

Chapter 8

**Department of Communications, Energy
and Natural Resources**

8.1 National Digital Research Centre

The National Digital Research Centre (NDRC) is, in part, the successor to MediaLab Europe (MLE) which ceased operations and was liquidated in February 2005. MLE had been established in May 2000 as a University level research and education centre, to specialise in telecommunications and information and multimedia technologies, including the Internet and digital commerce. The nature of the work to be undertaken by the company was inherently high risk, and recognised as such from the outset.

Over the period 2000 to 2003 the State paid €25m directly to MLE, and a further €10m to the Massachusetts Institute of Technology on foot of its involvement with the project. This investment coincided with a severe global downturn in the ICT industry and, following a review of the situation in 2004, MLE went into voluntary liquidation.

These matters were examined and reported on by the Comptroller and Auditor General and subsequently by the Committee of Public Accounts. Among the issues giving rise to concern were

- the absence of adequate links between payments made and performance targets
- the adequacy of the governance and oversight role of the Department of Communications, Energy and Natural Resources (the Department)
- access by the Department and the Comptroller and Auditor General to the books and records of an entity in receipt of significant State moneys.

Establishment of NDRC

In 2005, the Government approved the establishment of the NDRC to provide a national focal point to address the gap between research and commercial exploitation of digital media technologies. The Centre was established as a limited company and is a vehicle through which a consortium of third level educational institutions³¹ manages and operates the research activities. The Department has entered into an agreement with NDRC to provide funding of €25m over five years to be met from the funding envelopes of the Departments of Communications, Energy and Natural Resources, Education and Science and Enterprise, Trade and Employment but payable from the Vote for Communications, Energy and Natural Resources.

The agreement provides that subvention be paid in accordance with an agreed schedule at the rate of €2.5m twice a year.

Payments to NDRC

Up to July 2007, €4m had been paid to NDRC from the Vote and a further €250,000 was provided to it by way of distribution by the liquidator of MLE. It also received fixed assets worth €315,000 from the liquidator.

By the year end, the Department had called for and been repaid €1.725m of the funds advanced to the Centre. This was due to the slow progress in establishing the operation. These funds were paid into the Exchequer and noted in the Appropriation Account of the Vote³².

³¹ Dublin City University, Dun Laoghaire Institute of Art, Design and Technology, National College of Art and Design, Trinity College Dublin and University College Dublin.

³² Noted in the Appropriation Account as Extra Receipts payable to the Exchequer.

Operating Procedures

Projects proposed by members of the consortium, other educational institutions and interested private sector entities and businesses are submitted to the NDRC for evaluation. Following the development of research proposals by the NDRC in conjunction with the bodies submitting projects the execution of projects selected for development takes place at the NDRC.

As well as regular liaison meetings with the NDRC, a Liaison Committee, comprising Department officials and representatives of the Centre, was set up in line with the agreement. The Liaison Committee is required to meet at least once a year to facilitate communication and the operation of the Centre. The Committee met on a number of occasions, most recently on

- 10 December 2007, when it agreed the process for the evaluation and selection of projects and
- 7 February 2008, when it considered and approved a report on an initial tranche of projects by independent experts appointed by the Department.

Audit Concerns - Implementation

I sought the Accounting Officer's observations on the slow start-up of the NDRC, the circumstances giving rise to the refund of €1.725m and the arrangements for safeguarding intellectual property rights.

Response of the Accounting Officer

The Accounting Officer informed me that setting up the Centre took much longer than envisaged.

A Chief Executive Officer took up duty in February 2007, and no further staff were recruited until a Chief Operating Officer was appointed in the third quarter of 2007. The lead-time required for the evaluation, approval and development of projects by NDRC did not justify the recruitment of additional staff at the Centre during 2007 as the evaluation process for seed projects for the start-up phase took time to work through. The evaluation included external experts at the request of the Department. As a result the research work to be undertaken by the Centre has only recently commenced.

The process of ensuring a standard of excellence and impartiality in the selection of seed projects for development that was put in place was complex and time consuming. As a result, the full implementation of the NDRC took much longer than anticipated in the agreement.

In regard to the funding and subsequent recovery of the money, the Accounting Officer stated that in the light of the slower than anticipated rollout of the NDRC, the Department had to request the Centre to surrender €1.75m of funding at end 2007. He added, however, that while the process for the evaluation of the seed projects for the NDRC took longer than expected, in view of the progress before July 2008 the Department considered that continued funding to the Centre was justified.

In regard to intellectual property rights, the Accounting Officer informed me that a draft Intellectual Property Framework designed to protect the commercial value of research projects developed by NDRC was submitted to the Department in May 2008. The Framework was submitted in good time for the commercial streaming phase of projects, which would take place after the initial research phase had been completed. The draft has been incorporated in a comprehensive Collaborative Research Agreement which was being examined by the Department to ensure that the interests of the State were protected and would be finalised with the Centre as soon as possible.

Access and Inspection Rights

Section 8 of the Comptroller and Auditor (Amendment) Act, 1993 provides, *inter alia*, that the Comptroller and Auditor General may inspect the accounts, books and records of any person for a financial year in which moneys received directly from the State amount to 50% or more of that persons gross receipts for the year. The application of this provision proved difficult in the case of MLE where legal advice indicated that inspections can only be carried out in those years in which an entity receives 50% or more of its gross receipts from the State. This provision was not adequate to ground an inspection right in some of the years.

In the interest of transparency and to ensure that public moneys are used for the purposes for which they are allocated it is desirable that there be provision for access to the recipient's records, both on the part of the Department and the Comptroller and Auditor General. Although the Section 8 provision gives the Comptroller and Auditor General access to the books and records of the NDRC because since its inception it has received more than 50% of its annual funding from the State, providing in the agreement for access would have the merit of ensuring a right of financial inspection for each year of its operation, including for future years in which State funding may fall below 50% of total funding.

Audit Concerns - Access and Audit

As no specific right of access was provided for in the agreement establishing the relationship with NDRC and in view of the difficulty experienced monitoring funds advanced to MLE and the consequent gap in accountability to Dáil Éireann, I sought the Accounting Officer's views on the arrangements for inspection of the NDRC records.

Response of the Accounting Officer

The Accounting Officer informed me that, while his Department had full rights of access to information on the Centre, it would move to have the agreement amended to give access to the books and records of the Centre to the Comptroller and Auditor General as a matter of course.

Audit Conclusion

Considerable sums are being invested in Ireland's research community. In the area of digital media technologies an elaborate network has been established involving input from Government Departments and agencies and education bodies such as the Higher Education Authority.

It is recognised that commercialising basic research is a challenging endeavour and the Department has put elaborate governance and evaluation procedures in place. This appears to explain the slow start-up. The amendment of the agreement to allow access to the records of NDRC by the Comptroller and Auditor General should help provide independent assurance on the application of the public funds concerned.