

A P P E A R A N C E S

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Ms. Jacqueline O'Brien, SC

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I N D E X

Witness: Examination: Question No.:

Eileen Gleeson Ms. O'Brien 1 - 207

THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,

22ND JANUARY, 2004 AT 11AM:

MS. O'BRIEN: Ms. Eileen Gleeson, please.

EILEEN GLEESON, HAVING BEEN SWORN, WAS EXAMINED AS
FOLLOWS BY MS. O'BRIEN:

CHAIRMAN: Thanks for your attendance, Ms. Gleeson,
and your assistance thus far.

Q. MS. O'BRIEN: Ms. Gleeson, I think in fact you have
been in attendance for much of the Tribunal sittings,
so you may be familiar with the approach adopted by
the Tribunal in relation to the taking of evidence.

But just to let you know, what I propose doing is
taking you through your memorandum of intended
evidence, and if in the course of doing so there is
any matter that you wish to clarify or amplify upon,
please feel free to do so.

Having done that, there are some matters arising out
of your memorandum that I'd like to discuss with you
in a little bit more detail. We'll go back and do
that, and in doing so, we'll probably refer to a small
number of the documents with which you have been
served.

Now, your memorandum of intended evidence which you
kindly provided to the Tribunal is dated 14th January,
2004; and I wonder, do you have a copy of that with
you in the witness-box?

A. I do.

Q. That comprises firstly a narrative introduction which

you furnished, yourself, to the Tribunal, and then your answers to specific questions which were raised with you by the Tribunal?

A. Yes.

Q. Now, you have informed the Tribunal that you are Chairman of Weber Shandwick FCC, a Dublin communications consultancy. You were managing director of this firm from its establishment in 1989 until 2003. You were, during the relevant period of the GSM process, 1994 to 1996, a public relations adviser to Esat GSM, subsequently Esat Digifone. You were engaged in July 1994 when Esat were in discussions with Southwestern Bell and Detacon. When these discussions ended in March 1995, you continued to work with Esat GSM through the introduction of Telenor during the following months. You then worked with both companies in the joint venture, and subsequently with Esat Digifone through its launch phase and until the middle of 1998. Is that correct?

A. Yes, if I just correct the very end of that. I think that my contract with Esat Digifone concluded at the end of 1997, perhaps January 1998.

Q. That's fine. I take it, though, that from 1998 onwards, you continued to be engaged by Esat Telecom/Communicorp and by Mr. O'Brien?

A. Separately, yes.

Q. It was just solely Esat Digifone that you ceased to

act for?

A. Yes.

Q. During this time, 1994 to 1998, you were also working separately for Esat Telecom with regard to their fixed-line business. You continued to work with Esat Telecom until its takeover by BT in early 2000?

A. That's right.

Q. Now, you state that with regard to the GSM bid, you were involved in public relations advisory matters.

You were not directly involved in preparing the bid, although aspects of the marketing section were discussed with you at various times. You attended a large number of meetings of the bid team where aspects of the bid were discussed, including sites, name for the company, marketing and communication plans and media issues. Areas of finance or composition of a consortium were not within your area of expertise, and you were not involved in any such discussions or decisions; is that correct?

A. Correct.

Q. And I take it therefore that those meetings that you were attending, they were primarily prior to the lodgment of the bid in the 4th August?

A. Those particular meetings that I am referring to, yes.

Q. You say that during the period 1994 and 1995, there was considerable speculation in the media as to which consortia were preparing bids; in particular, what

collaborations or partnerships were being put together. It was decided that Esat would remain tight-lipped about its consortium, for the reason that it did not want other possible bidders to have full knowledge of its preparations, and that Esat was quite happy to not become a favourite at an early stage, which would place additional pressure on the consortium.

When Telenor became involved, and certainly from May 1995 onwards, there was a particular focus on secrecy among the Project Team and its advisers. Is that correct?

A. Yes.

Q. The fact that Esat and Telenor were bidding together for the licence was not revealed until the day before they submitted the bid. It was described in one newspaper as one of the best kept secrets of the bid process. At the event announcing the consortium on August 3rd, 1995, was announced that Esat Telecom and Telenor would each hold 40%, while 20% would be made available to institutions. There was not much attention paid to the 20% at that time because the news of Telenor being involved with Esat Telecom was bigger news on the day.

After the bid was submitted, there was a relatively quiet time, in media terms. There were some articles assessing the chances of each bid and setting

favourites. Persona was in most cases quoted as

favourites for the licence. Is that correct?

A. Correct.

Q. You have informed the Tribunal that you responded to

media requests for information around this time. And

in particular, you worked to introduce Telenor and its

international credentials and heritage to the Irish

media, because they would have been relatively unknown

to the market. You worked with Per Simonsen, Dag

Melgaard, Knut Digerud and others in Norway and

Ireland to put together profiles and background

information on Telenor which were requested by a

number of journalists. You also made arrangements for

some journalists to visit Telenor in Norway in late

August for a tour and briefing by senior management.

This type of introductory communications was

undertaken by most of the bidders. You have informed

the Tribunal that the announcement of the winner, on

the 25th October, came earlier than had been expected.

You recall the surprise of all of the Esat team on

that day when you heard that a press conference had

been called to announce a winner. Just that morning

the Cork Examiner had published an article by their

well established business correspondent on the matter

of which bidders were being short-listed. Esat was

not thought to be in the front-runner's group, and you

recall all of you, including Denis O'Brien, being

upset that this information may be coming from reliable sources.

You recall that the announcement was made at a late afternoon press briefing. You prepared a speedy welcoming response and spoke to media that evening.

The following day there was a second briefing at the Department at which Esat Digifone representatives were present and answered media questions regarding their bid.

There was considerable media coverage and commentary following the announcement, and you responded to queries from national and international media because Esat had not been speculated on as the favourite to win the licence there was surprise in media circles and a lot of publicity given to the complaints by losing consortia. It seems that the fact that you succeeded in keeping quiet about the identity of Telenor as part of the consortium, and the fact that the Esat team quietly undertook a lot of preparatory work on the GSM service (including planning applications) were now rebounding on you. When the media and the other contenders did not consider you as favourites, then the fact that you had won only served to propagate stories about how this could possibly happen.

Some level of speculation regarding the identity of the 20% institutional holding was evident from the

date of the bid submission to the date of the licence signing, as would be normal in any such situation.

There was no undue pressure at the time of the 26th October press conference to name any individual institutions. It was considered sufficient that Esat would announce in the initial stages that 20% of the shareholding would be held by institutions, without going into any further detail.

At the press briefing on 26th October 1995, the consortium did not reveal the identity of any institutions, and it was said to media that the consortium would be finalising negotiations with institutions to take up the 20% holding. The business correspondents were familiar with this type of financial structure and were more concerned with the primary shareholders and the service than the 20% holding at that time. The coverage from the business media quietened down considerably on the issue between the October announcement and the licence signing in the following May, other than the articles around November and February.

And they are dealt with specifically in the questions-and-answers portion of the memorandum.

A. Yes.

Q. You informed the Tribunal that the emergence of Dermot Desmond/IIU publicly in November as being associated with the consortium and subsequently announcement in

May 1996 that the 20% shareholding would be taken up by Dermot Desmond did result in press attention. But it is important to note the position of Dermot Desmond and his profile in the media at that time. You were acting for Mr. Desmond at that time, but in a very limited capacity, because he did not wish to deal proactively with the media or to engage with the media to any degree.

He was developing his businesses in a number of sectors at that time, and there was a lot of press attention on him and his companies. Additionally, with the involvement of Mr. Desmond and NCB Stockbrokers, and subsequently in establishing IIU, there was a lot of attention on him at 'shaking up' what would have been thought of as the cosy world of stockbroker corporate finance and institutional representation in Ireland around those years.

Mr. Desmond never sought to or wished to attract media coverage. He generally did not comment on any press speculation and preferred not to announce any matters in relation to his businesses unless it was absolutely necessary.

The press attention that was given to the matter of the process of the licence competition and the complaints by losing consortia were considered to be more a matter of politics at play rather than anything about which Esat should become entirely engrossed.

While you paid attention to all that was said and written on the subject, your advice to Esat Digifone at the time was not to get overly engaged, since it would divert them from their primary purpose of establishing the service successfully.

You were not involved in the process of discussion between Esat Digifone and the Department during the period between October 1995 and May 1996. You were aware that there was frustration on the Esat side that the licence process had not reached conclusion earlier, because it was affecting competitive launch advantage the longer it was delayed. You were working with Esat Digifone personnel during that time in dealing with marketing, planning, with the process of mast placement throughout the country, and on other communications-related matters. You dealt with a large number of Esat and Telenor representatives and advisers throughout the period of the GSM bid, and in planning the announcements in October 1995 and May 1996. You did not have any contact or dealings with Minister Lowry in relation to the Department. You did not have any contact directly with any member of the Department, and on only one occasion, being the preparation of the 16th May conference, you had telephone contact with the PR consultancy associated with the Minister, details of which are described later in your statement.

And I take it that you can confirm that of all of your comments in your introductory narrative are correct?

A. Insofar as I can recall, yes.

Q. You then dealt with in your memorandum a series of questions, specific questions that were raised by the Tribunal, and I'll just take you through those now.

Firstly, you were asked for your role or input into the preparation by the Esat Digifone consortium for an oral presentation to the Department on the 12th September, 1995, and in particular, your input into the planned presentation and material relevant to the financial strength of Communicorp and the commitments provided by each of the four financial institutions named in the bid.

And you have answered that you had no role in the preparation for the oral presentation on the 12th September, nor any of its contents.

You were then asked for your knowledge, direct or indirect, of the consideration by the Esat Digifone consortium or the impression made by the consortium at the presentation.

You state that you have no knowledge of the consideration by Esat Digifone of the impression made at the presentation. Your only recollections in relation to the presentation were hearing that the Department were taking the security of the presentation so seriously that they were having the

room bugged before each meeting. You can recall someone on the presentation team, although you cannot remember who, saying that there was general relief that the presentation was over, because it involved a lot of preparation. Is that correct?

A. If I just may say Ms. O'Brien, I think there is a typo in that. They were having the room debugged.

Q. At Question 3 you were asked for your knowledge, direct or indirect, of the decision of the consortium following the presentation to strengthen the financial components of the bid with regard to

A) the financial capability of Communicorp to fund its equity participation, and

B) the commitments provided by the financial institutions.

And you have answered that query as follows: You say that you had no involvement in any consideration of financial matters following the presentation. You had been aware, from being in the presence of Denis O'Brien at times when such matters were discussed, that he had not been entirely happy with the letters which had been supplied by the four institutions named in the bid. He felt that they could have been or should have been more committed, but that was coming from someone who always wanted the very best and the most committed of partners or participants. Is that correct?

A. Correct.

Q. Question 4, you were asked for your knowledge, direct or indirect, of the decision or determination by the consortium that the perceived financial weaknesses of the bid should be addressed by the provision of underwriting of Communicorp's equity participation.

You have informed the Tribunal that you had no knowledge of the decisions of the consortium regarding perceived financial weaknesses nor how they should be managed. Is that correct?

A. Correct, yes.

Q. Question 5, you were asked for your knowledge, direct or indirect, of a letter dated 29th September, 1995, from Mr. Michael Walsh of IIU Limited addressed to Mr. Martin Brennan of the Department of Transport, Energy and Communications, as it was then known, together with the source or sources of your knowledge.

And you have informed the Tribunal that you had no involvement or knowledge of the letter of the 29th September to the Department; is that correct?

A. Correct.

Q. Question 6, you were asked for your role or input, if any, into the decision or determination to forward the letter of the 29th September 1995 to the Department.

You have answered that you had no involvement whatsoever in that decision.

A. Yes.

Q. Question 7, you were asked for your knowledge, direct or indirect, of all considerations by the consortium or by any person connected with or associated with the consortium as to when or how the 25% shareholding of Mr. Dermot Desmond/IIU should be disclosed to the Department or to the media following the announcement of the competition winner on the 25th October, 1995. You have answered that you had no involvement in the discussions or decisions by the consortium as to when or how the involvement of Mr. Desmond/IIU will be disclosed to the Department. You do not recollect any specific discussions regarding the timing of disclosures to the media, other than the particulars of responding to questions on the 17th November 1995 and the discussions surrounding the licence signing on the 16th May 1996, both outlined below. You stated that it might be useful to note that you became aware at some stage that Dermot Desmond/IIU were to become involved in some capacity. You cannot recall when that was or whether of it IIU or Denis O'Brien sources that you heard it from. You remember being pleased about this, both because you knew that Dermot and Denis would work well on something that they were both committed to, and you knew that Dermot was someone who Denis could rely on to take on any role with dedication to success; is that correct?

A. Yes.

Q. Now, at Question 8, you were asked for details of your input or role, if any, into all considerations as to when or how to disclose the 25% shareholding of Mr. Dermot Desmond/IIU.

And you answer that again, there were no overall discussions on disclosure to which you were a party, only particular incidents as detailed below.

Question 9, you were asked for your knowledge, direct or indirect, of a draft letter dated 17th November 1995, prepared by Mr. Owen O'Connell and faxed to Mr. Denis O'Brien, together with your knowledge, direct or indirect, of all matters or factors which prompted the drafting of such letter, together with the source or sources of your knowledge.

And you have indicated that you have no knowledge of the draft letter sent by Mr. O'Connell to Denis O'Brien on the 17th November, 1995. Is that correct?

A. That's correct.

Q. You were then asked, in relation to that letter, whether you had any knowledge, direct or indirect, of the considerations and the detail of your role, if any, into the determination that it should not be forwarded. And you have indicated that you had no involvement in such determination. Is that correct?

A. Yes.

Q. You were asked for details at question 11 you were asked for details of all of your dealings, if

any, in advance of or following the publications of articles in the Irish Times and the Irish Independent on the 18th November, 1995, with firstly, the consortium or any person associated with or connected with the consortium; secondly, the media; thirdly, the Department.

And you have answered that your recollections regarding the publication of stories on the 18th November, 1995, are as follows:

You state that on November 17th, you recall that Vincent Wall, who was then business correspondent with RTE, telephoned you in the late afternoon to say that he had reliable information that Dermot Desmond's company had been appointed to advise the Esat consortium in relation to the 20% institutional shareholding and that he would be running this story on his 6.45pm business news bulletin on RTE Radio. In normal circumstances you would have spoken with Denis O'Brien and Michael Walsh following that call, but you cannot recall specifically whether you managed to speak to them or what the result of those calls was.

You know that Esat and IIU did not make any comment to Vincent Wall in advance of the broadcast of the bulletin on the evening of the 17th November, but immediately following the broadcast, the Irish Times and Irish Independent business writers would have contact with Mr. O'Brien or with your office to seek a

confirmation of the story. Your recollection is that it was decided that the story should not be denied and that the newspapers could get confirmation of the involvement of Mr. Desmond's company, but that it would not be expanded. In other words, no further information or questions would be answered. To your recollection, a statement was issued on that evening. You had no dealings with the Department on that day or subsequent days regarding this story.

Is that correct?

A. Yes. In the transcript here it says 11th November; you say. It was the 17th, which is the 17th is correct. It's just typed wrongly here.

Q. There is just a typing error. I corrected it when I was reading it out.

Question 12, you were asked for details of all of your dealings, if any, in advance of or following the publication of an article in the Irish Times on the 28th February, 1996, with, firstly, the consortium or any person associated with or connected with the consortium; secondly, the media; and thirdly, the Department.

And you have answered that your recollections regarding the story published in the Irish Times on the 28th February, 1996, are as follows:

You recollect that Mr. John McManus telephoned you in advance of publication of his story and probably the

previous day, 27th February. He did not give you any details of the story he was publishing and only asked you specific questions regarding how the GSM project would be financed. He did not discuss any shareholding breakdown or the involvement of Mr.

Dermot Desmond/IIU. You would have answered the questions you were asked, and these were, to your knowledge, accurately reported in his story. The questions were what the breakdown in equity/debt for the project would be and what the current position with regard to both equity and debt were. You answered that the financing would be by a mixture of equity and debt; that the equity was committed and underwritten, and that the debt was being arranged by AIB and ABN-AMRO. You had no dealings with the Department regarding the article either beforehand or afterwards. Is that correct?

A. Yes.

Q. Question 13, you were asked for details of your involvement in the preparations made by the consortium and/or by the Department for the press conference on the 16th May, 1996, to mark the issue of the second GSM licence to Esat Digifone, including any meetings which you attended. And in fact you have answered Questions 13, 14 and 15 by way of a composite answer, so I'll just read out all the questions first.

Question 14, you were asked for details of your

knowledge, direct or indirect, of the following matters, referred to in a fax dated 15th May 1996 from your good self, addressed to Mr. Owen O'Connell, and in particular,

A) that the Minister's advisers thought it a good idea to send out a draft press release on the 15th May, 1996.

B) that Mr. John Loughrey's advisers did not consider it a good idea to do so.

C) the identity of the Minister's advisers, and

D) the identity of Mr. Loughrey's advisers.

You were also asked to indicate the source or sources of your knowledge of all the matters referred to in the first paragraph of your fax.

And finally, at Question 15, you were asked for your details of your role or input, if any, into the draft press release forwarded by Mr. Owen O'Connell to Mr. Martin Brennan on the 16th May, 1996.

You informed the Tribunal that your recollections regarding the planning for the press conference on the 16th May are as follows:

You were aware that the process of discussions between Esat Digifone and the Department were coming to a conclusion. By that stage, middle of May, there was a lot of activity in trying to reach a conclusion, and you were aware that Esat Digifone was very anxious to reach a conclusion so that they could launch the

service. There were a lot of people employed by Esat Digifone at that stage, and a lot of activity in planning sales, marketing and services had been undertaken. There was an eagerness to begin the live service.

In coming towards the conclusion, you would have been asked to work on drafts of the press release announcing details of the service, which would be announced on the date of the licence signing. As would be normal in such matters, a number of drafts would have been prepared. You would have had contact with a number of Esat Digifone representatives in preparing drafts, using both written and verbal communications from members of the Esat Digifone team.

There were two issues to be addressed at the time of the licence signing. One was the detail of the roll-out of the service, and the other being the financial and shareholding structure. Since there had been quite a bit of coverage given to the financing side and it had been a matter of some speculation, you were conscious that this would inevitably be one of the focuses of attention at the press briefing. But most of the Esat people on the ground were more interested in getting the commercial and marketing information to the public. So there was a suggestion made that perhaps the shareholding and financing information would be released on the day prior to the

license signing, so that all these questions could be answered first, leaving the announcement on the day of the licence to the matters of service, people and the Esat Digifone "offering" to the public.

You do not recall whether it was you or someone else who made this suggestion, and you do not recall all of those with whom you discussed the suggestion.

However, you do recall discussing it with the PR advisers to the Minister for communications. The advisers were Bill O'Herlihy Communications. You knew that team well, since you had been a director of that company and had worked with Bill O'Herlihy for ten years prior to establishing your own company, so you would have had good relations with Bill and his team; and in any event, in the normal process of arranging a press briefing at which two relevant parties are participating in this case the Department/Minister and Esat Digifone there would be contact with regard to preferred timing, invitation list, structure of the event and so forth. You do not recall whether it was Mr. O'Herlihy himself, or a member of his team dealing with this event, to whom you spoke regarding the possibility of releasing information in two stages, but you recall that you were told that while the Minister thought it might be a good idea, that the Department did not. You do not recall the sequence of events which brought you to the final conclusion,

which was that just one press release would be prepared and would be issued at the press briefing on the 16th May.

As would be normal in preparation for any press conference, you prepared a list of questions which you thought might be asked by media so that the team would be well prepared in advance. That list of questions would have come from yourself and others in your office, together perhaps with some contact with Esat Digifone representatives. It is normal that a session is held, in advance of the event, where the participants discuss these questions and who would be best placed to answer each one. You are sure that such a session did take place in plans of the press conference on the 16th, but you cannot recall specifically whether it took place on the 15th or the 16th or who was in attendance. You know that there were only Esat representatives and advisers present. There were no Department personnel or advisers present.

And that concludes

A. If I might just add to that, I actually think that there were two such sessions; in reading the documentation again, I think that there was a session on the 15th, which was probably in Fry's, at which the Esat Digifone representatives were present and I would have been present, and there seems to have been a

separate preparation event on the 16th I don't know where; perhaps in the Department and perhaps Department people being involved in that where some notes were taken. But I wasn't involved in that, but it leads me to believe there must have been two sessions.

Q. You think that Mr. Owen O'Connell's attendance that he made on the 16th May might relate to a rehearsal for the press conference that you weren't at?

A. That I wasn't at the rehearsal of that, yes. I would have been at the one perhaps on the 15th. In normal circumstances, I like to get the rehearsals over with because there is a lot of work to do in preparing for the actual press conference itself, so I would have preferred to do it on the evening before. But I know that on the evening before, there was a lot of quite frantic activity in Fry's for them to prepare for the finalities of the licence signing, so I don't know whether I would have got their rapt attention at that particular session.

Q. We can look at that when we are looking at the documents.

Just to get to you confirm that that last answer is correct?

A. Yes.

Q. And that concludes your memorandum.

I just have a bit of a systems breakdown here, so

perhaps before we move onto the actual examination, we might be able to attend to that.

CHAIRMAN: Would you like me to take five minutes or so, then, just to reactivate the technology that we have?

MS. O'BRIEN: I think that might be appropriate.

CHAIRMAN: Will you bear with us perhaps for a few minutes, Ms. Gleeson?

THE TRIBUNAL THEN ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

Q. MS. O'BRIEN: Thank you, Ms. Gleeson; sorry about that. I think everything has been restored now.

Can I just refer you back to the second page of the narrative portion of your memorandum, Ms. Gleeson, and the third paragraph. You have informed the Tribunal there that the announcement of the winner on the 25th October came earlier than had been expected, and you recall the surprise of all of the Esat team on that day, when you heard that a press conference had been called to announce a winner.

Can you tell me, as far as you can recall, when was the announcement of the winner expected on the Esat side?

A. I don't think that we expected it for at least another three weeks. I think that while the deadline that they'd set at the end of November, I think that most of us felt that they might be able to beat that or

that they would try and beat that. I don't think any of us expected that they could beat it by this much time.

Q. Was that just speculation on the part of the Esat team that the Department might beat it, or do you know, was anything ever said to anyone that would just it might come in earlier than the end of November?

A. It was speculation, not only with the Esat team but in my ongoing discussions with media. That was most of the market, as such, felt that they might try and beat it, but not by this amount.

Q. So you thought that your feeling on it is that, with the announcement on the 25th October, that was about two or three weeks before you were expecting the announcement?

A. At least, yes.

Q. At least. Now, you also said that, on that day there had been an article published in the Cork Examiner which suggested who was on the short list and who the front-runners were, and that that didn't include Esat, and that there was a bit of disappointment and upset within the Esat team because it was thought that that might come from reliable sources.

Now, could you tell me, from a PR and media point of view, what would you have considered to be reliable sources for a story like that?

A. I don't know what the sources were for this particular

story, first of all.

Q. I know that.

A. And reliable sources would be either people in and around the Department, people in and around some of the other bidders that might have heard something, people in and around politicians, people in and around Government; it could have been many different sources.

I don't know what the source was in this case.

Q. I know you don't know what it was, but just what I was asking you is what you would have considered reliable sources; but from what you have answered, would I be right in thinking it would be people in or around the Department or people in or around Government or politicians?

A. Yes.

Q. Because obviously if some other consortium had it, they could have only got it from either of those two sources?

A. Yes. In the context of this particular journalist who wrote this article, he wasn't, in my opinion, in the habit or to my knowledge at the time, and I had known him for many years he wasn't in the habit of writing entirely speculative articles based on nothing except his own opinion. And at the same time, he was the sort of person who would have perhaps picked up lots of bits of pieces from different people and put the story together, but the little bits and pieces

would have been based on hearing things and then composing it.

So we felt that he had a good general business ear to the ground; whether that would be an ear that would take from one source or from a number of sources and composite those sources into one story.

Q. But really, "sources" there would have been either departmental sources or political sources?

A. Yes. I can't think of any other source that would have been of any use on that occasion.

Q. They would have been the only sources that could be reliable in relation to a process like this, wouldn't they?

A. Yes, they would, but at the same time, I'd have to say that it would have come as some surprise that there were any reliable sources in existence on this at all, because we hadn't seen any evidence of any in any press coverage previously. Previously all of the press coverage based on the analysis of the consortia, the makeup of the consortia, would have been based on the journalists' work in investigating the consortia and investigating their record and their chances, and there was a lot of comment about different people's chances. But we hadn't seen anything to do with sources before that time.

Q. That's, I suppose, why I am a little intrigued when you say in your statement that you were concerned that

it might have come from reliable sources.

A. Mmm.

Q. Had you had, in your own capacity as PR adviser to Esat, had you had any information in the course of this process from what you would term reliable sources?

A. No, not at all. And in fact that's the very reason for the surprise in this case, that there were no leakages, there were no there were no articles even written in a way that people like me would understand to mean was from a source; there had been nothing like that up to that time. And so it came as a surprise that he had found something out, and that if he found something out, from where could he have found it? Because nobody has been talking; nobody has been saying anything. And in a lot of circumstances, when, if I saw an article like that, and knowing that there had been no leakage or that there had been no reliable sources used before, I would have discounted and said, it's makey-uppy. You know, he has put it together himself.

But because it was a person who I considered to be a serious business journalist, I was more worried than I would be in other cases.

Q. That's I suppose why I am a little intrigued as to why it wasn't discounted in this case, on the basis that there hadn't, on previous occasions, been articles or

reports which suggested that there was information coming from reliable sources.

A. Well, I think we'd have to look at the article, Ms. O'Brien, because the phraseology and the way that I might read an article and the way that I might see the way the words are put together at times would lead me to believe that this is not a total flyer.

Q. Right. Had, in the course of your advisory work to Esat, and in the course of this process, had you obtained or did you know of Esat having obtained any information from any, what you would describe as reliable sources, i.e. departmental sources or political sources?

A. No.

Q. Now, just at the top of the third page of your narrative, you refer to the press briefing on the 26th October. Now, the announcement, we know, was on the 25th, and you have referred to that, and that you prepared a short statement welcoming the news, and then there was actually a formal press conference on the 26th. And you stated that at the press briefing on the 26th October, 1995, the consortium did not reveal the identity of any of the institutions, and it was said to the media that the consortium would be finalising negotiations with institutions to take up the 20% holding.

Now, you would have had time overnight, presumably, to

anticipate that this would be an issue, and to advise or consider what would be the appropriate answer; would that be fair enough?

A. Well, the fact that it was I think the fact that Esat and Telenor had won the licence was going to be the primary focus on the day. The shareholding structure, as in the 40:40:20, would have been an issue. But what I was trying to convey was that financial journalists, when told that part of this will be put to institutions, would be offered to institutional investors, that wouldn't raise any particular questions or particular queries in their minds, so we weren't overly concerned.

And in fact, in re-reading all of the coverage on the following day after that press briefing, there was very little concern amongst the financial journalists as to the identity or further questioning about the 20%, and in fact most of the articles said the consortium had said that they were in discussion with or would be finalising negotiations with the 20%, and it got one line only. Everything else was about the consortium.

Q. So you would have felt that that was a fairly neutral way of dealing with the 20% shareholding?

A. Yes. I mean, there was no discussion that we don't want to reveal the 20%; we don't want to reveal who has that. There was no discussion about that. It was

merely that you know, I was told 20% of the shareholding would be placed in institutional hands.

That was enough for me at the time, understanding the process, that that would probably then go through.

Q. So that was the only information that you had at the time about the 20% ?

A. Yes.

Q. You didn't know, at that stage, that Dermot Desmond was entitled to this 20%; in fact that he was entitled to more than 20, that he was entitled to 25% ?

A. No, I did not, no.

Q. Now, on the next paragraph of your memorandum, you have informed the Tribunal that the emergence of Dermot Desmond/IIU publicly in November as being associated with the consortium and subsequently the announcement in May 1996 that the 20% shareholding would be taken up by Dermot Desmond did result in press attention.

You say, "But it is important to note the position of Dermot Desmond and his profile in the media at the time". You were acting for Mr. Desmond at that time, but in a very limited capacity because he did not wish to deal proactively with the media or to engage with the media to any degree.

Do I take it, therefore, that during this time, you were also retained as a PR consultant by Mr. Desmond?

A. "Retained" is probably too loose a word for it, in the

sense that I had been working with Dermot for a number of years on many different issues and projects. By this time, 1993/1994, Mr. Desmond was not interested in engaging with the media at all. So my work, which was for very little pay, was to log media calls, let his office know, and in 99.9% of the cases, to say to the journalist that Mr. Desmond wouldn't be commenting on it.

So the reason that I note it in my statement was the very considerable difference between the position of Dermot Desmond and Denis O'Brien insofar as their willingness to participate in or their eagerness for publicity around that time, because Mr. O'Brien being in a consumer-oriented business, it was a necessity of the business, whereas Mr. Desmond was not.

Q. So Mr. O'Brien thrived on publicity at the time and keeping his name in the media?

A. I wouldn't say "thrived". It wasn't something that he did because he personally liked to do it. He saw it as a necessity of his business.

Q. In terms of his business?

A. Yes.

Q. Can you tell me about Mr. Desmond's attitude to the media at that time?

A. He just didn't want to engage with the media. He felt that he had no reason to or no obligation to. And there was we did log quite a number of telephone

calls from people around that time, he was getting involved in Celtic and London City Airport. He had been getting involved in the technological phase with companies like Baltimore, and so we would have been asked quite a number of questions; but I think that in that particular period, you know, '93 upwards towards the end of the nineties, I'd say I would have talked directly to a journalist with any comment from Dermot on maybe no more than five occasions in that entire phase. As opposed to my work with Esat and Denis O'Brien, which was obviously numerous times in every day.

Q. And why do you think Mr. Desmond had adopted that stance as regards the media?

A. Well, obviously he had been through a fairly rough period prior, in the years prior to that, with the media, following the Johnson Mooney and O'Brien property matter. And he also had disengaged a lot of his business from Ireland in the sense of, you know, he was now dealing in matters abroad, and he felt and I couldn't argue with him at the time that he didn't have an obligation to answer every question that every journalist wished to have answered.

Q. I don't think anybody would suggest that anybody has an obligation to answer every question that every journalist raises.

You said there it's important to note the position of

Dermot Desmond and his profile in the media at the time. This was 1995. As you say, subsequent the report in relation to the Johnson Mooney and O'Brien site, Mr. Desmond had taken a view regarding his dealings with the media and the approach that he would adopt. How would you describe Mr. Desmond's profile with the media at this time?

A. I don't think I was particularly saying when I say the sentence, "It's important to note the position of Dermot Desmond and his profile in the media at that time", I wasn't intending to reflect on the opinion that journalists had of him. It was more to reflect his attitudes to the media and his willingness, or his unwillingness, I should say, to engage with them.

Q. Well, that's maybe what you meant, but given that you have referred to his profile, could you just assist me, as a person who is skilled and specialised in these areas, how would you have described his profile with the media at that time?

A. There was a very high level of interest in all of the business dealings that Mr. Desmond had. He was to some degree an enigma to the media, and possibly, at that stage, because he didn't want and never sought to proactively engage with the media, that that probably resulted in the enigma growing rather than the journalists deciding that they were never going to write anything about him again.

So his profile, it wasn't and if I recall any publicity around that time, I don't recall that there were still a lot of articles being written about the Johnson Mooney and O'Brien matter at that stage. There was a lot more about I mean, people wondered, you know, how that this guy was doing so well, particularly doing well abroad; and as you know, the Irish people like to see our own doing well abroad, so there was that sort of interest in him.

Q. This was 1995, though. I think Mr. Desmond had just recently bought London City Airport at that stage. In fact that's referred to, I think, in subsequent articles that we'll be looking at.

A. That's right.

Q. But would you agree with me that it would be fair to say that at that stage, Mr. Desmond's profile would have been controversial?

A. It depends what you mean by "controversial". I don't think that if you think about what a journalist might have thought of him. I wouldn't have thought journalists think like that, that they would think of somebody you know, they are doing their work; I don't think they'd think of somebody necessarily negatively. They're just trying to find out more information about him.

Q. That's the whole point. They were interested in finding out information about Mr. Dermot Desmond.

A. Absolutely. I wouldn't say that's necessarily being the same as controversial, but that is correct.

Q. Let's put it like this: He was a figure in which the media had a very definite interest?

A. Absolutely.

Q. And would you agree with me that certainly, to a large extent, that might have stemmed from his involvement with the Johnson Mooney and O'Brien site?

A. I really can't answer that question, because it would have been a number of things, I would say, at the time. Yes, certainly the Johnson Mooney O'Brien matter and the considerable publicity that it had raised over a period of some 18 months or two years. It would probably have had a bearing on his decision not to wish to engage with the media. So it would have had some bearing. Whether it was the totality of it or whether there was other matters, like his businesses abroad and the fact that he was moving on, as such, but I can't say to what degree it was.

CHAIRMAN: It seems implicit from your statement, Ms. Gleeson, that whilst Mr. Desmond had instructed you to take a generally laconic approach to the media, as he was perfectly entitled to, that if the November reports had been completely unfounded, he would in all probability have instructed you to notify the public to that effect.

A. More likely, Chairman, that he would have instructed

his solicitors rather than instructed me, and that to

seek a correction or to seek redress

CHAIRMAN: Yes, but he mightn't have volunteered a comment, but if something completely wrong had been said about him, he'd want the record rectified.

A. Yes, Sir, that would be correct.

CHAIRMAN: And did you take the view, given that the November articles only referred to Mr. Desmond in the context of broking or placing, that it did amount to what you have described as a public emergence of an involvement of some sort in November?

A. Indeed.

CHAIRMAN: Thank you.

Q. MS. O'BRIEN: If I could just turn to your reply to Question 7 of the questions raised by the Tribunal.

You said that you had no involvement in any discussions or decisions by the consortium as to when or how the involvement of Mr. Desmond or IIU would be disclosed to the Department, but you do recollect the specific instances.

Can I just refer you to an attendance of a meeting which took place on the 3rd November in William Fry's.

It's an attendance of Mr. O'Connell. I don't know if you have the books of documents

A. I am afraid I didn't bring them.

Q. We have copies here for you, and they are right behind you, I am told. If you go to the Book 49, Ms.

Gleeson, Book Number 49, and if I could ask you to turn to the document behind Divider 84.

Now, that's a handwritten note of the meeting, and just behind that handwritten note, the book should have a typed version of it which I think is easier to read. It's an attendance of Mr. O'Connell. He records the attendances as Mr. O'Brien, Mr. Buckley, Mr. Callaghan, and Mr. Connolly.

"IIU issue bullet point for press release problem re material change of shareholders versus bid.

"Group of institutional and other investors to be located by underwriters IIU.

"Had to upgrade financing arrangements (primary criterion) from comfort underwriting. IIU willing to give underwriting commitment and did so. Clearly gave control of 20% to underwriter. Understanding is that underwriter will be placing shares with investors and institutions.

"Michael Walsh call?

"Financing options confidential at present; will be revealed in due course when finalised."

You will see from that, and in fact the people who were present have given evidence, have confirmed that they were having a discussion there on points for a press release to deal with the involvement of IIU, and they identified it as a problem or a potential problem regarding a material change in shareholders versus

bid, and then there was also discussion as how to deal with the financing of the consortium.

Now, do you recall at all being told about that meeting, or the meeting being reported to you in any way?

A. No. I don't think I have tried to recollect this in relation to the time line of my becoming aware of Dermot Desmond/IIU involvement at different stages. And I think I certainly wasn't involved/informed afterwards about this meeting or that there was any particular issue at that time.

Q. I suppose it's surprising in some ways, given that you were the media specialist and who were the person, presumably, who would be drafting and releasing the statements to the media, that you weren't being consulted on this?

A. It may be so. But in the context of everything that was going on at the time, particularly in the week or ten days or two weeks post the announcement, I and those in my office who were working with me on Esat Digifone were hugely busy in terms of supplying more information, a lot of international media contact, and I may have just wanted to just deal with that and let everybody else get on with other things.

So I wouldn't have been perhaps as available to get involved, but this was a particular obviously this was an important issue to them at that time. And

perhaps they felt that you know, I don't know what their decision was thereafter, whether they decided obviously they did decide not to issue any press release, so if they did that, there was no need to make me aware of it at that time.

Q. We don't know what decision they came to because nobody seems to be able to recall exactly what happened and how it was progressed. I was wondering if you could assist us at all. But you say no, you weren't told about this?

A. I am afraid not.

Q. None of these points were discussed with you by any of the people at the meeting subsequent to that or around that time?

A. No, none of them are familiar to me at all.

Q. Now, I just want to come on to the articles that appeared in the Irish Independent and the Irish Times on the 18th November. And you have dealt with, if you like, your involvement in that and the buildup to it in your response to Question 11 of your memorandum. You stated that on the 17th November, you recall Vincent Wall, who was then business correspondent with RTE, phoned you in the late afternoon to say that he had reliable information that Dermot Desmond's company had been appointed to advise the Esat consortium in relation to the 20% institutional shareholding and that he would be running the story on his 6.45pm

business news bulletin on RTE Radio. You state that in the normal circumstances, you would have spoken with Denis O'Brien and Michael Walsh following that call, but you cannot recall specifically whether you managed to speak to them or what the result of those calls was. You know that Esat and IIU did not make any comment to Vincent Wall in advance of the broadcast of the bulletin on the evening of the 17th November.

So, if you like, that was the first matter on which a query was raised by Vincent Wall in relation to the radio bulletin that evening.

Can I just ask you, in the ordinary course in terms of public relations orthodoxy, if you are asked a question on behalf of a client by the media or by a journalist, is it usual practice that you, if you like, do what barristers or solicitors would do, which is to take instructions from your client, and having done so, and given whatever advice you have to give, you then revert to the journalist? Would that be usual practice?

A. In general terms, yes, but not in relation to every query, because there would not be time to do that.

Q. Of course.

A. So there may be what we might call a rolling instruction, that we might have decided on particular issues that this is our line, and I might be running

with that line for a number of weeks until that line is changed.

Q. Right.

A. So I wouldn't necessarily have the I wouldn't necessarily ring them unless it was a new matter that I didn't know. Obviously, if somebody rings me with something I don't know, I say "I'll get back to you on it".

Q. Clearly you said you say you could have spoken with Denis O'Brien and Michael Walsh, but you cannot recall specifically whether you did. Did you think it more probable than not that you would have spoken with them?

A. Yeah, because this was a new issue. This was something that I had not received a brief about or instruction about, and therefore I wouldn't have been able to say anything to Vincent Wall at that time. So I would have tried to contact Mr. O'Brien and Mr. Walsh.

Now, I am not quite sure whether I mean, I cannot recollect specific telephone calls with them at the earlier time of that evening. I certainly spoke to them during that day, because I spoke to them on some occasion that evening about the other newspapers who would be ringing immediately after the business news. So I know I spoke with them. What I can't do is place the time.

Q. That's perfectly understandable. Nobody could criticise you for that.

Can I ask you as well, that from that do you recall at that time whether you were surprised at this information which was being given to you by Vincent Wall? What I am really trying to get at is, can you place it in time that you knew about Mr. Desmond's involvement at whatever level by that date, the 17th November?

A. The best that I can recollect, and I have tried to give this as much thought as I can, is that I don't think I knew at the time of the winning of the licence that Dermot was involved. And the reason why I say that is that because I knew Dermot and would have had his mobile telephone number and normally would have known where he might have been in the world at any time. On the day of the 25th October obviously that's a very big day, and therefore I remember quite a lot about it I don't recall phoning Dermot or speaking with him, which is something I would normally have done if I were down in Denis's office. When I heard that the consortium had won the licence, my natural inclination would have been to phone Dermot and say, "You got it", or "You're in", or "Well done", or whatever. And I don't think I did that on that day, and therefore that leads me to believe that I didn't know at that time.

My best recollection would be that probably in the couple of weeks following, and I am sure probably before the 17th November, that I became aware that Dermot was involved. And I remember being pleased in hearing that he was involved in it. But I think I probably only heard he was involved in the institutional side, the 20% side.

Now, knowing Dermot as I did, that he would be coming involved as an adviser/underwriter, that if that were the case, I suspected and probably assumed that he would take up part of that shareholding, because it was in it was probably within his ability financially, I thought, and also would be something that he would tend to do, would be to take a share of the action in something that he was involved in. So I perhaps made an assumption at that time that "Oh, I bet you, whenever that's announced, we'll see that Dermot owns part of that or has taken part of the institutional share".

So if I am being clear, Ms. O'Brien, I am saying that in relation to when I became aware in the first instance is would have been sometime between the winning of the licence and the 17th. Probably in about a two-week period after the licence was signed.

Q. So it wouldn't have come to you as a complete surprise that you were being asked about Dermot Desmond's involvement at this stage, on the 17th November?

A. No, the surprise would have been, I suppose, if the consortium were not in the manner of releasing that information at that time, that how Vincent Wall would have heard about it; that was probably what my surprise was.

Q. So I suppose your view would be, where there is information like that and it is not yet in the public domain, that it would have been more preferable, certainly preferable that it be released in a controlled way?

A. Yes. Perhaps not at that time. I don't think that there was any particular requirement to release it at that time. But in the normal course of events, eventually these things would have to be announced as part of the process.

Q. And it would be preferable that it come from the consortium rather than coming from the media?

A. In my view, yes.

Q. Can I just ask you as well, there, before we move on to the actual articles, at that time you knew that Dermot Desmond was also involved, and as you say, he was a client of yours; you had his mobile number. You had also had quite a lot of contact, I think, with Michael Walsh. From then on, if you were being asked for your advice on matters relating to Esat, and in particular, I suppose, relating to Mr. Desmond, would you, if you like, be taking dual instructions? Would

you be taking both instructions from Esat or from Mr.

O'Brien and from Mr. Desmond?

A. Yes.

Q. Now, you say further in your answer that immediately

following the broadcast, the Irish Times and Irish

Independent business writers would have made contact

with Mr. O'Brien or with your office to seek a

confirmation of the story. Your recollection is that

it was decided that the story should not be denied and

that the newspapers could get confirmation of the

involvement of Mr. Desmond's company but that it would

not be expanded; in other words, no further

information or questions would be answered. To your

recollection, no statement was issued on that evening.

And again, you went on to say that you had no dealings

with the Department on that day or subsequent days.

Now, do you recall who you had discussions with that

evening before you dealt with the queries raised by

the Independent and the Times?

A. I can't be a hundred percent, but I would be almost

certain that it would have been Mr. O'Brien and Dr.

Walsh.

Q. So you would have spoken to both of them?

A. Yes.

Q. Can you tell me why it was decided that the newspaper

would get confirmation, but get no more information

than that?

A. Well, it probably in the context of what Vincent Wall had said, it probably would have been difficult to try and deny something like that. And obviously I would not be in the habit of advising clients that they should deny something that had a considerable amount of truth to it in any event.

Q. If it's truthful, it couldn't be denied?

A. Indeed. My advice at the time would be allow it to be confirmed to whatever degree. Now, obviously, the nature of my business is that I would prefer that clients would always go further than they wish to go with the media, so that it causes me less grief with media asking me questions that I can't answer. I'd prefer to have the answer to everything. But in the nature of business, that's not always possible.

So I would say that the discussions that evening would have been that the newspapers are going to print this anyway, and we might as well confirm that Dermot is involved, to whatever extent. But both IIU and Esat, or Denis O'Brien and Michael Walsh, were not, at that stage, willing to go any further on the story. They we didn't have a meeting; we didn't even have a conference call where the three of us spoke together.

I spoke separately to both of them. I don't recall on that either of those telephone calls that I was told, "Look, Dermot has 20%; he is keeping it all himself", or "Dermot has 25%; he is keeping it all

himself".

So I don't recall that that's the full story, now here's what we'll say. It was actually the other way around, this is what's already been said on RTE so we'll confirm that, but we don't want to go any further into who would be taking up those shares. That's fine. That was my instructions. Therefore that's what transpired on that evening.

Q. Do you recall do I take it that you were pressing, if you like, for more information so that you could answer the questions which you anticipated would be put to you by the media?

A. I don't recollect specifically that I would be pressing, but it would be my normal modus operandi. My personality would be to try and press people to the limit of what they'd give me. I can assume I tried but obviously didn't succeed.

Q. If people you were dealing with weren't prepared to give you the additional information or go to the media with it, would it be their usual practice to ask you why, or what their considerations were?

A. No, there was very little time to ask why in business.

Q. That's fair enough.

Can I just refer you to articles. The first one is the Irish Times on the 18th November, and I think we have copies of that separately.

A. I have a copy of it.

Q. You have a copy of it. And for everybody else, I think it's in Book 58, B5 and 6. The Irish Times article. I think we can put that up first.

Now, the Irish Times article was headed "Desmond company to handle Esat sale." And it was by Tom McEneaney.

"Mr. Dermot Desmond's financial services company has been appointed to handle a sale of 20% stake in Esat Digifone, the company which won the second mobile phone licence.

"The Chairman of Esat, Mr. Denis O'Brien, last night confirmed that Mr. Desmond's company, International Investment & Underwriting Limited, had been appointed as advisers for the sale of the stake.

"However, he would not comment on industry sources' belief that Mr. Desmond or one of his companies has purchased a portion of those shares.

"When the 20 percent stake is placed, Mr. Denis O'Brien's holding company, Communicorp, will have a 40 percent stake in the company. The remainder will be held by the Norwegian telecommunications company, Telenor.

"Esat Digifone is estimated to be valued at $\frac{1}{2}$ 100 million."

The rest just relates to Mr. Desmond and his acquisition of London City Airport.

Now, it looks from that as if it was Mr. O'Brien who

confirmed the story to the Irish Times; would that be correct?

A. Yes, in looking both at the Irish Times and the Irish Independent cuttings, I think it's obvious to me that I spoke to the Independent and Denis O'Brien spoke to the Times. So we either decided we would have been under pressure on deadlines at that stage that the broadcast would have been at around ten to seven, the phone calls for them would have come after seven. I would have had to have had discussions with Michael Walsh and Denis O'Brien. We were then probably under pressure up to deadlines, and either Denis and I decided you take one and I'd take the other, or somebody phoned him directly; I am not quite sure. If I can I make a point on that article?

Q. Of course.

A. Because it goes back to something we were dealing with earlier, where it talks about Mr. Desmond. And you can see from the last two paragraphs there that the coverage and publicity about Mr. Desmond had moved on from the previous years, where they had been mentioning Mr. Desmond, best known for his involvement in the Johnson Mooney you know, it was always attached as the phrase after his name. Now it was moving onto the London City, NCB, Glasgow Celtic. There was a lot of business things he was involved in rather than still being attached onto the controversy.

I wanted to make that point.

Q. Maybe Mr. Desmond was right; maybe his media strategy had worked for him.

A. Perhaps.

Q. Then it goes on to say, "However, he would not comment on industry sources' belief that Mr. Desmond or one of his companies has purchased a portion of those shares."

Now, do you recall the Irish Times and Independent raising that particular question with you?

A. Yes, because it had been on the RTE broadcast, it had said in that and I have the broadcast here it said: "RTE also understands that Mr. Desmond himself, or some of his companies, is likely to take up some of these shares."

So they would have particularly questioned him about that. They would have heard the broadcast.

Q. So it would be fair to say that in fact you weren't being told you could confirm the entire story; you were only being told you could confirm part of it.

Isn't that right?

A. Well, it was yes, you are correct. That the but the two different aspects of the story were quite separate. In Vincent Wall's broadcast and again, this goes to the meaning of words and how we might read them from our point or journalists might read them he said RTE has learnt that Dermot Desmond's

new financial services company has been appointed".

So there was very little out from that; you know, they have learnt that that is a fact. And therefore there is very little to do other than to confirm that.

There is a difference in the next paragraph, "RTE understands that Mr. Desmond is likely", so that is a speculative piece which we didn't have to confirm, and obviously the client didn't wish to.

Q. Okay. So as you say, one is fact; the other was speculation. You were confirming one part of the story but not the other?

A. Exactly.

Q. Just the Irish Independent one, then. "Desmond firm advising Esat Digifone on share placing." That was written by Shane Coleman.

"A financial services company owned by financier Dermot Desmond is advising Esat Digifone on the placing of 20 percent of the consortium's shares with institutions and other investors, it emerged yesterday.

"A statement from Esat Digifone the winner of the second GSM phone licence said Dr. Michael Walsh of the IFSC-based International Investment & Underwriting had been appointed to advise the consortium on this aspect of its financing.

"A spokeswoman said IIU would arrange the placing of 20 percent of the group's shares, but she declined to

comment on reports that Mr. Desmond's company would be underwriting this sale.

"There was speculation last night that Mr. Desmond himself or some of his companies was likely to take up some of these shares.

It goes on to deal with IIU: "IIU was established by Mr. Desmond to deal with a limited number of clients and selected investments and probably trade its own capital. The spokeswoman said the identity of the investors would be revealed in a few weeks' time.

"The day after winning the GSM licence, the Esat Chairman, Denis O'Brien, said that the shareholding in Esat Digifone was 40:40:20 between Esat, the Norwegian State phone company, Telenor, and unnamed investors.

"He said the overall investment was underwritten by Esat and Telenor.

"Mr. O'Brien has consistently been refused to be drawn on the identity of the other investors in Esat Digifone. He said on winning the licence that the funding was there but that 'institutional investors don't write cheques until they see the terms of the licence'.

"It is not clear what the present market value of a 20 percent stake in his consortium would be worth. Mr. O'Brien has said that the group will invest around $\frac{1}{2}$ 100 million in building a network.

"Given that he also said that the debt/equity ratio in

the business usually ranged between 50:50 and 40:60, a 20 percent stakeholder might be expected to invest a minimum of $\text{£}10$ million in the group.

"Any investor is likely to have to pay a premium to reflect the expected revenue generated potential of the licence.

"The consortium has said it would consider floating 20% of its shareholding in about three years' time depending on the state of the market giving investors an opportunity to cash in their gains if the licence proves as successful as expected.

"The news that IIU will be advising Esat Digifone comes only a couple of weeks after the announcement that Mr. Desmond had purchased London City Airport in a $\text{£}23.5$ million deal. He also made a $\text{£}2$ million investment in Glasgow Celtic for a 10 percent shareholding."

Now, as you correctly indicated, it looks as if it was you who dealt with the Independent and Mr. O'Brien who dealt with the Times. You can see there it refers to a "statement from Esat Digifone", and it refers to "A spokeswoman said IIU would arrange the placing of 20 percent of the group's shares but declined to comment on reports that Mr. Desmond's company would underwrite the sale."

So in effect, both you and Mr. O'Brien were adopting the same approach with regard to the story.

It went on the paragraph following to say, "The spokeswoman said that the identity of the investors would be revealed in a few weeks' time."

Now, do you recall I take it that that was an accurate account of what you stated to the newspaper?

A. I don't know; I don't know if it was. I wouldn't want to doubt the journalist. Whether I said it will be revealed in a short time, or sometime, or I don't know whether he pressed me about whether that means weeks, months; whether I said "I don't know, I suppose weeks." But I would have been speculating myself at that stage, that this will emerge when it emerges.

Q. Right. Now, in the last few days, the Tribunal were just looking through again some of the documents, the multitude of documents that it has, and came across what looks like a draft press release. I think I showed it to you just before the Tribunal sat, and that you actually think that was perhaps not a press release but a statement that you prepared that evening, on the 17th November, to deal with the press queries. I think you have a copy of that, do you?

A. In fact, seeing this this morning was very helpful to my recollection of the events on that evening.

Q. It's the short statement, just the two paragraphs that are typewritten. And I think you have confirmed that that's your handwriting below it?

A. Yes. Not that one the handwriting within the

statement itself and the handwriting at the very bottom of the page, "Similar arrangements..." Yeah.

Q. We'll just read it out: "In Esat Digifone's submission to the Department of Transport, Energy and Communications, it was stated that Esat Digifone is owned 50% by Communicorp/Esat and 50% by Telenor. It was further stated that Esat and Telenor would reduce their investment to 40% each, and a further 20% of the equity was to be allocated to third-party investors.

"Dr. Michael Walsh of International Investment & Underwriting Limited (IIU) was appointed to advise the company on this aspect of Esat Digifone's financing, and IIU" there was some typing there that's been blacked out, and instead inserted in manuscript which you say is your handwriting "will arrange the placing of these shares. Further details of the investment will be made available when the licence is signed with the Department of Transport, Energy and Communications."

And then below that, in hand handwriting, it states:

"It would be surprising that other applicants did not"

I am not sure what the next word is, perhaps

"similar arrangements".

Below that, in what you have confirmed is your handwriting, "Similar arrangements would probably have been contained in proposals from other consortia."

Now, that lower writing, the second set of writing,

you have confirmed is your own. Can you tell me, do you know whose writing is above yours?

A. I think it's Denis O'Brien's; I think it is.

Q. Right. Now, do you think that this draft press statement was prepared by you before you spoke to the media?

A. Yes. I think and having seen this, because I was perplexed all the time by the fact that the Irish Independent article of the 18th November refers to a statement. And I was sure, and so was my colleague who was working with me at the time on this, was sure that we didn't actually issue any statement that night. And I think we were sure of that for two reasons: because we didn't have anything in our file on it, and secondly, if we had issued a statement, we would have had to issue it broadly to a number of different media outlets, and it would have received further coverage in the days following, which didn't occur in this case.

And therefore I was sure that a statement hadn't been issued. So I was perplexed by the word "Statement", and I gave that some thought. And I had come to the conclusion that probably what happened, again, goes back to the evening, we were under pressure for deadline, that when I rang Shane Coleman in the Irish Independent, I would have had particular wording that I was to use. This was the agreed wording with

Michael Walsh and Denis O'Brien, so I would have been very careful in the wording that I used in that part of my dealings with the journalist. He would have probably picked up from me that I had that written down, that I wasn't chatty. I was "This is what I have to say, Shane".

He probably said, "Have you got that written down? Can you send that to me?" And I probably said "No, I can't send it to you, because you can say it was a statement on the record".

So I think that's probably how the word "statement" came into it. And I had already surmised that that was the case, and then having received the piece of paper from you this morning, I can now, I think, put together a further piece of that jigsaw, that after the after the piece in RTE and before the calls to the Irish Times and the Irish Independent, i.e. during the conversations with Denis O'Brien and Michael Walsh, I would have been talking to each of them separately, which is normally a bad idea when you are then going to go to a journalist to try and have one common line because different people have different views about words and how they should be phrased.

And I probably would have said to Michael and Denis, "Look, I am just going to write down what you are saying to me, or write down a wording that we can use with the newspapers this evening, and I want to you

confirm that so I know that I am on safe ground".

So I would have drafted, and that is my draft, and I would have sent it to both of them, and then I would have either had responses back normally by telephone, so in this case Denis must have written some comment on it and sent it back to me.

Q. Faxed it back to you?

A. Yeah, whereas Michael's would have definitely been by telephone.

Q. I think that, in fairness, probably displays just how cautious and careful you were being in responding to this media query.

A. In trying to be.

CHAIRMAN: Sorry, Ms. O'Brien, just your conversations on the day, they didn't bring you to the state of knowledge that in fact Mr. Desmond had an agreement to become a principal, and that in fact it was for 25% rather than 20%; it was only later that you learnt that.

A. No, they didn't bring me to that knowledge, and neither did I ask the question. I wasn't in the habit of asking questions other than those that I needed to know.

CHAIRMAN: You dealt with the report that had to be addressed, and when you referred a little earlier in evidence to surmising that Mr. Desmond might be looking for some share of the action, that was based

on your own knowledge of him; and indeed, I think it accords with some earlier evidence of other witnesses, but it was solely from your own knowledge of Mr.

Desmond and what seemed a reasonable commercial probability?

A. Yes, Chairman, that's correct.

Q. MS. O'BRIEN: Can I just clarify something in relation to the typed portion of this document.

You see in the second paragraph, there, it's typed:

"Dr. Michael Walsh of IIU was appointed to advise the company on his aspect of Esat Digifone's financing, and IIU", and what appears to have been typed, "has underwritten this third-party investment and will place these shares"; that seems to have been blanked out, and instead "will arrange the placing of these shares."

Would I be correct in thinking that the part that was typed was your proposed draft?

A. Yes.

Q. And your proposed wording?

A. Yes.

Q. And that what's been where you have blanked it out and you have written in your own hand, that would have been the wording proposed to you by

A. Probably by Michael Walsh, on the basis that he was the person I spoke with on the phone, as opposed to Denis making a change in writing.

Q. Right. So you had, in fact, referred to underwriting this third-party investment who will place the shares, but that was removed, and instead the wording was "will arrange the placing of these shares."

A. Yes.

Q. Do you recall any discussion with Michael Walsh as to why he wanted the word "underwritten" to be taken out of the proposed wording?

A. No, I just recall him saying "I would prefer that the sentence ends this way".

Q. Right.

Now, I know in your statement that you have informed the Tribunal that you knew nothing about a draft letter prepared by Mr. Owen O'Connell on the 17th November of 1995, and I am not raising it with you to challenge that in any way; I accept that. But in the light of the evidence that you have given on timing, you may be able to assist the Tribunal just in relation to one or two matters that still are puzzling the Tribunal regarding that letter.

And if you just go back to Book 49, if you wouldn't mind referring to the document behind Tab 88A.

Now, you'll see it's a fax from Mr. O'Connell to Mr. O'Brien, Mr. O'Connell enclosing a draft letter. The letter is dated 17th November 1995. It's addressed to Martin, which is Martin Brennan. And I think the intention was that it would be sent by Mr. O'Brien.

It says,

"Dear Martin,

"I am writing to confirm our conversation of today concerning shareholdings in Esat Digifone.

"Esat Digifone is and will continue to be owned and controlled by Esat and Telenor. Esat is in turn owned mainly by myself and Advent International and it is likely that in the course of funding the GSM project, we will introduce new institutional finance, and indeed we are already negotiating this with CS First Boston. Telenor is of course the Norwegian national Telecom operator.

"Our bid made it clear that Esat/Digifone would also seek minority financing by public and institutional investors. In preparing for this financing, we have been advised by International Investment & Underwriting Limited, who have also agreed to underwrite the finance, i.e. to locate investors on behalf of Esat Digifone and itself to take up any shortfall.

It continues in a bracket: "(Given the fact that IIU is publicly identified with Dermot Desmond, some publicity may ensue. I thought it important the facts of this matter should be made clear, of which the most important seem to me to be, firstly that Esat Digifone comprises and is controlled by Esat and Telenor and secondly that IIU are its advisers and underwriters).

"If you would like any further details, please let me know. In any event our ongoing licence negotiations will, as you have made clear, cover the question of present and future control of Esat Digifone.

"Yours sincerely."

Now, you'll see that just at the top left-hand corner, it indicates that this draft was prepared on the 17th November at 3.58pm. Now, do you think that was probably more likely than not after you had received the first telephone call from Vincent Wall?

A. Before.

Q. Before?

A. Yes.

Q. You think the phone call you received from Vincent Wall would have been after 3.58 in the afternoon?

A. I think so. I don't know that for certain, but normally the journalists that are working on the evening news bulletin would normally leave those sort of stories till later in the afternoon, the more timely newsy stories, so those calls usually come at between 5pm and 6pm.

Q. Right. So if you like, this draft letter, then, wouldn't have been connected with any knowledge that Mr. O'Connell had that Mr. Wall had raised a query with you regarding a story that was intended to be run that evening in RTE?

A. I see what you mean. I don't think that was the case.

That would not be the normal that would not be the normal timing of a call like that. I'm afraid I'm not in a position to entirely discount it, but it wouldn't have been normal practice.

Q. Right. You see there at the top, he refers to a conversation between Mr. O'Brien and Mr. Brennan of earlier that day concerning the shareholding in Esat Digifone. Do you know of any telephone conversation or contact whatsoever between Mr. O'Brien and Mr. O'Connell or any Esat personnel on that day, on the 17th November?

A. No, I didn't.

Q. You have already told us you knew nothing about the letter, and you certainly weren't involved in any way or had any input into a decision as to what to do with it?

A. No, I wasn't.

Q. Now, the next matter that the Tribunal took up with you in your memorandum was the article 28th February, published by Mr. John McManus in the Irish Times, and you dealt with that query in your reply to Question 12.

You say that you recollect that John McManus telephoned you in advance of the publication of this story and probably the previous day, the 27th February. He did not give you any details of the story he was publishing and only asked you specific

questions regarding how the GSM project would be financed. He did not discuss any shareholding breakdown or the involvement of Mr. Desmond/IIU. You would have answered the questions you were asked, and these were, to your knowledge, accurately reported in his story. The questions were what the breakdown in equity/debt of the project would be and what the current position with regard to both equity and debt were.

You answer that the financing would be a mixture of equity and debt; that the equity was committed and underwritten and that the debt was being arranged by AIB and ABN-AMRO. You had no dealings with the Department regarding the article either beforehand or afterwards.

Now, I think you probably have a copy of the article with you in the box?

A. I do.

Q. And for everybody else, I think it's in Book 57 behind Divider B7.

You see it's headed "Esat seeks $\text{€}1/230$ million in debt to fund mobile phone network launch."

It states: "Communicorp, the parent company of Esat Telecom, is seeking to raise $\text{€}1/230$ million in debt to fund its share of the $\text{€}1/2100$ million cost of launching the second mobile phone network. The company is hoping to raise the bulk of the money in the US and

its Chief Executive, Mr. Denis O'Brien, is understood to have been making presentations to US investors over the last two weeks.

"Communicorp is a 37.5 percent shareholding in the winner of the second licence, Esat Digifone, through its holding in Esat Telecom.

"The Norwegian State phone company, Telenor, owns another 37.5 percent, while Mr. Dermot Desmond's company, International Investment & Underwriting Limited, holds the remaining 25 percent.

"Under the terms of the planned fundraising, Communicorp will be reorganised. A new company, Esat Holdings, will be created as the holding company for Esat Telecom and for the group's stake in Esat Digifone.

"Communicorp's other interests, including the Dublin radio station 98FM and radio stations in Prague and Stockholm, will be held separately.

"Esat Holdings will be 88 percent owned by Communicorp and 12 percent by outside investors on Esat's board, including the former Secretary of the Department of the Taoiseach, Mr. Pdraig O'hUiginn; the former senior partner of KPMG/Stokes Kennedy Crowley, Mr. John Callaghan, and the management consultant, Mr. Leslie Buckley.

"Communicorp is 65 percent owned by Mr. O'Brien and 35 percent by the US venture capital company Advent.

"The 30 million in debt will be raised through Esat Holdings and will mainly be used to fund its share of the cost of starting up the new network. However, some of the money may be used to fund Esat Telecom's planned expansion. It is understood that Esat Holdings wants to raise 30 million through loan notes. The notes will be split into 15 million of loan notes with convertible stock warrants and 15 million convertible into second preference shares.

The US bank CS First Boston is advising the company.

"The spokeswoman for Esat Digifone said last night that the project would be financed through a mixture of equity put up by the consortium members and debt raised by Esat Digifone itself. The equity finance was committed and underwritten, she said.

"AIB and ABN-AMRO banks were organising the debt portion and had already committed 25 million in bridging finance at this stage, she said. Esat Digifone won the competition to operate the second mobile phone system in October last year. However, the company has not yet been officially awarded the licence. The Department of Transport, Energy and Communications said yesterday that the negotiations were at an advanced stage.

"Esat Digifone plans to spend 100 million over the next five years developing its network. The investment will include an up-front payment of a 15

million licence fee to the Government."

Now, as you said in your memorandum of intended evidence in your reply, Mr. McManus contacted you. I think you stated that he didn't tell you what he was publishing in his article?

A. No.

Q. He just asked you specific questions in relation to equity and funding?

A. Yes.

Q. Now, can I take it that those were matters on which you wouldn't have had rolling instructions?

A. Well, actually I think that probably in relation to the mixture of equity debt, some of those issues were in the press release of the 26th October.

Q. Yes.

A. I don't know which ones were and which ones weren't, whether they all were. But I suspect, reading this, that it was general enough that it may have been part of a rolling brief.

Q. Right.

A. I can't be absolutely sure, but I think I may. I may have been able to give that general information.

Q. Right. If you hadn't been in a position to give it, do I take it that you'd have gone back to both Denis O'Brien and Michael Walsh to get your instructions?

A. No, not Michael Walsh. I would have only dealt with Michael Walsh if any issue particularly relating to

IIU came up. I was not dealing with Michael Walsh in relation to Esat Digifone queries at all.

Q. I see.

A. The my recollection is that Denis O'Brien was probably in the United States on the fundraising round at this time, and so were probably all of the other people who would answer questions of a financial nature to me; Paul Connolly, for example, would have been with him as well. So I'm not quite sure whether I spoke to Denis or Paul on that day. I may have, to get part of the answer to part of the question, but I am not sure if they were here, or easily contactable.

Q. Of course you would have checked carefully the next day that you had been properly quoted by Mr. McManus in what you'd said?

A. A lot of times I don't have time to check that I was properly quoted. I assume that I am going to be. But I certainly would have seen the article, yes.

Q. There were some very significant matters disclosed in this article, weren't there, that the media hadn't known about before this?

A. Yeah, probably significant to the media. Not significant to me. Not because I knew about them, but because I hadn't been aware that there was a 40:40:20 bind in the bid. And therefore, if I read that Dermot was trying or going to or going to take up 25%, I would have just said, "Good on you, if you are able to

do that".

I wouldn't have known there was any prohibition against him doing that, so it wouldn't have rung any particular alarm bells, as in, "Oh, my God", you know, "This is this is something that we are going to get into a lot of trouble about".

And I think it's very obviously I am assisted greatly in the fact that my company maintained very good press-cuttings records over the years, and therefore I was able to look, going on from February onwards. And I didn't receive one single other media query about that, about the 37.5, 37.5, 25.

Q. Extraordinary, isn't it?

A. Absolutely extraordinary. And if I had done, as I said, normally, because I would have been dealing with so many different clients at any time, and so many aspects at this particular time in Esat Digifone's life, there was an awful lot more going on from a public relations point of view with the development of the network; the contracts and the mast issue was becoming a very significant issue right around the country, and we were involved in that to a very significant degree. (Extraordinary) so I wouldn't have been giving these what I would call corporate issues, as much attention.

If I had got another question about it I don't actually recall whether on the next day, you know,

what I did about this. But it is amazing that it didn't actually gather any

Q. It is, because it is extraordinary. Because, as I said, there were three very significant items of information in it which hadn't been in the public domain at all and which the media hadn't had.

I think what you are saying to me is that you didn't know about the 40:40:20 in the bid, so it wouldn't have occurred to you that there was anything particularly significant about what was in this article?

A. No, other than obviously Dermot had managed to do it.

Q. Yes, yes. Do you remember anybody from Esat raising this article with you?

A. Not particularly, no. They could well have done. I had conversations with Denis O'Brien or others very regularly, probably at this particular time not on a regular basis with Denis O'Brien, because he was focused on the fundraising, whereas I would have been dealing more with Esat Digifone people on the service elements of the business and marketing elements and masts etc., community relations.

So I would have been dealing with them on a day-to-day basis, but they wouldn't have been the people who, like myself, would have seen any particular significance in this. And so therefore I don't recall any specific discussions with

Q. Who were you dealing with on a day-to-day basis around this time? Who were the personnel in Esat you were dealing with?

A. There would have been a lot of people. Declan Drumond, Seamus Lynch sorry, the other names don't come to my mind, but they had built Lucy Gaffney on the marketing side they had built quite a considerable team by that time, and for different parts of the work we would have been dealing with different people.

Q. Yes. Can I just refer you briefly to the other what appears to be draft press release that I brought to your attention this morning as well.

I think you said to me that you don't recall this document at all, do you?

A. Well, I read it in recent days in what I think is Owen O'Connell's file.

Q. That's correct.

A. It was undated. And it rang absolutely no bells for me whatsoever, particularly this part of the 12% for further public and institutional investment. I don't recall that I certainly wouldn't have drafted that, because I wouldn't have been aware of those details at that time.

Q. It's clear that it's intended to be a draft press release, though, isn't it, because it says at the bottom, "Further particulars of this and the proposed

addition of institutional and public financing to be arranged over the next three years are presently confidential but will be the subject of further announcements in due course."

So presumably it's a draft press release?

A. Presumably.

Q. We'll just open it briefly.

"Esat Digifone's licence submission envisaged Communicorp Group and Telenor Invest AS initially holding 100% of Esat Digifone, declining to 80% in the period leading up to the award of the second GSM licence and to 68% within three years after the launch of the GSM service. The shareholdings of the Communicorp and Telenor would dilute equally at each stage, but of course they would jointly retain control of Esat Digifone. The new shares would be taken up by both public and institutional investors. A number of financial institutions who had expressed willingness to take up shares in Esat Digifone were identified in a submission, and letters of comfort or intent were enclosed.

"Following the submission of Esat Digifone's bid, it was felt desirable to enhance the financial strength of Esat Digifone by upgrading the arrangements with financial institutions from letters of comfort or intent to legally binding underwriting arrangements. Accordingly, a legal agreement was entered into with

International Investment & Underwriting Limited

whereby IIU was given responsibility for taking up and placing with institutional and other investors the 20% of the Esat Digifone intended to be issued prior to the second GSM licence, in return for which IIU underwrote the issue, guaranteeing the payment to Esat Digifone of equity funds.

"In addition to its guarantee, IIU agreed to subscribe for an additional 5% of Esat Digifone, which will be allocated from the 12% destined for further public and institutional investment (thus accelerating its access to these resources).

"Further particulars of this and the proposed additional institutional and public financing to be arranged over the next three years are presently confidential but will be the subject of further announcements in due course."

Now, you don't recall being asked to look at this press release or having any input into it?

A. I don't recall. It sounds like and I am speculating here that if the issue, say, around February, or even, say, around April was going to have to be announced at some stage in any event, I might have asked Owen O'Connell, "Look, will you just draft up what the actual legal facts are, and I'll take what I need from that".

So it might have been something like that. It might

have been something that I got from Owen and passed on to Denis, perhaps to Michael Walsh, who said "No, we don't want anything like that going out". But I am afraid I don't have any specific recollection of this.

Q. It is the kind of thing, though, would you agree with me, that if you were going to respond in some way to the information that had gone into the public domain in Mr. McManus's article, that you might think of releasing to the media, in that it deals with the IIU position, it deals with the fact that IIU is now having 25% of the shares and not 20, and it deals with the fact that the institutional investors are gone and that they have been replaced by Mr. Desmond?

A. It is possible. I am sorry I can't be of any further help on it, but it is possible and I know I didn't draft it. It's even 'Esat' in capitals is something that we had an office rule about; we never did that. So I know it was not in our office.

Q. I see.

A. Obviously it's a lot more legally written than we would draft anything. I don't recollect specifically seeing it. But I can't discount because I would have done it on other occasions over the years, that I would have said to Owen O'Connell, you know, "I am hearing one thing from Denis and another thing from Michael; will you just write me down what the actual factual situation is, so at least I know and I

understand".

So it may have been that. But because I doubt that

it was around the February time, because I wasn't

getting any you know, I wasn't getting any hassle.

I wasn't getting any calls from media following up on

that article. So I wouldn't have been under pressure

to start getting all the lines right.

Q. Do you recall when, if you like, the pressure started

mounting up in relation to getting the lines right

regarding the IIU involvement and the financing?

A. Not until mid to late April.

Q. You think it was mid to late April?

A. Yes.

Q. You'd point that as the time that it started?

A. Well, there was a particular article around about the

20th or the 21st April in the Cork Examiner, and it

was Saturday morning, I recall, that said that Dermot

Desmond and J. P. McManus were taking up the 20%. And

I obviously knew that to be incorrect, but it was the

front-page lead article. And I remember thinking, you

know, we are obviously going to be under pressure now

that perhaps we should get all the lines straight.

And I was aware that we were reaching the end of the

line in terms of the conclusion of the licence.

So I don't think I necessarily would have been putting

any pressure on my client to say that we need to go

out and confirm this now, because I knew at that stage

it was probably going to be at the licence signing, which could have been any time from a week to weeks on from that mid to late April time.

Q. You don't recall, overall, there being pressure or concern about this point much earlier on, particularly bearing in mind that Mr. O'Connell, Mr. O'Brien, Mr. Buckley, and Mr. Callaghan and Mr. Connolly were meeting together in William Fry on the 3rd November, and they themselves, if you like, were sitting around the table and working out how best to parcel the information about IIU?

A. I am afraid I don't recall any pressure earlier on, and I would normally only recall pressure if I was getting it either from my client or from the media, and I wasn't getting it from either of those two corners.

CHAIRMAN: It's five to one. We'll conclude your evidence in the afternoon, Ms. Gleeson, and if it suits you, we'll take it up again at five past two.

A. Thank you.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AFTER LUNCH AS FOLLOWS:

CONTINUATION OF EXAMINATION OF MS. EILEEN GLEESON BY

MS. O'BRIEN:

Q. MS. O'BRIEN: I think the next and final matter I wanted to take up with you, Ms. Gleeson, was your involvement in relation to matters during the run-uo

to the grant of the licence on the 16th May, 1996.

You dealt with this very fully in your answers to Questions 13, 14 and 15 of your memorandum.

And it appears from those questions what you were doing was, you were working on the press release itself that was ultimately issued on the 16th.

Secondly, you were identifying likely questions and preparing, I think, specimen answers for those questions in consultation with your clients.

And you also, as you said, attended a rehearsal or preparation for the press conference, and I think you have stressed that that would be the ordinary and orthodox practice coming up to a substantial press release or press conference of this type?

A. That's right.

Q. Now, I think in your memorandum, you indicated that as far as you were concerned, there were two significant matters that had to be dealt with in the press release. Firstly, the roll-out. And secondly, the shareholding and the financing. And I think you suggested, or you have indicated that there was a suggestion that there be two separate press releases: One on the 15th May, dealing with the shareholding and financing, then dealing with all the questions in relation to that and then leaving over, if you like, the good news on the roll-out to the 16th May.

You are not quite clear, I think, where that

suggestion came from; is that correct?

A. I can't remember whether it was my suggestion or somebody else's suggestion. It could have been mine, on the basis that I knew that my client was very anxious to use the opportunity of the licence signing to deliver more information about the service so as to build the anticipation for the consumer. And therefore, because I knew that questions would come about the financial structure, that I thought I may have thought or when somebody suggested I may have thought it was a good idea that perhaps if we get that issue out of the way, then they could get their commercial messages through at the licence signing.

Q. That could be focused, then, on the 16th, if you got the financing and shareholding out of the way on the 15th?

A. Yes.

Q. Were you aware that the Department also had concerns about financing and shareholding in terms of the likely questions that will be raised at the press conference?

A. I wasn't aware of the Department's communications or association with Esat on those points

Q. Right

A. during that period at all.

Q. So you weren't informed at all or given a copy of Mr. O'Connell's report of a meeting that he and Mr.

Digerud attended with the Department on the 13th May?

A. No, no. All I knew was that we were coming towards an end line. There was very frantic activity taking place, mostly in, out of Owen O'Connell's office, and I knew they were coming towards a conclusion. I probably would have preferred that if we were to separate the two issues, financial and commercial, that they would have been separated by more than a day, but I obviously was aware that they were still trying to reach a line, so to speak, up until that time.

Q. Right. Now, if you just go to Book 50, and if I could ask you to look behind Divider 150, you'll find a copy of a fax which you sent to Mr. O'Connell on the 15th May, 1996.

A. Yes, thank you.

Q. You have it?

A. Yes.

Q. And it's from you to Mr. O'Connell.

"Attached is a draft press release which would be sent out today if we get approval from the Department to do so, which is not at all definite. The Minister's advisers thought it a good idea but I think that Loughrey does not. Anyway, regardless of whether it is today or tomorrow, we need to agree the details for publication on ownership and funding anyway.

"Could you look through the attached. I also prepared

questions which might be asked on the issue.

"Denis asked me to go to your office at 1:00pm to discuss the release and the questions which will be asked of the Esat Digifone people at the press conference in the interests of everyone being "on the same line", it is very important that this practice session is undertaken.

"See you in a while then."

And it's signed by you, "Eileen".

A. Yes.

Q. You enclosed with this the draft release that you prepared. I think, in fairness, in your memorandum you stated that you didn't have any direct contact either with the Minister or with the Department; that your contact was with the Minister's public relations consultants?

A. Yes.

Q. That was Bill O'Herlihy & Associates?

A. That's right, Bill O'Herlihy Consultants. It was Public Relations of Ireland before that, when I worked there, but I think by that stage they had changed their name.

Q. And it was from them that you had obtained this information that the Minister's advisers thought it was a good idea, but that the Department, I suppose, the departmental officials did not think it was a good idea?

A. Yes. The best I can recollect about that matter was that having come up with the idea, whomever did, that this might be the way that we would do it, I probably would have contacted Bill O'Herlihy's office. I am not sure whether I spoke to Bill. There is one other member of his team there that I did speak with at some stage during those days in the process of arranging the press conference, and it was probably her that I spoke to about this matter, and that she said to me, either that I made the call and said, "Look, we are thinking of doing this and is that okay?" On the basis that we were then probably as of that morning in partnership as such in terms of preparing for the press conference, and that the that I would have got a call back to say that or it would have been on the original call, I am not quite sure to say that the Minister probably would have no problem with that, or "We have checked with the Minister, and he has no problem, but we have spoken to John Loughrey or are speaking with him; we don't think that's the sort of thing he'd like to do, but we'll come back to you". And obviously it was resolved at some stage thereafter to say that no, that wouldn't be acceptable.

Q. It would just be a single press release?

A. Yes.

Q. What do you what's your understanding of why Mr. Loughrey or the Department were against the staggered

approach which was being proposed at the time?

A. I don't know, and certainly at that stage I didn't know that it would be for reasons that they still hadn't reached any line, end line, and that there was still, you know, Is to be dotted and Ts to be crossed. I wasn't aware of that. I thought it was probably that Mr. Loughrey might have thought it was a bit too clever by half, or that it wasn't going to achieve the purpose that the concept had been originated for, so I thought they just didn't agree it was a good idea to separate the issues and to have two press releases on subsequent days.

Q. I suppose the purpose of the strategy was to focus on the positive things on the 16th; was that it?

A. Whose purpose?

Q. The strategy of the two-tiered approach that was being discussed, that was to focus on the positive things, the roll-out rather than the financing and shareholding, which I think everybody anticipated was going to be problematic?

A. That's not to suggest, however, that the financing issue was a negative. You know, it wasn't that we were trying to separate a negative and a positive. It was that we were trying to balance the number of issues that Esat Digifone as a company wanted to try and get across to the media on one day. And it would always be my advice that there is no point in having

ten different things that you want to get across when you are really only going to be able to get across three. The primary purpose of the event was to use it as much as possible to push forward the agenda of good service coming down the road soon, and we'll have the following enablements for the consumer.

Q. You thought you could get a clearer message across about consumer services if you delivered both messages on different days?

A. That's correct.

Q. If we just look at the draft press release that you enclosed just in relation to your dealings with Bill O'Herlihy. Was it Mr. O'Herlihy that you were dealing with, or was it somebody else in your office?

A. It may have been, and I don't have perfect recollection on this, it may have been that I phoned Bill knowing that, as the principal and the person that I knew best, and that he was working with the Minister, I may have phoned him to say this is a suggestion, but I think that my subsequent he may have said, "Look, we'll check it out", but my subsequent calls were with another person in that office.

Q. Well, who would that other person have been?

A. I am not a hundred percent sure, so I don't know whether it's fair to name people I am not a hundred percent sure.

CHAIRMAN: You referred to some lady colleague you thought it might have been.

A. That's right. And her name is Fiona Gillespie, and she was working with the Minister on his communications at the time, so I feel sure that any further communications that I had were with Ms. Gillespie. And I think she was also at the press briefing, the conference the following day.

Q. MS. O'BRIEN: In your ordinary course in dealing with Bill O'Herlihy Consulting, was it Mr. O'Herlihy you were dealing with, or Ms. Gillespie?

A. That was the only dealing that I had with regard to Mr. Lowry or with regard to Esat Digifone.

Q. I see.

A. So as I say, I probably would have phoned I may not have known that Fiona Gillespie at the time was the senior consultant working on it; I may have therefore put the call through to Bill. I honestly don't recall whether he said to me whether he gave me any response, as in "I don't think so-and-so would like it" or "I do think so-and-so would like it". I am not sure whether he did, or whether he said, "We'll check it out and we'll come back to you". But I think probably the person who subsequently told me that the Minister thinks it's fine but Loughrey doesn't or may not, was probably Fiona Gillespie; that's my best recollection.

Q. It was one or other of them, anyway?

A. Yes.

Q. They were consultants to the Minister solely; isn't that right?

A. That I now know, yes. At the time, the Minister, the Department, I wasn't drawing any great lines of differential between them at that stage. The Minister was the Minister in charge of the Department, and therefore I was talking to people who could communicate with him.

Q. But you know now that they were consultants to the Minister as opposed to consultants to the Department?

A. As opposed to the Department, yes, indeed.

Q. Now, the draft press release is also dated the 15th May, 1996. Now, I think you said in your memorandum that when you would have prepared this draft, you would have consulted with various people within Esat Digifone in drawing it up, and it would have gone through, I take it, a number of drafts and a number of revisions. Would that be correct?

A. In the normal course of events it would. I wouldn't have thought it's any different in this case.

Q. And would you have consulted both with the Esat Digifone personnel and also with Mr. Walsh or Mr. Desmond?

A. Yes.

Q. You would have?

A. I would have, because IIU was particularly being mentioned.

Q. Right. It states: "In advance of the formal signing of the licence to operate Ireland's second mobile telephone network tomorrow, Esat Digifone has confirmed details of its shareholding structure as follows:

Esat Telecom Holdings Limited (a wholly owned subsidiary of Communicorp) holds 40% of the shares.

Telenor Invest, a Norwegian telecommunications operator, holds 40% of the shares and International Investment and Underwriting Limited (IIU) holds the remaining 20% of the shares. The owner and Chairman of IIU and therefore the beneficial owner of this 20% shareholding at this time is Mr. Dermot Desmond.

"IIU has stated that the shareholding or part thereof may be placed with additional investors at some future time. This will be reviewed when Esat Digifone is operational towards the end of this year.

"The shareholders as listed above have each contributed to the investment made in the network to date and each will discharge its final responsibilities to the entire investment required for the project which is in the order of $\text{€}120$ million.

This capital will be provided by equity from the shareholders and by debt financing which is being arranged by AIB and ABN Banks."

I think Mr. O'Connell has said he was the one that made that slight change there to read "ABN-AMRO Bank as joint lead bankers and AIB".

A. It's "ABN-AMRO Bank" and then "and AIB" after that.

Q. It says "Each shareholder has given to the Department of Transport, Energy and Communications details of its ability to provide all of the necessary funding. The Department has stated that it is satisfied with the details of ownership and funding which it has received."

You see there the reference to IIU, "the owner and Chairman of IIU, and therefore the beneficial owner of this 20% holding at this time is Mr. Dermot Desmond"; I take it you'd have discussed that particular wording with Mr. Walsh or with Mr. Desmond, or indeed with both of them?

A. Probably with Mr. Walsh. I would say that the way that this particular press release came together, and it may be slightly different to the way that the 16th May I probably was producing drafts of the 16th May which contained both the financial and the roll-out information, and that may have been going through drafts. When it was when the idea emerged to take the financial information out and create the separate release, I would say that probably didn't go through that many drafts because it started, the concept, and finished quite quickly.

So I would imagine that what happened was that I either took information from the original the draft, the 16th, that had some financial information in it and extracted that, and I probably would have talked on the phone to Michael Walsh and to Denis O'Brien to say, you know, "If we are doing this, what do you want to say?" I would have taken notes from both of them, and then I would have drawn up the draft from that.

Q. And you would have furnished each of them with this draft, presumably, before you sent it to Mr.

O'Connell?

A. I would presume I would, yeah. Yes, I am afraid I am not sure whether I circulated it to Dermot or to Michael Walsh and Denis O'Brien at the same time. It doesn't say in the fax sheet, "This is approved".

Q. No it doesn't.

A. So normally, if I was sending something like that to Owen, I would say "This is a release the client has approved but will you now approve".

Q. Well, the only thing you do is "attached a draft press release which would be sent out today if we get approval from the Department"

A. Yes.

Q. Which seems to suggest, as far as you are concerned, as far as your client is concerned, it's in order, and all you are awaiting is the Department's go-ahead?

A. I am not sure that's the case. I understand what you're saying, but I am not sure that at the time that I sent it to Owen that it had been agreed by either of the parties. I just don't know if that were the case in the timing on that day.

They certainly would have seen it. It would have I wouldn't have drawn up the press release and sent it only to Owen O'Connell; I would have sent it to IIU and to Denis O'Brien's office. But at what point I did that and when I got feedback on it, I really can't be sure.

Q. Right. It doesn't differ greatly from the actual contents of the statement that was issued on the 16th, which was the one that was actually forwarded by Mr. O'Connell to the Department, which was presumably the final product of everybody's agreement?

A. Yes.

Q. So I think you can take it either it was approved before you sent it to Mr. O'Connell, or indeed perhaps shortly after, although there is one slight change which I'll point out to you when we come to the draft of the 16th, which was actually issued, in relation to Mr. Desmond's ownership of the shareholding.

A. Yes.

Q. Which may have been suggested subsequently by Mr. Walsh; I don't know. But we can deal with that when we come to it.

Just would you agree with me that the use of the words "at this time" by Mr. Desmond would suggest that perhaps he didn't have a long-term intention to hold onto the shares?

A. I actually did assume that perhaps Dermot would sell on some of that holding. But I didn't receive I didn't receive a formal meeting or formal briefing about this. I can imagine how this emerged: that I was talking to Michael Walsh, who was a person who is not very forthcoming in words, and Mr. O'Brien, who obviously is very forthcoming and will say an awful lot of, you know, the things he thinks should be in press releases which actually have no reason to be in press releases at all. So what you are trying to do with Michael Walsh is to try and pull things from him, and with Denis O'Brien, to sort his mind out from the number of things he wanted to say that shouldn't be said.

I would imagine I may have been with Michael Walsh saying, "Okay, what is the story with Dermot? Does he own? Does he not own? How long is he going to own?" And Michael could have just said something like "At this time, Eileen", or "Now he does, Eileen". And what I normally would have to try and do is interpret what he was saying and put it into a draft.

So I don't know whether he specifically said "at that time". He probably wouldn't have been giving me any

direct, exact form of wording. I would have had to try and make that up, taking what I heard.

Q. I see. That didn't remain in the final draft, anyway, that went to the Department.

Now, I think at the same time you forwarded to Mr. O'Connell, or perhaps shortly afterwards, a list of questions which you anticipated would be raised. And there at the next divider, 151, you will see that there are handwritten annotations on them which Mr. O'Connell has confirmed are his handwriting. And he in fact thinks that he made those jottings at separate times. He thought that perhaps he made the jottings on the right perhaps when he initially received your specimen questions, and that perhaps the fainter handwriting on the left was made in the course of a meeting with you, or indeed with other people, when he had given the matter further consideration.

And what we have done is we have reconstituted that entire document, including Mr. O'Connell's annotations, and you'll find that just behind the original document.

Now, in relation to these questions, how would you have gone about preparing these questions and compiling this list?

A. Normally it would have been the consciousness of the questions that I thought the journalists would be interested in. So, therefore, I would have gathered

them either from my knowledge of the questions they had already asked and they weren't answered, or the press coverage. I would have looked usually back over some months of the press coverage, from October onwards, and seen some of the issues that were raised.

I would have been quite conscious at the time that obviously the shareholding issue was a live issue, and obviously the ownership and the fundraising about Communicorp also, so they would have mostly been issues that I would have been aware that journalists may ask.

Now, you tend, in the compilation of such questions, to go slightly overboard, in that what you try and do, in a way, is to worry the client about the difficulty of the questions so that they do give the requisite time to preparation. So the questions you write are not normally the easy questions. They are the potentially most difficult questions that may be raised.

Q. I see. That's the standpoint that you take?

A. Yes.

Q. And in relation to the preparation of the answers, would that normally be something that you'd have an input in with your clients, or would you be relying on your clients to primarily propose answers to the questions which you had identified?

A. In normal circumstances, I would either prepare

answers as well as questions, draft answers. Or I would put in some bullet points, things to remind them that they might or might not say. Or I would write the questions and then have a meeting or session with them where we'd go through them and get the answers.

In this case, I don't seem to have written the draft answers, which leads me to believe that I was still on unsure ground as to what the answers were to some questions and that I needed the session in order to get them to focus on those.

Q. Right. Now, you referred to going around to Owen O'Connell's office, in the fax, at one o'clock that day to discuss them and having spoken to Mr. O'Brien about that?

A. I think it ended up later in the day that I went. I think I was due to go at one, but I think that, with other things that they were doing in Fry's at the time, I think that that meeting was delayed until later on in the afternoon. I don't know what time.

Q. Right. And do you recall the meeting?

A. I recall I don't recall it in a formal sense of the list or the sequence of items that were discussed. I remember going to the office that afternoon and it being fairly frantic there, and that there was, you know, "Where is the cheque? Who is signing this? Who is signing that? I need to take you off into room to do that. I need to take you off into another room to

do that". There seemed to be an awful lot of people and an awful lot of coming and going. I thought it going to be very difficult to get these guys to focus on the press conference. And people were coming, particularly Owen was coming and going because he was involved in a lot of other things. Denis was on the phone. I am trying to remember who else was there.

There might have been other people coming and going. It might have been Leslie Buckley; he might have asked John Callaghan to come in; he might have asked people who were going to be participating or sitting at the top table at the press briefing the next day to come and they would have been coming and going at different times, over a period maybe of two hours, I may have sat there, but I might have only got fifteen minutes' work done with them in that time. I was trying to grab opportunities with them. I recollect saying "We have to focus on these things".

I don't actually believe that we even got to the end of the questions, and that may be the reason that they had another session the following day, or I know that they perhaps they had another session the following day with Department personnel.

Q. Can I just ask you to look at the typed-up version of these questions and answers.

Other than Mr. O'Connell's files, which have your questions and his handwritten notes of what the

answers should be, we haven't seen any other document showing these questions, or any questions, and any specimen answers. Do you think that his notes of what the answers might be or would be were, in effect, the final agreement between you, insofar as there ever was an agreement, or insofar as it was ever clarified as to what the answers to these questions should be?

A. I just don't know. I just don't know whether there was a conclusion to that meeting. I would have taken notes as well, but unfortunately I don't keep notes to the degree of this detail.

Q. If you had prepared, after that meeting, you know, a formal document showing the questions and the typed answers, you presumably would have retained that in your file?

A. Yes, I would. And I didn't have that, and I still had a considerable amount of Esat Digifone material. So if I had gone back to the office with the handwritten remarks people had made, I normally would have tried to type that up in some way, or at least to give two or three bullet-point reminders for each of the questions. I didn't find it didn't exist in my office.

Q. Right. Now, we have been can I take it that as far as the answers to these financial and shareholder questions were concerned, that you were entirely dependent on the information which you were being

given by Mr. O'Brien, Mr. O'Connell and the other persons that you met in Fry's on that day, on the 15th May, for the answers?

A. Yes. But I think, did Mr. O'Connell say that these answers, some of them were put together the following day?

Q. No, he felt that he may have made his initial jottings when he received your list, typed list of questions, and then he may have made subsequent jottings at the meeting where you were all discussing what the answers should be.

A. Oh, I see. I actually I misunderstood it, then, because I thought that the typed form might have been notes he took when he met me in that evening and notes subsequently he took when perhaps they were having a practice session with the Department.

Q. No, what he thinks is, and he can't be clear in his recollection, but his speculation is that his initial jottings were made when he received that from you on the morning of the 15th. They would have been his initial responses to the questions. And that the other notes were made by him at the meeting that you were having subsequently to discuss it. He didn't refer to any meeting on the 16th that you weren't at at which there was

A. The only problem is that "MB" is mentioned, which presumably is Martin Brennan.

Q. I think that's an error, actually, in the typing. I think that should be "NB".

A. Because Martin Brennan obviously wasn't at any meeting I was at.

Q. I think it should be "NB." "Nota bene".

A. Right.

Q. Mr. O'Connell added a final question to the questions which you had identified, and maybe it's easier to read it from the reconstituted form of the document.

"Has Denis O'Brien contributed his share of the equity?

He says, it's in his writing, "Make or break, legally and politically. Company to answer, accurate, if fudge, no lies."

Do you remember that being discussed at the meeting that you attended?

A. I don't specifically, no. It may well have been. I don't specifically remember any time, hearing for perhaps the first time that Denis didn't have the money. I am not conscious of that coming to me at that particular time or any time.

Q. Well, are you saying that it was you never had that information?

A. No, I didn't, actually.

Q. So you weren't aware of the loan arrangements between

A. No, I wasn't.

Q. between Telenor and IIU and Mr. O'Brien?

A. No, I wasn't.

Q. Which enabled him to fund his share of the licence fee?

A. I wasn't, no, no.

Q. Now, if you just go on to Divider 155A, you'll see this is a fax from Mr. O'Connell to Mr. Martin Brennan. It's on the 16th May. It's handwritten fax. Cover sheet, "Urgent.

"Dear Martin,

"Press release follows as requested. Owen."

And this seems to be the final press release.

A. There is markings on this. Do you have the final press release that I sent you down?

Q. I think this is the one that we have here. This is one that was sent to the Department?

A. Right, okay. It's the one sent to the Department.

Q. Do you see that there?

A. Yeah. It differs from the final one that was actually circulated on the day.

Q. I see. Well, maybe we better have a look at that, then, as well.

A. It looks different in the sense the typing I am just looking at the configuration of the sentence. It may be, when we go through word by word, it will be the same. I am sorry.

Q. You think it may just be the layout?

A. It may just be the configuration on the typing.

Q. I see. This was the one, anyway, that was sent to the Department on the 16th. Do you recall there being any last-minute changes being made to the press release on the 16th?

A. There normally are. Normally changes are made right up to the end. I don't know whether there were any after this point.

Q. We'll look at the one that was sent to the Department first, anyway, and it's headed "Esat Digifone signs GSM licence".

And I have compared it with the draft that you sent to Mr. O'Connell the previous day, and obviously it's a much lengthier document, because you have included in the additional material regarding to their roll-out and the employees and so forth; right? But as regards the financial and shareholding material, and correct me if I am wrong, it seems to me that there is only one change that was made. You see that it relates I think it relates to IIU.

If you go to the second actually there is a little bit, there is an expansion, I think, in the first paragraph as well, but I don't think an awful lot turns on that.

But if you go to the second paragraph, you see that where the initial draft had stated "The owner and Chairman of IIU and therefore the beneficial owner of

this 20% shareholding at this time is Dermot Desmond".

This one simply says that "IIU holds the remaining 20% of the shares on behalf of Mr. Dermot Desmond."

There is no indication there that Mr. Desmond's shareholding is 'at this time' or that it is due to his ownership or Chairmanship of IIU that his beneficial interest in the shares arises. Do you remember or recall when or why those changes were made?

A. Well, I think that this one is probably more specific and more explanatory than the last one. "At this time" raises questions as to what do you mean, "at this time"? Will he not hold them tomorrow? Will he not hold them next week?

Q. It does.

A. Whereas in the draft, we see on the 16th, "IIU holds the remaining 20% of the shares on behalf of Mr.

Dermot Desmond". So it's actually quite specifically on behalf of him himself, and that's what's confirmed.

The next sentence goes on to say that "IIU say that their shareholding or part thereof may be placed with additional investors at some future time."

So I think it's making it more specific. Instead of saying Dermot holds them now, today, at this time; it's saying they are held on his behalf, and that they may place some of them at some time in the future, although we did say, both the press release and in any

briefings we gave to the media, that that would not happen at least until the service was up and running.

Q. Yes, yes. There was also no reference in this draft of the 16th to Mr. Desmond's Chairmanship of IIU.

A. I think it was very well-known at that time.

Q. Sorry?

A. I think it was very well-known. IIU was quite a fresh company. It was only in existence about a year.

There had been quite a lot written about it, so I don't think there would have been any doubt in anybody's mind.

Q. Right. Can I just ask you now to look at the document behind 159, which is an attendance of Mr. O'Connell's of the 16th May of 1996, which is headed "Rehearsal for press conference". And we have this both the original, which was handwritten, and it's also been reconstituted in typed form.

It's dated 16th May, 1996.

"Client: Esat Digifone.

Matter: Licence negotiations

"Rehearsal for press conference.

"When did Telenor and Esat get together re delay.

Second half April 1995" "second half" is crossed out.

"Whether ready to put in bid?

Certain 9 May "April" is answer.

Were ready 23rd June, felt penalised, better prepared.

Team disappointed. Add $\frac{1}{2}$ 500,000 to cost (keeping team together); one new competitor. Arve.

Delay in licence Government/State.

"DOB contribution I wish to scotch the persistent rumours on this. The licence fee has been paid; millions have been spent by the company to date, almost entirely out of shareholders funds.

Little or no bank funding to date. All of Esat Telecom Holdings share of the funds have been paid.

Arrangements among the shareholders have been concluded to everyone's satisfaction and are working.

"Is this the same consortium as that which applied?"

Now, do you recall being present at that rehearsal which was on the day itself?

A. No, I don't. I wasn't at a rehearsal on that day. I think I am not sure whether others have confirmed where it was; was it at the Department, the event?

Q. Mr. O'Connell thought it was in William Fry, but again, I think he didn't really have that clear a recollection, because again there was so much going on at the time and that he hasn't kept a list of who was in attendance at it.

A. Because my best estimate of it would be that it would have happened in the hour before the press briefing, that they would have just gone down there earlier and met with the Department people down there. If they were arranging a separate meeting to talk about a

rehearsal or to rehearse for the briefing, I would imagine that I would have been asked, or I would have asked to go and made sure I went.

So my impression in reading this and previous documentation about it was that it might have been a sort of pre-get-together, because there were the participants on the top table were both Esat Digifone and the Minister, the Department.

Q. Yes, of course.

A. And it would have been normal, and I would certainly have advised that there would be some opportunity for them to sit down and say, "How are we managing this?"

That the Minister says, "I am going to open it; I am going to introduce it. We'll ask questions, then we'll sign the licence, or we'll sign the licence first, or we'll have photographs first, or we won't allow photographs" or whatever.

Q. To make sure it's orderly, apart from anything else?

A. Yes, and I would have done that in the background with some of his advisers, but it really needs the principals to talk to each other so that they understand the structure of what's going to happen. I imagine that that probably happened shortly before the press briefing.

Q. Because your view is that if it had been an Esat-only meeting, you would have been at it?

A. Absolutely. I know I would have been very busy that

day preparing for the press briefing. We probably would have been still putting final changes in the press release because, in fact, if Mr. O'Connell sent that draft on the 16th to the Department, they obviously came back with changes because the headline in the one that actually was circulated changes from "Esat Digifone signs licence" to "Minister Lowry signs licence". So that would indicate to me that the Department or the Minister or his advisers had a role in making those sort of changes to it.

Q. So you think in fact this must have been a note of a meeting that the participants in the press conference had shortly before the press conference to get things organised and to put order on the events at the press conference?

A. That would be my best guess at the timing, but I don't have any factual record of it.

Q. Can I just draw your attention to one matter in Mr. O'Connell's note, because I think that he felt part of the wording sounded like his wording and part of the wording sounded like it might have been your wording; but when he must be wrong, if you weren't at this.

"DOB contribution"; do you see that there? "I wish to scotch the persistent rumours on this. The licence fee has been paid. Millions has been sent by the company today almost entirely out of shareholders funds.

Little or no bank funding to date, all of Esat Telecom

Holdings share of the funds have been paid, arrangements among the shareholders have been concluded to everyone's satisfaction and are working."

Now, I think Mr. O'Connell thought, and again he couldn't remember; he was speculating, but he thought that the words "I wish to scotch the persistent rumours on this" might have been your wording.

A. "Scotch" is not my terminology, really. I can't say definitively that it wasn't. It doesn't strike me as mine. It could have been something that we had discussed the previous evening at the briefing or practice or part practice session that we had. But this particular one did have people from the Department present at it; isn't that correct?

Q. We don't know. We don't know.

A. Because the only reason it leads me to think that I definitely wasn't there was, A) I never met Martin Brennan before I saw him at the October and then the May, that's the only times, and I was never in the Department for a meeting. So that sort of led me to believe that and it would have been very unusual for me to be able to leave my office on the morning, when there was still being changes made, to go off up to Fry's for what could have been another two hours when there was such an amount of preparation to be done.

Q. There was so much pressure there, and you were needed

to make last-minute changes and so forth?

A. We weren't just giving the press release out that day.

We were giving out some background information on Esat Digifone, the story so far, about other issues to do with community relations and masts and the roll-outs and contracts. And we had to set up quite a considerable circulation list, both in Ireland and internationally, for that. And my colleague who was working on this business with me was actually away that week, so I would have been working at the senior management level on my own. I would be the only manager working on it.

Q. You were working single-handed, virtually?

A. I had assistance in the office, certainly, but not anyone who could make decisions or prepare material.

So all of those things together, I am very doubtful that I would have had the ability to go either to Fry's or the Department to have a meeting, and if it included if it included Department people, I definitely wasn't there.

Q. Okay. Now, just one final thing I want to ask you.

We know that apart from yourself, and that you were the principal, if you like, adviser or consultant to Mr. O'Brien and to the bid in relation to public relations matters, but it does appear that there were other consultants and advisers and persons that the bid had retained who also seemed to have some

responsibility within that general brief? And I was just thinking of Mr. Dan Egan. I don't know if you knew Mr. Egan. Mr. Egan had been retained as a consultant by Mr. O'Brien as well. I think Ms. Sarah Carey, from whom the Tribunal heard evidence yesterday, and also Mr. PJ Mara, and I was just wondering, what was your interaction, if any, or overlap, if any, with any of those three people or their field of expertise and work?

A. I didn't have any with Dan Egan; I didn't know he had been employed at all. I think he was employed on political consultancy in the sense of introductions, and that.

Sarah Carey: I worked with her, or people in my office worked with her subsequently after the launch of Esat Digifone, when some events were being organised and things like that, but I had no contact with her. And to my knowledge, she wasn't involved at all in the bid, or in media relations, during that '94 to '96 phase at all.

Q. I see.

A. She had just she had recently joined the company, I don't know what year, and she was one of a lot of young new joiners to Esat Telecom, as it was at the time. But we didn't have any interaction. I didn't cross her path at all during that time.

PJ Mara, yes, I had a lot of interaction with him. He

and I were employed at the same time and had gone to the first meeting in July '94, and that's when we were both taken on with Southwestern Bell and Detecon. We met in a hotel, at a meeting that Southwestern Bell and Detecon were having with Denis O'Brien.

Q. I see.

A. And Denis O'Brien had contacted me, perhaps a week or two before that, and said that they were going for a licence. He had split from his previous PR advisers for some reason I can't recall the detail; a lot of it was speculation and that he wanted to know could I get involved, and PJ. PJ and I did some work together at the time, even when he was in Government, I was working for some branches of his office. And so we were common advisers in a few different companies. So PJ and I would have gone to the meeting together in July '94, and we were both taken on, but separately and on different bases. That PJ's contract, and his fees and success fees, etc., would have been dealt with separately to mine, and I would have negotiated mine quite separately. So PJ and I liaised quite closely throughout the process.

Q. Throughout the GSM process?

A. Yes. PJ is an adviser rather than a doer. You know, he will help somebody to crystallise what ought to be done or why it ought to be done, or if, for example, in the early stages, when we were coming to a

decision, to keep the identity of the consortium secret.

Q. The Telenor involvement?

A. Even before that, even the Southwestern Bell/Detecon, even in that phase, that they were there from July till March; then subsequently, the March the April onwards for Telenor, that takes a good bit of thinking through: why you should keep a secret? What are the problems of that? What are the issues that might ensue? What might arise? How are you going to get around that? And therefore PJ would have been somebody that I would have asked to give opinions on that.

Now, any documentation that was prepared therefore on the basis of that, I always prepared the documentation. But I would have used him as a sounding board, as Denis would have as well. And a lot of times, where I had meetings with Denis, PJ would have come along or I would have joined PJ and said "I am going down to Denis in the morning; do you want to come? Denis is in town". Or PJ would have phoned me and said, "I am meeting Denis in the morning; he is in town", and I would have gone down as well.

So we worked closely together, and I know, having seen part of Mr. Mara's evidence yesterday where it seemed that there was no documentary evidence, and I know

that he answered that there is very little documentary evidence, if any, of his dealings with any clients.

And that's something I can attest to, having worked with him for a considerable period.

Q. Can I just ask you, in relation to any of the matters that we have been discussing and your activities we were discussing today, in particular the responses and in particular, the responses that were given to the Irish Times and the Independent in November of 1995, do you recall that Mr. Mara had any input into the decision that was taken that you would confirm the part of the story that was factual, but that you wouldn't confirm the part of the story that was based on belief?

A. No, I don't think he was involved on that day. I don't recall him being involved. It was more a bigger picture. It was more the strategy, when do we announce? How do we announce? When Telenor came into the picture. How we should and when they became public on the 3rd August, how we might roll out their involvement in it. And Telenor had certain ideas. I would have fed in ideas. PJ would have fed in his ideas. So it was strategic points like that.

Q. Would he have had any input into the idea to have two press releases on the 15th, 16th, or one? Do you remember him having any involvement in that?

A. I don't actually specifically remember talking to PJ

about that and neither do I remember him being at the practice session that evening. I don't know whether it's because he was away or not. I don't specifically remember him being there. PJ was not something that I needed to have beside me in order to make decisions.

He was somebody who was comfortable to have there if there was decisions to be made.

Q. I see.

A. And somebody who Denis treated as a very sound head and, you know, had the ability to look at things from different perspectives, which some of us who were very closely involved wouldn't, or would have been more hot-headed about issues that and might have wanted to do certain things, and PJ would have been the counsel at times to say, "No", you know, "Hold back, don't do this, don't do that".

Q. I see. And what about the late Mr. Jim Mitchell? Do you recall having any dealings with Mr. Mitchell or any overlap in your who is of responsibility?

A. No, I only met him at the launch of Digifone in 1997. I didn't meet him during the period. I was aware that he had been employed by Denis during the bid phase, but I had never come across him. I had never been at meetings with him.

Q. Thank you very much, Ms. Gleeson.

CHAIRMAN: I think it's also the case, Ms. Gleeson, that you very helpfully in recent days made available

to the Tribunal solicitor a tape which you had come across of the actual press conference of the 16th May, 1996?

A. Yes, Chairman. I apologise that it's late, but I was cleaning out my office in moving office and taking up a new role within my company, and I was getting to the back of presses that hadn't been got to the back of for some ten years or so, and it wasn't in the normal place where all of my Esat materials were; it was in private dictaphone tapes that were handwritten and had nothing particularly on them, so I only discovered at the weekend that this had actually "16th May" written on it. And that's how I listened to it heard it.

CHAIRMAN: Oh it's helpful, and we've been able to have it transcribed. You are not proposing to deal with it through Ms. Gleeson; it may be adverted to at a later stage. I'll just check if other people may have a few questions for you, Ms. Gleeson.

Mr. Fitzsimons?

MR. FITZSIMONS: No questions.

CHAIRMAN: Mr. McGonigal?

MR. MCGONIGAL: No questions.

CHAIRMAN: Mr. Nesbitt?

MR. NESBITT: No questions.

CHAIRMAN: Then it only remains for me to thank you for your assistance today and for your preparatory work, Ms. Gleeson.

That concludes the evidence for today?

MS. O'BRIEN: Yes, Sir. I think we should indicate that it will appear on the website when the Tribunal is sitting again.

CHAIRMAN: It will be a very short recess. There is a question of witnesses who will be travelling to attend, and some preparations and special matters have to be attended to, but it is unlikely to be any later than the start of the week after next.

MS. O'BRIEN: Exactly.

CHAIRMAN: But we'll confirm that on the website.

I might just deal with one matter in conclusion, and if I might kindly request a measure of clarification just as regards one matter that appeared in yesterday's Irish Times report, which appears to me not to fully reflect what may have transpired.

This relates to portion of the evidence of Ms. Sarah Carey, and I think at one point of the report, it is stated that a reference was made by me, and perhaps by Mr. Healy as well, to some 16 civil servants employed by the Tribunal having to sign declarations that, in effect, no such persons had leaked confidential information. This may give a somewhat grandiose picture of the amount of back-room staff available to the Tribunal which rather radically does not reflect reality, and it may be of some benefit that I simply confirm that the Tribunal numbers consist of five

office staff, four of whom are seconded from the civil service; one solicitor; one Registrar; three senior barristers who present evidence; three additional barristers who deal with research and other duties; the Court crier, Mr. Daniels, who obviously has no direct input into the Tribunal business; and myself, which is effectively at maximum levels a full payroll of some fifteen persons, which I understand perhaps to be somewhat less than 25% of at least some of the other agencies with which this Tribunal is on occasions coupled.

Very good. Thanks for your assistance today, Ms. Gleeson.

We'll confirm resumption date on the website.

THE TRIBUNAL THEN ADJOURNED UNTIL FURTHER NOTICE.