



Our Ref: FOI/0052/2008

18 December 2008

Mr Paul O'Brien,
Political Correspondent,
The Irish Examiner,
Press Gallery,
Leinster House,
Kildare Street,
Dublin 2.

Dear Mr O'Brien

I refer to the appeal you have made under the Freedom of Information Act on the decision taken regarding your recent FOI request.

I am a more senior member of the staff of this Department than was the person making the first decision. I decided today to vary the original decision on your request. This decision on review is an entirely new and separate decision on your request. In carrying out the review I have paid special attention to the points raised in your letter dated November 11, 2008.

I have decided to grant your request to some records and to refuse it as to others.

The purpose of this letter is to explain my decision and I have included:

1. A schedule of all records covered by your request;
2. records to which access is granted;

You have sought access to the records by means of photocopies, and I consider this an appropriate form of access in this case. Accordingly, the records described as granted or part granted are now enclosed.

Findings, particulars and reasons for decisions to use specific sections of the Freedom of Information Act in refusing access to records in this request.

I am withholding access to a number of records as set out in the schedule on the following grounds:

Record no. 1 - refused:

Under section 27(1) (b) of the Freedom of Information Act on the grounds that this record contains financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive

position of that person in the conduct of his or her profession or business or otherwise in his or her occupation.

I have considered the public interest in my examination.

I have found that the following factors favour the withholding of these records:

- The protection of commercially sensitive information pertaining to RTE
- The need to avoid prejudicing RTE in its commercial and operational activities

I have found that the following factors favour the release of the records:

- The right of the public to access information under the Freedom of Information Act.
- The public interest in awareness of operations of public sector companies.

Having carefully examined the document involved and having considered the provisions of the Section 27 exemption and in particular having considered the public interest, I have come to the conclusion that the argument against the release of the documentation outweighs the argument for and accordingly I have reached the decision to refuse the release of these documents pursuant to section 27.

Record no. 2 - refused:

Under section 27(1) (b) of the Freedom of Information Act on the grounds that this record contains financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation.

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- The public interest in awareness of operations of public sector companies.

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Record no. 3 - refused:

Under section 27(1) (b) of the Freedom of Information Act on the grounds that this record contains financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation.

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- The public interest in awareness of operations of public sector companies.

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Record no. 9 - refused:

- Part of this document is not relevant to the request and is refused on that basis.
- Under Section 20(1) of the Freedom of Information Act on the grounds that this record contains matter relating to the deliberative processes of the Department and that the provisions of section 20(2) and 20(3) have been applied.
- Under section 27(1) (b) of the Freedom of Information Act on the grounds that this record contains financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation.

I have considered the public interest in my examination.

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Yours sincerely



Susan Fleming
Broadcasting Policy Division

FOI Request Reference: 0052 2008

Schedule of Records: Summary of Decision Making

Description of request: "A copy of the three most recent financial and commercial activity updates provided by RTÉ to the Department and any correspondence that was exchanged between RTÉ and the Department in relation to these updates".

Record No.	Brief Description & Date of Record	File Ref.	No. of Pages	Grant/refuse/ part-grant	Basis of Refusal: Section of Act	Comments
1	RTE Management Accounts for July and the RTE Outline Commentary on Management Accounts, dated 14 August 2008	S1/445-B/08	50 24	Refuse	Section 27	Page count includes the cover page and list of contents
2	RTE Management Accounts for August and the RTE Outline Commentary on Management Accounts, dated 12 September 2008	S1/445-B/08	50 23	Refuse	Section 27	Page count includes the cover page and list of contents
3	Correspondence re code of practice regarding unaudited six monthly accounts and an interim report to the Minister on significant commercially sensitive developments in the preceding six months and likely developments for the rest of the year.	S1/17-I/08	2	Refuse	Section 27	
4	Covering letter dated 14 August	S1/445-B/08	1	Release		
5	Covering letter dated 14 August	S1/445-B/08	1	Release		
6	Covering letter dated 12 September	S1/445-B/08	1	Release		
7	Covering letter dated 12 September	S1/445-B/08	1	Release		
8	Acknowledgement letter from Ministers Office dated 10 September 2008	S1/17-I/08	1	Release		
9	email correspondence	S1/445-B/08	4	Refuse	Part document not relevant to request. Section 27 Section 20(1)	

file

Mr. Peter O'Neill
Assistant Secretary
Department of Communications, Energy and Natural Resources
29-31 Adelaide Road
Dublin 2

14 August 2008

July 2008 – MANAGEMENT ACCOUNTS

Dear Peter,

I attach a copy of the July 2008 Consolidated Management Accounts and Commentary for RTÉ.

Kind Regards.

Yours Sincerely

Mr O'Neill
We might see
brief account
Oct 20/8 for 1 September
Discussion with
Minister
Oct 20/8

pp Jean Sheridan
CONOR HAYES
Chief Financial Officer

cc. Aidan Dunning
Colm Conaill
Dermot O'Connor
Stephen O'Connor
Kevin O'Brien

Cathal Goan
Bride Rosney
Tom Quinn

RECEIVED IN SECRETARY
GENERAL'S OFFICE
54 15 AUG 2008
DEPARTMENT OF
COMMUNICATIONS, ENERGY
AND NATURAL RESOURCES



Mr. Peter O'Neill
Assistant Secretary
Department of Communications, Energy and Natural Resources
29-31 Adelaide Road
Dublin 2

14 August 2008

July 2008 – MANAGEMENT ACCOUNTS

Dear Peter,

I attach a copy of the July 2008 Consolidated Management Accounts and Commentary for RTÉ.

Kind Regards.

Yours Sincerely

pp Jon Sheridan
CONOR HAYES
Chief Financial Officer

cc. Aidan Dunning
Colm Conaill
Dermot O'Connor
Stephen O'Connor
Kevin O'Brien

Cathal Goan
Bride Rosney
Tom Quinn

Mr. Peter O'Neill
Assistant Secretary
Department of Communications, Energy and Natural Resources
29-31 Adelaide Road
Dublin 2

12 September 2008

August 2008 – MANAGEMENT ACCOUNTS

Dear Peter,

I attach a copy of the August 2008 Consolidated Management Accounts and
Commentary for RTE.

Kind Regards.

Yours Sincerely



CONOR HAYES
Chief Financial Officer

cc. Aidan Dunning
Colm Conaill
Dermot O'Connor
Stephen O'Connor
Kevin O'Brien

Cathal Goan
Bride Rosney
Tom Quinn

file

Received in Secretariat
15 SEP 2008
Department of Communications
Energy and Natural Resources

Mr. Peter O'Neill
Assistant Secretary
Department of Communications, Energy and Natural Resources
29-31 Adelaide Road
Dublin 2

12 September 2008

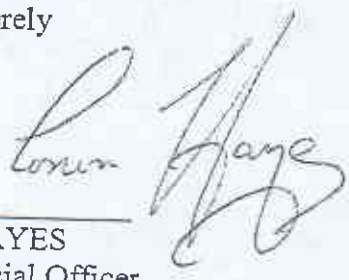
August 2008 – MANAGEMENT ACCOUNTS

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Kind Regards.

Yours Sincerely



CONOR HAYES
Chief Financial Officer

- cc. Aidan Dunning
- Colm Conaill
- Dermot O'Connor
- Stephen O'Connor
- Kevin O'Brien

- Cathal Goan
- Bride Rosney
- Tom Quinn

Office of the Minister
Óifis an Aire

29-31 Bóthar Adelaide
Baile Átha Cliath 2

10 September 2008

Ms Mary Finan
RTE
Donnybrook
Dublin 4

Re: Code of Practice Requirements

Dear Ms Finan

On behalf of the Minister for Communications, Energy and Natural Resources Mr Eamon Ryan T.D., I wish to acknowledge receipt of your correspondence of 3rd September 2008.

The Contents will be brought to the Ministers attention.

Yours sincerely



Colm O'Conaill
Private Secretary to the
Minister for Communications, Energy and Natural Resources