



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

**Broadcasting Authority of Ireland**

**Rule 27 Guidelines**

**Guidelines for Coverage of  
General, Presidential, Seanad, Local &  
European Elections**

**September 2018**

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## 1. Introduction

Rule 27 of the BAI *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* requires broadcasters to comply with Guidelines in respect of coverage of elections.<sup>1</sup> These Guidelines set out a number of requirements for broadcasters<sup>2</sup> in terms of their coverage of elections and apply in addition to the rules of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.<sup>3</sup> The Guidelines also provide guidance to broadcasters on the manner in which fairness, objectivity and impartiality may be achieved in their coverage.

## 2. Legal Requirements

The Broadcasting Act 2009 details the legal requirements placed on broadcasters in respect of their coverage of news and current affairs issues, including elections.

In this regard:-

**General requirements** for broadcasters in terms of news and current affairs coverage are set out in Section 39(1) of the Broadcasting Act, which states:

*"Every broadcaster shall ensure that:-*

- a) all news broadcast by the broadcaster is reported and presented in an objective and impartial manner and without any expression of the broadcaster's own views;*
- b) the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of his or her own views, except that should it prove impracticable in relation to a single broadcast to apply this paragraph, two or more related broadcasts may be considered as a whole, if the broadcasts are transmitted within a reasonable period of each other."*

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<sup>1</sup> Rule 27 of the BAI's Code states: "Coverage of an election or a referendum shall comply with Guidelines and codes of practice issued from time to time by the BAI."

<sup>2</sup> For the avoidance of doubt, the term 'broadcaster' as used in Section 39 of the Broadcasting Act does not refer to individual presenters or programme staff but rather to the company, co-operative etc., that owns and operates the broadcasting service. This should not be taken to mean that individual presenters or programme staff are exempt from the obligations of these Guidelines.

<sup>3</sup> See <http://www.bai.ie/en/codes-standards/#al-block-3>

Requirements in respect of the broadcast of **party political broadcasts** are set out in Section 39 (2) of the Broadcasting Act, which states:-

*“(2) Nothing in subsection (1) (a) or (1) (b) shall prevent a broadcaster from transmitting political party broadcasts provided that a broadcaster does not, in the allocation of time for such broadcasts, give an unfair preference to any political party. “*

Requirements in respect of **advertising** are set out in Section 41(3) of the Broadcasting Act which states:-

*“A broadcaster shall not broadcast an advertisement which is directed towards a political end...”*

The requirement for the BAI to develop the **Code of Fairness, Objectivity and Impartiality in News and Current Affairs** is set out in Sections 42(1), 42(2)(a) and 42(2)(b) & (e) of the Broadcasting Act, which states:-

- (1) The Authority shall prepare, and from time to time as occasion requires, revise, in accordance with this section, a code or codes governing standards and practice (“broadcasting code”) to be observed by broadcasters.*
- (2) Broadcasting codes shall provide –*
  - (a) that all news broadcast by a broadcaster is reported and presented in an objective and impartial manner and without any expression of the broadcaster’s own views,*
  - (b) that the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster’s own views,*
  - (e) that a broadcaster does not, in the allocation of time for transmitting party political broadcasts, give an unfair preference to any political party.*

### **3. Scope & Jurisdiction**

The Guidelines shall apply to coverage of General, Seanad, Local, European and Presidential elections. They shall not apply to by-election coverage except where the by-election is held on the same day as any of the aforementioned ballots.

The Guidelines shall apply to broadcasters within the jurisdiction of the Republic of Ireland and shall not apply to other services commonly received in this State but licensed in Great Britain and Northern Ireland or in other jurisdictions. The BAI encourages broadcasters outside of the jurisdiction, whose services are receivable in the Republic of Ireland and who cover Irish news and current affairs, to be mindful of the Guidelines, where appropriate, when deciding on their approach to coverage of elections in the Republic.

The Guidelines apply only in the case of broadcast content that makes reference to elections e.g. news and current affairs content or other content, for example a light entertainment programme covering any aspect of the election. The inclusion in a broadcast of an individual involved in an election campaign will not automatically mean that the broadcast must comply with these Guidelines simply on account of their appearance. Their inclusion will only be of relevance where a link is established between their participation in the broadcast and an election, for example, where the candidate, the presenter or another contributor makes reference to the election.

The Guidelines do not apply to print, social media or online print/audiovisual content.

### **4. Effective Date**

The effective date for the Guidelines will be published by the BAI in advance of each election to be held. The Guidelines will remain in effect until the closing of polling stations on the day of the poll.

### **5. Achieving Fairness, Objectivity and Impartiality**

Broadcasters play an important and valuable role in the manner in which information about an election is communicated to, and discussed by, the Irish public. For this reason, broadcasters are advised to cover election campaigns in as comprehensive a manner as possible, taking into account the resources available to them, their target audience and the type of programming that the broadcaster provides to the audience.

In their approach to coverage, broadcasters are asked to have regard to the following:-

- It is appropriate that decisions in respect of editorial coverage of an election rest solely with broadcasters. In this context, broadcasters must develop mechanisms in respect of their approach to coverage that are open, transparent and fair to all interested parties. These mechanisms should be considered and developed at an early stage and information on the approach being adopted should be available to all interested parties. Broadcasters should be in a position to demonstrate how these mechanisms have ensured fairness, objectivity and impartiality in instances where complaints are received directly by the broadcaster or referred to the BAI.
- Broadcasters should note that fairness, objectivity and impartiality can be achieved by a variety of means, for example, through the selection of contributors, the scope of the debate, the structure of the programme, the presenter's handling of the topic, the make-up of audiences or through other suitable means. In terms of airtime allocated, broadcasters must do so in a manner that is equitable and fair to all interests.
- Regardless of the approach taken, fairness must be achieved over the period of campaign coverage and in individual programming where it is necessary to ensure compliance with these Guidelines and with the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs.
- Broadcasters should note also that elections are dynamic events and they should give active consideration to their approach to coverage over the duration of a campaign and amend this approach if they consider it necessary and appropriate so as to ensure fairness, objectivity and impartiality. Broadcasters are encouraged to seek out the widest range of opinions on the issues raised during any given election.
- In the context of programmes which have an element of audience participation, including contributions by phone or text and live debates, broadcasters should ensure that an appropriate range of views are adequately represented in the questions, comments and issues raised during such programmes;

- Furthermore, broadcasters should not automatically assume that contributors who are participating in a programme, but who do not represent election interests<sup>4</sup>, are unbiased. For this reason, programme makers should take reasonable steps to identify any affiliations that such contributors may have and which may be relevant to election coverage. In these situations, and also where the participant is aligned with an election interest e.g. they represent a political party, the affiliation should be made known to audiences in coverage at the time of broadcast;

The *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* and guidance notes for that code set out in detail how fairness, objectivity and impartiality can and should be achieved. Broadcasters should ensure that all staff are familiar with that Code and these Guidelines. The BAI will provide advice on request and such requests should be sent in writing to [election@bai.ie](mailto:election@bai.ie). The BAI can also be contacted by phone on 01 644 1200.

## 6. Conflicts of Interest

The *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* requires that each broadcaster put in place, and implement, appropriate policies and procedures to address any conflicts of interests that may exist or arise in respect of anyone with an editorial involvement in any news or current affairs content, whether such person works on-air or off-air.<sup>5</sup> This requirement is of particular importance in the context of coverage of elections.

Broadcast content must not display bias in favour of, or against, any election interest, including parties or candidates. Endorsements on-air by a broadcaster of election interests, including candidates or parties are not permitted. In addition, endorsements on-air by staff (who are employed, contracted or who volunteer with a broadcaster) of election interests, including candidates, are also not permitted.

It is the opinion of the BAI that it is not appropriate for persons involved with election interests to present programmes during the election campaign period. However, it is a matter for broadcasters to decide on a case-by-case basis the appropriate arrangements having regard to their statutory obligations, the type of programme presented, the extent of the presenter's involvement in an election campaign and in the context of the contractual, employment or volunteer relationship between the presenter and the broadcaster.

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<sup>4</sup> **'Election interests'** include, but is not limited to, political parties, elected representatives, the Government, organisations established specifically for the purpose of campaigning during an election, individuals (including those holding or formerly holding a public office) campaigning for a particular outcome to an election, as well as existing social and civil society groups engaging in a campaign in respect of the election.

<sup>5</sup> Rule 25.

Broadcasters should note that comments made by programme presenters in non-broadcast media, for example via social media, in respect of election interests, including candidates, may have the potential to undermine the perceived impartiality of their coverage. This is particularly the case where the comments are made by presenters of news and current affairs programming. It is a matter for broadcasters to deal with such issues in the context of determining their approach to coverage and in the context of their contractual, employment or volunteer relationship with presenters. Notwithstanding this, the BAI may have regard to such comments where there is an evident link with a broadcast.

Broadcasters should note that the inherent qualities or personal circumstances of an individual will not, of itself, constitute a conflict of interest e.g. a person's age, gender, marital status, ethnicity, family status, sexual orientation, beliefs etc.

## **7. Opinion Polls**

Opinion polls are a useful tool to inform the audience of voting intentions. Where opinion polls are being used as part of the coverage of elections, coverage must be accompanied by information to assist viewers/listeners to understand the significance of the opinion poll. Information on the details of the date of the poll, by whom it was commissioned and/or paid for, the company/organisation who conducted it, the number of people polled and their location must be provided on-air.

In representing the findings of opinion polls to viewers and listeners, broadcasters are advised to take into account not only the interpretation of the findings provided by those who have commissioned/undertaken the opinion poll but to also have regard to their own critical analysis of the results and the methodology used to undertake the poll.

## **8. Social Media**

Social media are an important channel for audience engagement with news and current affair programming. Broadcasting is an important medium for spreading and amplifying news and current affairs stories posted via social media. It is for this reason that broadcasters are required, further to the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*, to have in place appropriate policies and procedures for handling on-air contributions via social media, for example by developing and applying social media guidelines. These policies and practices must be applied where social media is referenced on-air in the context of election coverage. Given the importance of broadcast coverage of elections, additional steps should be implemented by broadcasters to ensure that on-air references to social media are accurate, fair, objective and impartial.

## 9. Advertising

Section 41(3) of the Broadcasting Act 2009 provides that a broadcaster shall not broadcast an advertisement which is directed towards a 'political end'. In this context, broadcasters shall ensure that advertising is free of material that promotes candidates, political parties or election interests, as well as content that addresses election issues or which might be reasonably considered as being directed towards a 'political end' in contravention of Section 41(3). This prohibition also applies to advertising for events, notices regarding meetings or other events being organised by election interests as part of their activities.

In determining whether an advertisement may contravene the statutory prohibition, the BAI is of the view that it is reasonable for broadcasters to take into account the following three factors:-

- The content of the advertisement;
- The context in which the advertisement is broadcast;
- The aims and objectives of the advertiser and of the advertising campaign.

It is the BAI's experience to date that one or more of the three factors may play a determining role in deciding whether an advertisement complies with or contravenes the statutory prohibition.

## 10. Party Political Broadcasts

Party political broadcasts are permitted during election campaigns further to Section 39(2) of the Broadcasting Act 2009. While there is no obligation on broadcasters to transmit party political broadcasts, those that do so shall ensure that they are allocated in an equitable manner and ensure that party political broadcasts are transmitted at times that are aimed at achieving a similar audience for all such broadcasts. Similar broadcast treatment shall be provided for all party political broadcasts, both at their introduction and at their conclusion. Such broadcasts may only be availed of by political parties included on the *Register of Political Parties* as provided for under Irish law. Determinations in respect of the allocation of party political parties are a matter for broadcasters.

To ensure that a party political broadcast does not rank as an advertisement (which is prohibited by Section 41(3) of the 2009 Act) no payment or similar consideration shall be applied for such broadcasts.

## 11. Moratorium

Radio and television broadcasters shall observe a moratorium on coverage of an election. The moratorium shall operate from 2pm on the day before the poll takes place and throughout the day of the poll itself until polling stations close.<sup>6</sup>

During the period, broadcasters shall ensure compliance with the following:-

*Electioneering and/or references to issues linked to the election and/or references by any on-air personnel, including guests, to the merits or otherwise of an election candidate(s) and/or their policies shall not be broadcast while the moratorium is in operation.*

### **Applying the Moratorium**

In applying the moratorium, broadcasters will need to strike a balance between requirements to keep the public informed over this period and ensuring that programming does not contravene the moratorium as set out above.

When considering how to apply the moratorium, broadcasters should note the following:

- The moratorium is not intended to preclude coverage during this period of legitimate news and current affairs stories that are unrelated to an election. However, broadcasters should avoid airing content (including breaking news stories) that the broadcaster believes is intended and/or likely to influence or manipulate voters' decisions during the moratorium period. This is an editorial matter to be considered on a case-by-case basis.

Particular care should be taken around the opinions expressed by any programme contributors during the period covered by the moratorium;

- Steps should be taken to ensure that programme repeats scheduled during the moratorium do not contain material that would breach the moratorium. Broadcasters are advised to either edit programmes (if practical) or schedule an alternative programme so as to avoid accidental breaches of the moratorium;
- Coverage of uncontroversial facts related to the poll are permitted (e.g. the opening hours of polling stations, factual reports on voting by political party leaders and other representatives of election interests) once such coverage abides by the moratorium;

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<sup>6</sup> The BAI recognises that on some of the islands of Ireland polling will commence earlier than elsewhere in Ireland. In some instances, polling will also occur earlier via post. However, the moratorium will only apply from 2pm on the day prior to the opening of the majority of polling stations in Ireland until they close on the day of the poll. The moratorium will also apply in the case of any by-elections, scheduled on the same day as Local, European, Seanad or Presidential elections.

- The moratorium extends to all areas of programming, including newspaper reviews, coverage of opinion polls, information announcements etc. Particular care is necessary when commenting upon or covering newspaper reviews, online content or social media as they are not subject to the moratorium;
- Exit polls, which are conducted outside polling stations on voting day and assess what people have actually voted, are to be broadcast only after the closure of the polling booths.

## 12. Diversity

It is a strategic objective of the BAI to foster a media landscape that is representative of, and accessible to, the diversity of Irish society. It is also a strategic objective to foster and promote quality programming in the Irish language. In this context, broadcasters are encouraged to include a mix of voices and opinions in their coverage, including a mix of voices representing gender, cultural and social diversity. The BAI also encourages English language services to provide opportunities to cover elections in the Irish language.

While the *BAI Access Rules* do not include obligations about providing accessible coverage in respect of news and current affairs, the BAI encourages television broadcasters to provide coverage of an election that is accessible to those who are hard of hearing or deaf, partially sighted or blind and those who are hard of hearing and partially sighted. This can be achieved via the provision of subtitling, audio description or Irish Sign Language.

## 13. Complaints

Viewers and listeners who believe programme material has not complied with the Guidelines or with the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* are entitled to make a complaint. Information on the complaints process can be found on the BAI's website [www.bai.ie](http://www.bai.ie) or by telephone on 01 644 1200.

When making a complaint, you should identify the relevant programme broadcast and explain what it is about the broadcast that has led you to make a complaint. It is important to set out clearly the grounds of your complaint or why you believe the programme material does not comply with the BAI's Code or Guidelines.

Please note that the BAI will not consider complaints about content or editorial processes **prior to broadcast**, including complaints relating to editorial decisions about election debate formats, in general, or those involving leaders of political parties or groupings.

The BAI will only consider complaints about editorial processes after content is broadcast and only insofar as these processes are relevant to the substance of the complaint.

The BAI will also not consider complaints about party political broadcasts as provided for further to Section 39(2) of the Broadcasting Act 2009.

Further information on the complaints process can be found on the BAI's website [www.bai.ie](http://www.bai.ie) or by telephone on 01 6441200.

## 14. Guidance

The BAI can provide guidance on the application of the moratorium, and the Guidelines in general, but will only do so when requests of this nature are accompanied by proposed broadcast copy submitted in accordance with the procedures provided for in the Guidance Notes accompanying the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*. Requests should be emailed to [election@bai.ie](mailto:election@bai.ie).

### NOTE

These Guidelines do not purport to constitute a comprehensive statement of the law. The BAI reserves the right to amend these Guidelines if it deems it necessary or prudent to do so. The BAI may provide informal guidance, without liability. This will not affect its discretion to decide upon cases/complaints after broadcast nor the exercise of its regulatory duties. Broadcasters should seek their own legal advice on compliance issues, where required.