

R2267 (ii) PAC33 C

Sarah O'Farrell
Committee of Public Accounts
Dail Eireann
Leinster House
Kildare Street
Dublin 2
Committee Email: pac@oireachtas.ie

Our Ref: JOM/DTB

Your Ref: S1510 PAC33

Date: 7 December 2023

Our Client: Noel Kelly

Dear Ms O'Farrell,

We refer to your letter dated 27 November 2023 and confirm our client's responses to your specific queries, as follows:

1. Attendees at the video meeting on 7 May 2020 were Dee Forbes (Director General), Trish Whelan (RTE Solicitors Office), Noel Kelly (NK Management) and Niamh Tyndall (NK Management).
2. Our client has supplied the Oireachtas Committee with a booklet of relevant documents comprising 39 pages which covers the period between January 2020 and May 2020 and our client has included within that booklet all relevant communications with RTE during this period. You will note therefrom that most of the discussions occurred through email correspondence. It is clear from these documents that meetings were held on 15 January 2020 and 7 May 2020. Our client has not prepared notes or minutes in respect of these meetings as the meetings were typically followed up with an email from our client to record the main points arising.
3. Please see attached.
4. Our client agrees with the findings of Grant Thornton, as set out at paragraph 2.17 of their report dated 16 June 2023, where it is stated; *"I find that RTE had contractual obligation to make two payments of €75,000 to the Talent for 2021 and 2022."* Our client understands that RTE also fully accepts this position and has been legally advised accordingly. For the record, it is not maintained by any person that RTE is responsible for the payment in respect of year 1.
5. It is common case that the contract with Renault was only signed by NK Management on 21 April 2023, notwithstanding that it had been agreed and signed by Renault on 15 April 2021. Further, the contracted services comprising three events were carried out between March 2022 and May 2022 by Mr Tubridy in respect of Year 1 of that contract. Our client is not aware of any change in

An international member of

Aily Law

Hayes solicitors LLP, Lavery House,
Earlsfort Terrace, Dublin 2, D02 T625, Ireland
E: law@hayes-solicitors.ie T: +353 1 662 4747
www.hayes-solicitors.ie Dx 175 Dublin

Partners Joe O'Malley (Managing) David Phelan Jackie Buckley Breda O'Malley
Louise O'Rourke Mary Hough Ken Casey Anne Lyne Stephen McGuinness
Kevin Dunne Matthew Austin Laura Fannin Martha Wilson Jeremy Erwin Katy Meade
Robbie Slattery Cian Clinch Conor Morgan Lyn McCarthy Fiona Shipsey
Kevin Harnett Tim Waghorn Liam Moloney David Mangan
Consultants Ciaran O'Rorke Caroline Crowley Monica Nally Hennessy

circumstances for Renault with regard to the requirement for our client to sign the contract. Our client believes that it was only discovered in April 2023 that through inadvertence the contract had not been countersigned by NK Management when it had been agreed back in April 2021.

6. The events which took place between March 2022 and May 2022 were intended to have been performed at an earlier time, but due to Covid restrictions, it was necessary to postpone these events until 2022. We understand these events were directly linked to Renault's payment for Year 1. In relation to the deferral or postponement of the events, it should be understood that RTE were in complete charge of the relationship with Renault.
7. As the Committee is aware, Mr Tubridy's contract with RTE dated 24 July 2020 provided for an aggregate sum in respect of the provision of TV and radio services. It is not accepted that Mr Tubridy's contact came to an end when he ceased the provision of TV services, in fact this contract runs to April 2025. In terms of his remuneration, Mr Tubridy did agree an interim fee to be apportioned for the provision of radio services only pending the putting in place of a new contract for radio services, which as you know never materialised.
8. There are numerous inaccuracies/omissions in relation to the statement made by RTE on 22 June 2023. By way of examples only:
 - It is stated that "*the facts have been established*" when this was not correct. RTE subsequently stated that further investigations were ongoing in respect of 2017-2019.
 - Moreover, it is now known that the Chairperson of RTE had been aware prior to making this statement that in relation to the underreporting of Mr Tubridy's earnings for the period 2017 – 2019, sole responsibility for such errors rested with RTE, yet she failed to make any clarification on this important point in RTE's original statement. Notably, this detail did not emerge from information supplied by RTE to the Oireachtas but rather from responses to FOI requests made to RTE by certain journalists.
 - The statement failed to acknowledge that the Grant Thornton report, which RTE's chairperson had in her possession at the time of issuing the statement, did not indicate any wrongdoing on the part of Mr Tubridy or his agent and acknowledged that Mr. Tubridy was not aware of any credit note arrangement between RTE and Renault, and while RTE subsequently acknowledged this position, it did not acknowledge it in its original statement, despite our request for it to do so.
 - The statement incorrectly states the first payment of €75,000 was received by Mr Tubridy in July 2020, when it is unequivocal that such payment was received on 31 May 2021. This is relevant in connection with the reporting issues for 2020-2022.
 - The statement refers to a credit note issued by RTE to Renault but it fails to make it clear (as confirmed by Grant Thornton in the report which RTE's chairperson had in her

possession at the time of issuing the statement) that Mr Tubridy was completely unaware of the existence of this credit note.

- The statement indicates that the commercial partner did not renew the tripartite agreement for a second year but it fails to make it clear that at no time was Mr Tubridy or NK Management ever made aware of this.
 - In stating that Mr Tubridy received two payments of €75,000 each in 2022, the statement fails to clarify that the first payment of €75,000 was received directly from Renault in 2021 and the second and third payments of €75,000 were received in 2022. These details are also relevant in connection with the reporting issues for 2020-2022.
 - Significantly, the statement indicates that an understatement from RTE in respect of Mr Tubridy's earnings for the period 2017 -2019 is currently under examination. As indicated above, it has now become clear that the Chairperson of RTE was aware prior to the issuing of this statement that RTE bore sole responsibility in respect of such understatement, yet this was not made clear at any time by RTE despite our request for RTE to do so. This deliberate or reckless omission incorrectly and unnecessarily gave the impression that NK Management and/or Mr Tubridy had responsibility in respect of the understatement for 2017-2019.
 - In short, RTE should have accepted full responsibility in relation to the public misstatements of earnings, but it failed to do so in this original statement and subsequent statements.
9. Notably, the Board named Mr Tubridy (and no other person) 16 times in this statement. We believe this was clearly designed to divert public and media attention away from RTE's own mismanagement, failures and errors when the RTE Board knew at the time of releasing this statement that Mr Tubridy and Mr Kelly were completely unaware of any of RTE's financial and accounting mismanagement.
 10. This meeting involved a discussion on scheduling and production issues concerning The Late Late Show.
 11. Our client categorically refutes any suggestion that NK Management was aware that the tripartite agreement or Renault involvement in that arrangement was not in place when it sought payments for years 2 and 3 of that agreement. Mr Lynch has offered no evidence whatsoever to support any claim that (a) Renault did not want to continue with the roadshows beyond year 1 and (b) that this was notified to NK Management or Mr Tubridy. In the event, Mr Tubridy proceeded to do the roadshow events for year 1 after the time that Mr Lynch refers to NK Management pressing for payments in respect of years 2 and 3 and after RTE instructed NK Management to raise invoices for years 2 and 3. It appears illogical to suggest that Renault was "*out of the deal*", yet it proceeded to

ask Mr Tubridy to perform three successful events after this time without ever mentioning this to NK Management or Mr Tubridy and where Renault proceeded to sponsor The Late Late Show during all of this time.

12. None of these invoices relate to Mr. Tubridy and our client is not in a position to divulge such details in respect of other parties.
13. It is confirmed that Mr Tubridy's contract with RTE in 2020 took effect from 1 April 2020. This is confirmed in the definition's section of the contract where 'commencement date' is defined as "*1 April 2020*" (see page 18 of the booklet provided to the Oireachtas Committee).

Our client maintains his position that he has no objection whatsoever to the publication of any material that it provides to the Committee.

Please let us know if any further queries arise.

Yours faithfully,



Hayes solicitors LLP