

FOI Request: FOI/2/2004

Request from Mr. John Burns for 'all records relating to a case TV3 has taken to the European Commission against RTE re state subsidies for television.

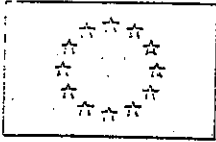
Schedule No 1

File No S1/54-X/99 'State Funding of RTE and TnG – Alleged Infringements from European Commission’.

No	Date	Document Details	Release
1.	27.04.1999	Letter from Commission of the European Communities to the Permanent Representation of Ireland to the EU re complaint about State Funding granted by Ireland to RTE and TnaG - 2 pages	Release
2.	06.05.1999	Memo from Mr. O'Donoghue (Dept. of Arts, Heritage Gaeltacht and the Islands) to Mr. Lynskey (Dept.) to compile information re RTE and TnaG - 1 page	Release
3.	06.05.1999	Note from Mr. Grant (Asst. Sec.) to Secretary General, Dept. of Arts, Heritage, Gaeltacht and the Islands advising of complaint - 1 page	Release
4.	06.05.1999	Letter from Mr. Grant to Director General, RTE advising of complaint, enclosing Commission letter and requesting material for reply - 1 page	Release
5	07.05.1999	Letter from Mr. Grant to the Director of the Competition Directorate, European Commission - 1 page	Release
5a.	07.05.1999	Copy of letter as sent from Mr. Grant to the Director of the Competition Directorate, European Commission - 1 page	Release
6.	11.05.1999	Message confirmation with annotations – 1 page	Release
7.	13.05.1999	Submission from J. Lynskey to Mr. Millane setting out details of information gathered and to be sent to European Commission - 7 pages	Release
8.	17.05.1999	Letter from Mr. Millane to Competition Directorate, European Commission enclosing copies of relevant documentation -2 pages	Release
9.	19.05.1999	Letter from European Commission confirming extension of delivery date for receipt of information - 1 page	Release
10.	02.06.1999	Letter from Mr. Lynskey to the Director General of RTE requesting information - 1 page	Release
11.	11.06.1999	Letter from Director General, RTE to Mr. Grant outlining response of RTE – 3 pages	Release
12.	24.06.1999	Letter from Director General, RTE to Mr. Grant	Release

		regarding grants paid to RTE - 1 page	
13.	02.07.1999	Letter from Mr. Millane to the Attorney General requesting advice - 1 page	Withheld under section 22(1)(a) -legal professional privilege and section 46(1)(b) – record held by the Attorney General
14.	12.07.1999	Letter from Attorney General's Office to Mr. Millane seeking additional information and outlining legal advice – 5 pages	Withheld under section 22(1)(a) -legal professional privilege and section 46(1)(b) – record held by the Attorney General
15.	28.07.1999	Letter from Mr. Millane to the Attorney General's Office providing information requested - 6 pages	Withheld under section 22(1)(a) – legal professional privilege and section 46(1)(b) record held by the Attorney General
16.	13.08.99	Letter from Office of the Attorney General to Mr. Brian Millane outlining legal advice - 3 pages	Withheld under section 22(1)(a) – legal professional privilege and section 46(1)(b) - record held by the Attorney General
17.	20.08.99	Letter from Mr. Grant to Director General, RTE enclosing copies of correspondence with Office of Attorney Gen. and seeking observations – 1 page	Release
18.	02.0399	Paper presented to European Parliament, Brussels on “The need for a European Audiovisual Market Ensuring Competition, Transparency and Quality” – 11 pages	Not relevant to request
19.	Spring 1998	“Public service broadcasting: no end to the misunderstandings?” – 7 pages	Not relevant to request
20.		Phoenix – Kinderkanal Case: Decision – 14 pages	Not relevant to request
21.	03.02.99	Communication from Commission seeking information from France, Italy and Spain on financing of public broadcasters – 2 pages	Not relevant to request
22.	24.02.99	Announcement of Commission funding of two special interest channels in Germany – 1 page	Not relevant to request

23.	.07.98	Article on “ The Public Service Broadcasting Remit: Today and Tomorrow” – 2 pages	Not relevant to request
24.	13.09.99	Letter from European Broadcasting Union to Ms. E. Bleahane, Solicitor, RTE, Dublin 4 enclosing documentation received from France, Italy and Spain on financing of public broadcasters – 7 pages	Not relevant to request
25.	16.09.99	Fax message from Mr. Tom Quinn, RTE to Mr. B. Millane enclosing details of broadcasting hours on radio and television – 3 pages	Not relevant to request
26.	22.09.99	Letter from Mr. Millane to Mr. P. Mooney, Office of the Attorney General enclosing information received from RTE- 1 page	Withheld under section 22(1)(a) – legal professional privilege and section 46(1)(b) - record held by the Attorney General
27.	01.10.99	Letter from Mr. Liam Miller, RTE to Mr. Millane, Dept. of Arts, Heritage, Gaeltacht and the Islands – 1 page	Release
28.	11.09.01	Extract from newspaper article “ RTE licence fee is unfair advantage” – 1 page	Release
29.	20.07.99	Notification of Commission proceedings regarding State aid to public broadcasters France 2 and France 3 – 4 pages	Not relevant to request
30.	12.07.01	Judgement of Court – Commission of the European Communities v French Republic – 7 pages	Not relevant to request



COMMISSION OF THE EUROPEAN COMMUNITIES
DIRECTORATE-GENERAL IV - COMPETITION

State aid II
Public undertakings and services

Rean
to see

Brussels,
SF D(99)

27.04.1999*0/51775

sent 29/4/99

A

Mr J. O'Donoghue
Mr. P. McLate, DIAHGI
Mr. J. Kelly / Mr. N. White, DFA
Ms. P. O'Brien RW 3/5

Subject: State funding of RTE and TnaG - alleged infringements of Articles 92-94 of the EC Treaty

Dear Sirs,

The Commission received a complaint alleging infringements of Articles 92-94 of the EC Treaty, in reference to the State funding granted by Ireland to RTE and to TnaG.

The complainant alleges aid granted by the Irish Government to RTE as annual grants (licence fee revenue) and gratuitous (or non-market-price based) access to the national broadcast transmission network. The provision of State funds (as licence fees or direct grants) and of other support measures (such as privileged access to the network) to an undertaking competing in a liberalised market may be contrary to Article 92, should they not be justified by the extra costs incurred by the company to fulfil public service obligations imposed upon it by the State.

In order to evaluate the above measures under the Community competition rules, I would be grateful if you could ask your authorities to provide, within fifteen working days from the receipt of this letter, their observations and all the elements that may be useful in order to clarify this situation.

For a preliminary analysis, among any other others, the following documents would be required:

- copy of the Broadcasting Authority Acts 1960-1993, of the Radio and Television Act of 1988 and of other relevant laws regulating the broadcasting system and the financing of public broadcasters in Ireland;

Permanent Representation of Ireland
to the European Union
Rue Froissart 89-93
1040 Brussels

Rue de la Loi 200, B-1049 Bruxelles/Wetstraat 200, B-1049 Brussel - Belgium - Office: C150 6/103.
Telephone: direct line (+32-2)2955569, exchange 299.11.11. Fax: 2969580
Telex: COMEU B 21877. Telegraphic address: COMEUR Brussels.

Annex
pl copy to
29/4
Philip Victory
bin
29/4


Michael Peniffe

- copy of the Television Programme Service Contract concluded between the State and RTE;
- ✓ - copy of the official act entrusting RTE with the public service remit and imposing public service obligations upon it;
- ✓ - balance sheets of RTE of the last five years;
- ✓ - summary of all the financial relations between the State and RTE over the last 10 years, with particular reference to the licence fee, capital increases, grants and loans;
- calculation of the costs incurred by RTE, net of any related revenues, for the fulfilment of the public service obligations, as defined by the above mentioned official act of entrustment;
- supporting accounting data on the basis of which the above costs have been calculated.

The Commission reserves the right to request additional information once it has examined the documents listed above.

In case of no information received, or incomplete information, within the mentioned time frame, the Commission reserves the right to initiate the procedure provided for in Article 93, paragraph 2 of the Treaty.

Yours sincerely,



M. Power
Director

Mr Lynskey

Please see this letter and open a file.

In regard to the information sought by the Commission would you put together the following information :-

- A. copies of RTE's accounts for the last five years.
- B. information from Appropriation Accounts of licence fee income granted to RTE over the last ten years.
- C. grant aid to TnaG.
- D. copies of all the Broadcasting Acts 1960-1993.

John O'Donoghue
 John O'Donoghue
 6th May, 1999

Mr O'Donoghue.
Mr Millane

*Information as requested plus draft letter for
 Consideration.*

[Signature]
 13/5/99.

Ard Runáí,

To see,

Aire,

You will wish to know that we have received a communications from the European Commission, copy attached, regarding a complaint that they have received alleging infringements of Articles 92-94 of the Treaty in relation to the State funding granted to RTE and TnaG.

A copy of the letter is being sent to RTE so that they can start the preparation of the necessary material that has been requested by the Commission. The Department will send to the Commission without delay such material as is readily available.



6 May 1999.

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Sent by Fax & Post
8/6/99

Mr. Bob Collins,
Director General,
Radio Telefis Éireann,
Donnybrook,
Dublin, 4.

6 May, 1999.

Dear Director General,

I enclose herewith a copy of a letter from the Commission of the European Communities signifying their intention to investigate a complaint alleging infringements of Articles 92-94 of the EC Treaty in reference to the State funding granted by Ireland to RTE and TnaG

As you will see the Commission has requested observations and documentation within fifteen working days of the date of their letter. It is our intention to supply the Commission with the material that is readily available without delay and to seek their agreement to some extension of the time available to respond substantively with observations. I would be obliged if you would supply as soon as possible material for consideration in the context of the preparation of our response.

Yours sincerely,



(Michael Grant)
Assistant Secretary.

(S)

Mr. M. Power,
Director,
Directorate-General IV - Competition,
European Commission,
Rue de la Loi, 200,
B-1049 Brussels,
Belgium,

7 May, 1999.

Dear Mr. Power,

I wish to acknowledge receipt of your letter of 27th April, 1999, received yesterday, addressed to the Permanent Representation of Ireland relating to alleged infringements of Articles 92-94 of the EC Treaty in reference to State funding granted by Ireland to RTE and TnaG.

This Department will give a detailed response to your letter and arrangements are in hand to send you without delay the documentation that you have requested that is readily available. Given the serious nature of the allegations it will be very difficult for the Department to prepare its full response in the time allowed. I am therefore to request an extension of the timetable until mid June. I would appreciate if you would confirm that this is acceptable.

Yours sincerely,



(Michael Grant)
Assistant Secretary



An Roinn Ealaíon, Oidhreachta, Gaeltachta 7 Oileán
DEPARTMENT of ARTS, HERITAGE, GAELTACHT and the ISLANDS



Sent by Fax & Post

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7/5

Mr. M. Power,
Director,
Directorate-General IV - Competition,
European Commission,
Rue de la Loi, 200,
B-1049 Brussels,
Belgium,

7 May, 1999.

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Yours sincerely,

(Michael Grant)
Assistant Secretary

Dún Aímhígin
Bóthar Mespil, Baile Átha Cliath 4, Éire.
Mespil Road, Dublin 4, Ireland.

Teileafón: 353 1 667 0788.
Glaó Áitiúil: 1890 474 847
Facsimhír: 353 1 667 0827.
GTN 7111.

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MESSAGE CONFIRMATION

07/05/1999 10:47
ID=ARTS & CULTURE

DATE	TIME	S.R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT
07/05	10:46	00'27"	32 2 2969580	CALLING	01	OK 0000

Mr. Miller,

Would you have a registered file opened,
please and arrange to send the documentation we
have readily available to the Comina.

Can we discuss next week how to
proceed.

M. Galt
7/5/99

Mr. O'Donoghue

To see please. I trust the work of compiling
the readily available material is in hand as
we discussed.

M
11/5/99

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1. Mr O' Donoghue.

✓ gos 14/5/99

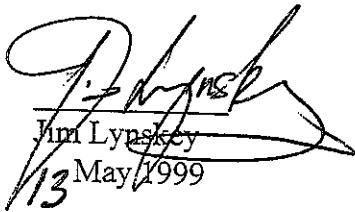
2. Mr Millane.

The European Commission have received a complaint from TV3 regarding the funding of RTÉ and TnaG. Infringements of Articles 92 to 94 of the EC Treaty is alleged by TV3.

The information proposed to be sent to the Commission is as follows :-

- A. RTÉ's Annual Reports of 1993 to 1997 inclusive - the 1998 Report has not been received yet,
- B. the Broadcasting Acts from 1960 to 1993, including the 1988 Radio and Television Act,
- C. T.V licence fee granted to RTÉ over the last ten years i.e. from 1989 to 1998 inclusive and
- D. grant-in-aid to Teilifís na Gaeilge.

A letter has been drafted for a response to the Permanent Representation of Ireland to the EU and is submitted for your consideration.


Jim Lynskey
13 May 1999

R.T.C

1989	-	£ 45,378,294
1990	-	£ 46,815,000
1991	-	£ 49,663,000.
1992	-	£ 49,075,000
1993	-	£ 50,598,000
1994	-	£ 50,473,000
1995	-	£ 51,247,000.
1996	-	£ 55,336,000.
1997	-	£ 62,124,000.
1998.	-	£ 62,412,186.

	<u>Trust</u> <u>Capital</u>	<u>Current</u>
1996	12,200,000	3,250,000
1997	209,000.	10,204,000.
1998	400,000	11,630,000.