



Coimisiún
na Meán

Section 68

TEMPORARY SOUND BROADCASTING SERVICE (Maximum 30-Days)

Guide to Applications

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Coimisiún na Meán (“An Coimisiún”) reserves the right to correct or clarify any part of this *Guide to Applications for a Temporary Sound Broadcasting Services* (“Guide”).

Any such corrections, clarifications or supplementary information will be posted on Coimisiún na Meán’s website: www.cnam.ie

All queries regarding this *Guide* should be emailed to: contracts@cnam.ie

Note: In this Guide “An Coimisiún” refers to the organisation Coimisiún na Meán and “the Commission” refers to the decision-making organ of Coimisiún na Meán comprising a multi-person Commission led by four Commissioners, the Broadcasting and Video-on-Demand, Media Development, Digital Services and Online Safety Commissioners and the Executive Chairperson.

Please note there is a separate guide and application form for applicants wishing to apply for a temporary 100-day pilot community sound broadcasting service. Applicants must use the correct application form.

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1. INTRODUCTION

Section 68(1)(a) of the Broadcasting Act 2009 as amended (“2009 Act”) provides that An Coimisiún may, in any period of 12 months, enter into a sound broadcasting contract with an applicant for the provision of a sound broadcasting service in a specified area for not more than **30 days** (whether consecutive days or otherwise) in that period of 12 months.

This Guide details the procedures which will be adopted for the application process in respect of the award of a sound broadcasting contract for a temporary sound broadcasting services for not more than 30 days and provides guidance to an applicant on the requirements of the 2009 Act. This Guide also identifies the relevant policies of An Coimisiún and details the information which should be included in an application.

The Guide does not purport to be exhaustive, and a potential applicant should have regard to the relevant provisions of the 2009 Act and the policies of An Coimisiún, including the Broadcasting Services Strategy, and Community Media Policy and Social Benefit Framework. These documents are available online at www.cnam.ie or on request from An Coimisiún. The staff of An Coimisiún are also available for consultation in the event of a potential applicant having any queries in relation to the content of this Guide or the application format herein.

Please note all applications are subject to the Commission for Communications Regulation (ComReg) being in a position to provide a suitable frequency assignment for the proposed service. Applicants should note that due to spectrum constraints, it may not be possible to cater for the proposed number of days, sites and ERP (Effective Radiated Power).

Any queries on the licensing process should be addressed the e-mail address: contracts@cnam.ie

2. PROCEDURES FOR THE SUBMISSION OF AN APPLICATION

An application for the award of a temporary sound broadcasting contract pursuant to section 68(1)(a) of the 2009 Act must comply with all the requirements set out in this Guide. Failure to fully comply with the published requirements will make the application liable to be disqualified and, thereby, to not be considered by the Commission.

2.1 Format

The application must be submitted in English or Irish in the *Temporary Sound Broadcasting Service Application Form* available on An Coimisiún’s website (“the Application Form”). The proposal must contain all the required information as described in this Guide and in the Form.

All the information requested in the form and requested accompanying documentation as outlined in section 3 of the Guide must be submitted. For the guidance of applicants, a checklist of the required documentation is provided in the application form.

Incomplete applications will be returned and cannot be considered.

2.2 Submission

An applicant is required to submit one (1) copy of the application in PDF or Word format to the email address, contracts@cnam.ie. Applications should ideally be in one document only or be accompanied by no greater than two (2) attachments. The application and attachments should not exceed 8MB. The application may be submitted in either Irish or English.

2.3 Timeframe for receipt of Applications

Applications should be submitted, at a minimum, three (3) months in advance of the first proposed broadcast date. An Coimisiún will liaise with Applicants with respect to the timeframe for the application process and proposed broadcast dates.

2.4 Competition and Consumer Protection Act, 2014

The Applicant should also be aware that Section 19 of the Competition and Consumer Protection Act 2014 makes provision for the disclosure of information by An Coimisiún to the Competition and Consumer Protection Commission in certain circumstances.

2.5 Freedom of Information

Records may be made available to the public in response to requests under the Freedom of Information Act 2014 (“FOI Act”). The FOI Act also exempts certain records from publication. Information which the Applicant considers to be confidential or commercially sensitive (or otherwise exempt from the FOI Act disclosure requirements) must be included in a confidential annex to the Application Form. An Coimisiún will, where possible, consult with the interested party about the request before deciding on any request received.

2.6 Third Party Agreements

Any agreements between An Coimisiún and interested parties regarding confidential and/or commercially sensitive information are without prejudice to An Coimisiún’s obligations under law, under the 2009 Act and the FOI Act. An Coimisiún, therefore, cannot warrant that information claimed as confidential or commercially sensitive by an interested party or treated as such might not be disclosed pursuant to law.

2.7 Data Protection

Coimisiún na Meán shall comply with its obligations under the General Data Protection Regulation Directive, the Data Protection Act 2018 and any other applicable data privacy laws and regulations when handling and processing any such personal information submitted to this licensing process.

The information submitted in an application, including any personal information, will be used to process the application and to liaise with the applicant. Any personal information submitted will only be retained in the event that the application is successful. Such information could be required for a future contract, pending completion of the licensing process.

An Coimisiún has an appointed Data Protection Liaison Officer who is registered with the Data Protection Commission. You can find out more about how An Coimisiún’s processes personal information and An Coimisiún’s related policies at [Data Protection \(cnam.ie\)](https://www.cnam.ie/Data-Protection).

3. REQUIRED SUPPLEMENTAL DOCUMENTATION

In order for an application to be considered complete, the following documentation must be submitted to An Coimisiún by emailing contracts@cnam.ie

3.1 Certificate of Incorporation

An applicant for Temporary Sound Broadcasting Service must be a legal entity, that is a registered company or co-operative society. An Coimisiún will not enter into a temporary sound broadcasting contract with an individual or group of individuals. Interested parties may wish to seek information on how to establish themselves as a legal entity by contacting relevant bodies such as the Companies Registration Office, or the Irish Cooperative Organisation Society.

3.2 Constitution, Co-operative Society Rules or Equivalent

An applicant must submit a copy of its Constitution, Society's Rules, or equivalent. Please note if an applicant is a company, its Constitution is required to reflect the provisions of the Companies Act 2014. Applicants should ensure that previous Memoranda and Articles of Association have been updated to a Constitution and are compliant with the provisions of the Companies Act 2014.

3.3 Secretary's Certificate or Equivalent

This document sets out the ownership and control structure of the applicant, including, the registered address, names and addresses of the Board of Directors or members of the Committee of Management, the name and address of the Secretary, the proposed Compliance Officer, and categories of membership or shareholder information.

Template Secretary Certificates for a company, a cooperative society, and an educational institution are provided in the Application Form. Applicants should complete the appropriate template depending on the type of entity established, e.g.: company, or educational institution, and modify as necessary.

3.4 Indicative Programme Schedule

The proposed Programme Schedule for the service should reflect the programming commitments the Applicant has set out in its application form. Please note, the Programme Schedule will be considered with reference to how the programming commitments set out in the application form are being met and how diversity of programming is being served for the community and area concerned. At a minimum, the indicative programme schedule should provide details of the proposed hours of broadcasting and programme descriptors.

3.5 Map of Franchise Area

A map outlining the proposed franchise area, labelled to clearly show the location of the proposed transmitter site. Temporary sound broadcasting services generally have a franchise area of approximately 8km.

3.6 Studios

Applicants should strive to provide fully accessible studios and offices. If, in the future, an applicant wishes to apply for a pilot community temporary sound broadcasting service, fully accessible studios, offices and toilet facilities will be required. Details of these requirements are provided in the *Guide to Applications for the Provision of a Pilot Community Temporary Sound Broadcasting Service*.

3.7 Quote for Insurance

An applicant must have an appropriate insurance policy in place for the operation of the service. This policy must include libel insurance cover and An Coimisiún must specifically be indemnified under this policy. A copy of the proposed quote must be included with the application. Proof of the final policy for the on-air dates must be provided in advance of concluding contract negotiations.

- The policy must specifically state that Coimisiún na Meán is indemnified under the policy; and
- The policy must include libel; public liability; and employer's liability policy cover.

The insurance period must cover the entire duration of the sound broadcasting service.

4. ASSESSMENT OF APPLICATIONS

Stage One: Preliminary

Once submitted, an application will be reviewed by An Coimisiún's licensing staff to ensure that:

- the appropriate application form has been used and all the required questions, answered;
- the required supplementary documentation has been submitted;
- the applicant is compliant with the policy of An Coimisiún and section 62 of the 2009 Act in relation to submissions from former unlicensed operators; and
- the proposed broadcasting dates do not exceed the 30-day requirements set out in section 68(1) of the 2009 Act.

Stage Two: Qualitative

During this stage the application will be reviewed to ensure sufficient information has been provided to enable an assessment of the application in accordance with the relevant provisions of the 2009 Act.

Assessment is conducted having regard to the following;

- the provisions of the 2009 Act and related policies of An Coimisiún;
- the information and supporting documentation as required in each section of the Application Form; and
- the availability of spectrum. Approval of applications is subject to the Commission for Communications Regulation (ComReg) being in a position to provide a suitable frequency assignment for the proposed service.

Explanatory information concerning each section of the application form is set out below, and similar information can also be found in the relevant application form.

5. INFORMATION FOR APPLICANTS

5.1 Applicant Details

This section should set out the name of the applicant, and its status as a legal entity. This section should also clarify whether the applicant has previously operated a temporary, pilot community service, or other type of service, under a broadcasting contract with Coimisiún na Meán.

5.2 Ownership and Control

This section relates to the ownership and control structure of the applicant and requests information on the governing body and members of the applicant. This section also requests details regarding the management and operation of the service. Relevant provisions of the 2009 Act and An Coimisiún's policies are taken into consideration when assessing the information in this section, including:

- The character, expertise and experience of the applicant, including its directors, manager, secretary;
- The composition of the applicant's Executive Organ including gender balance;¹
- The applicant's membership / shareholder structure;
- The applicant's proposed management structure;
- How the service will be operated, including the number of paid staff or volunteers in place; and
- The performance and contractual compliance of the applicant under any previous broadcasting contract held by the applicant.

5.3 Programming

This section relates to the programming commitments the applicant is willing to make in respect of key aspects of the proposed service. Should the applicant be successful, these commitments will transfer to the Programme Policy Statement in the sound broadcasting contract. The Programme Policy Statement will serve as a yardstick against which the successful applicant's future performance is measured and assessed.

Relevant provisions of the 2009 Act and An Coimisiún policies are taken into consideration when assessing the information in this section, including:

- The applicant's proposed programming strategy and proposals for the development and production of programming;
- The quality, type and range of programming proposed and how it serves the interests and needs of the community to be served;
- The applicant's proposed programme schedule;
- The desirability of having a diversity of services in the franchise area proposed;

¹ Board of Directors, Committee of Management or other governing body.

- The performance and contractual compliance of the applicant under any previous broadcasting contract held by the applicant.

5.4 Studios and Transmission

This section relates to the suitability of the proposed studio and transmission facilities for the service.

Relevant provisions of the 2009 Act and An Coimisiún's policies are taken into consideration when assessing the information in this section including:

- The timeframe for the commencement of transmission;
- The adequacy of studio and transmission facilities;
- The suitability of transmission proposals;
- The performance and contractual compliance of the applicant under any previous broadcasting contract held by the applicant.

5.5 Financial and Business Plan

This section concerns the suitability of the financial and business plan being proposed by the applicant and takes into consideration the type of service for which the applicant is applying. Relevant provisions of the 2009 Act and An Coimisiún's policies are taken into consideration when assessing the information in this section including:

- The applicant's funding and income proposals, including the sources and levels of funding / income from each source;
- The applicant's projected expenditure for the service, including the type and level of costs involved; and
- The performance and contractual compliance of the applicant under any previous broadcasting contract held by the applicant.

Following a review of the application, An Coimisiún's staff will determine whether or not to recommend the application to the Commission.

- If the application is recommended it will move on to stage three.
- If the application is not recommended the applicant will be advised of the reasons why the application was not recommended and provided with other feedback, as may be requested, to the applicant for future applications.

Stage Three: Decision Making Process

Should the application be recommended, the Commission will make its decision on whether to award a temporary sound broadcasting contract by following the decision-making process outlined below:

1. An initial evaluation report will be presented by An Coimisiún's staff to the Commission who will then consider the evaluation carried out and the application submitted. The evaluation report will be structured using the headings set out in Section 5 of this Guide.

2. If the Commission consider that there are any issues requiring clarification and/or if they require any further information from the applicant, then such information may be sought in writing and/or meetings with the staff at Coimisiún na Meán.
3. Following any necessary meeting(s) and/or response(s) to supplementary written questions, An Coimisiún will make its decision on the award of the contract.
4. Alternatively, Coimisiún na Meán may decide not to award a contract and applicants will be provided with reasons for the decision.

An Coimisiún will endeavour to complete its evaluation of the applicant proposal within 60 days of the receipt of a complete application.

6. CONTRACT AWARD

The award of a temporary sound broadcasting contract will be subject to the successful applicant agreeing and signing the proposed contract which contains terms and conditions as determined by Coimisiún na Meán. An applicant should note that the Commission's decision to award a temporary sound broadcasting contract is made in principle subject to the successful conclusion of contract negotiations and any other conditions An Coimisiún may wish to attach to the contract award. A template sound broadcasting contract for a temporary sound broadcasting service is available on our website www.cnam.ie.

Applicants should note that the Schedules to such a contract contain information in relation to the ownership and control of the applicant and programming and will be largely determined by the information, commitments and undertakings contained in the successful application. Thus, the details of the ownership and control structure, the programming commitments and indicative programme schedule and the transmission and studios will ordinarily be transposed from the successful application.

Further to the signing of a contract, such a contract will be open to inspection by members of the public at the offices of An Coimisiún.²

Should a successful applicant fail to agree to, or fulfil any conditions sought by An Coimisiún within the requested timeframe, An Coimisiún may decline to enter into a temporary sound broadcasting contract.

Changes in Information

Coimisiún na Meán reserves the right to revoke a temporary sound broadcasting contract for a temporary sound broadcasting service after it has been awarded or granted if changes take place which materially alter the nature or characteristics of the applicant or the service proposed or the truth, validity or accuracy of the information provided by the applicant and where such changes may have affected the decision to award the sound broadcasting contract had those changes occurred before the award was made.

² Section 69(5) of the 2009 Act.

Coimisiún na Meán

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