

A P P E A R A N C E S

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I N D E X

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THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY,
21ST JANUARY, 2004, AT 11AM:

MR. HEALY: Ms. Sarah Carey, please.

MS. NI RAFARTAIGH: Chairman, I should say at this point I have an application for limited representation on behalf of Ms. Sarah Carey just for the purpose of today's proceedings. I understand that is sometimes granted in similar situations. Ms. Carey is here to assist the Tribunal on a voluntary basis, and I understand that representation has been granted in other like situations.

CHAIRMAN: Very good, Ms. Ni Rafartaigh, I'll make an order for limited representation on the usual basis, that is to say implying no view that may or may not be

taken in relation to any eventual costs application.

MS. NI RAFARTAIGH: I accept that, Mr. Chairman, and I am obliged.

SARAH CAREY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. HEALY:

CHAIRMAN: Good morning, Ms. Carey. Please sit down.

Q. MR. HEALY: Ms. Carey, you are aware that the Tribunal has prepared, I think from information provided by you, a memorandum of your intended evidence.

A. Yes.

Q. And do you have a copy of that?

A. Actually just not with me. We have one here.

Q. And what I propose to do is to briefly go through the memorandum and maybe one or two documents, and then come back to one or two parts of the memorandum I want to ask you to amplify on. Is that okay?

A. Okay.

Q. The memorandum is as follows.

Ms. Carey has been asked by the Tribunal of Inquiry to provide such information as she has, in particular in relation to two donations made by Mr. Denis O'Brien/Esat Telecom to the Fine Gael Party in 1995.

The first of these donations was the sum of $\text{€}25,000$ in connection with the Wicklow by-election. The donation was made to Mr. Phil Hogan TD. The second donation, of $\text{€}4,000$, was by way of sponsorship of the Fine Gael Golf Classic which took place on the 16th October,

1995.

The Tribunal wishes Ms. Carey to give details of her role in connection with the making of donations and details of all her dealings with Mr. O'Brien, Mr.

Hogan, or any other member or official of the Fine Gael Party or any other party regarding the donations.

In order to understand her role in the foregoing, she wishes to state as follows: Ms. Carey joined Esat Telecom as marketing coordinator in January 1995. She was a graduate of Trinity College, Dublin, and had done a post-graduate course in business in UCD. At the time she applied for a job with Esat Telecom, she was working with the EBS building society.

Ms. Carey had a variety of responsibilities with Esat Telecom. As regards general marketing issues, she reported to Mark Roden, director of marketing, and Greg Mesh, Chief Operations Officer.

As regards particular issues, including aspects of the licence bid, with which she was concerned, she reported directly to Mr. Denis O'Brien. Her responsibilities included some of the public relations aspects of the licence bid, such as dealing with journalists and organising publicity stunts.

Ms. Carey was then and is now an active member of the Fine Gael Party. Mr. Denis O'Brien was not aware of her Fine Gael connections when she applied when she joined Esat Telecom.

A short time after her appointment, Ms. Carey spoke with Denis O'Brien and told him of her Fine Gael connections. She mentioned that some members of the Fine Gael Party had a negative perception of Mr. O'Brien and that other members did not know anything about him, or indeed anything about the liberalisation of the telecommunications industry, both fixed and mobile. She thought that it would be helpful to his business generally, from a public relations point of view, if he were to raise his profile with the Fine Gael Party and meet some of the people in it. She thought that they should know more about him personally and what his business was about, how it would benefit consumers and so on.

In this context, she suggested to him that it might be a good idea to attend a forthcoming Fine Gael social function in the Carlow/Kilkenny constituency at which the Taoiseach and members of the Cabinet would be present.

As a result of attendance at that lunch, further invitations were issued by Fine Gael to Esat Telecom in respect of other Fine Gael social functions. Some of these invitations were accepted and some were not. The decisions in this regard were made by Mr. O'Brien. Ms. Carey herself attended some lunches, possibly ten. She recalls in particular one lunch in Blackhall Place for Jim Mitchell's constituency; one in Westmeath,

where she attend alone; one in Dublin southeast which she attended with Mark Roden. Generally 1,000 was the standard contribution made at all these events.

It was against this background that an offer of financial assistance was made to Phil Hogan at the time of the Wicklow by-election in June of 1995. Mr. O'Brien told her he had spoken to Phil Hogan and that he would make a donation of 5,000 to his campaign.

Ms. Carey had a vague recollection that she may also have previously indicated to Mr. Hogan that a donation to his political party might be forthcoming from Esat.

However, Ms. Carey cannot remember any specific details.

Ms. Carey obtained an Esat Telecom cheque in order to purchase a draft to make the donation. Ms. Carey believes that the idea to use the draft came from Mr.

O'Brien. At the time the licence campaign was underway, and there was a high degree of secrecy attached to it in order to protect the application strategy from disclosure to other contenders or to Telecom Eireann. In the prevailing climate concerning the bid, the instruction to make the payment by draft did not surprise her, as a payment to the Fine Gael Party at that particular point in time might have been deliberately misrepresented by other bidders or the media.

Ms. Carey did not attend the event in the Glenview.

Mr. Denis O'Brien and other members of the senior management of Esat Telecom attended the event.

In relation to the Fine Gael Golf Classic and the letter of the 9th October 1995 forwarding a draft for €124,000 to Mr. Phil Hogan, Ms. Carey recalls a specific instruction from Mr. O'Brien that there should be and you have this in quotation marks "no advertising" at the Golf Classic. She believes this instruction came after she informed him that she had sent FG Esat Telecom's logo at their request. Ms. Carey therefore set about retrieving the logo and arranging for the payment.

She is reasonably certain it was her sole decision to obtain a draft for this amount, thus following the precedent of the Wicklow by-election. She is also quite certain that it was her decision to use the phrase "No reference" in her letter to Mr. Hogan, since she wanted to avoid the possibility that Mr. Hogan might publicly thank Esat Telecom for their sponsorship at the presentation ceremony that night or, for example, note on the menu card that Esat Telecom had officially sponsored the wine. Mr. O'Brien was a very strict employer, and she wanted to make sure that his instruction regarding no advertising was not disobeyed in any regard.

With regard to the purchase of the draft, Ms. Carey probably would have requested a signed cheque from the

financial controller of Esat Digifone, although she does not remember the exact circumstances of this request. It is most likely, although not absolutely certain, that she would have purchased the draft herself. Her recollection is that she herself did not ask anyone on the Telenor side to sign the cheque or to authorise it, although it is possible that somebody else did.

In relation to all of these matters, Ms. Carey dealt directly with Mr. Denis O'Brien and with nobody else. In 1995, Esat Telecom also had a lobbyist for the name of Dan Egan who had previously worked for Fine Gael. Ms. Carey's recollection is that Mr. Egan arranged for Esat personnel to meet various Fine Gael Ministers for official briefings. Ms. Carey had very occasional contact with the late Mr. Jim Mitchell. From time to time Mr. Mitchell telephoned her to transmit a message to Mr. O'Brien if he were unable to contact Mr. O'Brien directly. Ms. Carey recalls one occasion after the issue of the licence on which Mr. Mitchell telephoned her to let Mr. O'Brien know that there was a press article coming out which would refer to Mr. Mitchell and possibly Mr. O'Brien. She did not discuss the content of the article with him and was unaware of what it might contain, other than it would refer to Mr. Mitchell and probably Mr. O'Brien. Any other contacts took place in PR strategy meetings at

which Mr. Mitchell might advise on the effectiveness of particular PR activities.

As far as she was aware, all payments made were in the context of legitimate donations either to political campaigns or to party's social events.

I just want to be clear about your role in Esat Telecom, Ms. Carey. You say that you were employed by Esat Telecom at all times?

A. Yes.

Q. You were never employed, were you, formally employed by the bid?

A. I don't think so. I mean, obviously I did work on certain aspects of the bid, but I don't know whether my time was billed to Esat Digifone or, sorry, to Esat Telecom from Esat Digifone.

Q. Your work on the bid was to deal with some public relations aspects

A. Yeah.

Q. of the application?

A. Yes.

Q. Was that the only aspect of the bid that you worked on?

A. Yes, yeah.

Q. Can you remember whether there were any other political aspects of the bid that you worked on apart from the ones you have recounted here

A. No

Q. that involved other politicians?

A. No. Primarily Fine Gael. And I remember at one point there were some discussions surrounding, you know, Labour politicians and contact with Labour politicians. But it was primarily Fine Gael politicians.

Q. Did you have any contact with Labour politicians?

A. About a month before the bid, there was a social contact with Dick Spring on behalf of Esat Telecom. I was organising a golf tournament for Esat Telecom's customers, and we invited Dick Spring to play at the golf tournament, and he did. And I should say, to be fair to him, that when he played, he brought along his own team, which consisted of members of other consortia, including John Riordan, who I think was with the AT&T bid, and Pat Dineen from Cork who was involved with another bid. So he was making it very clear he wasn't in any way endorsing participation with Esat Telecom with the bid.

Q. I see. You say, if you look at your statement, on the first page, that a short time after your appointment, you spoke with Denis O'Brien and told him of your Fine Gael connections.

A. Yes.

Q. Do you remember saying that? And you explained that some members of the Fine Gael Party had a negative perception of Mr. O'Brien, and that other members did

not know anything about him?

A. Yeah.

Q. And you said you thought it would be helpful to his business generally, from a public relations point of view, if he were to raise his profile with the Fine Gael Party

A. Yes.

Q. and meet some people in it.

Can you recall what prompted that conversation?

A. Literally I had joined Esat Telecom perhaps a few weeks I am not sure of the exact timing previously, and I was, at the time, having a lot of contact with various members of Fine Gael because I am an active member of the Party. And I don't remember, at this remove, any specific conversation, but I do remember gaining the impression that he wasn't, you know, well regarded, and the business was completely you know, misunderstood, or that most of them were ignorant, really, of what Esat Telecom was doing and how there could possibly be any competition in the fixed telecom business. And it just it gave me cause for concern, enough to mention it to him.

Q. It was you mentioned it to Mr. O'Brien?

A. Yes, yeah.

Q. And you think it was about three weeks after you joined?

A. Yeah, it could be. In fact it would be the week

before that Carlow/Kilkenny lunch, because that became part of the discussion, and as a result of the conversation, we agreed that we would go to the Carlow/Kilkenny lunch. So it would have been the week before that event.

Q. That lunch was I think around the 9th March?

A. It would have been the week previous to that, then.

Q. And when you drew that matter up with Mr. O'Brien, do you recall what his response was? His response was in particular to your telling him that he didn't he wasn't making a good impression with Fine Gael?

A. I remember the conversation quite clearly, actually.

I called him to one side. We went into a room. I said, "Look, I didn't tell you during the interview for my post, but I have connections with Fine Gael; I do know a lot of the people, you know, in the Party and on the front bench. And I have gained the impression over the past few weeks that you are not particularly liked, and they don't know anything about the business, and I was wondering if you knew any reason why that might be the case".

I thought perhaps maybe at some time in the past, you know, he might have, you know, crossed them or something like that.

He said no, that he had no idea that this impression was abroad. And I said, "Well, look, I think you should do something about it".

Q. I think the Tribunal wrote to you and asked you could you remember what members had what particular impressions of Mr. O'Brien; but can you say whether this came from, as you put it, members of the front bench, senior members of the Party, or whether it was from more the foot soldiers?

A. A combination.

Q. So some senior members of the Party had that impression?

A. Well, I would have been in contact with Ministers at that time, you know, so it would have been absolutely logical that they would have been part of that impression that I had gained.

Q. Would you have had any contact with Mr. Lowry at that time?

A. No, none at all. In fact the only time I was ever even in close proximity to Michael Lowry was the day that the press conference took place to announce the award of the licence. I didn't know him at all. I had never met him.

Q. Had you ever discussed this with Mr. Mitchell?

A. No, actually. And I had no idea that Jim Mitchell and Denis O'Brien, separately and independently, were friends. That was something I was completely ignorant of.

Q. Were you aware that Mr. Mitchell was working for Mr. O'Brien?

A. No. Not at all, because in fact we in the conversation I had with Denis, we agreed we'd go to the Carlow/Kilkenny lunch. I set about making the various arrangements for that, and a couple of days later, Denis independently approached me and said, "Look, we are also going to the Jim Mitchell lunch, he's been on to me and I have decided we are going to do that".

That's the first time I knew there was contact between Mr. Mitchell and Denis O'Brien.

Q. You presumably subsequently found out Mr. Mitchell was an adviser to Mr. O'Brien?

A. Oh yes.

Q. At any time in the course of your working with Mr. O'Brien, had you had any discussions with Mr. Mitchell which might have touched on the impression Mr. O'Brien was making in Fine Gael?

A. Well, by the time, say, that Jim would have been regularly coming to PR strategy meetings, you know, at that stage the agenda was officially meeting Fine Gael and Labour Ministers and officially briefing them on the position about the bid, you know, and where we stood and what we felt were our cases, you know, for being awarded the bid. So at that stage, it had kind of moved on from the motive for doing this. We were in the process of doing it.

Q. I see. By "the motive", you mean the impression that

you had when you first mentioned this to Mr. O'Brien?

A. Yes.

Q. When you had this discussion with Mr. O'Brien and you said to him that you thought it would be good or helpful to his business generally, from a public relations point of view, if he were to raise his profile with the Fine Gael Party, do you remember using an expression like that, "raise your profile"?

A. I can't say for certain at this time. I think I said something to the effect of, "Look, you know, I don't think it would do you any harm, you know, to try and meet a few of them in a social context".

Because you see, at that stage, as far as I recall, the tender documents weren't even released for the GSM bid or anything like that. So there was no official reason that you could ring up a Minister and ask for a briefing on anything in particular. I felt that some social contact, you know, outside of any kind of business-like atmosphere was what was needed, you know, just to break the ice so they could actually meet him, because most of them had never even met him.

Q. The only reason I ask you that is that Mr. FitzGerald in his evidence

A. Mark FitzGerald?

Q. Yes, he used a similar expression when describing what he said to Mr. O'Brien, said to him in a hotel in Dublin, he said Mr. O'Brien indicated that he wanted

to raise his profile with Fine Gael.

A. Well, it would be a standard kind of phrase in PR terms; there wouldn't be anything unusual about using that.

Q. I think at the time you came in, then, you must have known that Mr. O'Brien was not a known supporter or even an unknown, if you like, or background supporter of Fine Gael?

A. As I say, I didn't know anything about his political leanings or who he was supporting. As I say, the knowledge that he was friendly with Jim, you know, was completely new to me.

Q. But I think, prior to your coming on board, you now know from documents the Tribunal has made available to you that Esat Telecom hadn't supported Fine Gael to any significant extent at all in 1994 and 1995.

A. Well, I honestly don't know.

Q. You know, from the documents I think the Tribunal has given you; you'd also know if you were following the evidence.

A. What I recall from my conversation with Denis was I asked him did he know of any reason why there mightn't be a very positive view of him within Fine Gael? You know, so I literally was completely ignorant of any dealings that he may have had with any political parties.

Q. But you now know, either from following the evidence

or from documents the Tribunal has given to you, the extent of Mr. O'Brien's contributions or the contributions of his companies he made in 1994, which would have been, I think, virtually nil?

A. Yes, I know now, yeah.

Q. Following the Carlow/Kilkenny lunch, you say a number of other invitations were issued by Fine Gael to Esat Telecom in relation to other Fine Gael social functions. Did you have any role in liaising with Fine Gael over these? Were you the person who received the invitations, or were you involved in any way in promoting them?

A. I can't exactly recall, but to be honest, I would imagine that those invitations would have been sent to Denis, and then he would have passed they were always in the form of a simple letter: "We are having a fundraising lunch for such and such a constituency". And as far as I can recall, he would have passed on those letters to me with a note written on the top as to what he wanted to do in relation to that particular invitation.

Q. In your statement, on the second page, you say it was against that background that an offer of financial assistance was made to Phil Hogan at the time of the Wicklow by-election.

A. Yeah.

Q. Mr. Hogan has given some evidence about that. I don't

know if you are familiar with his evidence.

A. I have read it.

Q. And I think I am referring to Day 237, page 28 of

the transcript, or if you like, I think Question 55;

the question in fact consists in the reading out of

Mr. Hogan's statement, in which he said or in which it

is said: "You have known Sarah for many years, and

she was at that stage working with Denis O'Brien. The

nature of the inquiry from her, as you recollect, was

to whether or not there was any assistance which

O'Brien/Esat might be in a position to give the Party.

And you would have mentioned the forthcoming

fundraising lunch which took place in late May in the

Glenview Hotel," and in which eventually a

contribution was paid over to the local organisation.

Does that tally with your recollection?

A. Well, not exactly, to the extent that I really can't

remember the specifics of any conversation that I

might have had with Mr. Hogan about that. What I

specifically remember in relation to that donation was

Denis approaching me and saying let me think it

was, "I told Phil we'd help him out with the

by-election".

And I said "Fine, how much?" And he said "Five". And

I said okay.

Q. That would suggest that the initiative to make the

contribution came from Mr. O'Brien; would that be

right?

A. Well, it was definitely clear that he had had a conversation with Phil about the election, about making a donation. Now, it's possible, but I don't want to, you know, swear to anything, that because you know, I would meet Phil on a reasonably regular basis, so we would have been discussing the election, and it's possible that he may have said, "Oh, you know I am raising funds for it", you know, or words to that effect. But I don't really remember much about that.

Q. In fairness to Mr. O'Brien, is it possible that Mr. Hogan is right that you first asked him whether there was anything or any assistance that Mr. O'Brien could give, that Mr. O'Brien subsequently met Mr. Hogan, and then Mr. Hogan and had a discussion with Mr. O'Brien following on take it slowly, just take it slowly you met Mr. Hogan first. You put the proposition to him, and subsequently there was a discussion between Mr. O'Brien and Mr. Hogan in which the deal was sealed, if you like?

A. It's possible. But to be honest, unlikely, given that I don't have, you know, a specific recollection of a conversation regarding, you know, a donation or an amount or anything that specific with Phil. You know, it may have just been something in passing. And like I say, I wasn't privy to the conversation that Denis and Phil had, so I wouldn't really like that sequence

to be put on the record, because I couldn't confirm it in any way.

Q. So if you had no contact with Mr. Hogan about this, the only contacts that could have the only contacts that could have resulted in the payment were contacts between direct contacts between Mr. O'Brien and Mr. Hogan?

A. Yeah, I presume that they had been chatting after one of the lunches that we had attended.

Q. Most of the contributions you made were in the order of about a thousand or several hundreds of pounds?

A. Yes.

Q. This was a fairly large contribution, wasn't it?

A. I'd call it a standard one.

Q. Well, at the time, your company wasn't flush with money?

A. Well, there was always money for what you would call marketing or PR events, because that was seen as being very, very important, you know, to the success of the company.

There was certainly no question or discussion that it was a significant amount of money. You just it was a grand for a table, and that was it.

Q. But the 5,000 was a significant amount of money?

A. I don't know if I'd characterise it that way.

Q. I suspect am I not right in thinking I don't know if you have any knowledge of this from documents

the Tribunal made available to you it was one of the larger, if not one of the largest, contributions made to Fine Gael for the Wicklow by-election?

A. I suppose, in the context of individual payments, it would have been. But in the overall context, you know, it wouldn't have been particularly significant.

It certainly didn't cause me any great surprise when that figure was suggested; put it that way.

Q. You say that you got a cheque in order to purchase a draft to make the donation, and you think that the idea to use a draft came from Mr. O'Brien in order to maintain secrecy; is that right?

A. Well, I am quite certain that he gave me the instruction to get a draft. I specifically remember him saying that to me in his office. And I just went off and did that.

Q. Now, the documentation connected with this payment hasn't surfaced; the Tribunal can't retrieve it. It may be the people involved can't retrieve it. There has been a difficulty in retrieving documentation from the bank, from Fine Gael, or from Esat Telecom. But you are aware that the documentation in relation to the Fine Gael Golf Classic has become available?

A. Yes.

Q. Now, in the case of the Golf Classic for a moment, you will recall that a cheque was drawn on the Esat Telecom/Telenor joint venture account?

A. Yeah.

Q. And that cheque was used to purchase a draft?

A. Mm-hmm.

Q. The cheque was drawn on your account in whatever bank it's in. I am sure I have it here.

A. I think Pembroke Street or something was mentioned; is that right?

Q. But the draft was bought somewhere else?

A. Yeah.

Q. Now, can you recall if a similar procedure was followed in relation to the Wicklow by-election?

A. Do you mean was the original cheque to purchase the draft made from the joint venture account?

Q. Yes. Firstly take that step.

A. I don't know.

Q. You don't know?

A. Yeah. I really can't remember.

Q. Did you see your role where this aspect of public relations was concerned as being connected with the bid, which was the live issue at the time, wasn't it?

A. Well, you have to remember at the same time, as well, there was a lot of controversy and dealings with the Department over the routers, the virtual leased lines. So there were really two issues live that were crucial to Esat Telecom and Esat Digifone's business at the time. But I suppose you could have said it was a part of the lobbying for the licence, primarily.

Q. What you say in your statement is that you took the procedure of using a draft or you followed the procedure of using a draft because in the prevailing climate concerning the bid, the instruction to make the payment by draft was one, I think what you suggested, might have been deliberately misrepresented by other bidders or the media.

A. Mm-hmm.

Q. I suppose that would suggest that you saw it in some way as associated with the bid?

A. Yes.

Q. More than anything else?

A. Yeah.

Q. Can you explain what you mean by the statement that it might have been deliberately misrepresented by other bidders or the media?

A. Well, in the first instance, as I have said in another part of the statement, everything that was connected with the bid was a secret. I mean, literally the location of the office where the bid was being written was a secret to most of the Esat Telecom staff. So the very fact of doing something, you know, not quite transparent was clearly standard practice for everything that we did in relation to the bid.

In relation to it being misrepresented, I mean, those thoughts were subsequently realised when I think Sam Smyth in the Irish Independent did publish a story,

you know, revealing that Esat Telecom/Esat Digifone had made a donation to Fine Gael, and it was put on the front page of the Independent. You know, so

Q. Well, we'll just stop you there for a minute. How did that misrepresent anything? That was those were the facts, weren't they?

A. Those were the facts, indeed, yes.

Q. What was the misrepresentation, then, that you were worried about?

A. Well, I was worried that you know, it might be construed that Esat were trying to gain favour in some way, you know, from Fine Gael that wasn't entirely proper, which of course is completely unfair, because that's it's entirely both ethical and legal to make a donation to a campaign like that, but just you know, the less said the better in the public eye about it, particularly by journalists that I felt had particular agendas to pay out.

Q. If it was, as you say, both completely ethical and proper and I am not disputing that proposition with you at the moment what was wrong with doing it in a transparent way?

A. Well, first of all, remember that it wasn't entirely non-transparent, in the sense that there was an associated lunch, and Esat executives all went down and sat at a table in the lunch in the hotel quite publicly. I suppose

Q. And there might have been even other bidders at those lunches?

A. Exactly. And in fact, when I was at those lunches, I saw other bidders there. I suppose it was just all part of the whole aspect: Don't let people know exactly what you are up to.

Q. I suppose the people at those lunches would mainly know that the tab was around a thousand, which I think is what big companies pay for a lot of these tables; isn't that right?

A. Possibly. Although I don't know in relation to that lunch. Obviously, because it was an election, it was something slightly different. But yeah, usually people would assume, yeah.

Q. So by attending the lunch, it was clear to other bidders, maybe even the media, that you were supporting a particular political party, but it wouldn't have been known that you were giving $\frac{1}{2}$ 5,000 to the party?

A. That's correct, yes.

Q. And it was that that you wanted to keep from public scrutiny?

A. I suppose so. Although remember that you know, I didn't, you know, devise this strategy as such.

Q. Do you recall any reason for using a cheque drawn on one branch to buy a draft in another branch?

A. No, not at all. And in fact it was probably more

likely that I just collected the cheque from whoever the financial controller was at the time, and I may have just gone to the nearest bank, you know, which would have been I think it was bought in Bank of Ireland, Baggot Street. I think I saw a reference to that somewhere.

Q. I am sure you are probably right, but I'll just be absolutely clear about it.

A. But it's quite possible I would have just collected the cheque and just trotted off down to whatever was a convenient bank.

Q. The draft I have is the Pembroke branch. Am I right that that's not the Baggot Street branch?

A. Are you saying that the draft was purchased in Pembroke?

Q. Yes. Which would have been slightly inconvenient for you, wouldn't it?

A. Actually, I really don't recall. I don't recall being told to go to any specific bank. I don't see any reason why that might be significant. Because this was the cheque wasn't this actually listed in Esat Telecom's accounts as a payment to Fine Gael, even though there had been a cheque made out to cash, it was still noted in the account that it was a payment to Fine Gael anyway?

Q. Correct.

A. So I don't recall getting any specific instruction

about that. I mean, I certainly wouldn't have been

privy

Q. Just so we are not at cross-purposes, we are using the

procedure followed in that case to try to work out

what procedure of followed in the Wicklow by-election

case; right? And you are right to say that that was

journalised in the accounts as a Fine Gael payment?

A. Sorry

Q. We don't know how the Wicklow by-election account was

paid.

A. Okay.

Q. I am not saying it mightn't have been journalised as

you have suggested, but we are using the procedure

followed there to try to see what happened in the

Wicklow by-election.

A. Okay.

Q. But in any case, you think that a similar procedure

was followed?

A. I would have you see, I can't remember whether or

not the Wicklow by-election money came from Esat

Telecom or Esat Digifone. And obviously that would

have been significant as to who I would have

approached to get the cheque. So I don't even know,

as I say, which account that came from.

Q. Who would you have approached to get the cheque if it

was a purely Esat Telecom cheque?

A. Whoever the financial controller would have been at

the time. I think it was a woman called Marion Naughton, but I can't be absolutely certain about that.

Q. Right. In relation to the Golf Classic, I think you approached Peter O'Donoghue; isn't that right?

A. That's possible. Again, I am not entirely certain, but it's likely.

Q. I think you approached the financial controller responsible for the joint venture, and that would have been Mr. O'Donoghue; isn't that right?

A. I believe so.

Q. I'll come back to that cheque in any case in a minute, to the Golf Classic cheque.

A. Okay, right.

Q. I suppose, by keeping the full details of the scale of the contribution you were making secret, you were not disclosing to the public or to anybody else who might have been present at a lunch how close you were getting to the Party, would that be right, or how much closer than they were getting you were getting to the Party?

A. I suppose so. But I should say as well, I mean, we were turning up at an awful lot of these lunches. It was actually turning into not quite a farce, but very close to one. Particularly when other bidders started showing up at them as well. And they were getting increasingly social and friendly, and you

know, you'd see the other regulars there too.

Q. So was it a case not just of raising your profile with Fine Gael, but raising your profile with Fine Gael higher than the profile of the other bidders?

A. We wanted to do everything higher than the other bidders.

Q. Without them knowing?

A. Exactly.

Q. But of course the point was Fine Gael were in power, weren't they?

A. Oh, of course, yes, that's why we were there.

Q. They were the governing party.

A. Yeah.

MS. NI RAFARTAIGH: With respect, Mr. Chairman, I just want to intervene on the basis that my client only dealt with two particular transactions, and she wasn't the person who devised any strategy, and she really is being asked generally to comment on the strategy that was being adopted by Mr. O'Brien, her employer. But she was her role was limited to an employee. So I am just wondering about the general direction of the questions.

CHAIRMAN: I don't really see it as objectionable, Ms. Ni Rafartaigh. She has indicated that she was quite active in Fine Gael, and even qua member as well as somebody who was associated with the marketing, it seems reasonable that Mr. Healy inquire generally into

this matter. I don't envisage as it being

particularly lengthy or detailed.

MS. NI RAFARTAIGH: May it please you.

Q. MR. HEALY: I'll now come to the Golf Classic cheque.

There were two aspects of this I want to take up with

you, at least in the first instance.

Again, as with the previous cheque, the strategy was

going to be followed was to was a non-transparent

one, if I can put it that way; is that right? You

were going to keep this

A. Yes, or discreet.

Q. Now, the time that you were making this cheque, this

payment, was slap bang in the middle of the

competition; isn't that right?

A. That's right.

Q. The Golf Classic was being organised under the name of

Mr. Phil Hogan, in the sense that he was the titular,

if you like, member of the Party

A. I think he is a keen golfer.

Q. who was responsible for it, but he wasn't actually

driving the whole Classic; are you aware of that?

A. As I understand from the previous evidence, there was

a committee, and so I think Mark FitzGerald and Jim

Miley and other people like that were involved in it

as well.

Q. I think the evidence was that a Mr. David Austin was

the man really driving it.

A. Oh, yes.

Q. And that Mr. Hogan, as the TD, if you like, nominally at the head of the committee, would sign letters that would be given to him or drafted for him by Mr. Austin and typed in Fine Gael headquarters. I think we have had that evidence from officials in the headquarters.

A. Right.

Q. Did you have any contact with Mr. Austin?

A. No, never met the man, ever.

Q. Do you know anything about him?

A. No. In fact I think it was only when evidence in relation to him was being given at this Tribunal that I even became aware that he existed.

Q. Right. Now, in relation to the draft, the one that we had on the overhead projector a moment ago that was obtained to pay this $\text{€}24,000$, I think you say that you would probably have requested a signed cheque from the financial controller of Esat Digifone, although you do not remember the exact circumstances of the request.

It is most likely, although not absolutely certain, that you would have purchased the draft yourself.

Your recollection is that you did not ask anyone on the Telenor side to sign the cheque or to authorise it, although it is possible that somebody else did.

Now, if we could just put it on the overhead projector you will also find it with the documents you have, but it may be easier to look at it on the overhead

projector look at the draft, or the cheque in the

first instance.

A. Okay.

Q. You'll see it's the Lower Baggot Street branch.

A. Okay.

Q. Pay Bank of Ireland $\text{£}4,001$ and 70-odd pence. That's

for the purchase of the draft. And then it's signed,

and you see the two signatures. The one on the right

we understand is Mr. O'Brien's signature.

A. Yes.

Q. And the one on the left appears to be Mr. Hans Myhre's

signature?

A. Right, okay.

Q. You know Mr. O'Brien. But do you know Mr. Myhre?

A. Yes, I did.

Q. Now, you think you'd have gone to the financial

controller to get the cheque in the first instance?

A. I presume so.

Q. And I presume you knew, either of your own knowledge

or from him, that you'd have to get two signatures on

it?

A. Yes.

Q. Do you recall whether you got the signatures or

whether somebody gave you the cheque signed?

A. I genuinely don't recall.

Q. Is it the kind of thing that you'd have been asked to

do?

A. It wouldn't be it wouldn't have been unusual if I had for example, you know, Denis was out of the country a lot. Hans, I don't know how often he was in the country; you know, it's quite possible that there might have been some flurry about getting one or other of those signatures at the particular hour that I went looking for the cheque. But I don't have any recollection, so it wouldn't be fair, really, to speculate on that.

Q. Well, do you recall bringing it to Mr. O'Brien for him to sign it?

A. No, I don't recall. Now, that's not to say I didn't do it, but I don't recall.

Q. And do you recall bringing it to Mr. Myhre asking him to sign it?

A. Same answer.

Q. You don't recall?

A. I don't recall, but that's not to say it didn't happen.

Q. But you do recall going to the financial controller to get a cheque in the first instance?

A. Well, I don't even recall that. I am just presuming that that's what I must have done, because how else would it come into my possession?

Q. Well, I suppose you could have got the cheque signed by one or other or both of those people from somebody and said, "Could you go and get the draft we need for

Fine Gael using that cheque"?

A. Yeah, but who would that somebody have been?

Q. Well, couldn't it have been Mr. O'Brien? Couldn't it have been Mr. Myhre?

A. Unlikely. Unlikely.

Q. Could it have been Mr. O'Brien?

A. Unlikely. Very unlikely, in fact.

Q. In relation to the Wicklow by-election cheque, we understand he handed that over at the lunch; isn't that right?

A. I don't know that at all, actually.

Q. I think that is the evidence. So

A. Sorry, you are saying go back on that.

Q. In relation to the Wicklow by-election

A. Yeah.

Q. my understanding, my recollection of the evidence is that that was handed over at the lunch.

A. By Denis?

Q. Yes.

A. I don't well, I don't know about that. To be honest, i

Q. You didn't post it?

A. Well, I might have, you see. It wouldn't have been at all unusual if I had posted it or sent it by courier up to Phil Hogan. You know, in fact that's probably more likely, I think, than Denis going off to a lunch carrying a draft in his pocket.

Q. I see.

A. You see, the way these things would work is, you know, Denis was obviously extremely busy, so I would get instructions, and then I would go and carry out you know, 95 percent of the task. I'd be very surprised if Denis was, you know, involved in handing over that cheque. That's not to say it didn't happen, now, but just I'd be surprised if it did.

Q. One way or another, you'd have been anxious to stick to the letter of your instructions in relation to secrecy and confidentiality; isn't that right?

A. Yes.

Q. And did that apply even within the organisation?

A. Oh, yes.

Q. No more people need know about this than was absolutely necessary?

A. Exactly. Yeah. My own particular bosses, Mark Roden or Greg Mesh, they wouldn't have necessarily known what I was doing in relation to this.

Q. So he would have been reporting purely to Mr. O'Brien about this?

A. Exactly. The only other person that would have known would be the person who would need to know, the person who would write the cheque.

Q. Precisely. So you'd have had to explain to whoever had to write the cheque?

A. Exactly, yeah.

Q. So in order to reduce the number of people dealing with it, presumably the only people who would have known about it were you, the financial controller

Mr. O'Brien knew already?

A. Yes.

Q. And Mr. Myhre would have to know?

A. Yes.

Q. And if you were going to reduce the number of people who were involved, then the cheque wouldn't have been handled by anybody else other than you, Mr. O'Brien, or those people?

A. I'd be very surprised if it was.

Q. And I suppose the same applies to the Wicklow by-election cheque as would to that cheque?

A. Exactly.

Q. And if you brought that cheque to Mr. Myhre, I presume you'd have explained to him what it was all about?

A. Oh, yeah.

Q. Do you remember what Mr. Myhre's role was at the time that you were working

A. Well, I don't recall his specific title, but he was just a senior Telenor executive who was very involved in the construction of the bid.

Q. Did you have a close relationship with him?

A. No.

Q. Close working relationship, I mean.

A. No, not particularly. I mean, you know, I knew him,

and you know, we'd chat frequently, and later on I subsequently was transferred into Esat Digifone when he was still working there prior to the award of the licence. So we would have had a closer working relationship at that point. But at this point, it would have been, I suppose, just professional, and contact when necessary.

Q. One way or another, however the cheque came to have those signatures put on it, somebody had to give it back to you; isn't that right?

A. Yes.

Q. And do you remember getting it from Mr. O'Brien?

A. No. As I say in fact, I'd say that's the most unlikely of the scenarios. In my mind, the way it would have happened was: He would have given me the instructions to proceed with the golf sponsorship, and then I would have just gone off and taken care of everything else from that point.

Q. If you just look at the cheques for a moment.

A. Yeah.

Q. The natural and the normal place to sign any cheque is on the bottom right-hand corner; isn't that right?

A. Yes.

Q. And I suppose it's reasonable that if two people are going to sign a cheque, that's where the first person normally signs; isn't that right?

A. I suppose you could say that.

Q. Unless there was some question of a hierarchy where you wanted to leave the person in the higher executive or higher position in a company sign on the right, but that would be the normal position to sign, wouldn't it?

A. Well, one would think, yeah.

Q. So if Mr. O'Brien signed there, then the likelihood is that he would have been the first person to sign and Mr. Myhre the second person?

A. Well, you'd probably need a psychologist now to answer those questions, but I suppose you could say that.

Q. This strategy is one that Mr. O'Brien was, if you like, in control of, very much on a personal basis; is that right?

A. Oh, yes, yeah.

Q. And you don't remember having dealings with Hans Myhre about the strategy?

A. No. I mean, I can safely say I never discussed, you know, anything to do you know, with attendance at any of these events with Hans. You know, there may have been casual references, but I was never in any kind of meeting with Hans or had any formal discussion about anything like that with him.

Q. Mr. Myhre has said that he knew nothing of a payment well, he has said in his statement or memorandum of intended evidence, which isn't yet which hasn't yet been given in evidence, that he wouldn't have made

knowingly made any payment to a political party while he was part of the joint venture. If you brought or if you were the one who brought that document to him to get his signature, would you have felt obliged to explain to him precisely what you were doing?

A. Oh, of course, yes.

Q. Being a Norwegian, he mightn't have known what Fine Gael were; you'd have had to explain that?

A. He was a very intelligent guy. I wouldn't say he was totally behind the door on all the activities of the bid.

Q. Right. And he'd have understood what

A. Of course, yes.

Q. And he'd have understood what a golf classic was or a golf competition was?

A. Of course, yes.

Q. And there'd be no question of you concealing from him

A. Oh, no, not at all.

Q. of part of the strategy, what was going on?

A. No.

Q. So if you were the person who was going to ask him or the person who got his signature, you would have explained everything to him?

A. Oh, yes.

Q. But you don't remember doing that?

A. I don't remember doing it, no. I mean yeah I

mean he is not going to sign a cheque for €1/24,000 for a draft without knowing what it was about, one would think.

Q. Yes, one would think, yes, especially for a draft.

A. Yeah.

Q. It's like cash.

A. It is, yes.

Q. In any company, nobody likes seeing cash going out, because there is no label on it; isn't that right?

A. Exactly.

Q. Do you recall whether the lunches that you were attending and the payments that you were making made any impression on Fine Gael?

A. In a social context. For example, I remember attending one of the lunches now, I don't have the list in front of me, or the dates, but I think it might have been the Richard Bruton one in Dublin North. I was actually talking to the then Taoiseach, John Bruton, after the lunch. Most of Esat executives had gone home, and he actually asked me, he said, "Sarah, what is Esat Telecom? What is the business? Every time I come to one of these lunches you are all there".

And I explained to him, you know, what the business was about. And he was very interested in it. And the conversation then moved on to something else. But I saw that as a sign of achievement in what we were

doing, that an opportunity had been provided to, in a very casual social context, you know, brief the Taoiseach on what exactly was the nature of our business and what we were doing. So I would have seen that as a sign of success.

Q. At the Golf Classic, you didn't want any signage or any references at all to Esat?

A. That was Denis's instruction, yeah.

Q. So at the Golf Classic, the ordinary rank and file of Fine Gael wouldn't have been aware of what you were doing; there would have been no publicity attached to your participation?

A. Obviously the organisers would have, but the ordinary person playing wouldn't have, unless there was talk within Fine Gael that Esat was one of the contributors.

Q. Well, you had made it clear you wanted no reference to Esat?

A. Yeah, publicly.

Q. So you were, if you like, raising your profile or impressing the higher echelons of the Party, mainly; isn't that right?

A. Yes.

Q. And you were doing that in a non-transparent way so that outsiders wouldn't know you were doing that?

A. Well, with the exception of the lunches, obviously, which were very public.

Q. In relation to the Golf Classic, specifically you had now adopted a strategy not just of using a draft as opposed to a cheque, but of making sure there was no reference to your involvement?

A. Yeah. I mean, as you say, this was obviously bang in the middle of the competition and you know. So you had to be a little bit more discreet, for want of a better word.

Q. Why?

A. Well, as I say, number one, not to let the other bidders know what you were doing. And number two, so that, you know, there wouldn't be an opportunity to misconstrue any payments to Fine Gael.

Q. Again, perhaps you'd just explain that to me. What misconception could there be that might have upset you?

A. Well, obviously that a journalist may have written an article implying that there was some kind of unethical link. It's very easy to write to describe a certain set of facts in a very scandalous way, you know, as if there was something, you know, wrong about what was going on. And I would imagine as I say, I never had the specific conversation with Denis. These were my assumptions about it, that you know, why give the media the opportunity to present things in a certain way? Don't let them know what you're doing.

Q. Don't let them know that you are making a payment of

4,000 to the Party in the middle of the competition?

A. Yes.

Q. Were you aware that in the evidence we have heard, Mr. Mark FitzGerald didn't think this was such a good idea?

A. I have seen that evidence, which confused me, because the letter making the arrangements for the golf sponsorship was and I hadn't any discussion with anyone about the initiation for the golf sponsorship, but I thought the letter said that it came about as a result of a conversation Denis had with Mark. Now, I had no contact at any stage with Mark FitzGerald about any of this, so I can't comment on that.

Q. Did you think that the Golf Classic donation came about as a result of a conversation with Mark FitzGerald?

A. Well, based on that letter

Q. Apart from that letter.

A. Apart from that, no, because I actually, as I say, had no contact at all with anyone in Fine Gael about initiating that particular sponsorship. The first I heard of that was when that letter was sent down to me, you know, to make the arrangement regarding the payment. And that letter was the one that also made clear the request, I think, for the logo, so I would have set about organising that.

Q. But the letter, as you say, did suggest that the

contribution came as a result of some contact, or the request for the contribution came as a result of some contact between Mark FitzGerald and Denis O'Brien?

A. Well, that's what it says in the letter, so that's all I can go by. I don't know anything about those contacts.

Q. Did you show the letter to Mr. O'Brien?

A. Well, I imagine that he sent the letter to me.

Q. Mr. O'Brien got the letter and then gave it to you?

A. I understand it's addressed to him, isn't it?

Q. Yes.

A. Yeah.

Q. And he gave it to you and said "No, we don't want that"?

A. Oh, are you referring to the logo?

Q. Yes.

A. Well, I think, from what I can gather from what happened, the letter was passed on to me, and it mustn't even have been passed on personally by Denis. It was probably sent down, you know, with some other correspondence.

Q. Why would it be sent down with some other correspondence?

A. Well, I wouldn't see Denis necessarily every single day. Like I say, he was very, very busy, he travelled quite a lot. And I don't remember now much about this; I am kind of speculating on what is most likely

to have happened. I obviously got the letter with an instruction that a sponsorship was going to be made, and then I set about arranging the payment and arranging for the logo to be sent over, because in the letter there is a request for the logo, so that there would be advertising.

Subsequent to that, when I was in a conversation with Denis, I mentioned or must have mentioned the sending over of the logo to him, and he said to me at that point, no advertising. But my original understanding was that we were going to go along with the arrangement that Phil referred to in the letter, which was that there would be advertising and a logo was needed.

Q. You mentioned, I think, a moment ago you said that this thing was kept fairly tight even within Esat Telecom?

A. Yes.

Q. The details were only revealed on a need-to-know basis?

A. Yes.

Q. Now, the letter from Fine Gael is addressed to Mr. Denis O'Brien, and it's private and confidential; do you see that?

A. Yeah.

Q. Do I take it therefore that it wouldn't have been opened other than by Mr. O'Brien?

A. I don't know what the procedure was in his office.

It's quite possible his secretary may have opened it and you know, divvied up the correspondence accordingly. But I don't know what the exact procedures were in his particular office.

Q. But you got the letter, and you sent on the

A. Logo.

Q. The logo?

A. Yeah.

Q. Now, if you just go for a moment to the if you just go to the letter, for a moment, of the 30th August.

A. Okay. So this is the letter from that is signed by Phil, is it? The bottom is cut off there.

Q. Yes.

Now, you think you acted on that letter?

A. Yes.

Q. If you go to the next letter, of the 8th September, for a moment.

A. Okay, so I understand that this is Fine Gael's copy of the letter.

Q. Yes. Which was sent to Mr. Denis O'Brien again; do you see that?

A. Yeah.

Q. In which it requests a disk with your company's logo?

A. Yes, I see that.

Q. Do you see that?

A. Mm-hmm.

Q. Now, presumably you sent on the disk?

A. Yes.

Q. And subsequently you had a telephone conversation with somebody in Fine Gael; do you see that?

A. Yes.

Q. And asked for the disk to be returned?

A. Yes.

Q. And it says "Returned to Sarah Carey"; do you see that?

A. Yeah.

Q. So you were the person who was dealing with this, who was liaising with Fine Gael on this?

A. Yes.

Q. And if you go on to the next letter, of the 9th October, 1995, that's a letter which encloses the draft; do you see that?

A. Yes.

Q. And it says, "I understand Denis has requested that there are no references made to his contribution at the event."

A. Yeah.

Q. I am just wondering about your use of language there, "I understand Denis has requested". Does that seem to suggest that you are aware of some conversation between Denis and the organisers?

A. Yeah, it looks like that. At this remove, I don't know why I would have said that. But perhaps I

assumed that there were conversations going on between Denis and Phil, or perhaps Denis had given me some indication that there was a conversation between them, but all I can go on is exactly what's in that letter.

I don't have a specific recollection. I do remember Denis specifically saying to me, no advertising; that's what I can definitely say. I don't know what additional conversations there may have been about it.

Q. But if you notice, all three communications, both letters and the judging from your evidence, in any case, the last letter and the telephone conversation directly involved you?

A. Yes. So

Q. The other two letters, although addressed to Denis O'Brien, clearly involved you as well; isn't that right?

A. Well, here's what I think happened, or I am pretty certain happened: The initiation for the sponsorship and the agreement on what format it would take was made between Denis and Mark FitzGerald and possibly Phil Hogan. So the letter confirming that arrangement was sent to Denis, and then it was passed on downwards then for me to implement at an administrative level.

Q. Certainly you didn't arrange the Golf Classic?

A. Yeah, I am quite positive about that.

Q. It came to you from Denis's office?

A. Exactly.

Q. And if a private and confidential letter came in to him, somebody must have said, "Sarah Carey is the one who is dealing with that"?

A. Yes.

Q. So must have said it to his secretary?

A. Presumably.

Q. And then the letter referring to the conversation with Mark FitzGerald came down to you?

A. Yes.

Q. Now, there is one other matter I want to mention, Ms. Carey, and it's this: You are aware that the Tribunal's discussions with witnesses in advance of their giving evidence are conducted on a confidential basis?

A. Yes.

Q. Isn't that right? And they may involve meetings, or they may involve exchanges of correspondence?

A. Yes.

Q. And that correspondence may involve also passing of documents to individuals

A. Yes.

Q. from whom the Tribunal is seeking assistance. And those documents are passed on a strictly confidential basis; isn't that right?

A. Yes.

Q. And I don't want to go into all the correspondence, but you are aware that the correspondence expressly

states that the documents are confidential and that they shouldn't be mentioned to anyone except on a confidential basis; isn't that right?

A. Yes.

Q. In the course of the Tribunal's correspondence with you, an amount of documentation was passed to you, some of which has never been used in the Tribunal's public sittings, concerning political payments by Esat Digifone or Esat Telecom or Mr. O'Brien; isn't that right?

A. Yes.

Q. And that documentation, or reference to it, found its way onto an article in the Sunday Independent; isn't that right?

A. Yes.

Q. As a result of that, as you are no doubt aware, the Tribunal received an amount of criticism from individuals affected by the documentation, suggesting that the Tribunal had leaked the material in advance of its hearings?

A. I understand that did arise, yeah.

Q. And the Tribunal then tracked the documentation with all the people to whom it had been given with a view to ascertaining whether anyone had given the information to the Sunday Independent?

A. The Sunday Tribune, I think it was.

Q. The Sunday Tribune., I beg your pardon; you are quite

right. The Sunday Tribune. And the Tribunal wrote to you?

A. Yes.

Q. And your solicitor replied that you hadn't given it?

A. Yes.

Q. And while it may be somewhat painful for you to say so, I gather that is not the case?

A. That is the case. It was me that gave it. So I understand that that did create an awful lot of difficulties for you, so I am sorry. I didn't realise that that would actually be a consequence.

Q. I just want to be clear about one or two aspects of it. Apart from the difficulties it created, you may not be aware that apart from the lawyers who work in the Tribunal, there are a number of very dedicated civil servants working in the Tribunal, all of whom had to effectively almost swear that they didn't get involved in leaking this material.

A. Yeah

Q. You can appreciate that put people to a considerable amount of difficulty, and indeed torment?

A. Yeah, and I didn't consider that at the time.

Q. I just want to be clear about one other thing, about why you decided to make this information available to a journalist knowing that it was purely confidential; was there any particular reason? Was it a political reason?

A. I'd have to say it was primarily political in that I had felt, up to that point, that there was an awful lot of emphasis on donations that Mr. O'Brien had been making to Fine Gael, and the documentation with which I was provided, you know, made it clear that he was making donations to Fianna Fail and the Progressive Democrats as well. And I felt that in the public eye, there was a certain entitlement to be aware that there were political donations going to other political parties, apart from Fine Gael.

Q. Well, could I say, then, that are you saying that it was a misguided attempt on your part to show that Mr. O'Brien was contributing to Fianna Fail, at least in '94, and things like that?

A. Yes, and the Progressive Democrats.

Q. I don't think Mr. O'Brien sees it that way, in fairness to him. He hadn't anticipated his material was going to get into the public domain?

A. I am sure he was very annoyed about it.

Q. And that you can understand that other political parties might have been annoyed, as well, that confidential payments were being discussed?

A. I am sure they were.

Q. Thank you very much.

CHAIRMAN: I'll just see if other representatives may wish to raise some matters with you, Ms. Carey.

Mr. Fitzsimons?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. FITZSIMONS:

Q. MR. FITZSIMONS: Yes, I have just a couple of questions, Ms. Carey.

A. Sorry, Mr. Fitzsimons is representing Telenor, is that is that correct?

MR. FITZSIMONS: Yes, Telenor.

Q. The cheque was written for the Golf Classic on the 6th October?

A. Right.

Q. What provoked its writing on that date, since arrangements had been made to make the contribution some weeks beforehand?

A. I couldn't recall, but presumably just the fact that the tournament was coming up. I am not sure of the exact date, but presumably, if it was coming up in the next week or something, then I would have wanted to make sure that they had the money prior to the event.

Q. Yes, well, would you have got a phone call from somebody looking for the money, or something like that?

A. Possibly. But not necessarily.

Q. Mr. O'Donoghue gave evidence in relation to the procedure for cheques, and he appeared to indicate that there would be an authorisation, a document, the financial controller the normal procedure was the financial controller would need a document from the person seeking the cheque, authorising him to issue

it. Now, did you prepare a document?

A. I can't recall.

Q. You can't recall?

A. I can't recall.

Q. But there was no hurry with the issue of the cheque, as this process apparently went over a month. So I assume the normal procedure was followed?

A. Presumably, yeah.

Q. So there should be a document in being

A. I can't say, and I don't have a specific recollection of ever filling out a document like that. So I can't say whether I never did that in relation to any of the payments, or I just didn't do it in relation to this one, or whether it was done in the document and you know, the document hasn't been found.

Q. I take it you are a person that wouldn't cut corners, and financial controllers normally don't cut corners?

A. No, they don't.

Q. Unless there is an urgency arises?

A. Exactly.

Q. And you are not conscious of there being any urgency on the 6th October?

A. No.

Q. So presumably, then, the normal procedure was followed, and there should be a document on file somewhere evidencing to cover the financial controller?

A. I really can't comment on any of that. I don't recall there being anything about a document.

Q. Okay.

Is that your writing on the cheque?

A. My writing?

Q. Yes.

A. No, I don't think so.

Q. Are you sure about that now?

A. Yes, I am sure.

Q. The manuscript?

A. I am sure, yes.

Q. Because we do have a copy of your signature. That's all we have

A. I can write out "Bank of Ireland, 4,000 only", if you want.

Q. I am just asking you the questions.

Well, who wrote the cheque?

A. I don't know.

Q. You don't know?

A. No.

Q. Well, who did you get the cheque from?

A. I honestly don't know, at this remove, but presumably it was someone in the financial end of the bid, either Peter, or perhaps he had an assistant or something at the time.

Q. Right. And you asked that person to write a cheque for exactly that amount?

A. Yes.

Q. Well, how did you find out the price of a draft?

A. In fact it was probably the person who wrote the cheque told me the price of it; I don't know.

Q. Well, different banks have different rates for

A. I don't know. I really couldn't answer at this stage.

Q. You can't answer at this stage. Very well.

Now, Mr. Myhre, as we know, signed this cheque as one of the authorised signatories. If there was a document authorising the issue of the cheque, presumably he would have been shown it?

A. Presumably, yeah.

Q. Can we assume, then, that that document would probably have used the word "sponsorship"? Because you have used the term "sponsorship" in relation to this contribution, and the Fine Gael records, copy of which we have been given, uses that term, too, to describe the contribution.

A. It seems likely. Now but as I say, I just want to stress, I don't recall anything specific about there being a document, so it's kind of going into a different realm to speculate about what might have been on a document that we are only speculating even existed.

Q. And you can't recall even if you spoke to Mr. Myhre?

A. Exactly. I have no specific recollection of that.

Q. But if you did, I am sure it's likely that you would

have used the word "sponsorship"?

A. Yeah, I would have been absolutely clear. There was no reason for me not in any way to conceal, you know, why a cheque, you know, would have been signed. And even if I hadn't gone directly to Hans, I don't see any reason why a member of the financial staff at Esat, you know, would have wanted in any way to conceal it, you know, from him. He was a senior member of the team. I wouldn't have been in receipt of any instructions not to tell him.

Q. I am not suggesting of course not.

Just one slightly different matter. You, of course, as a member of Fine Gael, would have been aware that at the particular time during this period, Fine Gael was anxiously hoovering in as many contributions as it could because of the poor financial state

A. The lunches were all very well attended.

Q. of the party at the time.

Do I gather from your conversation with Mr. Bruton that he had no problem whatsoever with the idea of accepting a conversation from Esat Telecom?

A. Oh, no, not at all.

Q. Not at all at the time in October of and as you said

A. I mean, the conversation I had with him indicated the remove that he was at, you know, from the whole business.

Q. Of course, absolutely. And as you have said yourself, whilst you didn't want to know what other bidders you didn't want to let other bidders know what you were doing or what Esat was doing, there was a level of transparency, in that you attended these lunches?

A. Oh, yes. I mean, there were ten of us showing up to eat these lunches, so anyone could have stood outside and watched who was going in. I was always amazed that journalists didn't do that, as a matter of fact.

Q. With secrecy always goes a degree of, paranoia, isn't that right?

A. There was complete paranoia at all stages during the bid.

Q. And indeed in terms of transparency, for example, all of the members of the Fine Gael fundraising committee would have been they got these lists of names of contributors?

A. Oh yes, and they would have been circulated around Fine Gael headquarters, and the ministers' staff would have seen them. So within Fine Gael there was no problem. As far as I understand it, the urge for secrecy was on our part, not on Fine Gael's part.

Q. Thank you very much indeed.

CHAIRMAN: Mr. Nesbitt?

MR. NESBITT: No questions.

CHAIRMAN: Mr. McGonigal?

MR. MCGONIGAL: No questions.

Mr. Fanning?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. FANNING:

Q. MR. FANNING: Ms. Carey, I appear for Mr. Lowry, the former Minister. I am just interested in the portion of your evidence that you have given, this portion that and correct me if I am mischaracterising it in any respect you really believe that it was a conversation you had with Mr. O'Brien that, if you like, was the germ of the notion in his idea that it was a wise move to make political contributions to Fine Gael fundraisers.

A. Yes.

Q. And I think you have told Mr. Healy in your evidence this morning that you have a very clear recollection of that conversation.

A. Very specifically.

Q. Very shortly after you took up your position, that you went to him and made a clean breast of the issue that you were involved in Fine Gael?

A. Mm-hmm.

Q. And you explained to him that you thought it would be a good idea lest there be negative perceptions of him out there, which you had detected?

A. That's the case, yeah.

Q. And you are very clear in your recollection of that?

A. Yes.

Q. And are you clear in your recollection that you were

planting a new idea in his head?

A. Yes. I was. To the extent that when he subsequently said that he was friendly with Jim Mitchell, you know, I was actually a bit surprised; but as far as I was aware, that was the first time that there was any suggestion to him to you know, start going to eat a few lunches for Fine Gael.

Q. And implicit in that, then, is it the case that it's your view that there was, prior to this conversation, no top-level corporate strategy to politically contribute to Fine Gael?

A. None.

Q. And your evidence, I think, has been very clear that as far as you were concerned, anyway, these were normal political contributions at all stages?

A. Absolutely.

Q. I don't think anyone has suggested otherwise?

A. No.

Q. Now, you have said very clearly, I think, to Mr. Healy this morning that you really had nothing to do with Mr. Lowry, the Minister at the time

A. None at all.

Q. in your work with Esat Telecom.

Did Mr. O'Brien, your employer, who you have said you dealt with directly ever speak to you in any material respect about Mr. Lowry?

A. No, none at all.

Q. Therefore Mr. Lowry didn't, to your knowledge, ever solicit a political donation from Esat or Mr. O'Brien?

A. Not at all, no, no.

CHAIRMAN: Ms. Ni Rafartaigh

THE WITNESS WAS EXAMINED AS FOLLOWS BY MS. NI

RAFARTAIGH:

MS. NI RAFARTAIGH: Just one or two short matters.

Q. Ms. Carey, I think in relation to the issue of the documents being passed on by you, you have indicated to Mr. Healy earlier on that at the time that you did it, you really had no sense of the implications and the trouble you would be putting people to, at the very least?

A. None at all.

Q. I think you have no legal experience or anything of that kind?

A. None whatsoever.

Q. And I think would it be fair to say that when confronted with what you had done by the Tribunal, your initial instinct, having dug something of a hole, was to dig in deeper in a moment of panic?

A. Exactly. And in fact I revised my instructions to my solicitor within a matter of days but unfortunately he had already passed on the denial to the Tribunal at that point.

Q. Now, I think that at this point in time, you are fully aware of the implications of what you have done and of

the trouble to which you have put people; isn't that right?

A. Yes.

Q. And I think you were anxious to come here today and to apologise to the Tribunal and to the people to whom you caused trouble; isn't that right?

A. Yes.

Q. And I think that you were anxious to do that and dispose of the matter so that the Tribunal wouldn't be put to any further trouble; isn't that right?

A. Exactly. Thank you.

Q. Just one other matter: When you were working for Mr. O'Brien, what was your age when you started working there?

A. I was 23.

Q. And had you been working prior to that, or previously?

A. I had been working for the EBS Building Society.

Q. For how many years had you been working for them?

A. Oh, not long; six or seven months, something like that. I had just come out of higher education.

Q. You were effectively a very young person with very limited working experience at that time, is that right?

A. Yes.

Q. Everything that you did that has been discussed here this morning was done on the instructions of your employer; isn't that right?

A. Yes.

THE WITNESS WAS EXAMINED FURTHER BY MR. HEALY:

Q. MR. HEALY: Two small points I should have mentioned to you, Ms. Carey.

Firstly, the secrecy in relation to the £4,000 payment worked, didn't it, if I can put it that way? Nobody found out about it in the press or anything like that?

A. I don't think so, at the time. The by-election one was revealed within a matter of months, but I don't know when the sponsorship one came out.

Q. One other point arising from something that Mr. Fitzsimons helpfully drew to the attention of the Tribunal.

He was asking you about the documents that might normally be used when you requisition a cheque in any company. I suppose in the standard case you just have an invoice, do you want to requisition a cheque? I don't know, in marketing, if you'd have to requisition many cheques, but you might be paying for lunches, you might be paying for material, printing and so on; I suppose you'd just send an invoice from the printer to the financial controller, and that would be the proof that you require a specific amount of money?

A. Mm-hmm, yeah.

Q. And normally financial controllers would keep those invoices, copies of them with their own records of payments. Now, in this case, if you went to the

financial controller, you'd have had to bring something or explain something to persuade him to do it without an invoice?

A. I either would have explained, or I imagine I would have had the original letter, with perhaps a written instruction. This is where the problem arises

Q. We'll just put it on the overhead projector.

That's the letter of the 30th August; is that right?

A. Yeah. So I imagine I would have had that, or I would have had something. Although, to be honest, an explanation probably would have sufficed. I mean, it was a very small company, and, you know, matters were not always conducted in a very formal way.

Q. I suppose if you were saying "Denis O'Brien wants it done this way"

A. Oh, yeah, no one would doubt I was going to race off with a cheque for four grand for a draft.

Q. A letter, if you were going to produce it to anyone, because it does mention

A. It's quite specific.

Q. If you just look at the top of it for a moment. The top of the letter.

It's actually got the symbol of the Government on it, and "Dail Eireann"?

A. It's written on Dail letter, yeah.

Q. At the bottom it says

A. Presumably that was Phil Hogan's, yeah.

Q. At the bottom, it says, "Phil Hogan, TD, Chairman, Parliamentary Party"?

A. In fact that's probably why Phil was signing all that correspondence, because I think it has to be written by a TD in order to be able to use the free postage.

Q. Yes, it does, yeah, and I think he was just signing letters that were just pushed in front of him?

A. Yeah.

Q. Just one aspect of that; if you Mr. Fitzsimons wanted to know if that if you brought the cheque to Mr. Myhre for signature. You don't recall?

A. Unfortunately

Q. But if you did, would you have brought that material or similar material?

A. It mightn't strictly have been necessary. I imagine he would simply have taken my word for it. You know.

Q. Provided you explained it to him?

A. Oh, yes, provided I explained it to him, yeah.

CHAIRMAN: Ms. Carey, since the date of these matters, you have been involved a little bit as a social and political commentator; am I right?

A. Yes, that's correct.

CHAIRMAN: You occasionally appear on RTE programmes, and you run a website and the like, and comment on some of these matters.

A. Yes.

CHAIRMAN: And it's really in that context that apart

from the matters that Mr. Healy mentioned to you of all fifteen people involved in the Tribunal having to sign, effectively, what was tantamount to a sworn direction that they hadn't leaked, that you may realise that it also occasioned the Tribunal at least some two to three days' extra work by way of internal inquiries to deal with these matters; in particular, a certain amount of correspondence, including some quite abrasive correspondence from one of the Government parties.

A. I wasn't aware of that.

CHAIRMAN: Well, as Mr. Healy said, I have no wish to make this any more unpleasant and I have no interest in matters going beyond the walls of this Tribunal

A. I didn't have any idea that it was going to cause, you know, that level of trouble. I hadn't thought that that kind of thing was going to happen at all. So I am sorry about that.

CHAIRMAN: I appreciate that, but you realise I may have to bear it in mind in any eventual question of costs that I have to consider.

A. I believe that.

CHAIRMAN: I'll fully have regard to everything you have said.

Thank you for your attendance today.

Two o'clock for the further witness today. Thank you.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AFTER LUNCH AS FOLLOWS:

MR. HEALY: Mr. PJ Mara, please.

PJ MARA, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. HEALY:

CHAIRMAN: Thanks for your attendance, Mr. Mara.

Please sit.

Q. MR. HEALY: Thank you, Mr. Mara.

You provided the Tribunal with a memorandum of information, and as with other witnesses, what I propose to do is to take you through the memorandum and maybe clarify one or two things, and I may have one or two other questions to ask you. And if they involve any other documents, we'll produce those on the overhead projector.

In your memorandum you say that you were a consultant to Esat Telecom/Communicorp from approximately 1994; that you provided public relations consultancy services, and that this included services in connection with the Communicorp bid as part of the Esat Digifone consortium for the second GSM mobile licence.

One of the initial matters on which Mr. Mara advised Esat Telecom/Communicorp was the composition of the its board of directors. In view of Communicorp's interest in bidding for the second GSM licence, Mr. Mara's view was that the composition of the board needed to be strengthened. It was Mr. Mara who

proposed that Mr. John Callaghan join the board. Mr. Mara met Mr. O'Brien regularly, usually in the Communicorp offices.

You say you do not recall or you do recall that whilst these meetings were informal in character, they were held, as you have said, regularly and were well structured and purposeful.

Your input into matters was generally on a broad or macro basis.

You recall that financial strength was one of the criteria in the competition process.

Your understanding was that in order to win the licence, the Department would need comfort that the bidder had some financial muscle.

You have no recollection of having any input into the Esat Digifone rehearsal for the formal oral presentation to the Department, although you may have been aware that a rehearsal had been arranged.

You have no recollection of the structured meeting after the oral presentation to discuss the performance of the Esat Digifone team.

You do recall meeting with Mr. O'Brien after the presentation and discussing how the presentation went.

You cannot recall who was present. You recall that yourself and Mr. O'Brien reviewed matters and that Mr. O'Brien informed you that it was his impression that there might have been a weakness on the financial

side. You recall that you indicated that this was important and that something should be done about it. You did not discuss what steps should be taken or how the perceived problem might be approached or remedied.

You did not suggest that a letter be sent to the Department. You did not know if it was the intention of the consortium that such a letter be sent or that a letter dated 29th September, 1995 was sent, nor did you know that the letter had been rejected.

You were not aware of Mr. O'Brien's negotiations with Mr. Desmond or Mr. Desmond's involvement in the consortium until after the result of the competition process was announced. Your recollection is that you made an inquiry as to the ownership of the 20% stake and that in response, you were informed of Mr. Desmond's involvement.

You say that you were a consultant to Esat Telecom/Communicorp from approximately 1994. Do I take it from that that you mean from early 1994?

A. As you know, when we discussed this in private, I wasn't quite clear or sure about the dates, but it could have been well, maybe there to be honest with you, I'm not absolutely clear, but it was in 1994.

Q. Well, in 1994, Mr. O'Brien was certainly interested in promoting the notion of mobile telephony in Ireland and getting involved in it; isn't that right?

A. Mmm.

Q. How would you have described your services, then or now, assuming that they are the same type of services?

What type of services did you provide? Why would somebody go to you, in other words?

A. Because I am very good. No, I am sorry I don't mean to be facetious. I think it's pretty much as I described there. I mean, it would be in the area of public relations, and perhaps you know, maybe in the financial public relations, dealing with journalists in a general way, and specifically with journalists who would be writing in the business pages.

Q. Right.

A. And having an overview of the whole presentation and the preparation of the presentation and looking at it and talking about it and discussing it with the various colleagues within the company.

Q. I just want to clearly understand whether there is any difference between the type of consultancy services you do provide or were providing and those what we heard discussed this morning. You weren't if you weren't here, but one of Mr. O'Brien's then staff members, Ms. Sarah Carey, gave evidence of her role in public relations within the company, and we're aware that Ms. Eileen Gleeson was providing public relations and similar services to the company at the time, and

indeed appears to have been very energetic in providing those services all during the bid and right up to the granting, formal granting of the licence.

We know that Mr. Jim Mitchell had been hired to provide some public relations/strategising consultancy advice, some of which was referred to by Ms. Carey this morning. Were providing that type of advice or a different type of advice?

A. I mean, I suppose Eileen Gleeson would have been doing the day-to-day work, the preparation and so on, more or less the heavy lifting; and my function would have been to have an overview of how the various public relations, marketing presentation things were being prepared, offering comment, offering help, offering assistance.

I suppose it's not unlike in your own profession, where you would have someone like yourself, an eminent silk, and then you'd have lots of junior counsel helping you and preparing and whatever else.

Q. We see, in the case of Ms. Carey, and particularly in the case of Ms. Gleeson's company, quite an amount of documentary material

A. Mm-hmm.

Q. relating to the work they were providing. I think I'm right in saying that there isn't a single document relating to any of the services that you were providing?

A. Mm-hmm.

Q. And what I'm trying to find out is what it is you were very good at that we can't see, but that you were able to provide and get paid for.

A. Well, I suppose I would have, and I say in a paragraph down that you know, that I met on a regular basis with Mr. O'Brien and with indeed with other directors as well, where we would have discussed progress in relation to the preparation of the application, where I would have joined in that discussion and that debate, where I might have looked at various press releases, draftings, whatever else, and offered comment and provided comment; provided, I suppose, an experience that others didn't have, because I have been around the block more often and for a longer period than most of the other people you have mentioned.

So really, it was, I suppose, to be an experienced adviser, counsel, to the directors, to the executives and to the other advisers.

Q. Do you recall having meetings with the other advisers?

A. Not precisely, but I'm sure certainly with Eileen Gleeson; Eileen Gleeson would have present from time to time at meetings. I have no recollection ever of meeting Jim Mitchell, the late Jim Mitchell. I have no recollection of Ms. Carey, but my memory or my understanding is that she was more involved in events

and that kind of thing, which you know, I would not have been involved in.

Q. So do I understand, therefore, that you'd be providing, I think as one of the other witnesses said last week, a sort of a more grey-haired overview of the work of other PR consultants and other marketing strategists?

A. It would have been an overview of not just their work, obviously, it wasn't I wasn't like a prefect, you know, sort of looking at the work of

Q. I appreciate that. You weren't monitoring or auditing their work?

A. No, but I would have offered people would say "I think it would be a good idea, this would be a good way to go, this would be an interesting thing to do", and it would be discussed, and I'd say, "Well, no", maybe I did that in another experience in another time in another place and it didn't work, and "maybe we should try something else". That sort of thing.

Q. I follow. That's what I mean.

A. And that would have been not just with, you know, the executives or the advisers, but it would have been with directors and whoever else. As I said to you when we discussed this before, like, the thing was informal, but it was informal within the structure, and it was always purposeful; it was always an issue or something that had to be dealt with.

Q. I am not criticising the absence of documentary material. Your advice was, as you say, at a macro level, dealing with perhaps the bigger-issue aspect of work that was being executed by other people doing the nitty-gritty?

A. Correct.

Q. I can see why you weren't going to be drafting documents, you weren't going to be examining drafts?

A. No. I think if you discuss with anyone I ever worked with, and even when I was Government press secretary, I wasn't exactly well-known for sending long memoranda to people. I would go and have a conversation, and that was the way I operated all of my life; and to this day, that's still the way I operate.

Q. All right. Could I take it, then, that you would have been involved to some degree in some of the decisions that we were discussing this morning, namely a decision that Mr. O'Brien took early in 1995 to raise his profile with the Fine Gael party?

A. I have I haven't any real recollection of any decision like that being taken or being discussed. I mean, my experience over the years has been that business people in various areas, you know, will go to all parties, fundraisers appeal, a golf classic or a dinner, and if that were happening, I wouldn't have regarded it as unusual; it's just the way it is.

Q. I think the evidence we heard this morning was that

Mr. O'Brien set out on a particular strategy quite an intensive strategy of raising his profile with the Fine Gael party. It wasn't just like any other businessman going to the odd lunch. I think a lot of lunches were attended. In fact if you look at the list of lunches I am not going to take you through them you know, every a large number of the available opportunities of raising profile with Fine Gael that year seemed to have been taken. And towards the end of the year the strategy became very intensely thought out, to the extent that it involved being as non-transparent as possible, if I can put it that way.

Were you involved in that?

A. No, I was not involved in it. I wouldn't think that I would have been any particular help to Mr. O'Brien with the Fine Gael party.

Q. Did you have any role in helping him with the Fianna Fail party in 1994?

A. I think you asked me that a very long time ago in another time.

Q. I remember.

A. And I think that as I might describe it, I might have been in internal exile with the Fianna Fail party following the change of leadership.

Q. I remember your answer now. In fact there doesn't seem to have been much by way of contributions to Fianna Fail; a few contributions to a few fairly

insignificant lunches in 1994. So you weren't involved in those in any case?

A. No, I was not

Q. You weren't involved in any other similar Fianna Fail strategy?

A. Neither with Fianna Fail nor with Fine Gael. I wouldn't have brought anything particularly important to that party, or so that using "party" in the sense of a social event.

Q. So that we don't fall into the trap of thinking that you only have one role, a role in Fianna Fail, or a role in advising on relations with Fianna Fail, I take it that your role goes way beyond that. Your experience of Government is an experience of Government, not necessarily of any particular a Government of any particular complexion?

A. I think that's probably not unfair, because you know, people in Government, whether they were political people, senior political people, or whether they are senior administrators, you know, have a particular way of looking at things; and I suppose, you know, giving people a sense of how a particular action or inaction, neglect, would have been viewed, yeah, that's something that I would have a sense of.

Q. One of the things I wanted to ask you about, and you had mentioned it in your statement, is the preparation at the bid, and in particular, the steps taken shortly

after the presentation

A. Mm-hmm.

Q. on the 12th September, 1995.

You know what I am talking about. The bid went in in paper form, and then there was an opportunity to

A. Present

Q. meet the individuals involved and put your best foot forward in an oral presentation?

A. Mm-hmm.

Q. And you say that your impression, or you were informed by Mr. O'Brien that it was his impression following the presentation that there might have been a weakness on the financial side. I am quoting from the statement.

A. This is Paragraph 7?

Q. Yeah.

A. Yeah.

Q. From the evidence we have heard from Mr. O'Brien and others, it would now appear that there were serious weaknesses on the financial side even before the presentation, and I am just wondering whether that had been drawn to your attention in advance of the presentation.

A. No it wasn't, and I suppose and I have thought about this, and we talked about it before, and I suppose after you have done an examination or something like that, you come out of the exam hall and

you discuss with your colleagues how you did, and you say "I thought I did well in" whatever subject, "and maybe in the other paper I did less well"; and I think it was that kind of sense that Denis O'Brien communicated to me, that he thought the thing overall had gone well, but that if he had any concerns, it would be on that particular part of his presentation, yeah.

Q. You don't recall having, as it were, a major post mortem or being present at a major post mortem meeting?

A. No, not a major post mortem, and I say I am not quite I can't be honest with you and say under oath that, you know, it was a particular time, a particular place, and describe who was present; I cannot do that.

My memory is that there was a conversation. I do remember this being said to me. But it wasn't I certainly didn't sit in on any major post mortem.

This would have been a bilateral meeting between Denis O'Brien and myself that's my best memory of it.

Q. In the scale of things, this must have been one of the important things that he was bringing you in to look at?

A. Mmm.

Q. In the scale of things, he must have regarded this as fairly important, if he was bringing you into the loop?

A. My memory of it is there were a whole lot of other things that were equally important. There was acquisition of the sites for the towers. There was the whole marketing plan. There was the roll-out of the thing. There was the sales and all of that. And I didn't particularly I didn't place the financial thing any higher or lower than the other criteria, but what I would have said, "If you feel on this one that you're weak, well, we should do something about it"; that sort of thing.

Q. I suppose if you look at it this way: It was the only one he decided to do anything about, and it was the only one about which we have heard in evidence that there was a perception that Esat Digifone were weak?

A. Yes, but I think that in many ways, I suppose, if you reflect on that, like, Esat Digifone were the home-town team; you know, they were the most prominent of the home-town teams, anyway. And a lot of people would have said, you know, "How can you guys possibly think you can do that? You are up against, you know, whoever the big barons from the United States, and this that and the other, and there were all kinds of loose talk about who might or might not be ahead, but that doesn't matter now, but one of the things was saying well how could a small Irish group, with their Norwegian partners, they could they compete against, you know, the Motorolas and whoever else, you just

won't have the resources. So that would have been the kind of, if you like, the anecdotal thing flying around.

Q. What use was anything you could do about that once the bid had gone in?

A. To be honest with you, I wasn't, and I have thought about this since; I wouldn't have been aware that there was a restriction on putting in additional information or providing additional information. I didn't suggest as I said to you, I didn't suggest this be done.

If it had gone in, if somebody had sent in an additional note or memorandum saying "By the way, I want to tell you this", I wouldn't have thought this was any way unusual, because it happens all of the time in commercial transactions, you know, where one side will send information to another side or to somebody adjudicating on a bid or an acquisition; banks on behalf of one side or another will exchange information. This happens. I didn't place any great importance on that because I wasn't aware that there was this restriction.

Q. But maybe you can help me in this: What point was there drawing any of this to your attention then? If you had been to a presentation you are an experienced businessman; Mr. O'Brien told us that he had this perception. He said I think he said

Mr. O'hUiginn had this perception, Mr. Johansen had this perception Mr. Johansen was present at the presentation. He said it was clear to them, rightly or wrongly, that there was a weakness. Why would he need to go to you to ask you whether he should do anything about it, if you weren't aware of this particular complication?

A. I don't think it was a question of him coming to me. I think, you know, this would have you know arisen in the normal ebb and flow of activity. I mean, we have an informal meeting; we are talking about

Q. What I am trying to get at is why does this require a meeting if this is something simple: you go in and you try to impress some of the other side of a commercial deal, you feel you haven't impressed them on financial matters so you come out and you say casually to somebody else, "look it, we better send in a letter here and showing we have got better finances, and we better do something about it".

This was different; this was a formal process, a very highly formalised process; it was a governmental process.

A. Mm-hmm.

Q. If there wasn't a complication about sending in an additional piece of information, what would be the point in asking you for your advice about whether to do something which anybody anyone in his right mind

would have told them to do?

A. I don't think there is no suggestion there that Mr. O'Brien asked me for any advice. I mean, we had a discussion where and of the kind saying "Well, did we get on?" He said "We got on very well. We dealt with all the points, we went through the agenda, we ticked all the boxes; and if I had any concern, I would be worried we mightn't be strong enough on the finance side in our presentation on that".

My response to that is perfectly natural, perfectly normal: Well if that's the case, we should do something about it. I wasn't seeking advice.

Q. I appreciate that. What's the point in saying to somebody you should do something about it if you weren't going to go further? I mean, anybody could see that if there is a weakness, you should do something about it. The problem was how to do something about it.

A. Well, I understand that. And to be honest with you, I can't remember making any practical suggestion as to what we might have done or what we might do in that case. If somebody came back to me after and said "By the way, we sent in a note to the Department, and you know, they didn't accept it; they rejected it", I would have said my answer would be, "Why are they rejecting it?"

"Because there is a restriction on doing that, and you

can't do it, and they sent it back". I would have

said "That's too bad; we tried.

If somebody said to me "We better send down a note", I

would have said, "Yeah, that seems the mo direach".

Q. And you can remember all of this?

A. I can't remember. I made it perfectly clear to you

Q. I know but you can remember this, but you are now

telling us you can remember being consulted to some

extent about it.

A. I am not going to any further when I say to you in my

statement that he, Mr. O'Brien, informed me that his

impression was there might have been a weakness on the

financial side, and I recall saying well, that's

important, that we try and do something about that,

and something should be done with it. No more than

that.

Q. Would you then describe the encounter you had in which

this exchange occurred as a casual one?

A. It was informal, as I said in my note, I think

yeah, I mean, I didn't quite say that in that

paragraph, but it was an informal meeting, an informal

discussion.

Q. You weren't told that the letter had been rejected,

for instance?

A. I beg your pardon?

Q. You weren't told a letter had been sent?

A. No.

Q. And you weren't told it had been rejected?

A. No. As I say, I did not discuss I think it maybe rejected afterwards, but I can't remember that precisely. To be honest, I don't recall that.

Q. Isn't it surprising that Mr. O'Brien would have told you how he did or how he fared at the presentation and not mentioned to you that this attempt they made to remedy the problem, as you agreed should be remedied, that he didn't tell you that their attempt had failed?

A. No, because I don't think I wasn't central, you know, to that part of the presentation. My role was on having an overview of the whole marketing, sales, presentation, PR thing. Just having a look at that.

Q. What use is all of that if you don't win the licence?

A. Pardon?

Q. What use is all of that if you don't win the licence?

A. I always felt he was going to win the licence. I thought he had so many other strengths. I thought the company was going to win the licence. I think they had so many other strengths in their preparation, in the site acquisition, and all of that, in the whole mapping. And I thought their partners were good strong people who had done the same in Norway. I thought, you know, overall, the marketing plan was excellent. I thought the sales thing looked good. I thought they had terrific energy. I thought they had

terrific focus.

And this conversation was probably one of dozens of conversations, you know, that took place over the months. It doesn't particularly stand out in my mind.

It was just an impression that we had there had been a weakness on the financial side. And I said, "Well, if that's the case, we should do something about it".

Q. Mr. Buckley gave evidence last week do you know Mr. Leslie Buckley?

A. I do, well.

Q. And he said that after the his impression after the letter was rejected was that Mr. O'Brien was disappointed.

A. Was disappointed after

Q. Was disappointed after the letter was rejected.

A. Yeah.

Q. Having discussed the problem that resulted in sending the letter to you, isn't it surprising he wouldn't have come to you with perhaps what might be regarded as a much more serious problem: the rejection of the letter?

A. To be honest with you, I didn't you know, I didn't focus on it any more after the conversation, you know, because as I say, it wasn't the part of the bid process that I was central to, you know, or was part of my remit or my brief. It was said to me in the

informal meeting we had, and my response was, you know, as I have said to you and as I said to you before and I say to you now in this memorandum, you know, if we have a problem, let's deal with it.

Q. I'm trying to work out what services you were giving.

You wouldn't characterise that, then, as a critical element of the services you were giving Mr. O'Brien a casual you wouldn't characterise that as a critical element of the services you were giving Mr. O'Brien?

A. I am not an expert on finance. I am not an accountant. I am not a financier. I am not a banker. I don't have any knowledge of that.

Q. No, but this was strategy.

A. It was one element if somebody came along to me and said, "I think we did terrifically well in the marketing presentation, our sales presentation, our engineering, our roll-out, our site acquisition, but I am just a bit worried about that", it was no stronger than that. It was just I was worried about it, or concerned about it, and whatever. I'd say "Well, then, if that's the case, we should try and do something about it".

Q. Did you have any role in preparing the bid?

A. No, I had not. That was very much a specialist task. There were lots of other people who with more appropriate qualifications than mine for that.

Q. You say you weren't aware of Mr. Dermot Desmond's involvement until

A. That's correct.

Q. until after the result of the competition was announced?

A. Yeah.

Q. By that, you mean October of '95?

A. Well, whenever I mean

Q. I don't want to hold you there were actually two times, the competition result was October 25th, but then there was a period of negotiation; the licence was granted on May 16th, 1996. Which time do you think you are talking about?

A. I can't remember. I can't recall that precisely. All I can remember is that you know, it wasn't something that I placed a great deal of emphasis on, because there were my memory of it was there were a number of institutions who were potential partners or potential investors in it. That seemed to be pretty settled, you know, that there would be such institutions available to participate in the consortium. And then I just you know, I took that as a given, and you know, my position always was, and still is, that no matter who won the licence, once the licence was won and awarded, funding would not be a great problem after that. It was just getting through the getting to the point where you had the

ball over the line.

Q. You weren't aware that Mr. O'Brien was in contact with Mr. Desmond from a very early point in August of 1995?

A. I was not.

Q. You weren't aware, therefore, as you say yourself, of the actual remedial step taken, the introduction of Mr. Desmond into the consortium on the 29th September 1995?

A. I was not.

Q. And you were not aware of the fact that the institutions were out of the consortium?

A. I was not. I was just aware that there were institutions. I cannot remember the number three or four, you know potential names that were they said "Oh, they'll be there, and they'll be there"

Q. You weren't aware of there being any perception on the part of the bid people that there was a problem with these institutions prior to the presentation?

A. No.

Q. You see, these seem to have been big problems, but you don't seem to have been brought into the loop. I am trying to work out what you were being brought into the loop to do.

A. Because I think we have gone over this a number of times.

Q. I still can't find it.

A. My particular skills are, such as they are, are in the

area of presentation. It would be marketing, look, sound, sense, feel. I would have no role or no qualification in having discussions with investment bankers, merchant bankers, pension funds or anything like that. That would not be something that I would have. I might have a bit more, now that I have been around the block a bit longer; but certainly in those years I wasn't long out of public service, and it is not an aspect of business I had any qualification in at that time, and I wouldn't expect to have been consulted.

Q. During 1996 on a number of occasions, strategies were developed by the bid team as to how to present the changes that were occurring in the consortium; in particular, the involvement of Mr. Desmond and changes in the shareholdings. And you are telling me you weren't involved in any of that?

A. No, because at that point, effectively, you know, my task was finished. You know, we had prepared the application; we had done all of that. We had the oral hearings, and as far as I was concerned then, the licence was won. And really what followed from after that was, you know, housekeeping, you know, getting the final consortium bedded down and getting on with rolling out what had been prepared.

Q. In the course of his evidence, Mr. O'Brien I think he was asked about a letter that had been written by

or a document, rather, that had been prepared by Mr. Johansen. I'll put it on the overhead projector, or else I'll give you a hard copy if I can. It's a document contained in Book 49, Leaf 130. I'll put it on the overhead projector.

This is a memorandum that was prepared by Mr. Arve Johansen on the 4th May, 1996.

A. Prepared by whom?

Q. Mr. Arve Johansen; he was the, if you like, the most senior executive involved on the Telenor side. And at this time relations between Telenor and Mr. O'Brien were somewhat fraught. And Mr. Johansen made a memorandum on the 4th May, following a meeting on the 4th May with the Department where the Department asked the Esat Digifone people to explain how it was that Mr. Desmond was coming into the consortium and that the institutions were going out.

And this is what Mr. Johansen says: "I have below summarised a few points that has become clear to me over the last 24 hours as a consequence of the information acquired regarding Communicorp's attempt to buy back 12.5% of the IIU shares." IIU, as you probably know, being Mr. Desmond's vehicle.

"Denis O'Brien came personally over to see me in Oslo probably some time during September last year. He informed me that, based on information from various very important sources, it was necessary to strengthen

the Irish profile of the bid and get on board people who would take a much more active role in fighting for Digifone than the "neutral" banks who basically would like to keep a good relation to all consortia.

"I accepted Denis's word for the necessity for this new move. Note: Underwriting was never used as an explanation.

"IIU should apparently be the ideal choice for this function, the only string attached being they had demanded a 30% equity participation 'for the job'. Denis had managed to reduce this to 25%, but it was absolutely impossible to move them further down. This was a disappointment to us, since everything we had said and done up to then had been focused on at least 40% ownership for the principal shareholders at the time of the issuing of the licence. But not only that, Denis then pushed very hard for Telenor to swallow 15% of this and Communicorp would be 10% to which I never agreed but I accepted the principle of 'sharing the pain' and maintaining equal partnership (37.5%:37.5%). It was also said that a too-high Telenor ownership stake would be seen as aggressive and could be inhibiting the award of the licence.

"This was the very first time I experienced real hard and very unpleasant push from Denis."

Now, this is Mr. Johansen's document, I hasten to add.

At this point in September of 1995, the consortium was

changing from 40:40:20 for the institutions to 37.5:37.5:25 for Mr. Desmond's vehicle. And as you can see there, there was a concern about the impression this might create. It looks like a look, feel, or perception type of issue, and I think what you are telling me is that you were not involved in that?

A. No. First of all, I never knew of Denis O'Brien's meeting with the Telenor people in Oslo.

Q. Did you say you

A. I suspect, you know, but I don't know

Q. Did you say you knew? Sorry

A. I wasn't aware of that.

Q. Sorry, I didn't pick it up.

A. Secondly, you know, I think my experiences then would lead me to believe and confirm my belief that this kind of negotiations, like the "25%, I want 5 more", is more of a banking investment banking activity than it is about a perception. I think this probably hasn't a lot to do with perception.

Q. It doesn't have a lot to do?

A. I suspect not. I think it's probably people taking up negotiating positions of one kind or another.

Q. Would you just look at the first paragraph:

A. I saw that.

Q. "Denis O'Brien came personally over to see. He informed me that based on information gained from

various very important sources it was necessary to strengthen Irish profile of the bid."

Now, "profile": isn't that something to do with look, feel, touch, again? Is that something you were not involved in?

A. I never heard I never heard of this, but is it my understanding that Mr. O'Brien says that this never happened.

Q. Mr. O'Brien says he never said that, but he went on to that's why I say it's Mr. Johansen's document.

A. I understand that, but Mr. O'Brien says he never said that. I never heard that was never discussed with me, like, you know, the changing my understanding was, whatever it was, 40:40:20, and "onward Christian soldiers".

Q. In the course of that evidence, or in the course of Mr. O'Brien's giving evidence on that, Mr. McGonigal drew to the attention of the Tribunal that Mr.

Johansen had said that important sources, as far as he was concerned, when this expression was used by Mr. O'Brien which of course Mr. O'Brien denies meant his consultants, his advisers.

A. Who said that?

Q. This is what Mr. Johansen says.

A. I see. Well, it may be consultants, but it wasn't this one.

Q. I think you were paid a success fee as well as

ordinary fees, as were a number of other consultants and advisers maybe even employees as well, I am sure involved in the bid; is that right?

A. Correct.

Q. You were not involved in the real, if you like, profiling of the bid by changing the share consortium; you were not involved in the presentation of that in September of 1995, and you were not involved in the subsequent presentation of that to the press or to the Department or to the public in 1996; is that right?

A. I suspect once the deal was done, and I can't remember with any precision, that when the partnership arrangement was finally agreed upon, whatever it was, 40:40:20, and that IIU/Mr. Desmond or whatever, it would have been something that we would have said, "This is good". And I cannot remember, but I'm sure I would have been you know, out saying this was a good thing, yeah.

Q. Yes, I am sure you might have been saying that after the whole after the licence had been granted. But I'm talking about the presentation of this to the Department.

A. No

Q. It was the Department who insisted on

A. I understand that.

Q. 40:40:20.

A. I understand that.

Q. Were you involved in dealing with that issue?

A. I was not involved in dealing with the Department.

But as I said to you before, and I'll repeat again, I regarded and would still regard that as a professional, banking, accounting, legal issue to be dealt with by such personnel with the Department.

Q. How was it a professional banking issue?

A. Anything to do with money and shareholding and that, you know, it would be more appropriate

Q. Mr. Mara, you surely know more about these things. I think it was made clear from the evidence of numerous witnesses, whatever the Department wanted they were going to get. The Department wanted 40:40:20. It had nothing to do with banking. It had nothing to do with finance.

A. I accept that. And what's your point?

Q. Well, were you involved in crafting a response to the Department?

A. I was not involved. I explained to you earlier, I would not have been a particularly suitable gent to stroll around to the Department, you know, when it was under the political management of people who

Q. But that isn't what you do, is it? stroll around to the Department?

A. Horses for courses. I mean, I would not have been the best gent to go down to see whoever because of my political history.

Q. Would that have been the thing to do, hire some gent to go around to the Department, where an issue like that is concerned, to try to see could you

A. I suspect the executives themselves were perfectly capable of doing that and negotiating that.

Q. But are there people who provide those services, go down to Departments?

A. If there are, I am not aware I have never been one of them. I have never gone banging on Department doors. I have of course from time to time been part of a delegation going in to see a Minister or official to make a case or make an issue, but certainly not in this instance, anyway, and I don't know any of the executives who would have done that.

Q. At that particular time, you presumably had other clients?

A. I had many other clients, yes.

Q. Can you point to, apart from the general bouncing of ideas that you might have been engaged with Mr. O'Brien, or casual, or even less than casual, serious structured sorry, there were no structured, I think, dealings, very few structured dealings?

A. The point I made, you know, whilst the meetings were informal, they were held regularly and were well structured.

Q. Were well structured?

A. Were well structured.

Q. So there'd be an agenda.

A. There would have been maybe not an agenda because there might have been only one or two items to discuss, you know.

Q. In that sense there'd be an agenda: "Can I meet you to discuss some structured, some clearly articulated problem?"

A. It might very well arise in this way that I might arrive in the office at 9.30 or nine o'clock and say, "Well, okay, what's happening in the last few days? What happened overnight? What happened in the presentation yesterday?" That kind of thing. "Let's talk about it".

Q. That's casual. That's not structured, is it?

A. Well it's informal.

Q. It is.

A. Yes, but as far as we would have met on a regular basis, we'd sit down at a desk, we'd face each other other

Q. Did it depend on the day you came in, though?

A. I would always you know perfectly well, in business or any organisation that people are constantly talking to people on the telephone or whatever. It would be I'd see you in the morning or I'll be in tomorrow morning or whatever.

Q. It would depend on when you called in the sense that nobody hold on a moment told you about the

problem with sending in additional information to the Department; nobody told you about Dermot Desmond; nobody told you about the institutions; nobody told you about the 40:40:20 change?

A. When they were completed. I mean

Q. No, no, no; nobody told you about them at all over a period of almost a year.

A. With the in relation to, say, Mr. Desmond getting involved?

Q. Yes.

A. Certainly nobody mentioned that to me. Certainly that was something that was managed by the appropriate people.

Q. But in the days that you might have called in, you mustn't have called in on any day when in the previous few days, as you said, and as when you might have asked the question, what had happened, nobody said to you, "Well, we have got a problem with the Department; they have rejected our letter". Nobody said to you, "We have got a problem with the Department; they won't accept the 37.5:37.5:25".

A. You know, I am sure you found this, you know, throughout your career, that people tend to compartmentalise information, and they tend and this would have been something that I suspect, I can't remember precisely was held very tightly amongst a few of the very senior people within the

company. I certainly wasn't I certainly wasn't consulted about it. And I told you this on a number of occasions. It just didn't arise. And I am not surprised or I am not disappointed about that. That's just that's the way it was decided would be done.

Q. Isn't it probably the case, then, it was decided not to consult you because there was some reason for not consulting you?

A. No.

Q. Not bringing you into that particular loop?

A. I wouldn't have been brought into any particular party, because this is something that had to be resolved by the appropriate people within the organisation and by the potential investors/partners, whoever. It wasn't something that I would have been able to offer any appropriate or relevant advice.

Q. Was your overall contribution, then, a very serendipitous one, you'd come in and out and casually deal with

A. I don't think "serendipity" is an appropriate description. I mean, I would have been in and out almost every day, every second day. This was a Digifone

Q. Every second day?

A. I haven't I mean, it's nine years ago; I can't remember exactly how many. But when the bid was coming to its final stages of preparation, clearly it

was something where you would be present, you would be available, and you would contribute where appropriate.

Digifone, Communicorp, were an important client of mine, and I wanted to participate in any way that they thought necessary or appropriate.

Q. Can you yourself point to any what you might regard as any single major contribution you made to warrant, you know, a big payment at the end of the day?

A. No. I would never be so vain as to, you know I mean, one of the things that bores me about people is that when something good happens, they want to place themselves at the centre of events and claim responsibility.

Q. I am not suggesting that.

A. What are you suggesting, then?

Q. I am trying to find out, can you point to some particular direction you pointed the project in that you feel was a major contribution you made, as opposed to what might be an equally justifiable nudging the project from day to day?

A. No. I think you know that these things tend to be made up of a series of small steps. I think what I said to you when we met, and what I said to you in paragraph 2, I think the strengthening of the board, you know, ab initio, was important, because as often in these matters, you know, perception, you know, is more important than reality.

I always thought that they were going to win. I thought that Denis O'Brien's commitment, energy, you know, intelligence, was you know but sometimes, you know, that mightn't have been that well-known. I think it was that was my contribution, was to get that out into the wider world.

Q. Just a small point on timing. I mentioned to you already the presentation took place on the 12th September. You obviously won't remember the date. Can you recall how long it was after the presentation before you met Mr. O'Brien?

A. I cannot, no.

Q. On the basis of what you told me a moment ago, I suppose it must have been days, if you met every second day.

A. I am sure it was.

Q. Do you recall I don't know if you're interested in football and hurling, but do you recall if it was before the All-Ireland in September of 1995 or not?

A. I have a great interest in hurling and Gaelic football and rugby and soccer and whatever, but I can't place it precisely, no, I am sorry.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. FITZSIMONS:

MR. FITZSIMONS: Just a small question.

Q. Mr. Mara, at paragraph 1 of your statement, you say that you were a consultant to Esat Telecom/Communicorp from approximately 1994. Was that from early 1994

A. I think Mr. Healy asked me that, and I wasn't able to place it with any great degree of precision.

Q. You go on and you say you provided public relation consultancy services, and this included services in connection with the Communicorp bid for the second GSM mobile licence.

Now, Mr. Mara, we know from other witnesses, and indeed from Ms. Sarah Carey this morning, that a very serious concern for Esat Telecom/Communicorp at this time, 1994, '95, '96, was the problem they were encountering with Government departments in relation to routers?

A. Yes.

Q. And auto-dialers?

A. I remember that.

Q. And my question is, therefore, did you provide services in that context?

A. In relation to the problem with the Department?

Q. Yes, advisory

A. The auto-dialers and all that stuff. I didn't, but I remember it was an issue. That was more on the Esat Telecom side of the business, and that was something that was dealt with by the management, and it was an ongoing issue with the Department as to who was right and who was wrong. But I wasn't involved in that. As I explained, I didn't deal with the Department during those years.

Q. Thank you very much, Mr. Mara.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. NESBITT:

Q. MR. NESBITT: I think you were obviously aware there were a number of other people bidding for the chance to have exclusive rights to negotiate the granting of the second GSM licence to them?

A. I remember there were there was a list as long as your arm, yeah.

Q. I think they would have had consultants assisting them in various ways?

A. I am sure they would.

Q. Do you think there is anything surprising about you having ended up with somebody like Mr. O'Brien as a man who would ask you things from time to time?

A. Am I surprised that he invited me to be his consultant, that

Q. Yes.

A. I am not at all surprised. I wasn't and am not now.

Q. Nothing unusual about it at all?

A. No. I knew Denis O'Brien socially, and I forget my memory is that he had a falling out with one of his other advisers, PR consultants, and he called me, anyway, to see him, and then we got on with it.

He was also a neighbour of ours, now that I think of it.

Q. Indeed. Thank you very much.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. FANNING:

Q. MR. FANNING: I appear for Mr. Lowry, the former Minister, and my colleague Mr. Healy has been at great pains to try and establish what exactly -

A. I'm a little bit deaf. Perhaps you could

Q. I beg your pardon. My colleague Mr. Healy has been at great pains to try and establish what exactly your role in the Esat team was; what exactly you brought to the table.

I have in your statement you brought public relations consultancy services to the consortium. And I know you have elaborated on that a little bit already, but I just wonder at the outset whether you weren't doing yourself a slight disservice there. You have been a Government press secretary. You were a member of Seanad Eireann. You have served on a number of occasions, I think, as Director of Elections for Fianna Fail, and you have acted as a consultant and adviser for various private-sector concerns. I am correct in all of that, aren't I?

A. Yes, but my work, you know, in the private sector was a long time after that. As I say, it's 20 years since I was a member of Seanad Eireann.

Q. But your is a name synonymous with Irish political life over the last couple of decades. I don't think that's unfair.

A. Well, one side of Irish political life.

Q. Yes. But I suppose the point I am really driving at

is your reputation is really something rather more

than that of a PR consultant; it's more of a

Svengali-like figure in matters political?

A. You are very kind.

Q. You have seen how Government works from a number of

angles, and you have acquired an insider's view of it;

that's not unfair, is it?

A. I have seen how Government works from a number of

angles and

Q. You have acquired an insider's view of how Government

works?

A. I would have, I would have a view yes, I suppose a

view that would flow from my time in Government, yes,

that's not unfair.

Q. Is it fair of me to suggest that you'd have a fairly

broad expertise and a broad knowledge and

understanding in the field of Government

decision-making generally?

A. Yeah, I would have an understanding of how public

servants and senior politicians would view something

like this and what their view of people working in the

private sector or the banking sector would be, yeah.

Q. Isn't that your competitive edge? Isn't precisely

because of that knowledge that the private sector are

clamouring for your service?

A. No, because immediately after I left the Government

press office in February of '92, my work for many

years after that, and still to this day, is concerned dealing largely with the financial press and financial writers and financial journalists.

Of course if you are part of a team working for a corporation or institution, obviously you will dredge up all of the knowledge you would have acquired and make that available. It's not my particular edge.

I mean, there are people, you know, in the business I am in who are very good and who have a very good understanding of these issues who have never been in public services, but they are very talented and very smart people.

Q. Very well. But in any event, you have accepted that you do have an understanding and an expertise in Government decision-making, and this was obviously a Government decision, the decision to award the second GSM licence, and it was one you were clearly taking a very particular interest in because you were being retained by Mr. O'Brien. That's not unfair, surely?

A. Well, it was ultimately I suppose it when it all came down, it would have been a Government decision.

Number one, they had appointed an international consultant. They had set up an interdepartmental group to adjudicate and so on. And by the time it arrived on a minister's desk or a Department Secretary's desk, the work was going to be pretty well done by the group. It's almost inevitable now in

recent years, anyway, certainly in the last decade that political people very rarely, if ever, go against the advice they get from their consultants or their senior civil servants.

Q. That's actually the very issue I was seeking to raise with you, Mr. Mara, you have almost anticipated my line, in that I was really just wondering what was your general perspective, as somebody offering advice to Mr. O'Brien and as somebody who was experienced in Government decision-making on this process insofar as you had a vantage point of it as compared to other Government contracts that you might have had experience of that were perhaps competed for by private sector firms, whether by way of tender or competition? You perhaps offered me your recollections already.

A. I think it would just be my view would be that you have to be very serious, you'd have you know, have all your that this was going to be a very thorough process; that every single measurement that was set out in the request for tender would have to be fully dealt with; that the perception of how the company looked at the consortium looked was going to be important.

So you just had to do everything. There wasn't anything particularly special, or anything different, I should say, in how one would deal with this or as

against dealing with any other big contract that was up for bidding. I mean, it was just one of the biggest ever in the State, so you just did everything possible.

Q. From your vantage point, was it your impression that the civil servants were particularly well organised in this case?

A. I never dealt directly with the civil servants, as I explained to your colleague, and I don't know. My opinion of the Irish civil service is a high one.

Having worked with them, they tend to be very good people; they are very serious people; they are very honourable people; and they are for, the most part, pretty smart people.

Q. I think by and large the senior civil servants who have given evidence here have regarded the process as a sealed process that was designed to be resistant or fool-proof, tamper-proof from political interference?

A. I would that's true. I would say that my experience of Irish civil servants in dealing with matters, such as it is, is that they are immune to any blandishments or smart talk or whatever else; that they would pretty much deal with the presentation as they find it.

And so, really, the important thing is to have every single aspect of the presentation done as thoroughly and as detailed in the best way possible. Because remember, there were international consultants as well

who had adjudicated on this process on a worldwide basis and who would have brought a lot of experience to the table. So they were going to be measuring this against the highest international standards and requirements.

Q. Very well. And finally, Mr. Mara, if I can just ask you, I suppose almost conspicuous by his absence from your evidence thus far is my client, Mr. Lowry. May I take that you had no dealings whatsoever with Mr. Lowry in the context of your work for the Esat consortium?

A. No, I had no dealings with Mr. Lowry in relation to Esat. Nor did any other commercial I know Michael Lowry well, and my only dealings with him would be a social one, and I haven't I think I saw Michael Lowry in the last two years, I think we met quite recently in the street; I think it would be the first time I had seen Michael for a number of years. I like Michael Lowry. I think he is a good guy.

Q. Thank you very much.

MR. HEALY: Before there are two matters I should have brought to Mr. Mara's attention arising from the evidence of Mr. O'Brien. I think it would be unfair either to Mr. O'Brien or to Mr. Mara if I didn't put them to him now.

THE WITNESS WAS FURTHER EXAMINED AS FOLLOWS

BY MR. HEALY:

Q. MR. HEALY: It's just in the light of the evidence you gave, Mr. Mara, a moment ago concerning the letter that was sent to the Department after the presentation.

A. Which letter now? This is the letter

Q. Of the 29th September, yes. And as you know now, but didn't know then according to your own evidence, you weren't aware of the letter going out, you didn't advise on it, and you weren't aware of its being rejected.

And on Day 252 of his of the transcript of the Tribunal, Mr. Denis O'Brien in his evidence was asked, at Question 605, "Did you have, did you have any discussion with Mr. O'hUiginn or Mr. Mara when you received this?" Referring to the letter of rejection, not the initial letter.

"Answer: It would have been likely that I had a conversation with them and told them what was about this letter, and the same with IIU; I would have told them about IIU.

"Question: And what advice do you think you got or information was imparted to you from either Mr. O'hUiginn or Mr. Mara about that?

"Answer: Well, I mean, it was fairly clear-cut; the material was the underwriting agreement wasn't going to be considered. So it was dead in the water, the whole thing was dead in the water. There was

nothing else that we could have done.

"Question: Had you told Mr. O'hUiginn and Mr. Mara that a letter was going to the Department?

"Answer: Yes, I would have told them, yes.

"Question: Did you tell Mr. O'hUiginn and Mr. Mara that you had been told at the presentation 'Don't call us, we will call you'?

"Answer: I have no idea. It was an exchange of information, but the same thing.

"Question: And you have no recollection of what advice you would have received from them when you got this letter from Martin Brennan on the 2nd October?

"Answer: No. I mean, it was dead. There was no point in even trying to write another letter. They were never going to take account of it."

Now, there are just three things about that I want to draw to your attention. Mr. O'Brien clearly has the recollection and seems to have indeed be absolutely certain about it, that he told you and Mr. O'hUiginn about IIU, that he told you about the letter that was being sent, and that he told you it had been rejected.

What do you say to that?

A. That's pretty clear from what you said. I wasn't aware that he said that. All I can say is I have no recollection of that, to be honest with you. And I stand by that. I have no recall of that. You have got to remember what year are we now? We are now

2004; it's almost it's eight years now, seven and a half years. A lot of things have happened in my life since then.

Q. I suppose a lot of things have happened in Mr. O'Brien's life as well. He doesn't appear to have any difficulty in recalling.

A. I mean, I am under oath here; all I can say I discussed this with you in a private session, I have amended my statement here, and I have given this evidence on oath today. That's my memory of it. You know, he may be correct and I may be incorrect. I don't know.

Q. At that time it was the big issue, what to do about the presentation and what to do about Mr. Desmond, and you weren't involved in it, according to yourself?

A. I wasn't involved, certainly I have told you this before in relation to Mr. Desmond, my position is set out there in my memorandum. In relation to the issue of, you know, doing something about the Department, my only memory is saying, this "We have done well on all the other examination tests, you know, that's our sense. If this is a problem, we should do something about it".

That's my only memory, and I can't go beyond that.

Q. It's possible, of course, that Mr. O'Brien is mistaken and that you are

A. It's possible Mr. O'Brien is correct and I am

incorrect. I mean, I am not suggesting for one moment I mean, you know this; you are a long-experienced lawyer, I mean people's memories differ.

Q. Was there a perception, which to some extent I am getting from you, that because you were associated with Fianna Fail, even with an exiled version of it or an exiled

A. No, I was in exile of it.

Q. Yes, you were in exile but I think you came into your own again

A. Eventually

Q. that you were not involved in, or you were not brought into things that involved judgements about the Government, how the Government might behave, how they might react, because you were seen as having a better handle on Fianna Fail?

A. No, I wouldn't say that. I wouldn't say that kind of cut and thrust. I would be on the kind of broader issues like: Well, how would politicians react to this? Or how would a senior civil servant, you know, in that kind of

Q. I suppose you would have a better handle on how, I suppose, Fianna Fail politicians might react?

A. I think they're pretty much all the same underneath.

CHAIRMAN: I suppose the skills of the three consultants to Esat were fairly complementary. You

had been the public face of Government, partly elected, mostly unelected, at a very high level for sizable periods. Mr. O'hUiginn had been the top of the civil service at a high level, and Mr. Mitchell had been quite a senior politician both in office and in opposition.

A. Mm-hmm.

CHAIRMAN: Are you being a bit hard on yourself in saying that you wouldn't have brought anything to a Fine Gael party, just as you knew Mr. Lowry quite well, might you have been, although a rather popular and respected adversary, you were now wearing a different hat.

A. Maybe I am being a bit hard on myself. At the same time, I think my own sense would be, you know, that I wouldn't have brought too much in in direct negotiations, perhaps, you know, counselling on the broader principle of look, sound, and how senior public servants or senior politicians would look at a company going for this kind of thing.

CHAIRMAN: You say you had no particular input into any policies to assume on behalf of the consortium a higher profile in Fine Gael?

A. No.

CHAIRMAN: I take it, in general terms, you would accept that if a golf classic was to be supported, a Fine Gael one would make more sense than a Fianna Fail

one?

A. I would accept that, and I accept that you know, the principle that, you know, private companies or public companies should support the political process all of the time.

CHAIRMAN: Well, that's the one question I just wanted to ask you. To what extent and up to what level do you think it was acceptable that Esat, as a contender for the licence, ought to have given a measure of involvement or support to Fine Gael as the largest Government party?

A. To be honest with you, I don't think I gave that very much thought. But if you were to ask me that now, I would say there is a level where, you know, it works; and then if your attendance or involvement is egregious, I think you might be gilding the lily a bit and it might be counterproductive.

CHAIRMAN: All right, we'll leave it there. Thank you very much for your attendance, Mr. Mara.

That concludes today's witness. Eleven o'clock tomorrow, Mr. Healy? Thank you very much.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
THURSDAY, 22ND JANUARY, 2004 AT 11AM.