



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

# BAI COMPLIANCE AND ENFORCEMENT POLICY

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### 1. Introduction

The Broadcasting Act 2009 (“**the Act**”) established the Broadcasting Authority of Ireland (“**the BAI**”) as an independent regulator for radio and television broadcasters in Ireland. As well as transferring compliance functions from the Broadcasting Commission of Ireland and the Broadcasting Complaints Commission, a number of additional responsibilities were assigned to the BAI. The Act confers compliance powers on the BAI in relation to monitoring, investigating, reporting and enforcing its compliance decisions and significant additional compliance functions in the area of public service broadcasting.

The compliance activities of the BAI are one of the core elements of its work. They have been developed over many years, principally with the aim of monitoring, encouraging and promoting a culture of compliance within the broadcasting sector in Ireland and providing safeguards for audiences. Compliance also informs key areas of work such as the awarding of licences, the development of codes and rules and provides useful information on overall industry trends.

This Compliance and Enforcement Policy (“**Policy**”) has been developed by the BAI to provide a framework for all broadcaster<sup>1</sup> and contractor<sup>2</sup> compliance activities. The Policy sets out the BAI’s general approach to dealing with compliance by, and enforcement against, all broadcasters and contractors licensed in the State.

The Policy is presented in four main sections:

2. The BAI’s approach to the development of the policy: *details the legislative obligations and organisational strategy.*
3. The Compliance Policy Framework: *details the aims and principles of the BAI’s compliance work.*
4. The Compliance and Enforcement Methods: *details the main methods of compliance and enforcement.*
5. Review: *details commitments regarding review of the policy.*

The Policy is a general guide to how the BAI currently proposes to operate in relation to compliance and enforcement matters in the normal course. It is provided by way of information only and is not exhaustive. The BAI has the right to depart from the Policy in any or all respects as it considers appropriate in any case. The Policy accordingly does not give rise to any legitimate expectation or binding legal obligations.

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<sup>1</sup> In this Policy, “broadcaster” has the meaning given to it in section 2 of the Act.

<sup>2</sup> In this Policy, “contractor” has the meaning given to it in Section 50 (1) of the Act, i.e. holder of a contract under Part 6 (Broadcasting Contracts and Content Provision Contracts – Commercial and Community Broadcasters) or Part 8 (Digital Broadcasting and Analogue Switch Off) of the Act. This includes sound broadcasting contractors, content provision contractors, television programme service contractors and multiplex contractors.

### 2. BAI Approach to Development of the Policy

#### **BAI Statutory Responsibilities**

In developing this Policy, the BAI had regard to its statutory functions and strategic objectives, including the following:

- Ensuring that the number and categories of broadcasting services in the State best serve the needs of the people of the island of Ireland,
- Stimulating the provision of high quality, diverse and innovative programming by commercial, community and public service broadcasters and independent producers,
- Providing a regulatory environment that will sustain compliance with applicable employment law,
- Providing a regulatory environment that will sustain independent and impartial journalism, and
- Providing a regulatory environment that will facilitate the development of a broadcasting sector in Ireland that is responsive to audience needs and in particular is accessible to people with disabilities.

#### **In performing such functions, the BAI shall, among other matters:**

- Seek to ensure that measures taken by the BAI are proportionate having regard to the objectives set out in the Act,
- Seek to ensure that measures taken will produce regulatory arrangements that are stable and predictable, and
- Review performance to secure that regulation does not involve the imposition of unnecessary administrative burdens.

#### **BAI Strategy Statement 2014 - 2016**

The development of a Compliance and Enforcement Policy contributes to the achievement of a number of key strategic themes and goals which underpin the BAI Strategy Statement 2014–2016. By way of summary, these themes and goals include:

- Strengthening the transparency and accountability of broadcasters, and
- Promoting responsible broadcasting and empowering audiences.

#### **Roles of the BAI and the Compliance Committee**

The Act outlines the principal functions of the Compliance Committee in respect of broadcasters and contractors; these include monitoring and enforcing compliance by broadcasters and contractors with their statutory and contractual obligations and relevant broadcasting codes, rules and schemes, including the conduct of an investigation into the affairs of a contractor<sup>3</sup> and/or also of a broadcaster<sup>4</sup>.

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<sup>3</sup> Section 50 (1)

<sup>4</sup> Section 53 (1)

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The BAI also has distinct but related functions under the statute. This Policy does not purport to be an exhaustive statement of all the functions and powers of the BAI and the Compliance Committee, and broadcasters and contractors should have regard to the provisions of the Act when reading this Policy.

### 3. Compliance Policy Framework

#### **Aim and Objectives:**

The overall aim of the BAI Compliance and Enforcement Policy is:

- To ensure a consistent and transparent approach to the compliance activities of the BAI which holds broadcasters and contractors fairly to account in respect of their statutory and contractual obligations having regard to the interests of viewers and listeners.

The objectives of the BAI Compliance and Enforcement Policy are as follows:

- To facilitate the effective planning and operation of the compliance and enforcement activities of the BAI in fulfilment of its statutory obligations and its strategic objectives.
- To facilitate the work of the BAI by ensuring relevant and accurate compliance information is gathered and reported.
- To encourage and promote a culture of compliance within the broadcasting sector in Ireland.
- To assist broadcasters and contractors in their understanding of the BAI's approach to implementing its statutory functions in the areas of compliance and enforcement.
- To inform and support other areas of the BAI's work including licensing and the development of codes and rules.
- To give effect to a risk-based approach to its compliance and enforcement activities.

#### **Principles:**

This Policy upon which the BAI's compliance and enforcement activities, processes and workplans are developed and implemented is guided by five principles with the intention of assisting in the provision of a consistent and predictable approach to regulation of contractors and broadcasters. These key principles are:

- *Certainty and transparency*
- *Promoting responsible broadcasting*
- *Serving and being accountable to Irish audiences*
- *Effectiveness and Responsiveness*
- *Risk-based approach*

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### ***Certainty and Transparency:***

In seeking to provide a degree of certainty to broadcasters and contractors, the BAI strives to ensure that the implementation of compliance and enforcement activities and processes are fair, evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome.

The BAI is committed to providing clear and detailed reasoning for its decisions in order to facilitate understanding of its rationale by broadcasters, contractors and other stakeholders.

The BAI shall develop and review guidelines and template documentation for compliance and enforcement processes, and provides access to accurate, clear and timely information on such processes in order to give a clear understanding of expectations and to reduce administrative burden.

Annual compliance workplans are devised and communicated to broadcasters and contractors and the BAI is committed to working with the sector through the provision of advice and guidance on compliance matters.

*Broadcaster and contractor compliance and enforcement activities, processes and procedures should assist in inspiring a high level of trust so that broadcasters and contractors can accept and respect the BAI's regulatory decisions. BAI deliberations shall demonstrate fairness and balance in processes, procedures and decisions. The timelines for processes will ensure timely decision-making and avoid any unnecessary delays. The BAI supports the development of strategic methods of gathering and using data and information in order to underpin an effective, evidence-informed model of decision-making.*

*The development of guidelines and timeframes shall facilitate the BAI's strategic objective of ensuring that all broadcasters and contractors licensed by the BAI operate to the terms and conditions of statute and/or their contracts. It shall promote greater understanding by broadcasters and contractors of their place in the context of the BAI's goals and objectives.*

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### **Promoting Responsible Broadcasting:**

The BAI is committed to promoting and encouraging a culture of compliance and accountability amongst broadcasters and contractors by working with the sector and encouraging more focused self-reporting. The BAI shall be mindful of the levels of regulation and have regard to its statutory obligations in the context of viewers and listeners.

*The BAI shall facilitate an open and transparent dialogue with broadcasters and contractors regarding their compliance commitments, guiding, informing and educating broadcasters and contractors on their obligations and also informing and educating the public of such obligations and performance. Focused self-reporting shall also add to stakeholder understanding of their compliance obligations. The development of IT processes shall facilitate this principle from the perspectives of both broadcasters and contractors, and the BAI.*

### **Serving and being Accountable to Irish Audiences:**

In undertaking and implementing broadcaster compliance and enforcement activities and processes, the BAI is committed to ensuring accountability to the public it serves, both in terms of broadcaster and contractor compliance and also in terms of ensuring that broadcasting services best serve the needs of the people and reflect the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression.

*In developing a responsible and responsive Irish broadcasting sector, the BAI is mindful of its statutory obligations in providing for the viewing and listening needs of the people of Ireland and in ensuring that broadcasters and contractors licensed to meet these needs abide by their contractual and statutory obligations.*

### **Effectiveness and Responsiveness:**

The BAI is committed to reviewing its compliance and enforcement activities and processes on a regular basis in order to:

- measure effectiveness, efficiency and value for money,
- ensure their relevance and effectiveness in furtherance of the BAI's strategic objectives,
- ensure the most effective and efficient ways of working are employed,
- assess the transparency and consistency of activities, and
- assess the administrative burden they place on broadcasters.

*In undertaking and implementing its compliance and enforcement activities and processes, the BAI strives to be as cost conscious as possible and to optimise the use of organisational resources. Processes shall be reviewed regularly to minimise the administrative burden placed on broadcasters and contractors. Such activities shall be supported by the effective use of IT.*

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### **Risk-based Approach:**

This Policy has regard to the BAI's commitment to adopt, articulate and publish an integrated risk-based approach to its work and, accordingly, shall apply the BAI's risk policy to compliance and enforcement work-planning in order to prioritise work activities and achieve the BAI's strategic goals.

A proportionate and balanced risk-based approach will facilitate the effective operation of the BAI in a number of ways. Such an approach will facilitate:

- the ability of the BAI to service the needs and interests of viewers and listeners,
- the reduction of regulatory burden on both contractors and broadcasters,
- the allocation of limited BAI resources to prioritised areas of work, and
- the determination of compliance priorities and programmes which should, in turn, lead to a reduction in reputational and regulatory risk.

This approach involves the identification and evaluation of risks in accordance with their probability of occurrence (high, moderate and low) and their possible impacts (high, moderate and low) on the achievement of compliance-related and organisational objectives. In this regard, the BAI will consider its compliance workplan in the context of:

- the nature, extent and impact of potential non-compliance or breaches,
- stakeholder risk including viewer / listener protection and, in particular, children,
- reputational risk,
- operational (resources) risk,
- strategic risk,
- financial risk (in particular for investigations and sanctions).

*Annual compliance workplans shall be based on the identification and prioritisation of risks and the actions required in managing them, relative to the level of resources available. This shall incorporate a review of trends and the development of acceptable base-line compliance targets, having regard to results of previous monitoring work, the requirement for information by the BAI to undertake particular projects pursuant to Irish and EU legislation and setting risk-levels for compliance activities.*

### 4. Compliance and Enforcement Methods

Arising from the provisions of the Act, as well as contracts entered into with contractors, the BAI shall undertake a range of compliance and enforcement activities in striving to achieve its statutory functions and strategic objectives.

#### A. COMPLIANCE METHODS

The key compliance methods that the BAI may implement to achieve its statutory duties and organisational objectives **will** include:

- **Monitoring of broadcast content:**  
The audio or audio visual broadcast material of a broadcaster or a contractor is assessed for compliance with statutory codes<sup>5</sup>, rules<sup>6</sup> and contractual obligations.
- **On-site Inspections:**  
In certain instances, studio facilities of certain contractors are required to be approved before they are used for broadcast or programme-recording purposes. Transmission facilities are subject to regular inspection and detailed measurements are performed to ensure compliance with the terms of the licence issued by ComReg, as well as compliance with a contractor's statutory obligations and contract terms.
- **Complaints Handling:**  
The BAI's Executive Complaints Forum or Compliance Committee assesses and makes determinations on complaints made by viewers or listeners regarding broadcast content and complaints concerning contractual obligations<sup>7</sup>.
- **Contractual Approvals for variations to Contract terms:**  
The BAI assesses submissions from contractors seeking approval in relation to matters subject to BAI's prior approval under the contract. Such requests may, for instance, deal with variations to the ownership and control, staffing, technical or programming activities of a contractor.

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<sup>5</sup> In particular, General Commercial Communications Code; Children's Commercial Communications Code; and the Code of Programme Standards

<sup>6</sup> In particular, Rules on Advertising and Teleshopping (Daily and Hourly Limits); Access Rules; Audio Visual Media Services Directive

<sup>7</sup> Further details on the Complaints process are outlined on the BAI website at [www.bai.ie](http://www.bai.ie).

- **Performance Reviews:**

The BAI assesses the performance of a contractor in six main areas of operation including ownership and control, staffing, finance, programming and engineering/technical. This process can involve both self-reporting and self-assessments by a contractor and the collation of information gathered by the BAI pursuant to broadcasting and multiplex contracts and/or through its compliance processes.<sup>8</sup>

- **Ministerial Reports:**

The Minister for Communications, Energy and Natural Resources may request from the BAI a report, pursuant to any one of a range of statutory provisions, on compliance by a broadcaster or a contractor with a particular code or rule pursuant to the Act.

- **Advice and Guidance on Compliance with Duties, Codes and Rules:**

The BAI offers advice to broadcasters and contractors in response to queries on statutory broadcasting codes and rules and the duties of a contractor and/or a broadcaster. The BAI may also hold workshops and/or other training/education opportunities from time to time, which focuses on a particular compliance issue.

- **Annual Compliance Plans:**

Guided by the principles of this Policy, annual compliance workplans shall be developed and implemented by the BAI. Such workplans shall have regard to the strategic objectives of the BAI, its statutory obligations and the risk strategy of the BAI. The plans shall be drafted and presented to the Compliance Committee for approval at the start of each year. The Compliance Committee may target specific priorities and areas of focus in its Compliance Workplan in any particular year. At the same time, the Compliance Committee may focus on a particular area of compliance in the course of the year should it consider it necessary or appropriate to do so.

- **Voluntary Disclosure of Non-Compliance:**

A broadcaster or contractor may at any time report voluntarily to the BAI a compliance concern arising from its own activities, pursuant to the statute and/or its contract with the BAI. This is actively encouraged by the BAI. Broadcasters and contractors should not wait to establish definitively the facts of a compliance concern but are encouraged to report to the BAI when a concern emerges. This is discussed further in section 3B.

- **Contractual Inspections and Audits:**

The BAI may conduct inspections and/or audits of a contractor pursuant to its powers under a contract between the BAI and a contractor.

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<sup>8</sup> Some, but not necessarily all, contracts contain clauses designed to facilitate performance review by the BAI. One such provision may, for example, include a requirement for the contractor by statement, questionnaire or other format, to self-assess or self-certify its performance and/or its compliance with its obligations under its contract or applicable law.

- **Co-operation and Supply of Information pursuant to a Contract and/or the Act:**

Pursuant to the Act and/or a broadcasting or multiplex contract, the BAI may require the co-operation of a broadcaster or a contractor in matters concerning the performance of its obligations pursuant to that contract and/or the Act. Equally, the BAI may require a contractor to supply information (whether in the form of declarations, returns, documents, accounts and/or other information) pursuant to a broadcasting contract or a multiplex contract.

### **B. VOLUNTARY DISCLOSURES**

The BAI actively encourages a broadcaster or a contractor voluntarily to report to the BAI a compliance concern arising from its activities. Voluntary disclosures facilitate engagement on an open and less adversarial basis. It also enables a matter to be addressed quickly and at an early stage.

A broadcaster or a contractor should not wait to establish definitively the facts relating to a compliance concern but rather is encouraged to report to the BAI at the earliest point possible when a concern emerges.

The BAI shall have regard to the fact that a contractor or broadcaster voluntarily reported a particular matter to it in deciding what is the most appropriate way to deal with a particular matter. While the BAI may still need to escalate certain matters to the Compliance Committee, it is hoped that voluntary reporting may avoid the need to do so in many cases by facilitating the quick and early resolution of non-compliance in a constructive and co-operative manner. This is in the interests of all concerned.

### **C. ENFORCEMENT ACTION**

**Part Five of the Act** confers significant enforcement powers on the BAI, including the power to impose financial and other sanctions on broadcasters and contractors.

The BAI and/or the Compliance Committee shall draw up and review from time to time guidance, procedures and rules as appropriate for the implementation of the provisions of Part 5 of the Act, including the conduct of investigations and the imposition of sanctions. These procedures, rules and guidance shall be grounded in principles of procedural fairness, natural and constitutional justice, the requirements of administrative law and applicable human rights legislation. They shall, in particular, reflect the need for the BAI to act fairly and proportionately in pursuing its statutory duties and organisational objectives.

In broad terms, there are a number of different levels of enforcement action that may be taken by BAI on its own initiative or as a result of contact from third persons. These are summarized below.<sup>9</sup>

### **1. Compliance Notices**

The BAI notifies the contractor or broadcaster where it appears that there is non-compliance. This may be done in a report, notice or by some other means. This is the lowest level of engagement. The idea is to enable the contractor or broadcaster independently to bring itself into compliance without the need for further regulatory intervention, although the BAI may subsequently follow up to see what the contractor or broadcaster has done to remedy the matter.

The issue of a compliance notice does not constitute a finding or pre-judgment of non-compliance by the BAI or the Compliance Committee.

### **2. Warning Notices**

The BAI notifies the contractor or broadcaster where it appears that there is non-compliance. In this case, the contractor or broadcaster is informed that the notification is a “warning notice” and is asked to provide to, and agree with, the BAI a plan for remedying the apparent non-compliance and ensuring there is no re-occurrence of it. It is envisaged that a warning notice would generally be issued where the BAI considers the apparent non-compliance to be of a relatively serious nature or where it is a reoccurrence of the same or a similar matter.

The rationale for issuing a warning notice is to ensure that a contractor or broadcaster is aware that the matter is considered to be relatively serious, whilst at the same time providing an opportunity for the BAI and a contractor or broadcaster to work together to resolve the issue without the need for it to be formally referred to the Compliance Committee.

If the matter is not remedied to the BAI’s satisfaction, the BAI may refer the matter to the Compliance Committee which may ultimately result in an investigation and formal sanctions.

The issue of a warning notice does not constitute a finding or pre-judgment of non-compliance by the BAI or the Compliance Committee.

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<sup>9</sup> Some, but not necessarily all, contracts contain provisions relating to the issue of compliance notices, warning notices and other related provisions. Where the contract with a particular contractor contains such provisions, BAI will have regard to those provisions in connection with its engagement with the contractor concerned.

### 3. Compliance Committee Investigation

The Compliance Committee may decide to initiate a statutory investigation pursuant to Section 50 or Section 53 of the Act where there is apparent non-compliance by a broadcaster or contractor. The Compliance Committee shall notify the relevant broadcaster or contractor of its intention to investigate, including the grounds upon which the investigation has been initiated and shall issue reasons for its decisions.

The Compliance Committee, following such statutory investigation, may recommend no further action or, alternatively, may recommend certain actions.<sup>10</sup> Further to a section 50 investigation, the Compliance Committee may recommend the suspension or termination of a contractor's contract. Further to a section 53 investigation, the Compliance Committee may find that there has been a breach by the broadcaster concerned, or that the broadcaster has failed to co-operate in an investigation, and recommend to the Authority that it notifies the broadcaster of its finding. The Compliance Committee also has the right to discontinue an investigation in circumstances where it considers that it may be inappropriate and/or impractical to continue with an investigation.

The BAI intends to use the statutory powers of investigation and sanction under Part 5 of the Act proportionately. It is the BAI's preference for matters to be resolved without the need for an investigation by the Compliance Committee where possible. However, the Compliance Committee may conduct an investigation in any case without any prior steps having been taken.

In determining whether an investigation should be undertaken pursuant to section 50 or section 53 of the Act and the particular sanction to be pursued, the factors to which regard shall be had include, but are not limited to, the following:

- The nature and/or extent of apparent non-compliance with contractual and/or statutory obligations, including relevant codes or rules,
- Where there is a pattern or frequency of non-compliance or warning notices being issued,
- The level of responsibility that is attributable to the broadcaster or contractor for the occurrence/s,
- The level of awareness and/or knowledge reasonably expected of the broadcaster or contractor,
- Any precedent decisions and/or guidance already established or provided by the BAI,
- Where a broadcaster or contractor has failed to take appropriate corrective action on foot of a non-compliance or warning notice,

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<sup>10</sup> It should be noted that contracts may in some cases provide for termination in certain specified events such as insolvency or where BAI considers termination to be necessary to comply with applicable law, without there first being an investigation by the Compliance Committee.

- The compliance record of the broadcaster or contractor,
- The risk level attached to the apparent non-compliance, including the nature and extent of the apparent non-compliance.

Some, but not necessarily all, contracts contain a non-exhaustive list of certain occurrences that are, in particular, likely to result in a matter being referred to the Compliance Committee for investigation.<sup>11</sup> This includes a failure by a contractor to agree with the BAI, or properly implement, a remedial plan following the issue of a warning notice by the BAI.

Compliance Committee investigations and the corresponding sanctions are discussed in more detail in section D.

In addition, the BAI is required under the Act to take additional enforcement actions resulting from specific forms of complaints and applications made to it by individuals. These are summarised below:

#### **4. Complaints**

In accordance with Sections 47 and 48 of the Act, the BAI will process a third party complaint on one or more of the grounds set out in section 48 of the Act. The BAI will process such requests in line with its own practices and procedures as outlined in relevant policy documents and in accordance with section 48 of the Act.

If the Compliance Committee upholds a complaint, a broadcaster may be required to broadcast a statement prepared by the Compliance Committee. Decisions of the Committee may also be published.

#### **5. Right of Reply Review**

If a person applies to the Compliance Committee to review a decision of a broadcaster to refuse a request for a “right-of-reply” in accordance with section 49(17) of the Act, the Compliance Committee shall review the broadcaster’s decision.

The BAI shall notify the relevant broadcaster of its intention to investigate, including the grounds upon which the investigation has been initiated and shall issue reasons for its decisions.

The Compliance Committee, in accordance with section 49(17) of the Act, may require the broadcaster to broadcast the Compliance Committee’s decision including any correction of inaccurate facts or information relating to the individual concerned.

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<sup>11</sup> These occurrences are generally classified as a “Serious Failure” in such contracts. The fact that an occurrence is listed as a “Serious Failure” in a contract does not constitute a finding or pre-judgment by the Compliance Committee or BAI regarding the Serious Failure concerned or whether any particular sanction is warranted.

If a broadcaster fails to comply with a decision in accordance with section 49(17), the Compliance Committee may, having complied with section 49(22) of the Act, ultimately recommend to the Authority (in which case the Authority shall follow such a recommendation) that the Authority apply to the High Court for such an order as may be appropriate in order to ensure compliance with the decision of the Compliance Committee<sup>12</sup>.

The above information is not intended to be a complete summary and readers should have regard also to the terms of the Act.

It is important to note that the BAI is not required to follow any particular course of action before it can adopt any other course of action.<sup>13</sup> It is also important to appreciate that this Policy does not purport to be an exhaustive statement of all the procedures, measures, methods and rules that may be applied and/or issued by the BAI in pursuit of its enforcement powers.

### **D. SECTION 50 AND 53 COMPLIANCE COMMITTEE INVESTIGATIONS AND SANCTIONS**

There are two different types of statutory Compliance Committee investigations envisaged by Part 5 of the Act, with varying sanctions ensuing depending on the type of investigation with the BAI.

#### **1. Section 50: Investigation into the Affairs of a Contractor**

This is an investigation into the operational, programming, financial, technical or other affairs of a **holder of a contract under Part 6 or Part 8 of the Act** where the Compliance Committee has reasonable grounds for believing that a contractor is not providing a service in accordance with the terms of the contractor's contract.

On foot of such an investigation, the Compliance Committee may make a finding that the contractor is not providing the service in accordance with the terms of the contractor's contract or make such other finding as it considers appropriate.

The Authority, on foot of a recommendation from the Compliance Committee, may suspend or terminate a contract following a section 50 investigation.

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<sup>12</sup> A copy of the BAI Right of Reply Scheme can be found on the BAI website at [www.bai.ie](http://www.bai.ie).

<sup>13</sup> For instance, the Compliance Committee can initiate an investigation without first issuing a compliance or warning notice to a broadcaster or contractor.

### **2. Section 53: Investigation into an Apparent Breach by a Broadcaster**

This is an investigation where the Compliance Committee is of the opinion that there are circumstances suggesting that it is appropriate to investigate and report on any apparent breach by a **broadcaster** of a requirement of section 39(1), 40(1), (2) or (3), 41(2), (3) or (4), 106(3) or 127(6) of the Act or a broadcasting code or rule. A breach, for the purpose of a section 53 investigation, means a serious or repeated failure by a broadcaster to comply with any of those requirements.

The Compliance Committee, having considered a report by an investigating officer, may find that there has been a breach by the broadcaster concerned of the statutory provisions or the broadcaster concerned has failed to co-operate in an investigation.

In such a case, the Authority will issue a notification to the broadcaster of the Compliance Committee's decision and state whether it intends to apply to the High Court for a determination and the imposition of a financial sanction. The Authority shall indicate the amount of the financial sanction (not exceeding €250,000) that it proposes if the matter is to be dealt with by the Authority and the Authority may indicate the amount of the financial sanction (not exceeding €250,000) which it intends to recommend to the High Court if the matter is to be dealt with by the High Court. The Authority shall have regard to a range of matters, as set out in section 56 of the Act, in determining the level of the financial sanction it proposes or will recommend to the High Court.

The Authority will then make the appropriate application to the High Court for a determination by the High Court, unless the broadcaster requests that the Authority makes a determination in the matter. If the broadcaster opts for the Authority to deal with the matter, the Authority may direct the broadcaster to pay a financial sanction.

The section 50 and section 53 forms of investigation and sanctions are distinct from investigations and sanctions provided for under sections 48 (complaints) and 49 (right of reply) which are discussed in section 3C above.

## **5. Provisions for Review of this Policy**

The BAI commits to undertaking a review of this Policy no later than four years after its publication.

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