

THE TRIBUNAL RESUMED ON THE 6TH DECEMBER, 2005, AS FOLLOWS:

MR. COUGHLAN: Mr. Lowry, please.

MICHAEL LOWRY, PREVIOUSLY SWORN, WAS EXAMINED BY

MR. COUGHLAN AS FOLLOWS:

CHAIRMAN: Good morning, Mr. Lowry. Thank you for your reattendance. Please sit down.

Q. MR. COUGHLAN: Thank you, Mr. Lowry.

I should just explain that what it is intended to cover with Mr. Lowry in the first instance today is really the various statements and memoranda, and a letter seeking information from the Tribunal to you. We'll cover that today, and in the course of it we may put up a few documents, but I'm not asking Mr. Lowry to comment on those today; that we have abridged the number of documents that we would require Mr. Lowry to deal with in the first instance, and that those would be dealt with on Monday, Tuesday and Wednesday of next week. And Mr. Lowry will deal with them then, and I think he understands, and the matter had been discussed with his legal advisers, and I think you understand that situation, Mr. Lowry; isn't that correct?

A. Yes.

Q. Now, I think the first statement you furnished to the Tribunal dealing with the GSM inquiry was one dated the 27th June, 2001, when I think you were asked by the Tribunal if you'd furnish the Tribunal with a statement covering meetings or dealings you had that you could

recollect with anybody who had been involved in the process one way or the other; isn't that right?

A. Correct, yes.

Q. And I think you furnished a statement, and it's dated the 27th June, 2001. And you first dealt with Mr. Jim Mitchell, isn't that correct, and you informed the Tribunal that sometime shortly after the Government announced its intention to commence the GSM mobile licence competition, Jim Mitchell, TD, asked to see you. He informed you that he wished you to be aware of his interest in the matter as a consultant/adviser to Denis O'Brien/Esat Digifone.

Mr. Mitchell did not make any specific request of you other than declaring his interest, and during the course of the competition, you would have met him on at least one occasion in Leinster House, when he inquired in general terms as to the ongoing status of the competition. You would have commented in reply in general terms, but certainly any discussions that you both had did not go into any detail; is that right?

A. Yes.

Q. I think the next person you informed the Tribunal that you had a contact with who may have been or not involved in the GSM process in one form or another was Tony O'Reilly; isn't that correct?

A. That's correct.

Q. I think you informed the Tribunal that you recall attending the Curragh Races on the weekend of the Derby in July,

1995. And while at the races some party, whom you cannot now recall, approached you and asked you if you would go to see Tony O'Reilly in his executive box. During the course of the afternoon you went to Mr. O'Reilly's box, and a discussion ensued. He discussed his consortium's application for the licence and sought to impress upon you his commitment to Ireland and his investment in the country. He also spoke about recognition of his personal standing as an international business leader.

He stated that he expected that his consortium would be successful, and he also demanded that you, as Minister for Communications, should forthwith order the shutdown of the unlicensed TV deflector systems. Sometime subsequently he conveyed to the Government his extreme displeasure at his consortium's failure to get the licence. You understand that he then that the then Taoiseach, Mr. John Bruton, met with Mr. O'Reilly by appointment in Glandore on the 25th August 1996.

Mr. Bruton reported back on his minutes of that meeting to a Fine Gael Minister's meeting. He stated that Mr. O'Reilly was seriously aggrieved and annoyed at the number of Government decisions which affected the Independent Group, including the GSM licence and TV deflector issues. During the Minister's discussions, it was generally felt that Mr. O'Reilly's dislike of the then coalition Government was reflected in Independent Newspapers' political coverage. It was decided to involve

Government adviser Sean Donlon to mediate in the matter, and on September 4th, 1996, Mr. Donlon met with representatives of Independent Newspapers at Hatch Street, and amongst those attending on behalf of Independent Newspapers was a Mr. Liam Healy, a Mr. David Palmer and the late Mr. John Meagher. Mr. Sean Donlon reported back that it was a most difficult meeting and that some very harsh comments were made about the Government and individual Ministers. He outlined a list of grievances and a series of demands from the Independent Group. Mr. Donlon expressed concern that the Government was being placed over a political barrel. He told you that you were persona non grata with the Independent Group. On the morning of the election in June 1997, the front page of the Irish Independent carried a banner headline: "Payback Time." This was accompanied with the front-page editorial urging the electorate not to vote for the Government parties. I think that completes your statement at that stage in relation to Mr. O'Reilly.

A. Correct.

Q. I think you then informed the Tribunal of a contact with a Mr. Tucheve, and you say that on the 6th October 1995, Mr. Tochev or Tucheve made a visit to your office. You had a short general discussion in relation to the Motorola application, but again this was in very general terms. After the decision was announced, Motorola were vociferous and persistent in their condemnation of the result.

Details of their perceived grievances, including a visit from the then American Ambassador, should, you believe, be available from the Department of Public Enterprise.

I think you then informed the Tribunal of a contact or contacts you had with a Mr. Tony Boyle; isn't that correct?

And you inform the Tribunal that you recall having a short meeting at Fitzpatrick's Hotel, Killiney, sometime after the competition was announced. The meeting was, you recall, organised at the request of Mr. Boyle through Mr. Frank Conroy that's the late Mr. Frank Conroy now, of course. In response to Mr. Boyle's general queries, you informed him that the object of the exercise was to bring competition to mobile communications with reduced call charges and handset costs to the customer. He gave you some outline of what he anticipated that his consortium's call charge might be, and as you recall, he indicated that his consortium's charges were very competitive relative to the then Telecom Eireann charges.

I think, then, finally, you informed the Tribunal of any contact that you had with Mr. Denis O'Brien; isn't that correct?

And you informed the Tribunal that to the best of your recall, you did not have a formal meeting with Denis O'Brien in regard to the GSM mobile licence. You recall meeting Mr. O'Brien on one occasion at a Fine Gael fund-raising lunch in advance of the Wicklow by-election in June 1995. You also recall meeting with Mr. O'Brien in

September 1995 after the All Ireland football final. Any discussion that you had was of a general nature. It is fair to say that during your tenure as Minister, there were ongoing conflicts between Telecom Eireann and Esat concerning Telecom's willingness or obligation to provide Esat with access to DDI and DDO that's Direct Dial In and Direct Dial Out; that was fixed-line business line capacity. Your Department officials and you, as Minister, had the responsibility to adjudicate between claims of both sides. In this regard, you certainly would have had contact with Mr. O'Brien and Esat officials.

And I think just I think you then provide a supplemental statement, and it's dealing with the Mr. O'Reilly matter; isn't that correct?

A. Yes. In relation to the consortia, those individuals that I met on behalf of the consortia, I also informed the Tribunal at a later stage that I had met with Gary Joyce and with Pat Dineen, representing other consortia.

Q. You did indeed. And

A. And I gave you the dates for those meetings.

Q. I'm not sure you have you did indeed. But I think you then provided a supplemental statement, isn't that right, and it's dealing with Mr. O'Reilly, really?

A. Yes.

Q. And

A. Sorry, could I have a copy of that statement; it's not in my book.

Q. Yes, indeed.

(Document handed to witness)

Q. MR. COUGHLAN: This was a statement dated the 20th June, 2002. And you say that you refer to your original statement furnished to the Tribunal by your solicitors with letters dated 27th June, 2001, and you refer to a statement of Mr. Anthony J F O'Reilly to the Tribunal dated 24th September, 2001, a copy of which has been provided to your advisers.

So the Tribunal furnished your statement to Mr. O'Reilly. Mr. O'Reilly furnished a statement to the Tribunal, and that was provided to you, and now this is in response to that; isn't that right?

A. That's correct.

Q. And you inform the Tribunal that you believe that your account of events and the date of your meeting with Tony O'Reilly on the weekend of the Derby in July 1995 fairly reflects what transpired at that meeting.

In relation to your account of what transpired at the meeting, you would make one comment to the effect that in your previous statement you stated, and you quote: "He stated that he expected his consortium would be successful." And you continue to say that you did not wish to convey a wrong impression by this. Mr. O'Reilly was simply expressing his opinion in relation to his consortium's application rather than making a specific demand from you in relation to the matter.

You continue, "In relation to Mr. O'Reilly's statement of the 24th September, 2001, and in particular, in relation to paragraph 15 of the statement, you accept that you would have met with Mr. O'Reilly at the opening of the Arcon mine in Galmoy on the 15th September, 1995. You say that you most certainly did not and could not have made the comment which Mr. O'Reilly attributes to you on that occasion. You have stated on many occasions, and you again repeat, that you had no direct involvement whatsoever in the presentations which were being made by various applicants for the mobile telephone licence. This matter was handled by civil servants and outside consultants. You had no involvement in the evaluation or assessment process. Isn't that correct?"

Now, I think the next document I want to open with you is a memorandum of information which was sought from you by the Tribunal which ultimately culminated in a statement being furnished by you; isn't that correct?

A. That's correct.

Q. So I think the memorandum was dated or the letter it was sent by letter of the 16th October, 2002. I just want to go through it, and we may put up a number of documents; I'm not going to ask you to comment on any of those documents at this stage. We will return to them next week, if that's all right, Mr. Lowry.

And I think you were requested to furnish the Tribunal with the following information:

1. Details of your dealings in the period immediately following your appointment as Minister with Department officials regarding the liberalisation of the telecommunications market and in particular, the licensing of a second mobile telecommunications operator, and in particular, dealings with the following:

A) Mr. John Loughrey of course who was then Secretary of the Department. B) Mr. Sean Fitzgerald, who was Assistant Secretary at the time. And C) Mr. Martin Brennan, who was a Principal Officer and headed the PTGSM group; isn't that correct?

Secondly, you were asked for your understanding as to the status of the informal decision of the Government made on the 21 December, 1994, regarding the launch of a tendering process for the second GSM licence.

3. You were asked for details of all factors, matters or considerations which prompted your decision in early February, 1995, that there should be no limitation placed on the licence fee nominated by competition entrants, subject to a minimum of $\text{€}1/25$ million.

4. You were asked for details of all discussions with or advices provided by Mr. Loughrey, Mr. Fitzgerald, Mr. Brennan or any other departmental official in connection with your above decision and in particular, regarding the likely attitude of the European Commission.

5. You were asked for details of all dealings which you had with the European Commission or which, to your

knowledge, direct or indirect, officials of your Department had with the European Commission prior to the announcement of the second GSM competition on the 2nd March, 1995, and in particular, in relation to 1) the open-ended licence fee element in the competition design, 2) the nondisclosure of the weightings to be attached to the evaluation criteria set out in paragraph 19 of the RFT document.

6. You were asked for your understanding of the role envisaged for the Cabinet or for the Cabinet Subcommittee in the GSM process and in particular, in the light of paragraph 2 of the Government decision on the 2nd March, 1995, namely, (I) a recommendation to be put by the Minister to Government in time for a final decision on the granting of the licence to be made by the 31st October, 1995. In particular, bearing in mind that the competition design allowed a period of six weeks from the date of the availability of the evaluation report to the planned announcement of the result of the competition.

7. You were asked for your input or knowledge, direct or indirect, of the process which led to the revision of paragraph 19 of the draft RFT document which resulted in the elevation of the requirement of financial capability from an ordinary evaluation criteria to a requirement in the nature of a condition or a precondition.

8. You were asked for your understanding of the RFT document issued by the Department in March 1995, and in particular paragraphs 3, 9 and 19 and they are then set

out. We have been over this a number of times, Mr. Lowry, so I don't intend reading all of these out at this stage.

9. You were asked for your understanding of the functions and roles of the Project Group and the individual members and their intended input into the evaluation process and the outcome of the process.

10. You were asked for your knowledge, direct or indirect, of and your understanding of the protocol adopted by the Project Group at its meeting on the 6th March, 1995, for dealing with potential bidders during the tendering process.

And I think, again, we have been over this a number of times, but the protocol adopted was

no one-to-one meetings

no social outings

a record to be kept of any meetings/conversations

between DTEC people and any of the bidders

DTEC should stress at any such meetings that it is an informal exploratory contact

and where an issue of import does arise, the matter will be referred to in a formal written procedure."

I think at 11 you were asked for details of all discussions with or advices provided by departmental officials to you, including Mr. John Loughrey, Mr. Sean Fitzgerald and Mr. Martin Brennan, regarding dealings with consortia that had entered the competition, or members of consortia, or persons associated with consortia during the course of the

evaluation process.

12. You were asked for your understanding as to the services to be rendered by Andersen Management

International and the terms of their brief.

13. You were asked the date on which you first became aware of the intervention by the European Commission in the evaluation process.

14. You were asked for details of your involvement and input into the proposals made by the Department to resolve the intervention of the European Commission on the basis of

A) the imposition of a cap of $\text{€}15$ million on the licence fee which could be nominated by entrants; and

B) the imposition of a fee of $\text{€}10$ million on Telecom Eireann.

15. Having regard to your response to questions in Dail Eireann on the 21st June in the following terms: "As I have stated on a number of occasions, my primary objective in this competition has always been to select the applicant who would have a progressive approach to market development, a commitment to a high-quality national service and innovative approach to tariffs. I am not convinced that a voluntary fee determined by the market for the right to the licence would undermine that objective."

And you were asked to provide details of all matters, factors or considerations which caused or prompted you to alter your view.

16. All matters or considerations which prompted your

decision to postpone the closing date of the competition to the 4th August, 1995, notwithstanding the resolution of the intervention by the European Commission at the end of June 1995, and further, notwithstanding that the terms of such resolution had been reported to the Cabinet and noted by the Cabinet on the 4th July, 1995.

17. You were asked for details of all meetings, discussions or contacts, direct or indirect, between you and any consortium that had entered the competition for the licence, or any member of any such consortium, or any person associated with or acting on behalf of any such consortium, or any member at any time from his appointment as your appointment as Minister on the 25th October 1995 when the result of the competition was announced, and in particular, in respect of any such meetings, discussions or contacts. And you were asked to please provide the following particulars:

- A) the identity of all persons involved;
- B) the nature of such meetings, discussions or contacts.
- C) the manner in which such meetings, discussions or contacts was arranged;
- D) the location;
- E) the purpose of such meeting, discussion or contact.
- F) the matters under discussion;
- G) the action, if any, taken by you following such meetings, discussions or contacts;
- H) your understanding as to the action, if any, to be taken

by any other person following any such meetings, discussion or contact.

18. You were asked for details of your knowledge, direct or indirect, of the mechanics of the evaluation process and in particular, in relation to the following:

A) the distinction between the quantitative and qualitative analysis;

B) the difficulties which had been encountered in the quantitative evaluation;

C) the decision that the qualitative evaluation should be decisive and should be taken in precedence to the quantitative evaluation;

D) the decision not to score the "Other aspects" and in particular the indicators of credibility and sensitivity.

19. You were asked for details of your knowledge, direct or indirect, of the trends and/or ranking emerging from the evaluation process during the month of September, 1995, and the source or sources of your knowledge.

20. You were asked for your knowledge, direct or indirect, of the following:

A) the trends and/or ranking emerging from the evaluation process following the oral presentation made by entrants in the week commencing Monday, 11th September, 1995;

B) the outcome of the oral presentations;

C) any inadequacies or deficiencies identified by the evaluators in relation to any entrants and in particular, with regard to the issue of financial capability.

D) the meeting arranged between members of the Project Group and Andersen Management International in Copenhagen on the 28th and 29th September 1995 and the purpose of such meeting, and in each instance you were asked to indicate the source or sources of your knowledge.

21. 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 in connection with the Esat Digifone consortium application and the manner in which the letter was dealt with by the Department, including the source or sources of your knowledge.

And again I'll come back to discuss that letter next week, but you know the letter we are talking about, Mr. Lowry, I think.

22. You were asked the date on which you first became aware, either directly or indirectly, or were informed of the final result of the evaluation process, including the source or sources of your knowledge.

23. You were asked the date on which you first decided that the planned announcement of the result of the evaluation process, which had been scheduled for the end of November 1995, should be accelerated, including details of all matters or factors which prompted or contributed to your decision as recorded in a note of Mr. Sean McMahon dated 3rd October, 1995.

And, again, we have been through this note before, and it's

on the screen now, and it's one I'll ask you to come back to in due course.

24. You were asked for details of all information available to you between the 29th September, 1995, and the 9th October, 1995, regarding the following:

- A) the result of the evaluation process;
- B) the relative ranking of the three top entrants;
- C) the reservations on the financial capability of the top two ranked entrants, together with your source or sources of such knowledge.

25. You were asked for details of all discussions between you and departmental officials regarding the manner in which the report should be presented, or the contents of the first draft evaluation report prior to the 9th October, 1995, bearing in mind that the contemporaneous minute of the meeting of the GSM Project Group on the 9th October, 1995, recorded as follows: "Minister does not want the report to undermine itself e.g. either a project is bankable."

26. You were asked the date on which you first received a copy of the second draft evaluation report dated the 18th October, 1995, eight copies of which were received by the Department on the 19th October, 1995, including a copy designated for you.

27. You were asked for your knowledge, direct or indirect, of the progress of the process between 9th October, 1995, and the 23rd October, 1995, being the date of the 13th

meeting of the GSM Project Group and at which the group was informed that you intended to bring the matter to Government on the following day, Tuesday 24th October, 1995, together with the source or sources of your knowledge.

28. You were asked the date on which and basis on which you determined that the result of the evaluation process should be brought to Government on the 24th October, 1995, including details of all advices or recommendations made to you in that regard by departmental officials.

29. You were asked for your knowledge, direct or indirect, of the request made by a member or members of the Project Group to Mr. John Loughrey on the 23rd October, 1995, for further time in which to consider the result of the evaluation or the terms of the evaluation report, including the source or sources of your knowledge as recorded in Mr. Sean McMahon's personal notes of the meeting on the 23rd October, 1995.

30. You were asked all matters, factors or considerations which caused or prompted you to direct that the result of the evaluation process should be available on the 25th October, 1995, notwithstanding the request made for further time, including details of all advices or recommendations made to you in that regard by departmental officials.

31. You were asked for your knowledge, direct or indirect, of the deliberations of the Project Group regarding the evaluation process and the evaluation report, in

particular,

A) the concerns expressed by members of the group drawn from the Regulatory Division regarding the result of the process;

B) the concerns expressed by the Regulatory Division regarding the presentation of the report;

C) the concerns expressed by the Regulatory Division regarding the awarding of the licence to a consortium of which Communicorp/Esat Telecom was a member, in view of the Department's experience in dealing with Communicorp/Esat Telecom.

32. You were asked for your knowledge, direct or indirect, of the amendments to the report proposed by the Project Group, and in particular, the amendments to page 44 of the report in the following terms: "A critical factor in any consideration of the credibility or risk analysis of applications is the capability of the principals to finance the project, including ability to meet any shortfall in the funding requirement due. E.g., to unforeseen capital expenditure. In general terms, the applicants have provided comfort that appropriate funding arrangements are in place. The evaluators have concluded, having regard to the level of interest in the Irish competition for the GSM licence and the high probability of mobile telephony throughout Europe, that the project is fundamentally robust, and after a licence has been granted, an attractive opportunity to corporate debt financiers. The evaluators

have therefore formed the view that, subject to at least one of the principals having sufficient financial strength at this stage to ensure completion of the project, a potential financial weakness of one consortia member should not have a negative impact on the ranking of applicants.

It is important nevertheless to draw attention to the need to deal with the factor, where relevant, in the context of licence negotiations. These aspects are the subject of further elaboration in Appendices 9 and 10."

33. You were asked for details of all meetings, contacts or discussions between you and departmental officials on the 25th October, 1995, in connection with the result of the evaluation or the availability of the result and the manner in which you should then proceed to bring the result to Government.

34. You were asked the approximate time at which the final result of the process became available to you on the 25th October, 1995, together with the identity of the official by whom the result was communicated to you and the time at which you received an internal memorandum from Mr. John Loughrey to you recording the result.

35. You were asked for details of all documents provided to or available to you on or before 25th October, 1995, in relation to the evaluation process, or the result of the evaluation process, and including an indication of whether you had been provided with or had available to you the final evaluation report or any portion of the report, any

draft report or portion of any draft report, a formal briefing note addressed to you, or any draft of such note, or the aide-memoire for Government dated 26th October 1995, or any portion thereof, or any draft.

36. I think you were asked for all matters, considerations or factors which caused or prompted you to bring the result of the process to a meeting of the Party leaders on the afternoon of the 25th October, 1995, rather than awaiting the scheduled meeting of the full Cabinet on the 26th October, 1995, including details of all advices or recommendations made to you in that regard by departmental officials.

37. You were asked for full details of your meeting with the leaders of the Government parties on the afternoon of the 25th October, 1995, when you brought the result of the evaluation process to the Party leaders and in particular,

A) when, how and by whom the meeting was arranged;

B) where the meeting took place;

C) whether you had made available to the leaders any documentation setting out or summarising the result of the process;

D) whether you had informed the leaders of the qualifications placed on the ranking of the first- and second-ranked entrants;

E) details of all matters, if any, disclosed in the course of or before or after the meeting by you to the Taoiseach regarding the second- and third-ranked entrants.

And I think we just have up, you know, Mr. Bruton's note, and you deal with that yourself. Mr. Bruton has given evidence, and we can come back to deal with that next week again in the documents.

38. You were asked for all matters, factors or considerations which caused or prompted you to proceed to announce the result of the evaluation process immediately following the meeting with the Party leaders, including details of all advices or recommendations provided to you in that regard by departmental officials.

39. You were asked the purpose for which the result of the evaluation process had been announced publicly on the 25th October 1995, and having been approved by the Party leaders, was brought to a full Cabinet meeting on the following day, Thursday, 26th October, 1995.

40. You were asked for your understanding of the composition of the Esat Digifone consortium as of the 25th October, 1995, and the respective shareholdings or participants in the consortium.

41. You were asked for your knowledge, direct or indirect, as of the 25th October, 1995, of the involvement or interest of or any potential involvement or potential interest of IIU Limited or Mr. Dermot Desmond in the Esat Digifone consortium.

42. You were asked to provide full details of all discussions between you and the Minister for Finance and all information provided to the Minister for Finance as

referred to by you in replies to parliamentary questions on the 22nd November, 1995, and in particular, the following portion of your statement: "In view of the importance of this particular decision, I and the Minister for Finance discussed the result of the competition with the leaders of the parties in Government on the 25th October. It was clear to me and the Minister for Finance that the thoroughness of the approach taken left no room for doubt as to the clear-cut result contained in the consultants' report."

43. You were asked for details of all meetings or dealings with or approaches or submissions made by Esat Digifone Limited, Mr. Denis O'Brien, or any other person on his behalf in connection with the following:

- A) the issue of the second GSM licence;
- B) the terms of the second GSM licence;
- C) the debt financing of Esat Digifone Limited;
- D) the equity funding of Esat Digifone Limited;
- E) any other matter concerning the financial capacity of or the finances in general of Esat Digifone, Esat Telecom/Communicorp, Mr. Denis O'Brien, IIU Limited or Mr. Dermot Desmond;
- F) the composition of Esat Digifone Limited or the Esat Digifone consortium and the respective shareholdings of the participants.

44. You were asked the date on which and circumstances in which you first became aware, directly or indirectly, of or

were informed of the involvement of IIU Limited or Mr. Dermot Desmond in the Esat Digifone consortium, together with the source or sources of your knowledge.

45. You were asked the date on which and circumstances in which you first became aware, directly or indirectly, of or were informed of the precise nature and extent of the involvement of IIU Limited or Mr. Dermot Desmond in the Esat Digifone consortium, together with the source or sources of your knowledge.

46. You were asked for details of all matters, considerations or factors which caused or prompted you to instruct Mr. Sean Fitzgerald in February, 1996, that the issue of the draft licence to Esat Digifone was to be expedited.

47. You were asked for details of all matters, factors or considerations which caused or prompted you to direct departmental officials on the 23rd March, 1996, that a final licence was to be issued to Esat Digifone Limited by the 26th March, 1996, at the latest.

48. You were asked for details of all matters, factors or considerations, including submissions made by Esat Digifone Limited or any person on its behalf, which caused or prompted to you issue a letter dated 27th March, 1996, to the Electricity Supply Board asserting that the Board was not justified in the stance that it could not cooperate with Esat Digifone Limited until a licence had been issued to Esat Digifone Limited in view of the membership of the

Board in the Persona consortium and in particular, bearing in mind that the Persona consortium was the second-ranked applicant, and that in the event that negotiations with Esat Digifone broke down, the evaluation report recommended that the negotiations for the grant of a licence be opened with Persona.

49. You were asked the date on which and the manner in which you were informed or otherwise became aware, directly or indirectly, that Communicorp, Esat Telecom did not intend to fund its equity participation in Esat Digifone by drawing on finances to be provided by Advent International Corporation but intended to fund its participation by placement through CS First Boston, including details of the information provided and the source or sources of such information.

50. You were asked for your understanding of the capital configuration of Esat Digifone Limited as of the 12th April, 1996, being the date of the initial capitalisation of Esat Digifone Limited and in particular, each and every respect in which the capital configuration differed from the configuration as set out in the Esat Digifone application.

51. You were asked for your knowledge, direct or indirect, of a meeting which took place at the Department on the 3rd May, 1996, attended by Mr. Knut Digerud, Mr. Arve Johansen, Mr. Peter O'Donoghue, Mr. Michael Walsh, Mr. Paul Connolly and Mr. Owen O'Connell, and including the following:

A) the purpose for which the meeting was held;

B) the matters discussed;

C) the queries or issues raised by the Department;

D) the requirements of the Department;

E) the request made by the Department to Telenor to underwrite the entire of the equity and operational expenses of Esat Digifone Limited and the reason or reasons for such request. And in each instance you were asked to indicate the source or sources of your knowledge of such meeting.

52. You were asked for all matters, factors or considerations which caused or prompted you to request/require Esat Digifone Limited to restructure the capital configuration of its shareholding from 37.5:37.5:25 to 40:40:20 as conveyed by Mr. Fintan Towey to Mr. Owen O'Connell, solicitor, on the 7th May, 1996 and that's just the note of Mr. Towey's "Min v strong preference for 40:40:20 at the time of licence" sorry, it's Mr. O'Connell's note of what was conveyed to him by Mr. Towey. So I'll come back to that next week, if I may; that will be one of the documents we'll be opening.

53. You were asked for details of your meeting with Commissioner van Miert in Brussels on the 8th May 1996 in relation to the complaint made to the Commission by the Persona consortium in connection with the conduct of the evaluation process and including:

A) the purpose of meeting.

B) identity of all persons present.

C) whether any record of the meeting was kept.

D) the matters under discussion.

E) all factors which caused or prompted the Commission to alter its earlier position that the signing of the licence to Esat Digifone should be deferred to enable the Commission to consider the Persona complaint.

54. You were asked for details of all discussions between you and Department officials prior to the 13th May 1996 regarding

A) the manner in which the issue of the licence should be announced;

B) any aspects of the evaluation process or of the licensee which might require explanation in the context of such announcement.

55. You were asked for your knowledge, direct or indirect, of a meeting at the Department on the 13th May, 1996, attended by Mr. Knut Digerud and Mr. Owen O'Connell and including in particular,

A) the purpose for which the meeting was held;

B) the matters under discussion;

C) the Department's statement that its preference was that the licence be announced at a joint press conference attended by you and by officials of Esat Digifone Limited

D) the request made by the Department that Esat Digifone Limited identify key questions likely to be raised at the press conference to announce the issue of the licence, to

draft answers to such questions and to explain to the

Department the reasons for such answers;

E) the request made by the Department that the meeting be arranged between Mr. Lowry and Mr. Digerud, together with one or two others at which the press conference would be discussed/rehearsed.

56. You were asked for details of a telephone discussion between Mr. Lowry and Mr. Denis O'Brien on the 13th May 1996, and in particular,

A) the matters under discussion;

B) the steps, if any, to be taken by you following such discussion;

C) your understanding of the steps, if any, to be taken by Mr. O'Brien following such discussion.

57. You were asked for details of the meetings between you and Mr. O'Brien and attended by Mr. John Loughrey on the 14th May, 1996 and in particular,

A) the purpose of such meeting;

B) the matters under discussion;

C) the steps, if any, to be taken by you or by the Department following such meeting;

D) your understanding of steps, if any to be taken by Mr. O'Brien following such meeting.

58. You were asked for details of all dealings between you and departmental officials and/or between you and Esat Digifone Limited, Esat Telecom/Communicorp, IIU Limited, Telenor, or any person on their behalf regarding the

financial analysis of IIU Limited/Mr. Dermot Desmond, undertaken by Mr. Donal Buggy on the 15th May 1996, and including your understanding of the purpose of and the outcome of such analysis.

59. You were asked for details of all meetings, contacts or dealings between you and departmental officials and/or Esat Digifone or any person on its behalf in connection with the joint press conference arranged for the 16th May, 1996, to announce the issue of the licence and, in particular, in connection with

A) the identification of key questions and in particular, questions relating to the shareholding of Esat Digifone Limited, the involvement of IIU/Mr. Dermot Desmond, and the funding of the Communicorp/Esat Telecom equity participation in Esat Digifone Limited, including the funding of its shares of the licence fee;

B) the preparation of the draft answers;

C) the management of the joint press conference.

60. You were asked to identify each and every departmental official, political appointee, or person who drafted or made any contribution to the drafting of your Dail speeches, replies to parliamentary questions, replies to any supplementary questions, anticipated supplementary questions, or drafts of any of the foregoing.

Now, I think that was the information which was sought at that time from you by the Tribunal. And I think we'll go straight to your statement, then, which is at D. I'll come

back to the other memorandum in a moment.

This is a statement dated 16th October, 2002. And in the statement, by way of preliminary submission, it's stated that "This statement is one of a large number of responses that you and your legal team have made to requests for information received from the Tribunal in recent weeks in connection with the forthcoming module investigating the decision to award the second GSM licence to the Esat Digifone consortium.

"Whilst you were obviously disappointed that the Tribunal process remains incomplete, in another sense you welcome the opportunity presented by this new phase to dispel what you believe to be an entirely unfounded rumour and innuendo surrounding this matter.

You say, it is now six years since you resigned your post as Minister for Transport, Energy and Communications. The passage of time has obviously prejudiced your recollection of points of detail, dates and sequence of certain events, contacts and meetings. Moreover, the reality of the current module is that it largely concerns matters which would have been dealt with at official rather than Ministerial level. Thus, in the majority of cases, you are quite certain that you would have been at no stage familiar with the matters raised by the lengthy schedule appended to the letter of Mr. Davis of the 16th October, 2002. Subject to this disability, you are of course concerned to put your position on the record of the Tribunal, and you say as

follows, and then you give an a number of responses; isn't

that correct?

You say:

1. That prior to your appointment as Minister for Transport, Energy and Communications a significant amount of preparatory work had been accomplished by the outgoing Government as outlined in the aide-memoire issued from the Office of the Minister for Transport, Energy and Communications of the 9th October, 1994.

2. The GSM competition was launched on the 2nd March, 1995, following Government approval of the competitive framework proposed. The closing date was set for the 23rd June, 1995. Summary information, including the selection criteria, was published widely.

3. The full competition documentation became available to the public from the 2nd March, 1995, on payment of a fee of £5,000. The evaluation criteria had also been made available to a specially constituted Cabinet Subcommittee.

The eight criteria by which applications were to be assessed were listed in an explicitly indicated descending order of priority.

4. The competition was managed by a specially created Project Team led by the Department of Transport, Energy and Communications, which also included representatives of the Department of Finance and Andersen Management International/AMI, a Copenhagen-based consultant who were recruited following an international tendering process.

AMI were acknowledged specialists in the matter of international competitions for telecommunications franchises. As Minister, you were appraised in general terms about the progress of the Project Group.

5. You have informed the Tribunal that you understand that the weighting model for the evaluation criteria which respected the descending order of priority and the detailed approach to the evaluation were initially agreed by the Project Team on the 18th May, 1995, over a month before the planned closing date for receipt of applications, and kept strictly confidential to the Project Team only. In the Department of Transport, Energy and Communications, knowledge of these weightings was strictly limited on a need-to-know basis. "I did not at any time seek to know, nor was I made aware of the marking system to be applied."

6. You say that on the 27th April, 1995, you were informed by your departmental officials that the European Commission had serious objections to the licence fee element of the competition, an auction-based fee, but without any fee imposition on Eircell. The competition was suspended on the 16th June, 1995, when it became apparent that negotiations with the Commission would entail some changes in the rules of the competition and had therefore to be concluded before the competition could be closed. Time would have to be allowed to enable perspective applicants to take the changes into account.

7. You say that following discussions with the Commission,

a compromise proposal was put on the table whereby applicants for the licence would bid a fee in the range of $\text{€}15$ million to $\text{€}25$ million, while Eircell would pay a fee of $\text{€}10$ million. The compromise proposal was made on an ad referendum basis by the representatives of the Project Team and was subsequently approved by you as Minister. The consent of the Minister for Finance was obtained, and the revised fee arrangements were agreed by Government on the 4th July, 1995. You say that you wish to make it clear that it was not on your initiative that the licence fee was capped.

8. You say that on receipt of the Commission's formal clearance for the revised fee structure on the 14th July, 1995, by letter from Commissioner van Miert on that date, all prospective applicants were advised of the new arrangements and the new closing date of the 4th August, 1995, for receipt of applications.

9. You say that you now understand that a slight revision to the weighting for the evaluation criteria was agreed by the Project Team on the 27th July, 1995, and again kept absolutely confidential. This change was to reflect the revised licence fee arrangements agreed with the European Commission. You say that, again, you wish to state clearly and unequivocally that you, as Minister, did not seek, nor were you given details of the revised weighting models or the evaluation approach.

10. You say that six applications were received on the 4th

August, 1995. Details of the applications were announced publicly. You did not at any stage assist or support any particular competitor.

11. You say that you understand the evaluation of applications took place in the period the 4th August to the 25th October, 1995. Each evaluation criterion had been developed in advance into a series of detailed indicators against which all the applications were ranked. The detailed evaluation under which criterion was carried out each criterion was carried out by discrete sub-groups of Project Team drawing upon the expertise required for different aspects of the evaluation. The final result was determined by aggregating the independently determined scores of each applicant under each criterion by reference to the weighting model. The Project Team's decision was an anonymous one. Esat Digifone had the highest score, and this is fully documented in the evaluation report prepared by the consultants and approved by the Project Team.

12. You say that as Minister, you were formally advised of the recommendation of the Project Team by the Secretary of the Department. This recommendation was accepted by you. You were informed by the Secretary that the recommendation required the approval of the Minister for Finance, which was subsequently given. You, in turn, briefed the leader of the Government parties the leaders of the Government parties, and you were given permission to announce the

result. This recommendation was subsequently endorsed by the Government.

13. You say that it was your understanding that all applicants had equal access and opportunity. You say that this competition was conducted in an objective, fair and impartial manner, with strict adherence to the competition procedures and rules.

14. You say that you did not have any meetings or discussions with the Project Team.

15. You say that you did not have any discussions or meetings with Andersen Management International.

16. You say that you did not interfere with or influence the outcome of the competition. You say that your only concern was to ensure that the deadline of the 31st October was met, although there was, as you indicated at the time, an advantage to announcing the result immediately to end speculation, and ironically, to prevent the creation of a vacuum, which could have caused the decision to be revisited with the likely consequence of litigation.

I think that's the statement you furnished the substantive statement you furnished in response to the information sought.

A. Yes.

Q. Now, I think the next memorandum of information you provided is at Divider E. And I think this was in response to a letter you received from the Tribunal asking you to deal in the first instance with a meeting that you had with

Mr. Denis O'Brien at and after the All Ireland football

final of 1995, I think; isn't that correct?

And you furnished this memorandum, and it's dated the 22nd

October, 2002. You informed the Tribunal at

1. That on the 17th September, 1995, you attended the All Ireland football final. Your recall is that you met Denis O'Brien in a hospitality area in Croke Park. Denis O'Brien inquired as to where you were going after the match, and you advised him that you were meeting friends in Hourican's licensed premises, which is located at the bottom of Lower Leeson Street. Mr. O'Brien indicated that he would see you there.

2. You informed the Tribunal that subsequently you went to Hourican's licensed premises. Denis O'Brien arrived, and as the premises were extremely crowded, you and he agreed to go across the road to Hartigan's. In the course of a drink in Hartigan's, some general chat took place, and you recall that Mr. O'Brien did engage in some conversation in relation to Telecom Eireann and the availability of leased line, and he expressed his unhappiness and dissatisfaction at what was happening in that regard.

That's to do with fixed-line business.

3. You inform the Tribunal that after some general conversations, Mr. O'Brien left, and you went back to join your friends in Hourican's.

4. You inform the Tribunal on the question of further contacts as between Denis O'Brien and you subsequent to

that September meeting and the evening of the 25th October 1995. You do not believe that any such meetings or contacts took place, but after a lapse of seven years, you cannot be absolutely certain, but to the best of your recall, you do not remember having met with Mr. O'Brien subsequent to the aforesaid contact.

Then I think you provided an addendum to that, and it really was to indicate the friends whom you had agreed to meet and perhaps did meet some of them in Hourican's, and they were

5. The friends you had agreed to meet at Hourican's licensed premises on Lower Leeson Street was Mr. Sean Barrett, TD; Mr. Sean Murray; Mr. Denis O'Connor and his wife, Mrs. Jean O'Connor, I think; isn't that correct?

I think there was a further addendum, and it was in a memorandum furnished on the 22nd November, 1995, and this was in response to information being brought to your attention by the Tribunal of proposed evidence of Mr. Per Simonsen, I think.

And you have informed the Tribunal that in relation to information provided to the Tribunal by Mr. Per Simonsen to the effect that in or about the last two weeks of September 1995, Mr. Denis O'Brien informed Mr. Simonsen that he, Mr. O'Brien, had met you in a public house, and that you had suggested that IIU should be involved in the Esat Digifone consortium. You absolutely refute that such matters were discussed. Neither at the meeting in

Hartigan's nor at any other occasion did you ever suggest to Mr. O'Brien any matter such as that outlined above.

That is what was contained what had been contained in Mr. Simonsen's statement.

Now, I think the next memorandum of information provided by you was one dated the 2nd December, 2002, isn't that correct, and it was in response to matters which were raised with you by the Tribunal, I think, on about the 5th November, 2002, relating to Mr. Mark FitzGerald; isn't that right?

This particular memorandum relates to Mr. Ben Dunne also, I think. So what I'm going to do is I'm going to skip to the next memorandum and then come back to that finally; is that all right with you?

A. Yes.

Q. Now, the next memorandum is one prepared in response to a letter from Mr. Davis, who was the Tribunal solicitor at the time, dated 5th November, 2002. And you say you are making this supplemental statement in response to a request by the Tribunal contained in a letter of Mr. Davis of the 5th November, 2002. And you set it out in question-and-answer form.

1. You were asked for details of your knowledge, whether as a trustee of the Fine Gael party or otherwise, whether direct or indirect, of any donations, contributions made by Mr. Denis O'Brien, Esat Telecom or any associated company to the Fine Gael party or any constituency, organisation,

or any member of the Party during the year 1995.

And you have responded that your answer is that you have no specific knowledge in respect of the amounts of the donations or contributions from Mr. Denis O'Brien/Esat Telecom to Fine Gael or any constituency organisations. By virtue of Mr. O'Brien's attendance at any function, you would have assumed that he, like most others present, was a contributor. The particular contributions/donations referred to were unknown to you at that time. You inform the Tribunal that you attended the Wicklow by-election lunch in or about June 1995, and you met Mr. O'Brien at the function. By his presence, you would have assumed that he was a contributor, but would not have been aware of the specifics.

You attended the dinner following the Golf Classic at the K Club in October 1995.

You attended a Dublin South East constituency fund-raising lunch on the 2nd October, 1995.

You believe that you attended another constituency event referred to in the letter, held on behalf of the Carlow/Kilkenny Constituency.

You believe that you attended as a Cabinet Minister on the invitation of Mr. Phil Hogan.

You do not think that you attended any such event held on behalf of the Dublin North Central Constituency.

I think that was another fundraiser that had been brought to your attention.

You were then asked for details of your knowledge, direct or indirect, of Mr. O'Brien's association with Mr. Phil Hogan, whether in connection with the provision of donations to the Fine Gael party or otherwise, together with the source or sources of your knowledge.

And you inform the Tribunal that you had no contemporaneous knowledge of any relationship or dealings, if any existed, between Mr. Phil Hogan TD and Mr. Denis O'Brien.

I think you were asked for details of your knowledge, direct or indirect, of or involvement in the organisation of the 1995 Fine Gael Golf Classic or the fundraising associated with it.

And you inform the Tribunal that you were certainly aware of the event as it was a major fundraiser for the Party.

You attended the presentation dinner in the evening. You were not involved in its organisation.

I think you were asked whether you, as trustee of the Fine Gael party or otherwise, had knowledge, direct or indirect, of the persons identified as potential sponsors of or contributors to the Golf Classic, and if so, the source or sources of such knowledge.

You inform the Tribunal that you had no knowledge of the sponsors or contributors to the Golf Classic, and you merely facilitated the organisation by attending the presentation dinner as a Cabinet Minister.

I think you were asked for details of all your dealings with the late Mr. David Austin, Mr. Phil Hogan, Mr. Mark

FitzGerald, Mr. Jim Miley, or any other person in connection with the organisation or funding of the Golf Classic, and in particular in connection with the provision of sponsorship by Denis O'Brien or Esat Telecom.

And you have informed the Tribunal that you had no involvement in the organisation or funding for the Golf Classic. You were simply never aware that Mr. Denis O'Brien and/or Esat Telecom may have had a sponsorship role. You therefore had no relevant dealings with Mr. David Austin, Mr. Mark FitzGerald or Mr. Jim Miley.

Mr. Phil Hogan had contacted you to request your attendance at the presentation dinner following the event. This was the extent of your dealings with him.

You were asked for details of your discussions with Mr. Mark FitzGerald at the K Club on the 16th October, 1995, in relation to the Esat Digifone application for the second GSM licence.

And you inform the Tribunal that Mr. Mark FitzGerald had raised in a general way the issue of the competition for the second GSM licence and the prospects of Esat Digifone.

You inform the Tribunal that you provided him with a minimal account of noncommittal information which was effectively already in the public domain. You mentioned that the Department were impressed with their commitment to the process, which was underlined in their public declaration, that they had already identified numerous sites for masts and equipment. Secondly, you suggested

that if they were unsuccessful, there would be a subsequent opportunity to apply for the third GSM licence.

You were then asked, at Question 7, for details of your knowledge, direct or indirect, of the connection or association between Mr. Mark FitzGerald and Mr. Denis O'Brien and the source or sources of your knowledge.

You have informed the Tribunal that you had then, and have now, no knowledge as to the relationship, connection or association between Mr. Denis O'Brien and Mr. Mark FitzGerald.

I think you were then asked for details of all other discussions or conversations which you may have had with Mr. Mark FitzGerald, the late Mr. David Austin, Mr. Phil Hogan, Mr. Jim Mitchell, or any other person connected with Mr. Denis O'Brien in relation to the Esat Digifone application at any time prior to the announcement of the result of the evaluation process on the evening of the 25th October, 1995.

And you have informed the Tribunal that you had no relevant conversations or discussions with Mr. Phil Hogan, Mr. David Austin or Mr. Denis O'Brien, or any person connected to him, in connection with the Esat Digifone application for the second GSM licence at any time prior to the announcement of the result of the evaluation process on the 25th October, 1995.

You inform the Tribunal that you had a conversation with Mr. Mark FitzGerald, as outlined above, at the Golf Classic

on the 16th October, 1995. You had a long time previously been informed by Mr. Jim Mitchell that he was acting as consultant or adviser to Esat Digifone, and that he thought it proper that you should be aware of his interests. Apart from that you recollect that you may have inquired on one occasion in general terms as to the progress of the competition. You believe that you would have replied in general terms.

You say that you are entirely unaware of any association or connection between Mr. Denis O'Brien and Mr. Phil Hogan, Mr. Mark FitzGerald and Mr. David Austin in the context of the Esat Digifone application for the consortium, although you knew each individually.

I think you were then asked about a constituency fundraiser at the Burlington Hotel in February of 1996; isn't that correct?

And you informed the Tribunal that this event was held with the primary aim of raising money for various Dublin constituencies; part of the proceeds went to your own local constituency of North Tipperary.

You have informed the Tribunal, as it was an official Fine Gael function, you held and hold no documentation in relation to such an event, all of which would be with the Party. The organisers of the function were Mr. Pat Heneghan, Mr. Mark FitzGerald, Mr. Frank Conroy, Mr. Denis O'Connor and Mr. Mark Kenneally. The proceeds of the dinner were lodged to a Bank of Ireland account at College

Green under the control of the Fine Gael party. The portion of the proceeds remitted to the North Tipperary Constituency were previously examined by the Tribunal. They were lodged in a separate account in Ulster Bank, Thurles. This information was previously provided to the Tribunal in a letter of Mr. Denis O'Connor on the 30th April, 2001.

Now, I'll just take the last one now, if I may, and this really just relates to a matter which just had been recently brought it was brought to Mr. O'Brien's attention and brought to your attention, and it was dealt with in this opening, and it was a memo of Mr. Denis O'Brien to Mr. Massimo Prelz about meeting you at the Comms 1995 trade show, where he informed Mr. Prelz that you had suggested to him he was discussing the position with you this was before the closed period in the competition, now. And he accepts that he must have had some discussion with you about the competition, and that there must have been some discussion, that you must have said or it arose in the conversation, anyway that France Telecom were a likely partner for somebody in the competition. And I think you have informed the Tribunal, when you were asked for your response in relation to this, you say in response to queries raised by the Tribunal regarding the contents of a fax transmission dated 5th April, 1995, from Mr. Denis O'Brien to Mr. Massimo Prelz of Advent International and, in particular, in relation to paragraph

number 2, from which it appears there was a conversation between you and Mr. Denis O'Brien on the 4th April, 1995, and in the course of the conversation that you informed Mr. O'Brien that France Telecom had no partner, and that he that being you, the Minister suggested that Mr. O'Brien make contact with France Telecom. You say that you had furnished the Tribunal with the following information: That you had no recollection of ever having met with Denis O'Brien and suggesting to him that he should contact France Telecom. Furthermore, you do not believe that you would have ever have made any such suggestion to Mr. O'Brien.

Now, I'll just finally go back to the memorandum which is at Divider F.

This is a memorandum which information which you provided to the Tribunal when the Tribunal furnished you with Mr. Mark FitzGerald's statement of matters which he said and has given evidence about, arose in relation to dealings he had with you where you raised affairs relating to Mr. Ben Dunne, isn't that correct, and you furnished this memorandum in response to that.

I think you say at

1. You do not recall how many times you would have met with Mr. Mark FitzGerald during the times that he refers to in his statement dated 26th September, 2002.
2. That you have no precise recall of this, but that you are prepared to accept what is stated in paragraph 2 of

Mr. FitzGerald's statement.

3. You say that you recall being at a function at Luttrellstown Golf Club, but you have no recall of the conversation referred to.

This may seem disjointed, but what I'm doing, Mr. Lowry, is I'm taking you through your evidence, or your statements at this stage. I will come back to put what is contained in Mr. FitzGerald's statements to you in due course, but having discussed matters with your legal advisers, I do not want to get you involved in a situation where you have to respond one way or the other today to these matters.

4. You say that you have some recall of a chat with Mr. Mark FitzGerald in respect of the vacancy for Chairman of ESB. It is your recollection that he intimated to Mr. FitzGerald that Dick Spring, Tanaiste, had suggested at an earlier date that William McCann would be a suitable choice for the position. He believes that he simply asked Mark FitzGerald as to his knowledge of Mr. McCann and his ability. He does not recall any other name being offered for consideration by Mr. FitzGerald.

5. You say, "As to paragraphs 6 and 12 of the statement of Mark FitzGerald, after dealing with the matter, Mr. Lowry recalls it that Mr. Dunne did inform him as to the level of rent which he was seeking, and that this was being arbitrated. Mr. Dunne's request was that Mr. Lowry might ask Mr. Mark FitzGerald if the matter could be hurried up, as a member of his staff was acting as Arbitrator.

6. You say that Mr. Lowry's recall is that he followed up on the matter and had a fairly brief general discussion with Mark FitzGerald. He accepts that he related to Mark FitzGerald the information which had been given to him by Mr. Dunne. He would have a general understanding of the process, but for Mr. FitzGerald to suggest that Mr. Lowry was in any way attempting to influence the level of rent review is neither fair nor correct, and Mr. Lowry rejects this suggestion absolutely.

Now, I just want to halt there, because I want you to put your position and have the best opportunity to put your position in relation to it at this stage, Mr. Lowry, because it's your evidence.

We know that Mr. FitzGerald has given evidence, and I'll just say, to the effect, at this stage, that you asked him to intervene to have a rent set in relation to a rent review, isn't that correct, at the instigation of Mr. Ben Dunne?

A. Correct that's Mr. FitzGerald's statement, yes.

Q. And what you are saying here is that Mr. Ben Dunne did inform you that there was a rent review taking place, and that what he asked you to do, and you did, by speaking to Mr. FitzGerald, was to seek to have it expedited, and that's what you are saying here?

A. That is my position. That is the factual position. That's precisely what happened.

Q. I'm not going to take it any further at this stage.

Now, paragraph No. 7, you say that as the contents of Mr. FitzGerald's statement as to the contribution by Ben Dunne to Fine Gael, your view is that Mark FitzGerald would have been well aware that Mr. Dunne was a contributor to Fine Gael, and the statement which Mr. FitzGerald attributes to Mr. Lowry was not made.

Again, we can come back to deal with that, but again, just in general terms for the moment, we know that in the evidence of Mr. FitzGerald, that he says that you asked him to do whatever you asked him to do, bearing in mind the contributions made by Mr. Ben Dunne to the Fine Gael party; isn't that correct?

A. Yes.

Q. And you are rejecting that line in relation to the evidence; you are saying that Mr. FitzGerald would have been aware that Mr. Ben Dunne was a contributor to the Fine Gael Party in any event?

A. Yes. Mr. FitzGerald would have been well aware. Mr. FitzGerald was a trustee of many years' standing, and he would have known that Ben Dunne was a contributor to the Fine Gael Party, and it's utter nonsense for him to suggest that I made the comment that he attributes to me.

Q. All right. Now, your paragraph No. 8, you say that in relation to paragraph 13 that's of Mr. FitzGerald's statement Mr. Lowry has some recall of a conversation with Mark FitzGerald about Michael McDonnell, deceased. He cannot recall the conversation precisely, but it is his

recall that in general terms, they were both in agreement that Michael McDonnell was a capable, efficient public servant who deserved to be on the short list of candidates for the position of Chief Executive I think that's of CIE isn't that correct?

A. Pardon?

Q. That was of CIE, was it?

A. Yes.

Q. The late Mr. Michael McDonnell.

A. There was a vacancy for the Secretary General of CIE, and Michael McDonnell expressed an interest in going for that position, the late Michael McDonnell. And subsequent to that, many years later, Mr. FitzGerald has made a statement, and I am responding to that statement in paragraph 8.

Q. Yes. And you continue, your understanding that Mr. McDonnell had expressed interest in the position and was placed on the short list, on his own merits. You believe that it is totally incorrect for Mr. FitzGerald to infer that he was responsible for short-listing Mr. McDonnell.

Then, at your paragraph No. 9, and it's the final paragraph, you say, the Burlington event was initiated and run within a very short space of time. The event had the approval of the Fine Gael headquarters. At the outset, your concept was that the event was primarily for funding the weaker Dublin constituencies. You organised the

groupings which ran the event. There was never any requirement for Mr. FitzGerald to propose anything, as it was known from the outset that the function had a dual purpose, supporting Dublin constituencies and the Tipperary North Constituency.

I think those are the statements and the memoranda of information which you furnished to the Tribunal, Mr. Lowry; isn't that correct? And that's as far as, having discussed with your lawyers, that I intend taking matters with you today, and we will continue on Monday of next week when we will go into the various documents, and I can ask you a number of questions, and you can respond and deal with matters raised in these memoranda.

Thank you, Mr. Lowry.

A. Could I ask the Chairperson that I would be furnished with, in good time and I need it in good time; there is a lot of documentation; I need time to prepare properly, to assist the Tribunal could I have the sequence in which these events are going to be put to me, starting with next Monday?

CHAIRMAN: I'll certainly ensure that that is done, that you are given in effect

MR. COUGHLAN: Just in case there be any doubt about this, this has already been done, and will continue to be done in ease of Mr. Lowry.

CHAIRMAN: All right. I think we had better make it 10.30, then, on Monday, Mr. Coughlan.

Very good. Thanks, Mr. Lowry.

THE TRIBUNAL ADJOURNED UNTIL THE 12TH DECEMBER, 2005.