



Minutes of Meeting of the Authority of Broadcasting Authority of Ireland

Date 14/09/2017 Time: 11.00am Venue: Red Cow Moran Hotel, Naas Road,
Dublin

Minutes

Attendance

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

Executive: Michael O'Keeffe, Celene Craig, Aoife Clabby (Secretary), Clare O'Sullivan, Neil O'Brien.

1. Minutes of Previous Meeting and Matters Arising

The minutes of the previous meeting of the Authority, held on 27th July 2017, were approved by the Members and signed by the Chairperson. Matters arising were as follows:

a. iRadio Services

Members were advised that no submissions had been received in response to the BAI's Voluntary Disclosure Notice signalling the Authority's intention to extend the contracts held by Wilton Radio Group for the iRadio services. Accordingly, a contract variation had been agreed with the station to extend the expiry date of the licences for both services to the 31st December 2019.

b. Wireless Group

Further to the Authority's approval of contractual variations in respect of five sound broadcasting contracts held by Wireless Group with the BAI, the Chief Executive advised that the subsequent clarifications sought from the contractor would not require referral back to the Authority.

c. Broadcasting Fund Draft Archiving Scheme

The Authority was advised that the approved draft Archiving Scheme had been circulated to stakeholders for review and input and was scheduled to be submitted to the Minister for Communications, Climate Action and Environment for approval in the coming weeks. It was anticipated that the draft Scheme would be approved before the end of the year and launched in 2018.

d. Code of Practice for the Governance of State Bodies: Schedule of Matters for Decision of the Authority and Statutory Committees

The Authority was advised that the revised schedule had been submitted to the Compliance Committee and Contract Awards Committee for the approval of those elements relevant to each statutory committee. The Chief Executive advised that a number of clarifications had been sought by the Compliance Committee and that these would be dealt with by the Executive. It was noted that a final copy of the Schedule would be circulated to the Authority for information at the October meeting.

e. BAI Workplan: Gender Diversity

Members sought clarification regarding the anticipated timeframe for the presentation of proposals to the Authority in respect of the BAI's approach to gender diversity in the broadcasting sector. It



was confirmed that the Executive would initially revert to the November meeting of the Authority, outlining current initiatives in the sector and the degree of the organisation's involvement. Shortly thereafter, additional proposals would be presented to the Authority for approval.

2. Communicating & Influencing

2.1 Brexit Position Paper

At the outset of the item, the Executive provided an update in relation to emerging issues in respect of Brexit, at national level and in the context of developments in other members states. The Executive also advised on contacts with potentially interested companies, and provided details of a further meeting held with the IDA.

The Authority's discussions were informed by the Brexit position paper, circulated in June, which had considered *inter alia* the EU legal regulatory framework; the BAI's licensing strategy and the relevant statutory provisions pertaining to content contracts; and, the implications of any additional licensing on the BAI's operations, resources and budgets. A number of themes emerged from the discussions including: the implications of additional services operating in the jurisdiction both in terms of the opportunities and challenges for the media sector; the current legislative and policy framework for the licensing of content contracts, including the existing fee structure and the licence application process; and, consideration of the nature and type of services that might locate in Ireland.

Following detailed and lengthy consideration, the Authority was satisfied that it should adopt a proactive approach to the facilitation and licensing of content contracts, further to the provisions of section 71 of the 2009 Act. It was agreed that the Executive would examine the operational steps to be taken in support of this approach and revert with more detailed plans at an early date.

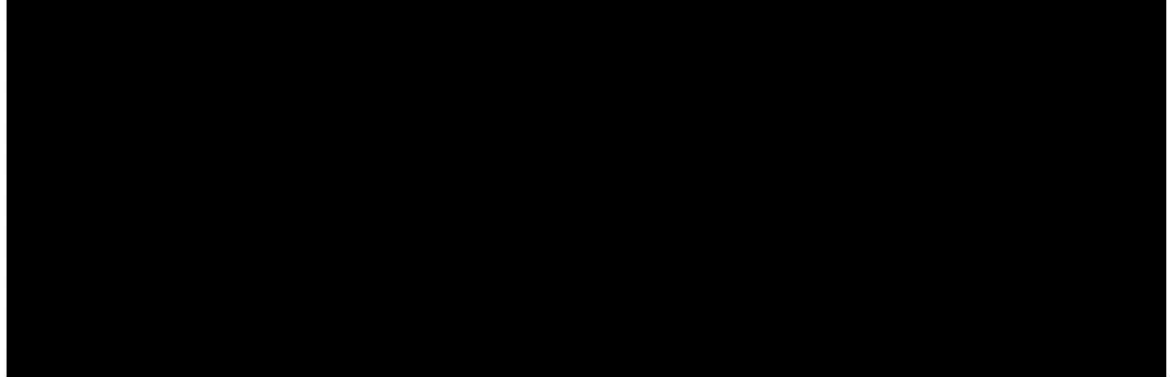
3. Sectoral Sustainability

3.1 PSB Matters

The Authority was provided with an update in respect of a range of PSB matters including the annual and five-year reviews of public funding for RTÉ and TG4; the recent land sale by RTÉ; and, the decision of the European Commission in respect of a complaint, made in 2014 by News 106 Limited, concerning RTÉ.

Five-Year Review of Public Funding by Public Service Broadcasters

The Authority was apprised of progress made in respect of the five-year review of public funding for RTÉ and TG4 and noted the likely timeframes for consideration of the initial findings and the finalisation of a report and recommendations for submission to the Minister for Communications, Climate Action and Environment. Clarification was sought by the Members in respect of the circulation of various documents relating to the five-year review. It was agreed that sufficient time would be required by the Authority to give the submissions made by both PSBs and their analysis due consideration.



RTÉ Land Sale

The Authority had regard to a legal opinion provided in respect of the regulatory arrangements associated with the approval process for the retention and use of surplus income generated by RTÉ through the recent sale of a portion of its land. The Authority noted the opinion in the context of the 2008 written decision of the European Commission and the provisions of the Broadcasting Act 2009. Following detailed discussion, the Authority was satisfied to rely upon the legal opinion received, subject to its review and re-format. The Authority was further satisfied to share the opinion with Department officials and RTÉ, in order to reach a resolution on a number of regulatory oversight matters.

Complaint to the European Commission

Members were circulated with a copy of the decision of the European Commission on a complaint made by News 106 Limited (trading as Newstalk) in 2014. The Commission's conclusion that Ireland had complied with the 2008 decision of the Commission was positively noted. The Authority agreed that the decision was particularly positive for the BAI, in validating the PSB regulatory framework and the approach to supervision by the BAI.

Request for Ministerial Advice

The Authority was advised that a request had been received by the Department to provide advice to the Minister in relation to a proposed Commercial Joint Venture between RTÉ Commercial Enterprises Designated Activity Company (CEL) and the GAA for the establishment of GAAGO Media Joint Venture. The request for advice was subject to section 104 of the 2009 Act. In light of the tight timeframe for the provision of the advice, the Authority noted that a derogation from the procurement process had been approved by the Chief Executive and that external support to conduct the assessment had been obtained. It was noted that a report and associated recommendations would be circulated to the Authority for consideration and decision in October or November.



4. Excellence & Accountability

4.1 Appointment to Committees: Finance, Audit & Risk; Contract Awards and Compliance

Staff member Neil O'Brien declared an interest in the item under discussion and recused himself from the meeting.

In accordance with sections 8(4) and 8(6) of the 2009 Act, the Authority considered and approved the appointments of staff member Neil O'Brien to the Compliance Committee and staff member Ciarán Kissane to the Contract Awards Committee.

The Authority considered the outcomes of the recruitment process for the replacement of the external member of the Finance, Audit and Risk Committee. Following discussion, the Authority was satisfied to appoint Mr. Dermot O'Riordan as the external member of the FAR Committee, for a period of two years, with the option to extend by one year.

The Authority was advised that the completion of the term of office of Authority member Séamus Martin would result in the creation of a vacancy for an Authority nominee on the Contract Awards Committee. In order to meet the statutory requirements in respect of gender representation on the Committee, the Authority was advised that its nominee to the Committee would need to be male, and further, that this could be achieved through a re-configuration of the representatives of the FAR Committee. Accordingly, FAR Committee members were requested to give the matter consideration over the course of the next number of months.

4.2 PTSB Bank Mandate

The Authority considered and approved a bank mandate for Permanent TSB. The mandate was signed by the Chairperson of the Authority and the Chairperson of the Finance, Audit and Risk Committee.

5. Promoting Diversity & Plurality

5.1 Contractual Variation: Radio Nova

The Authority considered a submission received from Classic Rock Broadcasting Limited (trading as Radio Nova), requesting the Authority's approval of changes to its ownership and control structure, following the decision of three of its current shareholders to sell their interests in the company. The proposed transaction would result in the 100% ownership of the service by the corporate entity, Bay Broadcasting Limited.

In considering the proposed transaction, the Authority had regard to the submission received, together with an Executive assessment of the proposed transaction, under each of the relevant criteria set out in the BAI Ownership and Control Policy 2012.

The Authority considered each criterion in turn and, on the basis of the information provided, was satisfied that no material issues arose. The Authority had particular regard to the criterion relating to the adequacy of financial resources and business plan. It was noted that [REDACTED]



████████████████████ and that the term of the Contractor's sound broadcasting contract will expire on 30th June 2020. The Authority considered, in detail, the manner in which the proposed transaction would be financed. On the basis of the commitments given and assurances provided, the Authority was satisfied that proposal was acceptable under this criterion.

Following discussion, the Authority was satisfied to approve the proposed shareholding changes in full.

5.2 Extension to Suspension of Contract: East Limerick Community Radio

The Authority considered and approved a proposed extension to the contract suspension of East Limerick Community Radio, for a further six month period to 3rd May 2018. It was noted that the extension of the period of suspension was to facilitate the conclusion of the statutory investigation of the service, further to section 50 of the 2009 Act.

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

In their capacity as members of the Contract Awards Committee, Authority members Grace Smith and Seamus Martin and Deputy CEO, Celene Craig, declared an interest in the items under this heading and recused themselves from discussion and decision on the matters.

Further to the provisions of section 68(1) of the 2009 Act, the Authority was satisfied to accept the recommendation of the Contract Awards Committee and enter into contract negotiations with one temporary sound broadcasting service, African Radio Network and one pilot community service, Finn Valley FM.

6. For Information

6.1 Executive Approvals

In accordance with the approved decision-making framework, the Authority was notified of contractual variations which had been approved at Executive level since May 2017.

7. Date of Next Meeting

The next meeting of the Authority will be held on the **19th October at 11am** in the BAI offices.

**Professor Pauric Travers,
Chairperson.**

19th October 2017.