



Consultation Document

Draft BAI Rules on Advertising and Teleshopping (Daily and Hourly Limits)

Údarás Craolacháin na hÉireann
2-5 Plás Warrington,
Baile Átha Cliath 2, Éire

Broadcasting Authority of Ireland
2-5 Warrington Place
Dublin 2, Ireland

T: +353 (0)1 6441200
F: +353 (0)1 6221299

info@bai.ie
www.bai.ie



Summary

This consultation concerns the **BAI Rules on Advertising and Teleshopping (Daily and Hourly Limits)**. These rules specify the maximum amount of advertising and teleshopping permitted, per day and per hour, on Irish radio and television channels. The consultation invites your views on a proposed revision to these rules that would increase the maximum amount of advertising permitted per hour and per day on independent Irish commercial television channels e.g. TV3, Setanta Ireland, City Channel. The current maximum amount of advertising permitted per hour on these television services is 10-minutes while no more than 15% of the total broadcast day can consist of advertising. This will rise to a maximum of 12-minutes per hour and 20% per day if the draft rules included in this document are adopted.

The views of the public and interested stakeholders on these proposals are now invited. Views can be submitted in writing in the following ways.

- **Email** responses should be sent to: - **straynor@bai.ie**.
- **Postal responses** should be sent to:-

**Sarah Traynor,
Draft BAI Rules on Advertising and Teleshopping,
Broadcasting Authority of Ireland,
2-5 Warrington Place,
Dublin 2.**

Respondents should include the name of the respondent to the consultation and contact details e.g. email address. Contact details will not be made public.

The deadline for submissions is **5pm, Friday 9th July 2010** and submissions received after this date shall not be considered.



1. The Broadcasting Authority of Ireland (BAI)

The Broadcasting Authority of Ireland (BAI) is an independent statutory organisation responsible for a number of key areas of activity in connection with television and radio services in Ireland. The work of the BAI is largely guided by the Broadcasting Act, 2009 (2009 Act). In addition to a range of new functions and responsibilities contained in the 2009 Act, the BAI incorporates work formerly undertaken by the Broadcasting Commission of Ireland (BCI) and the Broadcasting Complaints Commission (BCC).

The 2009 Act includes a range of objectives and functions with which the BAI must comply. These include the requirement to develop broadcasting codes and rules. The provisions of the 2009 Act that are relevant to this consultation include:

- **Section 26(e)** requires the BAI to prepare or make broadcasting codes and rules;
- **Section 43(1) (a) & (b)** requires the BAI to develop rules concerning the maximum amount of advertising and teleshopping that will be allowed to be broadcast per hour and per day by Irish radio and television services;
- **Section 43(4)** requires the BAI to comply with the requirements of the European Audiovisual Media Services Directive (AVMS);
- **Section 44** requires the BAI to prepare draft codes and rules and to make these available to the public for inspection. The BAI is obliged to consider any submissions made to it about the content of the drafts before finalising the codes or rules.

This consultation process is being undertaken further to these statutory obligations and functions.



2. **Current Rules on Advertising and Teleshopping (Daily and Hourly Limits)**

Limits on the maximum hourly and daily amount of advertising and teleshopping permitted on independent Irish radio and television services are currently detailed in the **BAI Rules on Advertising and Teleshopping (Daily and Hourly Limits)**. The rules have been developed further to the requirements of Section 43 of the 2009 Act.¹

The rules apply to commercial, community, institutional and temporary radio and television services within the jurisdiction of the Republic of Ireland e.g. TV3, Setanta Ireland, Today FM, South East Radio, Connemara Community Radio. The rules do not apply to the radio and television services provided by the public service broadcasters, RTÉ and TG4 or to radio and television services commonly received in the Republic of Ireland but licensed in the United Kingdom or in other jurisdictions e.g. UTV, Channel 4 and SKY 1.

3. **Consultation on Commercial Television Advertising Limits**

Until recently, Irish law restricted the amount of advertising permitted on independent commercial television channels, licensed in the Republic of Ireland and targeting Irish audiences, to 10-minutes per hour and 15% per day. The 10-minute and 15% limits are reflected in the current **BAI Rules on Advertising and Teleshopping (Daily and Hourly Limits)**. However, these limits are below the maximum of 12-minutes per hour permitted under European law as detailed in the Audio Visual Media Services Directive ('the AVMS Directive').²

The 2009 Act recently removed the 10-minute per hour and 15% per day limits for independent Irish commercial television services in Ireland. The Act also gives the BAI the power to permit these television channels to broadcast up to the maximum 12-minutes per hour permitted by European law. This equates to a maximum daily limit of 20% per day.

¹ http://www.bai.ie/pdfs/rulesonadtelelimits_vfinal.pdf

² This European directive outlines the key principles and rules with which television broadcasters in the EU must comply, including rules regarding the maximum amount of advertising per hour.



The BAI is of the opinion that it is now appropriate, in light of the relaxation of restrictions on the maximum amount of advertising permissible, to amend the **BAI Rules on Advertising and Teleshopping (Daily and Hourly Limits)** so as to permit more advertising per hour and to increase the daily limit. These changes are detailed in **Rule 1.1** of the draft rules included below in the appendix to this document. The decision of the BAI to support an increase in the amount of advertising permitted per hour and per day on independent commercial television services, licensed in the Republic of Ireland and targeting Irish audiences, is informed by the following:-

- i) The independent commercial television sector in Ireland operates in a highly competitive environment. In addition to competition within the independent television sector and competition with the public television services, it also competes with commercial television channels available in Ireland but licensed in the UK e.g. Comedy Central, Sky 1. Increasingly these UK channels are selling advertising in the Irish marketplace and directly targeting Irish audiences. This is done via opt-out advertising where, during ad breaks, Irish viewers see adverts for Irish businesses while UK viewers see adverts for UK businesses. As such, Irish television channels are competing with UK channels to sell advertising to Irish businesses.

Under UK law, these channels can sell up to a maximum of 12-minutes of advertising per hour. In this context, the BAI is of the view that Irish independent commercial television channels should be permitted to sell up to 12-minutes of advertising per hour and up to 20% per day so as to ensure that the Irish television sector can compete fairly and effectively with its competitors in the wider European independent commercial television sector.

- ii) The Irish media industry has suffered significant revenue losses in the past two years as a result of the unprecedented downturn in the Irish economy and the consequent drop in commercial revenue. As a consequence, the Irish television sector, including the independent commercial television sector, has been required to cut costs significantly, resulting in reductions in original programming, staff and salary levels. The BAI is of the view that the proposed increases in advertising limits will help to protect and stimulate Irish employment and sustain Irish programme content.



The BAI recognises that competition from UK television services, as well as the current economic situation, has impacted on broadcasters other than the independent commercial television sector. However, the BAI has no remit in respect of the advertising limits set for public service broadcasters and it has no legal latitude to increase the maximum amount of advertising permitted per hour or per day on commercial radio. Accordingly, this consultation cannot address daily and hourly limits on advertising permitted on these services.

4. Consultation Questions

In view of the proposal to increase the maximum amount of advertising permitted on independent commercial television from 10 minutes up to 12-minutes per hour and from 15% up to 20% per day, the BAI is seeking your views on the following consultation questions:-

- What is your view of the proposal contained in the draft rules to increase the amount of advertising permitted per hour on commercial television broadcasters from the current maximum amount of 10-minutes per hour up to 12-minutes per hour?
- What is your view of the proposal contained in the draft rules to increase the amount of advertising permitted per day on commercial television broadcasters from the current maximum of 15% per day up to 20% per day?
- Do you have any views regarding the BAI's rationale for increasing the maximum amount of advertising to be permitted per hour and per day?
- Are there any other comments that you would like to make about this consultation and/or the draft rules?



5. Responses

Responses to the consultation should be provided in writing. Email responses should be sent to: - **straynor@bai.ie**. Postal responses should be sent to:-

**Sarah Traynor,
Draft BAI Rules on Advertising and Teleshopping,
Broadcasting Authority of Ireland,
2-5 Warrington Place,
Dublin 2.**

Respondents should include the name of the respondent to the consultation and contact details e.g. email address. Contact details will not be made public.

The deadlines for responses is **5pm, Friday 9th July 2010** and submissions received after this deadline shall not be considered.

6. Freedom of Information

This is a public consultation process and following consideration of submissions by the BAI, all information submitted will be publicly available on request. However, there may be aspects of your submission which you may wish to make in confidence. If this is the case, when making the submission please identify any information which you do not wish to be publicly disclosed and specify the reasons for its confidentiality or commercial sensitivity.

Agreements between the BAI and respondents to the consultation, regarding confidential information, are without prejudice to the BAI's obligations under law, including the Freedom of Information Act, 1997 and the Freedom of Information (Amendment) Act, 2003. If the BAI receives a request for information submitted in confidence, you will be consulted before any decision is made.



Appendix

DRAFT BAI RULES ON ADVERTISING & TEleshopping (DAILY AND HOURLY LIMITS)

1. Introduction

Section 43(1) of the Broadcasting Act, 2009 requires the Broadcasting Authority of Ireland (BAI) to prepare, and from time to time as occasion requires, revise rules with respect to:-

- (a) the total daily times that shall be allowed for the transmission of advertisements and teleshopping material on a broadcasting service, in respect of a contract under *Part 6*,
- (b) the maximum period that shall be allowed in any given hour for the transmission of advertisements and teleshopping material (within the meaning of *section 42(8)*) on such a broadcasting service, and the Authority may make different such rules with respect to different classes of broadcasting service.

The **BAI Rules on Advertising and Teleshopping (Daily and Hourly Limits)** have been developed in accordance with this statutory obligation.

2. Jurisdiction

The **BAI Rules Advertising and Teleshopping (Daily and Hourly Limits)** apply to certain radio and television broadcasters within the jurisdiction of the Republic of Ireland. In practical terms, this includes commercial radio and television services, community radio and television services as well as institutional and temporary radio services. The rules do not apply to services provided by the public service broadcasters RTÉ or to TG4 nor do they apply to other services commonly received in this country licensed in the United Kingdom or in other jurisdictions.



3. Definitions

Advertising

Images with or without sound and radio announcements broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply of products or services, including immovable property, rights and obligations, in return for payment.

Teleshopping

A direct offer broadcast to the public with a view to the sale, purchase, rental or supply of products or the provision of services, including immovable property, rights and obligations, in return for payment.

4. Draft Rules

Rules Applying to Commercial Television Broadcasters

1.1 Advertising & Teleshopping Spots

The total daily time for broadcasting advertising and teleshopping spots shall not exceed a maximum of 20 per cent of the total broadcast day.

The time to be given to advertising and teleshopping spots in any clock hour shall not exceed a maximum of 12 minutes.

1.2 Teleshopping Windows

Teleshopping windows shall be of a minimum uninterrupted duration of 15 minutes.

With the exception of self-promotion channels and channels exclusively devoted to teleshopping, the maximum number of teleshopping windows per day shall be eight and the total daily time permitted for teleshopping windows shall be 3 hours.



Rules applying to Commercial Radio Broadcasters

2.1 Advertising & Teleshopping Spots

The total daily time for broadcasting advertising shall not exceed a maximum of 15 per cent of the total broadcast day. The time to be given to advertising in any clock hour shall not exceed a maximum of ten minutes.

Rules applying to Community Radio

3.1 Advertising

The time to be given to advertising in any clock hour shall not exceed a maximum of six minutes.

Rules applying to Community Television

4.1 Advertising & Teleshopping Spots

The time to be given to advertising and teleshopping spots in any clock hour shall not exceed a maximum of six minutes.

4.2 Teleshopping Windows

Teleshopping windows shall be of a minimum uninterrupted duration of 15 minutes.

The maximum number of teleshopping windows per day shall be eight and the total daily time permitted for teleshopping windows shall be 3 hours.

Rules applying to Institutional and Temporary Radio Broadcasters

5.1 Broadcasters licensed further to Section 68 of the Broadcasting Act 2009 may not carry advertising, including teleshopping.