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BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Services Strategy



Broadcasting Authority of Ireland
Broadcasting Services Strategy

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Contents	Page
1. Foreword	3
2. Introduction	5
3. Context for the Broadcasting Services Strategy	7
4. BAI's Vision	12
5. BAI's Approach to Realising the Vision	14
<ul style="list-style-type: none">• Licensing• Regulation of Services• BAI Regulatory Policies and Practices	

Foreword

There are few provisions in the Broadcasting Act 2009 with greater potential for impact on the broadcasting environment than the requirement that the Authority set out a formal strategy in relation to the broadcasting services that should be provided within the State. More than two decades after the introduction of commercial broadcasting to Ireland, this was a challenge to look anew at how best the needs of existing and future audiences might be served through the services that the Authority is by law empowered to license. That significance of obligation was matched by the seriousness of purpose with which the Authority and the BAI's executive addressed the task. The development of this strategy also benefitted greatly from the engagement with and contributions from the entire broadcasting sector. I take this opportunity to express thanks to all who helped in shaping this document.

Broadcasting is a dynamic activity taking place in a society whose very character and composition are dynamic in their nature. This, then, is not a statement of policy for today alone nor a rigid framework fixed for the future. True, its implementation will have influence across the coming decades but it must have within it the capacity to adapt to changing times and circumstances. It is written and published in difficult and testing economic days but it seeks to look beyond the immediate or medium-term difficulties to a future that will hold more promise and offer greater possibilities for broadcasters. It will want that better future to be reflected in the range and quality of services that are made available to all who live here.

Serving Irish audiences with quality programming; reflecting the richness and diversity of Irish society; promoting high standards and quality journalism; encouraging innovation; reflecting the imaginative potential of the country and its people; seeing its linguistic plurality as a cultural strength: these are all imperatives that are to be found in the Broadcasting Act or that flow inevitably from it. This Broadcasting Services Strategy is a central element in the Authority's achievement of these statutory objectives, as it is an essential element of the realisation in practical terms of the Authority's own public purpose.

In developing its view on the future framework within which broadcasting will develop, the Authority is guided by and responsive to the needs and expectations of audiences; the legitimate interests and aspirations of current and future broadcasters; the changing technological environment; and the sustainability of the services that it will license. The licensing plan that it will develop and publish will reflect those same concerns.

The current range of services is a subtle combination of public, commercial and community; of national, local and regional; of broadly-based and more narrowly focussed services. They have in varying ways and to varying degrees woven themselves into the fabric of this society's exchange with itself. They play a central part in the democratic life of the State. And they have the potential to make an ever greater contribution to the lives of their audiences.

It falls to broadcasters to determine their own schedules and the editorial policies on which they are founded. The law and regulation can only go so far. But the Authority and, in particular, its Contract Awards Committee, will have an important role to play in setting the parameters within which those schedules are constructed and in ensuring that audiences have a clear sense of what it is they are entitled to expect from the services that will operate under the Authority's remit. The Compliance Committee also has an important role in terms of being available to respond to the concerns of viewers or listeners that statutory obligations have not been fulfilled as well as offering a valuable input to the work of the Contract Awards Committee when it comes to make its recommendations on the grant of licences.

Much will change during the lifetime of this strategy and of the services that will be introduced or renewed under its terms. The digital revolution will continue apace. The emergence of Digital Terrestrial Television will become a reality for all. It is to be hoped that circumstances will encourage the development of a wider range of Irish content in new services; the Authority will keenly observe, and actively involve itself in, all those issues that facilitate or frustrate those developments. Similarly, radio will not escape the changing environment and the Authority will actively engage with the potential that those changes will offer to broadcasters and audiences alike.

This forward-looking strategy does more than discharge a statutory requirement. It offers to all with an interest – broadcasters, those wishing to become broadcasters, communities and audiences – a context within which they can participate in shaping the future.

Bob Collins
Chairperson
Broadcasting Authority of Ireland

Introduction

The Broadcasting Authority of Ireland (BAI) is the body responsible for the regulation of broadcasting in Ireland. Its functions and responsibilities are set out in the Broadcasting Act 2009 (“the 2009 Act”). Section 26 (1)(a) of the Act requires the BAI to prepare a strategy for the provision of broadcasting services in the State, outlining the Authority’s approach to, as well as a framework for, the licensing of broadcasting services in the State, additional to those provided by RTÉ, TG4 and any future television services that may be provided by the Houses of the Oireachtas and the Irish Film Channel.

This Broadcasting Services Strategy is one of the key means by which the Authority fulfils many of its statutory objectives and, in particular, its key statutory objective of endeavouring to ensure that the number and categories of broadcasting services in the State best serve the needs of the people of the island of Ireland, bearing in mind their languages and traditions and their religious, ethical and cultural diversity. It also supports the provision of open and pluralistic broadcasting services in Ireland. This Strategy is consistent with, and reflects, the mission, vision, values and strategic goals of the BAI as set out in its *Strategy Statement 2011-2013*. Furthermore, the Strategy informs the Authority’s approach to the licensing of broadcasting services, (including the Licensing Plan, as required under Section 29 (2)(g) of the Act).

One of the key aims of the Broadcasting Services Strategy is to facilitate the development of a responsible, vibrant and responsive Irish broadcasting sector which serves the needs of the people of the island of Ireland, taking into account the increasing cultural diversity of audiences. Diversity in content, programming, information and entertainment to viewers and listeners and the provision of high quality, innovative and relevant content to Irish audiences are central to this public purpose objective. Maintaining plurality of ownership, content and viewpoint in broadcasting services is also of fundamental importance in this regard. The BAI encourages and cultivates excellence in programming-making, journalism and broadcasting performance by promoting a responsible broadcasting environment based on shared values and high standards. Investment and innovation in the sector are also supported and encouraged.

In developing the Broadcasting Services Strategy, the BAI had regard to the existing broadcasting landscape and the current mix of broadcasting services available in Ireland. This Strategy outlines the Authority’s vision for the optimum mix of broadcasting services and is forward-looking by nature, reflecting the fact that the broadcasting environment is continually changing and evolving. The vision articulated has implications that will last for a period of 15 or more years and is not a destination or an end point in itself. The vision is more one of a continuum in the delivery of services and the precise mix at any given time needs to reflect the fundamental principle that Irish audiences be served in the manner envisaged by the statute.

It is also important to point out that the manner in which the Authority's vision is realised is not intended to be limited by platform or technological formats – the vision is centrally concerned with the content that is available to Irish audiences and the Authority commits to supporting and facilitating technological developments ultimately that assist in delivering on the vision articulated.

The Strategy identifies factors that facilitate and constrain the achievement of the vision and sets out how the Authority will apply its statutory functions and regulatory practices over the lifetime of the Strategy, in order to facilitate the realisation of that vision.

This Strategy was developed in consultation with members of the public, as well as participants in the Irish broadcasting sector, whose contributions provided valuable perspectives to the Authority in its deliberations.

Context for the Broadcasting Services Strategy

Before setting out the Authority's vision for the optimum mix of broadcasting services that might be available to Irish audiences, it is important to understand that, in developing this Strategy, the Authority did not start with a blank canvas. Rather, the starting point was the existing broadcasting environment, including the current mix of services already established and available to Irish audiences, the legislation which underpins the establishment and licensing of broadcasting services in the State, and a range of economic, regulatory and technological factors impacting upon the provision of services. Each of these is now discussed in more detail below.

Legislation

Broadly, the Broadcasting Act 2009 envisages that three principal strands of broadcasting will shape the Irish broadcasting environment – public, commercial and community. While, in reality, from an audience perspective there may be similarities in some of the content delivered by the various broadcasters within these strands, they have nonetheless particular characteristics or features which are unique to that strand such as: the way in which they are owned and controlled; the means by which, and the persons to whom, they are accountable; the mechanisms by which they are funded; and, of course, the nature of the content provided. The 2009 Act prescribes specific objects for each of the public service broadcasters¹ and sets out the defining characteristics of community broadcasters².

The role of the BAI is to facilitate and support the continued provision of a range of television and radio services within the three principal strands of broadcasting in order to realise the vision of the statute and to ensure vitality in the mix and range of services available to Irish audiences. This is achieved across the full range of the Authority's statutory functions including, in particular, through the **licensing** of television and radio services.

The 2009 Act is prescriptive in its requirement of the BAI to develop and implement a licensing plan and in respect of the types of broadcasting licences into which the Authority may enter as well as the mechanisms for the award of such licences. The statute also shapes and influences the broadcasting environment through a range of provisions such as media concentration requirements, news and current affairs provision by broadcasting services etc. Further provisions of the 2009 Act impose a range of advertising and programming regulations, as well as a range of contractual conditions on broadcasters.

¹ Section 114 and Section 118

² Section 64

Current Mix of Broadcasting Services

Television:

Television services in Ireland include public service, commercial and community stations, provided principally on a national level across a range of platforms, including terrestrial, satellite, cable and MMDS.

Public broadcasting television channels are provided by RTÉ and TG4. RTÉ's most popular services include RTÉ 1 and RTÉ 2. TG4 provides a valuable Irish language service to the island of Ireland. TV3 is the only privately-owned terrestrial alternative to the public service television broadcasters and operates two services – TV3 and 3e. RTÉ1, RTÉ2 and TV3 achieve significant viewership amongst Irish audiences.

In large parts of the country, Irish audiences have had, and continue to have, access to the main UK-licensed services. Since the late 1990s, a small number of additional commercial and community channels have been introduced on cable and satellite systems, providing additional choice to Irish audiences accessing those systems, e.g. Setanta Ireland. Three community television services are established in Dublin, Navan and Cork.

As the increased level of television services available to Irish audiences, across a range of platforms, continues to grow, and with increased fragmentation of audiences, the maintenance of current levels of viewership to Irish channels is a significant priority.

Radio:

Radio services in Ireland span public service, commercial and community stations, provided at national, regional, local and community levels, principally on an analogue basis on the FM band.

At national level, the Irish radio sector now consists principally of six terrestrial radio services, four provided by RTÉ, and two of which are licensed by the BAI. They provide a mix of speech and music-driven services, as well as Irish language and classical music services. In addition, RTÉ provides a range of specialist services on digital platforms. Regional radio services primarily target youth audiences, while, at local level, the radio sector consists of a mix of music-led and more broad-based, music and speech services. Community radio services also feature across the country targeting primarily small geographical communities and communities of interest.

RTÉ's radio services are well established and cater for audiences at a national level with a range of news and current affairs, music, and Irish language services, principally serving audiences aged 25 and over.

Irish commercial and community radio services have evolved significantly since the establishment of the first licensed independent broadcasters in 1989. Initial policies of the broadcasting regulator sought to ensure that there would be a local radio presence across the entire country. A national commercial radio service was also considered essential to provide competition to the radio services provided by RTÉ. Following a slow start, these services became well established and by the late 1990s, the development of additional services was advanced.

Regional stations were developed in the South East, South West, North West and Midlands/North East areas and these provide services to younger audiences which are also served by local services in the urban areas of Dublin and Cork. More recently, a number of niche music services commenced broadcasting, mainly based in Dublin but one broadcasting on a multi-city basis. A radio service provided on a quasi-national basis caters for Christian interests.

Radio listenership in Ireland has been consistently high over the years and is relatively high in European terms. Listenership to broad-based local radio services is particularly strong but, equally, national and regional services and well established music services have strong core listenership. Some niche services have struggled to attract a significant share of audience, although they have provided diversity and choice of content to audiences in their franchise areas.

Community radio is prominent in Ireland and a strong network of stations has developed since the first services were licensed on a pilot basis in 1995. Regulatory policy and more recent statutory developments in this area are regarded as providing a strong underpinning for community radio in comparison with other European jurisdictions. The most important dimension of community radio services is the involvement of local communities in all aspects of the service and this has been recognised through the development and implementation of a separate policy for the sector by the regulator.

Up to forty temporary or special event sound broadcasting contracts are awarded each year by the BAI serving, for example, college festivals, training for students, annual events and pilot community services.

Finally, institutional sound broadcasting services remain a part of the mix of services providing a valuable service to their listeners, particularly those in hospitals.

Regulatory Policy and Practice

A series of well established broadcasting policies and practices, (principally derived from the legislation), have been developed by the BAI (and its predecessor, the BCI). These underpin the BAI's licensing and contracting activities and are relevant to the introduction of this Broadcasting Services Strategy.

These include, for example: limits imposed on the ownership and control of broadcasting services; the application of the derogation in respect of the statutory 20% news and current affairs requirement on commercial and community radio services; the amount of advertising time available to certain broadcasters; the restrictions imposed under programming and advertising codes; the requirements imposed on applicants for licences, both in the application process and during contract negotiations and the manner in which services are subsequently regulated from a compliance perspective.

Economic Environment

Irish broadcasters are funded in a mix of ways. Public service broadcasters receive public funding to varying degrees and are also commercially active, primarily through on-air advertising activities. RTÉ is required under the 2009 statute to exploit commercial opportunities in the pursuit of its statutory objects, although public funding generally tends to account for between 45% and 55% of its total

funding. A mix of public funding (including a portion of the television licence fee) is the principal means of funding of the Irish language television broadcaster, TG4. A portion of the television licence fee (currently 7%) is made available to a broadcast fund, operated by the BAI and accessible to all broadcasters targeting Irish audiences. The fund is disbursed through a scheme or schemes, including a programming (television and radio) scheme.

The television advertising market has seen great fluctuations since the late 1990s. The early years of the century saw significant growth for all broadcasters. However, since 2008, the economic downturn resulted in a severe reduction in advertising spend and has had a significant impact on all television broadcasters in Ireland. In addition, the increasing number of UK channels selling opt-out advertising in Ireland has resulted in greater fragmentation of the revenue available to Irish broadcasters from airtime sales.

The dramatic reduction in advertising revenue, coupled with the reduced availability of investment funding and the increased cost of servicing debt, has provided serious challenges for commercial television broadcasters in attempting to maintain levels and quality of programming and to deliver on other statutory and contractual commitments.

In recognition of this, the BAI has permitted the maximum amount of advertising time available to commercial television services licensed by it and introduced product placement rules on television which facilitates further opportunities for maximising commercial revenue.

The radio advertising market has experienced similar significant falls in revenue since 2008 and this trend is continuing. Longer established radio services have been in a better position to meet the trading challenges but the economic downturn has had a significant impact on the ability of more recently licensed radio services to become established on a stronger financial footing.

It is expected that the economic downturn will continue to create a difficult environment for existing television and radio operators and is unlikely to support new entrants to the sector in the short to medium-term. It is also likely to have a limiting effect on the development of additional services.

Like other broadcasters in the Irish radio sector, community radio and television broadcasters face challenges on the economic front, particularly in view of the significant reductions in the level of public funding available to support such services. The introduction of 100-day temporary radio contracts in the Broadcasting Act 2009 should support the more gradual development of new services over the duration of the Broadcasting Services Strategy. However, the level and availability of grants and other public funding may impact the development of existing as well as additional community broadcasting services in the coming years.

Technological Developments

The availability of carriage and content on DTT, cable and satellite platforms offers the potential for an increased range of television services for Irish audiences. Spectrum continues to be available in most parts of the country to support the development of further analogue FM radio services. Developments in technology will allow for the provision of different commercial and programme content to specific areas without the need for local or regional studios. The concepts of programme automation and a greater degree of networking can now be facilitated. Increased broadband access is likely to facilitate

the development of online content access, thereby reducing the dependency on traditional television and radio platforms.

The main technological constraint in the delivery on additional content to Irish audiences centres on the cost of access to platforms. In terms of additional analogue radio services serving large geographically-spread audiences, spectrum is also limited.

BAI's Vision

The ultimate purpose of the Broadcasting Services Strategy is to ensure that Irish audiences are served by a diverse range of broadcasting services that are open and pluralistic in nature. In determining its vision for the mix of broadcasting services in Ireland, the BAI could not ignore the reality of the economic situation. However, the immediate circumstances could not be the basis for the development of the Strategy which will have implications for the next 10-15 years. The BAI is ambitious in its vision and looks beyond current realities, while not failing to recognise them.

Central to the BAI's vision is choice and diversity for audiences and an expectation that all audiences will be served. The vision is encapsulated as follows:

The people of Ireland will be served by a vibrant broadcasting sector consisting of a mix of public service, commercial and community broadcasters, who provide content and programming that caters for and reflects the diversity within Irish Society.

At the core of this optimum mix is a range of national, regional, local and community broadcasting services, complemented by an additional mix of niche services. Such services may be provided by commercial or not-for-profit business models to provide a diverse range of content and programming choices to Irish listeners and viewers.

The Broadcasting Services Strategy has a number of specific objectives as follows:

- To ensure that services licensed by the BAI serve the needs of Irish audiences, bearing in mind their languages and traditions and their religious, ethical and cultural diversity;
- To ensure that services licensed by the BAI offer a variety of content to audiences in Ireland reflecting their diverse interests;
- To promote the provision of high quality programming on services licensed in Ireland and to foster creativity and innovation in the Irish broadcasting sector on all appropriate platforms and in all appropriate formats;
- To achieve plurality in viewpoint, outlet and source within the Irish broadcasting sector;
- To review and modify, where appropriate, current regulatory policies and practices in order to ensure that measures taken are proportionate having regard to the BAI's statutory objectives;
- To produce regulatory arrangements which are stable and predictable for all stakeholders and which reduce regulatory burden;

With regard to television broadcasting, the Authority is of the view that a national, commercial television service is vital to the achievement of diversity and plurality in the sources and content of news and other programme content available to serve audiences. In this regard, the Authority

recognises the important role that public service television channels play in the overall mix. The Authority will facilitate and encourage applications from other parties wishing to establish television services on cable, satellite and digital terrestrial television platforms, particularly from community television groups.

With regard to radio broadcasting, the Authority considers that national, local and community radio services are essential components of the radio landscape in Ireland, while regional radio fulfils the provision of services to youth audiences at present. The Authority is open to exploring other service types, including niche radio services, and the regulatory basis upon which such services might be licensed, developed and sustained.

BAI Approach to Realising the Vision

This section of the Broadcasting Services Strategy outlines the manner in which the BAI will discharge its functions – licensing, regulation of services, and the development and implementation of regulatory policies and practices – to support the achievement of its vision for an optimum mix of broadcasting services.

Licensing

The nature of the services and content that may be licensed by the BAI is framed by Part 6 of the 2009 Act. It sets out the range of broadcasting service and content provision contracts that the Authority may enter into. These are as follows:

1. Commercial Sound Broadcasting Contracts – Section 63
2. Community Sound Broadcasting Contracts – Section 64
3. Temporary and Institutional Sound Broadcasting Contracts – Section 68
4. Content Provision (Television and Sound Broadcasting) Contracts – Section 71
5. Community Content (Television) Contracts – Section 72
6. A Television Programme Service Contract (TV3 and 3e) – Section 70

Over the period of this Strategy, licensing plans may be developed from time to time. The BAI's licensing activities will aim to achieve the objectives of serving audience needs and offering a variety of content to viewers and listeners. Contracts for the relevant broadcasting and content provision services will be awarded using a combination of competitive and open licensing processes.

The mechanisms by which this will be achieved are as follows:

- ***Commercial Sound Broadcasting Services – Section 63***: the BAI will develop a licensing plan for the provision of commercial sound broadcasting services, covering the period 2012-2013. Competitive licensing processes will be operated in respect of all such contracts. The BAI will consult with the sector in formulating this licensing plan, in particular, on the make-up of franchise areas, having regard to factors such as diversity, economic viability, plurality and spectrum availability.

For each licence to be advertised, a Guide to Submissions for applicants will be prepared which will include, among other things, the information to be provided by all applicants under the relevant statutory headings (programming, financial etc.), as well as the scoring mechanism to be applied, including an indication of whether greater or lesser weighting may apply to any of the statutory criteria.

Section 66 of the 2009 Act provides that the Authority may direct applicants to specify, during the course of an application, single or periodic cash-sum payments that the applicant is willing to pay in respect of the award of a broadcasting contract. However, the BAI, having had

regard to the current economic environment, and in the interests of certainty for those in the commercial radio sector, shall not specify any such payment for a service advertised arising from its Licensing Plan in the period 2012-2013.

While acknowledging the current economic difficulties, the Authority is also mindful that such economic difficulties may not extend over the full period of the contracts for sound broadcasting services to be licensed arising from the Licensing Plan 2012-2013. For this reason, in the course of an application for a commercial sound broadcasting service, an applicant shall be invited to set out any additional commitments which it will deliver on in the event of an economic upturn. The Authority will review all commitments made by contractors every three years, which may result in a contractor being required to alter its licence commitments over the period of the contract.

The 2009 Act introduced a number of new features in the licensing process that will apply to services licensed under the BAI Licensing Plan 2012-2013. For example, these include the potential for applications to be “fast-tracked” in certain circumstances, and the role of audience research and sectoral impact studies. The Authority, and where appropriate the Contract Awards Committee, shall give detailed consideration to such matters of policy and interpretation of the statutory provisions in the design of the licence application process for such services.

Cost of making an application

The Authority recognises that many of the costs of making an application for a commercial sound broadcasting service are inescapable given the detailed provisions of the 2009 Act which requires that applications be assessed under a range of headings, including, in particular, the financial capability of the applicant to operate the service.

In recognising that this issue may be a constraining factor for potential applicants, and given the economic conditions that are likely to exist in Ireland in the medium term, the BAI is committed in principle to exploring ways of minimising the cost of making an application for a sound broadcasting service. This principle will be reflected in the design of the licence application process to be developed pursuant to the Licensing Plan 2012-2013, although it will be done in a manner that does not in any way compromise the requirement that an applicant presents a robust editorial and financial case or the expectation that an applicant demonstrates how it will serve the needs and interests of its prospective audience. The BAI will include consideration of the manner in which the Oral Hearings process operates.

This approach is in accordance with the principles of reducing regulatory burden, proportionate regulation and producing regulatory arrangements that are stable and predictable.

- ***Community Sound Broadcasting Services – Section 64:*** the BAI's approach to the licensing of community sound broadcasting services is informed by the organisation's experience in licensing such services since 1995. In particular, it recognises the organic way in which such services become established and developed. The approach proposed facilitates the Authority in responding to developments in community broadcasting more flexibly and in a way that meets the resources available to the Authority in support of such activities and/or, indeed, the resources available to a prospective community broadcasting service.

For this reason, a more open approach to licensing generally shall be operated by the BAI in respect of community radio services. Community radio groups that have successfully operated at least one 100-day, Section 68(1)(b) temporary community sound broadcasting service in the previous two years may submit a proposal for a contract demonstrating the group's readiness to operate a service on a full-time basis. If the operation of a temporary service is satisfactory, the Authority shall consider commencing a licensing process for the relevant service.

The practice to date whereby a prospective community sound broadcaster wishes to apply for a 30-day temporary licence shall continue to be facilitated by the BAI. Similar terms and conditions for 100-day temporary community services shall apply. This approach is consistent with the Authority's belief that the community ethos should be imbued in the service from the outset. The Authority encourages prospective services to consider appropriate means of engaging and equipping members of the community to participate fully in their service.

The Authority does not consider it appropriate that services provided under these short-term contracts should carry advertising, as it considers that no particular advantage is conferred by such activity.

- ***Temporary and Institutional Sound Broadcasting Contracts – Section 68:*** open licensing processes shall apply in respect of such services.
- ***Digital Television and Radio Content Contracts – Section 71:*** open licensing processes shall apply in respect of digital television and/or radio content provision contracts. In order to facilitate such developments, the BAI commits to reviewing contract fees and the cost of making applications for such contracts, as part of a wider, more general review of fees for all services.
- ***Community Television Contracts – Section 72:*** open licensing processes shall apply in respect of community television contracts. The BAI shall explore further with the community television sector mechanisms for the development of the sector and the future licensing of such services.
- ***Television Programme Service Contract – Section 70:*** this Broadcasting Services Strategy does not address the position of the television programme services, TV3 and 3e, which are

licensed further to Section 70 of the 2009 Act, as the current contract runs until 2018 with potential for extension until 2023.

Regulation of Services

The 2009 Act includes a range of matters which must be addressed in broadcasting contracts. These statutory provisions are designed to ensure that the commitments entered into at application stage are adhered to once a service becomes operational. The BAI expects broadcasters to adhere to the terms of their contracts in keeping with the diversity and plurality objectives of this Strategy.

Nonetheless, the Authority is also mindful of its statutory obligation that regulatory measures are proportionate and produce regulatory arrangements that are stable and predictable. The BAI may consider the possibility of a relaxation of the non-statutory elements of broadcasting contracts and allow commitments to be shaped in such a way that provides contractors with a greater degree of flexibility in their delivery, thereby reducing administrative burden. The BAI shall examine changes proposed by contractors in the context of the evolution of the service and its continuing interest and relevance to the needs of the audience being served. However, it is stressed that any relaxation of commitments shall be balanced with the BAI's objectives of diversity and plurality and shall not result in any fundamental changes to commitments made at application stage.

The BAI shall also consider the appropriate level of regulation for Section 71 content contractors and other content services, which are not subject to competitive licensing processes. The Authority shall continue its current policy of requiring such services to operate in accordance with minimum statutory requirements, with a view to encouraging the development of such services, and, thereby, facilitating greater diversity for Irish audiences.

Regulatory Policies and Practices

Ownership and Control of Broadcasting Services:

In performing its statutory functions, the BAI is charged with endeavouring to ensure the provision of open and pluralistic broadcasting services. More specifically, it is charged with promoting diversity in control of the more influential commercial and community broadcasting services. The BAI endorses the statutory premise that media plurality is vital to the health of Irish democracy and is of the view that rules concerning the ownership and control of broadcasting services make an important contribution to the achievement of plurality in the Irish media.

The statute provides a broad framework within which the BAI sets out to achieve its statutory objectives. As part of the development of this Broadcasting Services Strategy, the BAI undertook a detailed review of its ownership and control policies in respect of both commercial and community broadcasters. The BAI has now in place a policy (*BAI Ownership and Control Policy 2012*) detailing its approach to the application of the statutory provisions to the ownership and control of broadcasting services, including the objectives to be achieved, as well as the rules to support the achievement of the objectives.

In order to realise the vision of this Strategy, the BAI remains committed over the period of the Strategy, to providing clarity in the ownership and control rules that apply to broadcasting services. The BAI shall review the policy at least once every four years or sooner if considered necessary.

News and Current Affairs Requirement (20%) (Sound Broadcasters):

The BAI acknowledges that news and current affairs provided by Irish broadcasters makes a substantive and valuable contribution to Irish audiences, as recognised by Section 39(1)(c) of the 2009 Act. However, derogation from the statutory requirement is considered appropriate where, in the Authority's view, it is beneficial to listeners and is likely to increase programming diversity to the audience in a franchise area.

In implementing the statutory requirement for a 20% minimum level of news and current affairs content on specified sound broadcasting services licensed by the BAI, the Authority shall have regard to the following:

- It shall apply a broad definition of news and current affairs for the purpose of meeting the provision, as has been the case to date;
- It shall have regard to the nature of a broadcasting service as an important determinant of the character of the news and current affairs content on a particular service;
- In the case of national and local broad-format radio services on the FM band, the BAI permits derogation between the hours of 1am and 7am. The Authority does not propose that any additional derogation from the statutory requirement will be granted to such services;
- The BAI shall give consideration to derogation from the statutory requirement in the case of music-driven, youth and niche services;
- In determining any derogation to be granted, the Authority shall have regard to three influencing factors:
 1. The innovative nature of the alternative editorial and schedule proposals that the contractor submits and the impact that the proposed derogation will have on the audience being served;
 2. The impact of the derogation on the overall quality of news and current affairs output in the relevant franchise area, and;
 3. The contribution the derogation would be likely to make to the diversity and quality of news and current affairs output for the relevant audience of niche services or of those services targeting a particular demographic.

Opt-out Programming (FM Radio Only)

Traditionally, the BAI has permitted the broadcast of opt-out programming by services, provided that the material is broadcast from a separate broadcasting studio located in the area from which the opt-out material originates. Developments in technology support the delivery of programming without the requirement to develop additional studios.

The BAI may permit the delivery of opt-out programming from a main studio location, having regard to the following:

- Whether the granting of such permission would compromise the focus of the content for the intended audience;
- Whether the arrangements proposed support the principles of diversity and plurality, particularly in relation to serving audience needs;
- Whether the proposals are consistent with the nature of the service licensed i.e. national, regional, local.

Opt-out Advertising (FM Radio Only)

In the past, the BAI has permitted the broadcast of opt-out advertising by sound broadcasting services, provided that the advertising is broadcast from a separate broadcasting studio located in the area from which the opt-out advertising originates. Developments in technology also support the delivery of such advertising without the requirement to develop additional studios.

The BAI may, in some limited circumstances, permit opt-out advertising without the requirement for opt-out programming and an opt-out studio. In considering any such proposals, the BAI shall have regard to the likely impact on the viability of the service as well as the general impact on the viability of other services in the franchise area and the wider broadcasting sector.

Programme Automation and Networking (FM Radio Only)

The BAI may permit greater levels of automation and networking in certain circumstances. In considering proposals from broadcasters, it shall have regard to the following:

- Impact on the audience for the service;
- Potential to increase the viability of the service, particularly in the case of niche services;
- In the case of community radio services, the impact of the proposals on the ethos of the service;
- In the case of proposals to automate elements of the programme service, the time of day – generally, it is expected that automated content would occur during off-peak hours.

Sharing of non-programme functions (FM Radio only)

In the case of commercial radio services, the BAI shall continue to consider proposals related to the sharing of non-programming functions such as finance, engineering and administration. It may also be open to considering proposals for a further extension of shared services, provided that this does not impact on the delivery of the core programme service. The BAI shall have particular regard to the nature of the proposed service when considering such matters.

The BAI does not consider such arrangements are appropriate for community radio services, given its requirement that a community service should be established, owned and controlled by the community it serves.

Studio Location

The BAI shall require that broad-based local radio and community radio and television services locate their principal studios in the relevant franchise areas. In the case of other commercial services, including niche services and operators of content provision contracts, the BAI may permit co-location with another service(s) or location of the service outside of the franchise area, provided that such location does not result in listeners or viewers being unduly affected by the proposed arrangements.



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