



**RTÉ Transmission Network Limited**

Response to the Business Regulation Forum request for  
comment on Regulatory Issues as they impact on Business and  
Competitiveness

# **INTRODUCTION**

RTÉ Transmission Network Limited (RTÉNL) welcomes the opportunity to respond to the Business Regulation Forum on the impact on business and competitiveness of regulatory issues arising in relation to services provided by RTÉNL.

RTÉNL specifically wishes to address issues of regulation which are being imposed and proposed by The Communications Regulator (ComReg) in respect of the company's National Analogue Television and Radio Transmission business.

RTÉNL provides initial comments here on the broad objectives of the Forum, explores the possible impact of the current and proposed remedies indicated by ComReg in the consultation document and offers recommendations on more appropriate relevant and cost effective remedies.

## RTÉNL –Structure and Activities

RTÉNL believes that prior to addressing the specific regulatory issues it is appropriate to provide an overview of its structure and operations by way of context.

### Overview

RTÉ Transmission Network Limited (“RTÉNL”) is a wholly owned subsidiary of Radio Telefís Éireann (“RTÉ”). The Company was incorporated on 10 December 2002 with the aim of segregating the RTÉ group’s transmission activities from its other activities using a dedicated special-purpose legal entity to enhance the transparent operation of transmission activities and facilitating compliance with anticipated regulatory requirements. RTÉNL purchased, at market value, the transmission fixed assets previously held by various legal entities within the RTÉ group and commenced to trade in January 2003.

RTÉNL’s results for 2004, upon which RTÉNL’s statutory auditors, KPMG, expressed an unqualified opinion, are summarised below.

Results for the year ended 31 December 2004		€000	
Regulated activities	RTÉ	3 <sup>rd</sup> Party	Total
National Analogue TV Transmission	7,657	2,170	9,827
National Analogue Radio Transmission	5,391	838	6,229
<b>Total Regulated Activities</b>	<b>13,048</b>	<b>3,008</b>	<b>16,056</b>
<b>Non-Regulated activities</b>			
Rental of tower space and miscellaneous		4,227	4,227
Microwave / Satellite Links (See: Note)	863	792*	1,655
<b>Total Non-Regulated Activities</b>	<b>863</b>	<b>5,019</b>	<b>5,882</b>
<b>Total Revenues</b>	<b>13,911</b>	<b>8,027</b>	<b>21,938</b>
<b>Operating Costs</b>			<b>22,420</b>
<b>Net Deficit</b>			<b>(482)</b>
<b>Fixed Assets at 31 December (at depreciated historical cost)</b>			<b>41,545</b>
<b>Net Deficit as % of fixed assets</b>			<b>(1.2)%</b>

- RTÉNL has traditionally drawn a distinction between Broadcast Transmission activities on the one hand and the two primary uses of Microwave / Satellite Links on the other hand as these activities are physically and operationally segregated in any event.
- In an RTÉNL context, microwave / satellite links consist of: Distribution Activities (i.e. delivery of signal to transmission sites) and Contribution Activities (i.e. relay of programme contributions between remote sites and from remote sites to both Television and Radio HQ).

Accordingly, RTÉNL's 2004 Audited Financial Statements were drawn up and approved on the basis that none of the Microwave / Satellite Links activities formed part of the National Analogue Broadcast Transmission Market for Television and Radio (as previously defined by ComReg) as clearly these activities are not transmission activities and therefore RTÉNL is of the view that this income should not be subject to economic regulation in this context.

RTÉNL has its own Board of directors who meet on a regular basis. Responsibility for the day to day management and operation of RTÉNL's activities is entrusted to the Executive Director, RTÉNL who in turn reports to the board of directors and to the Chief Financial Officer of RTÉ. Within the RTÉ Group the overall performance of RTÉNL, as a wholly owned subsidiary company of RTÉ, is overseen by the Group Chief Financial Officer.

RTÉNL is operationally and legally separated from its parent company. RTÉNL transacts business with group companies using the same processes as are used with other customers both inside and outside the RTÉ group. RTÉNL prepares its own profit and loss account and balance sheet. RTÉNL has a separate management team focused solely on improving the performance of the separate business. RTÉNL produces audited accounts in accordance with the Companies Acts 1963 to 2003.

RTÉNL employs 71 staff located at its head office in Donnybrook and at regional centres throughout the Republic of Ireland.

Total turnover for the company in 2004 was €22m of which €16m came from regulated markets, of this total only €3m came from 3<sup>rd</sup> party non-group companies in regulated markets.

The principal organisation structure for RTÉNL operations is based on geographical regions. The following regional units report to the Operations Manager, who reports to the Executive Director.

- Eastern,
- Midlands/South Eastern,
- Western,
- Southern.

The regional structure is supported by the following central shared services within RTÉNL:

- Capital Projects: This support unit undertakes large scale projects which involve more than one region.
- Network Monitoring Centre: Monitors performance and faults throughout the network.
- Commercial: The commercial unit engages in business development activity in relation to both unregulated and regulated business.
- Finance: A small team headed by the Financial Controller provides financial management and accounting services for RTÉNL. All accounts required meeting statutory, management information and regulatory requirements are provided by this unit.
- Frequency Planning.

## Principal Activities

RTÉNL operates a national analogue broadcast transmission network within the Republic of Ireland which it makes available to both local and national broadcasters, including RTÉ's own services, on an arms length basis. RTÉNL also rents surplus tower / mast space to a variety of third party non-regulated, non-broadcast users. Revenues for the Year Ended 31<sup>st</sup> December 2004 by revenue category are as follows:

Revenue stream	€000		
	RTE	3 <sup>rd</sup> Party	Total
<b>Regulated activities</b>			
National Analogue TV Transmission	7,657	2,170	9,827
National Analogue Radio Transmission	5,391	838	6,229
<b>Total Regulated Activities</b>	<b>13,048</b>	<b>3,008</b>	<b>16,056</b>
<b>Non-regulated activities</b>			
Rental of tower space and miscellaneous		4,227	4,227
Microwave/Satellite link services	863	792	1,655
<b>Total Non-regulated Activities</b>	<b>863</b>	<b>5,019</b>	<b>5,882</b>
<b>Total Revenues</b>	<b>13,911</b>	<b>8,027</b>	<b>21,938</b>

The company's assets are mainly its transmission network, which comprises approximately 130 sites. Each site includes a mixture of transmission structures, land and buildings and various transmission ancillary equipment. The net book value of the company assets per the 2004 audited financial statements was €1.5 m.

## Regulated activities: Television and Radio Broadcasters

### Revenue

Currently RTÉNL's customers comprise all RTÉ services (including TG4) and the independent broadcasters TV3 and Today FM.

### Activities

Typical activities associated with the provision of this service at the site level include:

- **Rigging:** This involves any rigging of broadcast equipment to the tower structure.
- **Maintaining the structure:** this includes regular inspection and maintenance of the tower structure and infrastructure to ensure continued acceptable operational performance.
- **Maintaining the ground equipment:** this involves regular inspection and maintenance of the various transmission and ancillary equipment used in broadcasting at the site.
- **Supporting the network:** this includes the costs of monitoring the performance of the network and taking corrective action where necessary.

**Unregulated activities: Site hosting and use of Microwave Distribution links and Satellite up-linking.**

**Revenue**

This refers to the use of RTÉNL's tower structures by telecommunication's operators, emergency services, broadband operators and local and regional radio providers. For site hosting, this typically involves the customer providing, installing and maintaining their equipment. Power and maintenance costs are borne by the customer. Charges for this service by RTÉNL are based on market rates.

For microwave distribution services, charges are negotiated directly with the relevant customer.

**Activities**

In providing its site hosting service, RTÉNL provide no direct maintenance services to the customer; this is the responsibility of the customer. RTÉNL do, however, in the course of maintaining its own sites carry out regular maintenance of the site infrastructure as described above.

RTÉNL may provide specific maintenance services for customers equipment if requested, based on market rates; however, this arrangement is in place for only a very small number of customers at present.

## **BASIS OF REGULATION**

### **Regulation of Analogue Terrestrial Transmission Network**

ComReg conducted a review of the Analogue Terrestrial Transmission Market as provided for under the new Electronic Communications Regulatory Framework. RTÉNL was designated as being an operator with Significant Market Power (SMP).

It should be noted that ComReg's review defined the markets, in which RTÉNL operates, as:

- i) The National Analogue Television Transmission Market
- ii) The National Analogue Radio Transmission Market.

Unusually, ComReg did not consider competing delivery platforms such as Cable, Satellite or MMDS delivery systems, which provide broadcast services to in excess of 60% of the population, to be part of the same market in which RTÉNL operates.

ComReg issued a decision notice on 22 December 2004 imposing three regulatory obligations on RTÉNL in respect of the provision of transmission services to national analogue terrestrial channels.

- 1) Transparency - which was already in place before the decision.
- 2) Non-Discrimination - which was already in place before the decision
- 3) Accounting Separation - will be imposed following a further public consultation.

In the case of the Transparency and Non-Discrimination obligations RTÉNL are fully compliant with the regulatory requirements.

In the case of Accounting Separation RTÉNL is currently fully participating in the ongoing consultation process.

In its consultation document ComReg 05/49, issued on July 1 2005, ComReg state that the primary objective of Accounting Separation is to enable the creation of meaningful financial information on relevant products and services to monitor profitability and non-discrimination. ComReg go on to say, "In summary, accounting separation is the process whereby a dominant operator prepares accounts which present information on its constituent parts as if they were separate businesses. Their main regulatory function is to give visibility to any price discrimination that may be occurring i.e. to ensure that wholesale customers of a business are charged for services on an equal basis as the company's affiliate subsidiary or parent companies."<sup>1</sup>

RTÉNL fully accept that it is necessary to demonstrate in an open and transparent manner that the basis of charging non-group broadcasters is the same as that used for group broadcasters, except in circumstances where differences are objectively justifiable.

Notwithstanding the fact that there is as yet no decision as to what the accounting separation obligation will entail, it is RTÉNL's strong contention that the obligation itself is unnecessary and that the stated objectives of the obligation can be more appropriately and more cost-effectively achieved by using the existing processes and procedures being operated by RTÉNL.

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<sup>1</sup> ComReg 05/49 section 1

In particular RTÉNL believe that Accounting Separation as an obligation does not meet the criteria for better regulation set out in the White Paper “Regulating Better” in the following respects.

**RTÉNL believes that the obligation of Accounting Separation as interpreted by ComReg is un-necessary.**

RTÉNL are contracted to all external customers to provide levels of service "at least equal to that provided to RTÉ". Further, RTÉNL has committed, and had committed prior to the decision to regulate, to calculate charges to all national broadcast customers on the same basis once existing legally binding contracts have expired.

As set out in the consultation paper, the main regulatory function of accounting separation “is to give visibility to any price discrimination that may be occurring i.e. to ensure that wholesale customers of a business are charged for services on an equal basis as the company’s affiliate, subsidiary or parent”<sup>2</sup>.

Currently RTÉNL’s customers comprise all RTÉ services (including TG4) and the independent broadcasters TV3 and Today FM. Details of current charging structures are published on the RTÉ website and are reproduced in Appendix I to this document.

A Tariff Model was developed in 2003 to put in place a transparent, non-discriminatory basis for determining charges to be applied to all national broadcasters seeking to broadcast using RTÉNL’s transmission infrastructure. The methodology used in this model has been published on a section of RTÉ’s website dedicated to RTÉNL and has been discussed in detail with ComReg. Currently, all broadcasters using RTÉNL’s infrastructure are charged for the service on the basis of this model, except for customers where pre-existing contracts are in force. These customers will be charged on the basis of the Tariff model when these contracts expire. In the meantime, should an extension to the existing services be sought, this will be calculated on the basis of the Tariff Model.

It is clear therefore that the objective of monitoring non-discrimination and profitability can be achieved by an examination of the operation of the tariff model and the company’s management and statutory accounts.

Profitability of the company and profitability of the company’s operation within each of the regulated markets as defined by ComReg can be monitored by reference to the management and statutory accounts of the company. In particular the market separation schedule which is prepared as part of the monthly management accounts pack demonstrates the profitability of each market and enables effective monitoring of non-discrimination as between markets. The layout of the market separation schedule can be viewed at Appendix II to this document.

Non-discrimination between customers can be demonstrated by reference to the tariff model once the current, legally binding contracts with certain broadcast customers come to an end during 2007 and 2008.

RTÉNL has implemented policies, processes and systems to ensure accounting separation is achieved and that its accounting records are maintained in a manner consistent with its status as a separate legal entity. The following measures support this:

- The company maintains its own trial balance on Agresso, a mid-tier ERP financial software suite.

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<sup>2</sup> ComReg 05/49 section 1



- The chart of accounts for RTÉNL is tailored for its business, and records detailed cost information by region and by site.
- All transmission assets are owned by RTÉNL and recorded in the trial balance of the company.
- RTÉNL has a board of directors who continually monitor financial and other performance for the company.
- RTÉNL has a dedicated accounting team. These work only on RTÉNL accounting related matters. The RTÉNL financial controller reports to the Executive Director of RTÉNL and also has a functional financial reporting relationship with RTÉ group finance.
- RTÉNL staff prepares the detailed calculations of cost allocation within RTÉNL.
- While, for reasons of economy and efficiency, supplier invoices are processed for payment by the RTÉ Payables / Receivables Shared Services Unit on behalf of RTÉNL, all purchase orders and invoices are individually approved by RTÉNL management. No costs can be booked into RTÉNL's accounts without its consent. In particular, all cross charges from RTÉ Group are received as invoices that must be authorised by nominated RTÉNL personnel before the items can be booked into the system.
- RTÉNL's accounting staff undertakes all budgeting and forecasting for the company.
- RTÉNL's accounting staff prepares the companies statutory and management accounts and perform all variance analysis.
- RTÉNL books and records are subject to independent review on a regular basis by internal audit and are audited by external auditors, KPMG.

**RTÉNL believes that the obligation of Accounting Separation is disproportionate.**

ComReg have indicated that they will seek to impose full accounting separation on a part of the RTÉNL business which has just two external customers, external turnover of €3m and total turnover, including turnover from group companies, of approx. €16m.

These figures compare to the EU guidelines which indicate that it may not be appropriate to consider such regulation of businesses with turnover in relevant markets of less than €50m.

It is clearly disproportionate to impose obligations intended for large operations on a small static business which has no possibility of growth and which has a short finite remaining business life (as discussed below).

Although Accounting Separation is still to be fully defined it appears that ComReg will seek to impose disclosure of turnover and profitability at customer level. This is **inconsistent** with any other comparable regulation of which we are aware and has potentially serious business implications in that it would result in commercially sensitive information being published.

It could also give rise to a requirement to keep records at an excessively detailed level which would provide no practical business benefit.

For example in their consultation document 05/49 ComReg have proposed that “the records should enable the identification and calculation of the ... assets and liabilities of each service or activity for accounting separation and accumulate these for each customer”<sup>3</sup>.

Given the nature of the assets of the company and the degree to which these are shared (i.e. masts, towers, sites etc on which multiple services are carried), RTÉNL questions whether it is possible to reasonably attribute assets of the company to customers to prepare a balance sheet for each individual customer.

ComReg also proposes that RTÉNL should preserve records sufficient to provide an adequate explanation of each regulatory statement for a period of six years from the date on which each regulatory financial statement is delivered to ComReg<sup>4</sup>. RTÉNL have taken issue with this for the following reasons:

- a) Many regulatory statements will include prior year comparatives. Consequently ComReg’s proposal may be interpreted as requiring records to support the comparative figures on the regulatory statement for the same period. This needs to be clarified.
- b) The period of retention proposed is in excess of that required by the Taxes Acts<sup>5</sup> and Company Law<sup>6</sup> (which only require retention of the records for six years from the date of the transaction). For example, a transaction on 1 January 2005 will be reflected on the 31 December 2005 regulatory accounts, which require submission to ComReg by 30 April 2006. The paper proposes that the records of this transaction will need to be maintained until 30 April 2012 (or 30 April 2013 if records have also to be maintained for prior year comparatives), whilst under tax law and company law, the records will only require maintenance up to 1 January 2011 in this case). We feel that this additional holding period of up to one year and four months (or two years and four months if records also have to be maintained for comparatives) is unnecessary. We would suggest that the period of retention is aligned with company and tax law.

While we acknowledge that these proposals are not yet the subject of a final decision we are concerned that this level of record keeping, if required, would cause significant increase in administrative costs with no material benefit.

#### *Short finite remaining business life of wholesale national market for analogue terrestrial broadcasting*

We would like to remind the Forum that the wholesale national market for analogue terrestrial broadcasting transmission for television does not have a long term future. The nature of the market will change significantly in the short term with the move to digital broadcasting and the market is likely to become redundant. For example, the EU has encouraged member states to publish, by the end of 2005, their plans to show how they would achieve switch off of analogue television by the beginning of 2012<sup>7</sup>.

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<sup>3</sup> ComReg 05/49section 7.2

<sup>4</sup> ComReg 05/49section 7.3

<sup>5</sup> Taxes Consolidation Act, 1987, section 886 (4) (a) (i)

<sup>6</sup> Companies Act, 1990, section 202 (9)

<sup>7</sup> EU Commission press release IP/05/595, issued on 24 May 2005, titled “Commission expects most broadcasting in the EU to be digital by 2010”

Any regulation which is imposed at this point will therefore have relevance for a **maximum** of six years and as the roll-out of Digital Terrestrial Television begins to take effect over the shorter term the nature of the National Analogue Transmission Markets will necessarily change so as to call into question any economic analysis of these markets carried out in the Analogue only environment.

It cannot therefore be considered to be proportionate to impose an obligation of the complexity of accounting separation in circumstances where it is clear that the relevance will be for such a clearly defined short period of time.

### **RTÉNL believes that the obligation of Accounting Separation is ineffective**

ComReg suggests that the new regulatory framework, the basis of which are the five EU Communications Directives which entered into Irish Law in 2003, is designed to create harmonised regulation across Europe, with the aim of “reducing entry barriers and fostering prospects for effective competition to the benefits of the consumers”<sup>8</sup>

With this in mind RTÉNL wishes to point out that the analogue terrestrial market is not one which can ever become truly competitive in the way that ComReg identifies as their goal of regulation. This is not because, as ComReg emphasised in their market analysis, the barriers to entry are too high, due to prohibitive cost of entry. RTÉNL has consistently pointed out that there is, in fact, sufficient infrastructure in place to provide the basis of an alternative transmission service. Rather it is the case that this market can never become truly competitive because this market simply has a very short remaining business life and is therefore not attractive to other entrants. It is evident from recent guidance provided by the European Commission on Analogue switch-off, identifying a target of 2012, and evidence of the transition to digital currently taking place in several EU member states, that there are unlikely to be any new entrants to this market, whether the market is adequately regulated and/or effectively competitive or not. This must be borne in mind when considering the possible effectiveness of proposed regulation.

ComReg has stated<sup>9</sup> “It is also essential that ComReg understands how RTÉNL’s own costs are split between the regulated markets and the other business. This means that ComReg will need to be sure that costs which are common to regulated and unregulated services are fairly attributed on a non discriminatory basis”.

If the nature of the service is that it is a by-product of the company’s main activities then the allocation of costs must be capable of reflecting this. RTÉNL is concerned however that it may be a consequence of fully allocating costs to non regulated markets that much of the fixed cost base, which arises due to the existence of the common network infrastructure, would by necessity be allocated to non-core (communications) customers. In turn this could have the effect of artificially inflating the cost to RTÉNL of providing space to those customers which would be unjustified since the actual level of costs arising due to the provision of services to these customers is minimal.

It is likely that in those circumstances RTÉNL would be un-able to compete in those, highly competitive markets. This would result in RTÉNL withdrawing from some or all of the unregulated areas in which it currently operates with a resulting reduction in income and the inability to allocate any costs to such markets. The cost of providing a service to the broadcast customers in the regulated markets would therefore be un-necessarily increased.

RTÉNL believes that it is appropriate that any pricing and or cost allocation in respect of

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<sup>8</sup> ComReg 05/49section 2.1

<sup>9</sup> ComReg 05/49section 5.5

unregulated business should ensure a return greater than marginal cost from customers in non-regulated markets. This will ensure a greater contribution to the business as a whole and will far more efficiently encourage a competitive environment.

Further RTÉNL predict a real possibility of a situation arising whereby when a commercial broadcaster is seeking to negotiate or renew a contract RTÉNL will be restricted in terms of pricing options which can be offered due to regulatory constraints. It is a real possibility that in those circumstances a delivery system made up of a combination of some or all of cable/satellite/MMDS will achieve an acceptable coverage for the broadcaster without any use of the RTÉNL network. This would not only reduce utilisation of the RTÉNL Network and therefore increase the cost of providing a service to remaining customers but it would also reduce the level of service available to the viewing public.

### **Conclusion**

RTÉNL believes that the proposed remedy of Accounting Separation as currently envisaged by ComReg should be reviewed as to its necessity, effectiveness and proportionality in the light of the foregoing arguments.

RTÉNL strongly recommends that the possibility of fully utilising the company's existing records be fully explored particularly in the context of the small size of the business and the short finite remaining business life of the national analogue transmission industry.

APPENDIX I

RTÉNL SCHEDULE OF TARIFFS

## **RTÉNL SCHEDULE OF TARIFFS**

The RTÉNL broadcast system is made up of two elements, transmission and distribution. These two distinct elements use different technologies and in some areas different infrastructure and therefore the tariffs are based on models or contracts specific to that element of the system.

### **TRANSMISSION**

RTÉNL tariffs for National Analogue Terrestrial Television and Radio Transmission services are calculated on the basis of:

**For A) RTÉ Group Companies, and all other customers who take up a new service or increase the level of their existing service,:**

Using the methodology in Appendix 1 the following is calculated

1. Operating costs plus a margin incurred to service each customer
2. A charge based on capital costs allocated to each customer.

Given the number of variables in the model (see list below) it would be very difficult to calculate a specific price that would be of any real use to a prospective entrant to the market, (many hundreds may be necessary) and given that there are also users outside of the SMP market who enter and leave, costs fall and rise accordingly as the utilisation of the facilities changes.

Variables that will influence the tariff for a given customer are listed below.

Common factors affecting all customer tariffs:

- Total Capital Investment by RTÉNL.
- Rate of return on total Capital Investment.
- Total level of budgeted operating costs.
- Rate of return on operating costs.
- Total usage of the network.
- Proportion of operating costs chargeable to non-broadcasting customers.
- Relative cost of operation of each transmission site within the network.

Specific factors affecting individual customer tariffs:

- Number of sites occupied.
- The size of each site occupied.
- Total number of customers on each site.
- Nature of service, Television, Radio, FM, AM or LW.
- Space occupied on each tower or mast.
- Total space occupied by all broadcast customers on relevant tower or mast.
- Power consumption.
- Power charges as levied by suppliers.
- Investment required for expansion of service.

- Rate of return on capital required for expansion of service.

If a change occurs in any of the above factors that would cause a change in tariff of greater than 5% RTÉNL will inform RTÉ Group Companies and all other customers who take up a new service or increase the level of their existing service, within 90 days of being aware of such a change.

**For B) Today FM and TV3:**

Under existing contracts with independent broadcasters (TV3 and TodayFM) tariffs are determined, for all elements of annual charges, for the duration of the contract. Tariffs change as set out in the contracts i.e., they increase annually in line with the CPI (Consumer Price Index) or ESB Price Index, from a point set in 1997-98.

**Mechanism for notifying Contracted Parties of a change in tariffs:**

If there are any changes to the tariffs notification will be sent to all parties with which RTÉNL has contractual arrangements, in writing, of the indicative tariff change not less than 90 days prior to any change (unless beyond our control).

## APPENDIX 1

The tariff for each internal/RTÉ customer, and all other customers who take up a new service or increase the level of their existing service, will be dependant on their usage of the network as defined e.g. by space occupied on the mast or tower, as a result of the output of the model.

In instances where detailed mast occupancy information is not available a ratio of 2:1 TV: Radio is used.

Tariffs are calculated annually in advance using budgeted operating costs for the year to which the tariff will apply and a return on capital investment as defined below.

### 1. OPERATING COSTS

Operating costs are allocated to all network customers based on their usage of the network. Allocation to broadcast customers is carried out using the tariff model which has been developed for RTÉNL specifically for the purpose.

Only costs relevant to the national analogue broadcast business are included in the calculations per the Tariff Model.

Costs relating to non-broadcast business are deducted from total budget costs to be used in the model.

Operating costs relating to non-broadcast customers are calculated by using records of maintenance time spent on broadcast and non-broadcast business. Currently the figure is 23.3% of total operating costs.

All depreciation charges are deducted from total budgeted costs to be used in the model.

All relevant operating costs are then allocated to each broadcast customer using the most appropriate method available.

For certain costs this necessitates a two stage process, costs are first allocated to a transmission site and then to the broadcast customer.



## COSTS ALLOCATED DIRECTLY TO BROADCAST CUSTOMERS

### Power:

Power costs are charged on the basis of actual power used by each customer site by site.

For medium wave and long wave sites, where only one service operates, actual power costs for the site are fully allocated to the relevant service.

### Capital Projects Team:

All costs associated with the RTÉNL capital projects team are allocated based on the level of capital investment allocated to each broadcast customer.

## COSTS ALLOCATED USING TWO STAGE PROCESS

### Rent and Rates:

Rent and rates are charged to each site on an actual basis.

All sites are divided into three tiers as determined by the power output of the site. The weighting of costs to be allocated to each site is then determined, tier-by-tier, using, as a base, the time spent by maintenance staff working on sites within each tier.

### Regional operational costs:

Regional costs are allocated to sites within a given region on the three-tier basis described above.

### Central administration costs:

Central administration costs are allocated across all sites nationally on the three-tier basis

Costs thus allocated to transmission sites are further allocated to broadcast customers on the basis usage of the network.

Having fully allocated all operating costs across all broadcast customers the tariff per customer is calculated using total allocated cost plus a margin. Margin currently achieved is 10%.

## 2. CAPITAL COSTS

### Return on Capital Investment

For the purposes of the tariff calculation the full replacement cost of the transmission network as at Jan 2004 is the Capital Investment. Capital Investment has been identified on a site-by-site basis.

Total Capital Investment by RTÉNL in the transmission network is allocated to all customers.

In the case of capital investment 10% of cost is calculated as relating to non-broadcast customers based on usage of common infrastructure, (towers, masts and buildings).

The balance of the Capital Investment is then allocated to each broadcast customer based on the amount of space occupied on the tower or mast.

The capital charge is then calculated using a set rate of return on capital investment allocated.

Currently the rate of return is 7%.

No additional charge is made in respect of any capital expenditure required to maintain the current level of service and coverage.

Return on capital investment required for expansion of service:

In instances when a customer wishes to expand their level of coverage, the associated capital investment required to be made by RTÉNL will be allocated directly to that customer.

A rate of return on this incremental capital investment is set so as to provide a payback for the initial investment together with a return to RTÉNL. Currently this rate is 15% for a ten years period. Thereafter the return will be in line with the return on Capital Investment above.

Given the above methodology it is clear that the calculation of a tariff is dependent on the exact configuration of each broadcast customers network requirements.

## **DISTRIBUTION**

RTÉNL tariffs for the Distribution digitally, by microwave links, of signal for National Terrestrial Television and Radio services are calculated on the basis of:

***For A) RTÉ Group Companies***, and all other customers who take up a new service or increase the level of their existing service:

Using the methodology in Appendix 1 the tariffs are calculated as detailed below. However it should be noted that as RTÉNL is in the process of exiting this market it will no longer be possible to provide new or enhanced services to any customers. It is therefore not possible to calculate a specific price that would be of any real relevance to a prospective entrant to the market.

Tariff Elements calculated

3. Operating costs plus a margin incurred to service each customer
4. A charge based on capital costs allocated to each customer.

Variables that will influence the tariff for a given customer are listed below.

Common factors affecting all customer tariffs:

- Total Capital Investment by RTÉNL in the Microwave Links distribution network.
- Rate of return on total Capital Investment in the Microwave Links distribution network.
- Total level of budgeted operating costs.
- Rate of return on operating costs.
- Total usage of the RTÉNL broadcast (Transmission and Distribution) network.
- Total usage of the RTÉNL Microwave Links distribution network
- Relative usage of Microwave Links distribution network for program contribution purposes.
- Proportion of operating costs chargeable to non-distribution customers.
- Space occupied by Microwave Links distribution network on each tower or mast which is shared with Transmission customers.
- Nature of service, Television, Radio and bit-rate required.

**For B) Today FM and TV3**

Under existing contracts with independent broadcasters (TV3 and TodayFM) tariffs are determined, for all elements of annual charges, for the duration of the contract. Tariffs change as set out in the contracts i.e., they increase annually in line with the CPI (Consumer Price Index) set in 1997-98.

**MECHANISM FOR NOTIFYING CONTRACTED PARTIES OF A CHANGE IN TARIFFS**

Parties shall be notified of any indicative change to the tariffs, in writing, not less than 90 days prior to any actual change ( unless beyond out control). Should the nature of RTÉNL's provision of this distribution service change in any way RTÉNL will notify all relevant parties of any change at the earliest possible juncture.

## APPENDIX 1

The tariff for each internal/RTÉ customer will be dependent on the nature of the service and their bit-rate requirements within the microwave links distribution network.

Tariffs are calculated annually in advance using budgeted operating costs for the year to which the tariff will apply and a return on capital investment as defined below.

### 1. OPERATING COSTS

Operating costs are allocated to all network customers based on their usage of the network. Allocation to distribution customers is carried out using the tariff model which has been developed for RTENL specifically for the purpose.

Only costs relevant to the Distribution digitally, by microwave links, of signal for National Terrestrial Television and Radio are included in the calculations per the Tariff Model.

Costs relating to non-distribution business are deducted from total budget costs to be used in the model.

Operating costs relating to Microwave Links customers are calculated by using records of maintenance time spent on Microwave Links business. Currently the figure which refers to Microwave Links business is 10.0% of total operating costs.

All depreciation charges are deducted from total budgeted costs to be used in the model.

All relevant operating costs are then allocated to each distribution customer using the most appropriate method available.

For certain costs this necessitates a two stage process, costs are first allocated to a transmission site and then to the customer.

## COSTS ALLOCATED USING TWO STAGE PROCESS

### Rent and Rates:

Rent and rates are charged to each links only site on an actual basis.

### Regional operational costs:

Regional costs are allocated to sites within a given region.

### Central administration costs:

Central administration costs are allocated across all sites nationally.

Costs thus allocated to transmission sites are further allocated to distribution customers on the basis of usage of the microwave links for distribution of signal for National Terrestrial Television and Radio services.

Having fully allocated all operating costs across all distribution customers the tariff per customer is calculated using total allocated cost plus a margin. Margin currently achieved is 10%.

## 2. CAPITAL COSTS

### Return on Capital Investment

For the purposes of the tariff calculation the full replacement cost of the network as at Jan 2004 is the Capital Investment. Capital Investment has been identified on a site-by-site basis.

Total Capital Investment by RTENL in the microwave links network is allocated to all customers.

In the case of capital investment in common infrastructure, (towers, masts and buildings) 5% of cost is calculated as relating to microwave links customers based on mast occupancy. Of this, 17% is calculated as relating to non-distribution customers based on usage of the microwave links and the relative priorities given to distribution and contribution traffic on the microwave links system.

The balance of the Capital Investment is then allocated to each distribution customer bandwidth usage.

The capital charge is then calculated using a set rate of return on capital investment allocated which is set to reasonably reflect the expected life of the Microwave Links distribution network of ten years.

Currently the rate of return is 15%.

No additional charge is made in respect of any capital expenditure required to maintain the current level of service and coverage.

## RTÉNL Charges to National TV and Radio Broadcasters 2005.

### TRANSMISSION

#### **RTÉ Broadcast Customers**

(Calculated in accordance with RTÉNL Tariff Model developed in 2003)

	Annual Charges			
	Capital Charge	Operating Charge	Power Charges	Total Charge
	€	€	€	€
RTÉ One	711,671	1,622,460	303,630	2,637,761
RTÉ Two	711,671	1,622,460	303,630	2,637,761
TG4	712,610	1,611,581	314,070	2,638,261
RTÉ Radio 1 (FM)	260,743	434,572	130,436	825,751
RTÉ 2FM	260,743	434,572	130,436	825,751
RTÉ Raidió na Gaeltachta	260,743	434,572	130,436	825,751
RTÉ Lyric FM	260,743	434,422	128,942	824,107
RTÉ Radio 1 (MW)	227,497	472,944	642,000	1,342,441
RTÉ Radio 1 (LW)	129,770	411,236	621,000	1,162,006
<b>Total RTE</b>	<b>3,536,191</b>	<b>7,478,819</b>	<b>2,704,580</b>	<b>13,719,590</b>

#### **Independent Broadcast Customers**

(Calculated in accordance with existing contracts)

	Annual Charges			
	Capital Charge	Operating Charge	Power Charges	Total Charge
	€	€	€	€
Today FM - Contract 1997	159,987	545,113	152,619	857,719
TV3 - Contract 1997	737,717	1,285,654	299,583	2,322,954

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### DISTRIBUTION

#### **RTÉ Broadcast Customers**

(Calculated in accordance with RTÉNL Tariff Model developed in 2003)

	Annual Charges		
	Capital Charge	Operating Charge	Total Charge
	€	€	€
RTÉ One	164,480	145,384	309,864
RTÉ Two	164,480	145,384	309,864
TG4	164,480	145,384	309,864
RTÉ Radio 1 (FM)	36,893	32,609	69,502
RTÉ 2FM	36,893	32,609	69,502
RTÉ Raidió na Gaeltachta	36,893	32,609	69,502
RTÉ Lyric FM	36,893	32,609	69,502
RTÉ Radio 1 (MW)	0	0	0
RTÉ Radio 1 (LW)	0	0	0
<b>Total RTE</b>	<b>641,012</b>	<b>566,588</b>	<b>1,207,600</b>

#### **Independent Broadcast Customers**

(Calculated in accordance with existing contracts)

	Annual Charges		
	Capital Charge	Operating Charge	Total Charge
	€	€	€
Today FM - Contract 1997	85,580	15,809	101,389
TV3 - Contract 1997	327,593	79,046	406,639



## APPENDIX II

### MARKET SEPARATION SCHEDULE

**RTÉ NETWORK I.B.D.  
MARKET SEPARATION SCHEDULE**

Month				Year to Date		
Actual €000	Budget €000	Variance €000		Actual €000	Budget €000	Variance €000
			<b>COMMERCIAL INCOME</b>			
			<b>Regulated:</b>			
			National Analogue Television			
XXX	XXX	XXX	National Analogue Television			
XXX	XXX	XXX	- Inter-Group	XXX	XXX	XXX
XXX	XXX	XXX	- 3rd.Party	XXX	XXX	XXX
XXX	XXX	XXX		XXX	XXX	XXX
			National Analogue Radio			
			National Analogue Radio			
XXX	XXX	XXX	- Inter-Group	XXX	XXX	XXX
XXX	XXX	XXX	- 3rd.Party	XXX	XXX	XXX
XXX	XXX	XXX		XXX	XXX	XXX
XXX	XXX	XXX	<b>Un-regulated</b>	XXX	XXX	XXX
XXX	XXX	XXX	<b>Total Network Income</b>	XXX	XXX	XXX
			<b>ALLOCATED COSTS</b>			
			<b>Regulated:</b>			
XXX	-		National Analogue Television	XXX	-	
XXX	-		National Analogue Radio	XXX	-	
XXX	-		<b>Un-regulated</b>	XXX	-	
XXX	XXX	XXX		XXX	XXX	XXX
			<b>SURPLUS / (DEFICIT)</b>			
			<b>Regulated:</b>			
XXX			National Analogue Television	XXX		
XXX			National Analogue Radio	XXX		
XXX			<b>Un-regulated</b>	XXX		
XXX	XXX	XXX		XXX	XXX	XXX