



# Consultation Document: Draft Media Service Codes and Rules

Publication date: 4<sup>th</sup> September 2024  
Deadline for response: 3<sup>rd</sup> October 2024

This document contains consultations on:

1. Draft Media Service Code - General Commercial Communications Code
2. Draft Media Service Code - Children's Commercial Communications Code
3. Draft Media Service Code & Media Service Rules (Advertising, Teleshopping, Signal Integrity & Information)
4. Draft Media Service Rules (Advertising – Radio Broadcasters)
5. Draft Media Service Code - Code of Programme Standards
6. Draft Media Service Code - Code of Fairness, Objectivity & Impartiality in News and Current Affairs
7. Draft Media Service Code - Short News Reporting Code

## Legal Disclaimer

The proposals contained in this consultation document should not be read as reflecting or stating Coimisiún na Meán's final position on any of the matters that are the subject of consultation. Please note that any views on the interpretation of legislation or Coimisiún na Meán's obligations are provisional and non-binding and should not be read as reflecting Coimisiún na Meán's final position. Please refer to the underlying legislative provisions for a statement of the law in this area.



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# Chapter 1: Introduction

Coimisiún na Meán (“**the Commission**”) is Ireland’s agency for developing and regulating a thriving, diverse, creative, safe and trusted media landscape. This means having a mix of different voices, opinions and sources of news. Our responsibilities are to:

- Oversee the funding of and support the development of the wider media sector in Ireland.
- Oversee the regulation of broadcasting and video-on-demand services.
- Develop and enforce the Irish regulatory regime for online safety.

The Commission was established in March 2023 under the Online Safety and Media Regulation Act 2022, which amended the Broadcasting Act 2009 (“**the Act**”).

One of the Commission’s key duties under the Act is to make **media service codes**<sup>1</sup> and **media service rules**<sup>2</sup> to govern the standards and practices of radio and television broadcasters (“**broadcasters**”) and audiovisual on-demand media services.

The Commission, on establishment, inherited media service codes and media service rules relating to television and radio broadcasting (“**the Broadcasting Codes**”) of its regulatory predecessor, the Broadcasting Authority of Ireland (“**the BAI**”). The Commission now intends to update the Broadcasting Codes following changes to the legal framework regulating broadcasters that are based in this jurisdiction.

The following sections of this document contain information on these changes that the Commission is proposing, the issues that the Commission is seeking submissions on, and the process for making such submissions.

This consultation process is being undertaken in accordance with the Commission’s statutory obligations under section 46Q of the Act.

## 1.1. Why is the Commission proposing changes to the Broadcasting Codes?

The primary objective of the proposed changes to the Broadcasting Codes is to give effect to Ireland’s obligations as a member of the European Union, in particular under the Audiovisual Media Services Directive (“**the AVMS Directive**”). The AVMS Directive is the regulatory framework established by the European Union to coordinate national legislation for the regulation of broadcasters, audiovisual on-demand services and for video-sharing platforms.

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<sup>1</sup> **Media service codes** are made by the Commission under section 46N of the Act. Such codes generally are designed to address the content of programmes or commercial communications, ensuring that all content made available on the service adheres to established standards.

<sup>2</sup> **Media service rules** generally relate to the presentation and structural aspects of the service being provided, covering matters such as promoting the accessibility of the service to all members of the public. These are made by the Commission under section 46O of the Act.

The AVMS Directive provides for minimum standards and obligations that media service providers must adhere to in a variety of areas, including child safety, the accessibility of their services, and the prohibition of content that incites hatred. The latest version of the AVMS Directive has introduced new requirements for television broadcasters, which has necessitated changes to the Broadcasting Codes.

In addition to this, the Commission is also updating the Broadcasting Codes to account for further changes to our national legislation under the Act, including the establishment of the Commission as the new regulator for broadcasting services.

## 1.2. Codes and Rules to be updated

The Broadcasting Codes and Rules that are the focus of the consultation are:

(i) **General Commercial Communications Code** (“the General Code”):

The General Code sets out the rules that apply when broadcasters air “commercial communications”, which includes advertisements, sponsorship, and product placement. The General Code sets out the general rules that apply to all forms of commercial communications, prohibits certain types of advertising, and provides for targeted rules that apply to specific products or services, such as alcohol, medicinal products, and gambling.

(ii) **Children’s Commercial Communications Code** (“the Children’s Code”):

The Children’s Code sets out additional rules that apply to commercial communications that are directed at children and is focused on protecting audiences under 18 years of age. This code compliments the General Code and is to be read and operated in tandem.

(iii) **Code of Programme Standards** (“the Standards Code”)

The Standards Code sets out the principles applying to all editorial (but not commercial) content with a view to protecting audiences from harm and undue offence that such content may cause. It addresses matters such as privacy, the public interest, violent and sexual content, and the protection of children from harmful content, amongst other matters.

(iv) **Rules on Advertising and Teleshopping (Daily and Hourly Limits)** (“the Advertising & Teleshopping Rules”)

The Advertising & Teleshopping Rules set the limits on the level of advertising and teleshopping that broadcasters may have as part of their services. These rules also require broadcasters to abide by certain time limits in regards commercial communications.

(v) **Code of Fairness, Objectivity & Impartiality in News and Current Affairs** (“the News & Current Affairs Code”)

The News and Current Affairs Code addresses issues of fairness, objectivity and impartiality in news and current affairs content. It provides for underpinning principles for broadcasters to adhere to, including that of fairness, of accuracy and responsiveness, and of transparency and accountability.

(vi) [Short News Reporting Code](#) (“the Short News Code”)

The Short News Code allows for short extracts of events broadcast that are of interest to the public to be used by other broadcasters for the purposes of news reporting.

### **1.3. Revised versions of the Broadcasting Codes and Rules**

In accordance with the consultation requirements set out under the Act, the Commission has prepared draft revised versions of the Broadcasting Codes (“the Draft Codes and Rules”).

Copies of the Draft Codes and Rules are available to access by clicking on the relevant links below:

- [General Commercial Communications Code](#)
- [Children’s Commercial Communications Code](#)
- [Media Service Code & Media Service Rules \(Advertising, Teleshopping, Signal Integrity & Information\)](#)
- [Media Service Code and Media Service Rules \(Advertising- Radio Broadcasters\)](#)
- [Code of Programme Standards](#)
- [Code of Fairness, Objectivity & Impartiality in News and Current Affairs](#)
- [Short News Reporting Code](#)

Information on the proposed changes being made under each of the Draft Codes and Rules is detailed in **Chapter 2**.

The Commission has drafted specific questions for each of these changes which it is seeking responses to. For details on how to make a submission, please see **Chapter 4** below.

### **1.4. Why is the Commission consulting on the Draft Codes and Rules?**

The Commission is required under section 46Q of the Act to engage in a public consultation on any draft media service codes or media service rules it intends to introduce.

This consultation process is an opportunity for the Commission to consult with relevant users and stakeholders on regulatory changes, and to allow for diverse perspectives and feedback to be considered in the making of effective rules.

As noted, the focus of this consultation is predominantly on changes being introduced in order to transpose the AVMS Directive. In terms of submitting views on other parts of the codes and rules about which you might have a view, the Commission sets out below a separate process for making submission (see section 1.6 below).

Once the consultation period is complete, the Commission will compile and consider all submissions received. Following this consideration, the final versions of the new media service codes and media service rules will be published.

### **1.5. Important change to the compliance framework and complaint procedures**

A significant change to the regulatory framework relates to the new complaint procedures provided for under the Act. Previously, complaints relating to broadcasting could only be made directly to the BAI in certain circumstances and fell to be considered by the BAI under its former complaint procedures.

Following the legislative changes under the Act, the Commission has much broader powers relating to compliance, investigations for contraventions of its Broadcasting Codes, and the imposition of sanctions.

For more information on these legislative changes affecting the procedures relating to complaints for breaches of the Broadcasting Codes, please see the [complaint information](#) page on the Commission's website.

### **1.6. Future review of the Broadcasting Codes and Rules (“Stage 2 Review”)**

As explained above, the main purpose of this consultation process is to make the necessary changes to the Broadcasting Codes and Rules required by the Act and European Law. Once this has been achieved, the Commission intends to carry out a further review and consultation on the media service codes and media service rules relating to broadcasting.

In particular, the Commission plans to consider whether any further changes are necessary on the basis of the findings of the statutory reviews of these codes and rules previously completed. Reports on these statutory reviews are available online.<sup>3</sup>

In addition, the Act also provides the Commission with discretionary power to introduce media service codes or media service rules to regulate areas that are currently not addressed by the Draft Codes and Rules.

This future review will consider whether the Broadcasting Codes and Rules should be amended in light of the conclusions of the statutory reviews or the discretionary powers under the Act. The Stage 2 Review of the Broadcasting Codes and Rules will commence in Q1 2025.

As part of this consultation, we are inviting submissions on matters relevant to the Stage 2 Review.

The questions relevant to the Stage 2 Review are set out in **Chapter 3** of this document.

### **1.7. Structure of the Consultation Document**

**Chapter 2** of the document details the provisions of the broadcasting codes and rules that are being updated. Specific questions on the proposed changes have been drafted for feedback.

**Chapter 3** of the document details the issues that the Commission is seeking feedback on to form part of the Stage 2 Review of the Broadcasting Codes and Rules.

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<sup>3</sup> Copy of the March 2023 Statutory Report is available on the [“Publications” page of Coimisiún na Meán’s website](#).



The Commission requests that you respond to the questions set out in the document in accordance with the guidance under **Chapter 4**.

- The deadline for responses to the questions set out in Chapter 2: Draft Codes and Rules is **3<sup>rd</sup> October 2024**.
- The deadline for responses to the questions set out in Chapter 3: Stage 2 Review is **30<sup>th</sup> November 2024**.

Respondents to the consultation are asked to submit their responses before the relevant deadline. These deadlines will not be extended, save in exceptional circumstances.



## Chapter 2: Draft Codes and Rules

The sections below provide an overview of the proposed amendments to each of the Broadcasting Codes and Rules. Details on how to make a submission in response to this consultation are set out in Chapter 4.

### 2.1. Amendments made that apply to each of the Broadcasting Codes and Rules:

The following main amendments are being made to **apply to each of the Broadcasting Codes and Rules**:

- (i) All references to the Broadcasting Authority of Ireland have been updated to refer to Coimisiún na Meán, where applicable.
- (ii) Terms such as “codes”, “rules”, and “broadcasting codes” used in the provisions of the Broadcasting Codes have been changed to refer to “media service codes” and “media service rules” as appropriate, to reflect the terminology used in the Act. For readability purposes, this consultation document continues to use the terms “codes” and “rules” as shorthand when referring to media service codes and media service rules.
- (iii) References to statutory provisions have been updated where relevant to reflect any legislative changes.
- (iv) The introductory sections for each of the Broadcasting Codes and Rules have been updated and harmonised. The Draft Codes and Rules now contain standard introductory provisions that provide necessary context to the regulations, addressing matters such as the legal basis for the codes and rules, jurisdiction, and the revised statutory complaints procedures under the Act, which are matters common to all of the Broadcasting Codes and Rules.
- (v) The formatting for each of the Broadcasting Codes and Rules has been standardised and numbering of provisions updated where necessary.
- (vi) In the “General Definitions” section of the Codes and Rules, the definitions of key terms used in each of the respective Broadcasting Codes have been updated where necessary to reflect any changes to the statutory definitions of these terms under the AVMS Directive or the Act. In the case of the Children’s Code, a number of definitions previously found in the main provisions of the Code are now included in the definitions section (e.g. “fast food”, “confectionary”).

In addition to the above, amendments to correct typographical errors or rewording of provisions for the sake of clarity have also been made throughout the Codes and Rules.

#### Consultation question:

**Question 1** - Do you have any comments on the general amendments that are being proposed to apply to each of the Broadcasting Codes and Rules?

## 2.2. General Commercial Communications Code

Below is a list of the proposed substantive changes made to the General Code alongside an explanation of the reasons for these changes:

(i) **Section 11: Exclusions (Section 2 of the current General Code)**

- This section now follows the “Definitions” section of the draft revised General Code. The “minutage exclusions” section has been deleted and is now addressed under separate codes addressing advertising and teleshopping (detailed below under paragraphs 2.5 & 2.6). The minutage exclusions detail type of commercial announcements that must meet the requirements of the General Code but which do not count towards daily and hourly limits on advertising and teleshopping. The exclusions relating to trailers, public service announcements, and charity appeals have been retained. These announcements are not considered commercial communications.

(ii) **Section 13: Prohibited Commercial Communications (Section 4 of the current General Code)**

- This section of the General Code has been updated and reworded to reflect legislative changes under the Act and the AVMS Directive relating to prohibited commercial communications.
- In particular, this section incorporates Article 9(1)(d) of the AVMS Directive which extends the prohibition of commercial communications of cigarette and tobacco products to include “*electronic cigarettes and refill containers*”. The General Code already prohibited the indirect or direct effect of promoting those products, although it was permitted when such products were considered medicinal products or devices. This exception has now been removed.
- This section has further been updated to reflect the wording of section 46M(2) and (4) of the Act with regard to requirements concerning party political broadcasts, now called ‘party political programmes’.

(iii) **Section 14: Provisions applying to all Commercial Communications (Section 5 of the current General Code)**

- This section has been updated to include the obligations on broadcasters to ensure that commercial communications broadcast do not prejudice respect for human dignity, do not include anything which may reasonably be regarded as causing undue offence, or material that may be reasonably regarded as tending to undermine the authority of the State. These requirements are in accordance with broadcasters’ statutory obligations under section 46J of the Act.

- A further section titled “Children” has been added, which requires that broadcasters ensure that commercial communications do not impair the physical, mental or moral development of children, and that appropriate measures are taken to protect children from harmful content.

The provisions contained in this section are drawn from the Principle: Protection of Children contained in section 3 of the current version of the General Code. The provisions reflect the requirements of Article 6(1) of the AVMS Directive. This section further prohibits the processing of personal data collected from children for commercial purposes, which is required under Article 6a of the AVMS Directive.

**(iv) Section 16: Sponsorship, including competitions (Sections 8 & 9 of the current General Code)**

- This section has been updated to merge Sections 8 & 9 in order to streamline the structure of the General Code. In addition, additional detail on what constitutes ‘special promotional references’ has been added. This reflects prior guidance provided by the BAI.
- The section has also been updated to reflect changes required by the AVMS Directive. In particular, sponsorship where the principal activity of the sponsor is the manufacture or sale of electronic cigarettes and refill containers is prohibited. This reflects Article 10(2) of the AVMS Directive.
- Finally, the General Code also now prohibits the use of sponsor logos in children’s programmes, an option open to the Commission further to Article 10(4) of the AVMS Directive.

**(v) Section 17: Product Placement – Television Only (Section 10 of the current General Code)**

- This section of the General Code has been redrafted to account for the fact that the AVMS Directive no longer has a general prohibition of product placement in programmes. Article 11 of the new AVMS Directive generally permits product placement in programmes, except for news and current affairs programmes, consumer affairs programmes, and religious and children’s programmes. This section now sets out the requirements that must be met with regard to product placement as reflected in Article 11(3) of the AVMS Directive, which includes the removal of the concept of ‘significant value’ and abolishment of the differentiation between paid product placement and prop placement.
- Product placement of electronic cigarettes and refill containers is prohibited to reflect the new wording of Article 11(4) of the AVMS Directive.

**(vi) Section 18: Alcohol (Section 11 of the current General Code)**

- The provisions in this section of the General Code have now been updated to include reference to a broadcast watershed provided under section 19 of the Public Health Alcohol Act 2018. This will impact the obligations of broadcasters as they relate to alcohol advertising and sponsorship once this provision of the 2018 Act comes into effect in January 2025.

**(vii) Section 19: Health Products, Treatments and Services & Section 20: Cosmetic Products (Sections 12 to 15 of the current General Code)**

- This section has merged and reworded Section 12 (“Medicinal Products and Medical Devices”), Section 13 (“Medical Treatments and Services”), Section 14 (“Cosmetic Products, Treatments and Services”) and Section 15 (“Hypnosis, Hypnotherapy and similar services”) of the GCCC for the purposes of providing better clarity to broadcasters on their obligations and to reduce duplication.
- In addition, provisions on cosmetic products (e.g. skin care, hair products, oral hygiene products etc) have been moved out of the health product, treatments and services section of the code as the extent of regulation for these products in the current code is not considered proportionate to the risks that they present. Cosmetic surgery and related services remain the subject of regulation under Section 19.

**(viii) Section 21: Food, Nutrition and Health (Section 16 of the current General Code)**

- This section has been updated to incorporate limited restrictions on commercial communications for follow-on infant formula, in accordance with section 46N(7) of the Act. These restrictions are aligned with European standards, in particular Commission Delegated Regulation (EU) 2016/127 of 25 September 2015 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for follow-on infant formula and as regards requirements on information relating to infant and young child feeding.
- This section has also been redrafted to reflect the wording and objective of Article 9(4) of the AVMS Directive, which includes the objective of reducing children's exposure to commercial communication for foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular fat, trans-fatty acids, salt or sodium and sugars, of which excessive intakes in the overall diet are not recommended. The updated regulations provide a general obligation on broadcasters to reduce children's exposure to such commercial communications, as well as the obligation to not emphasise the positive quality of the nutritional aspect of such foods and beverages.

**(ix) Section 23: Smoking Cessation Aids (Section 18 of the current General Code)**

- This section has been updated in line with Article 9(1)(d) of the AVMS Directive which explicitly prohibits all commercial communication for electronic cigarettes and refill containers (irrespective of whether they are considered to be medical products or devices).

**(x) Section 25: Gambling (Section 20 of the current General Code)**

- This section now includes a reference to the Gambling Regulation Act 2024 which is awaiting commencement. The provisions in this section will be updated to ensure that they are aligned with the new regulatory framework for gambling, including those parts of the framework that relate to commercial communications. In this regard, the Commission will engage with the Gambling Regulatory Authority of Ireland.

**(xi) Proposed deletions to the current General Code**

- In addition to the above amendments, the provisions of Section 6 of the General Code (“Advertising and Teleshopping”) have been deleted and these rules are now addressed under separate codes addressing advertising and teleshopping (detailed below under paragraphs 2.5 & 2.6).
- Section 3 of the General Code (“Principles of the Code”) has also been deleted in order to streamline and avoid duplication of provisions. The Commission is satisfied that the obligations provided for under this section (relating to the principles of “Legal, Honest, Decent and Truthful”, “Human Dignity, Offence and Harm”, “Transparency”, and “Protection of Children”) are adequately covered for in other sections of the General Code.
- Appendix 4 which listed legislation that may impact upon a broadcaster’s regulatory duties has been deleted, on the basis that legislation changes on a frequent basis, and responsibility for complying with wider statutory obligations should appropriately sit with those creating and selling commercial communications, rather than the Commission.

**Consultation question:**

**Question 2** - Do you have any comments on the proposed changes to the General Commercial Communications Code?

## 2.3. Children’s Commercial Communications Code

Below is a list of the proposed substantive changes made to the Children’s Code alongside an explanation of the reasons for these changes:

**(i) Section 10: Definitions and Interpretative Note:**

- This section now includes an interpretative note on two matters, namely, the “Principle of Age Differentiation” and the shared responsibilities of both broadcasters and parents/guardians. In this respect, the note on age differentiation retains the provisions of the Children’s Code that highlight where a requirement pertaining to those under 15 years, those under 13 years or those under 6 years of age, that highlights the provisions that will apply to (i) commercial communications targeting these age groups, (ii) commercial communications broadcast or made available during programmes where over 50% of the audience are of these age groups.
- The section titled “Parental Responsibility” has been moved to this section. Formerly this was set out under Section 12 of the Children’s Code.

**(ii) Section 11: General**

- This a new section which requires that children’s commercial communications comply with all sections of the General Commercial Communications Code, as opposed to the specific sections which were previously listed under the Children’s Code. This change has been made to aid readability and to streamline provisions where necessary.
- A list of prohibited types of children’s commercial communications are also provided, which includes products such as slimming products, dating services, services of a sexual nature, and gambling. These were included in the current General Code but have been moved to this section, again to aid readability.

**(iii) Children’s Advertising (Section 14 of the current Children’s Code)**

- The references to “children’s product placement” have been removed to reflect the restrictions as provided for under Article 11(2) of the AVMS Directive. The rules relating to advertising time limits, sponsorship, and sponsor logos are deleted as they are now addressed by other codes and rules addressing advertising and sponsorship (see paragraphs 2.4 (v), 2.5 & 2.6 below) or are addressed by the General Code. The provision relating to Christmas-themed advertising has been retained as a stand-alone section.

**(iv) Proposed deletions to the current Children’s Code**

- Section 5 of the Children’s Code (“Social Values”) has been deleted as the intent of these provisions are now addressed under the revised General Code (see paragraph 2.2 (iii) of this document) and retaining would result in unnecessary duplication of provisions.
- Section 12 of the Children’s Code (“Parental Responsibility”) has been deleted and its contents moved to the “Interpretative Note” section (see paragraph 2.3(i) above).
- Appendix 1 to the Children’s Code, which listed legislation that may impact upon a broadcaster’s regulatory duties has been deleted, on the basis that legislation changes on a frequent basis, and responsibility for complying with wider statutory obligations should appropriate sit with those creating and selling commercial communications, rather than the Commission.

**Consultation question:**

**Question 3** - Do you have any comments on the proposed changes to the Children’s Commercial Communications Code?

## **2.4. Code of Programme Standards**

Below is a list of the proposed substantive changes made to the Standards Code alongside an explanation of the reasons for these changes:

**(i) “The Distinction between Harm and Offence”**

- This section of the Standards Code provides an interpretive note on the distinction between harm and offence. It is now appended to the new draft of the Standards Code as “Guidance” at Appendix 1. In line with section 46J(1) of the Act, broadcasters must ensure that their content does not cause “*undue offence*”. The term “undue offence” is new under the Act and therefore reflected in this revised section of the Standards Code, and elsewhere in the revised draft where appropriate.
- This guidance includes non-exhaustive consideration that broadcasters may wish to have regard to in assessing whether content may cause undue offence or harm. These include the content of the programme material, the relevant context, the likelihood of the content causing harm or serious offence to an individual or protected group under Article 21 of the European Union Charter of Fundamental Rights, the likelihood of the content causing widespread offence, and whether the content is in the public interest.
- The Commission recognises the risk that too broad an interpretation of “undue offence” may unjustly infringe upon a person’s right to freedom of expression, as provided for under the Constitution, the EU Charter of Fundamental Rights, and the European Convention on Human Rights.



In this regard, the “Regulatory Principles” section (Section 4) states that in its interpretation of the Code, the Commission shall give due regard to this right in accordance with its obligations under the European Convention on Human Rights Act 2003.

**(ii) Principles 1-7 of the current Standards Code**

- The current Code of sets out seven principles, provides an outline of the objectives of the principles, followed by the specific requirements that must be met to ensure adherence to the principles. The revised draft Standards Code has removed this principles-based approach. The Commission considers a rules-based rather than principles-based approach is more suitable in terms of identifying more specifically the obligations that broadcasters have under the Standards Code. This approach has been taken with other codes being updated as part of this revision process, whereby the principles in the General Code and the News and Current Affairs Code have been removed and, where appropriate, been restated as requirements. Notwithstanding this, the themes identified in the current Standards Code under each of the principles have been retained and the revised draft continues to place requirements with respect to: the Protection of Children; Protection from Harm; Respect for Groups and Persons in Society; Privacy; Protection of the Public Interest; and programming that contains Violence, Sexual Content and Offensive language. The importance of context as a factor in avoiding harm and undue offence is also retained.

**(iii) Section 12 - “Importance of Context” (Principle 2 of the current Standards Code)**

- Contextual factors play an important role in the extent to which programme material can cause harm or undue offence. When and where a programme is scheduled, for example, can impact on different audiences. Therefore, careful scheduling by broadcasters is essential for ensuring that audiences, including children, do not see content that they may find harmful or unduly offensive.
- This section has been redrafted to give better clarity to broadcasters on their obligations under the Standards Code. In terms of having due regard to the consequences of an intentional departure from the usual nature of the service, this has been updated to also include intentional departures as they relate to programming.
- The reference to evaluative or descriptive classification systems has been removed and is now included under the section of titled “Protection from Harm”.
- In terms of the promotion of information and guidance provided, the provisions have been updated to clarify that the promotion of these should be on-air.

- (iv) **Section 13 - “Violence, Sexual Content and Offensive Language” (Principle 1 of the current Standards Code)**
- This section requires that broadcasters have regard to the appropriateness of the inclusion of violence, sexual content, and offensive language in programme material. The name of this section has been changed to more directly reflect the type of content that is covered. These topics were identified in the development and subsequent revisions of the Standards Code as those that have a higher likelihood to cause harm and offence to audiences and which require specific regulation.
- (v) **Section 15 - “Protection for Children” (Principle 4 of the current Standards Code)**
- The Act and the AVMS Directive place particular obligations on broadcasters in terms of protecting children. In this regard, the Standards Code has been updated to reflect the language of the AVMS Directive that obliges broadcasters to ensure that content does not impair the moral, mental and physical development of children.
  - A new set of specific obligations for television broadcasters has been added in order to reflect the requirements of the AVMS Directive. Television broadcasters are obliged to provide sufficient information to audiences on content that may impair the physical, mental, or moral development of children, as well as take appropriate measures to ensure that such content is not made available to children. These obligations are required under Article 6a of the AVMS Directive.
- (vi) **Section 16 - “Respect for Persons and Groups in Society” (Principle 5 of the current Standards Code)**
- This section has been updated to reflect the wording of Article 21 of the EU Charter of Fundamental Rights. Content which incites violence or hatred against the groups set out under Article 21 of the Charter is prohibited under Article 6 of the AVMS Directive.
- (vii) **Section 17 - “Protection of the Public Interest” (Principle 6 of the current Standards Code)**
- This section now includes the obligation not to broadcast material which may reasonably be regarded as conduct falling within the concept of public provocation to commit a terrorist offence as set out in Article 5 of Directive (EU) 2017/541, as required under Article 6(1)(b) of AVMS Directive. It also includes an obligation that broadcasters protect the interests of the audience where the provision of a broadcasting service has, as one of its principal objectives, the promotion of the interests of any organisation, as required under section 46N(2)(e) of the Act.

(viii) **Section 18 - “Respect for Privacy” (Principle 7 of the current Standards Code)**

- This section now contains the requirement to ensure that broadcasters do not process personal data of children for commercial purposes, as required by Article 6a(2) of the AVMS Directive.

**Consultation questions:**

**Question 4** - Do you have any comments on the proposed changes to the Code of Programme Standards?

**Question 5** - While the Code includes guidance for broadcasters on undue offence, it is not defined. What are your views as to whether the Commission should include a definition of undue offence in the code. If you think a definition should be included, what factors or criteria might the Commission use to determine that undue offence has been caused?

**2.5. Media Service Code and Media Service Rules (Advertising, Teleshopping, Signal Integrity and Information) (formerly the BAI Rules on Advertising and Teleshopping)**

Below is a list of the proposed substantive changes to the Advertising & Teleshopping Rules and the reasons for these changes.

(i) **Deletions to the Rules on Advertising and Teleshopping**

- The Advertising & Teleshopping Rules have been significantly redrafted to account for changes to the Act and the AVMS Directive. The rules applying to radio broadcasting have been deleted and are now addressed under a separate set of rules, namely the Media Service Rules (Advertising- Radio Broadcasters), which are detailed at paragraph 2.6 below.

(ii) **Section 11: Advertising and Teleshopping – Television Broadcasters**

- A new section titled “Transparency and Separation” has been added. These obligations are currently in the General Code and are proposed to be moved to this section and the equivalent rules for radio broadcasters. The provisions require that advertising and teleshopping be readily identifiable, and that it does not affect the integrity of a programme.
- A new section titled “Advertising Break Patterns” has been added. This section sets out the requirement that programmes may be interrupted by advertising once for each scheduled period of at least 30 minutes. This regulation reflects the requirements of Article 20 of the AVMS Directive. These provisions are currently included in the General Code and are proposed to be moved to this Code and the equivalent radio rules on advertising.

- A further section titled “Teleshopping” has been added. This section sets out the requirements relating to teleshopping by television broadcasters. Teleshopping must be clearly identifiable, and not feature certain medicinal products. Teleshopping is prohibited during children’s programmes. These obligations were formerly included under the General Code.
- A new section which allows isolated advertising and teleshopping spots in sports events has been added. This reflects the changes to the AVMS Directive (Article 20) which now permits isolated advertising and television spots in sports programming. It remains the exception is all other programme types.
- The section specifies that television channels devoted to advertising, teleshopping, or self-promotion, are exempt from certain requirements under this section.

**(iii) Section 12: Signal Integrity – Media Service Providers**

- This section introduces a prohibition on the overlay of the transmission of audiovisual media services without the consent of the media service provider. This is subject to certain listed exemptions, including for legitimate control elements to operate a device. This is required under Article 7b of the AVMS Directive.

**(iv) Section 13: Information – Media Service Providers**

- This section requires that media service providers make readily available certain information to audiences (including name, address, and contact information) relating to its services. This obligation is required under Article 5 of the AVMS Directive.

**(v) Section 14: Right to Cinematographic Works**

- This section requires television broadcasters not to transmit cinematographic works outside periods agreed with the rights holders, as required under Article 8 of the AVMS Directive.

**(vi) Section 15: Daily Advertising and Teleshopping Limits – Television Broadcasters**

- This section sets the maximum limit for daily advertising and teleshopping for broadcasters. In accordance with Article 23 of the AVMS Directive, the proportion of advertising spots between the period of 06.00 and 18.00 hours, and the period of 18.00 and 24.00 hours shall not exceed 20% of that period. The maximum limit of 12 minutes of advertising time for any one clock hour, included in the current rules has been retained. Views on retaining this limit are sought as part of this consultation.<sup>4</sup>

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<sup>4</sup> The hourly limit for community television services is 6 minutes. This is a policy decision that derives from the Community Media Policy developed in collaboration with the community media sector. Maximum hourly limits for public sector television broadcasters are set by the Minister for Tourism, Arts, Culture, Gaeltacht, Sport and Media.

- Community television broadcasters have a maximum time permitted for advertising spots of 6 minutes for any one clock hour.
- The relevant exceptions to the assessment of this limit for television broadcasting are listed, which were previously listed under the General Code. The exclusions relating to “information announcements” broadcast on RTÉ for certain musical events or performances (such as the National Symphony Orchestra), or “no charge” events organised by a broadcaster have been deleted for television. In this respect, the code and rules permit the promotion of announcements made by a television broadcaster in connection with its own programmes and ancillary products directly derived from those programmes or with programmes and from other entities belonging to the same broadcasting group. The Commission does not think it is necessary to specify specific examples in the Draft Codes and Rules and has removed this reference as a result.
- “*Neutral frames between editorial content and television advertising or teleshopping spots, and between individual spots*” has been included as an exclusion to the counting of advertising and teleshopping minutage to reflect Article 23 of the AVMS Directive. This section does not apply to television channels exclusively devoted to advertising, teleshopping, or self-promotion.

#### **Consultation questions:**

**Question 6** – Aside from proposals about hourly limits on advertising and teleshopping, do you have any comments on the Draft Media Service Code and Media Service Rules (Advertising, Teleshopping, Signal Integrity and Information)?

**Question 7** - What are your views on the proposal to retain the maximum of 12 minutes of advertising and teleshopping per clock hour? What are your reasons for holding this view and if you think the provision should change, how do you think it should change and why?

## **2.6. Media Service Code and Media Service Rules (Advertising – Radio Broadcasters)**

This is a new set of rules being introduced by the Commission to address advertising for radio broadcasters. These obligations were formerly covered by the BAI Rules on Advertising and Teleshopping. A summary of the revised obligations is set out below.

### **(i) Section 11: Advertising**

- This section sets out the rules relating to advertising for radio broadcasters. This section extends, where appropriate, obligations under Section 11 of the **Media Service Code and Media Service Rules (Advertising, Teleshopping, Signal Integrity and Information)** to radio broadcasters. This is to ensure a consistent approach for both radio and television broadcasters and certainty for audiences.

(ii) **Section 13: Daily and Hourly Limits – Advertising and Teleshopping**

- This section sets the maximum limit for daily advertising for radio broadcasters. In this respect the Act states that advertising shall not exceed 15% of the total daily broadcasting time. The maximum limit of 10 minutes of advertising time for any one clock hour, included in the current rules, has been retained. Views on retaining this limit are sought as part of this consultation.<sup>5</sup>
- This section sets the maximum limits for daily advertising for radio broadcasters.<sup>6</sup> The relevant exceptions to the assessment of this limit are listed. As with the equivalent rules for television broadcasting, the former exclusions relating to “information announcements” broadcast on RTÉ for certain musical events or performances (such as the National Symphony Orchestra), or “no charge” events organised by a broadcaster have been deleted. The reasons in this regard are set out under Section 2.5 (vi).

**Consultation questions:**

**Question 8** – Aside from proposals about hourly advertising limits, do you have any comments on the Media Service Rules (Advertising – Radio)?

**Question 9** - What are your views on the proposal to retain the maximum of 10 minutes of advertising per clock hour? What are your reasons for holding this view and if you think the provision should change, how do you think it should change and why?

## 2.7. **Code of Fairness, Objectivity & Impartiality in News and Current Affairs**

(i) **Section 12 General Obligations (Section 2 of the current News and Current Affairs Code)**

- The principles of the News and Current Affairs Code have been removed. Key elements of the Principles are now included in section headed ‘General Requirements’. The principles have been removed to avoid repetition of provisions
- No other significant changes have been made aside from rephrasing of the rules and minor changes in language. No changes to this code are necessary in order to transpose the AVMS Directive as the Directive does not deal with those covered by this News and Current Affairs Code.

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<sup>5</sup> The hourly limit for community radio services is 6 minutes. This is a policy decision that derives from the Community Media Policy developed in collaboration with the community media sector.

<sup>6</sup> Maximum hourly limits for public sector radio broadcasters are set by the Minister for Tourism, Arts, Culture, Gaeltacht, Sport and Media.

**Consultation question:**

**Question 10** - Do you have any comments on the changes proposed for the Draft Code of Fairness, Objectivity & Impartiality in News and Current Affairs?

## **2.8. Short News Reporting Code**

- A short extract for the purpose of this code is an extract from the content of another broadcaster in order to use that extract for the purposes of providing news to audiences.
- No substantive changes are being proposed to the specific provisions of the Short News Code. Aside from the update to the introductory sections, the main provisions remain unchanged save for some minor rewording with no material impact.
- In terms of applicability, this code will be a code for the purposes of the Act and therefore non-compliance may be subject to the investigatory provisions and sanctions set out in Part 8B of the Act. This is a change to the current situation where the code is a code of practice developed further to Statutory Instrument 258/2010. The change is necessitated by the requirement for the Commission to develop codes and rules to give effect to the AVMS Directive, in this instance, Article 15.

**Consultation question:**

**Question 11** - Do you have any comments on the Draft Short News Reporting Code?



## Chapter 3: Stage 2 Review

As explained in the Introduction, the majority of the changes being proposed to the Broadcasting Codes detailed in Chapter 2 are required to be made under the Act and European Law.

Once these necessary updates to the Broadcasting Codes have been completed, the Commission intends to carry out a further review and consultation on the media service codes and media service rules relating to broadcasting.

In particular, the Commission wishes to consider whether any further changes are necessary following statutory reviews of the codes and rules the outcomes of which are included in Statutory Reports available on the Commission's website.

Issues raised in the Statutory Reports include:

- The desire for industry stakeholders to have the rules relating to the advertisement of High Fat, Salt, and Sugar products in the Broadcasting Codes reviewed.
- The relaxation of the rules relating to sponsorship to provide further scope for commercial content.
- The extension of the areas covered by the Broadcasting Codes to matters relating to the environment, science-based reporting, sustainability, and cryptocurrency.
- The consolidation of several of the Broadcasting Codes and the manner in which they are presented and communicated.

The Act also provides the Commission with discretionary power to introduce media service codes or rules in areas that are not covered by the Draft Codes, including in the areas of the protection of privacy (section 46K of the Act), the promotion of balanced gender representation for participants in news and current affairs programmes (section 46N (4)(a) of the Act), and the promotion of music composed or performed by women on sound broadcasting services (section 46N (4)(b)).<sup>7</sup>

To assist in the Stage 2 Review of the Broadcasting Codes, the Commission is inviting submissions responding to the following questions listed below.

### 3.1. Stage 2 Review - Consultation questions:

**Question 1** - Are there any additions or amendments you believe should be made to the Broadcasting Codes to address the issue of environmental sustainability, particularly in the areas of commercial communications and news and current affairs reporting?

**Question 2** - Are there additions or amendments you believe should be made to the Broadcasting Codes to promote objectivity, accuracy, and factual reporting, particularly in the coverage of matters relating to climate change, science, and health?

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<sup>7</sup> The provision with respect of the promotion of music composed or performed by women is the subject of a separate process being undertaken by Coimisiún na Meán and views on this provision will be sought separately to this current consultation process. A separate process will also be undertaken as it relates to accessibility of programmes on television and on-demand services.



**Question 3** - Are there additions or amendments you believe should be made to the Broadcasting Codes in respect of the coverage of news and current affairs during elections and referenda but not including the moratorium (which is currently the focus of a separate review process)?

**Question 4** - Are there additions or amendments you believe should be made to extend the scope of the Broadcasting Codes to cryptocurrency and related financial products and services?

**Question 5** - Are there additions or amendments you believe should be made to the Broadcasting Codes in respect of the advertising of High Fat, Salt, and Sugar products?

**Question 6** - Are there additions or amendments you believe should be made to the Broadcasting Codes in respect of the advertising of alcohol products and products advertised as 0.0% alcohol content / non-alcoholic?

**Question 7** - Are there additions or amendments you believe should be made to the Broadcasting Codes in respect of the advertising of infant formula, including follow-on formula?

**Question 8** - Are there additions or amendments you believe should be made to the Broadcasting Codes to enhance the protection afforded to participants in programming where such participation carries a risk of harm following broadcast? Such measures may include enhanced rules on privacy, identification, and consent, relating to programme participants.

**Question 9** - Are there any measures you believe could be undertaken by the Commission to enhance support for the implementation of the Broadcasting Codes? Such measures may include consolidation and / or simplification of the regulations, stakeholder engagement initiatives, or the publication of additional guidance documentation.

**Question 10** - Do you believe that the current distinctions between advertising, sponsorship, and product placement, in the Broadcasting Codes are sufficiently clear? If not, are there additions or amendments you believe should be made to provide greater clarity?

**Question 11** - Are there additions or amendments you believe should be made to the Broadcasting Codes to address the issues of balance and false equivalence in news and current affairs reporting?

**Question 12** – Are there any other additions or amendments that you believe should be made to the Commission’s broadcasting codes and rules?

**In each question, we would ask that you make specific proposals and provide a rationale, and where possible any evidence, data or other supporting material for the proposal.**

The Stage 2 Review of the Broadcasting Codes will commence in Q1 2025.

The deadline for responses to the Consultation questions (Stage 2) is **30<sup>th</sup> November 2024**.

## Chapter 4: Responding to this consultation

At the outset, respondents may wish to refer to the Commission's Consultation Guidelines, which can be accessed at:

[https://www.cnam.ie/wp-content/uploads/2023/06/ConsultationGuidelines\\_June-2023-1.pdf](https://www.cnam.ie/wp-content/uploads/2023/06/ConsultationGuidelines_June-2023-1.pdf)

The Commission seeks views, information, and evidence, in relation to each of the consultation questions detailed in Chapter 2 and Chapter 3 of this consultation document.

These questions have been consolidated for convenience and are listed in the **Appendix**. You do not have to respond to all questions in your submission to the consultation.

When preparing your response, please:

- Refer to the full text of the Draft Codes and Rules and other resources provided in the appendixes rather than to the summaries provided in the consultation document, which are intended to be indicative only.
- Clearly identify the specific section(s) or proposal(s) of the Draft Codes and Rules that is / are being addressed in the response.
- Give reasons for your answer; and
- Be concise.

Respondents can make their submissions in writing by email or by post / hand to one and have the option of using the two consultation response forms available on the Commission's website (see below). Responses can be sent to the following:

**Email:** [codes@cnam.ie](mailto:codes@cnam.ie)

**Contact person:** Robert Crowley

**Post:** Coimisiún na Meán, One Shelbourne Building, Shelbourne Road, Dublin 4, D04 NP20.

### **Timeframe for responses**

The responses to the questions listed in Chapter 2 must be submitted to the Commission by the **3<sup>rd</sup> October 2024**. The Stage 1 consultation response form [can be consulted here](#).

The responses to the **Stage 2 Review** Questions (listed in Chapter 3) must be submitted to the Commission by the **30<sup>th</sup> November 2024**. The Stage 2 consultation response form [can be consulted here](#).

If you require any assistance with making a response, please contact Coimisiún na Meán by email at [codes@cnam.ie](mailto:codes@cnam.ie) or by phone at **01 644 1200**.

### **Personal data**

The Commission shall comply with its obligations under the General Data Protection Regulation (“GDPR”), the Data Protection Act 2018 and any other applicable data privacy laws and regulations. The Commission is obliged and committed to protecting all personal data submitted.

The Commission has an appointed Data Protection Officer who is registered with the Data Protection Commission. You can find out more on how the Commission processes personal information in the Commission’s Data Protection Policy available at: <https://www.bai.ie/en/about-us/data-protection-policy/>.

For this process, the Commission will collect the name, email address, and any other personal information included in your response. The name of the respondent to this consultation and the response provided will be made publicly available. However, the Commission will not make publicly available your contact details, such as your address, phone number or email address. The information collected will be used only for the purpose of this review and for no other purpose.

### **Confidential Information**

It is the Commission’s intention to publish submissions received in response to this consultation. Please provide your response as a non-confidential document, with confidential information contained in a separate annex, or submit a redacted non-confidential version together with your response. The Commission will treat confidential information in accordance with its Consultation Guidelines.

### **Freedom of Information**

Information held by the Commission is subject to its obligations under law, including under the Freedom of Information Act 2014. The Commission will consult you about information you mark as confidential before making a decision on any Freedom of Information request.

### **Registration**

If you are interested in keeping up to date with the work of the Commission, you are invited to register your contact details at <https://www.cnam.ie/sign-up-to-newsletter/> to receive our news, updates, and publications.

