


Mr John Burns,
The Sunday Times,
Fourth Floor,
Bishop Square,
Redmond's Hill,
Dublin 2.

FOI/0008/2008

 May 2008.

Dear Mr Burns,

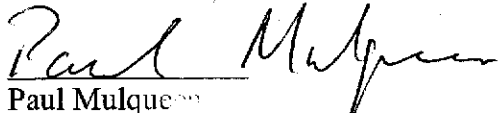
I refer to the appeal which you made under the Freedom of Information Acts 1997 and 2003 on 11th April, 2008 for review of the earlier decision of this Department dated 13th March 2008.

I am a more senior member of the staff of this Department than was the person making the first decision. I decided today to vary the original decision on your request. This decision on review is an entirely new and separate decision on your request.

A schedule is attached at the end of this letter. This schedule shows the documents that this Department considers relevant to your request. It also gives you a summary and overview of the decision as a whole. It describes each document, and indicates whether access to the document is granted, part granted or refused. For documents noted as part granted or refused, the schedule refers to the sections of the FOI Act which apply to prevent release.

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

Yours sincerely,



Paul Mulqueenan
Assistant Principal Officer,
Broadcasting Regulatory Division.
paulmulqueenan@cenr.gov.ie
01- 6783029

Record no.	Brief Description & Date of Record.	File ref.	No. of pages.	Appeal/Findings/Conclusions.	Grant/refuse/Part grant.	Basis of refusal / section of Act.	Record edited/Identify deletions.
1-9	Records are outside the timescale contained in the request.	S1/54-X/05 Vol 2					
10.	Confidential paper.	S1/54-X/05 Vol 2	31	Release			
11.	Copy of draft letter from E.O'Domhnaill to Ms. Dormal-Marino, DG Competition, European Commission.	S1/54-X/05 Vol 2	5.	Release			
12.	Letter from European Commission dated 08.11.05 re state-financing of RTE AND tg4, Ireland	S1/54-X/05 Vol 2	5.	Release			
13.	Annex comprising confidential papers.	S1/54-X/05 Vol 2	31	Release			
14.	Copy submission from P.Mulqueen to Minister enclosing draft letter to European Commission for approval.	S1/54-X/05V ol. 2.	6.	Release			
15.	Submission cover sheet.	S1/54-X/05 Vol 2	1.		Release.		
16.	e-mail message from P.Mulqueen to C. OO'hObain. Re state--aid.	S1/54-X/05 Vol 2	1.	Release			
17.	e-mail message dated 12/01/06 from P.Mulqueen to various recipients.	S1/54-X/05 Vol 2	1		Release.		
18.	e-mail message	S1/54-			Release.		

	dated 16.01/06 from P.Mulqueen to C.O'Donoghue re reply to Commission on state financing of RTE and tg4.	X/05V ol 2.					
19.	e-mail message from P.Mulqueen to E.O'Domhnaill enclosing reply to Commission's letter	S1/54-X/05V ol 2			Release.		
20.	e-mail message from P.Mulqueen to various recipients dated 18/01/06.	S1.54-X/05V ol 2.			Release.		
21.	Letter from European Commission acknowledging receipt of Department's letter.	S1/54-x/05V ol 2	1		Release		
22.	e-mail message from P.Mulqueen to C.Obainre state-aid case.	S1/54-X/05 Vol 2	1.		Release		
23.	e-mail message from C.O'Lionainto C.Obain and P.Mulqueen enclosing text of Commission press release.	S1/54-X/05 Vol 2.			Release		
24.	Copy of letter to Office of the Attorney General re state-aid financing of RTE/TG4.	S1/54-X/05V ol 2.		Release			
25.	Note of meeting between Broadcasting Policy Division, DCMNR, and Telecommunications and Media State-Aid 11 Unit, EU Commission.	S1/54-X/05 Vol 2		Release			
26.	Note for information , state financing of RTE and TG4.	S1/54-X/05 Vol 2	2.	Release			
27.	e-mail message from P.Mulqueen to E.Soaes re	S1/54-X/05V ol 2.	3		Release		

	RTE's annual report and Financial Statements.						
28.	e-mail message from E.Soaes to P.Mulqueen in response to earlier e-mail message.	S1/54-X/05V ol 2	2.		Release		
29.	e-mail message from Tom Quinn , RTE, TO p.Mulqueen re EU Commission query.	S1/54-X/05 Vol 2.			Release		
30.	e-mail message from P.Mulqueen to E.Soaes, European Commission.	S1/54-X/05 Vol 2.		Release			
31.	Letter from European Commission Competition DG acknowledging receipt of e-mail dated 12/05/06.	S1/54-x/05V ol 2.			Release.		
32.	e-mail message from European Commission to P.Mulqueen enclosing documents.	S1/54-x/05V ol 2.			Release.		
33.	e-mail message from P.M ulqueen to T.Quinn re Commission query.	S1/54-X/05 Vol 2.			Release.		
34.	e-mail message from P.Mulqueen to T.Quinn re Commission query (duplicate of record no 33)	S1./54-X/05V ol 2.			Release.		
35.	e-mail message from P.Mulqueen to C.OhObain re state-aid letter.	S1/54-X/05 Vol 2			Release.		
36.	e-mail correspondencebet ween P.Mulqueen and E.Soaes, European Commission re draft of Broadcasting Bill.	S1/54-X/05 Vol 2			Release.		
37.	e-mail message from E.Soaes to E.O'Domhnaill & P.Mulqueen re	S1/54-X/05 Vol 2.	3.		Release.		

	state-financing of RTE and TG4					
38.	e-mail message from P.Mulqueen to Attorney Generals's Office re state-aid funding of RTE/TG4.	S1/54-x/05 Vol 2.		Part Release		Refused -s 22. legal professional privilege.
39.	e-mail message from P.Mooney Office of the Attorney General re state-aid funding of RTE/TG4.	S1/54-x/05 Vol 2		Refused -S 46 legal professional privilege		
40.	Note of meeting with DG Comp dated 20 Nov 206.	S1/54-X/05 Vol 2.		Release.		
41.	e-mail message from P.Mulqueen to E.Soaes re state financing of RTE AND tg4.	S1/54-X/05 Vol 2.			Release.	
42.	Letter from K.O'Brien to European Cionmission re state financing of RTE and TG4.	S1/54-X/05 Vol 2.		Release		
43.	e-mail message from P.Mulqueen to European Commissionenclosing text of letter at 42 above.	S1.54-X/05 VOL 2.		Release		
44.	e-mail messages between E.Soaes and P.Mulqueen	S1/54-X/05 Vol 2.		Release		
45.	e-mail message from P.Mulqueen to E.Soaes re the nerxt steps in the production of Broadcasting Bill.				Release	
46.	e-mail message from P.Mulqueen to E.Soaes re the nerxt steps in the production of Broadcasting Bill..	S1/54-X/05 Vol 2.		Release		
47.	e-mail message from B.Morrissey to P.Mulqueen re Broadcasting Bill next steps.	S1/54-X/05v ol 2.		Release		
48.	e-mail message from P.Mulqueen to E.Soaes outlining the next	S1/54-X/05 vol 2.		Release		

	steps in the processing of the Broadcasting Bill.						
49.	e-mail message from E.Soares to P.Mulqueen re Broadcasting Bill next steps.			Release			
50.	e-mail message from B.Morrissey to P.Mulqueen re state-aid/Bill.	S1.54-X/05 Vol 2.		Release			
51.	e-mail message from E.Soares , European Commission to P.Mulqueen re state financing of RTE and TG4. : follow-up from November meeting.	S1.54-X/05 Vol 2.		Release			
52.	e-mail message from B.Morrissey to P.Mulqueen	S1.54-X/05 Vol 2		Release			
53.	e-mail correspondence between E.Soares and B.Morrissey re statefinancing of RTE and tg4.	S1.54-X/05 Vol 2		Release			
54.	Copy of Broadcasting (Amendment) Bill, 2006.			Release			
55.	e-mail message from P.Mulqueen to E.Soares , European Commission outlining the background to the proposed legislative provisions.	S1.54-X/05 Vol 2.		Release			
56.	e-mail message from E.Soares to P.Mulqueen outlining the background to the proposed legislative provisions.	S1/54-X/05. Vol 2.		Release			
57.	e-mail message from ESoares to B.Morrissey & P.Mulqueen.	S1/54-X/05 Vol 2.		Release			
58.	e-mail message from B. Morrissey to E.Soares setting	S1/54-X/05 Vol 2.			Release		

	out the updated position regarding preparation of legislation.					
59.	e-mail message from E.Soaes to P.Mulqueen , B.Morrissey	S1/54-X/05 Vol 2		Release		
60.	List of answers to questions posed by European Commission	S1/54-X/05 Vol 2		Release		
61.	e-mail message from P.Mulqueen to E.Soaes outlining progress on the draft general scheme of the Broadcasting Bill.	S1.54-x/05 Vol 2.		Release		
62.	e-mail message from E.Soaes to P.Mulqueen , B.Morrissey re state financing of RTE and TG4.	S1/54-x/05 Vol 2.		Release		
63.	List of questions posed regarding the Broadcasting Bill	S1/54-x/05 Vol 2.		Release		
64.	e-mail message from P.Mulqueen to E.Soaes setting out responses to questions raised re proposed legislation.	S1/54-x/05 Vol 2.		Release		
65.	e-mail message from E.Soaes to P.Mulqueen seeking information re commercial activities of RTE and TG4.	S1/54-X/05 Vol 2.		Release		
66.	e-mail message from P.Mulqueen to J.Mealey seeking information required by the Commission in reation to state-aid case.	S1/54-X/05 Vol 2.			Release	
	FILE S1/257-A/07.					
1.	E-mail reply from TG4 to query on TG4 commercial activities	S1.257-A/07.		Release		

2.	e-mail from P.Mulqueen to E.Soaes in response to queries raised regarding the proposed legislation.	S1/257 - A/07.		Release			
3.	e-mail message from P.Mulqueen to E.Soaes European Commission.		9.	Release			
4.	e-mail message from P.Mulqueen to E.Soaes setting out the position re queries raised.		1.		Release		
5.	e-mail message from Teilifis na Gaeilge to J.Mealey setting out information re financial position.		1.			Refused S 27. contains commercially sensitive information.	
6.	e-mail message from P.Mulqueen to E.Soaes attaching note received from TG4 re their activities.		1.		Release		
7.	e-mail message from A.O'Connor to P.Mulqueen re state-aid/ indigenous programming.		3.		Release		
8.	e-mail message from P.Mulqueen to A.O'Connor enclosing RTE response to European Commission.				Release		
9.	e-mail message from A.O'Connor to P.Mulqueen enclosing RTE response to European Commission enquiry re RTE'S commercial activities. .		2.		Release		
10.	e-mail message from K.O'Brien to A.O'Connor, RTE with copy e-mail attached from A.O'Connor to E.		2.		Release		

	Soares.						
11.	e-mail from A.O'Connor to P.Mulqueen , J.Mealey attaching RTE response to European Commission enquiry re RTE'S commercial activities.		4.			Refused s27. contains commercially sensitive information.	
12.	e-mail message from A.O'Connor, RTE, to E.Soares setting out RTE response re indigenous programming and commercial activities.		7.			Refused s26. contains confidential information.	
13.	Email message from A.O'Connor to E.Soares enclosing breakdown of broadcast acquisitions-2006.		3			Refused- s26. contains confidential information.	
14.	e-mail message from A.O'Connor to K.O'Brien, p.Mulqueen enclosing details of broadcast acquisitions. 2006.		3			Refused- s26. contains confidential information.	
15.	e-mail message from E.Soares to P.Mulqueen re queries raised.		2.			Release.	
16.	e-mailmessage from P.Mulqueen to E.Soares enclosing reply received from RTE re questions raised on commercial revenue.					Refused s26. contains confidential information.	
17.	e-mail message from E.Soares to P.Mulqueen acknowledging receipt of material received from RTE.				Release		
18.	e-mail message from A.O'Connor to P.Mulqueen , K.O'Brien re acquired hours breakdown.		2		Release		

19.	Email message from E.Soaes to P.Mulqueen re TG4.		1.		Release		
20.	e-mail message from TG4 to J.Mealey in reply to query on TG4 commercial activities.					Refused s27. contains commercially sensitive information.	
21.	e-mail message from P.Mulqueen to E.Soaes enclosing note received from TG4 re their activities..		1.		Release		
22.	e-mail message from M.Ni Chadhain re state-aid indigenous programming.		3.	Release			
23.	e-mail message from P.Mulqueen to E.Soaes re RTE commercial activities. .		3.	Release			
24.	e-mail message from e.Soaes to P.Mulqueen re RTE commercial activities.		3.	Release			
25.	e-mail message from P.Mulqueen to E.Soaes re broadcasting hours2006.		2.			Refused. S27. contains commercially sensitive information	
26.	e-mail message from E.Soaes to P.Mulqueen re 2006 broadcast hours by genre. Acknowledging receipt of breakdown of broadcast hours.		1.		Release		
27.	e-mail message from E.Soaes to P.Mulqueen re RTE commercial activities.			Release			
28.	e-mail message from E.Soaes to P.Mulqueen, B.Morrissey re financing of TG4.	1			Release		
29.	e-mail message from P.Mulqueen to E.Soaes re financing of TG4.	1			Release		

30.	e-mail message from E.Soaes to P.Mulqueen re financing of TG4.	2.			Release		
31.	e-mail message from P.Mulqueen to E.Soaes re financing of TG4.	2.			Release		
32.	e-mail message from E.Soaes to P.Mulqueen re financing ogf TG4.	2.			Release		
33.	e-mail message from E.Soaes to P.Mulqueen re Broadcasting Amendment Act, 2007.			Release			
34.	E-mail message from P.Mulqueen to E.Soaes re Broadcasting Amendment Act, 2007	1.		Release			
35.	e-mail message from A.Antoniadis, European Commission to P.Mulqueen.	2.			Release		
36.	Letter from European Commission re state financing of RTE and TG4 advising of intention to close state-aid case.	2.		Release			
37.	e-mail message from A.Antoniadisto P.Mulqueen enclosing advance copy of Commission letter to the Irish authorities.	4.		Release			
38.	Copy of letter from European Commission (with annex) re state financing of RTE and TG4 advising of intention to close state-aid case.	8.		Release			
39.	e-mail message from E.O'Domhnaillto	1.			Release		

	C.O Ciaruain&& P.Mulqueen enclosing lette from European Commission to Irish authorities.						
40.	Copy of letter from European Commission outlining views on the compatibility with the common market of licence fee payments and other measures granted to the public broadcaster RTEand its subsidiary tg4	31.		Release			
41.	Summary of Commission's preliminary views as set out in the Article 17 letter and proposed response.	5.				Document not requested (Date)	
42.	Submission dated 26 May, 2005 from J.Larkin to Minister enclosing draft letter to European Commission outlining Ireland's proposed response to Article 17 letter on the funding of RTE.	8				Document not requested (Date)	
43.	Copy of draft letter dated May, 2005 to European Commission re state financing of RTE and TG4.	8				Document not requested (Date)	
44.	Copy of European Commission letter dated 08.11.2005 re state financing of RTE and TG4.	5				Document not requested (Date)	
45.	Copy of draft letter to European Commission re state financing of RTE AND tg4 , Ireland	5		Release			
46.	Submission cover sheet and accompanying submission enclosing draft			Release			

	reply to Commission.						
47.	Note of meeting between Broadcasting Policy Division, DCMNR, and Telecommunications and Media State AID11 Unit, EU Commission.	4.		Release			
48.	Note of meeting with DG Comp dated 20 Nov 2006.	3.		Release			
49.	Copy of letter dated 21 December, 2006 to European Commission setting out position regarding various issues raised by Commission.	4.		Release			
50.	Copy of letter from European Commission (with annex) re state financing of RTE and TG4 advising of intention to close state-aid case.	8.		Release			
51.	Submission to Minister (with annotations) enclosing draft reply to Commission on state financing of RTE and TG4.	2.		Release			
52.	e-mail message from P. Mulqueen various re state-aid RTE and TG4 – follow-on from meeting between Minister and Broadcasting Division.	1.		Release			
53.	Duplicate of e-mail message at record no 52.	2.		Release			
54.	e-mail message from European Commission in response to Department's letter dated 3			Release			

	October, 2007.						
55.	Submission to Minister enclosing draft letter to the Commission.	11.		Release			
56	e-mail message from K.O'Brien to C.OConaill enclosing note and attachments re state-aid submission.	1.			Release		
57.	Draft letter to European Commission in response to Commission's letter dated 3 October, 2007.	9		Release			
58.	Draft letter dated November, 2007 to European Commission in response to Commission letter dated November, 2007.	2.		Release			
59.	Letter from European Commission re state-aid No. E/4/2005.	2		Release			
60.	Submission to Minister outlining recent developments and issues for consideration.	2		Release			
61.	e-mail message from K.O'Brien to C.O'Conaill re submission to Minister re state-aid matters.	1			Release		
62.	Submission cover sheet.	1.			Release		
63.	Copy of draft letter to European Commission re statefinancing of RTE and TG4.			Release			
64.	e-mail message from K.O'Brien to European Commission enclosing draft response to Commission letter of 3 October, 2007.	1.			Release		

65.	e-mail message from K.O'Brien to E.Vanginderachter, European Commission.	2.			Release		
66.	e-mail message from A. Antoniadis to K.O'Brien re state financing of RTE and TG4.	2.			Release		
67.	e-mail message from K.O'Brien to E. Vanginderachter	1		Release			
68.	Draft letter to European Commission from Attache, Permanent Representation, setting out further information on the regulatory framework I Ireland in respect of public service broadcasting.	9.		Release			
69.	Copy of e-mail from K.O'Brien to E. Vanginderachter, European Commission enclosing draft letter to Commission.	1.		Release			
70.	Draft letter to European Commission from Attache, Permanent Representation, setting out further information on the regulatory framework in Ireland in respect of public service broadcasting.	10.		Release			
71.	e-mail message from K.O'Brien to E. Vanginderachter, re state financing of RTE and tg4.	3		Release			
72.	Copy of draft letter to European Commission setting out further information re the regulatory	10.		Release			

	framework in Ireland in respect of public service broadcasting.						
73.	e-mail message from European Commission to K.O'Brien suggesting points to be addressed in proposed legislation.	5.		Release			
74.	Draft letter to European Commission setting out further elaboration and certain commitments in relation to the regulatory framework in Ireland in respect of public service broadcasting.	10		Release			
75.	e-mail message from K.O'Brien to P.Mulqueen.	1			Release		
76.	Draft letter to European Commission setting out further elaboration and certain commitments in relation to the regulatory framework in Ireland in respect of public service broadcasting.	11		Release			
77.	e-mail message from K.O'Brien to E.Vanginderachter re draft letter	7.		Release			
78.	Draft letter from Permanent Representation to European Commission setting out further elaboration and certain commitments in relation to the regulatory framework in Ireland in respect of public service broadcasting.	11		Release			

79.	e-mail correspondence between P.Mulqueen and E. O'Domhnaill enclosing reply to DG Comp letter dated 3 Oct. 2007.	2		Release		
80.	e-mail message from P.Mulqueen to E.O'Domhnaill attaching reply to DG Comp letter dated 3 Oct. 2007.	1		Release		
81.	e-mail message from N.Mc Cormac to P.Mulqueen acknowledging receipt of letter.	1		Release		
82.	Email message from K.O'Brien to C.O'Conaill attaching draft letter to DG Commission setting out further elaboration and certain commitments in relation to the regulatory framework in Ireland in respect of public service broadcasting.			Release		
83.	Submission cover sheet	1.			Release	
84.	Copy of letter from Perm. Rep. of Ireland to the European Union setting out further elaboration and certain commitments in relation to the regulatory framework in Ireland in respect of public service broadcasting.	11.		Release		
85.	e-mail from E.O'Domhnaill to P.Mulqueen enclosing copy of signed letter to European Commission.	1.			Release	
86.	Draft letter to	11.		Release		



Department of Communications, Energy and Natural Resources
Roinn Cumarsáide, Fuinnimh agus Acmhainní Nádirtha

18th April, 2008

Mr. John Burns,
The Sunday Times,
4th Floor,
Bishop's Sq.,
Redmond's Hill,
Dublin 2.

FOI/0008/2008

Dear Mr. Burns,

I refer to the appeal you have made under the Freedom of Information Act on the decision taken regarding your recent FOI request concerning the European Commission's contacts with this Department re. state subvention to RTE.

Your appeal was received in the FOI Unit on the 14th April, 2008 along with the associated fee. A decision on your appeal will be made within three weeks of receipt of your request. This means that you can expect to receive the outcome of your appeal by the 5th May, 2008.

A full and new examination of the matter will now be carried out by Mr. Paul Mulqueen, Broadcasting Policy Division, Department of Communications, Energy & Natural Resources, 29 - 31 Adelaide Rd., Dublin 2. He can be contacted at 01 6783092.

If you are not satisfied with the outcome of the appeal, you are entitled to apply for a further review by the Office of the Information Commissioner, 18 Lr. Leeson St., Dublin 2 within six months of receiving notice of decision on the appeal. Please note the FOI charges will apply if you wish to bring your case to the Office of the Information Commissioner.

Please note that an application fee for an appeal to the Commissioner is currently €150.00 and a reduced fee of €75.00 applies if you are covered by a Medical Card.

If claiming a reduced application fee, the request must also be accompanied by

- The Medical Card registration number
- The name of the issuing Health Board
- Your consent to the verification of these details with that Health Board.

Payment should be made by way of bank draft, money postal order, or personal cheque made payable to "The Office of the Information Commissioner".

Yours sincerely,

Mary Rabbitte
FOI Unit
PH: 01 6782903



THE SUNDAY TIMES

London Office: 1 Pennington Street, London E98 1ST Telephone: 44 207-782 5000 Fax: 44 207-782 5765

Dublin Office: 4th Floor, Bishop's Square, Redmond's Hill, Dublin 2 Telephone: (01) 479 2424 Fax: (01) 479 2421
11 April 2008

Your reference: FOI/0008/2008

Dear Mr O'Brien,

I refer to your decision re. my recent application under the Freedom of information act for records concerning the European Commission's contacts with the department re. state subvention to RTE. Some documents have been released to me, but quite a lot were with-held because they form part of the deliberative process (Section 20 of the Act).

I am applying for an internal review of this decision. You will be aware, I am sure, that the Commission has now concluded its examination of Case E4/2005 (Ireland state financing of RTE and TG4). Accordingly, I am sure you will agree that with-holding of records because of deliberative process is no longer necessary.

I can be contacted on 4792412 for clarification.

Sincerely

John Burns
The Sunday Times

FOI UNIT
CAVAN

14 APR 2008

DEPARTMENT OF COMMUNICATIONS,
ENERGY & NATURAL RESOURCES
ROINN CUMARSAIDE, FUINNIMH
AGUS ACMHAINNI NADURTHA