



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

**Date** 25/02/2016 **Time:** 11.00am **Venue:** BAI Offices

## Minutes

### Attendance

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

**Executive:** Michael O'Keeffe, Celene Craig, Clare O'Sullivan (Secretary) (items 3.1.3 and 4.3), Anne O'Brien (item 2.1), Ciarán Kissane (items 2.2 and 2.3), Diarmaid Breathnach (item 2.4), Elizabeth Farrelly (item 3.1.1), Andrew Robinson and Sarah Herron (item 3.2).

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

The minutes of the previous meeting of the Authority, held on 21<sup>st</sup> January 2016, were approved by the Members and signed by the Chairperson. Matters arising were as follows:

#### a. Election and Referenda Guidelines

The Executive provided an update on complaints made by both the Green Party and the Independent Alliance to the Compliance Committee. The complaints had been adjudicated upon by the Compliance Committee and the judgement arising from the judicial review proceedings taken by the Green Party against RTÉ was noted.

#### b. UTV Ireland Limited

Members were advised that the sale of UTV Ireland Limited to ITV plc had been approved by the Minister for Communications, Energy and Natural Resources. It was noted that the Executive would follow up with the broadcaster in respect of the required amendments to its broadcasting contract and any other matters arising.

#### c. General Commercial Communications Code

Members were advised that the proposed public consultation on revisions to the General Commercial Communications Code was now scheduled to take place in quarter two instead of quarter one, as originally planned.

#### d. TV3: Change in Management Team

Members were advised that Lynda McQuaid, Director of Content in TV3 had resigned her position and the broadcaster would be advertising for the position of Programme Director. It was noted that the broadcasting contract facilitated changes to the management team subject to the prior approval of the Authority and such changes would be considered with regard to the criteria and tests set out in the BAI Ownership and Control Policy, 2012.

#### e. CEO's Contract

The Chair advised that he had reported the outcome of the Authority's discussion to the Department and had not received any response to date.



## **2. Codes, Rules & Policy**

### **2.1 Broadcasting Services Strategy**

Members were presented with an Executive note outlining two potential approaches to the Authority's planned review of the BAI Broadcasting Services Strategy (BSS).

In considering the proposed approaches, the Authority had regard to the broadcasting landscape and economic environment, the pace of technological changes, changing media consumption, the directional legislative framework, the current licensing plans and the potential for future licensing activity in this changing environment. Members agreed that a stakeholder consultation and research as proposed in the second approach would support the deliberations of the Authority on all of these matters and align with its commitment to evidence-based decision making. It was noted that the Authority's preparation of a new strategy statement and, in particular, its vision for the next three years would also inform its review of the BSS.

Following a detailed and lengthy discussion, it was agreed that the existing BSS would benefit from a comprehensive review and that any revised BSS should contain a greater emphasis on high-level goals, objectives and broadcasting policy matters, rather than detailed regulatory practices. It was agreed that the Executive would revert to the Authority at its meeting in April with further proposals in relation to the agreed approach, in particular, the scope of the research required to support the development of the BSS. In this regard, the Authority considered that all of the areas as highlighted in the Executive Note were of relevance for further research.

### **2.2 BAI Strategy Statement 2017-2019**

Members were provided with a presentation by the Executive which provided information on, *inter alia*, the relevant legislative requirements for the BAI's strategy statement and the approaches adopted to the development of the first and second BAI strategy statements (2011-2013 and 2014-2016). Members' views were sought on a number of matters including the approach to the review of the existing strategy statement and the development of a statement for 2017-2019 and, in particular, on the matters that should be the subject of research and on the extent of stakeholder engagement and consultation to inform this work.

The approaches to the previous strategy statements and the key differences between them were discussed. Members noted the significant changes and developments in the technological and broader media landscape in the lifetime of the previous strategy statements. The Authority considered its role in the context of a converging media environment and the challenges of regulating in a linear media environment, without any clear regulatory role in non-linear media. In this regard, it was noted that the strategic theme of 'influencing and communicating' currently enables the Authority to provide advices and opinions to the Department and to participate and



shape debates on changes to broadcasting policy and legislation, in the interests of Irish viewers and listeners. At the request of Members, the Executive also provided information on developments at EU level, the scope of the roles and responsibilities of other regulators in respect of non-linear services and an update on the current review of the Audio-visual Media Services Directive which frames the BAI regulatory approach to television services. It was noted that, in June 2016, it was anticipated that the European Commission would publish its proposals on revisions to the AVMSD which would take a number of years to come into effect.

Following a detailed discussion, it was agreed that a comprehensive briefing session would be developed and presented by the Executive for the Authority at its April meeting. In this regard, it was agreed that the session would address key developments at EU level and future developments in the Irish media landscape having regard to, *inter alia*, legislative, media and market developments and emerging trends in Europe. Members were also invited to revert with suggested topics for the information session. It was further agreed that a second session, focussing on mission, vision and values would be organised, to coincide with the Authority's planned review of its performance in May. This session would be externally facilitated.

It was noted that the expected timeframe for a public consultation on the new draft statement would be September 2016.

## **2.3 BAI Plurality Policy**

The Executive provided a presentation on this item. Members' views were sought on the proposed adoption, for the purposes of the BAI Plurality Policy Framework, of the definition of plurality as contained in the Consumer Protection and Competition Act, 2014, namely, that plurality comprises a diversity of ownership and diversity of content, with focus on news and cultural content. It was noted that, if adopted, this definition would provide a new framework for the BAI Strategy Statement, 2017-2019, the relevant BAI policies and plurality focussed activities.

Following a discussion, the Authority was satisfied to adopt the definition, as proposed.

## **2.4 Sectoral Impact Assessment: Oireachtas TV**

Members were advised of the response of DCENR to the Authority's request for an extension to the statutory three month timeframe to carry out an SIA on a proposal from RTÉ to launch a new channel on SAORVIEW, entitled Oireachtas TV. It was noted that, following a mini-tender process, Communications Chambers had commenced work on the SIA on 10<sup>th</sup> February, with an agreed delivery date of 8<sup>th</sup> March 2016. Members were informed that the Department had refused the Authority's request for an extension to the timeframe. In order to comply with the three month deadline, it would be necessary for the Authority or a subcommittee of the Authority to convene a meeting before the 23<sup>rd</sup> March next.



Following a discussion, it was agreed that, absent significant issues arising from the SIA, a subcommittee of the Authority, comprised of the Chairperson and members Grace Smith and Seán Ó Mórdha, would be delegated to meet on the 21<sup>st</sup> March 2016 at 11 a.m. to consider the outcomes of the SIA and report of Communications Chambers and to report the Authority's findings to the Minister by the 23<sup>rd</sup> March.

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

#### **3.1 Contractual Variations**

##### ***3.1.1 Setanta Sports Channel Ireland Limited***

Members considered a submission received from Setanta Sports Channel Ireland Limited ("Contractor"), 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 the Contractor was to be acquired by Eircom 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 it satisfied 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. The Authority was also satisfied that the proposed transaction did not appear to result in any person having an undue amount of communications media in the state.

Consequently, the Authority was satisfied to approve the proposed change in ownership and control in full. It was noted that the proposed transaction had been approved by the Consumer Protection and Competition Commission.

##### ***3.1.2 Liffey Sound Communications Co-Operative Society Limited***

Members were presented with an Executive note requesting approval for a contract extension of six months for the Liffey Sound community radio service. It was noted that the service was listed on the Authority's Licensing Plan for 2015 and the extension was sought to allow for sufficient time to complete the licensing process prior to the expiry of the current contract. This would facilitate the continuance of the service for the community without interruption and provide certainty for the staff and volunteers while the licensing process was underway.

The Authority approved the contractual extension sought.





### **3.1.3. Claremorris Community Radio**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### **3.2 Temporary Sound Broadcasting Contracts (Section 68)**

*Members Grace Smith, Seamus Martin and Celene Craig of the BAI Executive declared an interest in this agenda item by virtue of their membership on the Contract Awards Committee and recused themselves from the discussion and decisions in relation to the temporary sound broadcasting services.*

The Authority was asked to formally consider the recommendations of the Contract Awards Committee in respect of three applications for temporary sound broadcasting services:

- BIFE FM (Bray Institute of Further Education);
- ITT FM (Institute of Technology Tallaght); and
- GAA FM (Páirc an Chrócaigh Teoranta)

The Authority was satisfied to enter into the first two contracts in respect of the services BIFE FM and ITT FM, as recommended by the Contract Awards Committee.

Members discussed the application received from the GAA and noted the views of the Contract Awards Committee as outlined in the Executive Note presented to the meeting. Members agreed with the view of the Committee that the service would offer limited diversity only, having regard to the proposed content and approach and to the range and diversity of GAA sports content and presentation offered by existing services.

[REDACTED]



Authority's consideration of the recommendation of the Contract Awards Committee in respect of GAA FM was deferred.

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

##### **4.1 BAI & BFS Draft Unaudited Financial Statements**

Members were presented with draft financial statements for the BAI and the Broadcasting Fund for the year ended 31<sup>st</sup> December 2015. It was noted that the draft accounts were considered by the FAR Committee at its meeting on 15<sup>th</sup> February 2016 and they were due to be submitted to the Department of Communications, Energy and Natural Resources by the end of February 2016.

Members were also presented with an Executive Note which explained the new financial reporting standard, FRS102, and its consequent impact on the accounts. Members also noted the other matters, as highlighted in the Executive Note, to be further investigated and/or addressed in the accounts prior to submission to the Department.

Following a discussion, the draft accounts were approved subject to the potential necessary amendments as highlighted in the Executive Note.

##### **4.2 Finance Audit and Risk Committee: Terms of Reference**

Members agreed to amend section 3.6 of the Finance, Audit and Risk Committee Terms of Reference to allow the Chief Executive to appoint any member of the BAI Executive to act as Secretary.

##### **4.3 Ratification of Cloud Computing Tender**

The Authority was presented with the outcomes of a tender process conducted in relation to the award of a contract for the design and implementation of a cloud computing solution for the BAI which would outsource the BAI's IT infrastructure to a data centre and have those services fully managed by a third party supplier.

The Authority ratified the award of a contract to Evros Technology Group, in respect of the provision of the services. In response to a query, the Executive explained that a decision was still to be made in respect of the suitability of the disaster recovery solution proposed by the successful tenderer.

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

##### **5.1 RTÉ Fair Trading Policy and Procedures**

Members were presented with an Executive Note which provided an update in relation to correspondence and discussions with RTÉ in relation to its draft Fair Trading Policy which had been considered by the Authority at its meeting in September 2015. The Note also enclosed a



copy of the final Fair Trading Policy adopted by RTÉ, for information. It was noted that the Policy had been approved by the RTÉ Board in January 2016.

**5.2 Minutes of Compliance Committee (16<sup>th</sup> December 2015)**

Members were circulated with minutes of the Compliance Committee meeting, which took place on the 16<sup>th</sup> December 2015.

**5.3 Minutes of Contracts Awards Committee (15<sup>th</sup> December 2015)**

Members were circulated with minutes of the Contract Awards Committee meeting, which took place on the 15<sup>th</sup> December 2015.

**5.4 Minutes of Finance, Audit and Risk Committee (3<sup>rd</sup> December 2015)**

Members were circulated with minutes of the Finance, Audit and Risk Committee meeting, which took place on the 3<sup>rd</sup> December 2015.

**6. Any Other Business**

Member Dr. Rosemary Day advised the meeting that an event entitled 'Women in the Irish Film Industry' would be taking place in Mary Immaculate College in Limerick City on the 4<sup>th</sup> March 2016. The event would include speakers from a range of broadcasters and network groups, addressing a range of issues including the representation of women, gender inequality and strategies to create gender equality across the film industry. She invited Members to attend if they were available.

**7. Date of Next Meeting**

The next meeting of the full Authority will be held on Thursday, 7<sup>th</sup> April 2016 at 11a.m. in the BAI offices.

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**Professor Pauric Travers,**  
**Chairperson**

**7<sup>th</sup> April, 2016**