

An Roinn Cumarsáide,  
Fuinnimh agus Acmhainní Náúúrtha  
Baile Átha Cliath 2.

Department of Communications,  
Energy and Natural Resources,  
Dublin 2.

Our Ref: FOI/0017/2008

7 April 2008

Ms Catherine Halloran  
Irish Daily Star newspaper  
62a Terenure Road North  
Dublin 6w

Dear Ms Halloran

I refer to your freedom of information request 0017/2008 received in this Department on 1 March 2008.

Your request is as follows:

“All correspondence between RTÉ and the Department of Communications Energy and Natural Resources regarding the most recent Television Licence Fee increase awarded to RTÉ”.

In terms of correspondence you require all letters, Departmental memos and emails relating to the above.

I have now considered your request. Please note the latest increase in the television licence fee took effect from 1 January 2008 following an independent review of RTÉ's performance in 2006.

Relevant records are held on file number S1/9-N/06 entitled “Television Licence Fee Review Adjustment 2006 – Documentation in respect of Indecon Report and Memorandum to Government”

A schedule of the records from this file relevant to your request is attached.

Please note that the Indecon report is available on the Departments website at  
<http://www.dcmnr.gov.ie/Broadcasting/Television+Licence+Fee+Reviews/>.

If you have any queries in respect of this reply, please ring me at 6783095.

If you are not satisfied with this reply, you have the right to appeal this decision. Should you wish to make such an appeal, you can do so by writing to Mr Frank O'Brien, FOI Unit, Department of Communications, Energy and Natural Resources, Elm House, Earlsvale Road, Cavan. The Appeal is a full and new examination of the matter carried out by a senior member of staff of this Department. Should you want to make such an appeal, please do so in writing, within four weeks.

Yours sincerely

Diarmuid O'Connor.

Diarmuid O'Connor  
Broadcasting Policy Division

FOI Request Reference: 0017 2008

Schedule of Records: Summary of Decision Making

Description of request: "all correspondence between RTE and the Department of Communications, Energy and Natural Resources, regarding the most recent Television License Fee increase awarded to RTE". In terms of correspondence all letters, Department memos and emails relating to the above are required in written format."

Record No.	Brief Description & Date of Record	File Ref.	No. of Pages	Relevant facts	Findings/ conclusions (Public Interest Considerations, (If applicable))	Grant/refuse/ part-grant	Basis of Refusal: Section of Act	Record edited/Identify deletions
1	Letter from Diarmuid O'Connor to Tom Quinn, RTE, dated 18 April 2007 notifying RTE of appointment of consultants	S1/9-N/06	1					
2	Email Correspondence between Indecon and RTE, and copied to the Department, (dated 21 September 2007)	S1/9-N/06	3					
3	Email from Diarmuid O'Connor to Tom Quinn, RTE dated 2 October 2007 entitled 2006 Indecon Review.	S1/9-N/06	1					
4	Bride Rosney email to Neasa Lehane dated 16 Oct 2007 regarding RTE response to Indecon Report. This email was copied to Kevin O'Brien, Peter O'Neill, Diarmuid O'Connor and Margaret Mulhall.	S1/9-N/06	1					
5	RTE's high level response to the RTE licence fee adjustment review 2006.	S1/9-N/06	15					
6	Letter from Cathal Goan, RTE, to Peter O'Neill dated 16 October 2007 enclosing RTE's high level response.	S1/9-N/06	1					

7	Email from Neasa Lehane to Bride Rosney dated 13 November 2007 regarding press release.	S1/9-N/06	2						
8	Email from Diarmuid O'Connor to Rosney Bride RTÉ and copied to Tom Quinn dated 13 November 2007 regarding the publication of the Indecon Report. Also, Bride Rosney response of 14 Nov '07	S1/9-N/06	1						
9	Email from Bride Rosney RTÉ to Diarmuid O'Connor dated 15 November 2007 and email from Diarmuid O'Connor to Bride Rosney regarding publication of report	S1/9-N/06	1						
10	Email from Rosney Bride to Diarmuid O'Connor dated 16 November 2007 identifying commercially sensitive information on Indecon Report.	S1/9-N/06	1						
11	Email from Diarmuid O'Connor to Bride Rosney RTÉ dated 16 November 2007 confirming publication of report. Also, RTÉ's response.	S1/9-N/06	1						
12	Letter from Minister to Mary Finan RTÉ dated 18 December entitled Television licence Fee Increase	S1/9-N/06	2						
13	Letter from Mary Finan, RTÉ to Minister dated 21 January 2008 entitled Television licence Fee Increase	S1/9-N/06	2						
14	Letter of acknowledgement from Minister's Office to Mary Finan dated 22 January 2008 entitled Television Licence Fee Increase	S1/9-N/06	1						

an Roinn Cumarsáide,  
Mara agus Acmhainní Nádurtha  
Baile Átha Cliath 2.



Department of Communications,  
Marine and Natural Resources  
Dublin 2.

S1/9-N/07

①

13 April 2007

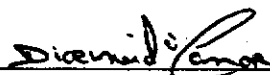
Mr. Tom Quinn  
Secretary  
RTE  
Donnybrook  
Dublin 4

Dear Tom

The Department has appointed Indecon consultants to undertake the Television Licence Fee Review for 2006.

Mr. Alan Gray representing the Consultants will be in touch in this regard in due course.

Yours sincerely

  
Diarmuid O'Connor  
Higher Executive Officer  
Broadcasting Policy Division.

**Neasa Lehane**

**Subject:** FW: RTE Licence Fee Review

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**From:** Neasa Lehane  
**Sent:** 21 September 2007 16:31  
**To:** Kevin O'Brien  
**Subject:** FW: RTE Licence Fee Review

②

fyi

**Ms. Neasa Lehane**  
**Assistant Principal**  
**Broadcasting Policy Division**  
**Dept. Communications, Marine and Natural Resources**  
**29-31 Adelaide Road**  
**Dublin 2.**

**Tel: 678 2620**  
**Email: [Neasa.Lehane@dcmnr.gov.ie](mailto:Neasa.Lehane@dcmnr.gov.ie)**

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**From:** Rosney Bride [<mailto:Bride.Rosney@rte.ie>]  
**Sent:** 21 September 2007 15:42  
**To:** Neasa Lehane  
**Subject:** FW: RTE Licence Fee Review

forgot to send you this - but reply in now  
B

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**From:** Goan Cathal  
**Sent:** 21 September 2007 15:12  
**To:** Rosney Bride  
**Subject:** FW: RTE Licence Fee Review

fyi

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**From:** PMcCloughan [<mailto:pmccloughan@Indecon.ie>]  
**Sent:** 21 September 2007 12:55  
**To:** Hayes Conor  
**Cc:** AW Gray; Goan Cathal  
**Subject:** RE: RTE Licence Fee Review

Dear Conor,

Thank you for your clarifications on the tables and charts. We have reviewed same and attach our replies. I also attach a spreadsheet, which was provided to us by RTE during the consultations (Brid Rosney kindly passed it on) and which may help to clarify some very minor points re the international comparison.

If you have any queries, please let me know.

Kind regards,

Pat

**From:** Hayes Conor [mailto:Conor.Hayes@rte.ie]  
**Sent:** 12 September 2007 11:29  
**To:** P. Loughan  
**Cc:** AW Gray; Goan Cathal  
**Subject:** RE: RTE Licence Fee Review

**Dr. Pat McCloughan,**  
Divisional Director,  
Indecon International Economic Consultants

Pat,

Further to your e-mail request below we have now completed our review of the 67 Tables and 12 Figures you sent to us.

I attach a PDF document which sets out our observations in respect of each of them. For ease of reference our comments are classified (and colour-coded) as follows:

- CORRECT
- INCORRECT
- CAN'T VALIDATE
- CLARIFICATION REQUIRED

Please let me know if we can of further assistance.

Regards

Conor Hayes  
Chief Financial Officer  
RTÉ

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**From:** Hayes Conor  
**Sent:** 03 September 2007 11:30  
**To:** 'PMcCloughan'  
**Cc:** AW Gray; Goan Cathal  
**Subject:** RE: RTE Licence Fee Review

Pat

Thanks for the schedules.

They arrived while I was on vacation but more importantly a number of the people, more closely involved in given areas, whom we would need to review them were also away.

They are being examined this week and if at all possible we will be back to you by the end of the week.

Regards

Conor

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**From:** PMcCloughan [mailto:pmccloughan@Indecon.ie]  
**Sent:** 24 August 2007 14:24  
**To:** Hayes Conor  
**Cc:** AW Gray  
**Subject:** RTE Licence Fee Review

Dear Conor,

Please find attached a document containing a list of tables that may be used in the Indecon Licence Fee Review 2006. Please could you check same for accuracy and revert if there are any changes.

Pa.

**Dr. Pat McCloughan**

Indecon House  
4 Fitzwilliam Square  
Dublin 2  
Ireland  
Tel: + 353 1 677 7144  
Fax: + 353 1 677 7147  
Email: [pmccloughan@indecon.ie](mailto:pmccloughan@indecon.ie)

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Diarmuid O'Connor

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**From:** Diarmuid O'Connor  
**Sent:** 02 October 2007 16:36  
**To:** 'Quinn Tom'  
**Subject:** 2006 Indecon Review

3

**Attachments:** Third Draft Report Recd 2 Oct 2007.doc — *Saved in*

*Broadcasting/Corporate Governance/  
RTE/License Fee Adjustment Rev  
2006*

Tom,

Please see the draft Indecon review 2006. Can you please let us have RTE's comments in relation to this report asap. Will you send them back to Neasa, please. Can you indicate by when we can expect comments.

Thanks  
Diarmuid

Diarmuid O'Connor

Phone 6783095

Email: diarmuid.o'connor@dcmnr.gov.ie

**Margaret Mulhall**

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**From:** Neasa Lehane  
**Sent:** 16 October 2007 11:23  
**To:** Kevin O'Brien; Peter O'Neill  
**Cc:** Diarmuid O'Connor; Margaret Mulhall  
**Subject:** FW: Indecon response  
**Attachments:** High-Level Response to Indecon 16 Oct 2007 (2).doc; ATT28124341.txt

(4)

FYI

**Ms. Neasa Lehane**  
**Assistant Principal**  
**Broadcasting Policy Division**  
**Dept. Communications, Marine and Natural Resources**  
**29-31 Adelaide Road**  
**Dublin 2.**

**Tel: 678 2620**  
**Email: Neasa.Lehane@dcmnr.gov.ie**

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**From:** Rosney Bride [mailto:Bride.Rosney@rte.ie]  
**Sent:** 16 October 2007 09:01  
**To:** Neasa Lehane  
**Subject:** Indecon response

Hi Neasa  
Attached a soft-copy of the response to Indecon.  
Six bound copies will be couriered into Peter this morning.  
Talk soon  
Bride

Bride Rosney  
Director of Communications  
Telephone: +353 (1) 208 2453  
Mobile: +353 (87) 244 0490

 Before printing, think about the environment

5

**High-level Response to**

**RTÉ Licence Fee Adjustment Review 2006**

**Prepared for the Department of Communications, Marine and  
Natural Resources**

by

**Indecon**

**16<sup>th</sup> October 2007**

## Introduction

RTÉ welcomes the opportunity to comment on the *RTÉ Licence Fee Adjustment Review, 2006* (the Report), which it received on 3<sup>rd</sup> October 2007. At this time RTÉ is offering high-level observations only.<sup>1</sup>

This is the fourth Licence Fee Review since the Government decision (December 2002) which provided for an annual review of the Licence Fee designed to ensure that the public service function of the organisation kept pace with inflation. The increase was to be based on a *CPI* – formula and subject to RTÉ fulfilling its commitments with regard to Finance, Programming and Change Management. The decision recognised that the balance of funding is an important issue for the character and remit of the Organisation; the commitment to public funding is most obviously stated in those areas which are ‘pure’ public service and, because they are very people dependent, the inflationary factor is highest, for example in the case of Performing Groups. Reviews to date have resulted in a 5% increase in the total licence fee cost while inflation in the corresponding period has been 9% - but national pay agreements have resulted in staff costs increase of 17%.

The original Government decision was very welcome not alone in strict monetary terms but also because it afforded RTÉ the opportunity to attempt to forward plan its activities based on a balanced proportion of public and commercial funding. It is imperative this precedent continues to be followed to permit the necessary planning for ambitious, creative, responsive and responsible public service programming and activity in a changing Ireland and a highly dynamic broadcast environment.

Overall RTÉ acknowledges the positive findings in the Report; as expected they show that it has substantially met its commitments in terms of programme strategy, international benchmarking and Value for Money as well as the core standards of output, change management and financial control. RTÉ appreciates the recognition that it is operating in a rapidly changing environment with viewers and listeners having a wide choice of competing providers. We agree that the changing landscape necessitates a greater focus on openness, transparency and accountability so that it can be shown that the Licence Fee payers are getting greater value for money.

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<sup>1</sup> There is confusion and some inaccuracies within the Report, e.g. in relation to dates, but they are not detailed in this document. For ease of reference the headings used in the Report are used to structure this document and phrases in italics and lighter tone are direct quotes from the Report.

## **Chapter 2: Economic Context, Issues and International Context**

### **Section 2.2 Context of Public Service Broadcasting:**

*To achieve the objectives of PSB, it is sometimes held that government/public funding is necessary; otherwise the market would 'fail' to provide informative, objective or educational programmes. (Phrasing from Executive Summary)*

This statement is somewhat perplexing as to our knowledge all PSBs require some form of public funding. It is generally accepted that purely commercial broadcasters will always 'follow the ratings' as they have no incentive to make, commission or acquire informative or educational programming (usually niche/minority) which have a lower potential audience and frequently cost more. A market the size of Ireland will never be big enough to make such programming available on a purely commercial footing. Public Sector Broadcasters are in receipt of public money with the specific remit of delivering such programming. The size of the Irish Market however means that the range of programming which purely commercial considerations might fail to provide as free-to-air services is significantly larger than might be immediately appreciated and includes sport, drama and documentary.

But PSB is not simply about market failure as indicated here. Indecon go on to say that *The economic rationale for public funding of PSB is based on the concepts of 'market failure' and 'network externalities'... Network Externalities generally occur when the value of a good or service to a consumer increases with the number of other consumers using it.*

RTÉ believes that when it comes to the importance of PSB social, political and cultural values are significantly more important than market failure. It is doubtful that the importance of such values would be captured if they are just grouped and referred to as "network externalities".

### **Section 2.4 International Context**

Indecon acknowledge that RTÉ's activities are broadly comparable with those of PSBs in other countries.

In relation to some specific comparisons we would make the following comments:

- *Despite significant strides, Ireland is somewhat behind in terms of implementing Digital Terrestrial Television (DTT) ('trial status') – four of the seven countries/PSBs we have considered have already commenced DTT (The Netherlands, Belgium (Flemish), Belgium (French) and Switzerland); Austria has committed itself to a start date (2007) while Portugal has not commenced DTT;*

RTÉ fully accepts this point but does not act alone in relation to national policy. The primary reason for the delay was legislative and initial steps to address this have been taken with the enactment of the *Broadcasting (Amendment) Act 2007*. RTÉ has been meeting with DCENR, regulators and other stakeholders to progress DTT and is fully committed to the trial process.

As well as broadcasters, suppliers etc. it is crucial that the framework of public policy, and the action of regulators, also respond adequately to the challenge of DTT and analogue switch-off.

*Indecon notes that RTÉ are currently making considerable strides towards the implementation of DTT under a project named project DEIS, which provides for the internal use of content in digital format.*

RTÉ is currently making considerable strides towards the implementation of DTT but not under Project DEIS – the *Digital Evolution and Integration Strategy* – which is engaged with the industry wide modernisation and conversion of television production from analogue to digital technologies. DEIS will equip RTÉ to move towards an all-digital and largely tapeless future.

- *A similar picture emerges in respect of Digital Audio Broadcasting (DAB) (digital radio), where Ireland is on 'trial status';*

DAB is on trial in Ireland rather than Ireland being on 'trial status' in respect of DAB.

RTÉ is currently trialling six stations; the trial is confined to the East and North-East but it may be extended. The urgency associated with DTT is not reflected with DAB as the EU analogue target switch-off date 2012 refers specifically to television and does not have the same impact for radio. We believe that in regard to DAB, RTÉ's progress will compare favourably with that of other PSBs - not least by the measures of headcount and expenditure.

Once again RTÉ, and thus Ireland, are somewhat behind in relation to this technology. It would be fairer and more accurate to say, "*Once again Ireland, and in consequence RTÉ, is somewhat behind...,etc.*". The concentration in the Report is on the distribution platform (DAB in this case) and RTÉ's preparations and important advances in production and broadcast infrastructure and practice are not addressed. The reality in relation to digital radio is that RTÉ Radio is an advanced user of digital radio production and broadcast technology (Radioman) and one of the earliest adopters of this new framework for audio processing. Indecon confines its attention to the distribution platform (DAB in this case).

- *The number of television, radio and website services provided is relatively low in Ireland (although this may reflect the fact that Ireland has the smallest population among the countries we have considered);*

We do not accept this point and believe this observation may have arisen because there are variations in the way information is recorded by different broadcasting organisations. For example, RTÉ.ie can be counted as one website service, or 12 website services (the 12 major divisions listed on the home page, RTÉ.ie, News, Sports, Business etc) or a much higher number that varies almost daily as individual programme sites are added/deleted.

- *In terms of the number of staff per million of population, Ireland has the third highest number of the countries considered: c. 480 after Switzerland (c. 730) and Finland (c. 650), and c. 420 in the case of the UK/BBC (there may be distortionary factors in the case of Switzerland, which has three PSBs for the three language traditions in that country);*

The rationale for using headcount per million population is unclear and we do not believe that it is a good benchmark capable of producing meaningful national or trans-national comparisons in this context. For example, it does not take into account the various employee related legislation in each country and therefore, for example "the Goodbody effect" which RTÉ has addressed (See also comments in relation to Section 5.5). Also, countries with varying sizes of populations and broadcasters with varying mixes of responsibilities are bound to produce confusing comparators. Finally, it must be stressed that programme production is not connected to the population in the country.

Indecon refer to the fact that *there may be distortionary factors in the case of Switzerland* because of three language traditions in the country. It must be remembered that RTÉ operates with two language traditions.

- *In terms of the contribution of public funding to total income, Ireland/RTÉ has a relatively low figure, with the Licence Fee accounting for less than half of annual revenue. However, this is influenced by the significant market share held by RTÉ and the strengths of its advertising revenues;*

This is a circular logic. RTÉ's ability to command share is dependant on its investment in programming which appeals to Irish audiences. The investment comes both from commercial income derived from advertising which is share dependant and from public funding which is dependent on periodic and unpredictable review. The purpose of the 2002 Government decision with regard to a significant licence fee increase was to balance the proportion of income from each source and to reward the audience with increased and improved programming.

- *Preliminary econometric analysis that we have carried out suggests that those PSB broadcasters that receive a relatively large proportion of their total income from public sources/government have a lower television market share on average;*

It is difficult to accept the accuracy of this observation when one considers that broadcasters such as the BBC and NRK are 100% funded from public sources and continue to command significant audience share.

- *RTÉ's market share in radio is less robust compared with its television market share (in an international context)*

RTÉ accepts this point but believes that the competitive context is ignored in

this international comparison. Ireland has a very dynamic independent radio competitive market with RTÉ's services competing with over 30 others licensed at national and local level for a discreet population of 4m people. These conditions are not replicated in any comparable broadcast market.

- *While there are limits to any cross-country analysis, we believe that RTÉ should, on an on-going basis, undertake a more detailed benchmarking exercise (whilst accepting that there are differences in countries and among PSB organisations).*

RTÉ is classified by the European Broadcasting Union (EBU) as a medium sized broadcaster and undertakes a benchmarking exercise with all broadcasters in this category on an annual basis. The results are included in the Strategic Corporate Plan. There are clear difficulties such as language; the impact of domestic legislation, mechanisms of recording data etc. but it is difficult to see how they could be beneficially extended. See also Recommendation 8.

### **Chapter 3: Review of RTÉ's Corporate Commitments 2006**

The overall assessment is that RTÉ has made satisfactory progress in fulfilling the twelve Corporate Commitments and that 2006 has been a successful year for the organisation. Furthermore it was acknowledged that RTÉ has broadly succeeded in implementing the second year of its *Guiding Principles – Implementing the Public Service Broadcasting Charter* document

### **Chapter 4: Review of RTÉ Output Commitments 2006**

#### **Section 4.2 RTÉ Television:**

In the 2005 Review Indecon suggested that the RTÉ Output Commitments were easily achieved. In 2006 they note an underachievement in RTÉ Television Drama commitments but don't note the reason why – the move of the *Fair City Omnibus*, which was done for valid scheduling reasons.

Indecon also suggest that the genre classification be reviewed; it is not clear what benefit if any this would yield and the classification used is based on classifications used by all EBU broadcasters.

#### **Section 4.3 RTÉ Radio**

The nature of output commitments is not solely quantitative, and in some cases the quantity is irrelevant. For example, six hours of Beckett related material badly done

might satisfy a commitment to broadcast six hours about Beckett, whereas three hours of excellence would fall short of the target. Similarly, a commitment to mark de Valera's 125<sup>th</sup> birth anniversary in 2007 cannot be validly compared on a quantitative scale with celebrating the Beckett centenary in 2006.

*In its current format, the statement of commitments does not provide any consistent indicator of innovation in RTÉ's programme content and how it might respond to viewer/user developments.*

Radio coverage of the Ryder Cup competition was widely regarded as innovative, responsive to user/viewer needs, cost-effective and successful. But what "consistent indicator" could be used that would reflect that achievement? And a year in advance? Indecon accept in a number of areas that comparators and benchmarks are not readily available and some comparisons may be misleading. This difficulty is at the heart of some of the Indecon observations where their terms and categories are not always adequate or applicable to the realities of a creative exercise.

## **Chapter 5: Review of Financial Results**

For ease of reference the different points are addressed under the section numbers.

### **Section 5.3 Advertising income (predictions):**

Indecon suggest that the combined TV and Radio advertising income growth assumptions of 7.5% in 2007 were conservative - which we now know is correct. However their use of 16 regression models showed variations in growth levels for 2007 of between 3.9% and 10.5% (c €12 million) thus confirming RTÉ's view that advertising revenue prediction is volatile and very difficult to predict in the short-term.

Nonetheless the average of Indecon's results was a growth prediction of 7.2% for 2007 while RTÉ used a budgeted growth figure of 7.5%.

### **Section 5.4 Cost income ratio:**

Indecon states that RTÉ's cost income ratio has deteriorated from 91.9% in 2004 to 97.9% in 2006 which if true would represent a significant disimprovement. However Indecon's calculations are incorrect.

Based on RTÉ's Audited Financial Statements for 2004, 2005 and 2006 RTÉ's Cost To Income Ratio has in fact shown only a marginal movement from 97.8 % in 2004 (€343m revenue / €336m cost) to 97.5% in 2006 (€405m revenue / € 397m cost).

Similarly RTÉ's Cost (excluding Depreciation & Amortisation) To Income Ratio has also shown only a very slight movement during this period from 93.3% in 2004 to 93.4% in 2006.

It is important to note that RTÉ targets a small annual surplus calculated to reflect a requirement not to produce a deficit and to generate sufficient resources to help