

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

**Date** 21/05/2020 **Time:** 10.30 am **Venue:** Conference Call

## **Attendance**

**Authority:** Pauric Travers (Chairperson), Alan McDonnell, Grace Smith, Mary Curtis, Vivien McKechnie.

## **Apologies:**

**Executive:** Michael O’Keeffe, Celene Craig, Anne O’Brien (Minutes), Liam Boyle (items 2.2, 2.4, 3.3 & 4.2), Anne Louise O’Donovan (items 2.3, 3.1, 3.2 & 4.3), Richard Brennan (items 3.1 & 3.2), Jean Crampton (item 4.3).

## **1. Matters Arising**

### **1.1 Minutes of Authority Meetings 27<sup>th</sup> February, 24<sup>th</sup> March and 31<sup>st</sup> March 2020**

27<sup>th</sup> February 2020

The minutes of the meeting of the Authority of 27<sup>th</sup> February 2020 were approved by the members and signed by the Chairperson. There were no matters arising.

24<sup>th</sup> March 2020

The minutes of the meeting of the Authority of 24<sup>th</sup> March 2020 were approved by the members and signed by the Chairperson.

Matters arising were as follows:

#### **a) Government’s Roadmap for Reopening Society and Business**

The Chief Executive advised members of the possible roadmap for the reopening of the BAI offices further to the restrictions and advices issued by the Government. This will require that the BAI continue to implement remote working until at least the 10<sup>th</sup> August 2020. At that stage, it is envisaged that only a skeleton staff will be permitted to attend the BAI offices and that full occupancy is a medium term goal and may be permissible by year end. The BAI will continue to open the premises one morning a week to facilitate security, particular administrative processes and HR activities.

The Chair and Board Members conveyed their thanks to all staff for coping with the unusual and challenging circumstances, which are placing significant demands, both professional and personal, on all staff and acknowledged the effort and commitment to continue the work of the BAI.

31<sup>st</sup> March 2020

The minutes of the meeting of the Authority of 31<sup>st</sup> March 2020 were approved by the members and signed by the Chairperson.

**b) COVID-19 Fund**

The Chief Executive clarified that the funding initiative was implemented further to a request rather than a direction from the Minister for Communications, Climate Action and Environment. While expressing disappointment that an open round of the scheme would not be run until the second half of the year, representatives of the wider media sector had acknowledged that support for the independent radio sector through this special round was warranted in the present circumstances.

## **2. Enhancing Innovation & Sectoral Sustainability**

### **2.1 Broadcasting Funding Scheme – COVID-19 Funding Initiative**

Members were presented with the outcomes of the assessment process for the first funding round opened under Sound & Vision 4, Round 35, the Covid-19 funding Initiative. Approval was sought for a package of recommendations, providing funding support of €2.5m to 32 independent commercial sound broadcasting services for the purpose of delivering a wide range of Covid-19 related projects.

In considering the package of recommendations, members had regard to summary details of the applications received; an overview of the assessment process; and an analysis of the projects recommended for funding, with reference to the aims and objectives of the funding round, the Scheme and the Authority's Strategy Statement.

Following discussion, the Authority was satisfied to approve the package of recommendations, as presented. It noted that there was a variance in the standard of applications, with a number of very strong, high quality applications and also, a few that only met with the minimum requirements. It was also noted that the issue of sustainability was evident across all the applications. Overall, the engagement with the round was good and the approach will be reviewed to inform the next round for community sound broadcasting contractors and also, to look at ensuring consistent engagement with SV4 by the independent commercial radio sector. It was confirmed that the successful applicants will be required to submit audio content on completion of their respective funded projects.

### **2.2 Update on the 2019 Community Media Action Plan**

Members were presented with a Note which set out the Executive review and commentary on the nine key actions of the Authority's 2019 Community Media Action Plan. A status update of the activities under each action was provided. With regard to the action proposed to develop, implement and review a new social benefit focussed evaluation methodology, Members were

advised that this had been completed and was due to be launched on the 19<sup>th</sup> June 2020 and its implementation will be supported by a Social Benefit Toolkit handbook. This publication will set out the social benefit measures in simpler terms and will include a set of social benefit indicators. It was noted that the activities under the nine key actions were in line with the agreed timelines and targets. The Members were satisfied with the progress of each of the actions as set out.

Members then discussed the proposal to review the Authority's policies for Community Radio and Community Television. The Members agreed that it would be appropriate to review these policies as set out in the last quarter 2020. This approach would build on the work undertaken to-date and would provide a timely framework for the Authority's community radio licensing plan later next year.

Members positively noted the detail in the Note and the progress to-date. The Executive explained that the new approach to measuring social benefit was developed for community radio and that work would commence on an approach for such a measure for community television.

### **2.3 Report to the Minister on Revenue of the Independent Commercial Radio Sector**

Members were presented with a Note which set out the financial return data for the independent commercial radio sector for the period January – March 2020 further to the waiver of the levy for the first six months of 2020. While there was evidence of a fall in revenue, Members noted that the data only captured two weeks of the crisis period. [REDACTED]

Members agreed that the report provides a very good benchmark and that a pattern of the impact of COVID-19 on the sector will become much clearer from April onwards. The data is very useful and will provide critical information to review the impact of the waiver of the levy.

### **2.4 PSB Update (including the impact of COVID-19)**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*2018 Annual Review of Performance and Public Funding (“ARPPF”) - Minister’s response*

The Members noted the Minister’s response to the 2018 ARPPF of RTÉ and TG4, which was received on the 27<sup>th</sup> March 2020, and TG4’s subsequent response to the Minister. [REDACTED]

[REDACTED]

*2019 ARPPF and 2020 Annual Statement of Performance Commitments (“ASPC”) update*

The Executive informed Members that the work on the 2019 ARPPF is on track and that the final draft of the review, currently at data analysis stage by the consultants, Mediatique, will be presented to members later this summer.

*ASPC*

The Executive informed members that TG4’s 2020 ASPC is being presented to members during this Authority meeting (item 3.3). RTÉ intends to submit their ASPC in early June 2020 and this will include some of the anticipated resulting impacts of the current COVID-19 pandemic.

The Authority acknowledged the exceptional performance of the PSB’s for Irish audiences over the COVID-19 crisis and commended their outstanding contribution. The Authority then engaged in a discussion on the issues arising, and in particular on its own regulatory role in respect of the funding of public service broadcasters. In this regard, the Authority noted that its fundamental role is to review performance and the adequacy of public funding, which is a strategic role, based on evidence and informed practice. The Authority supports, and advocates, for public funding, but should only do so based on comprehensive data sets. In this context, it was noted that there is a significant level of work being undertaken currently with the sector that will provide concrete evidence based information including reports such as those being undertaken by NewEra,

Mediatique, by the BAI's Finance staff on the monthly impact of the levy waiver, and wider sectoral information sources.

The Members agreed that it would be critical to have a period of figures and trends on the sector as a whole, including the impact on Virgin Media, and that the issue of the impact of the crisis on public funding, and on funding generally on the entire sector, would be a standing agenda item over the coming months.

It was noted that there should also be a much clearer picture of what the projections for the second half of the year may look like by the end of June and that it will be a significant matter for discussion at its July meeting.

[REDACTED]

[REDACTED]

### **2.5 Media Research Funding Scheme 2019: Project Plan Revision (DCU/RTÉ) – for information**

Members were provided with information on a revision to a research project (DCU FuJo/ RTÉ), funded under the Media Research Funding Scheme 2019, to reflect the impact of the COVID-19 crisis on the original research project. Members were informed that the matter was considered by the Assessment Panel which acknowledged that the revision was an inevitable side effect of the pandemic. While noting a certain loss of project scope, the panel was of the opinion that the revised proposal will have a value beyond the original one and offers significant added value by switching focus to RTÉ's response to the COVID-19 crisis itself.

The Authority was satisfied with the proposed revision noting that the contractor was addressing the programme listing further to the announcement of Seán O'Rourke's retirement. In this regard, it was noted that the documentation as set out preceded this announcement.

## **3. Enhancing Innovation & Sectoral Sustainability**

### 3.1 Revised BAI Workplan

Members were presented with a Note that set out the proposed revisions to the BAI's Workplan to reflect two particular developments - the request from the Minister to waive the levy for the independent radio sector which will result in a shortfall of €1m; and the effect of the COVID-19 pandemic on the BAI. [REDACTED]

[REDACTED] However, given the potential €1m shortfall and the impact of the COVID-19 crisis, the Authority was asked to consider the curtailment, postponement and cancellation of some of the initiatives in the BAI Workplan for 2020. The financial implications of these developments were outlined in an accompanying Note on Revised Budgets (refer Agenda Item 3.2).

The revisions to the fourteen key deliverables in the Workplan were discussed and it was noted that the aim was to strike a balance on what the BAI is trying to achieve. The majority of revisions pertained to postponement and the ambition would be to reactivate these activities as soon as possible. There were also a number of new areas of activities directly linked to the Covid-19 crisis.

Members agreed that the Executive Note on the proposed revisions to the BAI's budget should be considered prior to making decisions on the revisions to the Workplan. Accordingly, Members moved to consider the proposed budget revisions.

### 3.2 Revised BAI Budget (incl. Sectoral Learning & Development: Revised Proposals 2020 – appendix 3)

Members were presented with an Executive Note that set out the proposed changes to the BAI Budget resulting from any updates to the 2020 Workplan that may arise from the Covid-19 pandemic and the decision to waive the levy from independent radio stations for the first six months of 2020.

The Members noted that a number of cashflow and budgetary measures were proposed and were devised further to consultation with the Senior Management Team when revising the Workplan and fall to be considered under two categories; 'Covid-19' reductions which were a direct consequence of the ongoing pandemic; and 'Budgetary' reductions which were identified in order to reduce, curtail or defer activity due to the budgetary restraints that the Authority now faces.

[REDACTED] The proposed changes were set out in detail and an appropriate rationale was provided for each listed revision. The requirement for the NTMA loan facility was noted and also, that the longer term impacts of the levy waiver will require further consideration. The Members noted that the Executive is reviewing the implications of the levy waiver and the funding options in relation to the repayment of the NTMA loan facility and will provide an update on the review at the Authority's June meeting.



The Members agreed with all the proposed revisions to the Workplan and Budget apart from the proposal to postpone work under the ESG Action Plan. It was agreed that the plan devised by the contractor Sustainabilityworks, which the Authority approved at its November 2019 meeting, would be reintroduced. The capital element of the plan would be deferred until the first half of 2021. This approach should underscore the Authority's impetus behind sustainability and the feasibility of the sustainability network in the longer term. It was agreed that the cost of €15k for progressing the network should be budgeted for this year.

The Members positively noted the detail and supporting documentation provided in the Executive Notes for the revisions to the Workplan and Budgets and thanked the Executive staff for same.

**3.3 TG4 2020 Annual Statement of Performance Commitments**



[REDACTED]

[REDACTED]

[REDACTED]

**3.4 Risk Update**

The Chief Executive informed Members that the Risk Register is currently being updated and is due for consideration at a scheduled Senior Management Team meeting. The revised register will then be presented for consideration at the FAR meeting in June and subsequent to this, a comprehensive report will be presented to the Authority’s June meeting.

**4. Promoting Plurality & Diversity**

**4.1 Ratification of Decisions between Authority Meetings:**

The Chief Executive advised Members of five matters that had required decision between the Authority’s meetings of 31<sup>st</sup> March and 21<sup>st</sup> May. The Chairperson and Chief Executive agreed to utilise the procedures for decision-making between meetings and delegate the decisions to the Chief Executive and Chairperson for each of the five matters, which are set out hereunder.

- Expenditure – IT software services contract

The Chief Executive informed Members that the contract for the cloud-based software solutions platform used by the BAI with the provider Service Now required renewal subsequent to the Authority’s March meeting. This platform supports a number of critical functions within the BAI, including Sound & Vision and Broadcast Complaints and provides considerable resource savings. The Chief Executive advised that given the capital expenditure on bespoke software development over the last number of years, the existing Service Now platform should be used for a further three years to leverage a maximum return from the capital expenditure, the investment by staff in developing the system, and in recognition of the familiarity of the system among S&V applicants and contractors. Further, it may be prudent for the BAI to retain its core IT systems until clarity and associated timelines are available in relation to any new Media Regulator. [REDACTED]

[REDACTED]

The Chairperson and Chief Executive were satisfied to authorise the expenditure.

- Contract Extension WLCR FM Limited t/a West Limerick Community Radio

The Chief Executive informed Members that the expiry date on WLCR FM Limited's community sound broadcasting contract was 14<sup>th</sup> May 2020. Further to a recommendation from the Compliance Committee, received subsequent to the Authority's meeting of 31<sup>st</sup> March, that this community sound broadcasting contract be extended for a period of two years, to facilitate the progress of the broadcaster in addressing compliance concerns, the Chairperson and Chief Executive were satisfied to ratify the recommendation.

- City Broadcasting Limited trading as Dublin's Q102

The Chief Executive advised members that subsequent to the Authority meeting of 31<sup>st</sup> March, the Contract Awards Committee considered an application for a Section 63 sound broadcasting contract for City Broadcasting Limited t/a Dublin's Q102. The Committee was satisfied that the application could be presented to the Authority for ratification.

Further to the provisions of Section 63 of the Broadcasting Act 2009, the Chairperson and Chief Executive were satisfied to ratify the recommendation of the Contract Awards Committee in respect of City Broadcasting Limited trading as Dublin's Q102.

- Temporary sound broadcasting services

The Chief Executive advised Members that subsequent to the Authority meeting of 31<sup>st</sup> March, the Contract Awards Committee considered two applications for Section 68 temporary sound broadcasting contracts. The Committee was satisfied that both applications could be presented to the Authority for ratification.

Further to the provisions of Section 68(1) of the Broadcasting Act 2009, the Chairperson and Chief Executive were satisfied to ratify the recommendations of the Contract Awards Committee in respect of Bere Island Projects Group CLG trading as Bere Island Community Radio and Dún Laoghaire Further Education Institute trading as The Wave.

- Contractual Variance – Bere Island Projects Group CLG

The Chief Executive advised Members that Bere Island Projects Group CLG submitted a contractual variation request in April seeking to change from a 30-day temporary sound broadcasting contract to a temporary community sound broadcasting contract, which permits up to 100-days of broadcast. The contractor submitted that the proposed extra dates are to assist the island community during the Covid-19 restriction period. The Chief Executive advised that the Bere Island Project Group meets all the requirements for a 100-day trial community licence.

The Chairperson and Chief Executive were satisfied to ratify the contractual variation.

The Authority was satisfied to ratify the five decisions made between meetings, by the Chairperson and Chief Executive, as set out further to protocol.

## **4.2 Ratification of Contract Awards Committee:**

### **4.2.1 Section 67 – Classic Rock Broadcasting Ltd. trading as Radio Nova**

Members were presented with a recommendation from the Contract Awards Committee that the Authority enter into a ten-year sound broadcasting contract with Classic Rock Broadcasting Limited, trading as Radio Nova, to operate a niche music-driven service targeting an audience aged 25+ years for Dublin City, County and Commuter Belt.

Members noted that the Contract Awards Committee had recently completed its assessment of the proposal under the fast-track licensing procedure further to Section 67 of the Broadcasting Act 2009 (“the Act”).

In accordance with Section 67(8)c of the Act, the Authority was satisfied to ratify the recommendation of the Contract Awards Committee and award, in principle, a further ten-year sound broadcasting contract to the Incumbent for the provision of a classic rock music-driven service, targeting an audience aged 25+ years, subject to successful sound broadcasting contract negotiations.

### **4.2.2 Section 71 – Premier Media Broadcasting Ltd.**

Members were presented with a recommendation from the Contract Awards Committee that the Authority enter into two separate five-year content provision contracts with Premier Media Broadcasting Limited for the services ‘Premier Sports 1’ and ‘Premier Sports 2’. The Members noted that both services currently operate under separate, five-year section 71 licences, which are due to expire in July 2020 and the proposed services broadcast a range of live sport.

In accordance with Section 71(4) of the Broadcasting Act 2009, the Authority was satisfied to ratify the recommendation of the Contract Awards Committee, to award in principle two content provision contracts to the applicant Premier Media Broadcasting Limited for the two aforementioned live sports content provision services, subject to successful contract negotiations.

### **4.2.3 Section 68 – Temporary Licence Applications**

Further to the provisions of Section 68(1) of the Broadcasting Act 2009, the Authority was satisfied to ratify the recommendations of the Contract Awards Committee in respect of the following temporary sound broadcasting services:

- Oileáin FM (Sherkin Island Development Society), and
- Eden FM (Heartbeat FM Radio Services Limited).

#### **4.3 Contract Extensions:**

##### **4.3.1 Dublin's Q102**

Members considered an Executive request seeking approval for a 3-month contract extension for the commercial sound broadcasting contract held by City Broadcasting Limited trading as Dublin's Q102 to 30<sup>th</sup> August 2020. Members noted that the current commercial sound broadcasting contract is due to expire on 24<sup>th</sup> May 2020 and that the contract extension would facilitate completion of contract negotiations.

The Authority was satisfied to award the contract extension as requested.

##### **4.3.2 Dublin South**

Members considered an Executive request seeking approval for a 24-month contract extension for the community sound broadcasting contractor Dublin South Local Broadcasting Co-operative Society Limited trading as Dublin South FM ("the Contractor") to 30<sup>th</sup> June 2022.

Members noted that the current contract is due to expire on the 30<sup>th</sup> June 2020 and that the extension is required to facilitate the completion of remedial actions that the Contractor must implement to satisfy governance matters identified in the course of an inspection and a subsequent performance review carried out further to the work of the Authority's Compliance Committee. The Members also noted that the two-year extension request takes cognisance of the time required to facilitate any future licensing activity arising for the community sound broadcasting service.

[REDACTED]

[REDACTED] In acknowledging the value of the service to the

local community, and the ongoing monitoring of the Contractor's progress by the Executive, the Authority agreed to award a further two-year contract extension.

## **5. For Information**

### **5.1 Executive Approvals: Virgin Media Television Limited – Appointment of Managing Director**

Members were circulated with details of the appointment of Mr. Paul Farrell to the position of Managing Director of Virgin Media Television, effective as of the start of May 2020.

### **5.2 BAI Submission to AV Action Plan Implementation Steering Group**

Members were circulated with details of the BAI's submission to the AV Action Plan Implementation Steering Group, dated 30<sup>th</sup> April 2020, summarising the BAI's actions to support the AV sector in response to the COVID-19 crisis.

### **5.3 Minutes of the FAR Committee Meeting, 18<sup>th</sup> November 2019**

Minutes of the Authority's Finance, Audit and Risk Committee meeting, held on 18<sup>th</sup> November 2019, were circulated to Members for information.

## **6. Date of next meeting**

The next meeting of the Authority will be held at 10.30pm on Thursday 25<sup>th</sup> June by conference call.

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**Professor Pauric Travers,  
Chairperson**

**25<sup>th</sup> June 2020**