5.7	5.8	n/a
Commission for Taxi Regulation	n/a	n/a	0.1 ^a	1.6	5.7	8.8	n/a
Commission for Aviation Regulation	3.6	3.9	2.9	3.7	3.9	4.5	25
Pensions Board	3.7	4.5	5.0	5.7	6.6	6.6	78
Irish Takeover Panel	0.6	0.8	1.0	0.9	1.0	1.0	67
Health Insurance Authority	1.0	1.1	1.2	1.6	1.7	1.9	90
Ombudsman Offices							
Office of the Ombudsman	2.5	2.8	2.7	3.0	3.3	3.6	44
Children's Ombudsman	n/a	n/a	0.2	0.9	1.3	2.1	n/a
Office of the Data Protection Commissioner	0.8	1.2	1.3	1.4	1.3	1.8	125
Garda Síochána Ombudsman	n/a	n/a	n/a	n/a	1.1 ^a	14.1	n/a
An Coimisinéir Teanga	n/a	n/a	0.4	0.6	0.6	0.8	n/a
Defence Forces Ombudsman	n/a	n/a	n/a	n/a	0.3	0.4	n/a
Financial Services Ombudsman	n/a	n/a	n/a	1.8 ^a	3.3	3.7	n/a
Pensions Ombudsman	n/a	0.2 ^a	0.5	0.6	0.8	0.9	n/a

Source: Annual Reports, 2005 to 2007 & E-Estimates information system, 2005 to 2007
 A These figures do not reflect full year costs as the relevant bodies were in start up mode

An examination of the cost data reveals interesting relativities of expenditure between the main regulators. The Commission for Taxi Regulation spent over 80% more (€8.8m) in 2007 than the Competition Authority (€4.8m). Of the main economic regulators, ComReg reported the highest operational spend with expenditure of €19.2m in 2007. This is 23% above the cost base of the next highest spending regulator, the CER, and would seem disproportionately large particularly given that the telecommunications industry is further along the liberalisation agenda.

Looking at the trend of expenditure over the 5 years, the CER stands out with a dramatic increase in operational costs by over 140% from 2002 to 2007. A large percentage increase was reported by the Commission for Taxi Regulation with a five fold increase in its expenditure since 2005 (its first full year of operation). The costs for ComReg increased by 49% since 2002 but have begun to decline slightly in recent years from a peak in 2005.

The Commission for Aviation Regulation has shown a much more modest increase in expenditure of 25% since 2002.

The Garda Síochána Ombudsman increased expenditure dramatically in 2007 compared to 2006 but this was because the organisation was in a start up phase in 2006 and most of the staff came on stream in late 2006 or early 2007. The premises was only secured in late 2006 and the 2007 costs include fitting out costs. The exact total cost incurred for fitting out the new premises cannot be determined but even if all the 2007 costs reported for premises and office expenses (€6.6m or 47% of total cost) are deducted from total GSOC costs, the remaining total cost would still be more than double the next highest cost for ombudsman offices.

The expenditure of the Office of the Data Protection Commissioner has more than doubled over the last five years from €0.8m to €1.8m, although this increase is from a low base.

Staffing

A significant driver of costs at the regulators and ombudsman offices is pay. Figure 6 below shows the staffing levels of the regulators and ombudsmen offices over the period 2005 to 2007.

Figure 6 Staffing levels of regulators and ombudsman offices, 2005 to 2008

	2005	2006	2007	2008 ^a	% change 05 compared to 08
Regulators	WTE	WTE	WTE	WTE	
Competition Authority	48	52	47	53	10
Commission for Energy Regulation	46	63	59	72	57
Communications Regulator	104	108	110	120	15
Broadcasting Commission	32	44	38	36	13
Commission for Taxi Regulation		24	35	39	n/a
Commission for Aviation Regulation	19	19	20	21	11
Pensions Board	39	39	39	42	8
Irish Takeover Panel	5	5	5	5	0
Health Insurance Authority	n/a	9	9	9	n/a
Ombudsman Offices					
Office of the Ombudsman	52	53	61	62	19
Children's Ombudsman	7	11	15	15	114
Garda Síochána Ombudsman	n/a	44	75	100	n/a
Office of the Data Protection Commissioner	16	22	22	22	38
An Coimisinéir Teanga	5	5	6	8	60
Defence Forces Ombudsman	n/a	3	3	4	n/a
Financial Services Ombudsman	22	25	28	29	32
Pensions Ombudsman	8	8	9	10	25

Source: Annual Reports, 2005 to 2007, E-Estimates 2005 to 2007, individual agencies

Note

A Some of these staffing figures relate to early 2009

ComReg has the highest staffing level of any of the regulators, employing 60 more staff than the Commission for Energy Regulation. The Broadcasting Commission also appears to have disproportionately high staffing levels with 36 employees when compared with other regulators such as the Aviation Regulator (21). The Commission for Taxi Regulation, and the Commission for Energy Regulation have increased staffing significantly over the period. The Broadcasting Commission and the Comreg have increased staff at a more moderate rate. The Pensions Board and the Commission for Aviation Regulation have managed to keep staffing levels relatively stable.

The Garda Síochána Ombudsman is the largest Ombudsman employing 100 staff, 66% more than the Office of the Ombudsman which covers all government departments, the HSE and local authorities. There is also a noticeable difference between the Financial Services Ombudsman and the Pensions Ombudsman, with the FSO employing three times as many staff.

Senior staffing structure and pay rates

It is beyond the scope of this paper to compare the staffing structure of all the regulators and ombudsman offices. However an overview of the senior management structures of these bodies is presented in figure 7 to illustrate the variety of ways in which these organisations are managed.

Figure 7 Senior staffing structure and pay rates, 2005 to 2007

Regulator/Ombudsman	Management	Board	Executive Pay 2007/2008 €	Total remuneration for Boards 2007 €
Regulators				
Competition Authority	An Authority of five members	None		
CER	3 person commission with 1 chair ^a	None	441,636 ^b	
ComReg	3 person commission with 1 chair	None	411,000 ^b	
Commission Taxi Regulation	1 commissioner	Advisory panel 17	137,737 ^c	5,029
Commission Aviation Reg.	1 commissioner	None	202,996 ^c	
HIA	1 CEO	Authority of 4		31,500
Broadcasting Commission	1 CEO & 1 deputy CEO	1 chair & 9 commissioners	132,401 ^{bd}	135,232
Pensions Board	1 CEO	Board of 17		137,919
Takeover Panel	1 director general	Panel of 7		254,000
Ombudsman Offices				
Office of the Ombudsman	1 ombudsman	None	Same as high court judge	
Children's Ombudsman	1 ombudsman	None		
Garda Síochána Ombudsman	3 commissioners	None		
An Coimisinéir Teanga	1 commissioner	None	126,588 ^c	
Defence Forces Ombudsman	1 ombudsman	None		
Financial Services Ombudsman	1 ombudsman	Advisory Council of 9		176,000
Pensions Ombudsman	1 ombudsman	None	126,588 ^c	

Source: Websites of regulators and ombudsman offices and internal documentation
Notes

- a In the 2007 annual report, there were only two commissioners listed as members of the commission
- b 2007 data
- c 2008 approved rate of pay for post, non PPC
- d excludes superannuation contribution

With the exception of the Commission for Energy Regulation and ComReg, the regulators are led by a CEO or a commissioner. The CER and ComReg are both managed by three member commissions including one chairperson. There are arguments in favour of this structure:

- Potential for better decision making through collaboration of a group of experts, particularly for those decisions involving difficult judgement calls.
- Allocation of specific industry sub sectors to an individual senior high level executive.

On the other hand, such three person commissions incur extra executive remuneration costs and can potentially delay decisions by requiring a consensus approach to major decisions. There is also an inconsistency in operating a commission type structure for some regulators and not others. Most other regulatory agencies have a single regulator leading the organisation.

Figure 7 shows the variation in corporate governance arrangements across the regulators. Most of the regulators simply have an executive management team. However 6 of the regulators have another corporate governance structure in addition to this layer. The members of the various boards are usually appointed by the relevant Minister for fixed terms.

The background of the members varies across the five regulators concerned. The membership of the HIA currently consists of an accountant, two actuaries and two members with consultancy and financial services backgrounds. The members of the Broadcasting Commission of Ireland comprise an author, a management consultant, three NGO directors, two educators, a director of a public service agency in Northern Ireland and a barrister. Under the provisions of the Pensions Act, 1990 (as amended) the Pensions Board must comprise representatives nominated by trade unions, employers, the Government, the pensions industry, member trustees and professional groups involved with occupational pension schemes. The membership of the Irish Takeover Panel is drawn from the following five bodies representing various aspects of the financial services sector: Consultative Committee of Accountancy bodies; Law Society of Ireland Irish Association of Investment Managers; Irish Clearing House Limited; Irish Stock Exchange Limited. The chairperson and deputy chairperson are nominated by the Central Bank and Financial Services Authority of Ireland. The membership of the advisory councils for the Commission for Taxi Regulation and the Financial Services Ombudsman are both drawn from relevant industry sector groups.

The remuneration paid to these boards also varies. In particular the costs paid to the Takeover Panel and the Pensions Board are significant. There may be valid reasons justifying the existence of board type structures such as the enhancement of corporate governance by making regulators more accountable to industry (particularly with regard to levies and the cost of regulation). However such boards or panels should be moderate in size and remuneration should be capped at reasonable levels.

Salary levels also vary between regulators and ombudsman offices. This paper does not include a detailed examination and comparison of grade structures across the regulators and ombudsman offices. However, an analysis carried out for this paper showed that excluding senior management costs, the average salary per employee at the regulators is over €68,000. This is equivalent to assistant principal level (standard scale) staff and suggests that there may be scope to carry out more work using lower grades.

Legal and Consultancy Costs

Legal and consultancy costs are an important driver of non pay costs for the regulators. According to figure 8, there has been a fall in combined legal and consultancy costs across the Regulators but overall cost levels remain high e.g. the legal and consultancy costs for ComReg are broadly equivalent to the total 2007 budget for the Competition Authority.

There are one off factors which affect the level of legal and consultancy fees in a given year e.g. the Commission for Energy Regulation has recently been involved in the development of the single energy market. Nevertheless the level of these costs is very high given the level of internal resources available to regulators and the rates at which they are remunerated. It would seem appropriate that they would have the necessary resources in house to carry out their functions.

Figure 8 Total legal and consultancy costs⁶ for selected regulators. 2005 to 2007

	2005	2007	% change 05 to 07	07 costs as a % of total costs for each regulator
	€000	€000	%	%
Regulators				
CER	4,775	6,591	38	45
ComReg	8,566	4,295	(50)	22
HIA	688	628	(8)	33
Commission for Aviation Regulation	1,576	1,695	8	37
Commission for Taxi Regulation	462	607	31	9
Pensions Board	862	952	10	14
Broadcasting Commission	502	511	1	9
Totals	17,431	15,279	(12)	

Source: Annual Reports, 2005 to 2007

There should be scope for increased reliance on internal resources, pooling of legal and business expertise as well as efficiencies in legal / consultancy costs through lower fee payment rates where external consultants are necessary.

⁶ Consultancy and legal cost information is not publicly available for the Competition Authority.

Funding

Regulators have two main sources of funding – grants-in-aid provided by their line departments and payments by regulated entities. The funding provided by regulated entities consists mainly of levies but can also include licence fees for new industry entrants. Some regulators are funded solely by the levies paid by regulated entities. Others are funded by a mix of state and industry contributions. Figure 9 below shows the funding model for each regulator.

Figure 9: Percentage of income from non exchequer sources

	2005			2006			2007		
	Licence Fees & other	Levies	State Grant	Licence Fees & other	Levies	State Grant	Licence Fees & other	Levies	State Grant
Regulators									
Competition Authority			100			100			100
Commission Energy Regulation	1	99		28	72		1	99	
Communications Regulator	65	35		70	31		88	12	
Commission Aviation Regulation	37	63		14	86		10	90	
Commission Taxi Regulation	40		60	100			100		
Broadcasting Commission	65		35	69		31	76		24
Irish Takeover Panel		100			100			100	
Pensions Board		67	33		64	36		67	33
Health Insurance Authority		100			100			100	
Ombudsman Offices									
Office of the Ombudsman			100			100			100
Childrens Ombudsman			100			100			100
Office of the Data Protection Commissioner			100			100			100
Garda Siochana Ombudsman			100			100			100
An Coimisinéir Teanga			100						100
Defence Forces Ombudsman			100						100
Financial Services Ombudsman		100			100			100	
Pensions Ombudsman			100			100			100

Source: Annual Reports, 2005 to 2007, E-Estimates 2005 to 2007

With the exception of the Competition Authority, the economic sectoral regulators are funded by levies and licence fees. This means that there are four separate support functions designing and calculating levy funding models as well as collecting levy payments. The payments processing element of this work should be suitable for consolidation across all four regulators and also for outsourcing at a later stage.

The imposition of levies on industry means that the Exchequer does not bear the burden for operational cost increases. Instead, increases in operational cost are reflected in year on year increases in levies.

All of the ombudsman offices for State organisations are funded by the State. None of these bodies charge a fee for lodging complaints. There is variation in the collection of levies between the two ombudsman offices for industry sectors. The Pensions Ombudsman is not funded via levy whereas the Financial Services Ombudsman is funded using industry levies. Both of these offices offer their services for free.

5. Outputs

Regulators

An examination of the annual reports of many of the regulators shows wide variation in the content of the information presented. In many cases, it is difficult to discern clearly the outputs of the work of these regulators and relate these to the original regulatory functions. The annual reports tend to contain a discussion of activities carried out and the general policy direction instead of tangible outputs measured against targets or benchmarks. Information on outputs is distributed piecemeal throughout annual reports. The following are the main types of outputs as extracted from the regulators' annual reports:

- Licences granted for new entrants
- Tariff changes
- Enforcement outputs for relevant regulators such as court cases or fines
- Publication of consumer reports
- Publication of research reports such as industry analysis
- Resolution of consumer queries

The comparison of outputs across regulators is not straightforward because of the differing mandates and industry specific requirements which apply. The resource requirements to produce similar outputs may differ depending on the nature of the industry e.g. licencing a new taxi vs. licencing a new energy provider. Therefore a definitive comparison of outputs is not provided. Similarly, given the lack of internal or external standards to measure performance, it is not possible to assess performance on an agency by agency basis.

Ombudsman Offices

The main outputs for ombudsman offices are:

- Resolved complaints
- Further investigations carried out on foot of complaints
- Published case studies

Figure 11 below shows the volume of resolved complaints for the period 2005 to 2007.

Figure 11 Annual number of cases examined and resolved by ombudsman offices, 2005 to 2007

Ombudsman Office	2005	2006	2007	Case Officers	Estimated case load per officer 2007
Pensions Ombudsman	385	307	584	4	146
The Ombudsman	2,193	2187	2,520	24	105
Office of the Data Protection Commissioner	366	535	820(e)	7	117
Garda Siochana Ombudsman Commission	n/a	n/a	2,084	18	116
Office of the Children's Ombudsman	357	517	742	5	148
Financial Services Ombudsman	1,368	4,116	4,534	14	323
An Coimisinéir Teanga	246	294	378	4	95

Source: Annual reports 2005 to 2007

Figure 11 compares the annual number of resolved cases between ombudsman offices. There is a significant difference between the resolved cases per case officer across the different offices⁷. An Coimisinéir Teanga shows a caseload of 95 cases per officer whereas the Financial Services Ombudsman has the highest throughput per case officer at 323. It is noteworthy that none of the ombudsman offices include time targets for resolution of complaints. Similarly, with the exception of the Garda Siochána Ombudsman Commission, none of the ombudsman offices have attempted to measure customer satisfaction with their work.

6. Effectiveness Issues

This section highlights some of the publicly available statistics regarding the effectiveness of the various regulators and ombudsman offices.

General

- According to the IMD *World Competitiveness Survey*, (NCC, 2009), the overall level of regulation in Ireland is perceived as among the lowest in the EU.
- The findings of the Business Regulation Survey conducted in 2006 by the ESRI showed that 55% felt that the level of regulation was about right. However one third of firms felt that there was too much regulation. The disproportionate impact of regulation on smaller firms was also raised.

Competition

- According to business executives, Ireland's competition legislation is more efficient than the average OECD economy (NCC, 2009)
- Certain sectors of the economy remain sheltered and subject to anti competitive forces e.g. dental, the legal profession. The competition authority has published a number of reports outlining recommendations to improve competition in these areas.

⁷ The nature of cases and the work required for processing may vary between Ombudsman Offices

Energy

- According to the National Competitiveness Council (2009), Ireland ranks 10th of 12 countries in terms of competition in energy supply as measured by the market share of the top three energy generators due to the highly concentrated nature of the electricity generation market.
- A report by SEI published in 2008 showed that Irish consumers pay 20% above the EU average for electricity costs and that some industrial users pay 52% above EU costs. According to SEI, a high dependence on imported fossil fuels and our exposure to high fossil fuel prices contribute to the higher prices. Other factors which impact on energy prices in Ireland are operational efficiency of energy providers and level of investment in the energy transmission and distribution network.

Communications

The process of liberalisation is more advanced in the telecommunications industry. The following are the most recent measures of the effectiveness of regulation in Ireland.

- The market share of the incumbent in the telephone market is quite high, Ireland ranks 9th of 13 (NCC, 2009).
- According to the EU's 2008 report on the Single European Electronic Communications Market, Ireland has the highest monthly fixed line rental cost for the incumbent operator.
- Ireland still lags behind other countries in terms of broadband penetration although subscriptions are growing. Ireland currently ranks 25th out of 35 OECD countries in terms of its broadband subscribers per 100 inhabitants (OECD, June 2008). ComReg's most recent figures show that 62% of households now have broadband.

Transport

- The recent economic review of taxi regulation in Ireland carried out by Goodbody's highlighted the benefits of liberalisation in the form of reduced waiting times for consumers and the substantially increased number of passenger trips.
- The OECD recognised in its 2001 report on regulatory reform in Ireland that substantial progress has been made in aviation deregulation in Ireland.

Ombudsman Offices

The aim of ombudsman offices is to provide alternative mediation mechanisms for citizens and consumers to resolve disputes without costly and time consuming recourse to the courts system. At an individual complainant level, the main outcome is some form of redress for the complainant. At a wider level, this should lead to improvements in general systems and procedures of public or private organisations arising from the resolution of an individual complaint. An ombudsman office may highlight systemic problems as a result of a pattern of complaints which can lead to benefits for all citizens or consumers if action is taken.

A follow on outcome of ombudsman activities should be savings in dispute resolution costs. Measuring this outcome is difficult because it involves a notional counterfactual of what would have happened if complainants had pursued complaints through the courts. It is also complicated by the fact that it is not certain that all complainants would necessarily pursue their complaint through the courts if no ombudsman office was available. In any event, no such analysis has been carried out.

The office of the Ombudsman has highlighted outcomes related to public administration improvements in his annual reports. Most of the other ombudsman offices do not fully explore the broader impacts of their work but limit their reporting to information about caseloads and individual cases of interest.

7. Potential Areas for Savings

Rationalisation

There are some cases of overlap between existing Regulators which prompt consideration of amalgamations.

Health Insurance Authority with Financial Regulator

The Health Insurance Authority regulates private health insurers. However, the Financial Regulator has its own insurance supervision department as part of its prudential division which regulates life and non life insurers. The private health insurers are also regulated by the Financial Regulator as part of its insurance supervision mandate. This would seem to be an obvious overlap of activities here which would support amalgamation⁸.

In addition to the overlap in functions, there are other arguments in favour of amalgamation. The issuing of industry funding levies by the HIA could be easily absorbed in the Financial Regulator which already issues funding levies annually to regulated entities and other bodies. Private health insurers would only receive one levy notice combining the Financial Regulator charge with the HIA charge. The HIA is also located in Dublin so there would be few complications in terms of staffing transfer. The level of savings which could be achieved from the amalgamation would not be significant. The HIA employs nine staff. It is estimated that potential savings of approximately €0.4 m (21% of 2007 costs) could be generated based on a reduction in support and clerical staff by 4 WTE, elimination of cost elements such as audit fees, rent and recruitment costs as well as abolition of the authority itself. A detailed examination of both organisations would be necessary to validate these figures.

Irish Takeover Panel with the Competition Authority

The remit of the Irish Takeover panel is quite specific involving the regulation of a particular type of commercial transaction. The organisation itself is very small and it is not clear that its function warrants a stand alone organisation. The Competition Authority would be a natural choice for housing the Irish Takeover Panel activities as it already has a role in approving mergers and acquisitions. The amalgamation would also facilitate the interchangeability of staff between takeover related work and other competition authority work in line with the demand for takeover approvals. The savings from this amalgamation would not be significant. The efficiencies would arise from an estimated reduction in administration headcount from 5 to 4 and elimination of certain support costs. In addition the amalgamation offers the potential to eliminate the panel itself which currently costs €0.254m annually. Total potential savings for the amalgamation are estimated to amount to approximately €0.3 or 35% of current spend.

⁸ It should be noted that the Competition Authority has recommended that the VHI also be subject to prudential regulation by the Financial Regulator

Broadcasting Commission and Broadcasting Complaints Commission with ComReg

There are two sectoral regulators in the communications industry; the Broadcasting Commission and ComReg. The Broadcasting Commission also incorporates an ombudsman type organisation called the Broadcasting Complaints Commission which deals with complaints made against radio and television broadcasters. It is anomalous for two regulators to operate in the communications and broadcasting sector given the growing convergence between both industries. ComReg is already responsible for the regulation of the broadcasting transmission network so it makes sense to extend its remit to include the functions performed by the Broadcasting Commission of Ireland - licensing of television services on digital, cable, MMDS and satellite systems; the development of codes and rules in relation to programming and advertising standards and the monitoring of all licensed services to ensure that licence holders comply with their statutory obligations and terms of their contracts.

The UK pursued a similar rationalisation by creating Ofcom, a single regulator for communications. This involved the amalgamation of 5 regulators from the Telecommunications/Broadcasting sector the Broadcasting Standards Commission, the Independent Television Commission, the Radio Authority, Oftel and the Radio Communications Agency. This process took 3 years from publication of the White Paper to Ofcom's Vesting Day (29 December, 2003) and a further two years before all systems were bedded down. Ofcom estimated its appropriate staff complement to be 25% less than the total staff employed in the 5 previous regulators.

It is estimated that potential savings from an amalgamation of ComReg and the Broadcasting Commission of Ireland could be approximately €1.4m. Efficiencies would be gained by savings in support functions and clerical staff and cutbacks in programme costs. The efficiencies also include savings from the abolition of the 17 person Broadcasting Commission and the nine member Broadcasting Complaints Commission. A further sizeable reduction in staff should be possible given the already high levels of staff at ComReg.

It should be noted that the Government has approved the Broadcasting Authority Bill 2008, which consolidates previous broadcasting legislation and establishes a new Broadcasting Authority. This new body will incorporate the Broadcasting Commission of Ireland which could have implications for this proposal. The new bill allows the Broadcasting Authority to fund its operation by levying regulated entities. At present the new authority is budgeted to employ 50 staff.

Pensions Board and Pensions Ombudsman with Financial Regulator

The role of the Pensions Ombudsman is to investigate complaints of financial loss due to maladministration and disputes of fact or law in relation to occupational pension schemes and Personal Retirement Savings Accounts (PRSAs). The Pensions Board is responsible for the regulation of occupational pension schemes and PRSA's. One of the main regulatory responsibilities of the board is to ensure that the funding standard for pension schemes is met. There is a natural synergy between both these organisations and the Financial Regulator since all three of these organisations are involved with the regulation of financial services providers. In addition, both the Pensions Board and the Pensions Ombudsman carry out promotion and information campaigns very similar to the activity carried out by the Consumer Information department of the Financial Regulator (the Pensions Board spent €1m on pension awareness in 2007). There would also be synergies in the issuing and collection of industry levies. Finally, all of these organisations are located in Dublin which means that there should be no major staff relocation issues.

Given the small size of the Pensions Ombudsman, there would not be significant savings arising from an amalgamation of both organisations. However since the Pensions Ombudsman is funded via state grant, there is scope to move towards funding of the pensions ombudsman activities via a levy similar to the Financial Ombudsman and reduce state funding for activities in this area. This levy would not be a separate levy on pensions providers but would be incorporated into the levy system currently administered by the Pensions Board. This would lead to an Exchequer saving of €1.05m.

There should also be savings arising from the amalgamation which would impact on the annual funding requirements for an industry levy. It is estimated that three support staff positions currently part of the Pensions Ombudsman structure could be saved yielding €0.1m. In addition, a 50% reduction in administrative non pay costs for the Pensions Ombudsman would save approximately €1m. These total savings of €0.2m could be used to mitigate the levy burden for regulated entities arising from the removal of state funding.

The Pensions Board is funded by industry and the state. The total state grant in 2007 was €2.2m. The grant was allocated to cover the staff superannuation (salaries paid from elsewhere) costs and pensions awareness costs (€1m). The amalgamation of the Financial Regulator with the Pensions Board provides an opportunity to revise the funding model for the Pensions Board. That part of the State grant relating to pensions awareness advertising should be discontinued and the Pensions Board should fund these costs from its own resources because this expenditure has potential benefits for the entire pensions industry. The balance of the €2.2m should continue to be paid to cover superannuation costs.

There is a further option to generate savings for the Exchequer. At present, the State pays fees to the Pensions Board in respect of public occupational pension schemes. Given that the C&AG audits these bodies, the issue arises as to whether there is a need to regulate these schemes. There could be scope to either reduce or eliminate the current levels of regulatory activity carried out by the Pensions Board for these schemes. This could save the Exchequer up to an estimated €1.5m and would also lead to a more streamlined operation at the Pensions Board.

The amalgamation of the Pensions Board with the Financial Regulator should also yield operational cost savings which will reduce the funding requirement to be paid by regulated entities. Based on staff reductions in corporate services and reductions in other support costs, an estimated €0.4m could be eliminated from expenditure for the Pensions Board. There is also the potential for elimination of the Pensions Board itself yielding savings of €1m bringing total savings arising from the amalgamation to €0.5m.

The total savings arising from discontinuation of state funding for the Pensions Ombudsman and the Pensions Board amounts to €2m (not including the potential scope for savings arising from discontinuation of regulation for public pensions schemes) Total operational savings resulting from the proposed amalgamation of both bodies with the Financial Regulator come to €0.8m

The proposed amalgamation of the Pensions Board and Pensions Ombudsman with the Financial Regulator would require some changes to the membership of the authority of the Financial Regulator to include pensions experts. The amalgamation will also require new structures to be put in place to ensure that the pensions policy unit at the Department of Social and Family Affairs can engage with the relevant pensions regulatory and ombudsman staff at the Financial Regulator.

Office of the Ombudsman with the Office of the Children's Ombudsman and Office of the Data Protection Commissioner

There has been a growth in the number of ombudsman offices in recent years, each with their own annual report, publicity and awareness costs as well as the additional cost of a stand alone organisation. There should be scope to amalgamate ombudsman offices which relate to State bodies. Such an amalgamation would provide an opportunity to rethink the grading structure for the different ombudsman officers. There could be a series of deputy ombudsmen with responsibility for different sectoral areas reporting to one overall ombudsman. There could also be scope to ensure more investigations work is carried out by staff at EO level instead of higher levels e.g. there are 15 AP's and 20 staff of lower grades working in the complaints investigation division of the Ombudsman Office Over the long term, any additional ombudsman offices which may be created (e.g. ombudsman for the elderly) could be incorporated into the amalgamated organisation. Savings in non pay costs should also result. These cannot be costed without further detailed organisational analysis. The amalgamation would also facilitate better prioritisation of resource allocation across the various ombudsman sectoral areas.

The proposed amalgamation encompasses the Office of the Ombudsman the Office of the Children's Ombudsman, and the Office of the Data Protection Commissioner. All three organisations carry out similar complaints investigation activities requiring common skill sets. The offices (22 staff) for the Office of the Data Protection Commissioner are currently located in Portarlinton. This does not necessarily preclude

amalgamation as this office could also be used for the provision of back office services to the other ombudsman offices.

It is estimated that total savings for amalgamating the Office of the Data Protection Commissioner and the Children's Ombudsman with the Office of the Ombudsman would amount to €0.5m based on reductions in support staff and substantial cuts in incidental expenditure.

The amalgamation of the Ombudsman's Office with the Coimisineir an Teanga, the Garda Síochána Ombudsman Commission (GSOC) and the Defence Forces Ombudsman was also considered. It was decided that the potential drawbacks of the amalgamation of these bodies outweighed any efficiencies that would be gained. In the case of the Coimisineir an Teanga, the location of its small office (5 people) in Galway would complicate any amalgamation giving rise to industrial relations and transition costs which would mitigate any potential savings to be made.

The GSOC is different to other ombudsman offices in that its remit requires intensive criminal investigations. These are different to the normal complaints investigations carried out by other Ombudsman offices. The standard of proof required is higher and the work is carried out by staff with a policing background who are available on a 24/7 basis. Given these differences, there are few synergies to be obtained by merging the GSOC with the Ombudsman's Office.

The Defence Forces Ombudsman is different to other ombudsman offices in that it does not deal with complaints against the Defence Forces. Instead, its role is to investigate complaints made by current and former members of the Defence Forces which complainants believe have not been adequately addressed by the internal military complaints process. Since this industrial relations focus differs from the typical workload of other ombudsman offices, its amalgamation with another ombudsman office was not considered further.

Commission for Aviation Regulation with Irish Aviation Authority

Ireland has two regulators operating in the aviation sector - the Commission for Aviation Regulation and the Irish Aviation Authority (IAA). The IAA is a commercial company which provides air navigation services as well as training and consultancy services. Its regulatory remit covers the regulation of safety standards in the industry. It could be argued that there should only be one aviation regulator. However the complications caused by merging a regulatory body with a body with a substantial commercial orientation may not make such an amalgamation worthwhile. In addition, the Commission for Aviation Regulation currently has a role in regulating the IAA in its role as tariff setter for airport terminal services.

Super-Regulator

As part of a rationalisation process, the potential for the creation of a super-regulator consisting of all of the main economic sectoral regulators for energy, communications, transport is worth considering. The following arguments support such a move:

- Savings through shared services for HR, finance, procurement etc
- Reduction in industry funding requirement due to shared services savings
- Benefits of pooling of expertise e.g. economic, legal etc
- Opportunities for re-structuring senior regulatory management roles with consequent pay savings

There are also valid arguments against such a move. Many of the regulators are relatively new and are just now emerging from a bedding-down phase. Risks would also arise due to the concentration of regulatory power in one independent executive agency and in one unelected super-regulator. Moving to a super-regulator would dilute the current parliamentary scrutiny arrangements whereby elected representatives can examine the regulatory framework for individual sectoral regulators at Dáil committees. Holding such an agency to account could prove difficult given the complexities and breadth of coverage of a new super-regulator agency. From a practical point of view, the process of successfully merging the current economic regulators could divert significant regulatory agency resources away from regulatory functions at a key time for the economy.

On balance, it can be considered that there are significant risks arising with the establishment of a super-regulator which outweigh the potential benefits. Other avenues can be pursued to achieve cost savings across the regulators e.g. joint outsourcing of levying functions.

Utilities Regulator

The idea of a combined utilities regulator incorporating ComReg and the CER has been considered in the past due to the common features of the regulatory activities carried out by both organisations. Similar to a super regulator, the benefits would involve savings in back office services, a reduced need for front line staff and the pooling of expertise. There is a case to be made for carrying out such a merger in the medium term as opposed to the long term. This would allow time for the achievement of efficiency improvements in pay and non pay expenditure at ComReg and the CER. A merger of two streamlined organisations may be easier to carry out at that stage. In addition, time should be provided for the proposed amalgamation of ComReg with the Broadcasting Commission of Ireland to be fully implemented.

Potential costs of amalgamation

As well as the estimated savings outlined above, there are potential costs to rationalisation initiatives such as transaction and management costs, IT set up costs and VER/redundancy costs. The full year efficiency dividend may not be realisable for some years.

Pay Cost Efficiencies

Over the medium term, carrying out a staff reduction exercise requires an examination of the statutory obligations and functions of regulators and a determination of the minimum staffing levels necessary to carry out the required activities. This type of analysis is outside the scope of this paper. However the evidence on staffing numbers presented in figure 6 warrant broad recommendations on the potential for reducing staffing numbers. Given the large increase in headcount at some of the regulators (e.g. CER) and the high number of employees at others (ComReg and the Garda Síochána Ombudsman Commission), there is an argument for staffing reductions with a related decrease in pay costs.

The case for a decrease in staffing at ComReg is based on the high employment numbers relative to other regulators and the reduced need for regulatory resources due to the extent of liberalisation which has already taken place. Reducing staffing levels by 20% with a corresponding approximate decrease in payroll costs of €1.2m would still leave ComReg with a complement well above the regulator with the next highest level of employment. Reducing staffing levels at the CER to 2007 levels (an 18% reduction in staffing from 72 to 59) could potentially save approximately €0.8m.

Over 60% of the staff at the Garda Síochána Ombudsman Commission are case officers or investigators. The organisation is relatively new and is different to other ombudsman offices in that it carries out resource intensive criminal investigations. For these reasons, the extent of staffing reductions that can be made is uncertain. Levels of complaints should be monitored to assess the continued need for the current number of case officers.

The reductions in staffing outlined above for ComReg and the CER should have knock on effects on other administrative costs and premises costs (office premises costs alone for ComReg were €1.3m in 2007). Any reductions realised by ComReg and the CER should be used to reduce the levy burden for regulated entities.

It is worth noting that some of the regulators and ombudsman offices operate policy/ research units, either as independent functions or as joint departments along with other activities e.g. the Competition Authority has 5 staff dedicated to policy issues (9% of total staff), the Children's Ombudsman has two staff working on policy (13% of staff). Any pay efficiencies sought as part of an efficiency exercise should focus on reducing the staffing levels allocated to policy work because these activities should be carried out by government departments instead.

Operational Cost Efficiencies

Based on the expenditure estimated to be incurred on legal, consultancy, publication and information awareness costs across the regulators and ombudsman offices, there should be scope for operational efficiencies across non pay expenditure. The efficiencies in these areas should allow regulators and ombudsman offices to either reduce the levy burden for regulated entities or the reliance on the exchequer. Figure 12 shows the estimated potential savings by organisation which could be achieved if a 50% cut in expenditure was imposed across key non pay expenditure lines.

Figure 12 Proposed efficiencies in non pay expenditure across the regulators

	Total 2007 across regulators ^a	Total 2007 across ombudsman offices	Total
	€m	€m	€m
Information , awareness, publication costs	2.7	0.7	3.4
Consultancy	13.0	0.5	13.5
Legal Fees	1.7	0.7	2.4
Recruitment and training	0.4	Not available	0.4
Total	17.8	1.9	19.7
50% reduction	8.9	.9	9.8

Source: Annual Reports, 2005 to 2007

Note a: Excludes Competition Authority due to lack of data availability

Joint collection of levies

Given that nine of the regulators and ombudsman offices are involved in collection of levies or licence fees from regulated entities, the potential for aggregating and outsourcing the combined collection activities should be explored. The FSO already has an outsourcing arrangement in place. Allowing for the large number of regulators and ombudsman offices involved, a staged approach to combining collection functions into one contract would be advisable. Outsourcing could free up back office staff for front office regulation activity. By amalgamating collection arrangements, combined levy notices could be issued to regulated entities in similar industries which make payments to more than one regulator.

It is not possible to estimate the potential cost savings involved given the likely one off set up costs and IT issues involved in a joint outsourcing arrangement.

Surpluses of income over expenditure

A number of regulators have built up substantial revenue reserves over recent years. Figure 13 shows that a total of €36m has been accumulated in this manner. For some of these regulators, the surpluses have already been distributed. The CER used the 2007 reserve to reduce the industry levy requirement for 2008 by 30%. [TEXT WITHHELD - SECTION 20(1) & SECTION 21(1)(c)]

The Pensions Board has accumulated a reserve of €6.4m. The level of the reserve seems disproportionately large equating to 97% of total expenditure in 2007. This reserve has been built up to provide for possible legal actions taken by the Pensions Board to enforce compliance by scheme trustees with the Pensions Act 1990. The surplus also arises because of the industry funding levy system in operation. The fees are fixed for a five year term to provide certainty for pensions providers regarding their levy payments. The last time that fees were reviewed was in 2007. The addition of new schemes has also contributed to the surplus of levy payments. Over time it is intended that the surplus would be discharged progressively by reducing the levies. There is a case to be made that the surpluses of levy payments should be returned to regulated entities in the short term as opposed to the medium term similar to the practice at the Financial Regulator. For this reason it is proposed that €3.2m or 50% of the reserve be returned to regulated entities for the next levying period.

Similarly the Irish Take-Over Panel has a contingency reserve of €2.2m corresponding to over 200% of annual expenditure in 2007 and the HIA maintains a reserve of €2m corresponding to just over 100% of 2007 expenditure. If these reserves could be reduced by 50%, the excess reserves could be used to defray future levy payments by regulated entities while also ensuring that some level of prudential reserves are maintained for future contingencies. Figure 13 summarises the total amounts involved.

Figure 13: Accumulated surpluses for selected regulators as at 2007

Regulator	Excess income over expenditure as at 2007 - €m	Proposed Reduction - €m
CER	7.3	Already distributed
Health Insurance Authority	2.0	1.0
Pensions Board	6.4	3.2
Commission for Taxi Regulation	18.4	n/a
Irish Takeover Panel	2.2	1.1
Pensions Ombudsman	0.1	Release to exchequer
Total	36.4	5.3

Source: Annual reports of regulators and ombudsman offices, 2005 to 2007

Charging of fees for ombudsman offices

Given that the regulators charge a fee for their services, the idea of setting a fee per complaint for users of ombudsman office services was considered. However setting a nominal fee of €15 (equivalent to the cost of an FOI request) would generate insignificant revenue compared to overall operational costs. There are other impacts of setting fees. Based on the principle that people pay for what they value, the number of less legitimate complaints could decrease. This would allow case officers to focus more of their time on the genuine complaints. On balance however it is recommended that fees are not introduced because of the long standing tradition to offer ombudsman services free of charge, (similar to the practice in other jurisdictions) and the notion that citizens are entitled to free accountability for public services.

Appendix A Functions of Regulators and Ombudsman Offices

Competition Authority

The Competition Authority (TCA) derives its powers from the Competition Act 2002. It has three main statutory functions as set out below:

1. The enforcement of competition law.

In pursuing its responsibility to enforce competition law, the TCA is responsible for detecting, investigating and prosecuting cartels under section 4 of the Competition Act. In pursuing this objective, the TAC has a number of investigative powers including the power of search and entry, the power to seize documents and records and the power to summon witnesses.

2. Merger review

The TCA is responsible for reviewing proposed mergers and acquisitions using economic analysis to determine the impacts on competition. It has the power to block a merger or clear it with conditions.

3. Competition Advocacy

The TCA aims to achieve increased competition by making recommendations to and working with Government, Departments and other policy makers to make markets more competitive.

Health Insurance Authority

The Health Insurance Authority is an independent regulator for the private health insurance market in Ireland. It was created in 1994. Its functions include licensing private health insurers under the Health Insurance Acts, monitoring the health insurance market and advising the Minister for Health and Children accordingly. It is also responsible for managing and administering any Risk Equalisation Scheme that might be established under the Health Insurance Acts and provides information and assistance to consumers of the private health insurance market.

Commission for Energy Regulation

The CER is the regulator for the electricity and natural gas sectors in Ireland. Created in 1999, this Regulator aims to promote competition in the electricity and natural gas sectors so that customers can ultimately benefit from competitive pressures on prices and services. It also licences electricity and natural gas companies and works to ensure that the supply of electricity and gas to Irish customers is safe, secure and delivered to a high quality. The CER is involved in developing the all island energy market.

ComReg

ComReg was created in 2002 and is the national regulator responsible for regulating the telecommunications, radio communications, broadcasting transmission and the postal sectors. It sets prices, allocates frequencies, and issues licenses to those involved in these sectors. ComReg aims to protect consumers by providing statistical data and consumer product price comparisons to assist consumers in achieving value for money. ComReg also aims to enable competition in the communications sector by facilitating market entry through a general authorisation to provide networks and services and by regulating access to networks.

Commission for Aviation Regulation

The Commission for Aviation Regulation was established in 2001 and regulates certain aspects of the aviation and travel trade sectors in Ireland. Its primary function is to set the level of airport charges at Dublin Airport and Aviation Terminal Services Charges at Dublin, Cork and Shannon Airports. It is also responsible for the following functions

- granting licences to both tour operators and travel agents.
- licencing airlines and approving ground-handling services providers
- monitoring and regulating EU legislation covering air passenger rights and the provision of assistance to passengers with reduced mobility

Taxi Regulator

The commission for taxi regulation was established in 2004. It is responsible for regulating the taxi industry in Ireland. It licences new entrants to the industry and sets the national maximum fares for taxi services. The commission recently commenced the licensing of dispatch operators. It also maintains a register of small publicly owned vehicles. The commission handles complaints made by customers of SPSV's (small public service vehicles) regarding vehicles standards, driver behaviour or overcharging.

The Irish Takeover Panel

The Irish Takeover Panel (the "Panel") is the statutory body responsible for monitoring and supervising takeovers and other relevant transactions in relation to securities in relevant companies in Ireland. The Panel was established by the Irish Takeover Panel Act 1997 (the "Act") and is incorporated as a company limited by guarantee. The Panel is designated as the competent authority under the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006 (the "Regulations") for the purpose of Article 4(1) of the Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids (the "Directive").

Broadcasting Commission of Ireland

The Broadcasting Commission of Ireland is responsible for regulating radio and television activities in Ireland. The Commission licenses a range of different radio and television services in Ireland and has been recently tasked with the regulation of digital television operators. It is also responsible for the implementation and development of codes and rules covering standards in broadcasting. The Broadcasting (Funding) Act, 2003 also gave the Commission responsibility for the disbursement of 5% of the licence fee to support new television and radio programmes

Pensions Board

The Pensions Board was established in 1991. The primary function of the Pensions Board is to monitor and supervise the operation of The Pensions Act, 1990, as amended ("the Act") and pensions development generally. It performs the following functions:

- Promotion of the security and protection of members of occupational pension schemes and contributors to Personal Retirement Savings Accounts, in accordance with the Pensions Act, 1990
- Promotion of the development of efficient national pension structure
- Promotion of a level of participation in the national pension system which enables all citizens to acquire an adequate retirement income

- Provision of information and authoritative guidance to relevant parties in support of pension security, structures and participation.
- Advising the Minister for Social and Family Affairs on pension matters generally.

Financial Services Ombudsman

The Financial Services Ombudsman was established in 2005 and deals with unresolved complaints made by customers about financial services providers and acts as an impartial arbiter of disputes between these two groups. The services is provided free of charge to customers.

Pensions Ombudsman

The Pensions Ombudsman was created in 2003. His office investigates complaints of financial loss due to maladministration and disputes of fact or law in relation to occupational pension schemes and Personal Retirement Savings Accounts (PRSA's).

The Ombudsman

The Office of the Ombudsman investigates complaints from people who feel they have been unfairly treated by certain public bodies. This office aims to promote the openness and accountability of the public sector.

Office of the Children's Ombudsman

The Office of the Ombudsman for Children was set up in 2004. Its main function is to handle complaints made about the treatment of children by public organisations. The OCO has the power to make reports to the Oireachtas about individual complaints as it see fit. The OCO also has the following additional functions:

- Carrying out research about children's rights
- Provision of policy advice to government about children's rights
- Provision of information generally about children's rights

Office of the Data Protection Commissioner

The office of the Data Protection Commissioner is established under the 1988 Data Protection Act. The Data Protection Amendment Act, 2003, updated the legislation, implementing the provisions of EU Directive 95/46. The Acts set out the general principle that individuals should be in a position to control how data relating to them is used.

The Data Protection Commissioner is responsible for upholding the rights of individuals as set out in the Acts, and enforcing the obligations upon data controllers. The Commissioner is appointed by Government and is independent in the exercise of his or her functions. The Commissioner makes an annual report to the Oireachtas. Individuals who feel their rights are being infringed can complain to the Commissioner, who will investigate the matter, and take whatever steps may be necessary to resolve it

Garda Siochána Ombudsman Commission

The GSOC was set up in 2005 to provide independent oversight of policing in Ireland. It investigates complaints made by members of the public against the Gardai. It also handles incidents even where no complaint has been made, where it appears that a Garda may have committed an offence or behaved in a way that would justify disciplinary proceeding. Further, it has the power to investigate any policy or procedure of the Gardai with a view to reducing the incidence of complaints.

Defence Ombudsman

Established in 2005, The Defence Ombudsman investigates complaints made by serving and former members of the defence forces.

An Coimisinéir Teanga

The main functions of the commissioner are:

- To monitor compliance by public bodies with the provisions of the Official Languages Act and to take all necessary measures to ensure compliance by public bodies with their duties under the Act.
- To conduct investigations on his own initiative, on request from the Minister for Community, Rural and Gaeltacht Affairs or pursuant to a complaint made to him by any person in cases where public bodies are considered to have failed to fulfill their duties under the Official Languages Act. An Coimisinéir Teanga also has the right to investigate any valid complaint in which it is alleged that the provisions of any other enactments relating to the status or use of Irish have been contravened.

Appendix B Staffing structure at regulators and ombudsman offices

Competition Authority

Staffing 2008				
	Main Functions	Nos of PO equivalent & higher	Total number of other staff	Total Staff
A	Corporate services /Management	Deputy Sec Gen 3 PO	1 AP 2 HEO 3 EO 2 CO	12
B	Cartels	1 assist. sec 1 PO	10 case officers ^a 1 Garda Siochana 1 CO	14
C	Monopolies	1 assist sec 1 PO	8 case officers 1 CO	11
D	Mergers	1 assist sec 1 PO	4 case officers	6
E	Advocacy	1 assist sec 1 PO	6 case officers	8
F	Policy	1 PO	4 case officers	5
	Total	13	43	56
	Less vacancies			3
	Total staff			53

Note

A The CA has its own grading structure. The standard civil service grades which most closely approximate the CER grades have been used in the table above. Case officer salaries commence at AO entry level and run to the max of the AP scale

Commission for Energy Regulation

Staffing 2008				
	Main Functions	Number of PO equivalent & higher	Total number of other staff ^a	Total Staff
A	Senior Management	3 commissioners	2.5 EO	5.5
B	Operations	1 assist. sec	3 AP 2 AO 4.2 EO 6 CO	16.2
C	Electricity Markets	1 assist sec 1 PO	2 AP 4 AO 1 EO	9
D	Electricity Networks and Retail	1 assist. Sec 1 PO	3 AP 7 AO 1 EO 1CO	14
E	Gas	1 assist. Sec 1 PO	2 AP 6 AO 3 CO	13
F	Environment and Consumer Affairs	1 assist sec	4 AP 7 AO 2 EO	14
	Total			71.7

Note

A The CER has its own grading structure. The standard civil service grades which most closely approximate the CER grades have been used in the table above.

ComReg

Staffing as at March 2009				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	3 Commissioners 2 PO	3 HEO 1 EO	9
B	Retail and Consumer	1 PO	8 AP 12 (3) ^a HEO 2 (2) EO	23
C	Market framework	1 PO	10 AP 23 (5) HEO 4 (1) EO	38
D	Wholesale division	1 PO	11.5 (1) AP 21.5 (4) HEO 3 (1) EO	37
E	Corporate affairs	1 PO	3 AP 6 HEO 3 EO	13
	Total	9	111	120

Note

a () represents staff on contract out of the total number of staff, total contract staff = 20

b ComReg has its own grading structure. The standard civil service grades which most closely approximate the CER grades have been used in the table above

Commission for Taxi Regulation

Staffing at February 2009				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 assist sec	1 CO	2
B	Legal Affairs	1 PO	1 HEO 13 EO's 1 CO	16
C	Policy and Operations	1 PO	3 AP 2 HEO 3.5 EO 8.5 CO 3 contract	21
D	Totals	3	36	39

Commission for Aviation Regulation

Staffing at end 2008 (excluding temporary staff)				
	Main Functions	Nos of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 Commissioner (assist. Sec)		1
B	Economic Affairs	2 PO	1 AP 1 HEO	4
C	Legal Affairs	1 PO	1 AP	2
D	Administration/Licencing	1 PO	1 AP 2 HEO	4
E	Licensing/Consumer Affairs	1 AP	2 HEO 2 EO 5 CO	10
	Totals	6	15	21

Health Insurance Authority

Staffing at end 2008				
	Main Functions	Nos of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 PO		1
B	Regulatory Affairs		1 AP 1 HEO 1 EO 1 CO	4
C	Research/technical services		1 AP 1 EO	2
D	Corporate Affairs		1 HEO 1 CO	2
	Total	1	8	9

Broadcasting Commission

Staffing as at March 2009				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Office of the CEO	1 assist sec 1 PO	2 CO	4
B	Contract award		1 AP 2 HEO 1 EO 1 CO	5
C	Compliance		1 AP 7 HEO 4 EO 1.7 CO	13.7
D	Content and standards		1 AP	1
E	Communications and sectoral development		1 HEO 2 EO	3
F	Policy		1 HEO	1
G	Engineering		1 senior engineer 1 senior engineer 1 executive engineer	3
H	Corporate Services		1 AP 2 EO 2 CO	5
	Total	2	33.7	35.7

Note:

The BCI have not provided the staffing structure by grade within each function. The allocations above reflect an estimated distribution of staff across the different grades.

Pensions Board

Staffing at end February 2009				
	Main Functions	Nos of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 assist. secretary (pensions ombudsman)	0	1
B	Regulation	1PO	3 AP 1.6 HEO 4 EO 6 CO	15.6
C	Planning	1 PO	0	1
D	Information	1PO	1AP 1 HEO 2 EO 4 CO	9
E	Policy, Actuarial and Legal Services	3 PO	2.5 AP 1 EO 1CO	6.5
F	Corporate Services	1 PO	1 AP 3 HEO 1 EO 1 CO	7
G	National Pension Awareness Campaign		1AP	1
	Total	8	34.1	42.1

TakeOver Panel (awaiting information from DETE)

	Main Functions	Nos of PO equivalent & higher	Total number of other staff	Total Staff
A				
B				
C				
	Total			

Office of the Ombudsman

Staffing end 2008				
	Main Functions	Nos of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 Ombudsman		1
B	Complaint Examination	1 assist. Sec 5 PO	15 AP 5 HEO 3.7 EO 10.6 CO 1 SO	41.3
C	Corporate services and IT	1 PO	2 AP 2.8 HEO 6 EO 5.6 CO 2 SO	19.4
	Totals	8	53.7	61.7

Office of the Children's Ombudsman

Staffing at end 2008				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 assist. sec		1
B	Communications and Education	1 PO	1 AP 1HEO 1 EO	4
C	Policy and Research		1 AP 1 EO	2
D	Investigators		2 AP 3 EO	5
E	Corporate Services		1 HEO 1EO 1 CO	3
	Totals	2	13	15

Garda Siochána Ombudsman Commission

Staffing end 2008				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	4 superintendents 2 commissioners		6
B	Investigation	1 assist. Sec 1 PO	9 AP 21 HEO 10 EO	42
C	Administration	1 assist sec 2 PO	7 AP 2 librarian 11.8 HEO 1 AO 12 EO 13.8 CO 1 SO	51.6
	Total	11	88.6	99.6

An Coimisinéir Teanga

Staffing end 2008				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 commissioner (assistant sec level)	0	1
B	Operational staff	1 PO	2 AP 1 HEO 1 EO 2 CO	7
	Total			8

Defence Forces Ombudsman

Staffing end 2007				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	One ombudsman		1
B	Operational staff		1 AP 1 HEO 1 CO	3
	Totals			4

Financial Services Ombudsman

Staffing at end February 2009				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 ombudsman 2 deputy ombudsmen	0	3
B	Investigation	1.8 PO	2 AP 8 HEO 4 EO 6 CO	21.8
C	Administration		2 HEO 2EO	10
	Totals	4.8	24	28.8

Pensions Ombudsman

Staffing at end February 2009				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 assist. secretary (pensions ombudsman) 1 PO (director)	0	2
B	Investigators		4 AP 1 HEO	5
C	Support Services		1 EO 2 CO	3
	Total	2	8	10

Office of the Data Protection Commissioner

Staffing end 2008				
	Main Functions	No's of PO equivalent & higher	Total number of other staff	Total Staff
A	Management	1 assist sec 1 PO	3 AP	5
B	Investigations		3 HEO 4 EO	7
C	Administration / Registration (includes audit unit, communications unit and policy unit)		2.5 HEO 3.6 EO 3.6 CO	9.7
	Totals	2	18.5	21.7