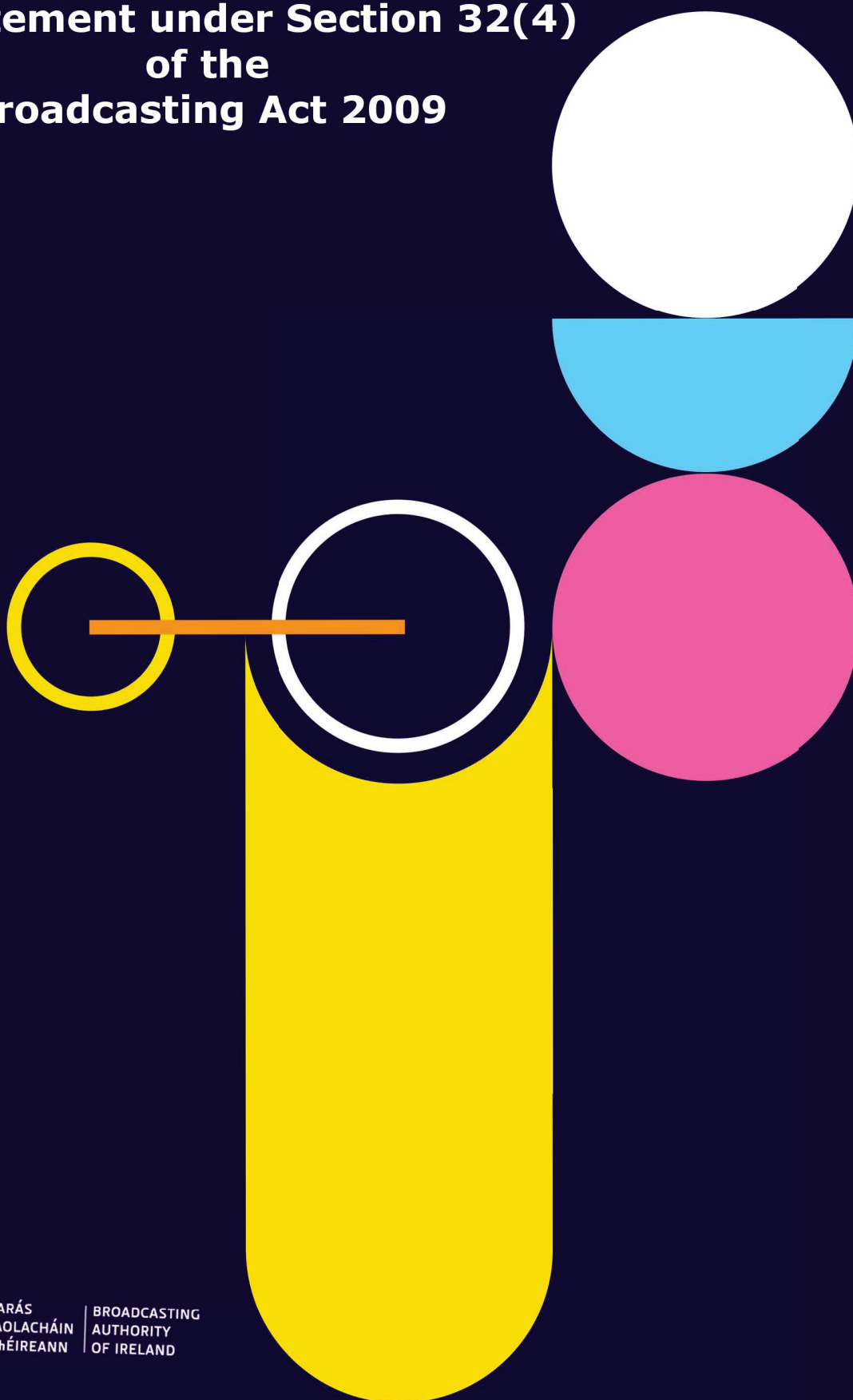


# **BAI Statement under Section 32(4) of the Broadcasting Act 2009**



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND



## **BAI Statement under Section 32(4) of the Broadcasting Act 2009**

### **1. Introduction**

The Authority and the statutory committees are required under section 32(4) of the Broadcasting Act 2009 to publish a statement setting out how the BAI proposes, during the period for which the statement is made, to ensure that regulation by the Authority and the statutory committees does not involve the imposition or maintenance of unnecessary administrative burdens.

Regulation by its nature imposes administrative burdens. Insofar as the statute envisages and indeed prescribes much of the regulatory regime to be implemented, it is logical that there would also be an associated administrative burden/effort required. The purpose of section 32(4) is to ensure that the regulator does not impose new, or maintain existing, unnecessary administrative burdens. It is not designed to reduce regulatory burden where these are required by statute. The BAI's aim is to fulfil its regulatory remit and comply with the requirements of the statute using means that are proportionate to the regulatory objective to be achieved.

This Statement sets out the following:

- The key principles which inform the BAI's approach in this matter;
- Policy articulation; and
- The BAI's ongoing actions and activities to deliver on our objective of improving regulatory practices to reduce regulatory burden.

### **2. Principles**

The following principles inform the BAI's approach to reducing administrative burden:

- The BAI is a regulator with statutory duties and obligations and the imposition of some administrative burden/effort on regulated entities is to be expected.
- The BAI's commitment, as articulated in its strategy and across a range of other policy documents, is one which seeks to ensure that the administrative efforts required of regulated entities are clearly directed to the delivery of regulatory objectives that serves viewers and listeners.
- The BAI is committed in all its activities to ongoing review, to ensure that its processes and procedures are effective, rationale-based and deliver on their regulatory objectives. Such reviews are inclusive and allow for regulated entities to convey their view as to these arrangements.



- The BAI is committed to a culture of openness among our staff that fosters innovative thinking and creative discussions with the aim of improving processes and implementing better and more efficient ways of working.

### 3. Policy Articulation

The BAI's commitment to these principles is evidenced in a range of BAI policy documents, as follows:

#### *BAI Strategy Statement 2021-2023*

This Statement details the BAI's Mission, Vision and Values and five Strategic Themes for the period 2021-2023. Under each of the five themes, a series of high-level Strategic Objectives are proposed as well as the intended Outcomes and associated Key Performance Indicators (KPIs). The Strategic Themes and their related objectives identify where the BAI will focus its work and efforts over the Strategy three-year period.

Under Strategic Theme 2 *Achieving Excellence and Accountability*, the BAI sets out its objective to improve regulatory practices to reduce regulatory burden with the intended outcome that regulation is proportionate and serves the public interest.

The priority values of Accountable, Fair, Flexible and Adaptable referred to in our Strategy Statement also underpin this objective.

The BAI commits to the application of regulation which is appropriate and effective, focused and targeted in a fair and proportionate manner and is, at all times, accountable and transparent in its decisions, governance, and resources.

During the challenging period 2020-2021, the BAI demonstrated flexibility and adaptability in both its own business continuity response and in responding to the immediate stakeholder challenges arising from Covid-19. The BAI ensured a prompt facilitation of requests for temporary changes to programme schedules, approval of revised activities and events funded under the BAI's Sponsorship and Sectoral Learning and Development Schemes. Under Sound and Vision, the implementation of both the Commercial Radio Covid Round and Community Social Benefit Round were streamlined to reduce administrative burden on applicants and ensure a swift disbursement of funding to the sectors.



### *BAI Compliance and Enforcement Policy*

The policy deals with the BAI's approach to its monitoring, compliance, investigation, and enforcement functions. The objectives of the BAI Compliance and Enforcement Policy are to facilitate: the effective planning and operation of the compliance and enforcement activities of the BAI in fulfilment of its statutory obligations and its strategic objectives; the work of the BAI by ensuring relevant and accurate compliance information is gathered and reported; to encourage and promote a culture of compliance within the broadcasting sector in Ireland; to assist broadcasters and contractors in their understanding of the BAI's approach to implementing its statutory functions in the areas of compliance and enforcement; to inform and support other areas of the BAI's work including licensing and the development of codes and rules; and to give effect to a risk-based approach to its compliance and enforcement activities.

In adopting a proportionate and balanced risk-based approach to compliance activities the BAI reduces regulatory burden on both contractors and broadcasters. This risk-based approach involves the identification and evaluation of risks in accordance with their probability of occurrence (high, moderate and low) and their possible impacts (high, moderate and low) on the achievement of compliance-related and organisational objectives.

The Policy commits the BAI to reviewing its compliance and enforcement processes regularly to minimise the administrative burden placed on broadcasters and contractors. Such activities shall be supported by the effective use of IT. In addition, the Policy notes that the BAI will develop and review guidelines and template documentation for compliance and enforcement processes, and provide access to accurate, clear and timely information on such processes in order to give a clear understanding of expectations and to reduce administrative burden

### *BAI Broadcasting Services Strategy*

The Broadcasting Services Strategy (BSS) provides the framework for the formulation of licencing plans and associated licencing activities by the BAI. It is one of the primary means by which the Authority fulfils its key statutory objective of endeavouring to ensure that the number and categories of broadcasting services in the State best serve the needs of the people of the island of Ireland.

The BSS outlines the BAI's vision for the optimum mix of broadcasting services, which is centrally concerned with the content that is available to Irish audiences. It articulates the policies that will guide the licensing and associated regulatory activities of the BAI to support the achievement of its stated objectives and the commitment of the BAI to being responsive to the ever-changing media landscape. It sets out the principles that the BAI will apply when conducting its statutory functions and regulatory practices over the lifetime of the BSS, in order to facilitate the realisation of that vision.



In the BSS, the BAI commits to regulatory policies and practices that are fair and proportionate, that balance the needs of the sector with the needs of the Irish audiences. The BAI will explore and support regulatory developments that could potentially enhance the sustainability, development and creativity of the sector. The BAI is committed to continually reviewing and improving its administrative capabilities and to seeking greater effectiveness and efficiencies in its regulatory practices. This will include faster response times on regulatory engagement and more regular communications with stakeholders.

#### **4. Reduction of Administrative Burden**

The following examples reflect the BAI's ongoing actions and activities to deliver on our objective of improving regulatory practices to reduce regulatory burden: -

*a) Maximising Cloud-Based Working*

The BAI has, in recent years moved to a cloud-based working system. In the context of the commitment to lead and model best practice in respect of the environment, the BAI undertook a pilot paperless project prior to the commencement of the pandemic. Drawing on the advantages of having moved to a cloud-based operating system, the team leading the work on the transposition of the Audiovisual Media Services Directive moved their communications and filing practices fully online. This was augmented by the use of Microsoft Teams (not in use by the organisation at that time) as well as enhanced uses of mobile devices for day-to-day work.

The objective of the pilot was to examine the efficiencies, flexibility and environmental benefits (through reductions in paper use and travel) of a more cloud-based way of working. In March 2020, with the closing of the BAI office (and wider society) the systems trialled in the pilot were rolled out across the organisation and to the meetings of the Authority and Statutory Committees. This move to cloud-based working has leveraged technology to provide ongoing efficiencies for both the BAI and for its regulated entities.

*b) Contractual Variations*

The majority of contractual variation requests are considered at Executive level to facilitate efficient decision making for the contractor concerned. Requests that are more significant in nature are considered by the Authority.

To reduce unnecessary administrative burden, guides and forms for specific contractual variations have been made available to assist broadcasters in making these requests. This documentation explains the BAI's approach to and criteria for considering requests and specifies the information required from contractors. This has assisted broadcasters in framing their submissions and reduced the number of submissions and requests for supplemental information. BAI staff are available to Contractors to explain the contractual variation process, relevant policies and assist with queries in this regard.



The BAI's updated *Ownership and Control Policy* also reduced the level of information required from broadcasters in requests for ownership and control changes.

c) *Levy Implementation*

The review of the operation of the BAI levy is indicative of the BAI's commitment to ongoing review of its processes and associated administrative burden. In 2020, the Levy Order was revised and updated to reduce the administrative burden on some sections of the Community media sector. S.I. No. 521/2020 - Broadcasting Act 2009 (Section 33) Levy (Amendment) Order 2020 came into effect on 1st January 2021 reflecting these changes.

During 2020 all broadcasters were required to transition to the amended Levy Audit Procedures which had been implemented on a phased basis following the review undertaken in 2018 in consultation with the industry. These audit procedures were revised following feedback from the industry on the administrative burden involved in carrying out annual audits of Qualifying income. The amended procedures introduced a risk-based approach under which broadcasters are assigned a risk score based on their levy compliance during the previous periods. Audit sample sizes required are reduced for broadcasters with a lower risk rating.

In 2021, the BAI brought all its Levy management activities in-house. This has reduced administrative burden on the broadcasting sector with a single point of contact for all levy related matters.

d) *Licensing*

The BAI revised its internal approval process for low-power temporary and institutional sound broadcasting services, resulting in shorter processing and decision-making timelines. The amended process is of particular benefit to applications for a small number of days or for a very limited area, such as applications for drive-in movie licences, festivals or religious services. The shortened application timeframe allows for faster turnaround times for applicants, reducing the average processing time from three months to about six weeks

The BAI is undertaking a comprehensive review of its licensing processes in respect of commercial and community radio services with a view to streamlining and reducing administrative burden. The initial part of this project relates to updating application forms and associated guidelines for Community Radio services being licensing in 2022. The purpose is to focus the applicant on setting out and achieving specific targets; providing forms that can be more easily transferred to the final contract; and reducing the amount of supporting documents that need to be provided as annexes to an application. A similar review will be carried out in advance of commercial radio and other licensing.



The refinement of the licensing process will make subsequent contracting simpler and enable the BAI to refine its compliance processes and how it measures contractors' performance.

*e) Compliance - Complaints*

To further assist members of the public in making complaints, the BAI developed an online complaints management system which had its first full year of operation in 2020. The system operates on the service-now platform and makes it easier for the public and broadcasters to engage with the BAI and reduces the administration burden associated with processing broadcasting complaints. This move to an online system is providing ongoing benefits for the BAI, the public and stakeholders in terms of reducing administrative inefficiencies. In addition, the system offers the BAI additional data-gathering and reporting functions, which may help to inform and support other BAI activities.

*f) Compliance – Broadcaster Self-Reporting Tool*

A pilot compliance self-assessment tool has been developed for Community broadcasters to report on and enable them to ensure they are up to date with their contractual commitments and governance obligations. It is intended that a similar compliance and performance reporting tool will be developed for the Commercial sector under the Media Commission. The experience of the sector and the BAI from the pilot Commercial Radio Broadcaster Return from 2016-2018 will inform this project. Performance reporting tools will enable BAI/Media Commission to build a comprehensive up-to-date compliance and performance record of each broadcaster.

*g) Sound and Vision Scheme*

In 2020, the administrative processes for Sound & Vision were modified by the BAI, cognisant of the challenging market conditions for all media market operators due to the global pandemic and the need to be responsive in our approach to the contracting and payment processes.

Further modifications in 2021 had the effect of significantly decreasing the volume of overall applications received (and, consequently the number of contracts entered), over the year. This was achieved while providing an increased level of funding to both the commercial and community radio sectors. Contracting arrangements were also streamlined reducing the administrative burden for all parties.

*h) Public Service Media*

The reduction of regulatory and administrative burden is a core BAI principle in undertaking our regulatory work with public service broadcasters. In 2021, the BAI adopted a more streamlined approach to reviewing the performance of broadcasters for its Annual Review of Performance and Public Funding in 2020.



The BAI, and its appointed consultants worked closely with the public service broadcasters to ensure that key data sets were efficiently collected, reducing duplication across a number of core areas of the Review. This streamlined approach was in direct response to feedback received from the broadcasters following previous reviews.

i) *Internal Process Reviews*

Internal process reviews will form a key component of the preparatory work for transition to the Media Commission. The BAI will continue to explore additional use of e-documents online portals and other technological advancements to deliver efficiencies and ease of use improvements for the BAI and stakeholders.