



# Minutes of Meeting of the Authority of Broadcasting Authority of Ireland

**Date** 16/12/2013 **Time:** 9.30am **Venue:** 2-5 Warrington Place, Dublin 2

## Minutes

### Attendance

**Authority:** Bob Collins, Larry Bass, Paula Downey, Colum Kenny, Michelle McShortall, Maria Moloney, Michael Moriarty, Siobhán Ní Ghadhra, John Waters.

**Executive:** Michael O'Keeffe, Celene Craig, Aoife Clabby, Ciarán Kissane, Margaret Tumelty, Declan McLoughlin, Freda Comiskey, Patricia Kelly (item 3), Ann Travers (item 3), Clare O'Sullivan (item 4), Diarmaid Breathnach (item 7).

### 1. Minutes of Previous Meeting and Matters Arising

Minutes of the previous meeting of the Authority, held on 18<sup>th</sup> November 2013, were approved by the Members and signed by the Chairperson.

#### a. Broadcasting Funding Scheme: Sound & Vision 3 Public Consultation

Members were informed that the public consultation on a new draft Scheme, Sound & Vision 3, was launched on November 21<sup>st</sup> and that a briefing for stakeholders was held on December 2<sup>nd</sup>.

#### b. BAI Conversation on Programme Standards

Members discussed feedback received in relation to the conversation event on programme standards, which took place in Smock Alley on December 12<sup>th</sup>. The feedback received was very positive and it was felt that the event was dynamic and encouraged engagement and contribution from those who attended. Members discussed future such events and the manner in which they might be structured in order to facilitate further contribution. It was agreed that this matter would be discussed early in the New Year. Members recorded their particular thanks to the team involved in organising the initiative.

#### c. Review of Commercial Digital Terrestrial Television (DTT)

The Chairperson informed the Members that he had issued a letter to the Minister for Communications, Energy and Natural Resources regarding the findings of the Review of Commercial DTT, conducted on behalf of the BAI by O&O Associates. Members noted that the Chairperson's correspondence contained a request for an early meeting to discuss the report findings in more detail. Members were advised that the Minister had requested that the BAI would delay publishing the report for a short period of time in order to review and reflect on the report findings prior to their publication. The Authority was satisfied that this request could be accommodated and agreed that the report would be made publicly available in the first week in January.



**d. PSB: Five Year Review of Public Funding Outcomes**

The Chief Executive advised Members that Indecon Economic Consultants had been selected to undertake the review of the advertising market which was being operated by the Department of Communications, Energy and Natural Resources (DCENR).

The Deputy Chief Executive advised the Members that, since the completion of their work on the five year review of public funding for the BAI, Crowe Horwath had been engaged by RTÉ to undertake a number of workshops with them to further examine the recommendations arising out of the review as they applied to RTÉ.

Members were also advised that the report concerning efficiencies in RTÉ, being conducted by NewERA for DCENR, was due to be completed shortly.

**e. BAI Strategy Statement 2014-2016**

It was noted that the final draft of the Strategy Statement would be circulated for final review to the Members, with the aim of launching the Strategy Statement early in the New Year.

**f. Competitive Licensing Process: South East Regional Youth Service**

Members were informed that correspondence had been received from Mr. Colm Dunphy, a member of the Power FM Group, who submitted an Expression of Interest for the South East Regional Youth Service. The group did not subsequently submit a licence application and Mr. Dunphy submitted a letter of complaint, requesting that the matters of concern outlined in the correspondence would be considered by the Authority. Members were advised that the correspondence and an Executive note would be prepared for the February meeting.

**g. Investment Management: [REDACTED]**

In accordance with anti-money laundering requirements under the Criminal Justice Act, Members were reminded to provide the additional, personal information [REDACTED] in order to proceed with the inclusion of the bank in the BAI's investment portfolio.

**2. Policy**

**a. On-Demand Audio Visual Services (ODAS): Revised Code of Conduct**

Members considered a note concerning a request to approve a revised Code of Conduct that will apply to providers of on-demand media services, submitted by the ODAS Group. Members were reminded of the background to the development of the voluntary code and the BAI's role in relation to it. It was noted that the Code had been approved by the BAI in 2010 and was subject to review of a number of issues.

Members expressed the view that the revisions to the Code were minor in nature and remained in line with the requirements of the relevant elements of the European Audiovisual Media Services Directive and the Statutory Instrument. In expressing this view the



Authority had regard to three contextual factors: the regulatory ethos pertaining to on-demand services in the European Directive; the size and range of on-demand audiovisual media services currently available; and, the relatively short time since the transposition of the European Directive into Irish law.

Members sought clarification in respect of the rules relating to programme content and a proposal to expand the scope of content that is covered by the Code. Members were satisfied that a requirement contained in the Code that any news and current affairs content be fair, objective and impartial, was not inconsistent with the provisions of the European Directive.

The Authority had regard to its previous request that the ODAS Code of Conduct would be promoted by the ODAS Group and considered current levels of promotion of the Code to be unacceptable.

The Members also agreed that the matter of accessibility should be given active consideration by the ODAS Group in 2014 with a view to updating the Authority on progress by the year end.

More broadly, the Authority discussed matters relating to the evolution of content provision across a range of platforms and the potential impact on the regulation of on-demand content. While it was acknowledged that the number of on-demand service providers operating in Ireland was currently low, it was felt that there would be benefit in the Authority being apprised of developments at a European level which could helpfully feed into policy consideration in this area.

The Authority was satisfied to approve the revised ODAS Code of Conduct, subject to active consideration of and reporting on, accessibility issues by the ODAS Group in 2014 and appropriate promotion of and access to the Code, to be undertaken early in the New Year.

### **3. Sectoral Learning and Development**

#### **a. Review of Activities 2013 & Plan 2014**

Members considered a proposed Sectoral Learning and Development workplan and budget for 2014. The workplan provided detail of the various networks' requested funding and the amounts proposed by the Executive, subject to Authority approval.

Following discussion, the Authority was satisfied to approve the proposed activities and the associated budget of €337,250 for 2014.

The Authority also considered a funding proposal received from UCD to support the development of a new MSc in Media, Critical Thinking and Society. While the Authority was supportive of a masters' programme of this nature, it did not believe it would be feasible for the Authority to fund its development. However, the Authority expressed an interest in



considering the possibility of developing a scholarship initiative, which would be in line with the organisation's Sectoral Learning and Development Policy. It was agreed that the Executive would revert with proposals in this regard by the end of Quarter One.

#### **4. Contractual Matters**

##### **a. Spin South West: Appointment of CEO**

Members considered a proposal received from Spin South West, seeking the Authority's approval for the appointment of Mr. Jamie Crawford to the position of Chief Executive on a joint basis with Spin 1038, where Mr. Crawford has been CEO since 2008. It was further noted that Mr. Crawford had been acting CEO of Spin South West since October 2011.

In considering the proposal, Members had regard to a submission made by the Chief Executive of Communicorp Group Limited and the relevant provisions of the BAI Ownership and Control Policy 2012.

Following discussion, the Authority was satisfied to approve the request, as submitted.

##### **b. 98FM: Management Structure**

Members considered a proposal received from 98FM, seeking approval for a proposed new management structure for the service, entailing an enlargement of the role of the Programme Director, Mr. Michael Brett, to encompass station management and marketing activities. It was noted that the proposal included a commitment to provide support to the management of the station through the Communicorp Senior Management team.

In considering the proposal, Members had regard to a submission made by the Chief Executive of Communicorp Group Limited and the relevant provisions of the BAI Ownership and Control Policy 2012.

Following discussion, the Authority was satisfied to approve the request, as submitted.

##### **c. Proposed re-financing of Tullamore Beta Group (TV3 and 3e)**

The Authority considered a proposal received from Tullamore Beta Group; the parent company of TV3 and 3e, seeking approval for the transfer of security over the assets of the company from the Irish Bank Resolution Corporation (IBRC) to its new lenders, Blue Bay Ireland Corporate Credit Limited and Ulster Bank. It was noted that such approval was a contractual requirement for the company with the BAI.

In considering the proposal, Members had regard to the submission received from Tullamore Beta Group, together with advice received from the BAI's legal advisors.

Following discussion, the Authority was satisfied to approve the proposal, as submitted.





## **5. Broadcasting Fund**

### **a. Sound & Vision II: Round 19 Outcomes**

*As the Chairperson had participated in the strategic evaluation phase of this round, he recused himself from taking part in the Authority's deliberations on the outcomes.*

Members considered an Executive note presenting the outcomes of the assessment process of Sound & Vision II and the package of recommendations emerging. Members were advised that the package of recommendations, if ratified, would be above the indicative allocation of €3.5m for the round.

Members noted the details of the applications received and had regard to the Executive analysis, including a consideration of the diversity of content, the audiences served and the language and funding elements of the Scheme. Members also considered the rounds conducted across 2013 and discussed a range of issues arising including, *inter alia*, the volume and quality of applications received, the assessment process, matters of compliance and the impact of administration of the Scheme on BAI resources.

Following discussion, the Authority was satisfied to approve the package of recommendations, supporting 109 radio and television projects to a value of €4.489m.

## **6. Organisational Matters**

### **a. BAI Borrowing Facility**

Members were reminded that in October 2012, the BAI had received approval from the Minister for Communications, Energy and Natural Resources, with the consent of the Minister for Finance, for the BAI to borrow temporarily from the National Treasury Management Agency (NTMA) for a period of one year. Members noted that, due to the nature of the levy model, an on-going borrowing facility was required for the organisation and in that regard, the BAI had sought sanction from DCENR to borrow temporarily for the purposes of providing for current expenditure, further to section 35(1) of the Broadcasting Act 2009.

Having considered the documentation provided by the Executive, the Authority was satisfied to approve a resolution in respect of a borrowing facility with the NTMA and to ratify the NTMA Customer Mandate.

The Authority was further satisfied to delegate authority for decision making between meetings to the Chairperson and the Chief Executive so that matters pertaining to the borrowing facility could be progressed, in the event that sanction was provided by the Minister for Communications, with the consent of the Minister for Public Expenditure and Reform.



## **7. For Information**

### **a. PSB Annual Statement of Performance Commitments: Revised Framework**

Members were provided with a copy of the Framework for Broadcaster Returns, which was developed in line with the recommendations arising from the Crowe Horwath report on the five-year review of public funding for public service broadcasters. A number of observations were made in respect of the possible absence of some genres in the framework and it was agreed that these issues would be considered further by the Executive.

### **b. Standards in Public Office: Declarations of Interest**

Members of the Authority were reminded of their obligations under the Ethics Acts and were circulated with an Annual Statement of Interests form, for the calendar year 2013. Members were reminded that completed statements should be provided to the Standards in Public Office Commission no later than 31<sup>st</sup> January 2014, and that a copy of any return made should be provided to the Secretary of the Authority.

### **c. BAI Sponsorship Scheme 2014**

Members were provided with a note outlining the proposed BAI Sponsorship Scheme for 2014, together with an overview of sponsorship activities undertaken in 2013. It was noted that sponsorship totalling €110,000 was being provided to seventeen different events/activities in 2014.

### **d. Recommendations of the Contract Awards Committee**

A note was circulated to Members detailing contracts entered into further to sections 71(4) and (68)1 of the Broadcasting Act. A total of fourteen contracts were entered into in the period.

## **8. Any Other Business**

The Chairperson recorded his thanks to the Members for their contribution to a busy and productive year. The Authority recorded its thanks and appreciation to staff members for their contribution over the course of the year.

## **9. Date of Next Meeting**

The next meeting of the Authority will be held on Monday, 3<sup>rd</sup> February 2014, at 9.30 am in the Radisson Blu Hotel, Stillorgan, Co. Dublin.

**Bob Collins,  
Chairperson**

**3<sup>rd</sup> February, 2014**