



Coimisiún  
na Meán

# Guidelines in Respect of Coverage of Referendums

Publication date:  
14<sup>th</sup> February 2024



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## 1. Introduction

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

## 2. Scope & Jurisdiction

The Guidelines 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 the United Kingdom or in other jurisdictions. Coimisiún na Meán 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 referendums. The Guidelines do not apply to print, social media or online print/audiovisual content.

The Guidelines apply only in the case of broadcast content that makes reference to a referendum or referendums e.g. news and current affairs content or other content, for example a light entertainment programme covering the topic or an advertisement making reference to the topic.

## 3. Effective Date

The effective date for the Guidelines will be published by Coimisiún na Meán in advance of each referendum or referendums to be held. The Guidelines will remain in effect until the closing of polling stations on the day of the poll.

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<sup>1</sup> Rule 27 of the Code requires broadcasters to comply with guidelines developed by the regulator with respect to coverage of elections or referendums.

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



## 4. Achieving Fairness, Objectivity and Impartiality

Broadcasters play an important and valuable role in the manner in which information about referendums is communicated to, and discussed by, the Irish public. This is achieved via accurate, fair, objective and impartial coverage.

For this reason, broadcasters are advised to cover referendum campaigns in as comprehensive a manner as possible having due regard to the resources available to them, the target audience for the service and the types of programming that the broadcaster provides to the audience.

Fairness, objectivity and impartiality can be achieved by a variety of means, for example, through the selection of contributors, the airtime afforded, 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 their approach to coverage, broadcasters are asked to have regard to the following: -

- **Diversity of Viewpoints**

Broadcasters are advised to seek out the widest range of opinions on the issues raised by proposed constitutional amendment(s). This will include contributions from referendum interests<sup>3</sup> who are campaigning for a referendum or referendums to be passed or rejected and whose contributions will potentially provide audiences with valuable information and insights. It may also include those who may not be regular contributors to the service but who may have important things to say in the context of referendum debates and who may or may not have a stated opinion on how the public should vote.

The inclusion in a broadcast of an individual involved in a referendum 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 the referendum, for example, where the individual or another contributor makes reference to a referendum or referendums.

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<sup>3</sup> 'Referendum Interests' includes, but is not limited to, political parties, elected representatives, the Government, organisations established specifically for the purpose of campaigning during a referendum or referendums, individuals (including those holding or formerly holding a public office) campaigning for a particular outcome to a referendum or referendums, as well as existing social and civil society groups engaging in a campaign in respect of referendums.



- **Audience Participation**

In the context of programmes which have an element of audience participation, including contributions by phone or text and live debates, broadcasters should also ensure that an appropriate range of views are adequately represented in the questions, comments and issues raised during such programmes.

Broadcasters should have regard to any affiliation between programme contributors and referendum interests, for example, where a contribution has a human-interest element. In these situations, the affiliation should be made known to audiences in coverage at the time of broadcast.

- **Issues of ‘Balance’ and Allocation of Airtime**

The approach taken to the inclusion of referendum interests in programme coverage must be equitable to all interests and undertaken in a transparent manner. However, there is no obligation to automatically ‘balance’ each contribution by a referendum interest on an individual programme with an opposing contribution from another referendum interest. There is also no requirement to automatically allocate an absolute equality of airtime to referendum interests during coverage.<sup>4</sup>

While it is important to ensure that coverage provides airtime to referendum interests to set out their views on proposed changes to the Irish Constitution, broadcasters are encouraged to approach coverage with an emphasis on the issues that the public must decide upon rather than taking an approach limited, simply, to a mathematical allocation of airtime to individuals or groups with views on the merits and outcome of the referendum or referendums. This may facilitate a focus on the issues which may be of greater benefit to the democratic choice to be made by individuals rather than an approach to coverage that is simply adversarial in nature. In addition to providing airtime to referendum interests, other contributors with no link to referendum interests can provide the necessary information to audiences. The role of the presenter as ‘devil’s advocate’ is also important in presenting alternative or challenging perspectives to those offered by contributors.

- **Critical Examination of Views**

The critical examination of the views of referendum interests campaigning for a particular outcome in a referendum or referendums is not, in and of itself, evidence of a lack of fairness, objectivity and impartiality since it is an appropriate role for broadcasters to ensure that time is afforded to examine, challenge (sometimes robustly, where required) the statements and positions of such interests.

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<sup>4</sup> The only automatic requirement for equal airtime relates to broadcasts of Party Political Programmes, see section 8 below.



However, this does not override the requirement to seek the views of referendum interests, to include them in programming and/or to reflect their perspective in broadcast content, in circumstances where it is necessary to achieve fairness, objectivity and impartiality.

- **Responsibility for Editorial Approach**

It is appropriate that decisions in respect of editorial coverage of a referendum or referendums rest solely with broadcasters. In doing so, broadcasters should develop mechanisms in respect to their approach to coverage that are open, transparent and fair to all interests and to the public. 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 this was achieved in the context of complaints received directly by the broadcaster or by Coimisiún na Meán.

Broadcasters should note that referendums 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.

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

## 5. Conflicts of Interest

The *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 referendums. In view of this, it is the opinion of Coimisiún na Meán that it is not appropriate for persons involved with referendum interests to present programmes during referendum campaign periods. 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 a campaign and in the context of the contractual, employment or volunteer relationship between the presenter and the broadcaster.

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<sup>5</sup> Rule 25.



Endorsements on-air by a broadcaster of a particular position in respect of referendums are not permitted. In addition, endorsements on-air by staff (who are employed, contracted or who volunteer with a broadcaster) of a particular position in respect of referendums are also not permitted. Broadcasters should note that comments made in non-broadcast media by programme presenters in respect of a referendum or referendums, particularly presenters of news and current affairs, may have the potential to undermine the perceived impartiality of their coverage. Coimisiún na Meán may have regard to such comments where there is an evident link with a broadcast. 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.

Broadcasters should note that the inherent qualities or personal circumstances of an individual presenter, producer or other key staff member, contractor or volunteer involved in coverage of a referendum or referendums 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.

## 6. 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 referendums, 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.

In addition, while it is legitimate to have due regard to the weight of public opinion as indicated by poll results, broadcasters should also be mindful of the fact that while public opinion may favour a particular position, this does not make the opposing position less legitimate simply on the basis that a majority view persists. In this regard, broadcasters should also have due regard to the merits of any arguments set out by those that favour or oppose referendum proposals that the public are being asked to consider.



## 7. Social Media

Broadcasters are reminded that they are required, further to the *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. These policies and practices must be applied where social media is referenced on-air in the context of referendum coverage.

As trusted sources of news and current affairs content, broadcasters are an important bulwark against the spread of misinformation and disinformation that has become prevalent around political and other types of debate of importance to society. Given this and given the importance of referendums, additional steps should be implemented by broadcasters to ensure that on-air references to social media content are accurate and that on-air references to such content does not spread misinformation of disinformation.

## 8. Party Political Programmes

Party political programmes, formerly known as party political broadcasts, are permitted during referendum campaigns further to section 46M(4) of the Broadcasting Act 2009 as amended.

Party political programmes shall be 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 programmes, both at their introduction and at their conclusion. Such programmes may only be availed of by political parties included on the *Register of Political Parties*.<sup>6</sup>

While there is no obligation on broadcasters to transmit party political programmes during referendum campaign periods, those that do so must ensure that the total time allocated to such broadcasts amounts to **equal airtime** being afforded to the views of those who support or oppose any proposed constitutional changes. No party political programmes should be broadcast if this equal airtime cannot be met.

To ensure that a party political programme does not rank as an advertisement (which is prohibited by Section 46M(2) of the Broadcasting 2009 Act as amended) no payment or similar consideration shall be applied for such broadcasts.

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<sup>6</sup> See <https://www.electoralcommission.ie/publications/register-of-political-parties/>.





## 9. Advertising

Section 46M(2) of the Broadcasting Act 2009 as amended 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 could be interpreted as content that addresses referendum issues or which might be reasonably considered as being directed towards a 'political end' in contravention of Section 46M(2). This prohibition also applies to advertising for events, notices regarding meetings or other events being organised by referendum interests as part of their campaign.

In determining whether an advertisement may contravene the statutory prohibition, Coimisiún na Meán 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 likely that one or more of the three factors may play a determining role in deciding whether an advertisement complies with the statutory prohibition. Separate guidance on advertising directed towards a 'political end' has been developed.<sup>7</sup>

## 10. Moratorium

Radio and television broadcasters shall observe a moratorium on coverage of referendums. 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>8</sup> During the period, broadcasters shall ensure compliance with the following: -

- Material which relates directly to referendum issues and related constitutional amendment(s) shall not be broadcast while the moratorium is in operation. This includes material pertaining to the merits or otherwise of referendum issues and/or constitutional amendments proposed. The moratorium applies to all on-air contributors, including, but not limited to, presenters, representatives of referendum interests and groups, including political parties and any other contributor appearing during this period.

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<sup>7</sup> <https://www.bai.ie/en/download/136751/>

<sup>8</sup> It is recognised 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 election, including by-elections and plebiscites** scheduled on the same day as a referendum/referendum.



## 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 referendums. 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 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 referendum interests) once such coverage abides by the moratorium.
- 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.



## 11. An Coimisiún Toghcháin

Further to section 32(3) of the Electoral Reform Act 2022, the Minister for Tourism, Arts, Culture, Gaeltacht, Sports and Media may direct RTÉ and TG4 to arrange for the allocation of broadcasting time to facilitate An Coimisiún Toghcháin in its role. The Minister may also direct Coimisiún na Meán to ensure the allocation of broadcasting time on radio and television services licensed by Coimisiún na Meán.

Announcements by the Referendum Commission do not constitute advertisements and do not count towards the calculation of advertising airtime or the limits on such airtime in place for Irish radio and television broadcasters.

## 12. Diversity

It is a strategic objective of Coimisiún na Meán 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 of referendums, including a mix of voices representing gender and cultural and social diversity.

Coimisiún na Meán also encourages English language services to provide additional opportunities to cover referendums in the Irish language above and beyond their contractual obligations.

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

## 13. Guidance

Coimisiún na Meán 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 *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*. Requests should be emailed to [referenda@cnam.ie](mailto:referenda@cnam.ie).



**NOTE**

*These Guidelines do not purport to constitute a comprehensive statement of the law. Coimisiún na Meán reserves the right to amend these Guidelines if it deems it necessary or prudent to do so. Coimisiún na Meán 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.*

