

THE REFERENDUM
COMMISSION'S
REPORT



Referendum

on the 31st Amendment of the
Constitution **(Children)** Bill 2012



Foreword

On 19 September 2012, the Minister for the Environment, Community and Local Government established the Referendum Commission on the Thirty-First Amendment of the Constitution (Children) Bill 2012 by order to carry out the functions conferred on it by the Referendum Act 1998, as amended by the Referendum Act 2001, in respect of the referendum.

Following my nomination by the Chief Justice, I became Chairperson of the Commission, the other four members being the specified *ex officio* appointees.

Pursuant to Section 14(1) of the Referendum Act 1998, I hereby present to the Minister the report of the Referendum Commission on the performance of its functions in respect of the referendum on the Thirty-First Amendment of the Constitution (Children) Bill 2012.

M. Finlay Geoghegan

Mary Finlay Geoghegan
Judge of the High Court
Chairperson
Referendum Commission
May 2013



Contents

Chapter 1 Introduction

- Establishment of the Referendum Commission
- Role of the Commission
- Elements of the Commission campaign
- Post-campaign research

Chapter 2 Key Features of the Referendum

- The Referendum Bill
- Saturday voting
- Voter turnout

Chapter 3 The Commission's Information Campaign

- Importance of information for voters
- Information campaign strategy
- Implementation of the campaign
- Government guide

Chapter 4 Post-Campaign Research

- Awareness
- Understanding of the referendum issues
- Who didn't vote?
- Why did voters not vote?
- The referendum debate
- Effectiveness of the Commission's campaign
- What information do people want?

Chapter 5 Resources

- Funding of the Referendum Commission
- Cost of a referendum

Chapter 6 Conclusions and Recommendations



Chapter 1. Introduction

The referendum on the Thirty-First Amendment of the Constitution (Children) Bill 2012 was held on 10 November 2012. The Referendum Bill was initiated on 17 September and approved by the Houses of the Oireachtas on 3 October. On 8 October, the Minister made a statutory order appointing 10 November as polling day. Under the Referendum Act 1998, on each occasion that a referendum falls to be held, the Minister for the Environment, Community and Local Government may, at his discretion, establish a Referendum Commission. In the case of a constitutional amendment, he may only do so on or after the date the Bill is initiated in Dáil Éireann.

Establishment of the Referendum Commission

On 19 September, the Minister made an establishment order establishing a Referendum Commission. Ms Justice Mary Finlay Geoghegan, Judge of the High Court, accepted the nomination of the Chief Justice to act as Chairperson of the Referendum Commission. By law, the Chairperson of the Commission must be a former judge of the Supreme Court or the High Court or a serving judge of the High Court.

The other members of the Commission are ex officio members. They were –

- Mr Kieran Coughlan, Clerk of Dáil Éireann
- Ms Deirdre Lane, Clerk of Seanad Éireann
- Ms Emily O'Reilly, Ombudsman
- Mr Seamus McCarthy, Comptroller and Auditor General

The Commission is granted by law such powers as are necessary or expedient for the performance of its functions. The Commission must report on the performance of its functions to the Minister for Environment, Community and Local Government no later than 6 months after polling day and the Commission stands dissolved one month after submitting its report.

Role of the Commission

The Commission's primary functions pursuant to statute are –

- » to prepare one or more statements containing a general explanation of the subject matter of the proposal and of the text thereof in the relevant Bill and any other information relating to those matters that the Commission considers appropriate;
- » to publish and distribute those statements in such manner and by such means including the use of television, radio and other electronic media as the Commission considers most likely to bring them to the attention of the electorate and to ensure as far as practicable that the means employed enable those with a sight or hearing disability to read or hear the statements concerned;
- » to promote public awareness of the referendum and encourage the electorate to vote at the poll.

Elements of the Commission campaign

The Commission decided that the core element of its campaign would be a printed guide explaining the central elements of the referendum proposal. The guide was published in booklet form and distributed to all homes in the State. It was also published on the Commission's website, together with additional background and explanatory material.

The Commission ran an extensive advertising campaign on television, radio, in print, outdoor and online. This focused primarily on the happening and importance of the referendum and encouraging people to vote. The Commission also recorded free-to-air broadcasts for radio and television which gave an explanation of the proposal and these were broadcast by all national, local and community radio and television stations.

Post-campaign research

The Commission retained an independent market research company to conduct a substantial voter research project after the completion of the campaign. There were two elements to the research project:

- » quantitative research involving a nationwide opinion poll measuring understanding of the referendum, reasons for not voting, and the perceived effectiveness of communications from the Commission;
- » qualitative research through focus groups of voters, analysing more deeply the motivating factors influencing those who did and did not vote, the role the Commission's campaign played in this context and looking more deeply at the elements of the Commission's communications strategy which are likely to be most effective in future information campaigns.

Results of the post-campaign research are outlined later in this report, and are available in full on the Commission's website.





Chapter 2. Key Features of the Referendum

The Referendum Bill

The legislation under which the referendum took place was introduced in the Houses of the Oireachtas on 17 September 2012, and was passed on 3 October – a period of just over two weeks. This compares to periods ranging from one week to 11 weeks for the passage through the Houses of the Oireachtas of the previous seven constitutional amendment Bills.

By law, once a Bill containing a proposal to amend the Constitution has passed both Houses of the Oireachtas, the Minister for the Environment, Community and Local Government must make an order appointing a polling day not less than thirty and not more than ninety days after the date of the order. On 8 October, the Minister made an order appointing Saturday 10 November 2012 as polling day, i.e., 33 days after the making of the order.

Saturday voting

The Government decided that polling day would be on a Saturday rather than on a weekday. There was some discussion as to whether this would make it easier or more difficult for people to vote. In the Commission's post-campaign research, 69% said that it made no difference, 16% that it made it easier for them to vote and 15% that it made it more difficult.

Voter turnout

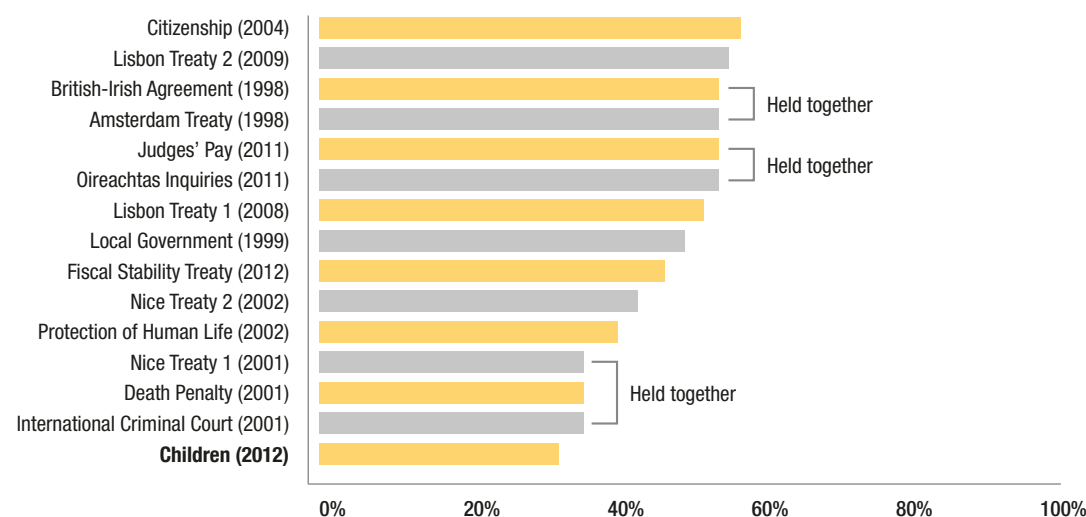
At 33.5%, voter turnout for the Children Referendum was the lowest since before the first statutory Referendum Commission was established in 1998 and was one of the lowest turnouts in any constitutional referendum since the enactment of the Constitution in 1937 (see Figure 1).

Low voter turnout is not a problem exclusive to the Children Referendum, or indeed to Ireland. Nevertheless for only one in three voters to cast their ballots on a proposal to change the Constitution is extremely low. Encouraging people to vote is one of the central functions of the Referendum Commission. Accordingly the pattern of low turnouts is a matter of concern.

In any referendum campaign, the Commission's information campaign is just one of many factors which may contribute to the voter turnout. Other key elements are the level of public awareness of the referendum proposal, the nature of the campaigns for and against the proposal and the quality of the public debate on the issues.

The turnout may also be increased by the fact that other elections are held on the same day.

Figure 1: Voter turnout percentage for all referendums, 1998 to 2012



Chapter 3. The Commission's Information Campaign

Importance of information for voters

Publicly funded information about a referendum must be fair, equal, impartial and neutral. Without easy and timely access to this information, voters may not feel they are properly informed about the referendum proposal and may be disinclined to vote. Research conducted by this Commission and by previous Commissions show that there is a strong direct relationship between the reported level of understanding of a referendum proposal and propensity to vote.

It is also important that the information provided to voters be as accessible as possible; preparation and dissemination of such information takes time and requires careful planning and consideration.

Information campaign strategy

The Commission is required by law to give a 'general explanation' of the referendum proposal. That general explanation was primarily contained in the guide distributed to all homes. It was also published on the Commission's website, together with additional background information that may be of interest or assistance to some voters.

The Commission also prepared a substantial advertising campaign on television, radio, in print, online and outdoors in pursuit of its mandate. In general, the Commission accepted the advice that advertising is at its most effective when portraying simple messages, so it did not attempt to use advertising to explain the detail of the proposal. Rather, the Commission used advertising to tell voters that they could get more information from the guide or from its website and to pursue its other functions – to raise awareness of the referendum and to encourage people to vote.

By law, the Commission is entitled to be given free broadcasting time by the State's radio and television stations. For most of the campaign, the Commission used this time to place two-minute broadcasts explaining the main points of the referendum proposal. Towards the end of the campaign on most stations, the Commission dropped these broadcasts and replaced them with short 10-second messages urging people to vote.

The Commission also sought to engage with the public through the media. It held a national press conference to launch its campaign and this was well reported in the media. The Chairperson did a

number of national radio and television interviews, notably a series of informational interviews with the RTE Morning Ireland programme in the course of which she answered questions on the content of the referendum proposal. Other Commission spokespersons were interviewed on over 20 national and regional radio stations around the State explaining the referendum proposal and encouraging people to vote. The Commission also issued press releases to local newspapers around the State drawing attention to the guide and the website, and encouraging people to vote.

Mindful of the traditionally lower than average turnout among younger voters, the Commission set up a Facebook App which allowed people to check the voting register before the closing date for inclusion, and to download the forms needed to apply for late inclusion. A specific online advertising campaign drew attention to this facility. The Commission also had a Twitter presence and used it to draw attention to its publications and to encourage voting.

There were a number of innovations for this referendum. Early in the campaign, the Chairperson of the Commission wrote to all broadcasters asking them if they would double the amount of time they allocated to the Commission's free-to-air broadcast. She did this after it became apparent that the media coverage of the debate on the Children Referendum was unlikely to be as extensive as in prior referendums, and that this could reduce awareness and therefore voter turnout. The response from the broadcasters, State and private sector, was very positive and the Commission is grateful for this.

In the course of discussion with the Independent Broadcasters of Ireland on this issue, a proposal emerged that for the final two days of the campaign,



the time given to the long informational free-to-air broadcasts would be given instead to short ten-second 'stings' consisting of messages urging people to vote. These were recorded at short notice late in the campaign and went out on almost all stations. Anecdotal evidence is that they were widely heard and noticed. Again, the Commission is grateful to the broadcasters for their contribution to the development of this idea and their work in ensuring these messages were broadcast.

There was also a concentrated push at the end of the campaign by the Commission encouraging people to vote. The Chairperson did a number of final broadcast interviews encouraging voters to turn out. The Commission bought substantial amounts of online space on websites frequented by younger voters for the final 48 hours.

Implementation of the campaign

The time available to the Commission to design and implement its information campaign was limited by the setting of polling day some seven and a half weeks after the establishment of the Commission. Physical constraints exist in terms of minimum times required to print and distribute hard copy information materials, and to prepare broadcast material. So as to allow adequate time for recipients of printed material to absorb the information, this meant that research, drafting, review and translation of the guide material, was concentrated into the first two weeks of the Commission's existence. Within a further week, the broadcast and advertising campaigns had to be finalised. Good practice suggests that a public information campaign of the scale and complexity required would typically be planned and developed over a period of two to three months, with intensive testing of the material to maximise its effectiveness. In the time available for the Children Referendum information campaign, testing was not an option.

Figure 2 (opposite) summarises some of the key events in the campaign.

Government guide

The Department of Children and Youth Affairs distributed a separate guide to the referendum proposal. It had a much greater lead-in time for its preparation.

The publication of two guides from State sources created a risk of confusion in the minds of voters and placed an added burden on voters trying to understand the referendum proposal. It also meant that there was costly duplication of the efforts of the Commission.

In the course of the campaign, a citizen sought a declaration from the High Court that the Government was not entitled to use public money to fund its guide, website and advertising campaign on the referendum, because that campaign was designed, intended and likely to promote a Yes vote. The High Court rejected his case but the Supreme Court upheld an appeal by the applicant, holding that the State parties had acted in breach of the principle that a publicly funded publication about the referendum must be fair, equal, impartial and neutral.



Figure 2: Summary Diary of key events

Sept	Commission event	Referendum event
17		◀ Referendum Bill initiated
18		
19	◀ Referendum Commission established	
20		
21	◀ Meeting of Commission (first)	
22		
23		
24	◀ Meeting of Commission	
25		
26		
27		
28		
29		
30		
Oct		
1	◀ Meeting of Commission	
2		
3		◀ Referendum Bill approved by Houses of Oireachtas
4	◀ Printing of guide booklet begins	
5	◀ Meeting of Commission	
6		
7		
8		◀ Polling date fixed
9	◀ Launch of guide booklet/media campaign	
10	◀ Meeting of Commission	◀ Government guide issues/delivery commences
11		
12	◀ Delivery of guide booklets to An Post	
13		
14		
15	◀ Postal distribution of guide booklet begins ◀ Meeting of Commission	
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26	◀ Meeting of Commission	
27		
28		
29		
30		
31		
Nov		
1		
2		
3		
4		
5	◀ Meeting of Commission	
6		
7		
8		
9		
10		◀ Polling day
11		◀ Referendum result announced



Chapter 4. Post-campaign research

The Commission decided to undertake intensive post-campaign research with a view to getting a better understanding of what motivated people to vote or not to vote, and the effectiveness of the various elements of its own public information campaign. The Commission's main objective was to provide insights for any future Referendum Commission so that it could better plan its public information campaign. However, the research findings may also be of use to others interested in Ireland's referendum process.

We summarise here the research findings under thematic headings. The full research reports are available at www.refcom.ie/en/Past-Referendums/The-Children-Referendum/

Awareness

The quantitative research on a sample of 2000 voters began ten days after polling day and showed near unanimous awareness among respondents (97%) of the fact that the referendum had taken place.

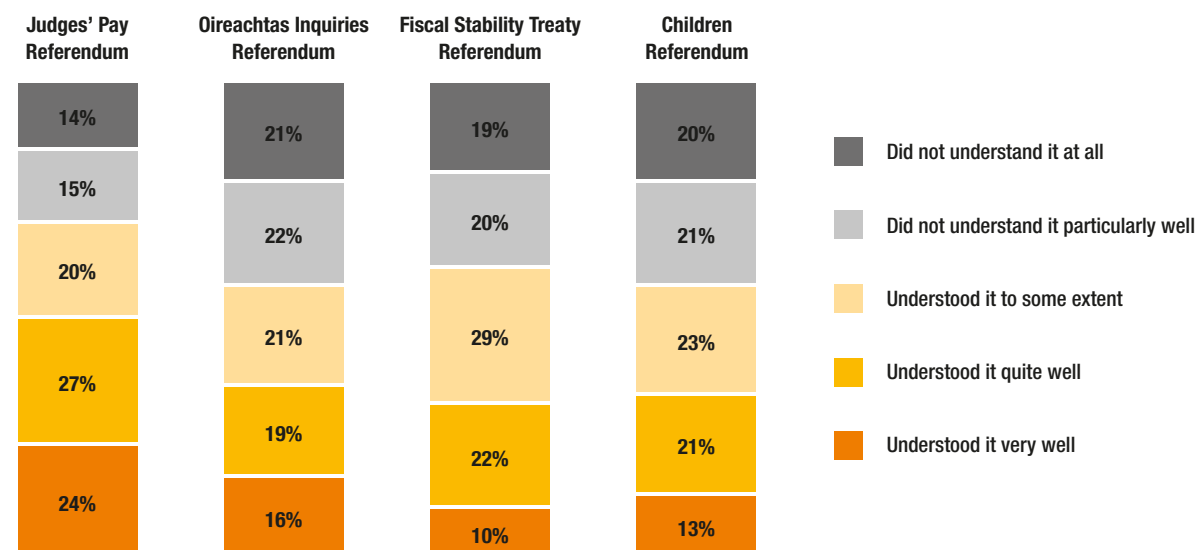
Understanding of the referendum issues

Some 41% said they did not understand the referendum particularly well, or did not understand it at all. 34% stated they understood it very well or quite well, with 23% stating they understood it to some extent.

The stated level of understanding of the Referendum was comparable to that found in research after the referendums on the Fiscal Stability Treaty and Oireachtas Inquiries, but lower than that in relation to the referendum on Judges' Pay. (See Figure 3.)

Figure 3: Understanding of Referendums: 2011 & 2012

Base: All eligible voters (excludes a small number of don't know responses)



57% felt they understood the Children Referendum, higher than the Fiscal Stability Treaty and Oireachtas Inquiries, but slightly lower than the Judges' Pay Referendum.

Who didn't vote?

Some 50% of respondents said they had voted while 50% said they had not. In fact, as the turnout figure shows, 66.51% did not vote.

Analysis of those who stated they did not vote shows significant differences between age groups and social classes, with less regional difference. Within the 18-24 age group, 74% said they did not vote, while among the over 50s the claimed abstention rate is just 39%. Among the better off ABC1 voters, 42% said they did not vote while among the less well off C2DE voters this figure is 55%, and it is 53% among farmers. Stated turnout in Dublin is highest at 54% and lowest in Connacht/Ulster at 43%. There is a modestly higher stated turnout in urban areas than rural areas.

While claimed turnout is higher than actual turnout, the research points to some very clear conclusions. The problem of low turnout is particularly pronounced among younger voters, less well off voters, and to an extent among rural voters. This Commission and previous Commissions were aware of this pattern, and devoted particular attention to directing information to these lower turnout groups. Despite this, the post-campaign research shows that the problem persists.

Why did voters not vote?

The researchers questioned all those who said they did not vote as to their reasons for not doing so. The most common reason given – by 26% – was that they didn't get a chance to vote for some reason, that circumstances didn't allow them to get to the polling station. A further 19% said they had no interest in it and were not bothered to vote.

However, 34% of respondents said they did not vote either because they did not understand the referendum or did not know enough about it. This is close to the 31% who gave these reasons in the Commission's research after the 2012 Fiscal Stability Treaty referendum. The figure was much lower for the 2011 referendums on Oireachtas Inquiries (9%) and Judges' Pay (7%).

Connected to this is the striking finding that there is a strong direct relationship between the level of understanding of the referendum proposal, and the propensity to vote. Of those who said they voted, 76% said they understood the proposal well. Of those who did not vote just 24% understood it well.

The focus group qualitative research conducted on the Commission's behalf identified a number of other factors seen as significant in voters' decisions on whether or not to vote. One of these was whether or not they saw the proposal as personally relevant to them; another was whether or not the outcome could be seen as a foregone conclusion. Other key motivating factors in the decision whether to vote and how to vote were the amount of explanatory information available, the clarity and simplicity of that information, and particularly, the quality and amount of general media coverage around the referendum debate.



The referendum debate

While the Commission has a role in promoting understanding of a referendum proposal, it has no role in promoting debate between the yes and no sides. The Commission nevertheless sought to gauge voter perception of the level and quality of debate.

In relation to the Children Referendum some 51% felt there was less debate than normal with just 12% feeling there was more debate than normal. Almost half of voters felt there was less general discussion among their family and friends on this referendum than usual. It is of note that 53% say that neither side put forward clear or balanced arguments. A quarter of voters felt they had too little time to consider the proposal before voting.

Effectiveness of the Commission's campaign

All previous Referendum Commissions have produced a printed information guide for national distribution. This Commission sought to assess again whether, in the digital age, a printed guide to a referendum proposal is a cost-effective way of seeking to inform voters in relation to a referendum proposal. The results of this research show that 72% read at least some of the guide with 26% saying they read all or most of it. This is in line with research after other recent referendums and suggests that while the guide is of necessity quite text-heavy, it is nevertheless of value to very many voters. The qualitative research supports the importance of a printed guide in the information campaign.

When shown the television advertisement used by the Commission, 75% of voters recalled it. This is seen as a healthy level of recall in the context of such a short advertising campaign and is higher than the recall levels for the television ads in relation to both the Fiscal Stability Treaty referendum, and those on Oireachtas Inquiries and Judges' Pay. 75% agreed that the ad was effective in letting people know there was a referendum about to happen, 67% agreed it encouraged people to vote in the referendum with 59% agreeing that it was effective in encouraging people to find out more about the referendum.

Recall of the Commission's longer 90 second informational free-to-air broadcasts on radio and television was not as high. As many people remembered the radio broadcast as did not. In relation to the television broadcast 54% did not recall it, but this may be because it was broadcast substantially less frequently than the shorter advertisement. Four out of five of those who had heard the broadcasts believed them to be quite effective in explaining the referendum, though 38% (radio) and 41% (television) also found them hard to follow and quite long.

What information do people want?

The research confirms that voters want impartial information. Almost 90% of voters stated that they see this as being very important or as quite important. The focus groups backed this up strongly, with a view emerging that the role of the Referendum Commission in imparting neutral information was very important.

Chapter 5. Resources

Funding of the Referendum Commission

The Commission was allocated a budget of €1.9 million by the Department of Children and Youth Affairs. This compares to a Commission budget of €5 million for the first Lisbon Treaty campaign, €4.2 million for the second Lisbon Treaty campaign and €2.2 million for the Fiscal Stability Treaty referendum.

Overall expenditure was €1.706 million broken down as shown in Figure 4.

Figure 4: Expenditure on the Information Campaign	€000
Advertising	879
Printing & design of publications	306
Postal & other distribution costs	195
Press & other public awareness promotions	177
Other administration costs	102
Legal costs	47
Total Expenditure	1,706
Original budget	1,900
Balance returned	194

The unspent balance of €0.194 million has been returned to the Department of Children and Youth Affairs.





Cost of a referendum

A typical referendum held on its own in the absence of another vote, whether another referendum or national election, costs in the region of €15 million. The bulk of this amount arises from the cost of polling and running the count. The final costs for the Children referendum are not yet available, but may be less than this sum given the shorter polling hours and reduction in the number of polling stations.

In addition to the €1.9 million allocated to the Referendum Commission for its information campaign, a further €1.1 million was used by the Department of Children and Youth affairs “to provide information on the referendum and encourage members of the public to vote”. Almost €0.4 million of this amount was spent on design, print and distribution of the Department’s information booklet, and €0.48 million on advertising and website costs.

Procurement

The Referendum Commission has no ongoing legal existence and only comes into being once established by Ministerial order. Decisions about procurement of goods and services for the information campaign can only be made after the Commission comes into existence. The short time available for the campaign means that complete new procurement processes cannot be undertaken for each campaign.

In August/September 2011, an open public procurement competition was held for the provision of marketing/project management/communications consultancy services to the then serving Referendum Commission¹. The tender documents indicated that future Commissions could, at their discretion, award additional contract(s) for the same services if required for further referendum(s) that may be held within three years of the signing of the contract. After its establishment in September 2012, the Referendum Commission decided to avail of that option for the Children Referendum.

Following an open procurement process held in March/April 2012, the contract for the national distribution of the Commission’s guide to the Fiscal Stability Treaty referendum was awarded to An Post. In the tender competition for that service, it was indicated that any future Commission could, at its discretion, grant a contract in the period up to the end of 2014 to the service provider who was selected in

respect of the Fiscal Stability Treaty referendum. After its establishment in September 2012, the Referendum Commission decided to avail of the option to retain An Post to deliver its guide.

As in other recent campaigns, the Commission decided on cost grounds to deliver the guide booklet to every residence through An Post’s Publicity Post Service rather than using the more expensive method of having a copy of the guide addressed and posted to individual voters on the register of electors.

Acknowledgements

The Commission is indebted to its service providers for assisting it to complete a wide array of tasks under very challenging time constraints. The various broadcast outlets and the national press also deserve thanks for their active co-operation with the Commission.

As marketing/communications consultant to the Commission, Murray Consultants, and Mr Mark Brennock and Ms Aoibheann O’Sullivan in particular, played a vital role in ensuring that the various strands of the campaign were delivered on time and in a coordinated fashion. The creative advertising agency Chemistry and media buying agency Carat produced work of high quality under great time pressure. Mr Fintan Cooney of Chemistry and Mr Liam McDonnell of Carat deserve special thanks as do the teams working with them.

The skills of Ms Ita Mangan in drafting a wide range of information material greatly assisted the campaign. The Commission is also grateful to its legal advisor, Mr Peter Law of A&L Goodbody, to Senior Counsel, Mr Brian Murray and to Ms Sarah Fennell BL.

The Commission is extremely indebted to its secretariat, provided by the Standards in Public Office Commission, for its work in assisting it through a highly pressured public information campaign. Without their help and knowledge, the Commission could not have carried out its functions. We would like to thank all of them and in particular David Waddell. The Office of the Ombudsman provided other necessary facilities to the Commission and many of the staff of that Office also contributed to its work. The Commission is grateful to Ms Bernie McNally, Director General, Office of the Ombudsman, for that assistance.

¹ The Commission was established for the Judges’ Pay and Oireachtas Inquiries referendums.

Chapter 6. Conclusions and Recommendations

The Commission’s three core functions are to explain the subject matter of the referendum proposal and communicate the explanation to all citizens entitled to vote, to promote awareness of the referendum and to encourage people to vote. The Commission has assessed the effectiveness of the manner in which it discharged those functions in the Children Referendum particularly having regard to the time available to it, the disappointing voter turnout of 33.5% and its research results.

The Commission concludes that it succeeded, by its advertising campaign, in raising awareness of the Referendum and in communicating a message as to the importance of voting in the referendum. However, this did not result in getting people out to vote. Despite its guide and information campaign, next referred to, the Commission considers that the level of public understanding of the proposal, as demonstrated by the research results, was unacceptably low. It is clear from the research results that these two are related and that enabling a future Referendum Commission to improve public understanding of a referendum proposal may be central to increasing voter turnout.

The Commission in the Children Referendum prepared a guide with an explanation of the subject matter of the proposal which was, it believes, clear, impartial and neutral. It sought to give a clear explanation without making the guide too long which would discourage its reading. The diversity of background knowledge, levels of understanding and expectations of the citizens to whom it is addressed makes this a particularly difficult task. The Commission did this under significant time constraints. The content of the guide was not criticised in the course of the campaign and was commented upon favourably in certain of the court judgments in the challenge to the Government guide, but nevertheless, the research results indicate that only 48% of voters found it either very or quite helpful. The Commission does not consider this satisfactory.

The Commission is strongly of the view that the preparation of an explanation of the subject matter of a Referendum proposal and its incorporation in a guide which a greater number of citizens would find helpful requires more time than was allowed to this Commission. Allied to this is the necessity to design and plan an information campaign which will effectively communicate an explanation of the proposal to all citizens entitled to vote, and in particular

reach those who may not be motivated to seek out the information or even read the distributed guide.

The citizens have a right to receive a clear, impartial explanation of the subject matter of a referendum proposal before being asked to vote on it. It is therefore essential, in the Commission’s view, that any future Commission is given an increased period of time prior to the commencement of the referendum campaign proper to prepare its explanation of the subject matter of the referendum proposal and design and plan its strategy of communicating the information.

Previous Commissions have recommended permanent legal status for the referendum commission and this Commission endorses that recommendation. This would give continuity to the commission and potentially enable earlier preparation and planning. The Commission recognises, however, that this recommendation would require legislative change and is conscious that one or more referendums are planned for later this year, probably prior to any possible legislative change.

Previous Commissions have also recommended that the referendum process be reviewed to ensure that it conforms to international standards such as the European Commission for Democracy through Law (Venice Commission) Code for Good Practice on Referendums (March 2007). This Commission similarly agrees.

The Commission considers that there is one simple change which could be made to the process for future referendums within the current legislative framework which would, it considers, greatly enhance the ability of a referendum commission to prepare and effectively communicate an explanation of the referendum proposal in a manner likely to improve public understanding of it and thereby hopefully increase voter turnout.

The proposed change is to increase the time for the consideration of the Bill to amend the Constitution before the Houses of the Oireachtas to a minimum period of four weeks and during that time enhance the public debate by pre-legislative hearing by the appropriate Oireachtas committee and the taking of Committee Stage of the Bill in open-ended plenary session in the Dáil. Such a change should have the following double benefit.

Firstly, if the Minister were to establish the Referendum Commission on the initiation of the Bill, it would have a minimum of four weeks in which to prepare its explanation of the subject matter of the referendum proposal and devise and plan its campaign to communicate that to the public prior to commencement of the campaign proper on the passing of the Bill. The Commission's advice is that two to three months for the planning of such an information campaign would be normal. However, the Commission recognises that such time may not be feasible but is strongly of the view that four weeks is the minimum period required. The Commission only had two weeks for this work in the Children Referendum and believes that its information campaign may have suffered by reason of time constraints.

Secondly, if there were to be an enhanced debate during the passage of the Bill to amend the Constitution through the Houses of the Oireachtas, it should bring to light issues that may also arise in the course of the referendum campaign which could then be addressed by the Referendum Commission in its explanation of the subject matter of the proposal. Such an enhanced debate, including hearings by Oireachtas committees, may also have the benefit of raising public awareness of the issues relevant to the referendum proposal immediately prior to the commencement of the referendum campaign proper.

The minimum four week period before the Oireachtas is recommended upon an assumption that the period of the referendum campaign proper would continue to be a minimum of approximately six weeks. This is required to allow for printing and distribution of a guide to arrive at least three weeks prior to polling day.

The Commission on a separate issue concludes that there is evidence in the research results of some confusion amongst voters caused by the circulation of two official information guides during the Referendum campaign. The burden of two guides to be read may also deter from reading even one. The cost of distributing two guides is difficult to justify. Where a referendum commission is appointed, it should be permitted to perform its statutory functions of explaining the referendum proposal in an impartial and neutral manner without the potential confusion of a second publicly-funded information campaign. However, as already stated, a commission needs more preparation time – a minimum of four weeks prior to the start of the referendum campaign – to do this effectively.

The Referendum Commission recommends as an immediate change without the necessity of legislation:

- That a referendum commission be given a minimum period of four weeks from its establishment prior to the passing of the Bill, or fixing of the polling day and start of the referendum campaign proper for the planning and design of each campaign, and in particular for the preparation of the information guide. This could be achieved without legislative change by increasing the time for the consideration of the Bill to amend the Constitution before the Houses of the Oireachtas to a minimum period of four weeks.
- That the Houses of the Oireachtas timetable for the consideration of a Bill to amend the Constitution be of sufficient duration to allow for pre-legislative hearing by the appropriate Oireachtas Committee and the taking of Committee stage of the Bill in open-ended plenary session in the Dáil for the double purpose of raising public awareness of the issues immediately prior to the start of the referendum campaign and allowing the Referendum Commission preparation time.
- That the Referendum Commission alone produce a State funded information guide during the campaign period.

The Referendum Commission recommends that consideration be given to legislative change to effect:

- That permanent legal status be granted to the Referendum Commission
- That the referendum process conforms to accepted international standards.

M. Finlay Geoghegan

Mary Finlay Geoghegan, Chairperson

Kieran Coughlan

Kieran Coughlan, Clerk of Dáil Éireann

Deirdre Lane

Deirdre Lane, Clerk of Seanad Éireann

Emily O'Reilly

Emily O'Reilly, Ombudsman

Seamus McCarthy

Seamus McCarthy, Comptroller and Auditor General





**THE REFERENDUM
COMMISSION'S
REPORT**

Referendum
on the 31st Amendment of the
Constitution (Children) Bill 2012

