



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

**Date** 10/06/2013 **Time:** 9.30am **Venue:** 2-5 Warrington Place, Dublin 2

### **Minutes**

#### **Attendance**

**Board:** Bob Collins (Chairperson), Colum Kenny (Items 1-4), Michael Moriarty, Paula Downey, Michelle McShortall, Maria Moloney,

**Apologies:** Siobhán Ní Ghadhra, Larry Bass, John Waters

**Executive:** Michael O'Keeffe, Celene Craig, Margaret Tumelty, Diarmaid Breathnach (Items1-3), Ciaran Kissane, Freda Comiskey (Items1-3, 5-7 ), Jessica Holmquist (Item 6)


#### **1. Minutes of Previous Meetings**

Minutes of the previous meetings of the Authority, held on 29<sup>th</sup> April and 20<sup>th</sup> May, 2013 were approved, subject to minor amendments, and signed by the Chairperson.

#### **2. Matters Arising**

##### **a. Ocean FM: Proposal re Ownership and Control Changes**

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##### **b. Commercial DTT**

Members were informed that the review had commenced and a report was scheduled for presentation to the Authority at its meeting on September 2<sup>nd</sup>.

##### **c. Finance, Audit and Risk Committee**

Members were informed that the FAR Committee had been advised on the desirability for a BAI code pursuant to the Authority's obligations under the Bribery Act 2010. Such a draft code would be considered by the FAR Committee at its July or September meeting, and the FAR would report to the Authority thereafter. Such a code would complement the BAI Whistleblower Policy.



### 3. Policy

#### a. Five Year Public Funding Review

Members were updated on developments in this area since the previous Authority meeting, including briefing meetings held with the Minister and Department officials and RTÉ and TG4 respectively. Members were informed that the Department had raised a number of queries regarding the BAI's recommendations and the Authority considered whether there was value in elaborating further on the rationale for its specific proposals to the Minister. It was agreed that additional material, by way of an addendum to the BAI's recommendations, would be submitted.

The members considered a request from the Department not to publish the Authority report and recommendations until such time as it had been considered by Government. In this regard, it was anticipated that the report would be presented to Government prior to the summer recess. Following discussion, the Authority agreed that, while mindful of the process to be undertaken by Government, it would like to approve publication of the report at its meeting of July 15<sup>th</sup> next. However, it was agreed that if substantive elements of the report were leaked in the interim, the Authority would consider immediate publication.

#### b. Annual Statement of Performance Commitments

An Executive note was presented setting out an overview and analysis of RTÉ's Annual Statement of Performance Commitments for 2013. In general, Members welcomed the evident development of the document from previous years, noting that the number and nature of the commitments given had been streamlined, reflecting the consistent feedback given to RTÉ by the Authority during that time. The inclusion, for the first time, of a prospective attribution of public funding across RTÉ's services and content was seen as a positive development. It was noted that further development of this model of attribution was required in order to afford a sense of the distribution of funding across the range and balance of content in the schedule.

With regard to the commitments, the Authority agreed that the setting of target ranges was not helpful in facilitating a review of the commitments given. This was especially pertinent in cases where the lower end of the range was below the levels currently being achieved. A specific target with accompanying rationale would in these instances better facilitate the process of regulatory review.

It was also agreed that additional detail was required in relation to the pay related operating costs and this would be sought from RTÉ. While noting the relationship



between the ASPC document and the RTÉ Five Year Plan as the context for many of the commitments, a number of Members expressed dissatisfaction with the absence of detail in relation to commitments in respect of digital developments. In conclusion, while the Authority acknowledged the significant progress made in developing a document that increasingly aligned with the BAI's regulatory requirements, some Members expressed a degree of dissatisfaction with the level of progress achieved. The Authority agreed that the information provided by the ASPC was sufficient in terms of its regulatory needs.

It was also agreed that both RTÉ and TG4 would be requested to submit the ASPC for 2014 by the end of January in that year to bring the process in line with the yearly budgeting and planning activities and allow for a timely assessment of the document in each year.

**c. BAI Strategy 2014-16**

Members considered the draft Statement of Strategy 2014-16. Overall, the Authority was satisfied with the direction and tone of the draft strategy and agreed that it reflected the Authority's priorities for the period 2014-16. Members also considered and approved proposals as to how the statutory requirements to review the current strategy and the requirement to indicate the nature of future licensing activity would be accommodated in the document.

It was agreed that the draft would be considered by the Contract Awards Committee and the Compliance Committee and that any feedback received would be considered by the Authority at its July meeting. It was also agreed that Authority Members would forward any detailed feedback on the document to the Strategy Team.

**d. Broadcasting Funding Scheme: Statutory Review of Sound & Vision II**

Members considered the final report and an Executive note on the statutory review of the Sound & Vision II Scheme. Members noted that a separate review had been undertaken by the C&AG in 2012 and while there was some similarity in the issues arising from the two reviews, there were also differences in opinion, most notably in the focus on compliance and the flexibility afforded to applicants. Members were also made aware that subsequent to the statutory review's completion, a new online system covering many aspects of the Scheme's operation had been rolled out and had already addressed a number of the issues raised in the review.



The Authority expressed its satisfaction with the report finding that the Scheme was both valued and appreciated and that it had a positive impact across the broadcasting sector. It was agreed that the report and recommendations would form a key input into shaping a new Scheme which would be appropriately flexible, editorially robust and administratively light. Following discussion, the Authority agreed the following in respect of the individual recommendations contained in the report:

- The Scheme should be retained and the new Scheme should reflect the incremental improvements identified in the report;
- A separation of roles in respect of the operation of the Scheme within the BAI was neither practicable nor desirable given the resources available to BAI;
- The current process for structured ongoing engagement with stakeholders would be developed and strengthened to encourage two way communication and would include discussion of the strategic priorities of the Scheme. The Executive would bring forward proposals on this issue;
- The Scheme would retain the flexibility to have focused or prioritised funding rounds targeting specific programme types or genres;
- Some flexibility should be introduced in relation to the requirement for applicants to supply a broadcaster's letter;
- The sequential assessment of applications should be replaced with a concurrent review by assessors, in line with the process currently undertaken for television applications;
- Within the context of a new streamlined Scheme, the feasibility of using a system of weighting and scoring would be considered;
- The current system of providing feedback to unsuccessful applicants would be retained;
- Consideration would be given within the development of the new Scheme to the manner in which assessors are selected and appointed and the way in which assessor panels are established;
- All documentation in respect of applications would be retained bar the individual assessment notes.
- A review of all documentation associated with the Scheme would be carried out during the development of the new Scheme to ensure that any unnecessary administrative burden is eliminated while ensuring that the appropriate governance and accountability requirements continue to be met.





**e. Proposed approach to New Scheme Development**

An Executive note setting out the proposed approach to the development of a new Scheme to replace Sound & Vision II from the start of 2015 was considered. Following discussion, the Authority agreed that flexibility would be a very important aspect of the new Scheme. This flexibility should extend not only to the implementation of the strategic objectives of the Scheme but it should also enable changes to the administrative elements of the Scheme, as appropriate.

The Authority was satisfied with the proposed approach to the development of the Scheme. It was agreed that the Executive would bring Heads of the Scheme to a sub-committee of the Authority. Following consideration by the Authority, a draft scheme would subsequently be issued for public consultation. The Authority approved the associated timeframe and budget.

#### **4. Contractual Matters**

**a. Licensing - Ratification of Contract Awards Committee's decisions**

In accordance with Section 67(8)(c) of the Broadcasting Act, the decisions of the Contract Awards Committee in respect of the radio services provided by Mid West Radio and LM FM were presented to the Authority for ratification. The Authority discharged its duty and ratified the recommendations, as presented.

**b. Sound Broadcasting Contracts – Request for extensions**

The Authority considered an executive proposal for an extension to the terms of contract for four sound broadcasting services. The extensions were sought in the context of the overall volume of licensing work being undertaken currently and to enable the completion of work on the fast track licensing processes prior to the commencement of the competitive processes. The Authority was satisfied to approve the extensions, as requested.

**c. Spin South West: Application for derogation from the statutory requirements for news and current affairs output**

Members considered a request for a derogation from Spin South West together with an Executive analysis of the submission under the relevant criteria of the BAI's Broadcasting Services Strategy.

It was noted that the effect of the derogation would be to reduce the overall amount of current affairs content delivered in the traditional format in the mid morning/early afternoon



but that the proposed alternative schedule would contribute to innovation and diversity in programming and respond to listener preferences and expectations. The overall diversity and quality of its news and current affairs provision for the target audience would, accordingly, be expected to improve. Following discussion, the Authority was satisfied to approve the application for a derogation, as submitted.

## **5. Organisational Matters**

### **a. Report of the Chairperson of the FAR Committee**

The Report of the Chairperson of the FAR Committee, in respect of the 2012 accounting period was circulated for Members' consideration at the meeting. Members considered the review of Committee Activities for 2012, together with the Annual Review of Controls. The Authority made the following decisions in respect of the Chairperson's report:

- The Authority was satisfied that the work of the FAR Committee is being implemented in accordance with the Terms of Reference set by the Authority;
- The Authority was satisfied with the work and operations of the committee as set out in the Report of the Chairperson of the Finance, Audit and Risk Committee;
- The Authority was satisfied that the Finance, Audit and Risk Committee had carried out its duties in relation to the assessment of business and financial risk to the Authority;
- The Authority was satisfied with the decisions of the FAR Committee in relation to cash flow, risk and investment policies;
- The Authority was satisfied that the mechanisms adopted by the FAR Committee for liaising with the Internal Auditors and for responding to issues arising from their reports, were adequate for the purpose of reviewing the effectiveness of the system of internal financial control;
- Taking into account the preceding five decisions, the Authority was satisfied that there is an effective system of financial control in the BAI.

### **b. 2012 Audited BAI and BF Financial Statements**

Members considered the audited Financial Statements 2012 for the Broadcasting Authority of Ireland and the Broadcasting Funding Scheme respectively. Members noted that the on-site audit of the statements by the C&AG was complete and that the final stages of review were being undertaken by the C&AG. The Authority was satisfied to approve the Financial Statements of the BAI and the BFS for signing, subject to no material changes as a result of the final review by the C&AG. It was agreed that the financial statements would be signed by the Chairperson, a member of the FAR Committee and the Chief Executive.



Members were also informed that the Financial Statements would contain reference to the Finance, Audit and Risk Sub-committee and this development was welcomed.

With regard to the apparent additional costs associated with staffing in the 2012 Financial Statements, it was agreed that in order to avoid confusion a commentary would accompany the public document. This would explain that the additional sum related to an amount to be recharged to the Broadcasting Fund and did not represent any additional staff costs incurred in 2012.

**c. Treasury Management Report: [REDACTED]**

Members considered a proposal from the Finance, Audit and Risk Committee that [REDACTED] be included as an approved investment institution for the purposes of the BAI's Treasury Management. The proposal was based on the outcomes of a regular review of the investment policy and portfolio undertaken by the FAR in conjunction with the BAI's financial advisors, Cantor Fitzgerald Ireland Limited.

Members were informed that [REDACTED] has begun to accept state deposits; has a top rating for long-term creditworthiness; has a branch in Dublin; and that its inclusion as an approved investment institution further diversified the BAI's investment portfolio. Following discussion the Authority was satisfied to approve the opening of an account with [REDACTED] to further diversify the BAI Investment portfolio.

**d. BAI Whistleblower Policy**

Members consider the draft BAI Whistleblower policy, submitted by the Finance, Audit and Risk Committee. Members were informed that the BAI is required to put in place procedures for confidential disclosures and that the draft policy was the outcome of a long process of consideration of issues in respect of confidential disclosures. It was noted that the policy aims to protect the organisation and its staff. However, in the absence of statutory protection for whistleblowers, the BAI cannot guarantee such protection to staff members. The document was acknowledged as a necessary but interim measure that would be reviewed once the statutory position with regard to whistleblowers is determined. The Authority approved the policy, as proposed.

**6. For Information**

**• Contract Awards Committee Recommendations**

Members were informed that further to the provisions of sections 71(4), 68(2) and 68(1) of the Broadcasting Act 2009, the Contracts Awards Committee had recommended that the Authority enter into 2 content provision contracts, 4 institutional sound broadcasting contracts and 26 temporary sound broadcasting contracts subject to the successful



conclusion of contract negotiations. The Authority was satisfied to ratify the recommendations as set out in the Executive note.

- **BAI Future Events**

Members were informed that the event was scheduled for June 27<sup>th</sup> and a brief outline was provided of the speakers and topics. Members expressed concern with regard to the short lead- in time to the event. Following discussion, it was agreed that the event should, if possible, be scheduled for a week later to allow potential attendees more advance notice.

It was subsequently agreed that the event would be deferred to the Autumn.

- **BAI Screening**

Members were reminded that a screening of the BAI funded film 'Life's a Breeze' would take place on July 2<sup>nd</sup> in the Irish Film Institute.

## **7. Date of Next Meeting**

The next meeting of the Authority will be held on Monday, 15<sup>th</sup> July at 9.30am in the BAI offices.

**Bob Collins,  
Chairperson**

**15<sup>th</sup> July, 2013**