



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

**Date** 19/10/2017 **Time:** 11.00am **Venue:** BAI Offices

## 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), Ciarán Kissane, Andrew Robinson, Clare O'Sullivan, Neil O'Brien, Anne Louise O'Donovan (items 2-5), Rachel Casey (item 2.1), Elizabeth Farrelly (items 4.3-4.5).

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

The minutes of the previous meeting of the Authority, held on 14<sup>th</sup> September 2017, were approved by the Members and signed by the Chairperson. Matters arising were as follows:

#### a. PSB Matters: BAI powers re RTÉ Accounting Surplus

The Chief Executive advised the members that, as agreed at the last meeting of the Authority, the legal advice received (in respect of the BAI's role and powers regarding RTÉ's accounting surplus, arising from its land sale) had been re-structured, in consultation with a number of the members. It had subsequently been shared with the Department of Communications, Climate Action and Environment, as approved by the Authority.

#### b. PSB Matters: Request for Ministerial Advice

The Authority was advised that a report regarding the proposed Commercial Joint Venture between RTÉ CEL and the GAA for the establishment of GAAGO Media Joint Venture would now be brought to the November meeting of the Authority. It was noted that the review of the proposal, further to section 104 of the Broadcasting Act 2009, had highlighted a number of issues requiring more detailed consideration by the Executive.

#### c. Appointment to Committees: Contract Awards Committee; Finance, Audit and Risk Committee

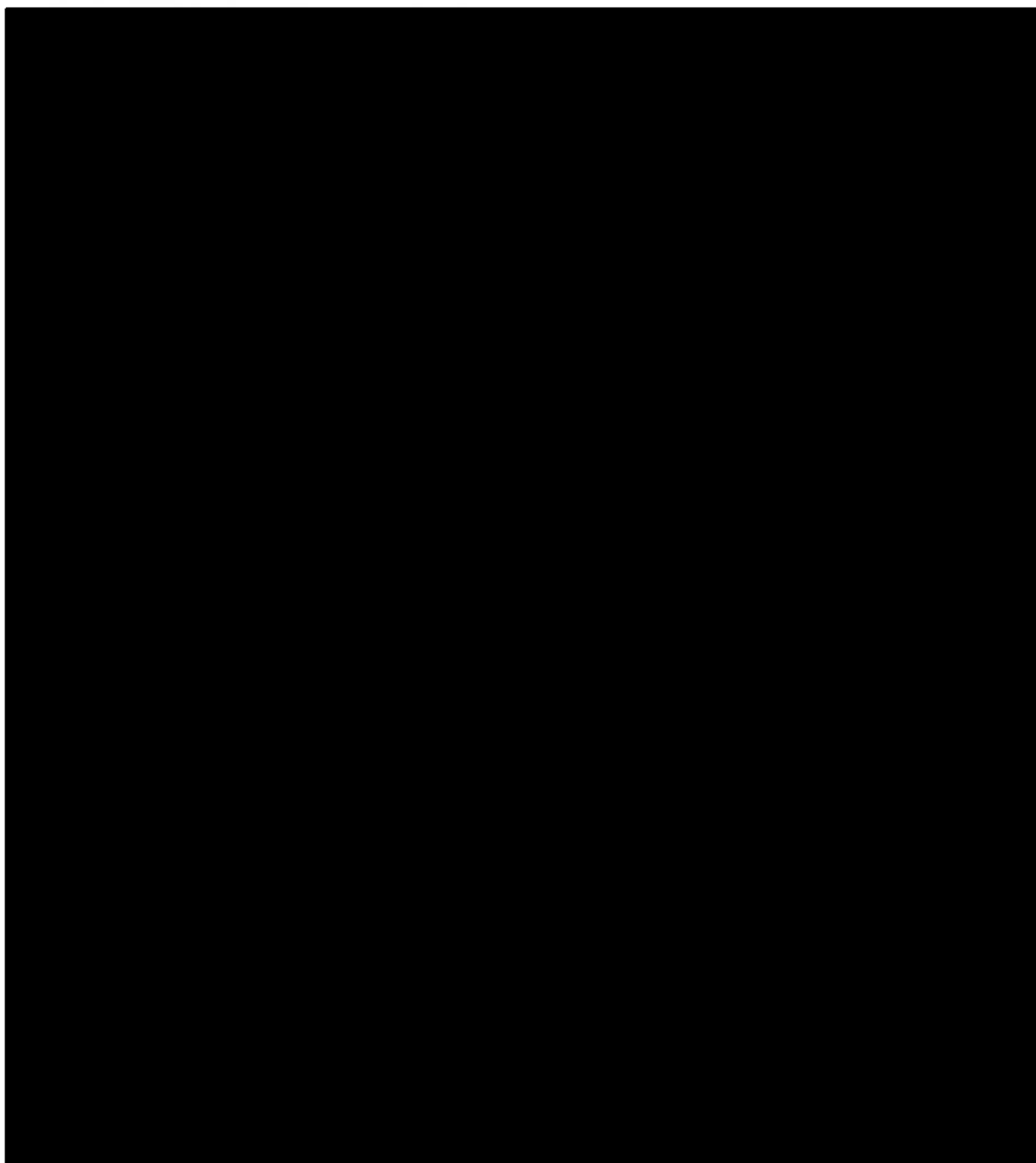
The Chief Executive advised that, in anticipation of the completion of the term of office of Authority member Séamus Martin, Seán Ó Mórdha had indicated his willingness to fill the Authority member vacancy on the Contract Awards Committee. Accordingly, the Authority was satisfied to approve the appointment of Mr. Ó Mórdha to the Committee, in accordance with section 8(4)(b) of the Broadcasting Act 2009.

The Chief Executive further advised that the consequential vacancy on the Finance, Audit and Risk Committee, arising from the changes outlined, would be filled by Authority member Mary Curtis. It was noted that both appointments would have effect from December.



**2. Sectoral Sustainability**

**2.1 Public Service Broadcasting: Annual Review (2016) of Public Funding for RTÉ and TG4**





### **3. Communicating & Influencing**

#### **3.1 Re-transmission Fees: Presentation**

On request from the Authority, the Chief Executive gave a short presentation in relation to the matter of re-transmission fees, which had been the subject of recent presentations to the Joint Oireachtas Committee on Communications, Climate Action and Environment (JOC). The Chief Executive detailed the provisions of section 77 of the Broadcasting Act 2009 and the respective 'must carry, must offer' obligations on platform operators and on RTÉ, TG4 and TV3 for the re-transmission of content. It was noted that the 2009 Act made no provision in respect of re-transmission fees and while the current Heads of Bill made no reference to fees, the Minister for Communications, Climate Action and Environment had requested that the JOC would consider the matter and provide him with a report. It was further noted that this report was scheduled for completion and submission to the Minister before the end of November.

### **4. Promoting Plurality & Diversity**

#### **4.1 Sound & Vision 3: Round 29 Outcomes**

The Authority was presented with the outcomes of the assessment process for Round 29 of the Sound & Vision 3 Scheme. The Authority's approval was sought for a package of recommendations, providing funding support for 120 radio and television projects, with a total value of €5.774m. It was noted that the funding amount recommended was in excess of the indicative allocation for the round of €5m.

In considering the package of recommendations, the Authority had regard to summary details of the applications received; an analysis of the projects recommended for funding, with reference to the Scheme's objectives; and, an Executive analysis of the round outcomes.

Members sought clarification on a number of matters including the approach to funding re-commissioned projects and the spread of genres receiving funding in the round. The Authority also discussed the criteria used by the strategic panel to determine the TV projects that would be recommended for funding. It was agreed that the strategic assessment process would, in future, include a criterion in respect of gender, specifically, the extent to which the creative team includes women in a leadership role.

The Authority requested that consideration would be given by the Executive to structuring future reports in line with the BAI's strategic themes and the extent to which any package of recommendations supports their achievement. Members also requested that future reports would provide details regarding the genre and format for successful projects. The Authority then discussed the dissemination of information by the BAI in respect of projects receiving funding and ways in which this might be further developed. A number of initiatives in the current year, seeking to provide greater public access to programmes funded, were noted.



Following discussion, the Authority was satisfied to increase the indicative allocation for round 29 from €5m to €5.774m, as recommended by the Strategic Assessment Panel. The Authority was further satisfied to approve the package of recommendations, as presented.

#### **4.2 Ancillary Measures: Proposal for a new BAI/CMF Canada Ireland Co-Development Incentive for Audio-Visual Projects 2017-2019.**

The Authority considered a proposal for a new BAI/CMF co-development incentive, providing continued support for the development of Irish-Canadian co-productions, which meet the themes of the Sound & Vision 3 Scheme. It was noted the proposal was being submitted under the Ancillary Measures provision of the Scheme. The co-development incentive would comprise three rounds over a two-year period, with funding support from the BAI totalling \$300k CND (approximately €210k). The Authority noted a number of changes to the incentive, reflecting the experience of having run the initiative since April 2016.

In considering the proposal, the Authority discussed the operational changes outlined, in particular the intention to include an assessment criteria focussing on the extent to which women are included in leadership roles in the creative team. It was agreed that a review would be conducted after the conclusion of the first round of the new incentive, to assess the efficacy of this criterion.

Following discussion, the Authority was satisfied to approve the proposed new BAI/CMF Canada-Ireland Co-Development Incentive. The Authority was further satisfied to allocate \$300k CND from the Broadcast Fund in support of the initiative over the period 2017-2019.

#### **4.3 Community Sound Broadcasting Services-Requests for Contract Extensions**

The Authority considered and approved extensions of contract for two community sound broadcasting services, Comharchumann Cumarsáide Pobal Bhaile Átha Claith Thoir Thuaidh (trading as Near FM) and Dublin South Local Broadcasting Cooperative Society Limited (trading as Dublin South FM). The extensions of contract for each service were required to facilitate the continuance of the community radio services in each franchise area, pending the conclusion of contract negotiations, in the case of Near FM and the re-submission of a modified licence application, in the case of Dublin South FM. It was noted that the contract extensions granted would be correspondingly reflected by a reduction in the term of any new contract signed, in the case of both services. The extensions were approved to the 30<sup>th</sup> June 2018,

#### **4.4 Contractual Variation: Ocean FM**

The Authority considered a submission received from North West Broadcasting Limited (trading as Ocean FM) to amend the terms of its sound broadcasting contract, requesting permission to close its remote studios in Donegal town and Manorhamilton Co. Leitrim. In considering the submission, the Authority had regard to an Executive analysis of the submission, examining the programming, commercial and financial reasons for the proposed changes. It was noted that the Contractor proposed to invest the savings accruing from the closure in the further promotion of the





service and in increasing news and current affairs resources, thereby benefitting all parts of its franchise area.

Following discussion, the Authority was satisfied to approve the submission received, subject to a clarification by the Contractor of the manner in which any savings achieved would be deployed by the Contractor, in addition to an amendment to the service's Programme Policy Statement, reflecting any additional commitments to news and current affairs and outside broadcast output across the franchise area. It was further agreed that the Executive would monitor Ocean FM's content output to ensure programming commitments specific to North Leitrim and South Donegal continue to be met.

#### **4.5 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 Séamus Martin and Executive staff members Celene Craig and Ciarán Kissane, declared an interest in this item and recused themselves from discussion and decision on the matter.*

Further to the provisions of section 68(1) of the Broadcasting Act 2009, the Authority was satisfied to accept the recommendations of the Contract Awards Committee and enter into contract negotiations with two temporary sound broadcasting services, Christmas FM and Drive in Movie Service, and one pilot community service, Cork Community Radio.

#### **4.6 Discussion on Communicorp**

*In their capacity as members of the Compliance Committee, Rosemary Day and Maeve McDonagh declared an interest in the item under discussion and recused themselves from discussion and decision on the matter.*

The Authority considered correspondence issued from the BAI and a response received from Communicorp Group Limited, concerning its decision that it was no longer appropriate to engage representatives of the Irish Times to feature on Communicorp contractor stations.

In considering the response received, the Authority had regard to its statutory functions and strategic goals. The Authority was also mindful of the independent statutory role of the Compliance Committee in respect of compliance by contractors with the terms of their contracts and noted that it did not have a role in such compliance matters.

Following discussion, it was agreed that correspondence would issue to Communicorp Group Limited, expressing the Authority's dissatisfaction with the situation that had arisen and requesting a re-consideration by Communicorp Group of the decision taken in respect of Irish Times contributors. In addition, it was agreed that a request would issue from the Authority to the Compliance Committee to consider whether any issues arose in respect of compliance by the contractor stations with the statutory provisions and the terms of the individual contracts held with the BAI.



## **5. Excellence & Accountability**

### **5.1 BAI and BF Budget Reforecast 2017 and 3-Year Estimates 2018-2020 (Revised)**

The Chairperson of the Finance, Audit and Risk (FAR) Committee advised the Authority that, following approval of the draft three-year estimates 2018-2020 at its July meeting, a final review of the figures prior to their submission to the Minister had revealed a number of formula errors in the calculations. In addition, a number of further amendments were required in order to comply with the requirements of the FRS102 accounting standard. The impact of the changes was deemed by the Executive to be sufficiently material to warrant referral back to the FAR Committee and the Authority.

The Chairperson of the FAR Committee then outlined how the issues had occurred and were identified; the revised estimates 2018-2020 and the impact on the levy chargeable to broadcasters; the outcomes of the FAR Committee meeting held on 16<sup>th</sup> October; and, the options for consideration by the Authority in respect of the BAI estimates for 2018-2020.

Following discussion, the Authority was satisfied to recommend the original estimates, in line with the levels approved at the July meeting, for submission to the Minister for Communications, Climate Action and Environment. The Authority considered that the potential budget savings identified by the Executive to achieve the estimates would not unduly impact on the delivery of the BAI's statutory, strategic or operational objectives.

Members commended the Executive on its timely resolution of the issue and requested that a review of process and procedures would be undertaken to mitigate the risk of a future recurrence of the issues that had arisen. In this regard, it was noted that an internal audit of the budgeting process was due to be finalised in 2017 and that a recommendation in respect of the software used to support the budgeting process, arising from the FAR Committee's review, would be implemented with immediate effect.

## **6. For Information**

### **6.1 Minutes of the Compliance Committee Meeting**

Minutes of the Compliance Committee meeting, held on the 12<sup>th</sup> July, were circulated to the Members for information.

### **6.2 Minutes of the Contract Awards Committee**

Minutes of the Contract Awards Committee meeting, held on 25<sup>th</sup> May 2017, were circulated to the Members for information.

### **6.3 Schedule of Matters for Decision of the Authority and Statutory Committees**

Following consideration of the draft Schedule of Matters reserved for Decision of the Authority and Statutory Committees, a number of proposals for change were incorporated, as requested by the



Authority and the Compliance Committee. The final Schedule of Matters was circulated to the Members for information. The Schedule will require review on an annual basis.

**7. Any Other Business**

The Chief Executive advised that a screening of the Sound & Vision funded programme, Poc na nGael, had been organised for Thursday 23<sup>rd</sup> November in the GAA Museum in Croke Park, and was being hosted in conjunction with the Canadian Ambassador.

**8. Date of Next Meeting**

The next meeting of the Authority will be held on the **16<sup>th</sup> November at 11am** in the BAI offices.

**Professor Pauric Travers,  
Chairperson.**

**16<sup>th</sup> November 2017.**