

**The effect of RTÉ's licence fee income
on broadcasters and on
the advertising market in Ireland**

**A report for the Minister for
Communications, Marine
and Natural Resources**

1 December 2004

Europe Economics, London

with support from

Curtin Dorgan Associates, Dublin

and from

PricewaterhouseCoopers, Dublin

Europe Economics, Chancery House, 53-64 Chancery Lane, London WC2A 1QU
Tel: (+44) (0) 20 7831 4717 Fax: (+44) (0) 20 7831 4515 www.europe-economics.com

TABLE OF CONTENTS

1	SUMMARY AND CONCLUSIONS	1
2	THE BRIEF AND THE PROJECT PROCESS.....	1
3	THE FUNDING OF PUBLIC SERVICE BROADCASTING IN IRELAND AND IN OTHER EU MEMBER STATES.....	5
	Television	5
	Radio.....	10
4	THE FUNDING OF COMMERCIAL BROADCASTING IN IRELAND AND IN OTHER EU MEMBER STATES.....	15
	Television	15
	Radio.....	17
5	THE ADVERTISING MARKET IN IRELAND.....	20
	The total advertising market.....	20
	Television advertising in Ireland	23
	Radio.....	30
6	THE EVOLUTION OF COMPETITION IN IRISH ADVERTISING	33
	General observations	33
7	THE IMPACT OF RTÉ'S RECEIPT OF LICENCE FEE INCOME ON OTHER BROADCASTERS.....	36
	Licence fee income and public service broadcasting	37
	Potential abuse arising from licence fee income	40
	The acquisition of broadcast content	40
	Radio.....	47
8	THE IMPACT OF RTÉ'S RECEIPT OF LICENCE FEE INCOME ON THE ADVERTISING MARKET	48
	The Irish advertising market as whole.....	48
	Television advertising	48
	Radio.....	51
	Summary of conclusions in relation to advertising.....	51

1 SUMMARY AND CONCLUSIONS

Objectives, methods and information sources

- 1.1 The principal objectives of the project were to explore whether RTÉ's receipt of licence fee income impacts (a) upon other broadcasters in Ireland or (b) upon the advertising market in Ireland. As part of these objectives we were required to consider the funding of public service and commercial broadcasting in Ireland and the evolution of competition in advertising in Ireland.
- 1.2 Our research was strongly evidence-based. Within the timescale agreed (just over one month) we conducted 17 interviews with 29 people in 14 organisations. We consulted some 50 internet websites and considered substantial volumes of documents given to us by broadcasters, advertising agencies, trade bodies and a regulator. We have been able to complete this report without citing confidential information.
- 1.3 We considered funding arrangements for television and radio, both public service and commercial, in Ireland and across the fifteen member states (other than Luxembourg) which formed the European Union before May 2004 ("the EU14"). The comparisons we could make outside the EU were of much less value.
- 1.4 Information on television broadcasting and advertising markets in Ireland is better developed and more easily obtained than information on radio markets. For this reason, the depth of reporting and analysis in this research is greater for television than for radio.

Funding arrangements

- 1.5 There is a wide diversity of funding models across the EU14, whether for television or radio, and whether for public service broadcasting or commercial. Within this diversity funding arrangements in Ireland are by no means abnormal. In important respects Ireland sits within a cluster of five or six member states, some large, some small, which adopt similar methods and proportions of funding.

The impact of RTÉ's receipt of licence fee funding overall

- 1.6 RTÉ has received licence fee income for radio since the 1920s and for television since the 1960s. It now accounts for almost 50 per cent of RTÉ's total revenues.
- 1.7 The advent of purely commercial television and radio channels has meant that challenges, most often based on competition law, have arisen in a number of EU members states concerning the nature and definition of public service broadcasting and the way in which it is funded. Indeed, DG Competition of the European Commission is currently considering a complaint brought by a commercial broadcaster in Ireland concerning state aid to RTÉ. Although we acknowledge that the manner in which member states define the mandate of Public Service Broadcasters can be examined by the European Commission, it is not a part of our remit to form a view on how RTÉ's mandate is defined. We deal with the situation in Ireland as it is.

- 1.8 The essence of the remit laid upon RTÉ is that, if RTÉ were the only television or radio channel that Irish viewers could receive, it should be complete and satisfying for the population, including minority interests, as a whole. On this basis, and although we acknowledge that commercial broadcasters dispute it, the whole RTÉ schedule may be thought of as public service broadcasting. One cannot easily say that one programme within the schedule is public service broadcasting while another is not.
- 1.9 Licence fee income is necessary to enable RTÉ to discharge its public service obligations in relation to producing and commissioning indigenous content, which, as we show later, is far more costly than overseas-acquired material. It is impossible to conceive that the public service remit, financed in part by licence fee income, has not been instrumental in securing RTÉ's position as the largest indigenous broadcaster in Ireland. It is also entirely plausible that, through the public service remit, licence fee income paid to RTÉ has, directly or indirectly, had long-standing positive effects on Irish social, cultural, economic and political life.
- 1.10 For this project, however, we concentrate on whether RTÉ's receipt of licence fee income has *current* and *adverse* effects.

Impact of RTÉ's receipt of licence fee funding on other broadcasters

- 1.11 RTÉ's receipt of licence fee income could in theory give it an unfair advantage by providing a financial cushion which might enable RTÉ to outbid commercial broadcasters for externally acquired programming and/or to manage its affairs inefficiently.
- 1.12 In this report we do not develop the possibility that RTÉ is able to use licence fee income to manage its affairs inefficiently. We realised early in the project that to assess the relative efficiency of broadcasters, let alone tie any differences to receipt of licence fee income by one of them, requires access to a mass of internal operating detail which we could not reasonably expect to get.
- 1.13 We have concluded that RTÉ's receipt of licence fee income does not impact unfairly on other broadcasters. We say this for the following main reasons:
- we have seen no evidence that RTÉ systematically outbids commercial broadcasters;
 - RTÉ and TV3, Ireland's only free-to-air commercial broadcaster, have said that they rarely compete head-to-head with each other for the same rights;
 - commercial considerations apart, RTÉ may feel compelled to secure certain rights in order to fulfil its public service obligations; and
 - there is some evidence to suggest that, when identical programming switches from one channel to another, RTÉ is sometimes able to attract larger audiences (implying more advertising revenue) than TV3. On commercial grounds alone,

therefore, it is not unreasonable that RTÉ might outbid commercial broadcasters for certain rights.

- 1.14 In any event, it may well be that securing particular programme rights enhances the general reputation of a channel (not just an RTÉ channel) in a way which attracts larger audiences to other programmes on the same channel. These larger audiences may benefit both commercial broadcasters and RTÉ through advertising revenue, and RTÉ alone by contributing to the broad appeal which its schedules are required to generate. We do not think it necessary that the acquisition cost of each programme needs to be covered by the advertising revenue generated by that programme alone.

The impact of RTÉ's receipt of licence fee income on the advertising market

- 1.15 Although we did not attempt formal economic market definitions, we are satisfied that for the purposes of this project television and radio advertising markets can be considered as distinct from each other and from all other advertising markets. We received some evidence to suggest that deeply discounted television advertising is just beginning to compete with radio advertising, though not enough to treat the two as ready substitutes.
- 1.16 TV3 has asserted that, because RTÉ enjoys dominance in the Irish television advertising market *and* receives licence fee income:
- RTÉ has been able to drive advertising rates down, to the detriment of commercially funded broadcasters
 - RTÉ's rates have not kept pace with inflation; and
 - RTÉ's rates are the lowest in the EU.
- 1.17 As to the first, our view is that the mechanism whereby television advertising prices are set makes it highly unlikely that RTÉ is in any position to drive rates up or down unilaterally. The rate is measured as the cost of reaching 1000 viewers in a given category, and is re-calculated monthly by dividing revenues paid by audiences reached. The calculation is independently audited, the result is made freely available within the industry, and the rate calculated *ex post* for one month becomes the rate set *ex ante* for the next. Other broadcasters use the RTÉ rates as a benchmark to determine their own. These other rates are not published.
- 1.18 As to the second point, the mechanism for setting television advertising rates makes it inherently unlikely that they would track general inflation. Even if revenues paid, over time, tracked inflation (which we think is far from likely), audiences reached are not inflation-related. We received evidence concerning the movement of advertising rates in other EU members states and found no correlation with inflation in any of them.
- 1.19 As to the third point, have seen evidence to suggest that Irish television advertising rates are far from the lowest in the EU. One analysis suggested that Irish rates are third from

bottom (above those of Italy and Portugal); another suggested that Irish rates are eighth from bottom.

- 1.20 Although RTÉ has a share of television advertising which, at about 50 per cent, is likely to be found dominant under EU competition law, the mechanism whereby advertising rates are re-set monthly makes it highly unlikely that RTE could abuse such market power as it may have in such a way as unilaterally to drive advertising rates down (or for that matter up).
- 1.21 In addition to that, and despite the fact that RTÉ is the largest Irish television broadcaster, many advertisers and advertising agencies are substantially larger than RTÉ. Some large advertisers have moved business away from RTÉ in efforts to gain more attractive deals. The buyer power ranged against RTÉ, in conjunction with the existence of competing broadcasters, is an effective deterrent against any attempt that RTÉ might make to behave anti-competitively.
- 1.22 Some comments were put to us that RTÉ is not pricing radio advertising as aggressively as it could, but there was no suggestion that RTÉ was doing so with any anti-competitive intent.
- 1.23 We therefore conclude that RTÉ's receipt of licence fee income does not have an adverse or unfair impact on the market for television or radio advertising in Ireland.

Defining public service broadcasting – EU pressures

- 1.24 As we have said, this study deals with the current situation in Ireland. For the future there are pressures from the European Commission on national governments generally, not just on Ireland, to define the public service broadcasting remit properly and to ensure that the way in which public funding is allocated to it is fair and transparent. It is beyond our brief to redefine public service broadcasting in Ireland, or to comment the way in which the government might secure funding for it in the future. But we think it inevitable that the questions of definition and funding will continue to come under scrutiny.

2 THE BRIEF AND THE PROJECT PROCESS

Tender from the Department for Communications, Marine and Natural Resources

2.1 On 5 August 2004, the then Minister for Communications, Marine and Natural Resources issued a public tender summarised in the following statement:

“Dermot Ahern T.D., Minister for Communications, Marine and Natural Resources today announced the commencement of a process to establish whether the licence fee paid to RTÉ impacts on the advertising market.

The review follows a government decision taken last year at the time of the RTÉ licence fee adjustment. The Minister has invited tenders for the provision of consultancy advice in relation to the review and will appoint his advisors in the next few weeks. The wide-ranging review will consider the following issues:

- Describe how public service broadcasting is funded in Ireland and compare this with the funding of other European/international public service broadcasters.
- Consider how the private broadcasting sector in Ireland is funded and compare this with the funding of other European/international private broadcasters.
- Describe the current advertising market, with particular reference to the broadcasting sector.
- Consider the evolution of competition, including international competition within the advertising market in Ireland.
- Identify and explore areas where RTÉ’s receipt of licence fee income might impact upon other broadcasters.
- Evaluate the impact, if any, that RTÉ’s receipt of licence fee income has on the advertising market in Ireland.
- Explore whether receipt of licence fee income allows RTÉ to operate from a position of dominance or significant advantage in the advertising market.”

2.2 On 26 August 2004, Europe Economics as lead consultant and Curtin Dorgan Associates made a joint proposal to the Department. Europe Economics is the trading name of European Economic Research Limited, an independent, privately owned consultancy, based in London and specialising in the application of economics and econometrics to issues relating to competition, regulation and public policy. Curtin Dorgan Associates (“CDA”) is a firm of economic and management consultants established in Dublin 1988. It provides management and economic consultancy to clients in the private and public sectors both in Ireland and abroad.

2.3 Upon the award of the contract, at the request of the Department, and with the agreement of Europe Economics and CDA, PricewaterhouseCoopers (PwC) joined the project. PwC brings important experience in the broadcasting and advertising sectors in Ireland and

internationally. Under a parallel contract with the Department, PwC participated in all aspects of the project and contributed to the drafting. However, ultimate responsibility for the project and the report remains with Europe Economics.

Project process

- 2.4 Our proposal was that the work would be strongly evidence-based. It envisaged four phases of work.
- First, “desk research” covering, essentially, the first four bullet points in the brief above (the funding of public and private broadcasting, and features of the advertising market).
 - In parallel with that, we would undertake a thorough programme of interviews with interested parties in order to gain their appreciation of the issues under review and to check our desk research against their experiences as practitioners.
 - As a third step, we would review with the Department the most important items of evidence uncovered in these first two phases of work in order to provide an early view of where such evidence might lead.
 - The fourth step would be the drafting of the report.
- 2.5 The invitation to tender indicated that the time for the preparation of the report would be one month and this was emphasised in oral briefings. Although the start date was later than envisaged, the elapsed time remained unchanged and has been substantially adhered to. Although a number of interesting issues arose that pushed against the limits of our brief, they have had to remain unexplored.

International comparisons

- 2.6 The brief from the Department refers to “EU/international” comparisons. In practice, we have chosen to concentrate on comparisons with other EU member states, and specifically the member states which formed the EU before the accession of ten new member states in May of this year. Consistent information about broadcasters across all twenty-five EU members is difficult to acquire, and the coexistence of public service and private broadcasting in the ten accession states is in general not yet sufficiently developed to permit meaningful comparison with those of the fifteen.
- 2.7 The experience of countries outside the EU could be of interest but falls victim to the time and resources constraints referred to above. Although a number of countries like Australia and New Zealand have interesting approaches to public service broadcasting, we chose not to pursue comparisons outside the EU when relevant and readily accessible comparisons were available from the EU.

Commercial confidentiality

- 2.8 We have been able to draft this report without incorporating any material identified as confidential or sensitive. Likewise, we have respected the confidentiality of sensitive background material given to us.

Parties interviewed

- 2.9 Table 1 on the next page lists the interviews that the team carried out. In all, we spoke to 29 people in 14 organisations: 7 broadcasters, 3 advertising agencies, 2 trade associations and 2 regulators. We are most grateful to them all. The time available for this study did not permit us to submit interview notes back to interviewees for checking. However, all but four of the interviews were conducted by more than one person from the research team, so that we were able to cross-check internally.

Table 1: List of parties interviewed

Organisation	Interviewee name(s)	Interviewer(s)	Date
TV3	Mr. Rick Hetherington Mr. David McMunn	CDA	October 11 th
Institute of Practitioners of Advertising in Ireland	Mr. Steve Shanahan	CDA, EE	October 13 th
RTÉ (General Management)	Mr. Cathal Goan Mr. Connor Hayes	CDA, EE	October 13 th
Zenith Optimedia (advertising agency)	Mr. Shay Keany	CDA, EE	October 14 th
RED FM	Mr. Dermot Hanrahan	CDA, EE	October 14 th
MCM Communications (advertising agency)	Ms Fiona Scott	CDA, EE	October 14 th
Independent Broadcasters of Ireland	Mr. Tim Collins	CDA	October 15 th
Broadcasting Commission for Ireland	Mr. Michael O'Keefe Mr. Ciarán Kissane	CDA, PwC	October 19 th
Initiative (advertising agency)	Mr. David Harland	CDA, PwC	October 19 th
TV3	Mr. David McMunn Mr. Matthew Salway	EE	October 19 th
Competition Authority	Dr. Paul Gorecki Ms Vivienne Ryan	CDA, EE, PwC	October 19 th
RTÉ Radio	Mr. Adrian Moynes Mr. Anthony Whittel Mr. Kieran Barry	CDA, EE, PwC	October 20 th
RTÉ Television	Mr. Noel Curran Mrs. Geraldine O'Leary Mrs. Breda O'Keefe	CDA, EE, PwC	October 20 th
TG4	Mr. Pól Ó Gallchóir Mr. Pádraic Ó Ciardha Mr. Pádraig Ó Domhnaill	CDA, PwC	October 21 st
Communicorp	Mr. Paddy Halpenny Mr. Dan Healy Mr. Ciaran Davis	CDA	October 21 st
Independent Radio Sales	Mr. John O' Connor	CDA, PwC	October 22 nd
UTV (interview by telephone)	Mr. Scott Taunton	PwC	November 12 th

3 THE FUNDING OF PUBLIC SERVICE BROADCASTING IN IRELAND AND IN OTHER EU MEMBER STATES

Television

The sector overall

3.1 The majority of Irish television viewers have free-to-air access to three channels from the incumbent state-owned public service broadcaster, Radio Telefís Éireann (RTÉ), to four UK-originated channels, and to a relatively new commercial channel, TV3.¹ Irish viewers also have access, via cable, satellite or MMDS² to services provided by Sky, ntl and Chorus. These services are provided in return for monthly subscription payments. They carry not only the RTÉ, TV3 and UK-originated channels already mentioned but are capable of delivering some two hundred further channels offering a wide variety of programming genres and subjects.

Radio Telefís Éireann (RTÉ)

3.2 RTÉ is the sole public service television broadcaster in the Republic of Ireland. It is a statutory corporation established under the Broadcasting Authority Act 1960.

3.3 RTÉ began television broadcasting in 1961. It currently operates two channels, RTÉ One and RTÉ Two, and provides support to an Irish-language channel, Teilifís na Gaeilge (TG4), which operates under the auspices of RTÉ.

3.4 From the outset RTÉ has been funded by a combination of licence fee income and advertising income. The licence fee is payable by every household in the Republic which has a television set, and by industrial and commercial premises which have television sets. Licence fees are collected from consumers by An Post, which pays them over to the Exchequer. Onward payment to RTÉ is then sanctioned by the Oireachtas. RTÉ now retains 95 per cent of the net proceeds of licence fee (that is, after collection costs), with 5 per cent placed in a fund for special radio and television programmes. This fund can be accessed on application by commercial broadcasters, by RTÉ, and by independent producers who can show evidence that their work will be broadcast. Although the rules for application and disbursement are still being drafted, the Broadcasting Commission of Ireland (BCI) expects to invite applications for funding in the first quarter of 2005.

3.5 RTE is divided managerially into "Independent Business Divisions" ("IBDs"). The principle of the attribution of the licence fee is that the deficits associated with IBDs' indigenous content (sometimes loosely referred to as public service content) are charged to the

¹ Viewers in some remoter parts of Ireland may have difficulty in receiving some of these channels.

² MMDS stands for "Multi-channel Multi-point Distribution Service", sometimes referred to as "wireless" cable. Essentially MMDS allows multi-channel broadcast services to reach areas where laying cable would be uneconomic. In Ireland, MMDS tends to be used to reach rural areas. MMDS requires a line-of-sight between the final transmitter and the receiving antenna.

licence fee. In the case of television, licence fee income is allocated in direct proportion to the costs of home produced programmes.

- 3.6 Table 2 summarises RTÉ's sources of income and their allocation across television channels and other activities.

Table 2: RTE's sources and allocations of income, 2003 (€million)

	RTÉ 1	RTÉ 2	TG4	Total TV	All Other	Total RTÉ
Advertising	67	29	3	99	34	133
Other Commercial	-	-	-	-	22	22
Licence	68	35	12	115	42	157
Total	135	64	15	214	98	312

Source: RTÉ Report and Accounts, 2003

- 3.7 As can be seen, RTÉ's total revenues are divided almost exactly half and half between licence fee income and commercial income.
- 3.8 RTÉ One's revenues are divided almost exactly 50/50 between commercial and attributed licence fee income, while RTÉ Two's revenues are 45 per cent commercial and 55 per cent licence fee.
- 3.9 TG4's overall funding position is slightly more complex. TG4 operates under the auspices of, but is not controlled or operated by, RTÉ. It is dependent on a combination of Government funding, commercial income (airtime sales) and support in kind rather than in cash from RTÉ. With input from TG4, RTÉ decides what content (totalling 365 hours) it will provide to TG4 - and it gives TG4 this content annually. It also gives TG4 technical support. RTÉ then costs these contributions up and expresses them as a percentage attribution to TG4 of licence fee income.
- 3.10 TG4 generates approximately €3.5m in commercial income (advertising and sponsorship).
- 3.11 Some industry players dispute whether the licence fee attributions that appear in RTÉ's Report and Accounts are meaningful. The attributions of licence fee income form part of the audit of RTÉ conducted by KPMG, and we are not required to review that, so we take the attributions as they appear in RTÉ's accounts.³ It would in any event require substantially more time and resource than is available in this project to explore the attributions thoroughly. In a later section of this report we comment on issues of definition surrounding public service broadcasting in Ireland.

³ We acknowledge that the attributions are accounts-based (i.e. the attribution seeks only to exhaust all income across services) and that an economics-based assessment (i.e. one which seeks to apportion income on an incremental or some other basis) might produce a different result.

Broadcasters in other EU member states

3.12 As noted in paragraph 2.6, we considered only the fifteen states that were EU members before the accession of ten new members in May 2004. In fact, we refer to the EU14 rather than to the EU15 because Luxembourg has no indigenous publicly owned, public service broadcaster.⁴

3.13 Table 3 shows that the proportions of licence fee income and commercial revenue which RTÉ enjoys do not mark Ireland out as distinctly different from other EU14 member states.

Table 3: EU14 public service broadcasters' income sources (per cent):

Country	Public sources		Non-public sources		Other	Total
	Licence fees	Other public income	Advertising	Commercial		
Austria: ORF	44.0	0.3	36.8	4.2	14.7	100.0
Belgium (Fl) VRT	67.9	0.0	10.2	4.9	17.0	100.0
Belgium (Fr) RTBF	0.0	63.2	0.0	31.8	5.0	100.0
Denmark: DR	91.3	0.0	0.0	8.7	0.0	100.0
Denmark: TV2	10.1	0.0	77.6	12.3	0.0	100.0
Finland: YLE	86.0	9.8	0.0	4.2	0.0	100.0
France2	56.3	0.0	36.0	7.7	0.0	100.0
France3	66.9	0.0	24.2	8.9	0.0	100.0
Germany: ARD	83.0	0.0	4.3	11.4	1.3	100.0
Germany: ZDF	84.7	0.0	7.1	6.1	2.1	100.0
Ireland: RTE	50.3	0.0	40.7	9.0	0.0	100.0
Italy: RAI	47.5	2.9	33.9	9.0	6.7	100.0
Netherlands: NOS	0.0	65.1	26.5	0.2	8.2	100.0
Portugal: RTP	0.0	60.7	33.0	0.0	6.3	100.0
Spain: RTVE	0.0	9.1	79.5	6.9	4.5	100.0
Sweden: SVT	93.0	0.0	0.0	5.3	1.7	100.0
UK: BBC	67.9	5.8	0.0	26.3	0.0	100.0
UK: Channel 4	0.0	0.0	78.3	21.7	0.0	100.0

Source: European Audiovisual Observatory Yearbook, 2004

Note 1 : "Other" public income is either public debt or a grant from public funds. "Commercial" income is revenue derived from such sources as publications, the sale of content and merchandise.

Note 2: Greece's national public service broadcaster is funded by means of a surcharge on electricity bills.

Note 3: Channel 4 is unusual, in that it is a public service broadcaster but one that is funded outside the licence fee.

⁴ The leading broadcaster for television and radio in Luxembourg is RTL, which is a subsidiary of de Holland Media Groep, a Dutch private sector company, which itself is part of RTL Group, a German media holding company.

Ranking by licence fee income

- 3.14 In a strict ranking by percentage of revenue derived from licence fees, RTÉ ranks fourteenth among eighteen EU broadcasters. This may suggest that Ireland is in some way unusual, but Table 3 shows that Ireland fits within a cluster of six member states (the others are Austria, Belgium, France, Italy, and the UK) where licence fee income accounts, very roughly, for between a half and two thirds of revenue.
- 3.15 Finland, Germany, and Sweden have much higher percentages of revenue derived from licence fees (ranging from the eighties into the nineties), while the Netherlands, Portugal and Spain have much lower percentages (ranging from zero up to about ten per cent). It is worth noting, however, that in both Portugal and Netherlands the public service broadcaster receives a higher percentage of public funding than Ireland, although not from a licence fee.
- 3.16 In five member states – Belgium, France, Germany, Denmark, and the UK – more than one broadcaster carries public service broadcasting obligations, and in three of these (Belgium, Denmark and the UK) the funding of the “second” public service broadcaster is different from that of the primary broadcaster.
- 3.17 One can thus say that the pattern of licence fee funding across the EU14 is very diverse, and that in context Ireland is by no means unusual.

Ranking by advertising revenue

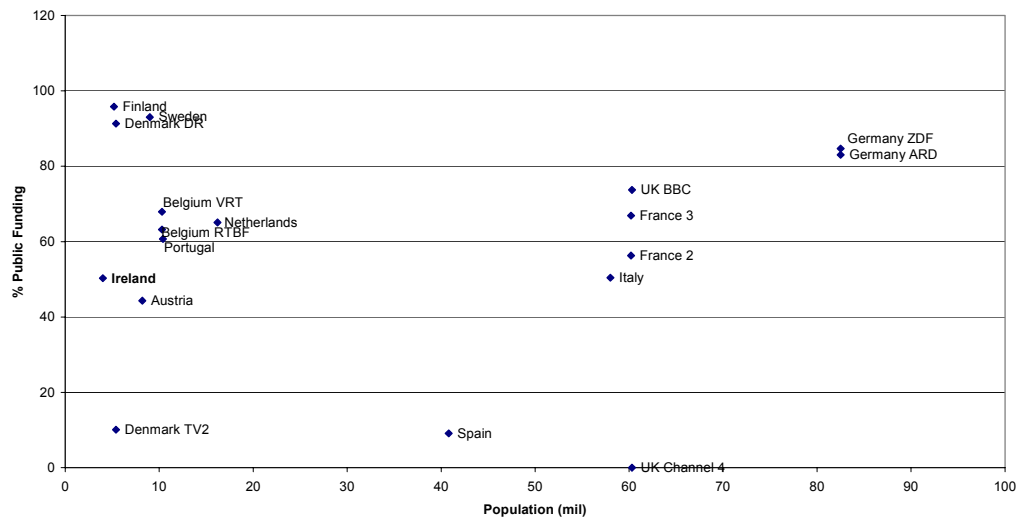
- 3.18 In a strict ranking of percentage of revenue derived from advertising income, RTÉ ranks fourth among eighteen broadcasters, at just over forty per cent. It sits in a cluster of five with Austria, France, Italy and Portugal, where advertising income accounts for around thirty to forty per cent of the total.
- 3.19 In Denmark, Spain and the UK (Channel 4) there are public service broadcasters which are heavily dependent on advertising revenues, each at more than eighty per cent.
- 3.20 Again, therefore, one can say that the pattern of private funding is so diverse that Ireland is not in any way abnormal compared with the rest of the EU14.

(continued...)

Funding arrangements in relation to population and wealth

3.21 Figure 1 explores whether there is any correlation between funding arrangements and size of national population. All figures relate to 2002.

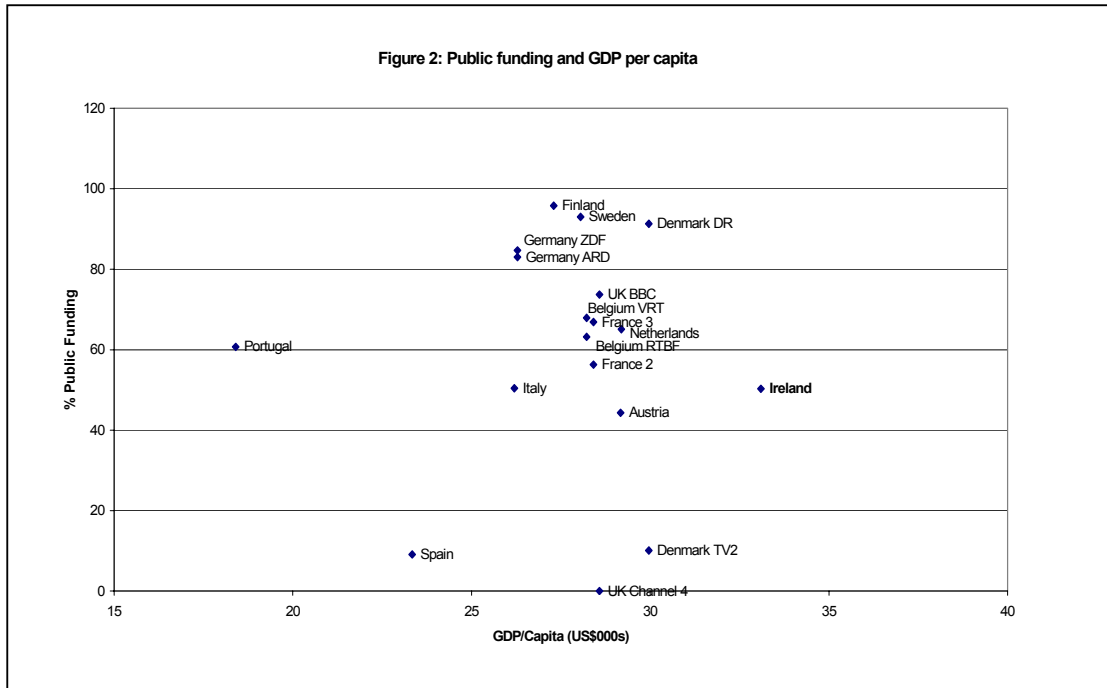
Figure 1: Public funding and population



3.22 Figure 1 shows clearly that the extent of public funding is not correlated with population. Ireland's percentage of public funding is similar to that of other smaller-population member states such as Belgium and the Netherlands, but is also similar to that in Italy and France, which have populations many times larger. Conversely, the larger-population member states (Germany, France, Italy, the UK and Spain) differ quite substantially in their approach to funding.

3.23 Figure 2 on the next page plots the percentage of funding to public service broadcasters against GDP per capita (a measure of average wealth), both in 2002. Again, there is little correlation.

(continued...)



Note: sources for population (fig. 1) and GDP per capita (fig.2) were the Economist Intelligence Unit 2003

Summary

3.24 The patterns of funding of public service television round the EU14 are so diverse that one cannot say that Ireland is in any way abnormal or atypical. Ireland sits firmly in a cluster of five to six member states which have comparable proportions of licence fee and advertising income.

Radio

Availability of data

3.25 In general terms, the radio sector in Ireland is less well documented than television, and such statistics as are available are not always directly comparable with those produced for television. Nevertheless, in the following paragraphs of this section we depict the situation first as it relates to Ireland and then to public service broadcasters elsewhere in the EU.

Radio in Ireland

- 3.26 RTÉ (or, strictly speaking, its predecessor body) began radio broadcasting in 1926, and until the passing of the 1988 Radio and Television Act, was the only legal radio broadcaster in Ireland.
- 3.27 RTÉ currently has four full service channels: Radio 1 (the main news and information channel), Radio 2 (which broadcasts youth music, and is more popularly referred to as 2fm), lyric fm (classical music and arts) and Raidió na Gaeltachta (the Irish language service).
- 3.28 In addition to RTÉ's four radio stations there were, as of September 2004, 52 independent sound broadcasting services as follows:
- 1 national independent commercial radio station (Today FM)
 - 1 regional station (South East Ireland, Beat FM)
 - 26 local independent commercial radio stations
 - 1 special interest station (Dublin)
 - 17 community or community of interest radio stations
 - 6 hospital or institutional stations (3 in Dublin, 1 each in Clonmel, Limerick and Cork).
- 3.29 Buoyed by the launch of a number of new national and local radio stations over the past six years, Ireland has one of the highest radio listening rates in Europe. Table 4 below gives the details.

Table 4: radio listenership in selected EU countries, 2002

Country	Daily Listening Time (mins)
Ireland	240
Belgium	240
Finland	215
UK	207
Portugal	200
Denmark	197
France	189
Netherlands	184
Italy	176
Sweden	163
Norway	137

Source: Department of Communications, Marine and Natural Resources

3.30 Table 5 shows Irish radio listenership by station for 2003, based on figures compiled by Joint National Listenership Research Survey.⁵

Table 5: station listenership and market shares in Ireland, 2003

Station	Per cent share
Any radio	86
Any national radio	56
Any RTÉ radio	50
Any of RTÉ 1, 2fm or lyric fm	49
RTÉ Radio 1	28
2fm	25
lyric fm	3
Today FM	14
Any local station	54
Home local station	49
Other local station	8
	Overall market shares (per cent)
Radio 1	25
2fm	17
lyric fm	1
Today FM	9
Home Local	41

Source: JNLR

Note: the percentage share quoted in Table 5 is the percentage of adult (15+) listeners who said they had listened yesterday, averaged over a week.

RTÉ

3.31 RTÉ's position is distinctive in two respects. First, it is the only licence fee funded public service broadcaster in Ireland. Secondly, it broadcasts only nationally on radio: local broadcasting is now entirely in the hands of commercial broadcasters. RTÉ One, 2fm and RnaG are also available on the internet by webcast or audio downloads.

⁵ The Joint National Listenership Research (JNLR) survey is undertaken twice per year by the Market Research Bureau of Ireland (MRBI). The objective of the survey is to provide reliable estimates of audiences to both National and Local Radio, as a basis for the planning of advertising schedules and as a guide to programme planning in each radio station. Details of how the survey works can be found on the BCI website at <http://www.bci.ie/jnlr.html>.

- 3.32 Licence fees are paid by TV set owners and part of the total licence fee income is then attributed to radio by RTÉ itself. Table 6 summarises the sources and allocation of licence fee and commercial revenues within RTE's radio business.

Table 6: distribution of RTE radio revenues, 2003 (€ million)

	Radio 1	2FM	lyric fm	Raidió na Gaeltachta	Total RTE Radio
Advertising	16.8	15.6	0.5	-	32.9
Other Commercial	0.0	1.2	-	-	1.2
Licence	13.4	0.0	6.2	9.7	29.3
Total Revenues	30.1	16.8	6.7	9.7	63.3
Total Costs	34.0	13.1	6.7	9.7	63.5
Surplus (deficit)	(3.9)	3.7	0.0	0.0	(0.2)

Source: RTE Report and Accounts, 2003

- 3.33 RTÉ allocated some 19 per cent of total licence fee income in 2003 to radio. As can be seen from table 6, the total sum so allocated, just over €29 million, was divided 46 per cent to Radio One, 21 per cent to lyric fm, and 33 per cent to RnaG. The 2fm station is profitable from advertising alone.
- 3.34 Up to now the independent radio broadcasters have not received licence revenue and (with the exception of the community stations) are dependent on advertising revenue. The creation of a special broadcasting fund, provided by means of a 5 per cent share of the licence fee income, will be accessible to the independent sector, and may change their funding pattern slightly in the future.

Other EU member states

- 3.35 Table 7 on the following page shows the funding models of public service radio broadcasters in a selection of EU member states.

(continued...)

Table 7: funding of public service radio in selected EU member states

	Licence fee funding?	Advertising funding?	Other sources of funding?
Austria	Radio and TV licence fees	Yes	No
Belgium	Share of TV licence fee	Yes, but capped	Public funds and sponsoring
Denmark	TV licence fee (29% of the fee goes to radio)	Not on national radio. Advertising on local radio cannot exceed 15% of airtime.	Local radio also relies heavily on subsidies from organisations, membership fees etc. in addition to advertising.
Finland	Yes	No	
Germany	Radio and TV licence fees	Not on national radio, and not on some regional stations. Restricted advertising is allowed on others. Public broadcasters receive about one third of radio advertising spend.	
Greece	No	Yes	Surcharge on electricity bill
Ireland	Share of TV licence fee	Yes	No
Italy	Radio licence fee	Yes	No
Netherlands	Yes	Yes (but revenues to Treasury)	Public funding, member contributions and magazine sales
Norway	Yes	No	
Portugal	Radio licence fee charged through electricity account	Yes	Local radio is financed by advertising and donations by local authorities or private companies
Spain	No	Yes	Direct state grants. Regional stations depend on regional grants for an average of 60% of their income
Sweden	Yes	No	No
UK	Yes	No	No

Source: European Audiovisual Laboratory Yearbook, 2004

3.36 In general, public service radio broadcasters receive some form of public income, although advertising and sponsorships are also not uncommon.

3.37 The conclusion one would draw from Table 7 is that, as with public service TV broadcasting, the pattern of funding across the EU is so diverse that nothing could be said to be unusual about Ireland.

4 THE FUNDING OF COMMERCIAL BROADCASTING IN IRELAND AND IN OTHER EU MEMBER STATES

Television

- 4.1 Commercial broadcasters offer Irish television viewers three sources of television over and above RTÉ. These additional sources may be categorised into free-to-air commercial, “overspill” and subscription.

Free-to-air commercial broadcasting

- 4.2 Ireland has a single free-to-air commercial broadcaster, TV3 Television Network Limited, popularly known as TV3. TV3 is now effectively 45 per cent owned by CanWest Global Communications Corporation, a Canadian media company, and 45 per cent by Granada Group plc, a UK based television company which forms part of the UK ITV Network. The remaining shareholding is owned by private investors, including the founder and Chairman, Mr. James Morris.
- 4.3 TV3 went on air in September 1998, some ten years after it first received a licence. CanWest invested in TV3 that year, and Granada invested in 2000. In 2003, TV3 achieved a turnover of just over €41 million and made a pre-tax loss of €1.4 million. In 2002 it had achieved turnover of just under €40 million and a loss of €2.7 million.⁶ In revenue terms, TV3 is about one eighth the size of RTÉ as a whole and about one fifth the size of RTÉ’s television business.

Overspill channels

- 4.4 BBC1, BBC2, Ulster Television (UTV) and Channel 4 can be received free-to-air in Ireland because the transmitters used to broadcast them send signals strong enough to carry to most viewers in the north and east of the Republic.⁷ For this reason they are often referred to as “overspill” channels. They command substantial Irish viewing (UTV, for example, said that it reached 65 per cent of homes in the Republic) and television schedules published in Irish newspapers invariably include the overspill channels.
- 4.5 By definition the overspill channels are not *Irish* public service broadcasting. Although the BBC is the UK’s primary public service broadcaster, and the other UK channels carry certain public service obligations, they are neither licensed nor regulated by any authority in the Republic.

⁶ Source: Report and Accounts for CanWest Granada Media Holdings Limited, 2003.

⁷ The remainder of Irish viewers may receive the “overspill” channels by cable, satellite or MMDS, but they have to pay for a subscription to the platform provider.

Subscription services

- 4.6 The RTÉ, TV3 and overspill channels can also be received as part of “multi-channel” packages by Irish viewers who subscribe to one of the cable or satellite services now available. Sky provides a satellite-based service throughout the Republic,⁸ and ntl and Chorus deliver similar services by cable or MMDS. All three suppliers offer digital broadcasts as well as analogue.
- 4.7 Sky and ntl (whose ultimate parents are, respectively, UK- and US-owned) are the largest subscription services currently operating in Ireland, each reaching well over 300,000 homes. They offer a large number of “basic” and “premium” channel packages⁹, tailored to subscribers’ tastes and ability to pay. Chorus, now a US-owned provider following the recent sale of Independent News & Media’s share to Liberty Media, has recently been in administration, but we understand that it has now been refinanced and is fully operational.
- 4.8 Coverage detail is given in Table 8 below.

Table 8: coverage of commercial broadcasters in Ireland (end 2003)

Company	Households reached/subscribing	Percentage of TV households
TV3	1.2 million (see note)	est. 90+
Sky	323,000 (June 2004)	25
ntl	346,000	27
Chorus	201,000	15

Note: In the case of TV3, which is free-to-air, the number of Irish households reached is all those able to receive a TV3 signal from the sites from which it transmits. In the cases of Sky, ntl and Chorus, the number of households reached is the number who subscribe.

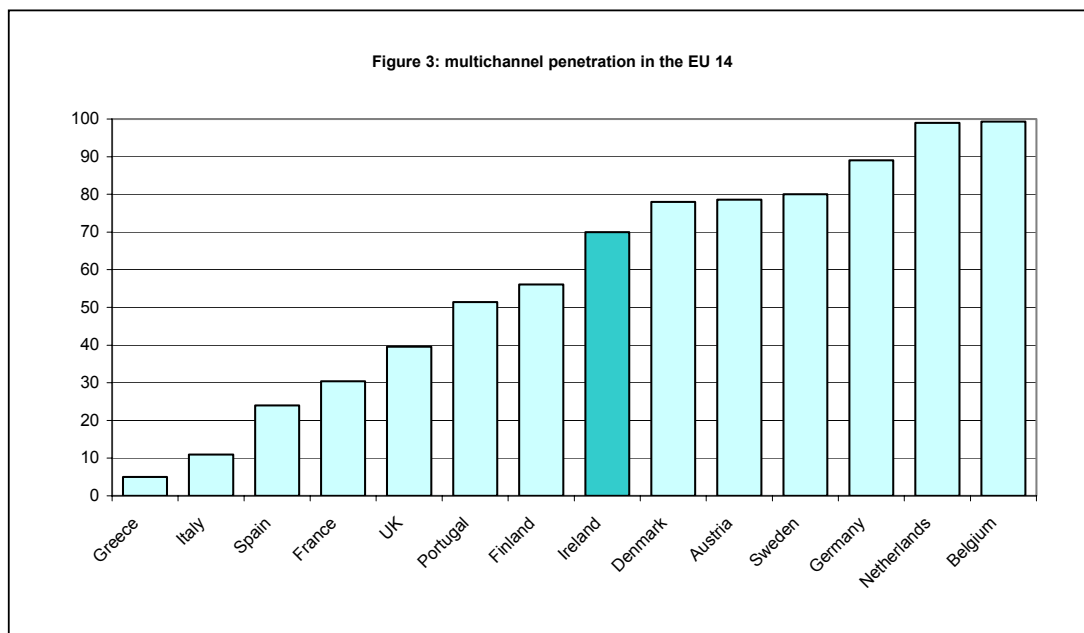
- 4.9 PwC has separately calculated that some 65 per cent of Irish households – 849,000 out of 1.3 million – have a pay-tv subscription. This is consistent with the 67 per cent implied by Table 8.
- 4.10 Compared with the rest of the EU, Ireland has quite highly developed multi-channel penetration, at 70 per cent of households. Largely because of overspill, it is the member states with smaller populations that have the greatest penetration. Italy, Spain, France and the UK lag substantially behind Ireland, and only Germany among the larger economies shows a higher penetration. Figure 3 shows the detail.

(continued...)

⁸ But note that Sky does not carry UTV or Channel 4.

⁹ There is no formal definition of what constitutes “basic” or “premium” channels, but first run movies and first-class or international-level sports are generally regarded as “premium” content and are priced accordingly. Examples of “basic” Sky channels are Sky News and Sky One.

Figure 3: multi-channel penetration in the EU14



Source: European Audiovisual Laboratory Yearbook, 2004

- 4.11 Satellite and cable services are funded by a mixture of viewers' subscriptions and advertising income. We were unable to obtain a breakdown of the revenues of Sky or ntl for Ireland. However, the 2003/4 Report and Accounts for Sky's parent, British Sky Broadcasting Group plc, indicate that, worldwide, its subscription revenues substantially outweigh its advertising revenues. Satellite ("direct to home") and cable subscriptions together accounted for 79 per cent of revenue, while advertising accounted for just under 9 per cent. PwC established also that Chorus' subscription revenues substantially outweigh its advertising income, at €62m and €0.5m respectively.
- 4.12 The long-standing availability of the RTE and UK-based channels in Ireland, the relatively rapid rise of TV3, and the solid presence of multi-channel broadcasters together suggest that there is a highly developed demand among Irish viewers for a varied diet of television. We believe that competition among television broadcasters in Ireland is likely to be durable and effective.

Radio

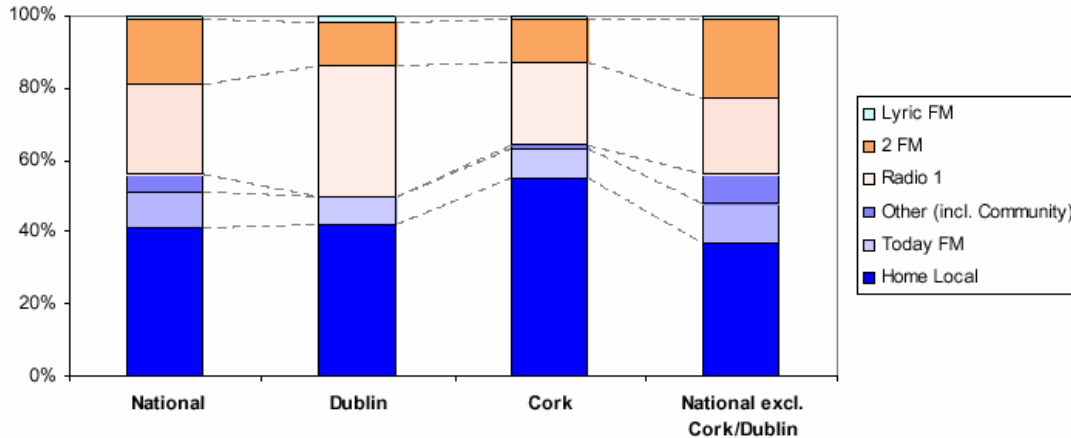
- 4.13 The official independent radio market was first opened in Ireland in 1988. It now commands a 56% share of the adult radio audience.¹⁰ The Broadcasting Commission

¹⁰ We say "official" because there had been pirate radio stations operating before 1988. We understand that some of the pirate stations applied for and were granted licences under the 1988 Act.

for Ireland (BCI) estimates turnover for the Irish commercial radio sector at €73 million in 2003. Turnover is essentially advertising and sponsorship.

4.14 Figure 4 below shows the audience market shares broken down by principal region. It is clear that local radio has a strong presence.

Figure 4: Market share of Irish adult listeners, 12 months ending June 2003



Source: "Review of Licensing of Radio Services in Ireland", a study for the DCMNR, April 2004

4.15 National commercial stations have had less success. The first successful bidder for the national radio licence, Century Radio, failed in 1993, two years after it was launched. There is currently only one national commercial radio station, Today FM, which is now owned by Scottish Radio Holdings and has achieved financial stability after a shaky start. Today FM holds a 9 per cent share of the national audience market share.

4.16 The funding of independent local community-based radio stations comes from a range of sources: advertising, programme sponsorship, donations, grant-aid and general fund-raising. BCI, the regulator for independent broadcasting, supports this sector through training and development initiatives.

4.17 A special interest channel, formerly Anna Livia FM, now Dublin City Anna Livia FM, has a full Dublin licence and runs a speech and music service, intended to fill the gaps left by the public service broadcaster. Dublin City Council is the station's principal partner, with the Dublin Docklands Authority also providing support. The channel is a run on a not-for-profit basis, and relies on commercial and sponsorship funding, but with most of the funding taking the form of grant aid.

Funding of commercial broadcasters in other European countries

4.18 The European Audiovisual Observatory Yearbook 2004 confirms that advertising forms the majority of the revenues of commercial radio broadcasters in Europe. The number of

stations operating across the EU14 is too great, and their funding arrangements too diverse in proportion, to be easily summarised here.

- 4.19 In some countries, other sources of income supplement the advertising revenue. For example, sponsorship is an important form of revenue in the UK and Sweden. In Denmark, cable operators pay popular stations to be carried on their network. Some local commercial channels in Norway operate on a volunteer basis and receive church or party funding.
- 4.20 As with public service TV broadcasting, we conclude that there is nothing unusual in the Irish model of commercial radio broadcasting, with the arguable exception of the prohibition on RTÉ from running local radio broadcasting.

5 THE ADVERTISING MARKET IN IRELAND

The total advertising market

- 5.1 We begin by assessing, briefly, the size and mix of the total advertising market in Ireland, in order to put television and radio advertising into context. We have relied mainly here on a study produced by PwC in 2003 and entitled *Global Entertainment and Media Outlook: 2004-2008*. This is a worldwide study of media markets, which models, among other things, the size of each national advertising market and medium, using a variety of economic and demographic factors.¹¹ The modelling was carried out on PwC's behalf by a US economics firm, Wilkofsky Gruen Associates.

Market size

- 5.2 The PwC study depicts Ireland as the smallest advertising market in the EU14, with a value of roughly €480 million in 2003 money.
- 5.3 In this same group, Portugal has the lowest expenditure per capita on advertising, at €78. Ireland and Austria have the next lowest, at €117, although they are close to France (€120). The highest in the group is the UK, at just over €233.

Market mix

- 5.4 Because the market and sub-market sizes are assessed by means of modelling, they are not necessarily identical to the sizes that one would arrive at by aggregating the advertising revenues of every player in each medium. But it provides a reliable overview, particularly for reviewing the composition of the Irish advertising market. Using this analysis, we estimated in Table 9 below the breakdown of the whole advertising market in Ireland, by main medium.

(continued...)

¹¹ PwC reports that "The projections are based on a model that assesses the impact of economic, demographic, technological, institutional, competitive and behavioural factors on each country market. They are not based on detailed interviews with industry [players] in each country."

Table 9: the advertising market in Ireland in 2003 – estimated split by medium

Medium	Percentage of total
Newspapers	51
Television	23
Outdoor	11
Radio	8
Magazines	6
Internet	1
Total	100

Source: Europe Economics calculation from PwC study

- 5.5 It is important to sound a note of caution here. Advertising expenditure is generally characterised by discounts of different kinds, some of which are commercially confidential. It is therefore important to treat estimates of advertising expenditure warily unless the purveyor of the estimates has made explicitly clear what the basis of the estimate is (i.e. gross or net of discounts). PwC has advised that the estimates underlying Table 9 are net.
- 5.6 We went on to examine whether the overall advertising mix in Ireland is different from or similar to the mix in other EU14 member states. Table 10 shows the results.

**Table 10: mix of advertising media across EU14 member states
(per cent of total in each member state)**

Country	Television	Radio	Newspapers	Magazines	Internet	Outdoor
Austria	26	10	30	25	2	8
Belgium	34	10	34	15	1	7
Denmark	13	2	72	6	4	3
Finland	20	5	55	17	1	3
France	31	8	16	33	1	11
Germany	30	4	38	20	2	5
Greece	33	4	17	31	1	14
Ireland	23	8	51	6	1	11
Italy	41	4	34	16	1	3
Netherlands	23	9	41	24	1	4
Norway	26	3	53	14	2	3
Portugal	47	5	24	24	1	12
Spain	36	8	34	16	1	5
Sweden	23	3	48	15	6	5
UK	28	4	41	17	3	7
Unwtd. average	29	6	39	19	2	7

Source: Europe Economics calculation from PwC study

- 5.7 Ireland is about average in its expenditure on TV and radio advertising, on the high side in respect of newspaper and outdoor advertising, and very much on the low side in respect of magazine advertising. But the EU14 picture is so diverse that there is nothing remarkable about Ireland's position in it.
- 5.8 Denmark is the odd man out in almost every respect, with a very high content of newspaper advertising and low dependence on other media.

Market definition

- 5.9 In our discussions with broadcasters and advertising agencies we sought to establish whether they regarded the different advertising media as substitutable or as distinct economic markets. Everyone we spoke to regarded them as distinct, at least in the short term. It is self-evident that (for example) a magazine advertisement cannot be carried over unchanged to radio or *vice versa*, but we were additionally anxious to understand whether advertisers had the option of switching media promptly in response to price changes. We were told that that was not the case: that any given advertising campaign was constructed with a specific medium or media in mind.
- 5.10 One commentator told us that the Sky television advertising opt outs are beginning to compete with local radio on price but we were unable to verify that. In any event the technical differences between radio and television advertising still mean that short run substitution would be difficult.
- 5.11 In the longer run, we would regard some media as substitutes for others, so to that extent the price of advertising in one medium can be constrained by the price in another. But short-run substitution appears not to be feasible.
- 5.12 We discussed market definition with the Competition Authority in connection with the complaint that TV3 had made in 2003. Since this complaint relates closely to much of what TV3 told us in this project, we summarise the complaint in the next paragraph.
- 5.13 TV3 complained that RTÉ had reduced its prices for advertising in 2002 in tandem with the introduction of the "deal based" system of selling advertising time. The reduction in price was such that RTÉ was unable to provide all the time it sold that year. TV3 estimated the "deal debt" at €5 million. TV3 pointed out that RTÉ was the dominant TV broadcaster and in receipt of licence fee income and that on this basis it was able to drive prices down. In rejecting the complaint the Competition Authority stated that RTÉ had no predatory intent, that it had no motivation to cut advertising revenue when it was already losing money, and that the backing of Granada Media for TV3 (in which Granada is now a 45% shareholder) made a predatory attack less likely.
- 5.14 The Authority told us that it had not been necessary to conclude formally that TV advertising was or was not a distinct economic market. For purposes of dealing with TV3's complaint it had needed to deal only with TV advertising.

- 5.15 A full-blown econometric analysis would be necessary to establish conclusively whether each advertising market is distinct from the others, and such an exercise would go far beyond our remit. For the purposes of this study we therefore considered TV and radio advertising as markets distinct from each other and from all other advertising markets.

Television advertising in Ireland

Market size

- 5.16 It has proved difficult to find consistent estimates of the current size of the TV advertising market in Ireland.
- 5.17 There is no single authoritative source of information that industry participants would agree as accurate. We nevertheless attempted to form a view of current market size.
- 5.18 The advertising revenues of RTÉ, TG4 and TV3 are known from their Reports and Accounts. Together they total €163 million net (€102 million for RTÉ and €41 million for TV3). What is uncertain are the revenues of all other television broadcasters: these were estimated by different commentators as between €30 million and €50 million. At the net level, the market is likely to be around €200 million.
- 5.19 On this basis, RTÉ's market share would be about 50 per cent and TV3's about 20 per cent. All other broadcasters together have about 30 per cent.

Market concentration

- 5.20 A frequently used measure of concentration in competition economics is the Hirschmann-Herfindahl Index (HHI), which measures market concentration by summing the squares of the market shares of the players in that market. The HHI scale runs from zero to 10,000 (10,000 being the square of 100, which would arise in a market where there is only one player). One virtue of the HHI is that it does not need great precision about the market shares of the smallest players, since these have limited effect on the calculation.
- 5.21 Competition authorities regard values in excess of about 1850 as indicating a highly concentrated market.
- 5.22 Using IAPI's distribution of market shares set out above, the HHI value for the whole market would be about 4800. Using RTÉ's it would be about 3800. On either basis this is a highly concentrated market. High concentration does not, of course, necessarily betoken a lack of competitiveness.

Dominance

- 5.23 Dominance is not precisely defined in EU competition law, but precedents suggest that any market share in excess of 40 per cent is likely to be so treated. If, as we believe, RTÉ's market share is 50 per cent or thereabouts, it is likely that the company would be termed dominant.

- 5.24 Competition law recognises that more than one firm can be dominant in a given market. Furthermore, it recognises the concept of joint dominance, in which two or more firms share dominance regardless of whether there is concerted action between them and regardless of whether some firms have much lower market shares than others. On this basis, one could not rule out the possibility that a full-blown competition investigation would find RTÉ and TV3 together – as the largest and second largest players – enjoying a position of joint dominance in the Irish TV advertising market.
- 5.25 However, occupying a dominant position is not *per se* objectionable. It is abuse of dominance that is. EU competition law sets out examples of how abuse of dominance might manifest itself. The examples include (but are not limited to):
- imposing unfair purchase or selling prices;
 - limiting production, markets or technical development to the prejudice of consumers;
 - applying different trading conditions to equivalent transactions, thereby placing certain parties at a competitive disadvantage; and
 - attaching unrelated supplementary conditions to contracts.
- 5.26 In the context of this study, the potential abuse most likely to be relevant (based on the wording of the brief from the Department and on TV3's 2003 complaint to the Competition Authority) is the first of those listed above, i.e. price. We deal with this question later.

Countervailing power

- 5.27 Although RTÉ may well be dominant in the supply of TV advertising airtime, it seems to us that there is very considerable countervailing power ranged against it in the advertising industry as a whole.
- 5.28 Much of this power resides with advertisers, many of whom are themselves far bigger than the whole of RTÉ, and indeed bigger than the whole of the Irish TV sector.¹² During our interviews we were told that multinationals, including particularly Proctor & Gamble, Guinness, Unilever and Reckitt Benckiser, had redistributed their business across television channels when one broadcaster had caused them problems.
- 5.29 Advertising agencies too are increasingly international in character and scale. Some of the largest practitioners in Ireland – Irish International Group, Initiative, Young, MCM

¹² As an illustration of relative size, Proctor & Gamble's turnover in the year ending June 2004 was roughly €40 billion, making it about 130 times bigger than RTE. Unilever had total group turnover in the year to December 2003 of €43 billion, making it about 140 times bigger. Reckitt Benckiser had turnover in 2003 of some €5.3 billion, making it about 17 times bigger than RTE.

Communications, Mindshare, McConnell, Carat and McCann Erickson – all form part of very substantial multi-national groups.

- 5.30 It is also worth noting that RTÉ's chief rivals in Irish TV broadcasting are parts of groups which are far larger than RTÉ (e.g. Sky) or are jointly owned by other media holding companies (e.g. TV3) which themselves are far larger than RTÉ.
- 5.31 Taking a bird's eye view of TV advertising in Ireland, we believe there are competitive constraints which would bite severely on RTÉ if it sought to abuse such market power as it may have in the supply of advertising airtime.
- 5.32 We now seek to balance up this top down view with one formed "bottom up", by looking at the way in which TV advertising is bought and sold in Ireland.

How TV advertising is bought and sold

- 5.33 The following description is based on discussions with broadcasters and advertising agencies. All were consistent in describing the process.
- 5.34 It is important to understand first that the vast bulk of TV advertising is arranged with broadcasters by advertising agencies, not directly by advertisers. We were advised by advertising agencies that, although there is increasing direct contact between advertisers and broadcasters, the placing and arrangement of advertising schedules is still to all intents and purposes in the hands of the agencies. There are at least eight substantial agencies active in Ireland, and a larger number of small specialist players. IAPI lists 48 active advertising practitioners.

"Pre-empt" and "deal-based" mechanisms

- 5.35 The process which takes place between agencies and broadcasters now is different from that which prevailed only two years ago. During late 2001, RTÉ moved to a new system described as "deal-based". RTÉ impressed upon us that they had not made the change unilaterally – others were already working to the deal-based system, and they felt they had no real choice but to fall in line. The new system is broadly consistent with that which obtains in the UK (and one of our team can confirm that from work done five years ago).
- 5.36 Under the old pre-empt system, advertising slots were in effect auctioned. An agency might arrange for a particular advertisement to be screened at a particular time during a particular programme, but if another agency later emerged to offer a higher price for that slot, an auction would ensue in which the highest bidder finally obtained the slot. Conversely, if a slot became unwanted, the broadcaster might have to look for occupants, with the price being bid down until a buyer was found. One of the defects of this pre-empt approach was the uncertainty it created for agencies (and therefore advertisers) and the rescheduling it created for broadcasters. Both sides also felt that the system was lacking in transparency.

- 5.37 The new deal-based system is said to have done away with much of the uncertainty inherent in the auctioning process. It encourages agencies to book advertising time with broadcasters, and broadcasters to schedule advertising airtime, for a year ahead, albeit without firm contractual commitment on either side. We were told also that very substantial amounts of effort and ingenuity go into the planning of advertising time on both sides, with a view to minimising the effects of errors.
- 5.38 The price struck for advertising on RTÉ (with other broadcasters' prices derived from those of RTÉ – see paragraph 5.41 below) is a price expressed per thousand viewers reached in each of fourteen demographic or quasi-demographic categories, e.g. housewives at home, or 18-35 year old males, divided into time slots during the day and evening. The advertising price per thousand viewers (known in the industry as cost per thousand, or CPT for short) is set on a basis which economists would term *ex post*, i.e. after the event. The CPT is calculated as the amount of revenue received by a broadcaster for that category at prescribed times divided by the number of thousands of viewers watching.
- 5.39 Viewership is independently monitored and the CPT is recalculated monthly. The CPT achieved in one month then forms the pricing basis for the next month, and the CPT for the following month is then updated in the same fashion. The process is to all intents and purposes automatic. Given the existence of this mechanism, it is effectively not possible for RTÉ unilaterally to raise *or reduce* the CPT. Other broadcasters may choose to vary their rates from those of RTÉ, but these other rates are not published. RTÉ's net figure is audited and published and seems to us to be beyond the reach of RTÉ management to manipulate.
- 5.40 RTÉ – and only RTÉ – publishes CPT figures once per month. These CPT rates are then used as a basis for calculating agency commission, which has traditionally been 15 per cent, although we were told that that fixed arrangement is now breaking down, together with any other discounts or premiums negotiated.
- 5.41 The published RTÉ rates are also used as a basis from which other broadcasters may discount. Industry sources suggest that TV3's discount against RTÉ rates is between 20 per cent and 30 per cent. We were also told that Sky's discounts against RTÉ can exceed 50 per cent. One commercial broadcaster told us that it did not use RTÉ rates as a basis for setting its own, but our impression is that this is unusual.
- 5.42 There are two major (and several minor) sources of estimating error which can affect the CPT. It sometimes happens that some or all advertisers are forced to cut their advertising budgets during the course of a year. In that event, the revenue component of the CPT calculation falls, and the CPT falls. It can also happen that a broadcaster's programming schedules do not attract the sizes of audience forecast. If the audiences fall short of target, the advertisers are paying a given amount of money to reach fewer people than had been expected, so the CPT rises. Conversely, if audiences exceed expectations, the CPT falls.

- 5.43 Given that the booking of advertising time by agencies is a best estimate, and that programme schedules and audience sizes are likewise based on broadcasters' best estimates, the scope for error is ever-present. Indeed it turned out that in 2002, the first year of the deal-based system, RTÉ underestimated demand and effectively sold to certain advertisers a volume of advertising it could not deliver. It ended that year with what is known as "deal debt". TV3 suggested in its complaint to the Competition Authority that RTÉ's deal debt was at least €5 million at the end of 2002, and could be as high as €10 million. RTÉ told us that the net figure was between €2 million and €3 million.
- 5.44 TV3 also alleged in its complaint that RTÉ had amassed deal debt on purpose, to deny the business to TV3. RTÉ vigorously denied this, and the Competition Authority concluded that RTÉ had had no predatory intent. Our understanding of the way in which the price mechanism works suggests that deal debt is not a malady that might afflict only RTÉ: errors in estimating can occur with all broadcasters.
- 5.45 When deal debt arises, i.e. when broadcasters have failed to deliver the impacts expected, it is normally paid off during the following year by a rate adjustment to those advertisers affected.
- 5.46 Conversely, deal credit can arise. If a broadcaster delivers a larger audience than expected against a given advertising payment, the advertiser in effect owes the broadcaster for the surplus. An adjustment would normally be made in the following year's negotiation.
- 5.47 But deal debt and deal credit are unwanted complications in a negotiation which itself is complex, so it was impressed upon us that broadcasters and agencies alike try strenuously for the utmost accuracy in their planning.
- 5.48 The system just described can also be varied by what is known in the industry as "late money". It can happen that advertisers will unexpectedly decide on a campaign part way through a year and require air time outside that which has been estimated. In these circumstances, broadcasters have to re-jig advertising schedules as best they can without disturbing existing commitments – or refuse the advertising sought. Thus CPT rates attaching to "late money" can be substantially higher than regular rates. Nevertheless, we were told that "late money" is only a small percentage of total TV advertising revenue – under 3 per cent in RTÉ's experience, and less than that in the view of one agency.

TV advertising rates in Ireland

- 5.49 It has been asserted that Irish TV advertising rates are the lowest in the EU and among the lowest in the world. We believe that this assertion is at least questionable, since we have seen two analyses that point in opposite directions.
- 5.50 The first is extracted from a publication entitled *WARC Global Cost Media Comparison 2001*. Table 11 lists relative rates for the EU14, with the USA average for all media indexed at 100. The countries are ranked by the "TV all time" rate.

Table 11: EU14 relative rates for TV advertising, 2001 (US average for all media = 100)

Country	TV average rate	TV peak rate
Norway	166	116
Belgium	157	162
Denmark	139	132
Sweden	125	142
UK	124	140
Austria	121	96
Netherlands	113	102
Germany	111	127
Finland	98	92
Greece	81	73
Spain	78	52
France	74	78
Ireland	58	57
Italy	57	59
Portugal	53	54

Source: WARC Global Cost Media Comparison 2001

5.51 We were also given a copy of a worldwide study by advertising agency Initiative¹³ which suggests that Ireland has much higher relative rates. Table 12 shows rates for those EU member states whose currency is the euro.

(continued...)

¹³ Initiative Futures Worldwide, 84 Eccleston Square, London SW1V 1PX

Table 12: TV advertising rates in selected EU member states

Member state	CPT (€)
Austria	11.73
Netherlands	11.43
Ireland	8.64
Finland	6.42
France	6.29
Germany	5.59
Greece	5.20
Spain	4.35
Italy	3.98
Portugal	1.54

Source: Initiative Futures. Note: these are average CPT rates, using a 30-second advertisement on an average channel, at an average position, on an average programme and average time of year.

- 5.52 At November's euro/sterling exchange rate (£1 = €1.44) the UK rate would be fractionally higher than that of Ireland, at €8.89. The rate for Canada would be almost exactly twice as high, at €17.22, and for New Zealand about thirteen per cent higher, at €9.78.
- 5.53 The two analyses differ as to timing (the Initiative study is one year later) and possibly as to method. Both tables show that Ireland is not the lowest-priced market for television advertising, and that Italy, Portugal and Spain (for peak-time advertising) are in the same bracket as Ireland.
- 5.54 TV3 observed in its submission to the Competition Authority that RTÉ's TV advertising rates have not kept pace with Irish retail price inflation. That may well be true, but the way in which CPT rates are calculated suggests to us that CPT is unlikely to track retail price inflation anyway. We say this for two reasons.
- 5.55 First, in the calculation of CPT, the numerator (revenue to the television broadcaster) may well track inflation in aggregate and over time, but there could also be long-run shifts in the distribution of expenditure between media, which could cause or be the result of deviations from general inflation. Secondly, the denominator (the audience size) is likely to be very variable as broadcasters compete with each other to attract viewers. Indeed, to the extent that all broadcasters seek to increase viewership, that will tend to negate the effect of increases in revenue.
- 5.56 The Initiative study already referred to indicates percentage annual changes in CPT, in local currency. Table 13 shows such percentage changes for the same EU member states as in Table 12:

Table 13: percentage changes in CPT, selected EU member states

Member state	Percentage change CPT				2004 vs 2000
	2001 vs 2000	2002 vs 2001	2003 vs 2002	2004 vs 2003	(2000=100)
France	2.9	6.4	5.1	4.3	120
Portugal	-4.1	3.2	-2.1	12.6	109
Netherlands	-2.1	-2.0	5.0	5.9	107
Finland	0.0	-5.6	5.9	5.6	106
Spain	-9.1	-6.7	6.0	13.0	102
Greece	-8.9	6.6	1.6	2.0	101
Ireland	-3.5	5.0	-5.0	-2.0	97
Italy	-6.6	-5.6	0.0	1.0	94
Austria	-7.3	-7.5	-5.3	-2.2	79
Germany	1.9	-12.0	-22.8	2.0	71

Source: Initiative Futures. Values for 2004 are estimates

- 5.57 In none of these countries have percentage changes in CPT tracked inflation. It is hard to see why one would expect Irish rates to do so. Six of the ten member states shown have average CPTs which have increased relative to rates in 2000, and four have rates which have declined. Ireland is one of the latter, but it has the least heavy decline.

Radio

- 5.58 Per head of population, radio attracts more advertising in Ireland than elsewhere in Europe. Table 14 below shows that Ireland has the highest expenditure on radio advertising per head. Expressed in terms of the percentage of total media expenditure, the figure is 9 per cent, which is the second highest in Europe.

(continued...)

Table 14: Radio advertising expenditure in selected EU member states

Country	Radio share of total advertising expenditure (per cent)	Total annual advertising expenditure per capita (€)	Radio annual advertising expenditure per capita (€)
Ireland	9.0	280	25.3
Austria	7.9	244	19.2
Belgium	9.6	190	18.2
Netherlands	6.4	232	14.9
UK	4.2	312	13
France	6.8	162	11
Spain	7.7	126	9.7
Norway	3.1	308	9.7
Germany	4.1	225	9.1
Finland	3.8	220	8.5
Portugal	5.5	144	8
Sweden	3.1	196	6.1
Denmark	2.4	237	5.6
Italy	4.1	135	5.5

Source: "Review of Licensing of Radio Services in Ireland" Study for the DCMNR, April 2004

- 5.59 We do not have a breakdown of advertising revenue by each of the independent stations. We do know, however, from RTÉ's Report and Accounts that in 2003 it earned a total of €32 million from radio advertising – just under €17 million through Radio 1, €15 million through 2fm, and just under €400,000 from Lyric FM.
- 5.60 Extrapolating from Table 14 above, we calculate that total radio advertising expenditure in Ireland must be approximately €97 million (3.84 million population multiplied by €25.3 per annum per capita). If this calculation is approximately correct, RTÉ has about one third of the Irish radio advertising market.

How radio advertising is bought and sold

- 5.61 The process whereby radio advertising is bought and sold is very different from the process applying to television. Essentially, each radio station constructs a rate card and is free to publish it or not, and to discount it or not.
- 5.62 Independent Radio Sales described RTÉ as "fairly cheap", though without quoting other stations' rates. One other commercial broadcaster described RTÉ, the largest single supplier of radio advertising airtime, as not sufficiently aggressive in setting radio advertising rates. The same broadcaster added that the entire radio sector needed to market the attractions of radio advertising much harder than it did – especially compared with newspaper advertising. This second commentator loosely connected RTE's lack of aggression in radio advertising with the fact that it received licence fee income, but felt

that licence fee income enabled RTÉ to behave in a way that was “incompetent rather than predatory”.

- 5.63 It is difficult to reach a definitive conclusion on whether RTÉ’s receipt of licence fee income allows it to distort the market for radio advertising or to exercise unfair advantage over commercial rivals. It is the largest single radio advertiser, and it would be reasonable to suppose that RTÉ’s rates have something of a benchmark characteristic about them. On the other hand, RTÉ operates in the national market and commercial broadcasters in local markets and each broadcaster is free to construct its own rate card, without, for instance, the need to abide by an over-arching mechanism such as operates for television advertising. Overall, we think that any advantage that RTÉ enjoys is likely to be slight.

6 THE EVOLUTION OF COMPETITION IN IRISH ADVERTISING

General observations

- 6.1 The evidence we have seen suggests that competition in Irish advertising is pervasive and effective. Advertisers themselves are numerous and diverse, the range of advertising media available in Ireland is as great as anywhere in the rest of the EU or the developed world, and, despite some consolidation, Ireland is served by a multiplicity of specialist, indigenous advertising agencies.
- 6.2 Formal market definitions that might apply to different advertising media in the advertising sector overall were an issue which we felt could not be properly explored in this project. No advertising agency that we spoke to urged that we should consider the advertising market as a whole before analysing the television and radio segments on their own. Thus we have not attempted to establish whether the behaviour of RTÉ, or for that matter any Irish television broadcaster, has had any adverse or beneficial impact on (say) newspaper or outdoor advertising.

The views of advertising agencies

- 6.3 The evolution of competition in advertising has not been a subject to which advertising agencies or broadcasters have referred in our discussions with them. We are aware that consolidation has been taking place among advertising agencies world-wide, with the result that some agencies are now very substantial multi-national undertakings, well able to provide countervailing power against national broadcasters.
- 6.4 We asked agencies whether consolidation meant that more decisions about advertising campaigns within Ireland were now being taken outside Ireland. We were told that, in general, multi-national organisations would take world-wide or EU-wide approaches to advertising in general and to campaign planning in general. But we were also told that, because advertising has to be fine-tuned to the attitudes and expectations of local audiences, the local touch had to be provided by local agencies, regardless of whether they were stand-alone Irish businesses or parts of larger organisations.

Television advertising

- 6.5 RTE's move in 2002 from the pre-empt to the deal-based system, which we have already described, was without doubt an event of significant competitive impact in the Irish television advertising market. In 2003 TV3 complained to the Competition Authority that this move was part of a determined attempt by RTÉ, made possible by licence fee income, to drive television advertising prices down, to the detriment of RTE's competitors. As we have already reported, however, RTÉ said that it felt constrained to make this move because of pressure from agencies and other broadcasters.
- 6.6 It is not clear to us that RTÉ's move from the pre-empt to the deal-based system led directly to lower advertising prices. We think it quite feasible that RTÉ may have had teething troubles with establishing rates in the first few months of the new system, but

there is no evidence that RTÉ has systematically and over a longer period of time driven rates lower.

- 6.7 In a document sent to CDA TV3 listed RTE's average advertising rates month by month for the four years 2000 to 2003, and for the nine months ending September 2004. The data in TV3's document has been transcribed into table 15 below.

Table 15: television advertising rates, cost per thousand, adults – national (€)

	2004	2003	2002	2001	2000	2004/2000 (% + or -)
January	5.63	5.06	5.15	5.69	6.64	-15.1
February	6.23	5.75	5.93	6.42	6.27	-0.6
March	7.68	7.88	7.46	7.06	7.43	+3.4
April	9.62	8.94	8.07	8.24	8.48	+13.4
May	10.85	9.85	8.85	9.22	8.72	+24.4
June	9.71	8.58	9.22	8.93	9.64	+0.7
July	6.62	6.50	5.90	7.49	8.08	-18.1
August	6.03	6.25	5.74	6.42	6.78	-11.1
September	12.25 (est.)	11.47	10.54	10.88	10.39	+17.9
October		11.59	10.30	10.20	10.78	n/a
November		10.95	10.34	9.20	9.87	n/a
December		8.10	7.41	9.22	8.44	n/a

Source: Europe Economics extract from TV3 document

- 6.8 If we compare each month of the two years 2002 and 2001, we see that RTÉ's average rates were higher in four of the twelve months – March, June, October and November – and lower in the other eight. On that basis alone it would be difficult to assert that RTÉ was determinedly driving rates down.
- 6.9 If we then compare 2003 with 2002, we find that RTÉ's published average rate rose in nine of the twelve months of 2003 against the rates for equivalent months in 2002. To September 2004, RTÉ's published average rate has risen against the 2003 rate for six of the nine months. It may be that RTÉ's greater familiarity with the deal based system, and increasing sales experience, each play a part in the rate rises. But in any event it seems to us that, by its very nature, the system will give rise to fluctuations.
- 6.10 In its investigation the Competition Authority found no evidence of predatory intent on the part of RTÉ, and in our project we have found none either.
- 6.11 TV3 also argues that RTÉ's rates are published only in arrears, i.e. the month after the event. On this basis, RTÉ is said to be responsible for a failure of transparency in the market.
- 6.12 Given that rates are calculated by reference to revenues and audiences in the previous month (a process which we explain in greater detail in Section 8 of this report), the delay

in the publication of monthly rates seems to us inevitable, not a sign of anti-competitive intent.

- 6.13 As regards transparency, we understand that only RTÉ publishes average rates. Although the extent of transparency may be less than TV3 would like, it is a fact that RTÉ alone is contributing to that transparency.

Summary

- 6.14 From the evidence we have seen, the development of competition in Irish television advertising has proceeded because of economic imperatives within the sector as a whole. The relatively recent adoption of the deal-based system in Ireland has merely brought Ireland into line with what happens in the neighbouring, and substantially larger, UK market. It is hard to see, in the context of this project, that competitive developments in Irish advertising have been in any way influenced or constrained by RTÉ's receipt of licence fee income.

7 THE IMPACT OF RTÉ'S RECEIPT OF LICENCE FEE INCOME ON OTHER BROADCASTERS

- 7.1 Our Terms of Reference require us to consider the impact of licence fee income both on broadcasters and on advertisers. We consider the two aspects separately – the impact on broadcasters in this section of our report, and the impact on advertisers in the next – although it is impossible to disentangle them completely.
- 7.2 Self-evidently, RTÉ enjoys advantages because it is the longest-established broadcaster in Ireland, the largest broadcaster, and the largest supplier of advertising in the Irish market. All this it has managed to do by virtue of having enjoyed licence fee income *and* advertising income for over forty years. It has the money which enables it to produce a schedule which enables it to attract large audiences of value to advertisers. The theoretical advantage in relation to the licence fee is that, in the short term at least, RTÉ can rely on this source of funding regardless of its own commercial performance and of fluctuations in the economy generally.
- 7.3 On the other hand, licence fee income is not unconditional largesse from the Irish viewer. RTÉ has obligations under the public service broadcasting obligations imposed on it to deliver a rounded diet of viewing which appeals to Irish citizens as a whole, including, but not giving undue weight to, minority interests.
- 7.4 It is not open to RTÉ to use licence fee income solely to deliver audiences to advertisers. As we understand it, the essence of the remit laid upon RTÉ is that, if RTÉ were the only television channel that Irish viewers could receive, it should be complete and satisfying. On this basis, it is the whole schedule which is said to constitute public service broadcasting. One cannot easily say, for example, that this programme is public service broadcasting while that one is not. We acknowledge entirely that this whole approach is disputed by commercial broadcasters, but it is no part of our remit to redefine the public service broadcasting remit for Ireland.
- 7.5 Licence fee income is also necessary to enable RTÉ to discharge its obligations in relation to indigenous content, which, as we show later, is far more costly to produce than overseas-acquired material is to acquire.
- 7.6 Nevertheless, at a more detail level critics of the licence fee funding regime argue that, with the relaxed budgetary constraint that licence fee income might imply, RTÉ could, in principle:
- outbid its competitors for content; and/or
 - offer reduced advertising rates with a view to enfeebling its competitors and deterring entry; and/or
 - abuse its position in the advertising market to raise advertising rates at the expenses of advertisers and their agents; and/or

- abuse its market position in the supply of some services and facilities to the detriment of competitors or suppliers

7.7 Proponents of the system argue, conversely, that RTÉ could, as a result of its size:

- help to create external economies of benefit to competitors and suppliers
- generate external economies of benefit to other enterprises, for example:
 - a large number of artistic and technical personnel who have moved between broadcasting and other sectors such as the performing arts and film industry
 - demand for equipment, facilities and services which are available to other broadcasters.

7.8 Time does not permit an exploration of all of these impacts. We chose, as our priority, to focus on the potential malign effects of licence fee income on broadcasting competition and on advertising.

Licence fee income and public service broadcasting

Licence fee income

7.9 Licence fee income is paid to RTÉ in order to assist it to discharge its public service broadcasting obligations. It has received such income since it began television broadcasting in 1961. Since the licence fee is not sufficient to cover the costs which RTÉ incurs, it must earn revenue by other (commercial) means. Under current arrangements in Ireland, there is no definition of public service broadcasting that would allow for a programme-by-programme classification of what is or is not public service broadcasting. It seems to us perfectly legitimate to regard the totality of the schedule as what RTÉ delivers to fulfil its public service broadcasting mandate. Provided the output of RTÉ can be shown to have been delivered in fulfilment of its public service mandate then that output falls to be classified as public service broadcasting. We acknowledge that some commentators dispute the validity of this approach, but, as we understand it, it does represent the established approach in Ireland.

7.10 By far the most important of these is advertising, although RTÉ also earns revenue from transmission services, from publishing, merchandising and from events and sponsorship. RTÉ has earned commercial revenue since it began television broadcasting.

7.11 RTÉ's sources of revenue in 2003, and the attribution of revenue to principal services, were as in Table 16 below:

Table 16: RTÉ – sources and attributions of revenue (€'000)

Revenue source	Television (note 1)	Radio (note 2)	Performing groups	Other	Total
Licence fees	114,751	29,256	13,418	-	157,425
Advertising	91,077	32,075	-	4,049	127,201
Other commercial	4,686	1,982	1,484	19,894	28,046
Total	210,514	63,313	14,902	23,943	312,672

Source: RTE Report and Accounts, 2003

Note 1: television includes RTÉ One, RTÉ Two, and support to TG4

Note 2: radio includes Radio One, 2fm, lyric fm, and Raidió na Gaeltachta

Public service television broadcasting

- 7.12 Both RTÉ and TV3 have commented publicly on the meaning of the term “public service broadcasting”. Definition of the term is clearly important because, without it, the risk arises (a) that public service broadcasting obligations themselves will not be met and/or (b) that licence fee funds will be used for other purposes. However, defining, redefining, or commenting in any material way on definitions of public service broadcasting is outside the remit we were given. We have already said that we can work only from the situation as we currently perceive it. In that context, it is worth noting that RTÉ is mandated to operate in an entirely different way from commercial broadcasters. It is likely in our view to estimate what its total income will be and plan a schedule around that.
- 7.13 TV3 sent us a lengthy note asserting that both the Irish government and RTÉ are in breach of EU law in relation to the public service broadcasting. The essence of TV3’s assertion is that the government is failing to mandate, and that RTÉ is failing to provide, transparency concerning the public service remit. TV3 records that the European Court of Justice (ECJ) has begun proceedings against the government on this point, not just in connection with broadcasting.
- 7.14 There appears, however, to be a dispute over the facts here. The Department told us that the ECJ case relates to an action taken against Ireland relating to the transposition of the Transparency Directive. The Department added that the issue relates to how Ireland dealt with the transposition of the Directive and does not suggest that bodies in Ireland such as RTÉ are not complying with the Directive. We understand that Ireland has recently formally transposed the Directive. The Department told us it was also aware of a separate state aid complaint to DG Competition made by an Irish commercial broadcaster, but knew nothing more.
- 7.15 On the issue of defining public service broadcasting TV3 said to us (in a note to CDA) that:

“The definition of public service as it relates to RTÉ is...not sufficient for legal purposes, if RTÉ relies upon the 1960 Broadcast Act or the 2001 Broadcast Act. This is as they do

not precisely define the remit as required under the [European Commission's] Broadcast Communication.”

- 7.16 RTÉ commented extensively on the nature of public service broadcasting in its submission to the Irish Forum on Broadcasting, 2002. It takes a different view as to the value of precision in the definition of public service broadcasting.

“No discussion about the roles of public and commercial broadcasting proceeds very far before someone demands a definition of public service broadcasting. Sometimes this call for clarity is genuine and disinterested. But frequently it is the opening shot in a campaign to reduce the scope and ultimately the resources of public service broadcasting: the definition that is being sought is limiting and restrictive, rather than clarifying and liberating.” (RTÉ submission, p. 6)

“...This submission will argue that in future these commitments [commitments by RTÉ] should be subject to external monitoring by a body independent of RTÉ in order to enhance the public's confidence that the public broadcasting service is doing its utmost to fulfil its remit.” (RTÉ submission, pp.6-7)

- 7.17 Within the last two years the European Commission has dealt with cases in this area in Denmark, Italy and France.¹⁴ In the Danish case, the Commission concluded on the point of the definition of public service obligation, “Although TV2's broadcasting obligation is of a qualitative nature, and rather broadly defined, the Commission considers such a ‘wide’ definition of the remit to be in line with the Broadcasting Communication”. Similar wording appeared in the Decisions in the Italian and French cases.
- 7.18 The European Commission will of course reach a decision on the state aid issue in due course. It is an important issue but we can make no further comment on it here.

Public service radio broadcasting

- 7.19 So far as we are aware, there appears to be no dispute or debate in process between RTÉ and commercial radio stations as to what constitutes public service broadcasting in radio. A number of people in radio to whom we spoke argued that RTÉ 2fm is not a public service channel. Since 2fm does not receive licence fee income, this is a matter of ownership rather than of funding.

¹⁴ Decisions C2/2003, C(2003) 3528 and C(2003) 4497fin respectively.

Potential abuse arising from licence fee income

- 7.20 As we said before, in principle there are two main ways in which a broadcaster enjoying licence fee income could abuse such income to the extent that it might exceed the cost of fulfilling the public service remit.¹⁵
- 7.21 The first is that it could use the surplus to outbid other broadcasters in the acquisition of content. This might give the broadcaster an ability to attract bigger and/or better audiences and thereby attract more advertising revenue than would otherwise be the case.
- 7.22 The second is that – either independently or in conjunction with the first point above – the broadcaster could offer advertising rates lower than it would otherwise be able to do, thereby squeezing the volumes and/or margins of rival broadcasters. Conversely, it could use a dominant position directly or indirectly acquired from licence fee income to raise advertising prices above the competitive level.
- 7.23 In this section of our report we cover questions of content. Advertising is covered in the next section.

The acquisition of broadcast content

Television

- 7.24 Content may be produced in-house by the broadcaster, commissioned from independent producers to the broadcaster's requirement, or bought "ready-made", through distributors, from third party producers, for instance small-scale domestic producers or large Hollywood studios. Sports broadcasting generally involves payment of a fee – which can be substantial – to the rights owner of the sporting event. Once the rights have been secured, the broadcaster may then organise production of the broadcast himself or arrange for a specialist producer to do so.
- 7.25 RTÉ provides a breakdown in its Report and Accounts of the costs of these various sources of content. We summarise them in Table 17 below.

¹⁵ Efficiency would be a third, but for reasons already explained we have agreed with the Department that it could not be dealt with properly in this project.

Table 17: sources of RTÉ TV programming (€000)

	RTÉ One	Network 2	Support to TG4	Total	Per cent
In house production	66,942	36,907	8,420	112,269	62
Statutory commissions	21,953	5,780	-	27,733	15
Non-statutory commissions	9,754	7,147	1,360	18,261	10
Content acquired in Ireland	263	86	-	349	<1
Content acquired overseas	12,074	10,682	-	22,756	13
Total	110,986	60,604	9,780	181,368	100

Source: RTÉ Report and Accounts, 2003

- 7.26 Proportions of airtime do not, however, even remotely resemble proportions of content cost. This is because home-produced content is vastly more expensive per hour of airtime than bought in material from overseas.
- 7.27 RTE gave us both confidential and non-confidential information about typical programming costs. Non-confidential material about overseas-acquired programme prices appears in a document from TBI which we refer to in more detail below, starting at paragraph 7.38.
- 7.28 Comparing this information with the confidential information that RTE gave us, we are wholly satisfied that the cost per hour of home-produced programming is orders of magnitude greater than material acquired overseas. For example, if the cost per hour of an overseas-produced made-for-TV drama sold for broadcasting in Ireland is X, then
- an hour's home-produced chat show would cost between 10X and 15X
 - an hour's home-produced soap would cost of the order of 50X; and
 - an hour's costume drama would cost close to 300X.
- 7.29 TV3, TG4 and RTÉ all told us that, in general, they do not compete head-to-head for the same programming content. In this case, it is hard to see how RTÉ could fairly be accused of *systematically* exploiting its receipt of licence fee income to pay more for a given piece of programming than its advertising-funded rivals could afford.
- 7.30 TV3 wrote to us with criticisms levelled primarily at TG4. It accuses TG4 of “bizarre” purchasing rather than of paying excessive prices:

“One particularly bizarre set of purchases would appear to be the broadcasting of *The Matrix* and *Nip and Tuck* [sic] in English on TG4 in prime time. We fail to see how this can reasonably be said to fulfil any reasonable remit for an Irish language station. Given the expense of this type of foreign programming, we believe that TG4 may be using licence fee funds to purchase this non-Irish, mainstream entertainment material.”

7.31 TV3 also asserts that TG4 paid approximately four times the going rate for a specific American-produced “reality” show (name confidential).

7.32 We have no means of checking the price paid against the going rate, but TG4 management told us that its advertising revenue does exceed the cost of its (English language) acquisitions, and that it receives public funding in the form of a direct grant from the Exchequer.

7.33 In relation to sports rights, however, TV3 criticises RTÉ rather than TG4:

“[RTÉ's] 2003 Annual Report also fails to distinguish between the cost of sports programming that is within RTÉ's public service remit and of sports programming that is outside that remit.”

“This [the nature of RTÉ's commitment to sports programming] clearly does not extend to programming that covers sporting events taking place outside Ireland at international level, for instance UEFA Champions League and Formula 1. RTÉ has acquired rights for both of these sporting events, both of which take place outside Ireland and neither of which has any material Irish content.”¹⁶

7.34 TV3 asserts that RTÉ paid some 50 per cent more than TV3 offered for certain 2004 international football rights, and does not believe that the price RTÉ paid could have been recouped from advertising.

7.35 TV3 also says that “it was reliably informed” that RTÉ in October 2004 cut its advertising rate by 40 per cent for a particular international football match, which demonstrates that RTÉ pays prices for sports rights without needing to consider whether the price can be recouped from advertising revenue.

7.36 We comment as follows on two of these points:

- The UEFA Champions League and Formula One have a substantial following in Ireland, whether or not the events take place in Ireland, and whether or not there are Irish participants (which in fact there are). Formula One races are dispersed across multiple locations round the world but they attract huge television audiences worldwide. The same would be true of golf, tennis, and rugby.

¹⁶ *ibid.*

- If RTÉ does pay more than TV3 for certain rights (sports or otherwise) it may be that, regardless of the importance of the programming to its public service obligations, RTÉ is confident of attracting larger audiences. If it does, that could attract larger advertising revenues and justify a higher price. We would expect sports rights holders to be aware of that in negotiation.¹⁷

7.37 TV3 told us that, with Granada TV as a substantial shareholder, it now had the right of first refusal in Ireland on programming produced by Granada in the UK. Granada owns *Coronation Street*, which has a substantial following in Ireland, and we believe that the rights which Granada owns, or which it can access through the UK ITV Network in the UK, ought to be of benefit to TV3 in its purchasing of attractive content. To the extent that TV3 wishes to acquire content from Granada, RTÉ is shut out of bidding for it.

Overseas acquired programming

- 7.38 We were given a copy of a publication by Television Business International (TBI) which sets out 2004 guide prices for different genres of programme (other than sport) which would be charged to different countries.
- 7.39 The guide reveals major pricing differences by country, i.e. broadcasters in countries with larger TV viewership pay more than those in countries with smaller viewership. The examples shown in Table 18 may help.

Table 18: TBI programme guide prices (US\$)

	Drama	TV movies	Animation	Documentaries
Germany	20,000 – 50,000	40,000– 150,000	15,000 – 25,000	15,000 – 30,000
France	10,000 – 70,000	25,000 – 75,000	4,500 – 15,000	7,500 – 40,000
UK	25,000 – 50,000	15,000 – 80,000	15,000 – 20,000	15,000 – 65,000
Scandinavia	25,000 – 45,000	20,000 – 45,000	12,000 – 17,000	12,000 – 21,000
Austria	5,000 – 10,000	6,000 – 10,000	1,000 – 3,000	3,500 – 5,000
Ireland	1,000 – 3,000	1,000 – 1,700	500 – 1,000	1,000 – 1,600
Portugal	2,500	5,000 – 10,000	1,000 – 3,000	2,000 – 3,500

Note 1: figures assume 50 minutes for a drama or documentary, 75 to 90 minutes for a TV movie, and 25 minutes for animation.

Note 2: figures are "intended to suggest an average, so exceptional, one-off high and low prices have been stripped out" – TBI.

- 7.40 Prices for Ireland are low, but, we understand, would apply as much to TV3 as to RTÉ. The driver of price is expected audience.

¹⁷ We also see in the TBI document, referred to in paragraph 7.38 and table 16, that prices to broadcasters in countries with larger populations pay more than those in countries with smaller populations.

7.41 RTÉ emphasised to us that major distributors of films, made-for-TV movies and TV series only rarely sell individual programme rights. Virtually all trading is in packages. We quote directly from information supplied by RTÉ:

“...deals with major distributors packages are the norm for all broadcasters. This would be the case with all the major Hollywood studios (Warner Bros, Disney, Fox, Sony, Paramount, Universal and MGM), but also with most medium sized US, British and Australian companies.

Packages allow a distributor to move more material, using the gems in their catalogue to drive this. Typically a US major has an annual slate of new films to sell. A few of these will be strong and very desirable to broadcasters. There will be other titles which they want to sell, and they package them but at a lower price.

Generally film prices are based on their performance at the box office. A package can be then augmented with new TV series, as well as TV movies and rerun movies.

Packages do not lead to discounts. Prices are paid for the relative strength of the programme, whether it is first run, rerun, a strong new TV series or a weaker one which will end up going out off peak.”

7.42 RTÉ acknowledged that, although having two TV channels compared with TV3's one was advantageous, the pricing practices of programme distributors gave RTÉ no advantage.

7.43 RTÉ took the view that “a large proportion” of what TV3 chooses to show in the peak is simulcast programming with Granada (i.e. the same material broadcast at the same time), and that this gave TV3 a more limited opportunity to show other material.

7.44 We checked the programme schedules published in the Irish Times for the week beginning Saturday October 31 2004, and found that RTÉ's statement is true only to a limited extent. The peak runs from 6 pm to 11 30 pm (five and a half hours), and the following were the number of hours each night when TV3 and UTV were broadcasting the same material at the same time during that period:

Saturday, October 30	2 hours, 15 minutes
Sunday, October 31	2 hours
Monday November 1	1 hour
Tuesday, November 2	none (both channels ran several hours of football)
Wednesday, November 3	1 hour
Thursday, November 4	0.5 hours
Friday, November 5	1 hour

7.45 The total of TV3/UTV simulcast in that week was thus 7 hours and 45 minutes, almost exactly 20 per cent. We note, however, that the percentage of simulcast is higher at the weekend – 40 per cent during the Saturday peak and 36 per cent during the Sunday peak.

Audience ratings

7.46 To explain possible differences in prices paid there remains the issue of whether programmes aired by RTÉ attract greater or lesser audiences than those aired by TV3, or whether there is no real difference. In order to achieve a reasonably like-for-like comparison we considered whether the same programme carried on different channels attracts similar or different audiences. With this in mind, we looked at audience ratings relating to programmes which had switched between RTÉ and TV3.

7.47 The first data set, supplied to us by PwC but based on ACNielsen data, covers programmes switched between RTÉ and TV3 in 2000 and 2001. We acknowledge that at that time, TV3 had been running only two to three years, but the comparisons show that the same content on different channels can attract widely differing audience numbers. For example:

- *Coronation Street* showed a more than 40 per cent drop in viewership between September/October 2000 and September/October 2001, when it switched from RTÉ to TV3. So far as we are aware, there was no change in the day or time of day which would have influenced viewing.
- *Eastenders* showed a 76 per cent increase in viewership during the same period when it switched from TV3 to RTÉ.
- On the other hand, *Emmerdale* showed a 74 per cent increase during the same period when it switched from RTÉ to TV3.

7.48 A more comprehensive document, supplied by RTÉ but also sourced from AC Nielsen data, provides a more recent comparison that includes sports viewing. Principal results are that:

- Champions League football matches, where the first game was shown on one channel and the return game on another, can show substantial differences in audience numbers. For example:
 - A C Milan *versus* Deportivo, shown on 23 March 2004 on TV3, attracted 127,000 viewers (adults aged 15+). Deportivo *versus* A C Milan, shown on RTÉ Two on 7 April, attracted 262,000.
 - Arsenal *versus* Chelsea, shown on RTÉ Two on 24 March 2004, attracted 314,000 viewers. Chelsea *versus* Arsenal, shown on TV3 on 6 April 2004 attracted 263,000.
- However, such differences do not always arise. Monaco *versus* Chelsea, shown on TV3 on 20 April attracted 236,000 viewers, and Chelsea *versus* Monaco, shown on RTÉ Two on 5 May, attracted 243,000.

- 7.49 RTÉ also provided a *Coronation Street* comparison. This suggests that in the two months of March 1999 and 2000, when RTÉ had the programme, the average audience size was 683,000 adults; and the average figure for the two months of October 1999 and 2000 was 613,000. When TV3 subsequently acquired the programme, the average audience for March 2001 and 2002 was 392,000, and for October 2001 and 2002 the average was 386,000.
- 7.50 These changes in viewership consequent upon change of channel reinforce an opinion from broadcasters which we acquired in earlier work in broadcasting, namely that there is a “halo effect” associated with TV channels which takes time to acquire and is not directly related to individual programmes.
- 7.51 The theory of the halo effect holds that, over time, viewers form perceptions of a channel based on its *overall* offering, and that the comfort (or discomfort) they feel with the channel may cause them to reduce or increase their watching of particular programmes on it. We were told that the halo can be reshaped – but that it takes time. For example, in a previous project Channel 4 in the UK told one of our team that wresting coverage of cricket and horseracing from the BBC had, over time, altered public perceptions of what Channel 4 stood for, but that it had taken several years to achieve this.
- 7.52 If there is any validity in the halo theory, it does not seem necessary that prices paid for a specific programme need to be covered by advertising revenue achieved *during that one programme*. It would seem to us perfectly rational for any channel to pay a price in excess of the advertising revenue that a single programme will generate if the programme will help to drive up ratings for the channel as a whole.

Share of audience

- 7.53 TV3 has successfully increased its share of the TV audience in Ireland since it began broadcasting in 1998. Its achievement appears to have been largely at RTÉ's expense. Part of TV3's submission to the Competition Authority in early 2003 gave the following movements in audience share for 2000 and 2002, and PwC produced an update from ACNielsen for 2003. The figures are incorporated in Table 19.

Table 19: percentage shares by broadcaster of Irish national and multi-channel audiences, 2000, 2002 and 2003 (average all day)

	National			Multi-channel		
	2000	2002	2003	2000	2002	2003
RTÉ 1	32.2	29.0	27.4	25.3	24.1	22.8
RTÉ 2	13.3	12.2	10.7	10.6	10.2	9.1
TV3	9.3	12.8	13.4	8.1	10.7	10.7
TG4	1.9	2.5	2.9	1.6	2.1	2.5
All others	43.3	43.5	45.6	54.4	52.9	54.9
Total	100	100	100	100	100	100

Sources: TV3 and PwC

7.54 In summary, we cannot conclude that RTÉ is systematically and unfairly outbidding TV3 for externally-acquired programming content.

Conclusions on possible adverse impacts of RTÉ's licence fee income on other television broadcasters

7.55 We acknowledge that RTÉ's receipt of licence fee income could enable it to pay more for programming than is justified by advertising receipts. But, as we have already seen, RTÉ's position as Ireland's public service broadcaster does not have to justify the price paid for any particular programme by reference to its expected advertising receipts.

7.56 Even if it did, we conclude that there is no evidence to suggest that RTÉ is acting unfairly against other TV broadcasters by virtue of enjoying licence fee income. There are occasions when RTÉ could very well be justified, by the reasonable expectation of attracting larger audiences, in paying a higher price for programming.

7.57 We also believe that there is no onus on any channel to justify the price it pays for a particular programme. An apparently excessive price for one programme might well be recouped, over time, by the larger audiences that the channel is able to attract to other programmes.

7.58 However, at bottom the question of unfair competition cannot be divorced from the definition of public service broadcasting. So far as we are aware, most public service broadcasters, including RTÉ, operate under a broad mandate. Such mandates may enable – perhaps even entitle – public service broadcasters to use their licence fee income to pay above commercial rates for programming which could be purchased by commercial competitors constrained to make a return on all their broadcasts. For public service broadcasters, such acquisitions may well be necessary to supply variety in their schedules, normally an essential part of their public service mandate.

Radio

7.59 As with television, it can be shown that RTÉ is bigger – which means that it has more money – than commercial radio broadcasters. In principle, therefore, the same arguments and counter-arguments arise as with public service television.

7.60 Yet in practice no complaints were voiced to us in relation to RTÉ's ability to outbid other broadcasters for content, and we are aware of no such complaints having been made officially. Two radio broadcasters alleged that RTÉ's radio operations were inefficient, but gave us no substantiation.

7.61 We conclude that, at least with respect to content, there is no adverse effect on other radio broadcasters arising from RTÉ's receipt of licence fee income.

8 THE IMPACT OF RTÉ'S RECEIPT OF LICENCE FEE INCOME ON THE ADVERTISING MARKET

The Irish advertising market as whole

8.1 In Section 5 of this report, we showed why we consider advertising through different media to constitute separate economic markets. This being so, it cannot be possible for RTÉ to affect, whether by virtue of enjoying licence fee income or otherwise, advertising markets other than those in which it competes, namely radio and television. We now consider these two markets separately.

Television advertising

Can RTÉ force TV advertising rates up or down?

8.2 We have already explained how advertising rates – measured in cost per thousand (CPT) to reach different socio-demographic categories of audience – are set *ex post*, month by month, by dividing viewers reached by RTÉ into net revenue paid to RTÉ. The calculation is subject to audit every month. No broadcaster and no advertising agency commented adversely to us on the reliability of the audit.

8.3 The CPT figures calculated for one month form the rates for the following month. Only RTÉ publishes such rates, and other TV broadcasters then set their rates – usually by discounting against them.

8.4 Published rates can be affected by “late money” (see paragraph 5.48) and by the repayment of “deal debt” (see paragraph 5.43) but these factors would feed into the following month’s calculation, and are therefore of only short-run significance. In any event, late money and deal debt can affect all broadcasters, not just RTÉ.

8.5 The question then arises: if CPT rates are set in the manner described, would it be possible for RTÉ unilaterally or artificially to drive its rates down (or for that matter up)? It is hard to see how it would drive its rates down. It is equally hard to see how it could drive rates up. One commercial broadcaster told us categorically that under the current price-setting mechanism RTÉ could not artificially drive advertising rates down. Paragraphs 5.37 to 5.48 explained how prices are set from month to month.

8.6 One other way for RTÉ to influence actual rates paid would be to operate substantial discounting or other forms of reimbursement which are systematically escaping the notice of auditors and agencies. We had no evidence of that.

8.7 Furthermore there is the question of motivation – and here commercial considerations butt up against the public service remit. The Competition Authority discounted TV3’s complaint largely because it could not identify a reason for RTÉ not to charge the maximum for its advertising. We have not heard a plausible reason to the contrary. On the other hand RTÉ does have a motive to maximise revenues. Extra resources enable RTÉ to make indigenous programmes which, as noted above, are expensive and difficult

to justify commercially. But indigenous programming is seen by management as the core of RTÉ's mission and its unique contribution to broadcasting in Ireland.

- 8.8 TV3 gave us a range of typical discounts that it applies against RTÉ's rates, but asked that the figures remain confidential. One advertising agency suggested that TV3's "typical" discount against the RTÉ CPT was of the order of 30 per cent.

The advertising capacity of RTÉ and TV3

- 8.9 We went on to explore how much advertising capacity RTÉ and TV3 have and how this relates to their advertising revenues.
- 8.10 TV3 is entitled to broadcast up to 9 minutes of advertising per hour, averaged across the day, compared with RTÉ's 6 minutes. However, RTÉ has two main channels, giving it an average of 12 minutes per hour compared with TV3's 9 minutes.¹⁸
- 8.11 In the programme schedules for week beginning 30 October 2004 we calculated that RTÉ One broadcast for some 145 hours, RTÉ Two for 136, and TV3 also for 136. If these calculations are correct then RTÉ as a whole would have had a nominal 1686 minutes of advertising available, and TV3 a nominal 1224.¹⁹ This would give RTÉ about 38 per cent more advertising minutes than TV3.
- 8.12 If TV3 has a nominal 1224 minutes per week of advertising airtime available, i.e. 63,648 minutes per 52-week year, and total advertising revenue of €41 million, its advertising revenue per minute appears to be €644.
- 8.13 If RTÉ has a nominal 1686 advertising minutes per week, then it has 87,672 minutes over a 52-week year. It receives €91 million in advertising revenue from TV, so its advertising revenue per minute appears to be €1038.
- 8.14 What, then, accounts for the difference of some €400 per minute, which equates to 60 per cent? Does RTÉ attract audiences 60 per cent bigger? The answer appears to be yes.
- 8.15 As we have seen for certain specific programmes, the overall size of TV3's audiences to advertisers is not big as that of the RTÉ channels. Table 20 presents some recent figures for the top twenty programmes on each of RTÉ One, RTÉ Two and TV3. In March 2004, RTÉ's average would be 327,000, or 62 per cent more than TV3's. In August 2004, RTÉ's average would be 279,000, or about 59 per cent more than TV3's.

¹⁸ We here exclude TG4, principally because its advertising revenues are not included with those of RTE.

¹⁹ They may be slightly inaccurate because the published schedules do not always show an exact station close down time.

Table 20: average number of adult (15+) viewers of top twenty programmes for RTÉ1, RTÉ2, and TV3 ('000)

	RTÉ One	RTÉ Network 2	Average for RTE	TV3
March 2004	444	210	327	202
August 2004	372	185	279	175

Source: PwC from AC Nielsen

- 8.16 One would in any event expect to see, even within RTÉ, advertising revenue broadly in line with audiences. And so it appears. Table 20 above suggests that RTÉ One has more than twice the audience reach of RTÉ Two, and in the segmentation of revenue and costs given on page 52 of the RTÉ Report and Accounts for 2003 we see that RTÉ One does indeed have more than twice the advertising revenue of RTÉ Two, at €64 million *versus* €28 million.
- 8.17 The allegation that RTÉ is pricing “too low” stands up only if RTÉ is abusing a dominant position in advertising, which we have satisfied ourselves it has not done nor could easily do.

TV3's complaint to the Competition Authority

- 8.18 In its complaint to the Competition Authority in 2003 TV3 alleged that RTÉ had engaged in predatory pricing and price squeezing by holding advertising rates down on the back of its assured licence fee income.
- 8.19 The Competition Authority rejected TV3's complaint on the principal grounds (a) that no predatory intent by RTÉ could be shown, (b) that it would have been irrational for RTÉ to have reduced advertising prices at a time when the organisation was already incurring losses and (c) that TV3's competitive position had been strengthened by the 45 per cent stake which Granada TV had acquired. Although the Competition Authority does not generally publish documents relating to a specific case, we had a valuable discussion with two of its senior people.
- 8.20 It is not for us to second-guess the Authority's findings, but from the evidence we acquired ourselves, we agree that RTÉ would not have been able to predate upon TV3 to the point where TV3's business was at risk, even if it had any such intention. All the advertising agencies we spoke to confirmed that they valued TV3's presence in the market, and that TV3 had done well to have come such a long way in such a short space of time. Our conviction is that the advertising sector would fight tooth-and-nail in support of TV3 if it thought that RTÉ were bent on putting it out of business. Agencies knew of the scope and purpose of our investigation, yet none even hinted to us that they thought RTÉ had tried to put TV3 out of business.
- 8.21 As to RTÉ's ability to afford an advertising price war, we find it difficult to imagine why it would want to start one. It had incurred losses in 2000, 2001, and 2002, of €14 million, €71 million and €56 million respectively, and it had just broken even in 2003. It is under

strenuous pressure to improve its internal performance in the wake of the last licence fee increase. To have cut advertising prices deliberately in such circumstances would, it seems to us, have been perverse.

- 8.22 As regards the value which the Granada stake in TV3 is reckoned to bring, we have nothing further to add here.

Conclusions on the impact of RTÉ's receipt of licence fee income on the TV advertising market in Ireland

- 8.23 In a formal competition investigation, RTÉ is likely to be found dominant in supply of advertising airtime to the Irish market by virtue of having a market share of approximately 50 per cent. However, that share is under threat as RTÉ's audience shares diminish. Advertising agencies confirm that RTÉ faces effective competition from TV3 and from other commercial broadcasters. It therefore faces strong deterrents to abusing its dominance.
- 8.24 We note particularly that RTÉ is the sole source of price transparency in the Irish TV advertising market, and we understand that other broadcasters set their prices at discounts – not revealed – to RTÉ's.
- 8.25 Occupying a dominant position under EU and Irish competition law is in any event not per se objectionable. It is abuse of a dominant position which breaches competition law. We have found no evidence that RTÉ is abusing its position in the advertising market, whether by virtue of receiving licence fee income or otherwise.

Radio

- 8.26 Although we heard comments that RTE does not price radio advertising as aggressively as it might, and that receipt of licence fee income probably assists it to do so, we have not been able to substantiate any such impact.

Summary of conclusions in relation to advertising

- 8.27 RTÉ is the longest-established and largest indigenous broadcaster in Ireland, and it has enjoyed both licence fee and advertising revenues since it began operation. It would be impossible to conclude that licence fee income, although aimed at funding RTÉ's public service broadcasting obligations, has not historically played a role in securing RTÉ's current standing in the advertising market by enabling RTÉ simply to be bigger than it might otherwise be.
- 8.28 RTÉ is the largest single supplier of advertising airtime, on both television and radio, in Ireland. It supplies about 50 per cent of advertising airtime on television and about 30 per cent on radio. Although under competition law RTÉ would probably be considered dominant in the supply of television advertising airtime in Ireland, its behaviour is constrained by:

the impact of RTÉ's receipt of licence fee income on the advertising market

- having to deal with advertisers and agencies far larger than RTÉ
- by the presence of effective broadcasting competitors; and
- by the methods used to sell television advertising and to determine television advertising rates.

8.29 We have found no evidence to suggest that RTÉ systematically pays excessive prices for programming, whether by virtue of enjoying licence fee income or otherwise, in order to foreclose attractive programming to its commercial competitors and thereby gain an unfair advantage in the advertising market.