



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

**Date** 17/12/2015 **Time:** 2.00pm **Venue:** BAI Offices

## Minutes

### Attendance

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

**Apologies:** Maeve McDonagh

**Executive:** Michael O'Keeffe, Celene Craig, Aoife Clabby (Secretary), Ciarán Kissane (items 1-3), Louise McLoughlin (item 2.1), Elizabeth Farrelly (items 2.3-3.1), Nuala Dormer (items, 2.3, 2.4) Roger Woods (item 2.3), Andrew Robinson (item 3.2).

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

Minutes of the previous meeting of the Authority, held on 12<sup>th</sup> November 2015, were approved by the Members and signed by the Chairperson, subject to an agreed amendment to the minute regarding the community sound broadcasting contract. A revised agenda, to reflect an additional item, was circulated at the outset of the meeting. Matters arising were as follows:

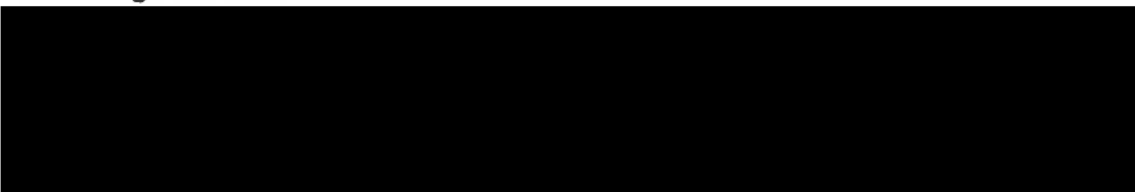
#### a. 3 Year Estimates

The Members were advised that approval to publish the three-year estimates had been received from the Department of Communications, Energy and Natural Resources and that the estimates were now on the BAI web-site.

#### b. Community Sound Broadcasting Contract

Members were advised that the draft community sound broadcasting contract had been referred to the BAI's legal advisors, following the November meeting of the Authority. The Chief Executive provided an overview of the amendments made to the contract, following further legal review. The Authority was satisfied to approve the draft Community Sound Broadcasting Contract, on foot of the clarifications received.

#### c. Licensing Plan 2015



#### d. TV3

The Chief Executive advised that the sale of TV3 Television Network Limited to Virgin Media Limited had been approved by the Minister, in accordance with his functions under the Competition and Consumer Protection Act. He further advised that an introductory meeting had been held with representatives of Virgin Media Limited and that an end of year review meeting would be held in relation to TV3 Television Network Limited in late



quarter one. It was noted that the Chief Executive of TV3, Mr. David McRedmond, had announced his intention to step down from the position at the end of the year. The Authority expressed its appreciation to Mr. McRedmond for his contribution to the TV3 service.

## **2. Codes & Policy**

### **2.1 Draft General Commercial Communications Code – Part 2**

The Authority was presented with the second part of a revised draft of the BAI General Commercial Communications Code, addressing the proposed rules relating to specific products and services, and prohibited communications.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



## **2.2 TG4: Public Service Statement**

The Authority was presented with a copy of TG4's Public Service Statement (PSS) and an accompanying Executive assessment. It was noted that, further to the statutory provisions, the Minister was required to consult with the Authority in relation to the PSS prior to giving his consent to the Statement. In considering the PSS, the Authority had regard to the origins and role of the PSS, together with an Executive commentary on the provisions of TG4's Statement for 2015.

Following discussion, the Authority was satisfied that the Public Service Statement submitted by TG4 satisfactorily addressed the statutory requirements. The Authority was further satisfied that the principles outlined in the statement and the activities listed in fulfilment of these principles reflected TG4's objects, as set out in the Broadcasting Act 2009. The Authority also welcomed a number of small additions to the PSS.

## **2.3 BAI Access Rules: Extension to Content Contracts (section 71)**

The Authority considered an Executive note regarding the extension of the BAI Access Rules requirements to five television broadcasting services, operating under section 71 content provision contracts. It was noted that the BAI's current policy requires the consideration of an extension of the Rules to such services after one year in operation.

In considering the five services; QYOU TV, Eurasian, Eurasian Plus, Premier Sports and CSI Fight Sports, the Authority had regard to the decision-making framework within which targets and timeframes for access service provision may be set; the rationale for setting sub-titling targets for services broadcasting to mainland Europe and outside the EU; submissions received from the broadcasters; and, Executive proposals regarding access obligations.

Following discussion, the Authority was satisfied that no sub-titling targets would be set for the five services in question, for the period 2016-2018. In reaching its decision, the Authority had particular regard to the nature of the broadcast provider and type of programming, existing levels of access provision, the technical capacity and associated technical and human resource costs and the current stage of development and available funding for each broadcaster.

It was further agreed that the decisions in respect of each service would be revisited in the context of the two-year statutory review of the Access Rules, scheduled to take place in 2016/2017.

## **2.4 Right of Reply Scheme**

Further to the requirements of the Broadcasting Act 2009, the Authority considered a report detailing the outcomes of a review of the operation, effectiveness and impact of the statutory Right of Reply Scheme. It was noted that the scheme had been in effect since 2011. In considering the review outcomes, the Authority had regard to the scheme structure and its operation to date, in addition to feedback received through the consultation process.



It was noted that the key concern arising from the consultation process related to the timeframe for a broadcaster to determine whether to grant or refuse a Right of Reply request. The Authority acknowledged the challenge this presented, but noted that a speedy redress would be expected in circumstances where a person's reputation may have been impugned, in addition to which a change to the timeframe for response would require legislative change. It was agreed that the point would be noted in the report to the Minister.

The Authority also noted feedback regarding the lack of utilisation of the Scheme and supported the recommendation of the Compliance Committee for closer integration between the Scheme and the BAI complaints process and an enhanced promotion of the complaints handling process to give the Scheme greater visibility.

Following discussion, the Authority was satisfied that the existing Scheme was appropriate, in the context of the statutory provisions, and that no modifications were currently warranted. It was further agreed that greater awareness of the Scheme could be achieved through closer alignment with the BAI's complaint processes and that this would be progressed by the Executive.

### **3. Broadcasting and Contractual Matters**

#### **3.1 Contractual Variations**

##### **3.1.1 UTV Ireland Limited**

Members considered a submission received from UTV Ireland Limited, requesting the Authority's approval for a change of its ownership and control, in accordance with the terms of its contract with the BAI. It was noted that UTV Ireland was to be acquired by ITV plc, through ITV's purchase of the intermediate parent company, UTV Limited.

The Authority considered the request for change in the context of the relevant criteria contained in the BAI Ownership and Control Policy 2012.

Having had regard to the submission received and the Executive analysis provided, the Authority was satisfied that the Contractor had demonstrated that it would continue to satisfy the relevant criteria and tests in relation to the character, expertise and experience, as set out in the BAI Ownership and Control Policy. The Authority further noted that the Contractor's programming commitments, as set out in its contract, would not change. In this regard, the Authority noted that the Contractor's existing programming commitments were linked to the service's designation as being of 'public service character' for the purposes of carriage on the Saorview platform. The Authority was also satisfied that the proposed transaction did not appear to result in persons having an undue amount of communications media in the state.

Consequently, the Authority was satisfied to approve the proposed transaction in full.



### **3.1.2 South East Broadcasting Company Limited**

The Authority considered a submission received from South East Broadcasting Company Limited, (t/a as WLR FM), seeking approval for changes to its music commitments, as contained in the Programme Policy Statement (PPS) for the service. The Authority noted that WLR FM had entered into a new contract for the provision of the local broad-format service for Waterford City and County in February 2014.

The Authority considered the request for change, having regard to the BAI's Broadcasting Services Strategy, and in particular the objectives relating to the provision of choice and diversity for audiences. The Authority also had regard to an Executive analysis and comment on the submission received.

Following discussion, the Authority was satisfied to approve the proposed changes, as submitted by the Contractor.

### **3.1.3 Donegal Highland Radio Limited**

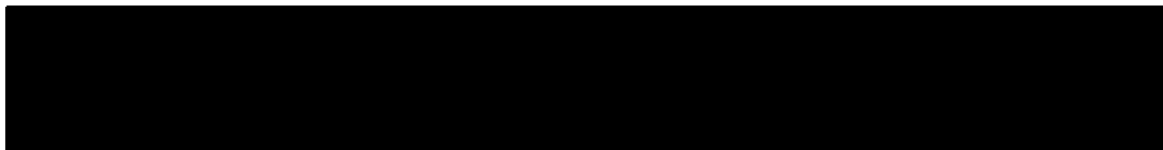
Members considered a submission received from Donegal Highland Radio Limited (t/a Highland Radio) seeking approval for the appointment of an existing staff member to the position of Head of Finance. It was noted by the Authority that under the terms of its contract, a Contractor is required to seek prior written approval from the BAI in respect of changes to certain senior management positions.

Following consideration of an Executive note and brief discussion, the Authority was satisfied to delegate the decision on this matter to the Executive.



## **3.2 Temporary sound broadcasting contracts (section 68)**

*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.*



The Authority was asked to formally consider the recommendations of the Contract Awards Committee in respect of four applications for temporary sound broadcasting services. The Authority was satisfied to enter into the four contracts, as recommended by the Contract Awards Committee.



#### **4. Organisational Matters**

##### **4.1 BAI Borrowing Facility**

The Authority approved a resolution in respect of a borrowing facility with the National Treasury Management Agency (NTMA). The Authority was further satisfied to ratify the NTMA Customer Mandate.

##### **4.2 Legal Services Tender**

The Authority considered the outcomes of a tender process conducted in respect of the award of contracts under a framework agreement for the provision of legal services to the BAI.

The Authority ratified the appointment of legal service providers; [REDACTED]  
[REDACTED] for the provision of legal services to the BAI, for a period of four years.

##### **4.3 Contract of the CEO**

*All members of the Executive recused themselves from discussion on the item.*

[REDACTED]

#### **5. For Information**

##### **5.1. Ethics in Public Office**

Members were circulated with a note for information, advising them of their obligations further to the Ethics in Public Office Acts, 1995 and 2001.

##### **5.2. Minutes of Contract Awards Committee**

Members were circulated with minutes of the Contract Awards Committee, which took place on 24<sup>th</sup> September, for information.

##### **5.3. Minutes of Finance, Audit and Risk Committee**

Members were circulated with minutes of the Finance, Audit and Risk Committee, which took place on 6<sup>th</sup> November, for information.

##### **5.4. Update on RTÉ's Assets Review**

The Authority was circulated with an information note providing an update in respect of an assets review being undertaken by RTÉ.



#### **5.5. Sponsorship Scheme 2016**

The Authority was provided with an information note, outlining the activities and events that will be in receipt of sponsorship support in 2016. It was noted that 22 projects would receive funding support totalling €129,170.

### **6. Any Other Business**

#### **6.1 Meeting of the Three Chairs**

The Chairperson updated the Members in relation to a meeting which took place between the Chairs of the Authority, Contract Awards Committee and Compliance Committee. He advised the Members that the Chairs would meet two to three times per year and that minutes of the meeting would be circulated to the Members of all committees. He further advised that the next meeting would take place in June, in the context of the development of the BAI Statement of Strategy.

#### **6.2 Acknowledgement**

The Chairperson expressed his appreciation to the members and staff for their contribution to the work of the Authority over the course of the year.

### **7. Date of Next Meeting**

The next meeting of the Authority will be held on Thursday, 21<sup>st</sup> January, 2016 at 11a.m. in the BAI offices.

**Professor Pauric Travers,  
Chairperson.**

**21<sup>st</sup> January, 2016.**