



Minutes of Meeting of the Authority of **Broadcasting Authority of Ireland**

Date 25/02/2013 **Time:** 9.30am **Venue:** 2-5 Warrington Place, Dublin 2

Minutes

Attendance

Authority: Bob Collins (Chairperson), John Waters, Michael Moriarty, Michelle McShortall, Colum Kenny, Maria Moloney, Paula Downey

Apologies: Larry Bass, Siobhán Ní Ghadhra

Executive: Michael O'Keeffe, Celene Craig, Aoife Clabby, Neil O'Brien, Margaret Tumelty(items 2b-d), Freda Comiskey (items 4&5), Jessica Holmquist (items 4&5) Anne O'Brien (item 3), Diarmaid Breathnach(items 2c &d) Brian Furey (item 2c)

1. Minutes of Previous Meeting & Matters Arising

Minutes of the previous meeting of the Authority, held on 27th January, 2013, were approved by the Members and signed by the Chairperson.

a. Review of the Statutory Provisions

Members were informed that a meeting with representatives of the Department of Communications, Energy and Natural Resources had been scheduled for the following week and that the Authority's observations in respect of the various statutory provisions requiring alteration and review were scheduled for discussion.

b. Broadcasting Funding Scheme: Sound & Vision II

Members were informed that in excess of three hundred applications had been received by the closing date of the most recent round of the Scheme. Members noted that the assessment process was underway and that a package of recommendations would be brought forward for consideration to the April 29th meeting.

c. PSB Five Year Review of Public Funding

A brief update was provided in respect of progress on the five year review of public funding and members were informed that a draft report was expected in the coming weeks for executive review, prior to its circulation to the Members. Following on from the annual review of RTÉ's public funding, Members requested that further clarifying information in respect of the make-up of RTÉ's deficit would be provided. It was agreed that further information would be sought from Indecon and circulated to the Members.



2. Policy

a. BAI Communications Policy

At the outset of the agenda item, Members of the Authority renewed the discussion which had taken place at their policy day in relation to communications generally. The discussion encompassed a consideration of how the BAI is perceived publicly and how the BAI can use communications to advance its strategic themes of influencing and of empowering audiences. The importance of a proactive approach to communications was also discussed and Members reviewed how the new public relations and public affairs contract with DHR could provide opportunities to pursue such an approach. The different forms of communications utilised by the BAI and the challenges of ensuring a consistent, coherent approach to communications was discussed. It was acknowledged that the BAI's regulatory role and the attendant responsibilities, particularly in respect of work in process, presented challenges from a communications perspective. It was further acknowledged that the experience of working with DHR on their initial short-term contract had been a positive one.

Representatives from DHR then made a presentation to the Authority, outlining the main proposals for their approach to working with the BAI over the term of the contract, in addition to outlining the contract's scope and opportunities for engagement with various stakeholders on a range of issues on a yearly basis. The nature of the relationship between DHR and the BAI was discussed and the manner in which this could be developed over the lifetime of the contract was considered.

Key areas of communications activity and areas of opportunity for 2013 were discussed. The Authority also had regard to the nature of its relationship with a variety of stakeholders including the general public, sector-related stakeholders, and elected representatives. The opportunities, challenges and realities of interacting with the various stakeholder groups were given detailed consideration, having regard to experiences surrounding communications on a number of issues in 2012.

It was agreed among the members that, in a communications context, the general public is the principal stakeholder and in that regard, it was further agreed that information emanating from the organisation needs to be made as accessible and as understandable as possible, notwithstanding the often complex regulatory issues prevailing. A number of practical initiatives were discussed in relation to making information about the BAI's role and functions more accessible and easily understood. In addition, a number of communications strategies were highlighted for further consideration. It was agreed that the relevant points raised during the discussions with DHR would be reviewed further in



the context of re-drafting the BAI Communications Policy. Members noted that a draft Communications Policy would be presented for consideration at the March meeting.

b. BAI Strategy Statement 2014-2016

Members were provided with an update on the work undertaken on the development of the BAI Strategy Statement. An overview was provided in relation to the workshop held with staff members and with the strategy sub-committee and the feedback emanating from both processes was noted. Two different consultation approaches to the development of the strategy were presented. Both approaches were considered and discussed in detail by the Members.

Given the views previously expressed by the Authority in relation to the current strategy document, it was agreed that the preferred approach to the development of a new strategy would be to draft a document, which would be considered and approved by the Authority at an early date, prior to public consultation and finalisation.

In addition to this, it was agreed that a series of public interactions enabling active engagement between the BAI and a range of stakeholders on key policy issues would be planned and implemented over the course of the remaining term of office of the Authority.

The Executive was requested to bring to the March meeting a range of costed options for such public engagements.

c. ASPC 2013: TG4

Members considered TG4's submission in respect of its commitments for 2013, together with an Executive analysis of the document. The Authority noted the following in respect of the submission received:

- A small reduction in the number of commitments made was noted although it was felt that, having regard to the Authority's regulatory requirements, they could be further reduced, less detailed and more strategic in some instances
- Additional information provided in respect of the rationale for various genre increases/decreases was noted and welcomed
- The lack of availability of comparative, contextual data was discussed, particularly in respect of reach and share and the Authority expressed the view that this might be addressed more adequately following completion of the five year review of public funding and the establishment of a framework of broadcaster returns



- In relation to TG4's market share, while still a matter of concern for the Authority, it was noted that efforts had been made to include specific measureable commitments in addition to a range of other commitments in respect of TG4's overall profile on the web and on social media networks. It was also noted that the broader issue of the decreasing share of indigenous broadcasters in a digital multi-platform environment was an important contextual factor when considering issues of market share

Following discussion, the Authority expressed the view that the information submitted by TG4 was sufficient to meet the regulatory needs of the BAI. It was noted that crucial information was provided in addition to comparative data where available. It was noted that further priority had been given to Irish language, audience market share, cost efficiencies and revenue generation.

d. Official Languages Act

Members considered work undertaken to date in the development of a Draft Scheme in accordance with Section 11 of the Official Languages Act. It was noted that a call for submissions had been published in the national press and had been circulated to the Irish language co-ordinating body, Comhdháil Náisiúnta na Gaeilge for distribution.

Members then considered an outline framework for the draft BAI Scheme, taking into account current levels of service delivery in the Irish language, in addition to proposals for the development of additional provisions over a three-year period.

Following discussion, the Authority was satisfied to approve the framework for a draft Scheme, as proposed.

e. TV3 Annual Review Meeting

Members considered a report on the annual review meeting held with TV3 in December 2012. Clarification was sought in respect of a figure in the note which erroneously stated that TV3 has an operating profit. It was confirmed that this figure should have been recorded as a deficit.

Members had regard to a request received from the broadcaster in respect of the five year review of public funding, and in particular a consideration of the degree to which the relevant provisions of section 108 and 109 of the Act were being fulfilled by RTÉ.

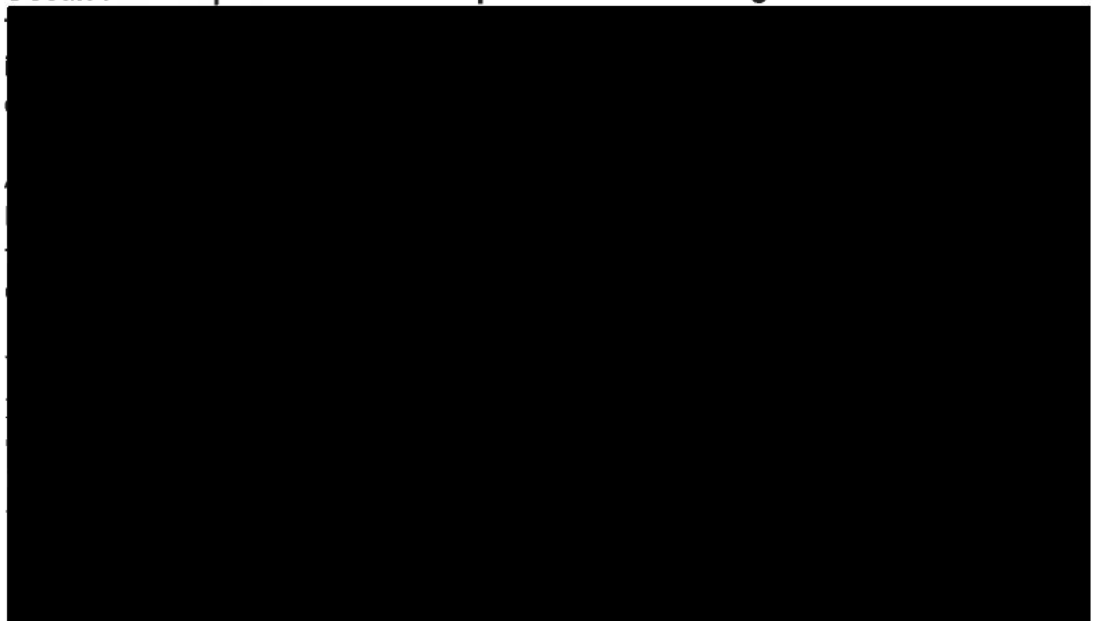
The Authority noted that a consideration of these sections of the Act in respect of both PSBs was already within the scope of the five year review project. However, the Authority



was satisfied to request that Crowe Horwath would, in addition to expressing a view on the degree to which these provisions are met, give a view as to whether the Minister should be requested to consider issuing a direction to the BAI in respect of either statutory provision.

3. Contractual Variations

a. Ocean FM: Proposal on Ownership and Control Changes



4. Organisational Matters

a. BAI & Broadcast Fund: Unaudited Financial Statements 2012

Members were presented with the draft financial statements for the BAI and the Broadcast Fund. Due to an administrative error, a revised copy of the draft financial statements for the Broadcast Fund was circulated to members at the meeting. The financial statements were recommended to the Authority for approval by the Finance, Audit and Risk (FAR) Committee, subject to audit by the Comptroller and Auditor General (C&AG).

Clarification was sought by the Members in respect of the current approval status of the BAI Superannuation Scheme and whether the Departmental undertaking to provide funding to the BAI for pension payments as they fall due had been received in writing. It was noted that this issue was being actively pursued at Executive level.



It was agreed that the attendance records and related expenses of the FAR Committee would be included under note 11 to the Financial Statements.

Following discussion, the Authority was satisfied to approve the draft financial statements, subject to no material changes which may be made by the C&AG. The Authority was further satisfied to approve the Chairperson of the Authority, the Chairperson of the FAR and the Chief Executive as the signing parties to the financial statements.

b. Bank Mandate Authorisation Signatories

Members were satisfied to pass a resolution allowing the addition of Margaret Tumelty as a signatory to the current bank mandates held by A.I.B. and Ulster Bank.

5. For Information

a. Travel and Subsistence Policy

Members noted that a revised BAI Travel & Subsistence Policy had been considered and approved by the FAR at their February meeting.

b. Procurement Policy

Members noted the revisions to the BAI's Procurement Policy, which had been considered by the FAR at their February meeting. It was further noted that all staff are informed of procurement guidelines and thresholds and are required to operate within the terms of the policy.

c. Minutes of FAR Meeting: 18th October 2012

The signed minutes of the FAR meeting of 18th October 2012 were circulated for information to the members.

d. Annual Reviews of Public Funding 2010 and 2011

A copy of correspondence received from the Secretary General of the Department of Communications, Energy and Natural Resources in respect of the Annual Review of Public Funding for 2010 was noted by the Authority.

Members were also provided with a copy of correspondence from the Chairperson of the Authority to the Minister for Communications in respect of the Annual Review of Public Funding for 2011.



6. A.O.B.

a. Annual Review of Public Funding 2011: TG4

The Chairperson referred members to the Annual Review of Public Funding for TG4, which was submitted to the Minister for Communications, along with correspondence from the Chairperson, on 18th February 2013. In particular the Chairperson referred to the recommendation in the report that TG4 consider its policy in respect of acquisitions and the use of public funds. While it was agreed that this recommendation was a valid element to include in the consultants' report from an economic analysis perspective, it was a recommendation to TG4 that its policy be reviewed and, notwithstanding any inference that might be drawn from the minute of the October 2012 meeting, it was not endorsed as a policy by the Authority. Any such endorsement would require a detailed consideration of the proposed policy's implications.

b. Contract of the CEO

Staff recused themselves from the item under discussion

The Chairman briefed the Members on a meeting with the Minister, attended by the Secretary-General. The issue of the Chief Executive's contract had been fully discussed. It was confirmed that both Departments accepted that Mr O'Keeffe had a contract of indefinite duration and it had been indicated that the Department of Public Expenditure and Reform was now willing to approve a seven year contract for the Chief executive.

The Chairman also advised the Members of the legal advice that had been sought and received following the meeting with the Minister. The advice confirmed that the BAI must recognise Mr O'Keeffe's rights, that there was no statutory impediment to his continuing in his present position and that the BAI would not be justified in offering him a new proposed contract of a fixed term of seven years.

The Authority recalled the substance of its earlier discussions and gave careful consideration to the report of the meeting with the Minister and to the current position adopted by DPER. Having regard to its earlier consideration, to the consistent and unambiguous legal advice given to it and to its satisfaction with Mr O'Keeffe's performance, it determined that Mr Michael O' Keeffe should be appointed as Chief Executive for the period until his 65th birthday and that Ministerial approval should be sought for such appointment. The BAI would prepare a draft contract to reflect Mr O'Keeffe's entitlements and the Authority decision for submission to the Minister.



7. Date of Next Meeting

The next meeting of the Authority will be held on Monday, 25th March at 9.30am in the BAI offices.

Bob Collins,
Chairperson

25th March, 2013