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Bord na Móna

Submission to Independent Review Panel established to review senior public service recruitment and pay processes - 10th August 2022 on Public Consultation by Independent Review Panel to review Senior Public Service Recruitment and Pay processes

A submission by BnM plc ('BnM') to the Review Panel (Room 4.2), Department of Public Expenditure and Reform, Government Buildings, Upper Merrion St, Dublin 2, D02 R583

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Submission from:	BnM plc ('BnM')
Submission to:	Review Panel (Room 4.2), Department of Public Expenditure and Reform, Government Buildings, Upper Merrion St, Dublin 2, D02 R583)
Submission in respect of:	Public Consultation by the Independent Review Panel to review Senior Public Service Recruitment and Pay processes
Issued by email to:	Reviewpanel@per.gov.ie
Submission made by:	Geoff Meagher Chair of the Board of BnM
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Phone contact details	Sonya Mallon (Company Secretary) Mobile: [REDACTED]
Details of Organisation being represented	Bord na Móna plc and its subsidiaries Main Street Newbridge Co Kildare

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1. Introduction

By notice published on 28 June 2022 the Department of Public Expenditure and Reform (the “**Department**”) established an Independent Review Panel to conduct a review of the current recruitment and pay determination processes in place for Senior Public Service posts, in particular arrangements in the Civil Service. The objective of the Panel is to ensure that clear guidelines are in place that are open, transparent, and objective, and the review will consider the recruitment process, the process for determining terms and conditions of employment and specific arrangement for Secretaries General at end of term. The review also considers the pay determination processes applying for CEO’s of Commercial State Bodies that were previously covered by the Review Body on Higher Remuneration in the Public Sector. A comprehensive Terms of Reference has been published.

BnM welcomes the opportunity to make the following submission in respect of the element of this consultation which is relevant to Commercial State Bodies.

BnM notes from the Terms of Reference of the Independent Review Panel that CEOs of Commercial State Bodies are not included as within scope roles with regard to the recruitment processes and accordingly makes no submission in respect of that element of the review.

BnM wishes to make the following submission to the independent review panel regarding pay processes for the CEOs of Commercial State Bodies.

2. Executive Summary

BnM is a Commercial State Body for the purposes of this review. BnM has transformed itself into one of the best performing companies in Ireland, private or publicly owned. It has in a 3-year period, grown its enterprise value from 500m Euro to 1.2bn Euro and returned to significant profit and free cash flow generation. Its current plan is to double its value to over 2bn Euro in the coming years.

BnM’s strategy is to be a climate solutions company, leading Ireland towards a climate neutral future. In January 2021 BnM confirmed that it would focus its business on renewable energy, recycling, peatland restoration and the provision of other low carbon goods and services. BnM is undertaking several highly significant actions in support of climate, circular economy and energy policies. These actions have involved a radical transformation and decarbonisation of nearly the entire business and placed the company at the forefront of the national response to the climate emergency.

BnM operates in a highly competitive environment, with new international companies entering the Irish market at an unprecedented rate, especially in the

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renewable energy space. Therefore, competition for talent is at an all-time high. BnM needs a competitive reward system for senior management across a whole range of disciplines. Unless it can offer competitive remuneration, it will be operating at a major disadvantage, resulting in loss of current key talent and inability to attract and retain new talent. The CEO remuneration is important in this context as it effectively decides the cap for all other senior management roles. If the current approach to reward for the CEO remains unchanged BnM will effectively be constrained in its ability to attract and retain talent and will not be in a position to deliver on its ambitious strategy. This has potential to result in the significant value creation opportunity and climate targets not being realised.

3. Current Pay Determination Processes for CEOs of Commercial State Bodies:

The current process for remuneration for the CEO of BnM as a Commercial State Body is governed by the following:

1. The Statutory Framework and Contract of Employment.
2. The Code of Practice for the Governance of States Bodies; and
3. The National Treasury Management Agency (Amendment) Act 2014.

The Statutory Framework governing remuneration for CEO posts in Commercial State Bodies is set out in the relevant legislation governing each post. The Turf Development Acts 1946-1998 (as amended) provide that the Managing Director shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and allowances) as may be determined by the directors with the consent of the Minister and the Minister for Public Expenditure and Reform¹ and states that the Company shall have regard to Government or nationally agreed guidelines which are for the time being extant or to Government policy concerning remuneration and conditions of employment which is so extant and, in addition to the foregoing, the Company shall comply with any directives with regard to such remuneration, allowances, terms or conditions which the Minister may give to the Company with the consent of the Minister for Public Expenditure and Reform². The Contract of Employment provides that remuneration is subject to the approval of the Minister in consultation with the Minister for Public Expenditure and Reform.

The Code of Practice for the Governance of State Bodies also provides that the CEO of each Commercial State Body shall hold office subject to the terms and conditions as determined by the Board of the State Body with the

¹S26 Turf Development Act 1998

² S27 Turf Development Act 1998

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consent of the relevant Minister and the Minister for Public Expenditure and Reform.³

In 2014, with the enactment of The National Treasury Management Agency (Amendment) Act 2014 the Oireachtas set out a statutory role for NewERA (New Economy and Recovery Authority) to assist Ministers in the relevant Government Departments in fulfilling their statutory responsibility with regard to determination of remuneration for the post of CEO in Commercial State Bodies. Since 2014 NewERA provide the relevant guidance for determination of remuneration for these posts when requested by the relevant Minister.

Prior to 2011 the remuneration for CEO posts in Commercial State Bodies were informed by recommendations of the Review Body on Higher Remuneration in the Public Sector and reviews assessments undertaken by Hay Management Consultants.

Pay rates for CEO's of Commercial State Bodies were established in 2008 with new starting base salaries for new entrants amended by the Government later.

In 2011, on foot of a Government decision (s180/20/10/1333) the Government introduced a general pay ceiling of €250,000 for future appointments to CEO posts within Commercial State Bodies. In the context of the financial challenges facing the State in the midst of the economic crisis, revised ranges were also introduced for new appointees to CEO posts in Commercial State Bodies at that time. A 15% cut was applied to the ranges and in addition included in the Government Decision, the Minister for Public Expenditure and Reform authorised to review downwards the existing salary ranges, as determined under the "Hay" consultancy process and approved by the Government (in 2008), by the application of the reductions comprising of an across the board 10% reduction along with equivalent salary adjustments to those provided for public servants in that pay range.

4. BNM submission in respect of the Pay Determination Process of the CEOs of Commercial State Bodies

4.1 Context

This consultation process is welcome and is a timely review against a background that includes: -

- The recent unwinding of FEMPI measures
- Challenging climate action plans & emission cuts that require leadership & focused delivery
- Unemployment rate of 4.2% in July 2022
- Irish economy growth of 10.8% in the Q1 2022

³ Annex on Remuneration and Superannuation 2016 as amended

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- An extremely competitive candidate-driven market for talent
- Pay competitiveness challenges

Since 2015, as the economy started to recover, and the public finances stabilised successive Governments have committed to dismantling the Financial Emergency legislation (FEMPI). An unwinding of the FEMPI was negotiated through the Lansdowne Road Agreements and the Public Service Stability Agreement 2018-2020 and continued under Building Momentum: A New Public Service Agreement 2021-2022. This approach has provided for significant recruitment in the public service to meeting additional staffing requirements in frontline services. Section 20 of the Public Service Stability Agreement 2018-2020 states that the Minister, by order, shall provide for the complete unwinding of remaining FEMPI measures on public servants paid an annual basic salary of more than €150,000 on any date before 1 July 2022 and Circular 15/2022 from the Department of Public Expenditure & Reform has addressed this. However notwithstanding that the FEMPI cuts did not apply to CEOs of Commercial State Bodies the general pay ceilings on CEO of Commercial State Bodies introduced in 2011 and the additional cuts applied to the CEO salary range have not been reversed.

In July 2022, Ireland is experiencing an unemployment rate of 4.2%, features an aging workforce and the war for talent continues. All businesses are operating in an extremely competitive markets where they are focused on maximising their employee value proposition and attracting top talent to enable the organisation to deliver its strategic plans. One of the key features of the organisation's employee value proposition is the pay and benefits that it offers to ensure it can hire the talent it requires to deliver on the organisation's objectives.

In addition to pay and benefits, this candidate-driven market has seen a significant increase in Hybrid work models that are impacting the negotiating position of candidates and providing candidates with the opportunity to move role more easily with increased flexibility and less travel required no matter where they are based in the country.

In this context, the absence of performance related payments and long-term incentive plans provide further challenges for Commercial State Bodies trying to attract talent for the CEO role.

[REDACTED] We have faced substantial challenges over the past 3 years. In March 2018, the CEO was appointed to manage the transition out of peat over a ten-year period. However, a combination of environmental, planning, and legal challenges resulted in this necessary but extremely successful transition being completed within an aggressive 3-year window. This transition required the elimination of €50m in overheads, minimal redundancies in the Midlands, the definition of a diversification strategy which will ensure BnM makes a broader contribution to the Government's Climate Action and an ambitious investment of over €1.5bn in large scale energy projects. The successes of this transition

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include but are not limited to the company being debt free, recording operating profit of €78.6m in 2022, the highest operating profits in the history of BnM, the creation of a leading climate solutions company that will play a significant role in supporting the Government's ambitious Climate change targets for 2030 and will sustain 1,500 jobs.

The velocity of BnM's transformation from Ireland's largest national fossil fuel company to a climate solutions leader is unprecedented, for an Irish business and even more so for an Irish Commercial State Body. BnM's successful transformation is a key example to all other sectors struggling with the climate change agenda that creating a sustainable future is necessary and commercially viable.

Successful leaders in this space are able to command pay and benefits at the upper end of the market, especially those experienced in change and crisis management, and considering the Government's emissions cuts plans now more than ever this talent needs to be retained in the Commercial State Bodies as they will be instrumental in delivering the emission reductions required.

Commercial State Bodies must be able to recruit the required talent at CEO level to successfully lead organisations forward.

BnM submit that the Panel consider a number of adjustments to the process for pay determination which take account of the general principles applying to remuneration processes and which has, at its core, a fair and transparent approach to remuneration in line with current market norms.

4.2 Process:

Whilst the framework associated with the pay of the CEOs for the Commercial State Bodies clearly sets out that approval of the relevant Minister in consultation with the Minister for Public Expenditure and Reform is required for any adjustments to remuneration of the CEO there is no defined process or guidelines as to what might trigger or warrant a review and indeed the criteria used by the relevant Minister in assessing the request is not stipulated.

The current model for reviewing pay of a CEO does not provide a clear framework within which individual Boards can operate. The model does not offer clarity on how often reviews may be carried out, nor does it offer predictability or transparency for the CEO as to when reviews may occur. The private sector typically provides for regular and structured salary reviews.

We recommend and support a return to a market-based pay model for the CEOs of Commercial State Bodies. We submit that an independent review body is reintroduced, and a new benchmarking exercise is undertaken to agree new pay levels for CEO's of Commercial State Bodies which have not been reviewed since 2011, resulting in refreshed pay scales.

We submit that the process should set out how often reviews should be carried out- we suggest that such reviews are carried out on an annual basis in line with best practice.

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In addition to setting out the frequency of reviews we submit that a timeline for the review process itself would prove beneficial both the Board of the Commercial State Body and to the CEO.

4.3 Benchmarking- Market based pay

As outlined above we submit that a return to a market-based pay model is required. In order to achieve this an independent benchmarking exercise will be required.

BnM currently benchmarks all roles against the general industry market using salary survey data collated annually by Willis Towers Watson. All roles are evaluated and sized against the Hay job sizing model which establishes the range of global grades for roles in an organisation based on a range of criteria. This ensures that when comparing roles in other organisations we are comparing like with like in terms of similar sized roles in similar sized organisations.

Based on current market data from Willis Towers Watson

This reward data reinforces the challenges posed by the current restrictions on pay for CEO's of Commercial State Bodies like BnM.

In March 2006, the Dept of Finance issued guidelines on Contracts, Remuneration and other Conditions of Chief Executives and Senior Management of Commercial State Bodies. Within these guidelines the pay levels of senior staff were to be set by reference to pay levels of posts with similar levels of duties and responsibilities in comparable employments but should also take account of the approved salary of the CEO of the body. The guidelines also provide that the salary of senior management should be set at a level that provides sufficient headroom between the CEO and the senior management. The current cap on the CEO salary coupled with the 2011 reductions not only presents a challenge for the CEO role but also creates challenges attracting and retaining Executive team members.

The absence of performance related pay, targeting challenging and demanding performance standards, and LTI will demonstrate a further gap in reward

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offering for a CEO in a Commercial State Body compared to other similar sized commercial organisations.

The current position on the cap on the salary for the CEO of a Commercial Semi-State Body provides that a CEO may be appointed on a 7 year contract with no potential increase for the duration of the role, irrespective of CPI or cost of living pressures, which is a very challenging position for any incumbent to accept given the current market and the alternative opportunities available to them.

If change is not considered here then turnover of CEOs mid-term will most likely be the result and no doubt there will be many challenges sourcing top talent to fill these leadership roles at a less than competitive market rate at a time when many organisations will need to focus on delivery of sustainable climate targets.

As outlined above, a market-based benchmarking exercise is a key component of any remuneration review process. A benchmarking exercise will both provide a range for the Board to consider and ensure a competitive remuneration offering which supports a Commercial State Bodies ability to recruit, retain and motivate CEOs.

As part of any benchmarking exercise we ask the Review panel to consider the inclusion of the following as considerations:

1. the salary ranges outlined in 2008 and subsequently capped in 2011 and revised downwards should be reviewed in line with current market data;
2. the introduction of performance related payment and long-term incentive plans for CEO roles in a Commercial State Bodies;
3. cost of living increases should be considered in line with current market position;
4. the criteria for the different tiers/categories of Commercial State Bodies is considered and clearly addressed with an opportunity for Commercial State Bodies to participate in the tiering/categorisation process

The Commercial States Bodies should have an opportunity to participate in that independent review and submit independent market data available to them which the relevant Department should consider prior to setting revised pay levels for CEOs of the Commercial State Bodies.

Revised pay levels/ranges based on a market-based benchmarking exercise should be issued to the Commercial State Bodies so that a clear and current data is available to them when considering remuneration of the CEO.

In addition, we suggest that flexibility should be introduced into the process whereby in exceptional circumstances the upper end of the ranges may be exceeded and the criteria should be set out by the Department as to how an accelerator above the upper range might be achieved.

Once the revised ranges have been set, they should be clearly communicated to the Commercial State Bodies

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We also recommend that in the context of performance related pay being introduced, targeting challenging and demanding performance standards, that the 7-year maximum contract period for the CEO of a Commercial State Body is removed and that discretion is given to Boards or the relevant sub committee of the Board to issue contracts of indefinite duration to the CEO.

4.4 Board led review process

We submit that once the revised pay levels/ranges based on current market data have been agreed then the Commercial State Body should have the flexibility to review the CEOs pay within the upper end of the agreed range on an annual basis

An annual independent benchmarking exercise should be undertaken by the Commercial State Body and where considered appropriate by the Board or relevant subcommittee of the Board having taken into account the market data and any other relevant factors a revision to pay should be agreed and a notification of any revision to pay should be made to the relevant Minister and the Minister for Public Expenditure and Reform.

Only if the proposal is above the agreed upper end of the range should prior approval of the Minister in consultation with the Minister for Public Expenditure and Reform be required.

This process would allow autonomy at Board level to agree remuneration of the CEO within the updated parameters/scales set by the Minister.

5. Conclusion

The environment in which we operate in as Commercial State Bodies has changed significantly and a realignment of the pay process to a more flexible and agile model based on current market data which reflects the working environment in which we expect our CEO's to operate in is urgently required.

In summary we submit as follows:

1. A return to a market-based pay model is supported;
2. An independent review and benchmarking process is carried out to review and revise the current pay levels or ranges for CEOs of Commercial State Bodies which will result in a revised pay guideline being issued;
3. The Commercial State Bodies should have an opportunity to participate in that review and benchmarking exercise;
4. Opportunity is provided to the Commercial State Body participate in the tier/category process for the Commercial State Bodies as part of the independent review;
5. The review process should consider the following:
 - a. Removal of the CEO pay ceiling and reductions introduced in 2011;

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- b. Performance related pay and long-term incentives
 - c. CPI and cost of living increases
6. The review process thereafter is annual and is delegated to the Board of the Commercial State Body to operate within the revised salary ranges and to set challenging deliverables aligned to performance related pay and long-term incentive plans.
 7. An independent reward expert organisation should be tasked with completing an annual benchmarking exercise that completes a comparison of reward offerings across the commercial semi-state bodies and also a comparison against similar size commercial organisations operating in the same or similar markets to facilitate the annual Board review process.
 8. A formal defined process for review of CEO pay by the Board every 12 months is established;
 9. The current contractual period of 7 years maximum for a CEO should be removed and Boards should be given discretion to appoint CEOs on contracts of indefinite duration.

Finally, we submit that any changes as a result of this review are offered to existing CEOs and not only new entrants.

In conclusion, as Chairman of BnM Plc, I request that the Independent Review Panel give our submission due consideration and attention so that the issues raised can be addressed in a timely manner.

DocuSigned by:

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Geoffrey Meagher

Chairman of Bord na Móna plc

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