



Minutes of Meeting of the Authority of Broadcasting Authority of Ireland

Date 08/10/2015 **Time:** 10.00am **Venue:** 2-5 Warrington Place, Dublin 2

Minutes

Attendance

Authority: Pauric Travers (Chairperson), Alan McDonnell, Grace Smith, Séamus Martin, Seán Ó Mórdha, Denis Wolinski, Rosemary Day, Maeve McDonagh, Clare Duignan.

Executive: Michael O'Keeffe, Celene Craig, Aoife Clabby (Secretary), Ciarán Kissane, Clare O'Sullivan (item 5.1 & 5.2), Stephanie Comey, Neil O'Brien (items 1-3), Declan McLoughlin (item 3), Anne O'Brien (item 4.2), Elizabeth Farrelly (items 4.2-5.1), Roger Woods (item 5.2)

1. **Address by Minister for Communications, Energy and Natural Resources, Alex White T.D.**

At the outset of the meeting, the Chairperson welcomed the attendance of the Minister for Communications, Energy and Natural Resources, Mr. Alex White T.D., along with officials from his Department. He then invited the Minister to address the members.

The Minister recorded his thanks for receiving the invitation to meet with the Authority. He acknowledged the role of the BAI and the degree to which the organisation had established its regulatory position since 2009. The Minister also acknowledged the wealth of experience and insight available to the BAI through the board members and took the opportunity to wish the Authority well over the course of its term of office.

The Minister went on to address existing broadcasting legislation and changes envisaged to the statute in the short to medium-term. In particular, the Minister addressed the issue of funding for public service broadcasters. He affirmed his support for a broadcasting charge, while acknowledging the requirement for public acceptance and for sufficient time to effect a transition from a licence fee structure to a household charge.

[REDACTED]

The Minister acknowledged receipt of the report reviewing the effectiveness of the General Commercial Communications Code and noted the forthcoming public consultation process. He also expressed his appreciation for the BAI's engagement to date with both his Department and the Department of Health with regard to possible revisions to the Code.



The Minister stated that he looked forward to receiving the BAI's report on ownership and control of media businesses in Ireland, further to the organisation's new responsibilities under the Competition and Consumer Protection Act 2014.

The Chairperson recorded his thanks to the Minister for providing an update in relation to the anticipated legislative changes and articulated the Authority's support for the principle of a broadcasting charge to replace the current licence fee system. The Chairperson also indicated the BAI's willingness to support any future awareness initiatives to assist a transition to the broadcasting charge. The Chairperson welcomed the fact that the Minister would shortly be laying the report on the effect of the General Commercial Communications Code before the Houses of the Oireachtas. He emphasised the importance of the timely publication of such reviews and reports in furthering the transparency of the BAI's regulatory functions. The Chairperson outlined a number of operational and strategic issues that would be the focus of the Authority, in the context of the existing BAI Strategy Statement.

The Chief Executive recorded his appreciation of the excellent, co-operative relationship between the BAI executive and officials in the Minister's department. He noted the high degree of engagement by the newly appointed Authority and statutory committees and the degree to which such engagement would assist in pursuing existing and future strategic agendas.

2. Minutes of Previous Meeting and Matters Arising

Minutes of the previous meeting of the Authority, held on 10th September 2015, were approved by the members and signed by the Chairperson. Matters arising were outlined as follows:

a. Public Service Broadcasting Matters

The Authority was advised that a consultation response had issued to the Minister in respect of RTÉ's Public Service Statement, further to the Authority's statutory duties in this regard.

The Authority noted that the Annual Review of Public Funding for RTÉ and TG4 was scheduled for submission to the Department before the end of the month. It was also noted that a Ministerial response to the Annual Reviews of Public Funding for 2012 and 2013 were awaited.

The Authority was advised that correspondence had issued to RTÉ, outlining the Authority's views in relation to RTÉ's proposed Fair Trading Policy and that a meeting had been scheduled to progress the matter further.

b. General Commercial Communications Code

The Authority was advised that the report on the effect of the General Commercial Communications Code had been laid before the Houses of the Oireachtas. The members were updated regarding progress on the development of a revised draft Code and timeframes for public consultation.



c. BAI 3-Year Estimates

The Authority was advised that a number of clarifications were being sought by the Department in respect of the BAI's 3-year estimates and that correspondence on the matter was ongoing.

3. Codes & Policy

a. Report on the Ownership and Control of Media Businesses in Ireland 2011-2014

Members gave consideration to the statutory report on Ownership and Control of Media Businesses in Ireland 2011-2014. The statutory report was informed by a research report prepared by Communications Chambers on behalf of the BAI, and had been the subject of a presentation and discussion at the September meeting of the Authority.

Members briefly discussed the framework within which the report had been developed, specifically the provisions of section 28(M)1 of the Competition and Consumer Protection Act 2014.

Following discussion, the Authority was satisfied to approve the report, as submitted, subject to a small number of drafting amendments.

b. Rule 27-Guidelines on General Election Coverage

Members considered draft guidelines, to apply to the forthcoming general election, further to rule 27 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. It was noted that the draft guidelines reflected those in place for recent elections and referenda campaigns and that no policy changes were proposed.

Clarification was sought in relation to the moratorium on coverage of the general election and the rationale for its continued application, in the context of a changing media environment. Following a discussion on the matter, it was agreed that there would be merit in reviewing the application and impact of the moratorium, in the aftermath of the forthcoming general election.

The members then went on to consider a request received from broadcasters that the BAI General Election Guidelines would be issued at an earlier date, in order to facilitate their consideration and to enable broadcasters clarify any issues with the BAI, in advance of the effective date of the Guidelines. It was agreed that this would be a useful exercise and the Authority was satisfied to grant the request.

The Authority was satisfied to approve the BAI General Election Guidelines, as drafted. It was noted that the guidelines would come into effect on the date that the general election was called.



4. Broadcasting Funding Scheme

a. Sound & Vision-Round 24 Ratification

Members considered an executive note detailing the outcomes of the assessment process in respect of round 24 of the Sound & Vision Scheme. The Authority was asked to ratify a package of recommendations emerging from the assessment process, seeking to award €5.208m to 114 projects. It was noted that the amount proposed was an increase of €0.46m on the indicative allocation of €4.75m.

In considering the request for ratification, the Authority had regard to a summary of the applications received; an overview of the assessment process for round 24; an analysis of the package of recommendations with reference to the Scheme's objectives; and, an executive commentary on the round 24 and on 2015 as a whole.

The Authority discussed the round outcomes in a variety of contexts, having regard to the mix of broadcasters, programme genres and round structures generally. It was agreed that the issue of programme genres would be tabled for further consideration and discussion by the Authority in the first half of 2016.

Following discussion, the Authority was satisfied to increase the indicative allocation for round 24 of Sound & Vision from €4.75m to €5.208m, as recommended and was further satisfied to approve the package of recommendations, as presented.

b. Archiving Scheme- Round 3 outcomes

Members considered an executive note presenting the outcomes of the assessment process for round 3 of the Archiving Scheme and seeking approval for the award of funding totalling €1.36m to six projects.

In considering the request for approval, members had regard to the details of the applications received, the assessment process and the recommendations of the assessment panel.

Following discussion, the Authority was satisfied to approve the package of recommendations, as presented.

5. Broadcasting and Contractual Matters

a. TV3 Contractual Variation

Members considered a further submission received from TV3 Television Network Limited ("the Contractor"), regarding the Authority's approval, in principle, for the proposed acquisition by Virgin Media Limited, a wholly owned subsidiary of Liberty Global Plc, of sole control of the Contractor. [REDACTED]



[REDACTED]

In considering the submission, the Authority also had regard to executive analysis of the issues arising and the degree to which these had been addressed in the submission by TV3 Television Network Limited.

[REDACTED]

[REDACTED]

Following detailed discussion, and having regard to all of the material at its disposal, the Authority was satisfied that the submission received from the Contractor provided the necessary information, clarifications and commitments required by the Authority. The Authority was, therefore, satisfied to fully approve the proposed acquisition of TV3 Television Network Limited by Virgin Media Limited.

b. Access Rules: Oireachtas TV Proposals

Members considered a proposal to extend the Access Rules provisions to the television broadcasting service, Oireachtas TV. It was noted that the current policy of the BAI was to extend the rules to newly licensed services one year after the commencement of broadcasting.

In considering the proposed levels of access provision for Oireachtas TV, the Authority had regard to the decision-making framework for setting access provision targets, the submission made by Oireachtas TV and an executive analysis of the levels proposed.

Following discussion, the Authority was satisfied to approve the proposed sub-titling and Irish Sign Language targets for Oireachtas TV, with effect from 1st January 2016.

Members were advised that the statutory review process of the Access Rules, scheduled to commence in 2017 would provide a further opportunity to review the targets and timeframes set for all broadcasters, having regard to broadcasters' circumstances and prevailing influencing factors.



c. Content Provision Contracts (S71)

In their capacity as members of the Contract Awards Committee, Séamus Martin, Grace Smith and Celene Craig declared an interest in the item under discussion and recused themselves from the meeting.

Members considered the recommendation of the Contract Awards Committee that the Authority enter into a five-year content provision contract with Setanta Sports Channel Ireland Limited.

Following discussion, the Authority was satisfied to enter into a five-year content provision contract with Setanta Sports Channel Ireland Limited.

d. Temporary Sound Broadcasting Contracts

In their capacity as members of the Contract Awards Committee, Séamus Martin, Grace Smith and Celene Craig declared an interest in the item under discussion and recused themselves from the meeting.

Members considered and approved the recommendation of the Contract Awards Committee to enter into temporary sound broadcasting contracts with five applicants, further to section 68(1) of the Broadcasting Act.

e. Licensing Plan 2015: Ratification of Decision Taken Between Meetings

Members were provided with a note detailing a decision that had been taken between meetings, by the Chairperson and the Chief Executive, in respect of the categorisation of the proposed special interest speech service for Dublin City. It was noted that the Broadcasting Act did not make provision for a hybrid service. Accordingly, for the purposes of licensing, the service had been categorised as a community sound broadcasting service, further to section 64 of the Act, on foot of legal advice received in respect of the nature and characteristics of the service currently operated.

Members were advised that the decision had been taken in line with the formal procedures for decision-making between meetings, in relation to matters normally reserved for the Board. Accordingly, the decision was formally ratified by the Authority.

6. For Information

a. Minutes of Compliance Committee

Minutes of the Compliance Committee meeting, held on 15th July, were circulated to the Authority for information.

b. Contractual Variations-Executive Approvals

In accordance with the approved decision-making framework, the Authority was notified of five contractual variations for various radio and television services that had taken place at executive level.



c. BAI Lease on Marine House Premises

The Authority was circulated with a copy of the independent review of the proposal recommending the buyout of the lease of premises at Marine House, Dublin 2.

7. Any Other Business

- Members were advised of the forthcoming Irish Film and Television Awards, scheduled to take place on Thursday 22nd October.
- A number of documents were circulated to the members at the meeting, including the minutes of the Finance, Audit and Risk Committee, the BAI Annual Report and Accounts 2014 and a copy of the September 2015 issue of the publication, Governance.
- Members were apprised of a trial of software to move to paperless meetings and a number of members indicated their interest in participating.
- A small number of requests were made by the members in relation to the papers circulated for the meetings.

8. Date of Next Meeting

The next meeting of the Authority will be held on Thursday, 12th November, 2015 at 2p.m. in the River Lee Hotel, Cork.

Professor Pauric Travers
Chairperson

12th November
8th October, 2015 A.C.
Secretary