



Minutes of Meeting of the Authority of Broadcasting Authority of Ireland

Date 26/01/2017 Time: 11.00am Venue: BAI Offices

Minutes

Attendance

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

Executive: Michael O'Keeffe, Celene Craig, Aoife Clabby (Secretary), Stephanie Comey, Anne O'Brien (item 2.1), Elizabeth Farrelly (item 2.1), Fionnuala Murphy (item 2.1), Neil O'Brien, Clare O'Sullivan (item 5.1)

1. Minutes of Previous Meetings and Matters Arising

The minutes of the previous meetings of the Authority, held on the 8th December and the 15th December, were approved by the Members and signed by the Chairperson. Matters arising were as follows:

a. Contract Signings

The Chief Executive advised that ten-year sound broadcasting contracts had been signed with the community radio services, Raidió na Life and Liffey Sound, the community of interest service, Dublin City FM and the quasi-national speech/news service, Newstalk 106FM, on the 15th December 2016. The Authority was further advised that contract negotiations were ongoing for the community of interest service for students in Galway city.

b. Board and Committee Vacancies

Members were provided with an update in respect of the process for the appointment of vacancies to the Authority and statutory committees, being coordinated by the Public Appointments Service. It was noted that an assessment process had been completed and that consideration of the Minister's recommendations by Cabinet was anticipated at an early date.

c. BAI Strategy Statement 2017-2019

Members were advised that the Minister for Communications, Climate Action and Environment, Mr. Denis Naughten T.D., had been invited to launch the BAI's new strategy statement and that the launch was planned for mid-February.

d. Ministerial Request

Members were advised that, further to the provisions of the Competition Acts 2002-2014, the Minister for Communications, Climate Action and Environment had requested the BAI to carry out a full media merger examination of the acquisition of CMNL Limited by Independent News and Media Holdings Limited. The Chief Executive advised that a detailed presentation in respect of the Authority's responsibilities under the Act would be provided at the February meeting. In addition, Members were further advised that Communications Chambers had been appointed to



support the BAI in carrying out the examination. In the context of the statutory timeframes for completion of the examination and the submission of a report and recommendation to the Minister, it was agreed that additional meeting dates would be required. Following discussion, it was agreed that two further meetings of the Authority would be scheduled for the 16th March and the 27th of April. It was also agreed that the Authority would consider the item at its meeting in Galway on March 23rd.

e. **Stakeholder Engagement**

Members were advised that a meeting with TG4 had been scheduled for Friday 24th March, at TG4's offices in Baile na hAbhainn. The Chief Executive advised that further details in respect of the visit would be provided to the Members in the coming weeks.

2. Broadcasting Funding Scheme

2.1 Archiving Scheme Review-Consultation Phase and Outcomes

A presentation was made to the Authority by Behaviour & Attitudes, detailing the outcomes of a consultation phase, undertaken as part of the process to conduct a review of the operation, effectiveness and impact of the Scheme. It was noted that the consultation included a stakeholder survey and face-to-face interviews with a cross-section of stakeholders.

The findings addressed general broadcast archiving trends; the perceived worth/value of the Archiving Scheme; the specific perceived benefits of, and concerns in relation to, the Scheme; considerations in respect of the BAI's administration of the Scheme; stakeholder views in relation to suggested improvements to the Scheme, in the context of any future development; and, views in relation to the Scheme's objectives.

The Authority noted the unanimous agreement across the stakeholders surveyed of the value of the Archiving Scheme to date and the support for its continuance into the future. The perceived cultural value of operating the Scheme was also noted. The Authority discussed the evolution of the statutory basis for the Scheme, in its current format.

Following discussion, the Authority was satisfied that the survey findings, as presented, should inform the development of a new Archiving Scheme. In that regard, it was agreed that the Executive would revert in the coming months with proposals, setting out the approach to the development of a new Scheme.

3. Sectoral Learning and Development

3.1 Report on a Strategy for the Development of Skills for the Audio-visual Industry in Ireland

Following initial consideration of documents associated with this agenda item at its December meeting, the Authority had regard to a draft report, prepared by Crowe Horwath, detailing the research findings of a study in respect of a Strategy for the Development of Skills in the Audio-



visual Sector. The study had been jointly supported by the BAI and Bord Scannán na hÉireann/Irish Film Board (IFB). Representatives of Crowe Horwath presented their findings at the meeting. The presentation included an outline of research undertaken, including the terms of reference and the approach to the process; details of the outputs arising from each term of reference; and, an enumeration of the perceived strategic imperatives arising from the research, together with principal recommendations arising. It was noted that a number of the strategic imperatives and associated recommendations were outside the remit of both the BAI and the IFB.

Following the presentation, the Authority engaged in lengthy and detailed discussion in relation to the findings. Clarification was sought in relation to data gathering, sources and the methodology associated with the research. The Authority also discussed issues relating to the fragmentation of both the provision of training and the oversight role of various statutory agencies and government departments. The Authority also sought further detail in relation to the rationale underpinning the key recommendations arising from the report. The challenges of practically implementing the recommendations, as drafted, were also explored, particularly in the context of the various responsibilities held by the different statutory agencies and government departments.

Having regard to the totality of the draft report, the Authority requested that the Executive would give further consideration to the recommendations, as drafted, and the manner in which they might be further developed, in the context of the BAI's statutory role and that of other agencies. It was agreed that consultation and communication with the IFB on this matter would be important. It was further agreed that the Executive would revert to the February meeting of the Authority with proposals for consideration and decision.

3.2 Sectoral Learning & Development: Review 2016 and Proposals 2017

Members considered an Executive note, detailing sectoral learning and development activities carried out in 2016, together with proposals for activities and budget allocations for 2017. It was noted that all of the networks in receipt of funding in 2016 had delivered on their contractual commitments and that the standard of initiatives had been relatively high.

Members were provided with clarification in respect of the application process for sectoral learning and development funding, in addition to an overview of the manner in which funding for 2017 would be allocated across both the various networks and the schemes administered directly by the BAI. The Authority was also asked to consider whether it wished to operate the BAI's Media Research Funding Scheme on an annual or biennial basis.

Following discussion, the Authority was satisfied to approve the proposed activities and related budgets for 2017, as presented. The Authority was further satisfied to continue to operate the Media Research Funding Scheme on a biennial basis.



4. Organisational Matters

4.1 BAI Work Plan 2014-2016: Review of Outcomes 2016

The Chief Executive presented Members with a note, detailing performance outcomes in relation to each of the key work deliverables for 2016, in support of the achievement of the organisation's strategic goals and objectives, for the period 2014-2016. The Chief Executive referred the Members to the review of the BAI Strategy 2014-2016, undertaken by IpsosMRBI, which confirmed that the BAI was operating in accordance with its statutory objectives and was an efficient and effective regulator, trusted by its stakeholders. The challenges facing the organisation over the next strategy period were also referenced.

The Authority agreed that the revised format for presentation of the information enabled a clearer assessment of the degree to which the organisation had achieved its strategic objectives. Following discussion, the Authority was satisfied with the extent to which outcomes had been achieved in 2016 and further, the manner of their contribution to the achievement of strategic objectives overall. The Authority commended staff on the work done over the period of the strategy.

4.2 Draft Three-Year Work Plan 2017-2019

Following the finalisation of the BAI Strategy Statement 2017-2019 at the December meeting, Members were presented with a draft three-year work plan, identifying key deliverables in relation to each strategic theme. It was noted that, in keeping with the approach to the development of the strategy itself, the draft work plan aimed to be more strategic and concise. It was further highlighted that, when taken collectively, the proposed deliverables should support the achievement of outcomes identified in the Strategy Statement and provide clarity to the public, industry and other stakeholders on the primary activities being undertaken by the BAI over the period. The Executive advised that, once approved, the work plan would be published in tandem with the launch of the Strategy Statement.

Following discussion, the Authority was satisfied to approve the draft 3-year work plan, subject to a wording amendment to a deliverable under the theme 'promoting diversity and plurality' and the inclusion of an additional deliverable regarding participation in media, in particular in the community media sector, under the theme 'empowering audiences'.

4.3 Procurement

a. Expenditure Approval Levels

The Authority considered and approved proposals for changes to expenditure authorisations at the level of Higher Executive Officer, Chief Executive and in respect of the Finance, Audit and Risk Committee. In approving the recommendations made, it was noted that an informal bench-



marking exercise with other public service bodies had been undertaken, to ascertain authorisation levels at various grades and at the level of the Board.

b. Award of Contract for PSB 5 Year Review of Public Funding

Members considered the outcomes of the tender process conducted for the appointment of consultants to support the BAI in conducting a five-year review of funding for public service broadcasters.

Following discussion, the Authority was satisfied to ratify the appointment of Communications Chambers, in accordance with specification of services contained in the tender document.

4.4 Board Policy Day 2017-Discussion Paper

Members had regard to a discussion paper, setting out proposals for the scope and focus of the Authority's policy day, scheduled to take place on the 23rd March. In considering potential areas of focus, the Authority had particular regard to the revised Code of Practice for the Governance of State Bodies, which had been introduced by the Department of Public Expenditure and Reform in September 2016, with a requirement for full compliance with the Code's provisions by 1st of September 2017. In this context the Authority agreed that further consideration should be given to its preparedness, at Board level, for the implementation of the revised Code, particularly in the context of existing practices. Following discussion, it was agreed that further exploration of this topic and how it might be approached as part of a policy day, would be undertaken by the Executive, with a view to reverting with further proposals at the February meeting. It was further agreed that some consideration would be given to whether time on the day would permit the undertaking of a stakeholder mapping exercise, in the context of the new strategy statement.

5. Broadcasting and Contractual Matters

5.1 Contractual Variation: Spin 1038

The Authority considered an application received from Maypril Limited (trading as Spin 1038), seeking derogation from the statutory requirements in respect of the provision of news and current affairs content. In considering the request, the Authority had regard to the submission received, together with an Executive analysis, assessing the changes sought in the context of the BAI's Broadcasting Services Strategy (BSS).

As part of its deliberations, the Authority gave detailed consideration to the extent to which the Contractor had addressed the three relevant criteria contained in the BSS, specifically, the innovative nature of the alternative editorial and schedule proposals submitted; the impact of the derogation on the overall quality of news and current affairs output in the franchise area; and, the contribution the derogation would make to the diversity and quality of news and current affairs output for Spin 1038's audience. The Authority also had regard to the extent of derogations granted to other youth-based and niche music services and to the manner in which the Contractor's target demographic accesses news and current affairs content in the evolving media



landscape. In this regard, it was noted that the station currently had no derogation from the statutory news and current affairs requirements.

Following detailed discussion, the Authority was satisfied to approve the proposed changes to the Contractor's two-hour current affairs 'Spin Talk' programme, as submitted and the removal of all overnight news bulletins. However, the Authority was not satisfied that the Contractor's proposals in respect of a reduction to both the frequency and content of the remaining news bulletins had adequately addressed or satisfied the criteria contained in the BSS. Therefore, the Authority did not approve these aspects of the proposal and requested that the Contractor give further consideration to a modification of the proposal, should it wish to seek further derogation in this regard.

5.2 Licensing: Recommendations of the Contract Awards Committee

Members Grace Smith, Séamus Martin and Celene Craig of the BAI Executive declared an interest in this agenda item, by virtue of their membership of the Contract Awards Committee, and recused themselves from discussion and decision in relation to the matter.

Rosemary Day declared an interest in respect of Mary Immaculate College Limerick and recused herself from discussion and decision on this application.

Maeve McDonagh declared an interest in respect of Student Facilities and Services (UCC) Limited and recused herself from discussion and decision on this application.

In accordance with section 64 of the Broadcasting Act 2009, the Authority ratified the recommendations of the Contract Awards Committee and awarded, in principle, a Community Sound Broadcasting Service to six services as follows:

- Mary Immaculate College, t/a Wired FM
- Student Facilities and Services (UCC) Limited, t/a UCC 98.3FM
- Dublin North East Community Communications Cooperative Society Limited, t/a Near FM
- Dublin 15 Community Broadcasting Cooperative Society Limited, t/a Phoenix FM
- Community Radio Castlebar FM Limited, t/a Community Radio Castlebar
- Connemara Community Radio Limited t/a Connemara Community Radio

The award of contract was subject to the successful conclusion of contract negotiations, including a requirement that each applicant satisfied the conditions stipulated as part of the award of contract.

In accordance with section 67(8)(c) of the Broadcasting Act, the Authority considered and ratified the recommendation of the Contract Awards Committee, to award a further ten-year sound broadcasting contract term to Spin South West Limited, trading as Spin South West, for the provision of the commercial, music-driven, sound broadcasting service, targeting 15-34 year olds, in the south-west region.



5.3 Recommendations of the Contract Awards Committee: Temporary Sound Broadcasting Contracts

Members Grace Smith, Séamus Martin and Celene Craig of the BAI Executive declared an interest in this agenda item, by virtue of their membership of the Contract Awards Committee, and recused themselves from discussion and decision in relation to the matter.

Further to the provisions of section 68(1) of the Broadcasting Act, the Authority was satisfied to ratify the recommendations of the Contract Awards Committee in respect of three temporary sound broadcasting services.

5.4 Recommendations of the Contract Awards Committee: Content Provision Contracts

Members Grace Smith, Séamus Martin and Celene Craig of the BAI Executive declared an interest in this agenda item, by virtue of their membership of the Contract Awards Committee, and recused themselves from discussion and decision in relation to the matter.

Further to the provisions of section 71 of the Broadcasting Act, the Authority was satisfied to ratify the recommendations of the Contract Awards Committee and enter into five-year content provision contracts with Eircom Sport Limited, for the services 'eir Sport Xtra 1' & 'eir Sport Xtra 2'.

6. Codes, Rules & Policy

6.1 Plurality Reports

Members noted two research reports on the subject of plurality of the media in Ireland, which had been published in quarter 4, 2016 and circulated to the Members: the KRW Law Doughty Street Chambers' Report on the Concentration of Media Ownership in Ireland and the Special Eurobarometer report on Media Pluralism and Democracy. It was agreed that any questions arising in respect of the reports and accompanying cover note could be addressed at a subsequent meeting.

7. For Information

7.1 Report of Annual Meeting with Communicorp Group

Members were circulated with a report of an annual meeting with Communicorp, for information. The meeting had been attended by members of the BAI senior management team and representatives of Communicorp and its two radio national services, Today FM and Newstalk. The Chief Executive advised that the CEO of Communicorp had resigned her position in the period since the meeting had taken place.

7.2 Minutes of Compliance Committee Meeting

Members were circulated with minutes of the Compliance Committee meeting, which took place on the 16th November, 2016.



7.3 Minutes of Contract Awards Committee Meetings

Members were circulated with minutes of the Contract Awards Committee meetings, which took place on the 25th October and the 17th November, 2016.

8. Date of Next Meeting

The next meeting of the Authority will be held on the 28th February at 11am in the BAI offices.

A handwritten signature in black ink, appearing to read 'Pauric Travers', is written over a horizontal line.

**Professor Pauric Travers,
Chairperson.
28th February 2017**