

Teilifis na Gaeilge

Joe Meleady, Uasal,
Roinn Cumarsáide, Mara & Achmhainní Náúrtha

Reply to query on TG4 Commercial Activities

30 Bealtaine 2007

TG4 is a national public service television broadcaster broadcasting primarily in the Irish Language. The duties and functions of Teilifis na Gaeilge are laid down and specified in Section VI of the Broadcasting Act 2001 as enacted by the Houses of the Oireachtas.

The public service and Irish language remits and the funding arrangements in place mean that TG4's commercial activities are very limited.

TG4's funding is substantially provided from the Exchequer by way of Grant-in-Aid from the Department of Communications, Marine and Natural Resources.

In the current year 90% (€30.98m) of TG4's current funding will be provided from this Grant-in-Aid.

Commercial activity accounts for 10% (€3.62m) of revenue. Of that figure, almost all, 96% or €3.47m, comprises income from airtime sales and sponsorship.

The remaining 4% balance of TG4 revenue from commercial activities, some €145k, derives from programme sales and ancillary activities.

It is clear from the above that programme rights acquired and programmes produced and commissioned by and for TG4 are almost entirely for our own broadcast use in fulfilment of our public service remit on our own channel and not for commercial exploitation in Ireland or elsewhere.

Paul Mulqueen

From: Paul Mulqueen
Sent: Tuesday, May 22, 2007 2:15 PM
To: 'Elleonora.SOARES@ec.europa.eu'
Subject: RE: TG4

That's right.

From: Elleonora.SOARES@ec.europa.eu [mailto:Elleonora.SOARES@ec.europa.eu]
Sent: Tuesday, May 22, 2007 1:55 PM
To: Paul Mulqueen
Subject: RE: TG4

RTE has no shareholding at all in TG4?

From: Paul Mulqueen [mailto:Paul.Mulqueen@dcmnr.gov.ie]
Sent: Tuesday, May 22, 2007 11:05 AM
To: SOARES Elleonora (COMP)
Subject: TG4

Elleonora,

That's right.

Regards,

Paul

From: Elleonora.SOARES@ec.europa.eu [mailto:Elleonora.SOARES@ec.europa.eu]
Sent: Monday, May 21, 2007 4:58 PM
To: Paul Mulqueen
Subject: RE:

Thank you. So this means that TG4 is no longer 100% owned by RTE?
regards,
Elleonora

From: Paul Mulqueen [mailto:Paul.Mulqueen@dcmnr.gov.ie]
Sent: Wednesday, May 16, 2007 4:57 PM
To: SOARES Elleonora (COMP)
Cc: Kevin O'Brien; Bill Morrissey
Subject: RE:

Hi Elleonora,

Yes, you are correct.

The day appointed as the establishment day for the purposes of the Broadcasting Act 2001 was 1st April 2007. I have attached the relevant Statutory Instrument "TEILIFÍS NA GAEILGE

(ESTABLISHMENT DAY) ORDER 2007 - SI 98 OF 2007 – the English version can be found in the second half of the pdf file.

I am also enclosing the published version of the Broadcasting (Amendment) Act 2007 and the commencement order.

Regards,

Paul.

From: Elleonora.SOARES@ec.europa.eu [mailto:Elleonora.SOARES@ec.europa.eu]
Sent: Tuesday, May 15, 2007 11:42 AM
To: Paul Mulqueen
Subject:

Dear Paul,
Many thanks for your email explanations and the excel sheet. I read on TG4's home page that "TG4, the Irish language television channel became an independent statutory entity on 1 April 2007 (Teilifis na Gaeilge)." Does this mean that TG4 is no longer a wholly-owned subsidiary of RTE?
Kind regards,
Elleonora Soares

From: Paul Mulqueen [mailto:Paul.Mulqueen@dcmnr.gov.ie]
Sent: Tuesday, May 01, 2007 3:14 PM
To: SOARES Elleonora (COMP)
Subject:

Hi Elleonora,

I refer to your previous correspondence dated 24.04.07 where you sought some further clarifications.

I hope the explanations below suffice.

I am also including an excel spreadsheet outlining the impact of the Broadcasting Bill on current legislation.

Regards,

Paul.

Questions

a) Head 2 - presumably RTE and TG4 are covered by the definition of broadcaster?

Response: RTÉ and Teilifis na Gaeilge (TG4) are included within the scope of the definition of a broadcaster.

b) Head 25 - what is the difference between 25(h) "advise the Minister as to the sector impact" and 25 (i) "consult with the minister as to the sector impact?" What is actually meant by a sector impact test and how do you see it carried out? Can you provide an example? Similarly with a public value test.

c) How do you envisage carrying out the public value and/or sector impact test under for example, Head 75, Head 109(1)(g)-(i), Heads 114, 106 and 107. How do you envisage the

sector impact test under for example Head 100(2), Head 102(1) and head 104(3)?

Response to b) and c): In relation to the distinction between "advising" and "consulting", whilst further work is required to ensure consistency of language in the formal legal text of the Broadcasting Bill, the primary intent is that the BAI should "advise" the Minister as to the sectoral impact, and "consult" with the Minister as to the public value, of a particular proposal.

This distinction derives from the view that the BAI will be the principal expert body as far as conducting sectoral impact assessments are concerned (and as such will be in a position to "advise" the Minister), but that whilst having an important contribution to make in the decision making process in relation to public value tests, the BAI will not be the "sole" expert voice on which the Minister will base his or her decisions (hence the use of the phrase "consult").

The current draft general scheme does not lay out the specifics of how a sectoral impact test would be conducted (and as such allows the BAI considerable flexibility and independence as to how it goes about fulfilling its obligations) however the general intent is that the BAI should develop methodologies for the conduct of such assessments and that where possible the outcome of such assessments should be made public.

Head 75(5) outlines at a high level the process associated with the public value test.

Further consideration will be given to the modalities of the sectoral impact and public value tests prior to the publication of the formal legal text of the Broadcasting Bill.

d) Head 27(1) - are RTE and TG4 covered? In general, what are the consequences for not complying?

Response: Head 27(1)(c) to (h) applies to all broadcasters including RTÉ and Teilifís na Gaeilge (TG4). Head 27(1)(a) and (b) applies to commercial and community broadcasters but not RTÉ and Teilifís na Gaeilge (TG4) – commercial and community broadcasters derive their authorisation to broadcast by way of contract from the BAI (formerly BCI) whereas RTÉ and Teilifís na Gaeilge (TG4) derive their authorisation to broadcast by way of statute.

- Enforcement under 27(1)(a) could potentially lead to termination of contract – although this, as in other jurisdictions, is a very rare occurrence usually arising out of repeated serious breaches.
- Enforcement under 27(1)(d) and (f) could potentially lead to administrative monetary penalties (this is a complex issue from a constitutional law perspective, and will be further considered before publication of the legal text of the Broadcasting Bill)
- Enforcement under 27(1)(g) would in effect be a finding by the Compliance Committee as to whether or not a complaint made on specified grounds against a particular broadcast should be upheld.
- Enforcement under 27(1)(h) could potentially lead to a broadcaster being required to broadcast a right of reply.

The primary objective of the draft general scheme of the Broadcasting Bill is to ensure that the Compliance Committee has a range of proportionate enforcement instruments available to it, which would apply equally to all broadcasters (the key exception being enforcement of contractual terms for the reasons outlined above).

e) Head 40 - Please confirm that TG4 (not only RTE and other broadcasters) is covered.

Response: Teilifís na Gaeilge (TG4) falls within the scope of Head 40.

f) Head 41 - Please confirm that RTE and TG4 are covered as any other broadcaster.

Response: RTÉ and Teilifís na Gaeilge (TG4) fall within the scope of Head 41

g) Head 47 - Are RTE and TG4 covered by this provision?

Response: RTÉ and Teilifís na Gaeilge (TG4) fall within the scope of Head 47

h) Looking at Head 109(6) and Head 88 - if RTE makes inclusions to its memorandum of association these presumably need to be approved by the Minister. Please confirm. Similarly for the same provisions relating to TG4.

Response: Head 74 requires that the memoranda of association of RTÉ and Teilifís na Gaeilge (TG4) must be in accordance with the rest of the legislative proposals contained in the draft general scheme of the Broadcasting Bill and must be approved by an order (statutory instrument) made by the Minister for Communications, Marine and Natural Resources, with the consent of the Minister for Finance. Any such order is subject to annulment by resolution of either House of the Oireachtas i.e. Dáil Éireann or Seanad Éireann.

i) During the April 27 2006 meeting you mentioned that Head 109(6) is not intended to allow RTE to include new objectives into its remit but only to grant it the power to buy property. Please confirm that this is the intention and that the same is true for the very similar provision relating to TG4's remit.

Response: The equivalent provision to Head 109(6) for Teilifís na Gaeilge (TG4) is Head 114(7). The intention of both provisions is that the text of the memoranda of association (as you are aware a standard document required in the incorporation of companies under company law) should accord with the statutory objectives and powers outlined for RTÉ and Teilifís na Gaeilge (TG4) in the draft general scheme of the Broadcasting Bill. It is not intended that memoranda of association would include additional objectives for RTÉ and Teilifís na Gaeilge (TG4).

j) During the April 27 2006 meeting you also mentioned that Head 109(7) is only intended to ensure that RTE has the necessary powers to carry out its objectives. Please confirm that that is the only intention. Similarly for the provision governing TG4's remit.

Response: The equivalent provision to Head 109(7) for Teilifís na Gaeilge (TG4) is Head 114(8). The purpose of these provisions is to ensure that RTÉ and Teilifís na Gaeilge have no more nor less powers than are necessary to fulfil their statutory objectives.

k) Head 110(5) - Is the meaning that all and any change to RTE or TG4's remit requires Parliament approval? If so, please confirm that there are no exceptions.

Response: Under Head 110(5) any alteration to the statutory remit of RTE or Teilifis na Gaeilge (TG4) would require each House of the Oireachtas – Dáil Éireann and Seanad Éireann - to pass a resolution approving any such proposed alternation. This is the only means proposed for altering the statutory remit of RTÉ or Teilifis na Gaeilge (TG4).

l) Head 116(3) - Please confirm that any ad hoc payments are, and would be, for public service functions only and explain why and when such a payment could be necessary. It is assumed that any ad hoc payment will be notified to the European Commission. Comments?

Response: Any payments made to RTÉ under Head 116(3) would solely relate to its public service objectives – the public service objective in mind is assisting public agencies in the dissemination of information to the public in the event of an emergency (and in particular preparing to be in a position to provide such assistance). The text of 116(3) is to be reviewed before the publication of the legal text of the Broadcasting Bill.

m) In the Irish Government's reply to the Commission dated 30 May 2005, paragraph 30, it is stated that it will be proposed to require RTE to conduct its commercial activities under market conditions. This seems not to be reflected in the current Bill. Please let me know if I have missed the relevant Head(s) and if not, please explain why this is not reflected in the Bill. Please also confirm that any such proposal would also cover TG4.

Response: The published text of Head 101 provides that all transactions undertaken between the public service and commercial activities (exploitation of such commercial opportunities arising in pursuit of public service objectives – Head 109 (1)(j) and 114(1)(j)) of RTÉ and Teilifis na Gaeilge (TG4) must be made on an arm's length basis, in an efficient manner so as to maximise revenues (i.e. market conditions) and that any profits arising must be utilised to subsidise the achievement of their respective public service objectives. Head 101(3) empowers the Minister to direct the Compliance Committee to report on whether or not RTÉ and Teilifis na Gaeilge (TG4) are complying with this requirement.

Head 100 requires RTÉ and Teilifis na Gaeilge (TG4) to, following guidance from the BAI as regards cost accounting principles, prepare a statement of revenues and costs distinguishing as between activities relating to commercial opportunities and public service objectives. The head also empowers the Minister to direct the Compliance Committee to report on whether or not statements prepared by RTÉ and Teilifis na Gaeilge (TG4) comply with the guidance issued by the BAI.

n) I note TV3's concerns that the Bill does not exclude that persons with current or previous interest in RTE or TG4 are members of the new Broadcasting Authority. Please explain to what extent Heads 11 and 88 (or any other Head) leave room for employees of RTE, TG4 or the Authority to be involved in each others business

Response: Head 11(6) disqualifies persons who hold employment with, or an interest in, a broadcaster (RTÉ, Teilifis na Gaeilge (TG4), commercial or community

broadcasters) from membership of the Broadcasting Authority of Ireland (BAI) or its statutory committees. What constitutes an "interest" is defined in Head 2 and includes directorships, employment, ownership, gifts and benefits deriving from the broadcaster concerned. Head 83(4) specifically disqualifies persons appointed to membership of the BAI or its statutory committees from being a director of RTÉ or Teilifis na Gaeilge (TG4). In addition to the foregoing, heads 21, 22, 23 impose significant declaration and disclosure of interest requirements on the members of the BAI and its statutory committees and on the employees of the BAI. In summary the draft general scheme of the Broadcasting Bill proposes a comprehensive approach to the independence of membership and decision making as between the BAI and its statutory committees and broadcasters, including public service broadcasters.

Paul Mulqueen,
Assistant Principal,
Broadcasting Policy Division,
Department of Communications, Marine and Natural Resources,
29-31 Adelaide Road,
Dublin 2.

Tel: 353 -1- 6783092
Fax: 353 -1- 6783099
Paul.Mulqueen@dcmnr.gov.ie

Disclaimer:

This electronic message contains information (and may contain files), which may be privileged or confidential. The information is intended to be for the sole use of the individual(s) or entity named above. If you are not the intended recipient be aware that any disclosure, copying, distribution or use of the contents of this information and or files is prohibited. If you have received this electronic message in error, please notify the sender immediately.

This is also to certify that this mail has been scanned for viruses.

Tá eolas sa teachtaireacht leictreonach seo (agus b'fhéidir sa chomhaid ceangailte leis) a d'fhéadfadh bheith príobháideach nó faoi rún. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonáin atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Murab ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bíodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo. Más trí earráid a fuair tú an teachtaireacht leictreonach seo cuir, más é do thoil é, an té ar sheol an teachtaireacht ar an eolas láithreach.

Deimhnítear leis seo freisin nár aimsíodh víreas sa phost seo tar éis a scanadh.

Paul Mulqueen

From: Paul Mulqueen
Sent: Wednesday, June 06, 2007 10:56 AM
To: 'Elleonora.SOARES@ec.europa.eu'
Subject: RE: TG4

Hi Elleonora,

RTE have asked one question in relation to this request; Do you require the information only for 2006/7 or for other years as well?

Regards,

Paul.

From: Elleonora.SOARES@ec.europa.eu [mailto:Elleonora.SOARES@ec.europa.eu]
Sent: Tuesday, May 29, 2007 10:16 AM
To: Paul Mulqueen
Subject: RE: TG4

Hello Paul,

Any progress on the paragraphs concerning the psb's commercial activities?

Kind regards,
Elleonora

From: Paul Mulqueen [mailto:Paul.Mulqueen@dcmnr.gov.ie]
Sent: Thursday, May 24, 2007 11:02 AM
To: SOARES Elleonora (COMP)
Subject: RE: TG4

Hi Elleonora,

That's no problem.

I am in Brussels today, just up the road in fact, for the Education Youth and Culture Council - Audiovisual Media Services Directive - so I will put a few paragraphs together when I get back.

Regards,

Paul

From: Elleonora.SOARES@ec.europa.eu [https://geata.dcmnr.ie/CitrixFEI/composemessage.asp?to=Elleonora.SOARES@ec.europa.eu]
Sent: Wed 23/05/2007 16:24
To: Paul Mulqueen
Subject: RE: TG4

Thank you very much, Paul. That's helpful.

Could you also please explain in just a couple of paragraphs what RTE and TG4's commercial activities consist in (other than advertisement and sponsorship related activities and network transmission services). For example, the acquisition and sale of rights, production of programs, publishing activities and performance groups etc.

Many thanks for your help!

regards,
Elleonora

From: Paul Mulqueen [<https://geata.dcmnr.ie/CitrixFEI/composemessage.asp?to=Paul.Mulqueen@dcmnr.gov.ie>]
Sent: Tuesday, May 22, 2007 3:15 PM
To: SOARES Elleonora (COMP)
Subject: RE: TG4

That's right.

From: Elleonora.SOARES@ec.europa.eu [<https://geata.dcmnr.ie/CitrixFEI/composemessage.asp?to=Elleonora.SOARES@ec.europa.eu>]
Sent: Tuesday, May 22, 2007 1:55 PM
To: Paul Mulqueen
Subject: RE: TG4

RTE has no shareholding at all in TG4?

From: Paul Mulqueen [<https://geata.dcmnr.ie/CitrixFEI/composemessage.asp?to=Paul.Mulqueen@dcmnr.gov.ie>]
Sent: Tuesday, May 22, 2007 11:05 AM
To: SOARES Elleonora (COMP)
Subject: TG4

Elleonora,

That's right.

Regards,

Paul

From: Elleonora.SOARES@ec.europa.eu
[<https://geata.dcmnr.ie/CitrixFEI/composemessage.asp?to=Elleonora.SOARES@ec.europa.eu>]
Sent: Monday, May 21, 2007 4:58 PM
To: Paul Mulqueen
Subject: RE:

Thank you. So this means that TG4 is no longer 100% owned by RTE?
regards,

Elleonora

From: Paul Mulqueen [<https://geata.dcmnr.ie/CitrixFEI/composemessage.asp?to=Paul.Mulqueen@dcmnr.gov.ie>]
Sent: Wednesday, May 16, 2007 4:57 PM
To: SOARES Elleonora (COMP)
Cc: Kevin O'Brien; Bill Morrissey
Subject: RE:

Hi Elleonora,

Yes, you are correct.

The day appointed as the establishment day for the purposes of the Broadcasting Act 2001 was 1st April 2007. I have attached the relevant Statutory Instrument "TEILIFÍS NA GAELIGE (ESTABLISHMENT DAY) ORDER 2007 - SI 98 OF 2007 – the English version can be found in the second half of the pdf file.

I am also enclosing the published version of the Broadcasting (Amendment) Act 2007 and the commencement order.

Regards,

Paul.

From: Elleonora.SOARES@ec.europa.eu
[<https://geata.dcmnr.ie/CitrixFEI/composemessage.asp?to=Elleonora.SOARES@ec.europa.eu>]
Sent: Tuesday, May 15, 2007 11:42 AM
To: Paul Mulqueen
Subject:

Dear Paul,

Many thanks for your email explanations and the excel sheet. I read on TG4's home page that "TG4, the Irish language television channel became an independent statutory entity on 1 April 2007 (Teilifis na Gaeilge)." Does this mean that TG4 is no longer a wholly-owned subsidiary of RTE?

Kind regards,
Elleonora Soares

From: Paul Mulqueen [<https://geata.dcmnr.ie/CitrixFEI/composemessage.asp?to=Paul.Mulqueen@dcmnr.gov.ie>]
Sent: Tuesday, May 01, 2007 3:14 PM
To: SOARES Elleonora (COMP)
Subject:

Hi Elleonora,

I refer to your previous correspondence dated 24.04.07 where you sought some further clarifications.

I hope the explanations below suffice.

I am also including an excel spreadsheet outlining the impact of the

Broadcasting Bill on current legislation.

Regards,

Paul.

Questions

a) Head 2 - presumably RTE and TG4 are covered by the definition of broadcaster?

Response: RTÉ and Teilifís na Gaeilge (TG4) are included within the scope of the definition of a broadcaster.

b) Head 25 - what is the difference between 25(h) "advise the Minister as to the sector impact" and 25 (i) "consult with the minister as to the sector impact?" What is actually meant by a sector impact test and how do you see it carried out? Can you provide an example? Similarly with a public value test.

c) How do you envisage carrying out the public value and/or sector impact test under for example, Head 75, Head 109(1)(g)-(i), Heads 114, 106 and 107. How do you envisage the sector impact test under for example Head 100(2), Head 102(1) and head 104(3)?

Response to b) and c): In relation to the distinction between "advising" and "consulting", whilst further work is required to ensure consistency of language in the formal legal text of the Broadcasting Bill, the primary intent is that the BAI should "advise" the Minister as to the sectoral impact, and "consult" with the Minister as to the public value, of a particular proposal.

This distinction derives from the view that the BAI will be the principal expert body as far as conducting sectoral impact assessments are concerned (and as such will be in a position to "advise" the Minister), but that whilst having an important contribution to make in the decision making process in relation to public value tests, the BAI will not be the "sole" expert voice on which the Minister will base his or her decisions (hence the use of the phrase "consult").

The current draft general scheme does not lay out the specifics of how a sectoral impact test would be conducted (and as such allows the BAI considerable flexibility and independence as to how it goes about fulfilling its obligations) however the general intent is that the BAI should develop methodologies for the conduct of such assessments and that where possible the outcome of such assessments should be made public.

Head 75(5) outlines at a high level the process associated with the public value test.

Further consideration will be given to the modalities of the sectoral

impact and public value tests prior to the publication of the formal legal text of the Broadcasting Bill.

d) Head 27(1) - are RTE and TG4 covered? In general, what are the consequences for not complying?

Response: Head 27(1)(c) to (h) applies to all broadcasters including RTÉ and Teilifís na Gaeilge (TG4). Head 27(1)(a) and (b) applies to commercial and community broadcasters but not RTÉ and Teilifís na Gaeilge (TG4) – commercial and community broadcasters derive their authorisation to broadcast by way of contract from the BAI (formerly BCI) whereas RTÉ and Teilifís na Gaeilge (TG4) derive their authorisation to broadcast by way of statute.

- Enforcement under 27(1)(a) could potentially lead to termination of contract – although this, as in other jurisdictions, is a very rare occurrence usually arising out of repeated serious breaches.
- Enforcement under 27(1)(d) and (f) could potentially lead to administrative monetary penalties (this is a complex issue from a constitutional law perspective, and will be further considered before publication of the legal text of the Broadcasting Bill)
- Enforcement under 27(1)(g) would in effect be a finding by the Compliance Committee as to whether or not a complaint made on specified grounds against a particular broadcast should be upheld.
- Enforcement under 27(1)(h) could potentially lead to a broadcaster being required to broadcast a right of reply.

The primary objective of the draft general scheme of the Broadcasting Bill is to ensure that the Compliance Committee has a range of proportionate enforcement instruments available to it, which would apply equally to all broadcasters (the key exception being enforcement of contractual terms for the reasons outlined above).

e) Head 40 - Please confirm that TG4 (not only RTE and other broadcasters) is covered.

Response: Teilifís na Gaeilge (TG4) falls within the scope of Head 40.

f) Head 41 - Please confirm that RTE and TG4 are covered as any other broadcaster.

Response: RTÉ and Teilifís na Gaeilge (TG4) fall within the scope of Head 41

g) Head 47 - Are RTE and TG4 covered by this provision?

Response: RTÉ and Teilifís na Gaeilge (TG4) fall within the scope of Head 47

h) Looking at Head 109(6) and Head 88 - if RTE makes inclusions to its memorandum of association these presumably need to be approved by the Minister. Please confirm. Similarly for the same provisions relating to TG4.

Response: Head 74 requires that the memoranda of association of RTÉ and Teilifís na Gaeilge (TG4) must be in accordance with the rest of the legislative proposals contained in the draft general scheme of the Broadcasting Bill and must be approved by an order (statutory instrument) made by the Minister for Communications, Marine and Natural Resources, with the consent of the Minister for Finance. Any such order is subject to annulment by resolution of either House of the Oireachtas i.e. Dáil Éireann or Seanad Éireann.

i) During the April 27 2006 meeting you mentioned that Head 109(6) is not intended to allow RTE to include new objectives into its remit but only to grant it the power to buy property. Please confirm that this is the intention and that the same is true for the very similar provision relating to TG4's remit.

Response: The equivalent provision to Head 109(6) for Teilifís na Gaeilge (TG4) is Head 114(7). The intention of both provisions is that the text of the memoranda of association (as you are aware a standard document required in the incorporation of companies under company law) should accord with the statutory objectives and powers outlined for RTÉ and Teilifís na Gaeilge (TG4) in the draft general scheme of the Broadcasting Bill. It is not intended that memoranda of association would include additional objectives for RTÉ and Teilifís na Gaeilge (TG4).

j) During the April 27 2006 meeting you also mentioned that Head 109(7) is only intended to ensure that RTE has the necessary powers to carry out its objectives. Please confirm that that is the only intention. Similarly for the provision governing TG4's remit.

Response: The equivalent provision to Head 109(7) for Teilifís na Gaeilge (TG4) is Head 114(8). The purpose of these provisions is to ensure that RTÉ and Teilifís na Gaeilge have no more nor less powers than are necessary to fulfil their statutory objectives.

k) Head 110(5) - Is the meaning that all and any change to RTE or TG4's remit requires Parliament approval? If so, please confirm that there are no exceptions.

Response: Under Head 110(5) any alteration to the statutory remit of RTE or Teilifís na Gaeilge (TG4) would require each House of the Oireachtas – Dáil Éireann and Seanad Éireann - to pass a resolution approving any such proposed alternation. This is the only means proposed for altering the statutory remit of RTÉ or Teilifís na Gaeilge (TG4).

l) Head 116(3) - Please confirm that any ad hoc payments are, and would be, for public service functions only and explain why and when such a payment could be necessary. It is assumed that any ad hoc payment will be notified to

the European Commission. Comments?

Response: Any payments made to RTÉ under Head 116(3) would solely relate to its public service objectives – the public service objective in mind is assisting public agencies in the dissemination of information to the public in the event of an emergency (and in particular preparing to be in a position to provide such assistance). The text of 116(3) is to be reviewed before the publication of the legal text of the Broadcasting Bill.

m) In the Irish Government's reply to the Commission dated 30 May 2005, paragraph 30, it is stated that it will be proposed to require RTE to conduct its commercial activities under market conditions. This seems not to be reflected in the current Bill. Please let me know if I have missed the relevant Head(s) and if not, please explain why this is not reflected in the Bill. Please also confirm that any such proposal would also cover TG4.

Response: The published text of Head 101 provides that all transactions undertaken between the public service and commercial activities (exploitation of such commercial opportunities arising in pursuit of public service objectives – Head 109(1)(j) and 114(1)(j)) of RTÉ and Teilifís na Gaeilge (TG4) must be made on an arm's length basis, in an efficient manner so as to maximise revenues (i.e. market conditions) and that any profits arising must be utilised to subsidise the achievement of their respective public service objectives. Head 101(3) empowers the Minister to direct the Compliance Committee to report on whether or not RTÉ and Teilifís na Gaeilge (TG4) are complying with this requirement.

Head 100 requires RTÉ and Teilifís na Gaeilge (TG4) to, following guidance from the BAI as regards cost accounting principles, prepare a statement of revenues and costs distinguishing as between activities relating to commercial opportunities and public service objectives. The head also empowers the Minister to direct the Compliance Committee to report on whether or not statements prepared by RTÉ and Teilifís na Gaeilge (TG4) comply with the guidance issued by the BAI.

n) I note TV3's concerns that the Bill does not exclude that persons with current or previous interest in RTE or TG4 are members of the new Broadcasting Authority. Please explain to what extent Heads 11 and 88 (or any other Head) leave room for employees of RTE, TG4 or the Authority to be involved in each others business

Response: Head 11(6) disqualifies persons who hold employment with, or an interest in, a broadcaster (RTÉ, Teilifís na Gaeilge (TG4), commercial or community broadcasters) from membership of the Broadcasting Authority of Ireland (BAI) or its statutory committees. What constitutes an "interest" is defined in Head 2 and includes directorships, employment, ownership, gifts and benefits deriving from the broadcaster concerned. Head 83(4) specifically disqualifies persons appointed to membership of the BAI or its statutory committees from being a director of RTÉ or Teilifís na Gaeilge (TG4). In addition to the foregoing, heads 21, 22, 23 impose significant declaration and disclosure of interest requirements on the members of the BAI and its statutory

committees and on the employees of the BAI. In summary the draft general scheme of the Broadcasting Bill proposes a comprehensive approach to the independence of membership and decision making as between the BAI and its statutory committees and broadcasters, including public service broadcasters.

Paul Mulqueen,
Assistant Principal,
Broadcasting Policy Division,
Department of Communications, Marine and Natural Resources,
29-31 Adelaide Road,
Dublin 2.

Tel: 353 -1- 6783092
Fax: 353 -1- 6783099
Paul.Mulqueen@dcmnr.gov.ie

Disclaimer:

This electronic message contains information (and may contain files), which may be privileged or confidential. The information is intended to be for the sole use of the individual (s) or entity named above. If you are not the intended recipient be aware that any disclosure, copying, distribution or use of the contents of this information and or files is prohibited. If you have received this electronic message in error, please notify the sender immediately.

This is also to certify that this mail has been scanned for viruses.

Tá eolas sa teachtaireacht leictreonach seo (agus b'fhéidir sa chomhaid ceangailte leis) a d'fhéadfadh bheith príobháideach nó faoi rún. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonáin atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Murab ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bíodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo. Más trí earráid a fuair tú an teachtaireacht leictreonach seo cuir, más é do thoil é, an té ar sheol an teachtaireacht ar an eolas láithreach.

Deimhnítear leis seo freisin nár aimsíodh víreas sa phost seo tar éis a scanadh.

Disclaimer:

This electronic message contains information (and may contain files), which may be privileged or confidential. The information is intended to be for the sole use of the individual(s) or entity named above. If you are not the intended recipient be aware that any disclosure, copying, distribution or use of the contents of this information and or files is prohibited. If you have received this electronic message in error, please notify the sender immediately.

This is also to certify that this mail has been scanned for viruses.

Tá eolas sa teachtaireacht leictreonach seo (agus b'fhéidir sa chomhaid ceangailte leis) a d'fhéadfadh bheith príobháideach nó faoi rún. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonáin atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Murab ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bíodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo. Más trí earráid a fuair tú an teachtaireacht leictreonach seo cuir, más é do thoil é, an té ar sheol an teachtaireacht ar an eolas láithreach.

Deimhnítear leis seo feisín nár aimsíodh vreas sa phost seo tar éis a scanadh.