



GUIDE TO SUBMISSIONS

FOR THE PROVISION OF TEMPORARY SOUND BROADCASTING SERVICES¹

¹ Please note there is a separate guide and application form for applicants wishing to apply for a pilot community temporary sound broadcasting service.



The Broadcasting Authority of Ireland (“the BAI”) reserves the right to correct or clarify any part of this *Guide to Submissions for Temporary Sound Broadcasting Services* (“*Guide*”).

Any such corrections, clarifications or supplementary information will be posted on the BAI's website, www.bai.ie

All queries regarding this *Guide* should be emailed to: contracts@bai.ie

Please note there is a separate guide and application form for applicants wishing to apply for a pilot community temporary sound broadcasting service.

Applicants must use the appropriate application form for the type of service concerned. Applicants will be required to resubmit an application if the incorrect form is used.



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1. INTRODUCTION

Section 68(1)a of the Broadcasting Act 2009, provides that the Authority, on the recommendation of the Contract Awards Committee, may, in any period of 12 months, enter into a sound broadcasting contract with an applicant for the provision of a sound broadcasting service in a specified area for:-

not more than 30 days (whether consecutive days or otherwise) in that period of 12 months (a **Temporary Sound Broadcasting Contract for a Temporary Sound Broadcasting Service**).

This Guide details the procedures which will be adopted for the application process in respect of the award of a temporary sound broadcasting contract and provides guidance to an applicant on the requirements of the Broadcasting Act 2009. This Guide also identifies the relevant policies of the BAI and details the information which should be included in an application.

Please note there is a separate guide and application form for applicants wishing to apply for a pilot community temporary sound broadcasting service.

The Guide does not purport to be exhaustive and a potential applicant should have regard to the relevant provisions of the 2009 Act, including, **Sections 64 and 66 of the [Broadcasting Act 2009](#)**. When preparing an application, an applicant should also have regard to, where relevant, policies of the BAI, *inter alia*, the *BAI Broadcasting Services Strategy*, and the *BAI Ownership and Control Policy*. These documents are available online at www.bai.ie or on request from the BAI. The Executive staff of the BAI are also available for consultation in the event of a potential applicant having any queries in relation to the content of this Guide or the application format herein.

Please note all applications are subject to the Commission for Communications Regulation (ComReg) being in a position to provide a suitable frequency assignment for the proposed service. Applicants should note that due to spectrum constraints, it may not be possible to cater for the proposed number of days, sites and ERP (Effective Radiated Power).

Any queries on the licensing process should be addressed the e-mail address: contracts@bai.ie



2. PROCEDURES FOR THE SUBMISSION OF AN APPLICATION

An application submitted for the award of a temporary sound broadcasting contract pursuant to section 68(1)(a) of the 2009 Act must comply with all of the requirements set out in this Guide. Failure to fully comply with the published requirements will make the application liable to be disqualified and, thereby, to not be considered by the Contract Awards Committee.

Required Format

The application must be submitted using the appropriate application form.

The **Temporary Sound Broadcasting Service Application Form** is available on www.bai.ie

Please note there is a separate guide and application form for applicants wishing to apply for a pilot community temporary sound broadcasting service.

All the information requested in the form must be submitted.

Required Documentation

A completed application form must be submitted with the required documentation, as outlined in Section 4 of this guide, and in the check box provided in the application form.

Submission

An applicant is required to submit 1 copy of the application in PDF or Word format to the email address, contracts@bai.ie. Applications should ideally be in **one document only, or be accompanied by no greater than 2 attachments**. The application and attachments should not exceed 8MB. The application may be submitted in either Irish or English.

Timeframe for receipt of Applications

Applications should be submitted, at a minimum, 3 months in advance of the first proposed broadcast date. The BAI will liaise with Applicants with respect to the timeframe for the application process and proposed broadcast dates.

Freedom of Information:

Information may be made available to the public further to requests under the Freedom of Information Act 2014. The BAI will consult with the interested party about the publication of any information treated as confidential at the time of submission, before making a decision on any Freedom of Information request received.

Third Party Agreements:

Any agreements between the BAI and interested parties regarding confidential and/or commercially sensitive information are without prejudice to the BAI's obligations under law, under the Broadcasting Act 2009 and the Freedom of Information Act. The BAI therefore cannot warrant that information claimed as confidential by an interested party or treated as such might not be disclosed pursuant to law.



1. APPLICANT INFORMATION / REQUIREMENTS

Legal Entity Requirement

An applicant for Temporary Sound Broadcasting Service must be;

a. A legal entity

For example, a registered company or co-operative society. The BAI will not enter into a temporary sound broadcasting contract with an individual or group of individuals. Interested parties may wish to seek information on how to establish themselves as a legal entity by contacting relevant bodies such as the Companies Registration Office, or the Irish Cooperative Organisation Society.

Broadcasting Levy

A successful applicant will be required to sign a sound broadcasting contract with the BAI in order to start broadcasting. Contractors with the BAI are required to pay a broadcasting levy. Under Section 33 of the Broadcasting Act 2009 the BAI is required to make an order imposing a levy on broadcasting contractors for the purpose of “meeting expenses properly incurred by the Authority, the Contract Awards Committee and the Compliance Committee in the performance of their functions.”

The levy payment required from contractors is based on the qualifying income of the contractor as described in the BAI Levy Order. In general, should the Qualifying Income of a contractor not exceed €250,000, the levy is €750 plus VAT at the appropriate rate, currently 23%. Successful applicants, who go on to sign a contract with the BAI, will be invoiced accordingly. The levy is calculated on a calendar year basis. Therefore, contractors need to pay the levy for each year they are broadcasting. For example, a contractor broadcasting for a 30-day period between 01.11.16 – 31.03.17, will receive an invoice for 2 levy years, however a contractor broadcasting for a 30-day period between 01.01.17 – 31.03.17 (within the same calendar year) will receive only one invoice for one levy year.

For previous contractors, outstanding levy payments should be paid in order to facilitate the processing of any future applications, and / or the signing of another contract. Please note, as cheques are not accepted, the broadcasting levy should be paid by bank transfer to:

Account Name	The Broadcasting Authority of Ireland
Account Number	03603097
Sort Code	98-50-20
BIC	ULSB IE 2D
IBAN	IE85 ULSB 9850 2003 6030 97
Ref:	S68(1)[Initials of Applicant Name]

Queries regarding the levy may be directed to Caroline Brady, (Tel: 01 792 7569) or Mark O’Neill (Tel: 01 792 8939) of PWC, One Spencer Dock, North Wall Quay, Dublin 1



Temporary Radio Support Scheme

This [Support Scheme](#) provides funding for training, development and/or evaluation activities up to a maximum of €500 per station. A station can apply for funding for activities that aim to support current training activities or where the funding could be used to evaluate the station's current or previous training, development and / or evaluation activities.

4. REQUIRED DOCUMENTATION

In order for an application to be considered complete, the following documentation must be submitted to the BAI by emailing contracts@bai.ie

1. **Completed Application Form**
2. **Certificate of Incorporation**
3. **Constitution, Co-operative Society Rules or Equivalent**

An applicant must submit an up to date copy of its Constitution, Society's Rules, or set out how it is governed. Please note if an applicant is a company, its Constitution is required to reflect the provisions of the *Companies Act 2014*. Applicants should ensure that previous Memoranda and Articles of Association have been updated to a Constitution and in so doing reflect the provisions of the *Companies Act 2014*.

4. **Secretary's Certificate or Equivalent**

This document sets out the ownership and control structure of the applicant, including, the registered address, names and addresses of the Board of Directors or members of the Committee of Management, the name and address of the Secretary, the proposed Compliance Officer, and categories of membership or shareholder information.

Template Secretary Certificates for a company, a cooperative society, and an educational institution are provided at **Annex 1 of this Guide and also the Temporary Sound Broadcasting Service Application Form**. Applicants should complete the appropriate template depending on type of entity established, eg: company, or educational institution, and modify as necessary.

5. **Programme Policy Statement**

The Programme Policy Statement (PPS) sets out the commitments that the Applicant is willing to make to the BAI in respect of key aspects of the programme service. It will serve as a yardstick against which the successful Applicant's future performance is measured and assessed and as such will form part, subject to further negotiations between the BAI and the successful applicant, of the contract between the BAI and the successful applicant.

Should an application be successful, the PPS will be formed based on the programming commitments and response provided in Section 5 of the Application Form.

In particular the PPS will focus on the following;



- Programming Commitments, and how the proposed programming supports diversity for listeners, having regard to other services in the area concerned.

6. Indicative Programme Schedule

The proposed Programme Schedule for the service should reflect the programming commitments the Applicant has set out in its application form. Please note, the Programme Schedule will be considered with reference to how the programming commitments set out in the application form are being met and how diversity of programming is being served for the area concerned.

In particular, the indicative programme schedule should:

- Show the proposed hours of broadcasting
- Include programme descriptors.

7. Map of franchise Area

Please provide an accurate map outlining the proposed franchise area. The map should be labelled to clearly show the location of the proposed transmitter site. Please note Temporary Services generally have a franchise area of approximately 8km.

8. Studios

Please note that Applicants should strive to provide fully accessible studios and offices. If, in the future, an Applicant wishes to apply for a pilot community temporary sound broadcasting service, fully accessible studios, offices and toilet facilities will be required. Details of these requirements are provided in the *Guide to Submissions for the Provision of Pilot Community Temporary Sound Broadcasting Services*.

9. Quote for Insurance

An applicant must have an appropriate insurance policy in place for the operation of the service. This policy must include libel insurance cover and the BAI must specifically be indemnified under this policy. A copy of a proposed quote must be included with the application. Proof of the final policy for the on-air dates must be provided in advance of concluding contract negotiations.

5. Assessment of Applications

Stage One: Preliminary

Once submitted, an application will be reviewed by the Executive staff of the BAI to ensure that it is complete. In particular the Executive staff will check the following;

- If the appropriate application form has been used and all the required questions, answered;
- If the required documentation has been submitted;



- If the Applicant is compliant with the policy of the Authority² and Section 62 of the Broadcasting Act, 2009, in relation to submissions from former unlicensed operators;
- Confirmation of payment of previous levy, if applicable; and
- Whether the Applicant's proposed broadcasting dates comply with the time limits set out in Section 68(1) of the Broadcasting Act, 2009.

Stage Two: Qualitative

During this stage, the Executive staff will review the application to check whether the Application contains sufficient information to conduct an assessment and whether the Applicant had sufficiently responded to each section of the Application Form to facilitate full assessment of the suitability of the Applicant for the award of a temporary sound broadcasting contract.

Assessment is conducted having regard to the following;

- The Broadcasting Act 2009;
- The information set out in each section of the Application Form;
- Relevant BAI policies
- The availability of spectrum. Approval of applications is subject to the Commission for Communications Regulation (ComReg) being in a position to provide a suitable frequency assignment for the proposed service;

Explanatory information concerning each section of the application form is set out below, and similar information can also be found in the relevant application form.

Applicant Details

This section should set out the name of the applicant, its status as a legal entity and the proposed broadcast dates. This section should also clarify whether the applicant has previously operated a temporary, pilot community service, or other type of service, under a contract with the BAI.

Ownership and Control

This section relates to the ownership and control structure of the Applicant and requests information on the governing body and members of the applicant. This section also requests details regarding how the proposed service will be managed. Relevant provisions of the Broadcasting Act 2009 and BAI policies, are taken into consideration when assessing the information in this section. Examples of the information taken into account include:-

² The policy of the Authority is to consider applications once none of an Applicant's directors, secretary, management team or on-air staff, have been involved in unlicensed activity for at least three months prior to the submission of the application.



- The character, expertise and experience of the applicant, including its directors, manager, secretary;
- The composition of the applicant's Executive Organ;³
- The applicant's membership / shareholder structure
- The applicant's proposed management structure
- How the service will be operated, including the number of paid staff or volunteers in place; and
- The performance and contractual compliance of the applicant under any previous broadcasting contract held by the applicant.

Programming

This section relates to the programming commitments the applicant is willing to make in respect of key aspects of the proposed service. Should the applicant be successful, these commitments will ultimately form part of a **Programme Policy Statement** in a contract, negotiated with the BAI. The **Programme Policy Statement** will serve as a yardstick against which the successful applicant's future performance is measured and assessed.

Relevant provisions of the Broadcasting Act 2009 and BAI policies are taken into consideration when assessing the information in this section.

Examples of the information taken into account include:-

- the applicant's proposed programming strategy and programming commitments;
- the applicant's proposed programme schedule;
- The quality, type and range of programming proposed;
- The desirability of having a diversity of services in the franchise area proposed;
- The performance and contractual compliance of the applicant under any previous broadcasting contract held by the applicant.

Studios and Transmission

This section relates to the suitability of the proposed studio and transmission facilities for the service.

Relevant provisions of the Broadcasting Act 2009 and BAI policies are taken into consideration when assessing the information in this section. Examples of the information taken into account include:-

³ Board of Directors, Committee of Management or other governing body.



- The timeframe for the commencement of transmission;
- The adequacy of studio and transmission facilities;
- The suitability of transmission proposals; and,
- The performance and contractual compliance of the applicant under any previous broadcasting contract held by the applicant.

Financial and Business Plan

This section concerns the suitability of the financial and business plan being proposed by the applicant, and takes into consideration the type of service for which the applicant is applying. Relevant provisions of the Broadcasting Act 2009 and BAI policies are taken into consideration when assessing the information in this section. Examples of the information taken into account include:-

- The financial strategy and model proposed;
 - The applicant's funding and income proposals, including the sources and levels of funding / income from each source;
 - The applicant's projected expenditure for the service, including the type and level of costs involved;
 - The adequacy of the financial resources available to the applicant and the extent to which the application accords with good business and economic principles; and
 - The performance and contractual compliance of the applicant under any previous broadcasting contract held by the applicant.
-

Following a review of the application, the Executive staff will determine whether or not to recommend the application to the Contract Awards Committee for consideration.

- If the application is recommended it will move on to stage three.
- If the application is not recommended to go forward to the Contract Awards Committee, the BAI will revert to the applicant setting out the reasons why the application was not recommended. The BAI may also request additional information or provide feedback to the applicant, should the applicant wish to apply again at a later stage.

Stage Three: Contract Awards Committee

Should the applicant be deemed to have satisfactorily completed Stage Two, the Executive will recommend to the Contract Awards Committee that a contract in principle be awarded to the applicant, subject to the successful conclusion of contract negotiations and the availability of spectrum. The Contract Awards Committee will consider the application at an upcoming meeting.

Following consideration of the application, if the Contract Awards Committee is satisfied, it will recommend to the Authority that a contract in principle be awarded to the applicant, subject to the successful conclusion of contract negotiations, any conditions it may wish to set, and the availability of spectrum.



Stage Four: Authority Recommendation

The Contract Awards Committee's recommendation will be ratified at an upcoming meeting of the Authority, and contract negotiations will commence with the applicant.

6. Contract Award

The award of a temporary sound broadcasting contract will be subject to the successful applicant agreeing and signing the proposed contract which contains terms and conditions as determined by the BAI. An applicant should note that all offers of a contract are in principle and subject to the conclusion of contract negotiations and any other conditions the BAI may wish to attach to the award.

Applicants should note that the content of the Schedules to such a contract will be largely determined by the information, commitments and undertakings contained in the successful application. Thus, the details of the ownership and control structure, the programming commitments and indicative programme schedule and the transmission and studios will ordinarily be transposed from the successful application.

Further to the signing of a contract, such a contract will be open to inspection by members of the public at the offices of the BAI.⁴

Should a successful applicant fail to agree to, or fulfil any conditions sought by the Contract Awards Committee within an appropriate timeframe, the Authority may decline to enter into a temporary sound broadcasting contract.

Changes in Composition, Service or Information

The BAI reserves the right to revoke a temporary sound broadcasting contract for a pilot community service after it has been awarded or granted if changes take place which materially alter the nature or characteristics of the applicant or the service proposed or the truth, validity or accuracy of the information provided by the applicant and where such changes may have affected the decision to award the sound broadcasting contract had those changes occurred before the award was made.

⁴ Section 69(5) of the 2009 Act.



Annex 1: Template Secretary's Certificates

Template Secretary's Certificate for a Company Limited By Shares

I, (Insert Name), of (Insert Address), Secretary of (Registered Name of Applicant) ("the Company") /
("HEREBY CERTIFY as follows:-

A. The Company, which is registered in Dublin under CRO (Insert Number) has its registered office at
(Insert Address)

B. The Directors of the Company are as follows:

Name	Address

C. No Director of the Company is: -

- i. an undischarged bankrupt;
- ii. a person who is subject to restriction pursuant to Section 819 of the Companies Act 2014; or
- iii. a person who has been disqualified from acting as a Director pursuant to Part 14, Chapter 4 of the Companies Act 2014.

D. (Insert Name), of (Insert Address) is the Secretary of the Company.

E. The Company has made all returns to the Companies Registration Office which it is legally required to make.

F. The company has authorised share capital of (€) divided in () ordinary shares of (€X) each. (X) of such shares have been issued for a total consideration of (€X), and are held as follows:

Name	Address	Share Class	No. of Shares	Consideration	%



- G. No resolution to wind up the Company has been passed and no notice of a meeting at which it is proposed to wind up the company has been issued or published. No petition has been presented or is pending to wind up the company, and no steps have been taken to place the company in receivership, or to have a receiver or examiner appointed.

Dated the () (Month) (Year)

Secretary



Template Secretary's Certificate for an Educational Institution

1. The [Insert Name of Educational Institution] is a [Insert nature of Educational Institution] that [Insert aims of Educational Institution]. The [Insert Name of Educational Institution] is established and governed in accordance with the provisions of [Insert details of relevant legislation].
2. The following are the Members of the Governing Body of [Insert Name of Educational Institution]
 - (i) Insert Name and Address of Member
 - (ii) Insert Name and Address of Member....
3. [Insert Name of Educational Institution] wishes to run a temporary sound broadcasting service for the term set out in Section 2 of this Contract.
4. The Secretary of [Insert Name of Educational Institution] is [Insert Name and Address]
5. The Governing Body has authorised [Insert Name and Address] and [Insert Name and Address] to sign this Contract on its behalf.

Dated the of 2018

SECRETARY



Template Secretary’s Certificate for a Cooperative Society

I, (Insert Name), of (Insert Address), Secretary of (Registered Name of the Cooperative) (the “Contractor”) HEREBY CERTIFY as follows: -

A. The Contractor is an Industrial and Provident Society registered under the Industrial and Provident Societies Acts 1893-2014 **No. (Insert Number)**. The Rules of the Contractor provide that the Contractor is not managed or operated with a view to generating profit and the Contractor shall not manage and operate the Licensed Service with a view to generating profit.

B. The Directors of the Contractor are as follows:

Name	Address	Representing

C. No Director or Manager of the Contractor is:

- i. an undischarged bankrupt;
- ii. a person who is subject to restriction pursuant to Section 819 of the Companies Act 2014; or
- iii. a person who has been disqualified from acting as a Director pursuant to Part 14, Chapter 4 of the Companies Act 2014.

D. (Insert Name) is the Secretary of the Contractor



- E. (Insert Name) (Station Manager), of (Insert Address) is the Compliance Officer of the Contractor.

- F. The Contractor has made all returns to the Register of Friendly Societies or equivalent body which it is legally required to make.

- G. The members of the Contractor shall be
 - a) (Membership Category as per the Rules of the Co-operative)
 - b)
 - c)

- H. No resolution to wind up the Contractor has been passed and no notice of any meeting at which it is proposed to wind up the Contractor has issued or been published. No petition has been presented or is pending to wind up the Contractor, and no steps have been taken to place the Contractor in receivership, or to have a Receiver or Examiner appointed.

Dated the () (Month) (Year)

Secretary



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