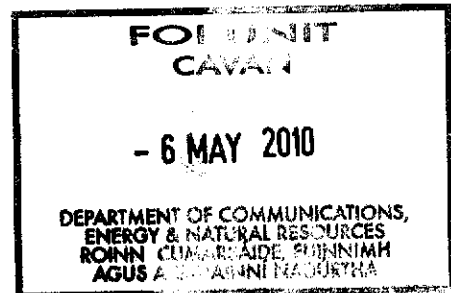




**Ms. Mary Rabbitte  
Freedom of Information Officer  
Dept of Communications, Energy and Natural Resources ("The  
Department")  
Elm House  
Earlsvale Road  
Cavan**



4<sup>th</sup> May 2010

**Freedom of Information Act Request relating to all minutes and memoranda relating to any meeting between any two of The Department, the Broadcasting Authority of Ireland and RTE over the construction, operation, maintenance and choice of channels for The National Television Multiplex, as to be provided by RTE in accordance with s.130 of the Broadcasting Act 2009 ("The Request").**

Dear Ms Rabbitte,


We refer to the above matter and we would be obliged for the release of the information the subject matter of the Request in accordance with the provisions of the Freedom of Information Act.

We enclose a cheque for the fee in the sum of 15 Euros as set out on the Department's website.

Yours sincerely

David McMunn

Director of Government, Regulatory and Legal Affairs



12/05/2010

Mr David McMunn  
Director of Government, Regulatory and Legal Affairs  
TV3 Television Network Ltd.  
Westgate Business Park  
Ballymount  
Dublin  
Ireland

**FOI Request Reference: FOI/2010/16**

Dear Mr McMunn,

I refer to your FOI request under Section 7 of the Freedom of Information Acts, 1997 and 2003, received in this office on 06/05/2010 requesting all minutes and memoranda relating to any meeting between BAI and RTE regarding The National Television Multiplex. The application was received along with the associated fee.

The officer handling your request will be Ms Maria Owens, Broadcasting Policy Division, Department of Communications, Energy and Natural Resources, 29-31 Adelaide Road, Dublin 2. Maria can be contacted on 01 6783097.

You can expect to receive your decision by the 03/06/2010.

If you have not received a decision by that time, you are automatically entitled to appeal to the Department for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired. A request for a review should be addressed to the undersigned at the address shown.

Please note the Department of Communications, Energy and Natural Resources has a policy of posting a summary of non-personal requests and decisions on the Departments website for reference purposes.

Yours sincerely,

  
Carmel Conaty

FOI Unit  
Department of Communications, Energy and Natural Resources  
Elm House,  
Earlsvale Rd  
Cavan  
Phone: 01 6782902



03 June 2010

Mr. David McMunn  
Director of Government Regulatory and Legal Affairs  
TV3 Television Network Limited  
Westgate Business Park  
Ballymount  
Dublin 24

**FOI Request Reference: FOI/2010/16**

Dear Mr. Mc Munn,

I refer to the request which you made under the Freedom of Information Acts 1997 and 2003 for records held by this Department. You requested copies of minutes/memoranda relating to any meeting between any two of the following the Department, The Broadcasting Authority of Ireland and RTÉ over the construction, operation, maintenance and choice of channels for the National Television Multiplex, as to be provided by RTÉ in accordance with Section 130 of the Broadcasting Act 2009.

I have made a final decision to refuse your request on 03 June 2010. If you have any queries regarding this correspondence you can contact me by telephone at 016783097.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. a schedule of all of the records covered by your request;
2. an explanation of the relevant findings concerning the records to which access is denied, and
3. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

**1. Schedule of records**

A schedule is attached at the end of this letter. It shows the documents that this Department considers relevant to your request. It describes each document and refers to the sections of the FOI Act which apply to prevent release. The schedule also provides brief reasons for the decision which are meant to supplement the fuller and more detailed explanation given under heading 2. below. It also gives you a summary and overview of the decision as a whole.

## **2. Findings, particulars and reasons for decisions to deny access**

I am refusing your request under Section 20 of the Freedom of Information Act. Section 20 is concerned with ensuring that the right of access to official records does not prejudice the deliberations of public bodies. As you are aware the matter of the provision of DTT services in Ireland is still under consideration. The records you have requested form part of the current unresolved matter of the provision of DTT to the Republic of Ireland by 2012.

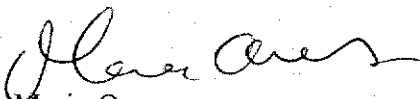
In addition I am refusing your request under Section 27 of the Freedom of Information Act. Section 27 of the Freedom of Information Act allows refusal of access to records if they contain commercially sensitive information. The records you have requested contain commercially sensitive information the release of which could be commercially damaging to RTE.

I have considered the public interest test in making my decision and in particular the imperative at National and European level to switch off the analogue services in 2012.

## **3. Rights of appeal**

You may appeal this decision. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Department of Communications, Energy and Natural Resources, Elm House, Cavan. Your correspondence should include a fee of €75 for processing the appeal. Payment should be made by way of bank draft, money order, postal order or personal cheque. Payment should be made by way of bank draft, money order, postal order or personal cheque, made payable to [name of Department/Body]. You should make your appeal within 4 weeks from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. *A week is defined in the Act to mean 5 consecutive weekdays, excluding Saturdays and public holidays (Sundays are also excluded, as they are not weekdays).* The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely,



Maria Owens  
Higher Executive Officer  
Broadcasting Policy Division

**FOI Request Reference: FOI/2010/16**

**Schedule of Records: Summary of Decision Making**

Description of request: Request for records relating to all minutes and memoranda relating to any meeting between any two of the Department, the Broadcasting Authority of Ireland and RTÉ over the construction, operation, maintenance and choice of channels for the National Television Multiplex, as to be provided by RTÉ in accordance with Section 130 of the Broadcasting Act 2009

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/Identified deletions
1	Documents relating to Meeting of the Analogue Switchover Group (ASG) 3 <sup>rd</sup> September 2009	SI/468-0/08	32			Refuse	S. 20 & S.27	
2	Meeting of the Analogue Switchover Group (ASG) 15 <sup>th</sup> October 2009	SI/468-0/08	2			Refuse	S. 20 & S.27	
3	Meeting of the Analogue Switchover Group (ASG) 5 <sup>th</sup> November 2009	SI/468-0/08	60			Refuse	S. 20 & S.27	
4	Meeting of the Analogue Switchover Group (ASG) 23 September 2009	SI/468-0/08	30			Refuse	S. 20 & S.27	
5	Meeting of the Analogue Switchover Group (ASG) 16 <sup>th</sup> December 2009	SI/468-0/08	5			Refuse	S. 20 & S.27	
6	Meeting of the Analogue Switchover Group (ASG) 22 January 2010	SI/468-0/08	28			Refuse	S. 20 & S.27	

7	Meeting of the Analogue Switchover Group (ASG) 1 <sup>st</sup> April 2010 (cancelled)	SI/468- 0/08	83			Refuse	S. 20 & S.27	
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