



## **Statement from the Interim Deputy Director-General, Adrian Lynch**

Tuesday 27 June 2023

### **Statement on the circumstances surrounding the misstating of Ryan Tubridy's earnings across the 2020-2022 period.**

On the Thursday June 22, 2023 the RTÉ Board restated Ryan Tubridy's earnings from 2017-2022.

This restatement was necessary because RTÉ published incorrect figures. This has been a serious breach of trust with the public, the Oireachtas and RTÉ staff. I, as Deputy Director General, on behalf of the RTÉ Executive, would like to again apologise unreservedly.

While the public disclosure of Ryan Tubridy's earnings as part of the annual publication of top 10 presenter fees was incorrect, all payments associated with his earnings were reconciled in RTÉ's published accounts. It is important to note that RTÉ has not restated its annual accounts for any of the years 2017-2022 and does not need to restate.

In compiling the top 10 list of highly paid on-air presenters, RTÉ Finance reviews the amounts due under the contracts of each presenter, reconciles that against invoices received and payments made for the year in question. Those figures are verified in the context of RTÉ's annual audit of accounts and typically published two years in arrears. (See Appendix 1.)

External legal advice has been received that on the basis of the Grant Thornton findings there was no illegality and payments were made pursuant to an agreed contract.

Based on the review completed by Grant Thornton (attached as Appendix 2.) and a review of the relevant documentation and correspondence, this report sets out RTÉ's understanding of what happened, how it happened, and who was responsible for different aspects of the arrangements.

It should be noted that the former Director General, Ms. Dee Forbes, save for comments provided to Grant Thornton in the compilation of its review, has not had the opportunity to respond to the details set out below and may therefore challenge or disagree with our understanding and position.

No former employees were asked to or contributed to this statement.

As per the RTÉ Board statement last Thursday, the circumstances that led to the understatement of Ryan Tubridy's earnings from 2017-2019 period are being reviewed separately by Grant Thornton and therefore are not included in this report. As soon as that review is

completed a further statement shall be made by RTÉ as appropriate. It was during the internal review validating prior published earnings, requested by the RTÉ Board last week, that this was discovered

**1. How and when did RTÉ become aware of there was a problem?**

As per the Board Statement, in late March of this year during a routine audit of RTÉ's 2022 accounts, an issue was identified in relation to the transparency of certain payments.

The auditors sought further information and informed the Audit and Risk Committee of the RTÉ Board of their concerns. The Audit and Risk Committee promptly sought external legal advice and commissioned Grant Thornton to carry out the independent fact-finding review on the matter in question.

RTÉ's auditors and RTÉ's financial oversight body, the RTÉ Audit and Risk Committee, identified a problem which was promptly investigated. The facts were established by Grant Thornton and their findings presented to the Audit and Risk Committee on Friday 16 June 2023. Those findings were then presented to the RTÉ Board the following Monday, which released its public statement correcting the misstated figures for Mr. Tubridy on Thursday 22 June 2023.

**2. How does RTÉ typically negotiate the contracts of RTÉ's top 10 most highly paid on-air presenters?**

Once it has been agreed in principle by the relevant editorial lead the process of negotiating the contracts of RTÉ's top 10 most highly paid on-air presenters is conducted by the CFO, with advice from the legal department.

Input regarding the services required, such as, programming and commitments to hours of broadcasting would typically be provided by the relevant editorial lead – the Director of Content or the Director of News and Current Affairs and the Director of Audience Channels and Marketing.

Final approval of fees to be paid to RTÉ's top 10 most highly paid on-air presenters is by the Director General.

**3. What was different in the case of Ryan Tubridy's 2020-2025 contract negotiations?**

In this instance, the Director General was directly involved in aspects of the negotiations, as is clearly captured in the Grant Thornton review.

As outlined in the Grant Thornton review, in this instance there were in effect two contracts, the 'Five Year Contract' (between RTÉ and the Presenter) and the 'Tri-partite Agreement' (between the Presenter, Commercial Sponsor and RTÉ).

In addition, this 'Tri-partite Agreement' was guaranteed and underwritten by RTÉ.

The details of how the 'Tri-partite Agreement' (October 2020 to 31 December 2021) was negotiated, approved and executed are contained in the Grant Thornton review.

Below is RTÉ's understanding and of the summary and timeline of the negotiation process.

#### **4. Timeline of key events and decisions**

##### **2019**

- November 2019 RTÉ was focused on achieving cost savings due to the wider financial circumstances of the organisation and the commitment given by RTÉ in to, among a range of measures, reduce the fees paid to RTÉ's top 10 most highly paid, on air presenters by 15%.
- From late October to early December discussions underway both with the Agent and internally to try and agree to terminate existing contract (Sept 2015 – Aug 2020) and agree a new contract on reduced terms in line with public commitments to reduce top talent fees. On 19<sup>th</sup> December, following a meeting between the Director General and the Agent, the then RTÉ CFO sets out a financial proposal to the Agent which stated an offset of the exit payment due in his previous contract, a 15% cut in fees from RTÉ and references facilitating a possible additional commercial agreement (what later became the 'Tri-Partite Agreement') to the value of €75,000 per contract year.

The treatment of the exit payment is the subject of the Grant Thornton review of the 2017-2019 period.

##### **2020**

- From January to March further discussions on terms and conditions of new offer culminating on 10<sup>th</sup> March 2020 in a draft contract from RTÉ to agent for Radio and Television services, letter guaranteeing those Radio and Television service fees and a side letter terminating previous contractual arrangements and obligations.
- 20<sup>th</sup> March 2020 the Agent responds to drafts and encloses a draft side letter stating that RTÉ will guarantee and underwrite the commercial agreement, which was part of ongoing discussions at that time.
- 20<sup>th</sup> March - 21<sup>st</sup> July 2020 numerous internal and external meetings, discussions and correspondence to finalise terms of the contract, the wording of side letters and the arrangements with the commercial sponsor.
- 7<sup>th</sup> May 2020 Video (Microsoft Teams) meeting with the Agents and the RTÉ Director General and an RTÉ solicitor providing verbal guarantee that RTÉ would underwrite the commercial agreement.
- 21<sup>st</sup> - 24<sup>th</sup> July 2020, contract for services (Five Year Contract) from 1 April 2020 – 31<sup>st</sup> March 2025, side letter from RTÉ guaranteeing contract fees and side letter terminating both parties' obligations under previous contract executed.

- 24<sup>th</sup> - 27<sup>th</sup> July 2020 outline of commercial agreement with commercial partner confirmed and communicated to agent. The Agent issues invoice to commercial partner for €75,000 for *“Bespoke Partnership between [commercial partner] and Ryan Tubridy to include personal appearances. Programme of activity to be agreed between [commercial partner], RTÉ and NK Management”*.
- 31<sup>st</sup> July 2020 Credit note issued by RTÉ to commercial partner which in effect reduced the cost of the commercial partner’s overall sponsorship by €75,004. This ensured, as had been agreed with the commercial partner, that the arrangement was cost neutral to them.
- 27<sup>th</sup> July – 22<sup>nd</sup> October 2020 various correspondence seeking clarification of details of agreement with commercial partner.
- As outlined in the Grant Thornton review (Section 3.5, 3.6) the execution of the ‘Tri-partite Agreement’, i.e. the delivery of the personal appearances was impacted by Covid (the personal appearances agreed didn’t actually happen until March to May 2022)

## 2021

- 20<sup>th</sup> January 2021 RTÉ releases the earnings of the top 10 list of most highly paid on-air presenters for 2017, 2018 and 2019.
- 26<sup>th</sup> March 2021 agent contacts RTÉ looking to meet to discuss contract.
- 29<sup>th</sup> March to 22 April 2021 various internal communications regarding best way to proceed with third party arrangement and ‘Tri-partite Agreement’ furnished by agent.
- 31 December 2021 – ‘Tri-partite Agreement’ concludes. As per 2.16 of the Grant Thornton review – no additional or follow-on agreement was entered into by the Agent, the commercial partner and RTÉ.

## 2022

- 13<sup>th</sup> January – 29<sup>th</sup> March 2022 communications between agent and RTÉ chasing payment on foot of the underwriting of the commercial agreement. (notwithstanding the ceasing of the ‘Tri-partite Agreement’ RTÉ had a contractual obligation to make two payments of €75,000 to agent (on behalf of Ryan Tubridy) for 2021 and 2022, see 2.17 of the Grant Thornton review).
- 25<sup>th</sup> April 2022 RTÉ Director General and agent discussion which resulted in an email request by agent for invoicing details. (See section 2.22 of the Grant Thornton review)

- 9<sup>th</sup> May 2022 agent raises invoice for €75,000 in respect of year 2 (2021) of the ‘Tripartite Agreement’
- 25<sup>th</sup> May 2022 RTÉ pays agent, via UK barter account, in respect of year 2 (2021), see 2.28-2.32 and 3.10(g) of the Grant Thornton review. This payment was recorded in the barter account at a value of €115,380.
- 6<sup>th</sup> July 2022 agent raises invoice for €75,000 in respect of year 3 (2022) of the ‘Tripartite Agreement’
- 20<sup>th</sup> July 2022 RTÉ pays agent, via UK barter account, in respect of year 3 (2022), see 2.28-2.32 and 3.10(g) of the Grant Thornton review. This payment was recorded in the barter account at a value of €115,380.

In addition, RTÉ paid, via the UK Barter account, for the costs of hosting the commercial sponsor events in 2022. The actual cost of the events was €30,586. These payments were recorded in the barter account at a value of €47,477.

## 2023

- 15<sup>th</sup> February 2023 RTÉ releases the earnings of the top 10 list of most highly paid on-air presenters for 2020 and 2021.
- March 2023 during routine of RTÉ’s 2022 accounts, the two transactions in the barter account are queried by auditors, which in turn prompts the Audit Risk Committee to obtain external legal advice and appoint Grant Thornton.

## 5. Responsibility

There has been much speculation regarding the awareness or involvement of members of senior RTÉ management and others in the these arrangements. The following sets out the position:

- No member of the RTÉ Executive Board, other than the Director General, had all the necessary information in order to understand that the publicly declared figures for Ryan Tubridy could have been wrong.
- The contractual arrangements (2020-2025) with Ryan Tubridy were negotiated by the Director General and the then Chief Financial Officer supported by the RTÉ solicitor and approved by the Director General. Those contractual arrangements included:
  - The ‘Five Year Contract’ for TV and Radio Services which is signed by Director of Content and dated 24 July 2020 with a commencement date of 1 April 2020

- A letter providing for the early termination of the previous Radio and TV Contract signed by Director of Content and dated 24 July 2020 (Dates to be confirmed)
- A letter stating that there would be no further reduction of fees (save as to those that might be imposed by changes in legislation) during the course of the agreement for TV and Radio services, signed by the Director General and dated 21 July 2020
- The 'Tri-partite Agreement' between the commercial partner, the Agent and RTÉ was arranged by the Commercial Director at the direction of the Director General. The Commercial Director has stated:
  - The arrangement was subject to a condition, imposed by the commercial partner, that it was to be cost neutral for the commercial partner.
  - While it was still at draft stage, the arrangement was approved by the Director General.
  - It was ultimately implemented by means of a credit note, issued on the direction of the Director General.
- The Director General verbally agreed (via video meeting) to underwrite the terms of the commercial arrangement. Present at this meeting was the Director General, two representatives of the Agent and the RTÉ solicitor. This final aspect had been sought by the Agent throughout the negotiations and there had been significant push back by RTÉ.
- Other than the Director General and the Commercial Director no member of the Executive Board had knowledge of the two invoices (9<sup>th</sup> May 2022 and 6<sup>th</sup> July 2022 ), the payment of those invoices through the barter account, or any of the circumstances surrounding those invoices. The Commercial Director has stated that:
  - Her knowledge of those matters was limited to the instructions received by her from the Director General in connection with the payments in question.
  - Those instructions were received at a point in time when the arrangements on foot of which the 9<sup>th</sup> May 2022 and 6<sup>th</sup> July 2022 invoices ultimately came to be raised had already been negotiated and agreed and to which the Commercial Director was not party.
- Due to his editorial responsibilities the Director of Content was kept informed of the progress of the negotiations and ultimately signed the 'Five Year Contract' for TV and Radio Services and the letter providing for the early termination of Ryan Tubridy's previous Radio and TV Contract. He was aware of elements of the commercial agreement but not RTÉ's underwriting of it. He received the 'Tri-partite Agreement'.
- The current Chief Financial Officer joined RTÉ in January 2020. At that stage key terms had been agreed and discussions were at an advanced stage before

contract finally being approved by the Director General. He had no involvement in the negotiation of the tri-partite agreement or in putting arrangements in place to facilitate this agreement.

- The Director of Audiences, Channels and Marketing provided very specific input in relation to television hours for the *Late Late Show*. He was aware of elements of the commercial agreement but not RTÉ's underwriting of it. He did not at any stage receive the 'Tri-partite Agreement', the 'Five Year Contract' or any side letters.
- The Director of Legal and the Director of Human Resources were not involved in the negotiation of any aspects of these arrangements but were simply aware that negotiations were taking place. The Director of Human Resources had no sight of any correspondence relating to the matter.
- All these events predate the recent appointment of the current Director of News and Current Affairs.
- The Director of Operations and Technology and the Director of Strategy had no awareness of or responsibility for any aspects of these arrangements.
- RTÉ's Solicitor's office provides legal advice in relation to contracts for RTÉ and take instructions from the business. It does not have authority to set, agree or approve the terms of any contract.
- The Grant Thornton review makes no finding of wrongdoing on the part of Ryan Tubridy in relation to any payments made by RTÉ.
- Ryan Tubridy was not aware of the credit note provided by RTÉ to the commercial partner.
- RTÉ issued the credit note to the commercial partner in July 2020 which should have been publicly disclosed as part of Ryan Tubridy's earnings for that year. RTÉ understands that Ryan Tubridy did not receive this payment from the commercial partner until 2021. The additional payment to Ryan Tubridy for 2021 was paid in 2022 but in line with RTÉ's approach to the publication of the top ten earners it was attributed to 2021 in the recent restatement of Ryan Tubridy's earnings.
- The Grant Thornton review makes no finding of wrongdoing on the part of the commercial partner.

## **Appendix 1**

### **Process by which the Published Top 10 Talent Earnings list is compiled and approved for publication**

#### **Preparation process**

Top Talent earnings include payments received by the Talent from RTÉ but exclude payments received from Independent Production Units for services rendered to them.

The People Payments Manager extracts a report from the Fees system and the Payroll system for the year in question listing all contractors and staff who were paid more than €100,000 in the year.

This report is then reviewed and all non-Talent employees are removed, e.g. the Director General.

This Talent only report is further reduced down to the Top 10 Talent list. The list is reviewed versus prior years to ensure that no Top Talent are missing.

This Top 10 Talent list is then reviewed by the People Payments Manager and compared against the contracts in place for the Top Talent to ensure that all liabilities under contracts are included.

Where a contractual amount has not been invoiced the reasons for this are investigated with the Content Division.

Payments are also examined to ensure that they relate to the year in question.

Enquiries are also made with the Content Division as to whether any additional services, on top of those contracted, were provided in the year and have not yet been invoiced.

Earnings for salaried employees on the Top 10 Talent list are grossed up to add employer pension contributions and premiums for group life & salary protection insurance.

The earnings on the Top 10 Talent list reflect the charge to the RTÉ income statement for all services delivered in the year, whether or not these services have been invoiced yet.

#### **Internal review**

The Top 10 Talent list is then sent to the Group Financial Controller for review.

After approval by the Group Financial Controller the list is reviewed by the Chief Financial Officer.

The Chief Financial Officer then reviews the list with the Director General and the Director of Content to ensure completeness. Ultimately the Director General approves the list.

#### **External review**



This Top 10 Talent list is then given to the auditors to verify the earnings using agreed upon procedures. The auditors are given access to invoices, contracts and any relevant supporting documentation. The verification work is usually completed by the time that the statutory audit of RTÉ's financial statements is completed (i.e. by end of April).

Following completion of the agreed upon procedures a Letter of Reasonable Assurance is obtained from the auditors by the Group Financial Controller prior to publication.

### **Publication**

The Director General decides when the Top 10 Talent list is to be published (the commitment is to publish within 24 months of the end of the period being reported on).

Following approval by the Director General the Top 10 Talent list is sent to the Communications Department for publication.