



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

**Date** 14/04/2014 **Time:** 9.30am **Venue:** 2-5 Warrington Place, Dublin 2

## Minutes

### Attendance

**Authority:** Bob Collins, Larry Bass, Paula Downey (items 2-5) Colum Kenny, Michelle McShortall, Seamus Martin, Maria Moloney, Michael Moriarty, Siobhán Ní Ghadhra.

**Executive:** Michael O’Keeffe, Celene Craig, Aoife Clabby, Diarmaid Breathnach (item 2d), Brian Furey (items 1-2b), Ciarán Kissane, Neil O’Brien (items1-2,) Margaret Tumelty.

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

Minutes of the meetings of the Authority, held on 3<sup>rd</sup> February and 10<sup>th</sup> March were approved by the Members, subject to a minor typographical correction, and signed by the Chairperson.

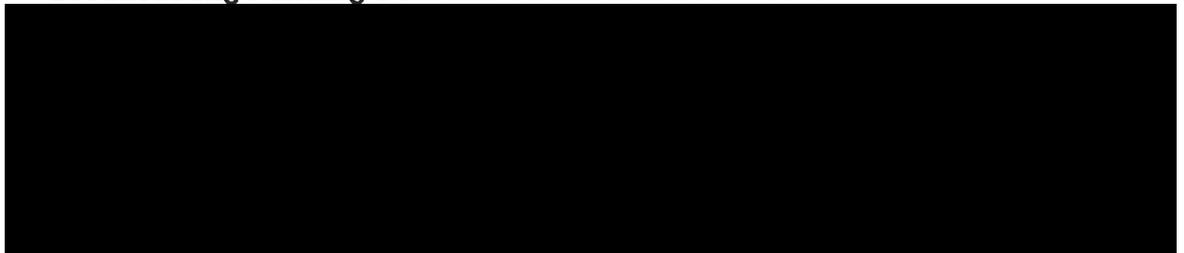
#### a. Section 71 Content Contract

A copy of the letter issued to the Minister in relation to contracts granted under Section 71 and regulatory issues arising was circulated to the Members.

#### b. Phantom 105.2/TX FM

Members were informed that the Phantom 105.2 service had been re-branded as TXFM and had commenced broadcasting under its new name on March 31<sup>st</sup>.

#### c. Broadcasting Funding Scheme: Sound & Vision 3 Scheme



#### d. Authority meeting with RTÉ Board

Members were advised that communication had taken place with RTÉ to explore the possibility of setting up a meeting between the RTÉ Board and the Authority of the BAI. The challenge of agreeing a meeting date was noted, in the context of the impending completion of the term of office of a number of members of the RTÉ Board. Members discussed a number of possibilities and alternatives in detail. On balance, it was agreed that there would be value in seeking to meet the RTÉ Board prior to the completion of its



term of office. It was further agreed that a letter would issue from the Chairperson of the BAI to the Chairperson of RTÉ in this regard.

- e. Sectoral Impact Assessment/Public Value Test: RTÉ International**  
Members were informed that the report of the SIA and PVT, conducted by the BAI, had been submitted to the Minister. It was noted that the Minister had given RTÉ his approval for the proposed service and that a copy of correspondence in this regard was awaited.
- f. KCLR FM**  
It was noted that the contract signing with KCLR FM for a ten-year, local sound broadcasting contract, for the Carlow/Kilkenny franchise area, was scheduled for signing on April 15<sup>th</sup>.
- g. Power FM**  
A copy of the correspondence which had issued to Power FM was circulated to the members for information.
- h. One Person One Salary**  
Members were advised that correspondence had issued to the Department of Communications, Energy and Natural Resources, outlining the BAI's position in respect of the application of the One Person One Salary provisions.
- i. Irish Film and Television Awards**  
Members briefly discussed the Awards, which had taken place the previous week and the support provided by the BAI to the event. It was noted that the BAI's future involvement with the event would be considered at a later date.
- j. RTÉ Audience Council Climate Change Report**  
Members acknowledged receipt of the report and discussed the research model used, the report outcomes more generally and the manner in which matters relating to climate change received coverage by the PSB. The initiative of the Audience Council was commended by the Members.

## 2. Policy

- a. Code of Programme Standards: Draft Code**  
Members were presented with a revised draft of the Code of Programme Standards for consideration. An overview was provided of the key differences between the draft under consideration and the draft considered by the Authority at its March meeting. Members noted that a mapping exercise had been undertaken to demonstrate the approach to the



revision of the Code, the proposed changes made and the rationale for the various amendments. Members also had regard to the issues outlined in the Executive note, in particular points raised regarding the transition from a rule to a principles-based approach and the likely responses to such a transition. It was noted that, in this regard, the context for such a transition would require clear articulation in the public consultation document.

Being mindful of its request that a further drafting exercise would approach the re-development of the Code from a principles-based perspective, the Authority was nonetheless concerned that the draft, as presented, might not be as accessible to viewers and listeners, and might not provide the expected level of guidance to broadcasters, as had been envisaged originally. It was also agreed that many of the concerns raised by the Authority pertained to matters of media literacy and the interaction of citizens with the complaints process generally. It was agreed that the relevant statutory parameters should be clearly set out at the beginning of the Code.

Following detailed discussion in respect of the various elements of the draft Code, and having regard to how the viewer and listener might best be served in respect of using the Code to make a complaint; the Authority agreed that a number of amendments should be made to the existing draft, in particular:

- A clearer articulation of the Code's principles
- The development of a more succinct introduction to the Code
- The inclusion at the start of the Code, of the relevant statutory provisions
- Consideration as to whether an appendix to the Code might deal with how complaints are made.

The Authority further agreed that a number of its members would work with the Executive to develop a version of the Code which drew on both drafts and that, while the next iteration of the Code should prioritise a 'principles' approach, it should also provide sufficient information for the broadcaster, viewers and listeners to assist in their interpretation of the requirements placed on broadcasters by the Code. The Authority requested that the Compliance Committee would be asked for its feedback on the practical application of the Code, prior to the Authority's further consideration of it at the meeting on May 19<sup>th</sup>.

**b. BAI Access Rules: Statutory Review**

Members were presented with the outcomes of the statutory review process, which had been conducted between January and March. The Authority considered a number of options and recommendations in respect of the potential revision of the Rules, relating primarily to the targets to be achieved by broadcasters in the forthcoming two years.



In considering the outcomes of the statutory review process, it was noted that there were no calls for significant changes to the Rules and that the recommendations for change related largely to the targets themselves and the manner in which considerations of quality and reliability were recognised in calculating the targets achieved by broadcasters on an annual basis.

Members had regard to the report of the BAI Compliance Committee detailing the targets achieved by broadcasters for 2013, their plans for 2014 and a range of issues arising in respect of compliance with the Access Rules generally. It was noted that, while compliance with access provision had risen considerably, significant issues remained in respect of the reliability and quality of that provision. It was further noted that the establishment of the BAI User Consultative Panel had provided a useful mechanism for discussing issues of quality and reliability.

The Authority was advised that levels of Irish Sign Language (ISL) remained low and that Audio Description (AD) would begin on RTÉ in 2014. In these regards, user representatives had requested targets for the provision of both ISL and AD on the RTÉjr service. The Authority also noted that, while there was no appetite among user representatives to mandate or specify genres of programming that broadcasters should prioritise in terms of access provision, representatives nonetheless would welcome the prioritisation of home produced Irish content that is unique to Irish services. The Authority had regard to the lack of awareness of AD among independent producers and the consequential lack of take-up of funding within the Sound & Vision Scheme for AD provision. The Authority also considered a request from broadcasters that the BAI would work with them in addressing difficulties encountered with regard to live subtitling.

Following the discussion, the Authority expressed its satisfaction with the outcomes of the statutory review and was encouraged by the report findings. The importance of on-going monitoring to track issues arising was noted. The proposed revisions to the Access Rules, up to 2018, were approved, as submitted. The Authority was further satisfied that programmes demonstrating poor quality and reliability of access provision would not be counted towards the achievement of the overall target by a broadcaster. The Authority directed that the BAI should work with broadcasters in addressing the issues highlighted in relation to live subtitling. Finally, the Authority requested that, under its Section 71 contract with the BAI, UTV Ireland Limited would be asked to volunteer access targets.

It was noted that a public consultation process on the revised Access Rules would commence at the end of May and that the outcomes of the consultation process would be presented to the Authority for its consideration in September.



**c. Consumer Protection and Competition Bill 2014: Media Merger Provisions**

Members were presented with an Executive note outlining the key elements of the new media mergers provisions, contained in Part 4 of the draft Consumer Protection and Competition Bill, together with a copy of Part 4 of the draft legislation. Members had particular regard to the proposed definitions; the role of the BAI in a full media merger examination; ministerial guidelines on the application of the relevant criteria and the appointment of an Advisory Panel; and the requirement for the BAI to publish information on media ownership.

Members considered the Executive comment in respect of each of the provisions contained in the note and made the following observations:

- Specific wording amendments were proposed in respect of section 28A.(1) of the proposed Bill;
- Concern was expressed in relation to the Advisory Panel from an operational perspective, in particular the scope of the panel; the manner in which it might be activated by the Minister; and how the provision for the panel fits within the Authority's other powers, in the context of the provisions of the Broadcasting Act;
- Concern was also expressed with regard to the definition of 'media business' and whether this definition would need to align with the definition of 'communications media', as provided for in the Broadcasting Act. It was agreed that careful consideration needed to be given to this matter;
- The requirement for the BAI to publish information on the totality of media ownership, in the context of the organisation being funded solely through a levy on broadcasters was seen to be a potentially inequitable arrangement. In addition, it was felt that such a requirement to publish information would be important for the BAI but would require substantial resources.

Members broadly welcomed the publication of the Bill, the proposed approach to media mergers and the envisaged involvement of the BAI. However, the Authority was concerned to ensure that feedback in respect of the various provisions impacting on the BAI would be provided in as timely a manner as possible, in order to feed into parliamentary consideration of draft legislation. Members discussed the envisaged timeframe for enactment of the Bill. It was agreed that further liaison between the Executive and DCENR officials would be pursued, if required. It was further agreed that a workshop would be held in early May to consider and determine the Authority's submission on the draft Bill and that an update would be provided to the full Authority at its meeting on May 19<sup>th</sup>.



**d. TG4 5 Year Strategy Addendum Analysis**



**3. Organisational Matters**

**a. Review of the Functioning of the Authority and Statutory Committees:  
Proposed Approach**

Members were presented with an Executive note, outlining a proposed approach to the review of the functioning of the Authority and Statutory Committees, in line with the 2014 workplan deliverables. It was noted that the outcomes of the review would contribute to the development of an induction plan for the new appointees to the Authority and Committees in late 2014/early 2015. Members were broadly satisfied with the scope of the proposal. With regard to the proposed approach, the Authority was satisfied for the review to be externally facilitated. It was suggested that the Authority and Committees would be facilitated separately in order to extract maximum value from the process and



bearing in mind the discrete functions of the Authority and Committees respectively. It was further proposed that an opportunity should also be provided to members to provide written feedback into the process, should they so wish.

**b. IT Procurement and Licensing**

Members considered an Executive note providing information regarding the recent tendering process for an IT company to support the BAI and the outcomes of the negotiation process on software licensing agreements for the BAI's Service Now Platform, which is used to run BAOnline.ie.

The Authority was satisfied to approve the appointment of HiberniaEvros as the IT support company for the BAI, for a period of three years, following the outcomes of the joint ComReg/BAI public procurement process.

The Authority was further satisfied to approve the licensing agreement for the BAI Service Now platform, in the context of current and future envisaged use.

**4. Any Other Business**

**a. Resignation of Mr. John Waters**

At the request of Professor Colum Kenny and arising from an FOI release by the Department, correspondence, internal and with the Department, relating to the resignation of John Waters was circulated to the Members for information. Professor Kenny expressed his concern that the wording of a letter from the Minister for Communications to Mr. Waters had inappropriately and imprecisely represented the views of the BAI and its predecessor, the BCI. Professor Kenny's views were noted but were not shared by the Members.

**5. Date of Next Meeting**

The next meeting of the Authority will be held on 19<sup>th</sup> May, at 9.30am in the BAI offices.

**Bob Collins,**  
**Chairperson**  
**19<sup>th</sup> May, 2014**