



Coimisiún
na Meán

Consultation
Document:
Responses to Broadcast
Moratorium
Consultation 2024

Publication date: October 25th 2024

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04/09/2024

Community Radio Ireland (Craol) would like to make an observation in the consultation about the Broadcast Moratorium.

Radio is a medium with greater reach in Ireland at all ages and with higher trust measurements than online and social media when it comes to news. To blackout election and referendum coverage from the largest and most trusted source (radio) while the medium most used by news avoiders is not subject to the same restrictions is something this process must address.

Where broadcast media is regulated by legislation and codes and a licencing regime, this helps create

- A. a stable and trusted ecosystem for news and views for all society
- B. It acts as an antidote to the silo media consumption that exists with social media

Community Radio in Ireland has a deep rooted reach into the communities it serves. We have a bond with our listeners and are known as a trusted source of information. In review of the IPSOS B&A and Reuters Digital News Reports we see the disconnect between online and broadcast media and the age differences using media. Broadcasting as a practice allows the same message to reach all, whereas the tendency with social media is that consumption of news and views is from a silo where the platform algorithms are further propagating the prevailing view or the media that will create more engagement for the owners of the platform.

We feel that this further demonstrates that broadcasting is a very important tool in preserving democracy as it allows for a regulated safe space for all views without amplification. This allows for less misinformation, less disinformation and more serendipity and opportunities for listeners to be exposed to a wider range of news and views.

Of the five choices presented, Option 5: "Abolish the moratorium and not replace it, leaving broadcast coverage of election or referendum material to be regulated by the rest of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs." is the most favourable option to Craol.

If the codes could also apply to online news entities that are not broadcasters that would also help bring fairness to the media received by all.

Brian Greene (Chairperson)
Community Radio Ireland
Craol.ie



04/09/2024

Dublin Community Television (DCTV) would like to make an observation in the consultation about the Broadcast Moratorium.

As Television is a much more trusted medium versus social media and video blogs and podcasts, we feel that to restrict access to the trusted source while the less trusted source has historically not been subject to a moratorium is an unfair situation where harm could be caused.

Where broadcast media is regulated by legislation and codes and a licencing regime, this helps create

- A. a stable and trusted ecosystem for news and views for all society
- B. It acts as an antidote to the silo media consumption that exists with social media

Community Television has deep reach into its own community and can act as a counter source of information in the duration of an election or referendum. Whereas online and social media sources can act as a silo of views with no opportunity to see alternative views as algorithms amplify the view already established. Here the distinct effort of broadcasting a message in the clear to all citizens has a duty to protect the media space from misinformation, disinformation and provides the serendipity of hearing and seeing views and opinions that you otherwise may not see.

Of the five choices presented, Option 5: "Abolish the moratorium and not replace it, leaving broadcast coverage of election or referendum material to be regulated by the rest of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs." is the most favourable option to Dublin Community Television.

If the codes could also apply to online news entities that are not broadcasters that would also help bring fairness to the media received by all.

Brian Greene on behalf of the committee of management,
Dublin Community Television Society Limited. DCTV

Dublin Community Television Society Limited. DCTV

Friday 16th August 2024

Dear Coimisiún na Meán,

I am writing on behalf of myself and my fellow colleagues in the FM104 and Q102 newsroom in Dublin, part of the Wireless Ireland Group.

The overwhelming consensus from this newsroom is that the broadcast moratorium is no longer fit for purpose in its current guise.

We are now a quarter way through the 21st century and the upheaval that traditional media has experienced in recent times has been significant, due to the rise of digital and social media.

The news cycle is more '24/7' than ever before and our work is made further challenging during voting cycles, especially when untraditional, online-only news outlets can publish stories during the broadcast moratorium that we cannot then make reference to.

These stories can then often dominate the discourse on social media, and broadcasters are hamstrung from even mentioning the issue. We then get accused of 'not covering' the issue or ignoring it. I don't believe this is helpful if we are to have an open and transparent democracy.


We agree with the CnaM recommendation that the broadcast moratorium should be removed from the guidelines for radio and television broadcasters before the next electoral event.

Yours Sincerely,

Kevin O'Mahony

Head of News and Sport

FM104 | Dublin's Q102 | Wireless Ireland





2 September 2024

CONSULTATION RESPONSE

Broadcast Moratorium

This document is the response of the Independent Broadcasters of Ireland (IBI) to the Coimisiún na Meán Consultation dealing with the crucial issue of the broadcast moratorium, a process which concludes on 4 September 2024.

We are grateful to An Coimisiún for launching this consultation which is an important one for democracy and for trusted media in Ireland. We have answered all of the questions, and should the Coimisiún require any clarification, please contact [REDACTED] Independent Broadcasters of Ireland at any time.

We note Coimisiún na Meán is putting forward five main options for consideration:

1. Keeping the moratorium as it is
2. Amending the duration of the moratorium
3. Changing the types of broadcast coverage included under the moratorium
4. Reframing the obligation on broadcasters as a positive obligation to exercise particular care on issues related to elections or referendums
5. Abolishing the moratorium entirely.

The Independent Broadcasters of Ireland wishes to clearly state that it believes that **the moratorium should be abolished entirely** because of the risk it presents to the running of free and fair elections; the limitation it places on the high quality standards maintained in the broadcast sector and on editorial freedom in that sector, which is already strictly regulated; the unfairness and anti-competitive effect of the arbitrary, outdated and archaic selection of one specific media sector among many; and, most importantly, the damage the moratorium does to opportunities to correct misinformation and disinformation distributed by other media sectors.

The moratorium excludes other media sectors (press, web, social media etc) and none of the other alternatives to abolition put forward in this consultation would address the major disadvantages of the moratorium. Therefore Option 5 is the only one which IBI supports.

The moratorium is a regrettable part of a continuum of public policy in Ireland which has historically singled broadcasting out for special and unequal restrictions, largely because for many years broadcasting was controlled entirely by the State. Those policies were most starkly shown by the Section 31 broadcasting legislation. Under Section 31 of the Broadcasting Authority Act 1960, the Minister for Posts and Telegraphs could issue a ministerial order to the RTÉ Authority not to broadcast material, and this was extended in the 1970's to specific types of content. This only applied to broadcasting and when Government proposals were made in the 1970's to extend the ban to newspapers, those were soon abandoned, with the result that the legislation only dealt with broadcasting. When he took the decision not to renew that section in 1994, the Minister for Arts, Culture and the Gaeltacht, Michael D Higgins T.D. said: "It is no secret that I have little enthusiasm for restrictions on broadcasters in the coverage of news and current affairs."

Questions for Consultation and the Independent Broadcasters of Ireland Answers:

Q. 1 How important are the policy objectives set out in Section 2 in enhancing the right of individuals to participate in free elections? Are there other policy objectives that you consider Coimisiún na Meán should take into account? How much weight should be placed on the objectives set out in Section 3 when balancing the impact of different options set out in this Document against liberty of expression?

Q. 2 Do you consider that, on balance, the current moratorium is more likely to support the policy objectives set out in Section 2, or to undermine them?

A. The answers here deal with Q1 and Q2. The three policy objectives set out in the consultation are not specific or effective enough, as they are confined to one media sector, to merit as much weight as may be implied.

As Coimisiún na Meán has set out in its consultation document, restrictions on freedom of expression must under the Constitution and under human rights legislation be rationally connected to an objective, impair the right to freedom of expression as little as possible, and be generally proportionate.

It is clear that the moratorium does not satisfy any of those three conditions.

- It is not sufficiently connected to the objective of preventing material circulating during the period before an election, as it does not apply to press or social media, and is (not through any fault of An Coimisiún) outdated in the modern era.
- The moratorium does not pass the other tests in the Constitution: it does not result in the restriction on the right to freedom of expression being as minimal as possible, as it constitutes a blanket ban for the period of the moratorium, and is a blunt sword. And it is not proportionate as it is a general prohibition which applies in an unfair way to only one area of media, and a measure which it could be argued is arbitrary and not backed by research.

Ireland has a history of high quality and trusted broadcast media, who are regulated in relation fairness, balance and accuracy. The moratorium does not take account of that.

More weight should be instead be attached to freedom of expression, the development of a pluralist and free media, and the ability of the trusted broadcast sector to be in a position to correct untrue information circulated on social media or elsewhere.

The three policy areas set out by An Coimisiún are:

- ***“Enhancing democracy by helping to ensure parity among voters, such that every voter, no matter at which time of day they vote, has the same information available to them as other voters on salient political issues”***

This objective has never been a reasonable or feasible one, and therefore cannot be considered an important one, as there is no way of ensuring that all voters have the same information available to them, when they may have a wide range of sources of information available to them which can vary depending on their interests and on their availability to individual voters (national, international and local press; national, international and local radio; websites; leaflets; social media posts; rumour and hearsay etc). It could be said that the moratorium actually goes against this stated policy objective, by ensuring that voters who get their information from broadcasters are exposed to a different and more restricted set of information specifically due to the moratorium than those reading newspapers or using the internet or social media.

- ***“Helping to achieve a good information environment by making it more difficult for information that may be unverified, difficult to verify, or whose significance may be difficult to evaluate, to circulate widely close in time to an election, which may lead to that information having an enhanced or distortive impact on the outcome of the vote”***

The maintenance of a good information environment is dependent on a number of factors: the culture of different media industries and organisations and their commitment to fairness and balance; professional standards journalists abide by; general statutory and licence obligations on broadcasters; and conversely by the propensity of some bad actors to distribute misinformation and disinformation via social media/web either deliberately or due to recklessness. The moratorium, we submit is not consistent with policy objective in spirit and in practice as it ensures that information which may be unverified or difficult to evaluate or distorting is likely to circulate on social media widely, but cannot be corrected or clarified on trusted broadcast media in the run-up to polling. The moratorium does not, and cannot in the modern era, reduce the circulation of unverified or difficult-to-verify information on social media. By implying that restrictions on broadcasters can deliver on this policy, the moratorium creates a false perception of the effectiveness of restricting one sector, a perception which could lead society to be in serious danger of complacency.

- ***“Attempting to respect voter autonomy by leaving time to the voter to reflect on their opinion and position and freeing the voter from interference in that process through the media, including by reducing voter exposure to misinformation and disinformation that might undermine their voting autonomy”***

This policy objective is the direct opposite of what the moratorium achieves, as the measure opens a wider possibility of interference in voting and in exposure to misinformation through banning trusted broadcast media from verifying, clarifying or correcting misinformation and disinformation in a timely way in the run up to polling, a time when polls show a significant number of voters. Interference with the freedom of the media to decide on coverage is in itself damaging to democracy, as it plays into the hands of those with malign and destructive conspiracy points of view. It has been said that sunlight is the best disinfectant, and that principle needs to be taken into account in considering this issue.

The policy objectives which we believe Coimisiún na Meán should take into account include ensuring a plurality of media in Ireland, favouring freedom of expression and independent editorial decisions, refraining from actions which favour one media sector over another in an anti-competitive way, and supporting the essential right of the regulated broadcast sector to correct misinformation in the run-up to an election. This latter point is especially important as it is clear that unverified information may be circulated on the social media and web platforms. This has already happened in the last referendum when what was described as a leak of legal advice relevant to the issues in the referendum was published on the web on the last day before the poll.

It is clear to us that the current moratorium entirely undermines the policy objectives set out by An Coimisiún, because of its limited and selective application, and because it was drawn up before the major changes across the media environment across web content and social media.

Q. 3 To what extent do you think Option 1 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view

A. Option 1 would be very negative, and would involve the retention of an archaic, out-dated restriction, which is confined to one media sector without sufficient reason. This option creates an environment which cannot address the risks and concerns many people have about election inference and an informed democracy. The Option 1 approach, we believe, cannot be effective given that it does not apply to other sectors and can be exploited by malign actors to distribute misinformation and disinformation via those other channels without fear of contradiction or clarification or verification by trusted broadcast journalists. As stated above, none of the policy objectives are assisted by the moratorium and in fact, it goes against the objectives in its theory and practical application in a modern media world.

The Reuters Digital News Report 2024 report cited in the consultation document specifically found that online news sources had overtaken TV as a main source of news for survey respondents, with social media identified as a very significant source of news and a high proportion of respondents (~70%) across all age cohorts being concerned about what is real and what is fake in the web/social media sphere.

Significantly both the Electoral Commission and the Minister for Local Government with responsibility for elections, Darragh O'Brien T.D., have expressed the view that the moratorium should be dropped. These are experienced and knowledgeable sources whose view should be given weight by An Coimisiún in this consultation.

Leading legal firm McCann FitzGerald LLP wrote on this topic:

“Social media commentators and influencers, who were a prominent feature in the recent election campaign, can publish personal opinions and observations without restriction in the hours leading up to and including election day. This commentary may be uninformed. In the meantime, experienced journalists cannot broadcast professional and expert commentary. It is difficult to see how the public interest is served by this discrepancy.”

“In circumstances where there is no reality to extending the moratorium to social media, there are compelling arguments for scrapping the moratorium altogether, a move which would emphasise the value of informed, impartial broadcast journalism to a functioning democracy.”

Q. 4 To what extent do you think Option 2 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.

A. Option 2 or amending the duration would not in any way alleviate the risk and damage caused by the current moratorium, as the moratorium is fundamentally problematic as set out above. The moratorium goes against freedom of expression, independent editorial principles and journalists' rights, restricts competition unfairly, and will inevitably fail to achieve the policy objectives because it is so easy for malign or reckless actors to interfere with elections using social media/web or other media. The moratorium would not become any less of a risk to democracy by being shorter or longer in duration.

Q. 5 To what extent do you think Option 3 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.

A. Option 3 or altering the type of material covered would not in any way assist in reducing the risk and damage caused by the current moratorium, as the moratorium is fundamentally problematic as set out above.

The moratorium goes against freedom of expression, independent editorial principles and journalists' rights, restricts competition unfairly, and is certain to fail to achieve the policy objectives stated to underly it, because it is so easy for malign or reckless actors to interfere with elections using social media/web or other media. Most importantly, there is no evidence that the moratorium can in the modern era contribute to achieving any of the policy objectives above. It is out-dated and arbitrary and should be abandoned. The moratorium is, we must regrettably state, not capable of being saved by any change to the content covered. Altering the content covered would not address the fact that the moratorium currently bans discussion or coverage of election/referendum issues on broadcast media and that sector alone. Any content the moratorium prohibits would inevitably be relevant to the election/referendum issues, so no alteration would improve the current situation, or address the risk created to an informed democracy and fair elections by the moratorium, which is specifically focussed on only one sector and therefore has a huge lacuna at its centre.

Q. 6 To what extent do you think Option 4 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.

A. Reframing the obligation on broadcasters as a positive obligation to exercise particular care on issues related to elections or referendums would not change the unfair, arbitrary and ineffective nature of the moratorium in the modern era. It is not clear why Option 4 proposes to limit such a positive obligation to broadcasters and why it would not apply such an obligation to other media sectors or to social media. Such an obligation, in the absence of precisely-matching, effective and binding obligations on social media or web publishers, or on other media sectors, would clearly have no chance of success in meeting the stated policy objectives. Given that the broadcast sector is not where the problem lies in terms of the risk of misinformation and disinformation, why should that sector be subject to a restriction on freedom of expression which does not apply to social media or other media sectors? It would not be possible for this option to be implemented to best serve the policy objectives, as the measures would still only apply to broadcasters.

Q. 7 To what extent do you think Option 5 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.

A. **Abolishing the moratorium entirely** is the best and only logical solution to the outdated, archaic, and ineffective moratorium which we believe increases the risk to fair elections by banning trusted broadcasters from doing what they do best – carrying fair, balanced and accurate material in a responsible, as they do in the rest of the election campaign cycle and throughout the year.

There is a strong record of fair and accurate coverage of elections in our sector, and independent radio stations already follow An Coimisiún's [Guidelines](#) for fair election coverage.

The current moratorium is, we have to conclude, not fit-for-purpose and cannot be effective in the modern technological media world.

Independent broadcasters are opposed to the continuation of the moratorium, and we respectfully advise that such expert views from practitioners should be given a high level of weight by An Coimisiún in its consideration of the issue.

The principle of the moratorium was to prevent material relating to political/election/referendum issues circulating at the end of the campaign, but that has been overtaken by social media and web coverage and there remains the anomaly that coverage is permitted in print and in the web/social media sphere in relation to any aspect of the campaign or issues right up to election day.

Conclusion:

As the leading journalist John Downing has commented: “...*the real problem is that this broadcast ban actually facilitates fakers and people of evil intent. These high-tech/low-moral types – including those using artificial intelligence – can be aided by radio and television silence to manipulate election-related material in the hours before polling to undermine the democratic process.*”

We in the Independent Broadcasters of Ireland welcome this consultation and ask that our call for the abolition of the broadcast moratorium for elections or referenda is accepted by Coimisiún na Meán.

Independent Broadcasters of Ireland

From: [REDACTED]

Subject:

Archived: Thursday 17 October 2024 15:45:53

Dear Coimisi na Me,

I believe the 24 hr moratorium on pre-election broadcasting should be left =
as it is.

The broadcasting of election material on the day before or on the day of an =
election should not be permitted as it may interfere with the vote either =
intentionally or unintentionally. Even the discussion of exit polls should =
not be permitted until the day after the election when the count begins.

Voters deserve and are entitled to one day of peace without being bombarded =
with media to think, reflect and discuss with family and friends their pol =
itical options.

Kind Regards,

[REDACTED]

Dear Commissioners,

I am writing to express my strong objection to RTE's proposal to lift the broadcast moratorium, which is currently under review by Comisiún na Meán. Allowing RTE to proceed with this action would undermine the principles of fair and balanced reporting, particularly in the context of politically sensitive periods.

RTE has demonstrated, on numerous occasions, a troubling disregard for maintaining balance and impartiality in their coverage of political issues. This is not a mere allegation but a well-founded concern shared by many who have witnessed RTE's handling of critical debates. The broadcaster's tendency to lean towards certain political agendas, often to the detriment of opposition voices, raises serious questions about their ability to provide unbiased coverage in a manner that serves the public interest.

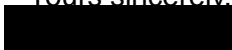
Furthermore, the recent €725 million bailout granted to RTE by the current Government exacerbates these concerns. The substantial financial support, funded by the taxpayer, inevitably raises suspicions about the broadcaster's ability to independently critique government policies or provide a platform for opposition voices. Given this financial dependency, it is reasonable to expect that RTE might prioritize pro-government positions, consciously or unconsciously, to secure future funding or to remain in the good graces of those in power.


If RTE is allowed to lift the broadcast moratorium, the potential for bias would only be amplified. Opposing viewpoints could be marginalized, and any dissenting narratives might be hastily labeled as misinformation, a dangerous precedent in any democratic society. This would result in a skewed public discourse, where the government's stance is unduly amplified while opposition views are systematically diminished.

In light of these concerns, I urge Comisiún na Meán to reject RTE's proposal to lift the broadcast moratorium. Instead, I recommend that the Commission enforce stricter guidelines to ensure that RTE and other broadcasters maintain a fair and balanced approach, particularly during election periods and other politically charged times.

Thank you for considering my objection.

Yours sincerely,





31/08/2024

Coimisiún na Meán,
One Shelbourne Building,
#Shelbourne Road,
Dublin 4,
D04 NP20

Dear Reader

I write to you in response to Coimisiún na Meán's request for a public consultation and as an Irish citizen in good standing born in Louth. I hope that the commission will be keeping the moratorium without any changes and make the following submission on the subject. I obtained my degree in Political Theory and Institutions from Liverpool University and also hold three postgraduate degrees including subjects such information technology and cybersecurity from institutions including Maynooth and TU Dublin and have a reasonable understanding of political theory, disinformation and cyber warfare. There has been no relativistic content analysis of fact Vs opinion in RTEs political, or current affairs coverage and no decision should be made on the mandate until this is carried out and if necessary, adjustments made in RTE structurally to ensure a high degree of fact orientated delivery, particularly due to its status as a government funded public broadcaster. There is no substantive basis for assuming that RTE is in any manner superior to arbitrary internet sources until such a study is conducted. I find it profoundly disturbing that RTE given its recent history of management resulting in further extraordinary funding via exchequer support should be attempting to grant itself further influence in the political arena in Ireland in the time period immediately prior to voting and urge the commission to in this instance err on the side of caution and keep the mandate remain in place. The commission could perhaps propose an ancillary recommendation while retaining (or even extending) the mandate, that RTE must develop a publicly auditable transcript analysis of current affairs coverage indicating the degree and extent of opinion orientated phraseology Vs factual encompassing internal correspondence within RTEs digital systems on how agendas of topics are selected for current affairs coverage.

A simple observation regarding RTEs employment policy highlights a further issue a formally instituted mechanism of discrimination against people of 'an Irish background' and nationality in recruitment. This is outlined in RTEs 'diversity and inclusion charter' which is accessible here

<https://about.rte.ie/wp-content/uploads/2019/07/rte-diversity-and-inclusion-charter-2018.pdf>

In this document on page six RTE states that they desire to have 10% of their staff of a 'non-Irish background' as a matter of policy.

I find it inappropriate that any organization that formally documents its intent to institutionally discriminate against persons of an Irish background or any indeed person's background formally should have *any* role in political dialogue in Ireland. This should be very obvious in a nation such as ours that includes the penal laws as part of its historical experience and the disenfranchisement of the majority of the Irish population via them. This becomes again even more critical given RTEs recent history and role as a publicly funded organization. There are many possible avenues for discussion in relation to RTE and its management but in my view increasing its influence on the electoral process by removing the mandate and therefore increasing its influence on the electoral results is very inappropriate. The mandate should be retained and in RTEs case perhaps even extended to include the week prior to elections rather than just the day before.

I consider that retaining the current moratorium in every way supports the commissions policy concerns and agree it is very useful in preventing the amplification of misinformation in the time immediately prior to elections.

As the commission's consultation document discusses freedom of speech it is perhaps important that I articulate that freedom of speech as a right may with perfect validity may be considered to only apply to individuals and never bodies corporate or governmental. It could quite reasonably be stated that granting bodies corporate or governmental the same rights of freedom of speech as individuals serves only to hamper the freedom of speech of individuals.

With Kind Regards,

A solid black rectangular box used to redact the signature of the sender.

1 Shelbourne Buildings
Shelbourne Road
Dublin 4
D04 NP20
Ireland

8th August 2024

Dear Sir/Madam

I am writing to you about the current consultation regarding the broadcast moratorium that is currently in place for Elections and Referendums.

My preferred option in the interests of democracy and choices, that we will make as an electorate is to **remove the moratorium altogether**. It will help the general public to make a “more informed choice “ at the ballot box.

Looking forward to hearing back from you as soon as possible.

Yours sincerely
Regards



From: [REDACTED]

Sent: Wednesday, August 7, 2024 3:26 PM

To: Reception CnaM <reception@cnam.ie>

Subject: Re: Coimisiún na Meán seeks views on future of broadcast moratorium for elections and referendums

Answer

Submission to Coimisiún na Meán

Subject: Response to the Broadcast Moratorium Consultation Paper

Dear Coimisiún na Meán,

We appreciate the opportunity to provide feedback on the Broadcast Moratorium Consultation Paper. After reviewing, we would like to express our support for maintaining the current state of the Moratorium, with some additional recommendations to enhance its effectiveness and the overall democratic process.

Maintaining the Broadcast Moratorium and Introducing Penalties

We believe that the Broadcast Moratorium, in its current form, plays a crucial role in ensuring parity among voters and fostering a conducive information environment. However, we propose the introduction of penalties for other broadcasters including online platforms and their users with reach (say 50+ impressions) who violate the Moratorium's provisions. Keyword detections can invoke warnings prior to posting. these are relatively easy to implement) This would serve as a deterrent and reinforce the importance of adhering to the Moratorium's guidelines.

Addressing Inaccurate Voting and Misinformation

As a root solution, we would like to address the issue of inaccurate voting, which we believe stems from voter ignorance and exposure to misinformation and disinformation. To tackle this, we propose enhancing the voting procedure by including basic a multiple-choice question(s) on the poll card. This would serve to educate voters on key issues and promote informed decision-making. we would go as far as to suggest an *optional* digital alternative to submitting ones vote through utilisation of each citizens PPS number.

Improving Debates and Statistics

Furthermore, we believe that efforts should be directed towards improving the quality of debates and the accuracy of agreed statistics presented during these discussions. This could be achieved by setting stringent criteria for inviting speakers on TV shows and other broadcast platforms, ensuring that they are well-versed in the topics they discuss and that the statistics they each present are accurate, and from relevant common sources.

Efficient Use of Public Funds and Departments

Lastly, we would like to emphasize the need for public funds and departments to be utilized more efficiently. This could be achieved by leveraging technology and data analytics to streamline processes and make informed decisions.

In conclusion, while we support the current state of the Broadcast Moratorium, we believe that these additional measures would significantly enhance its effectiveness and contribute to a more informed and democratic society.

Thank you for considering our submission.

Yours sincerely,

A solid black rectangular box used to redact the signature of the sender.

If there are individuals within CNAM who hold regard for the retention of the tv license system please make contact as we see a positive way forward to improve public service broadcasting in Ireland

Archived: Thursday 17 October 2024 16:09:07

Mail received time: Mon, 2 Sep 2024 12:14:48 +0000 (UTC)

Subject: CNAM Consultation Document: Broadcast Moratorium

You don't often get email from [REDACTED] [Learn why this is important](#)

To CNAM,

As a member of the public I'm making a submission to CNAM in regard to Consultation Document: Broadcast Moratorium, as issued by Coimisi n na Me in.

I would like to see the broadcast moratorium lifted completely for the broadcast media operators. This is so they can compete in fairness with social media operators who currently are not regulated by any broadcast moratorium. I would hope the broadcast media operators could act as a sort of informal policing of the social media platforms and inform the public using their means about disinformation being spread online or through whatever means. These broadcast media operators are regulated already and its the unregulated social media bodies/platforms we need to be watching more and more. I would think in this day and age with the power of social media we the public need the broadcast media operators more than ever to counter/correct what information we the public are being informed of through social media. Many countries on the EU are probably facing a similar situation and will I think simply have to remove their moratoriums to allow their broadcast media to simply compete. It would appear nonsensical if a broadcast media operator also has a social media platform attached to it, is on one hand restricted by a moratorium, but yet their social media section is not restricted, so you need to consider really what is the broadcast moratorium actually achieving in this day and age.

Each generation of people today gets their information through a different means when it comes to e.g. elections, referendums, in who they trust. In the future will all broadcast media eventually be all transferred to online social media platforms. If you can't regulate social media now with a moratorium for e.g. elections, referendums, how are you going the regulate social media going forward. This presents a difficult challenge and how will it actually be enforced. I think for the moment the current broadcast moratorium should be removed and after a period of say 5 years have a review.

Information is as you know being spread by social media platforms constantly. The broadcast media is then always one step behind so removing this moratorium will I hope, allow a little bit of fairness for them to comment on information/disinformation of any type.

I would therefore support this option 5. abolish the moratorium and not replace it, leaving broadcast coverage of election or referendum material to be regulated by the rest of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

Regards [REDACTED]

Archived: Thursday 17 October 2024 15:43:28

Mail received time: Wed, 4 Sep 2024 18:36:44 +0000

Subject: RE: Broadcast Moratorium Consultation

You don't often get email from [REDACTED] [Learn why this is important](#)

Good evening,

Please find the Labour Party's submission to the Consultation on the Broadcast Moratorium below. Please feel free to contact me should you have any further queries.

The Labour Party is grateful for the opportunity to offer its view on this matter. In relation to the series of options set out in the consultation paper, we offer the following opinions.

Option 1: retain the moratorium as is

For reasons spelled out in the Commission's paper, we do not support this option. The moratorium applies only to broadcasters, a diminishing sector in terms of sources of news consumption. The impact of the moratorium is to restrain what is perhaps the most responsible source of news, leaving irresponsible sources unaffected and unchallenged.

Option 2: change the duration of the moratorium

Given that the increasing unworkability and irrelevance of the moratorium is not related to its duration, the option of changing the duration does not arise for consideration.

Option 3: Adapt the moratorium so that it applies to more narrow categories of speech

The issue raised in the paper under this heading relates to the possibility of banning the reporting of opinion polls during a defined period before polling day. Labour supports the argument that such a ban would not be the most proportionate means of avoiding public misinformation. It would be preferable for the Commission to issue guidance to broadcasters.

Option 4: Abolish the moratorium and replace with guidance imposing positive obligations

This is the Labour Party's preferred approach. It is certainly the case that broadcast coverage of an election campaign has to take account of the fact that the campaign has a beginning, a middle and an end. Coverage on the day before polling day must be different in degree and in kind to coverage mid-campaign.

On the last day, the discussion and analysis of election issues, and of the merits of candidates and policies, is drawing to a conclusion. The overall requirements of fairness and balance must be respected. New issues cannot be opened if they cannot be reasonably and fairly be closed within the time available.

It would be unfair if information that is unverified and difficult to verify were to be broadcast in the dying hours of coverage.

It is therefore legitimate to have guidance requiring broadcasters, in the final hours, to exercise special or particular care in considering whether to broadcast certain material.

We support the view that it would be reasonable to require a broadcaster to prepare a policy to guide appropriate decision-making around political coverage near in time to a public vote.

Option 5: Abolish the moratorium in its entirety, leaving only remaining provisions of the Code in application

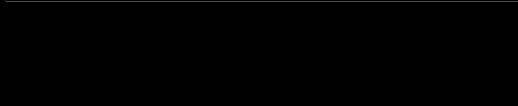
As stated above our preference is for the fourth option, which emphasises that a special degree of care should be exercised as broadcast coverage of a campaign comes to a close.

Kind regards,

Billie

Billie Sparks

General Secretary





Tithe an
Oireachtais
Houses of the
Oireachtas

An Comhchoiste um Thurasóireacht, Cultúr, Ealaíona, Spórt agus Meáin

Joint Committee on Tourism, Culture, Arts, Sport and Media

Submission to the Coimisiún na Meán consultation on
the future of the broadcast moratorium

September 2024



Submission

The Joint Committee welcomes the opportunity to make a submission to the consultation on the broadcast moratorium.

The news landscape and cycle and the means by which the public accesses news and current affairs has been transformed since the moratorium in its current form was conceived of, and a review of the moratorium is a welcome initiative on the part of Coimisiún na Meán.

As An Coimisiún is aware, the Joint Committee has recently adopted a comprehensive report on the future business model plans and long-term vision for the media sector. The Joint Committee's report is grounded in the belief that a country's media are the backbone of its democracy, and that the information we receive from media is vital to the choices that shape our lives. The role of the media in providing fair and balanced coverage is particularly important in relation to electoral events.

The Committee makes the following points in its response to the consultation invitation;

1. The Joint Committee recognises the value of a reflective period afforded to the electorate in advance of an electoral event.
2. The Joint Committee considers that there is an imbalance between broadcast media and online media in respect of allowable coverage and that this places broadcast media at a disadvantage in its ability to provide fair and balanced coverage of electoral events, and to respond or add balance to false and misleading claims and counter mis- and disinformation.
3. While the Joint Committee acknowledges that the extension of the moratorium to online platforms is outside the scope of this current consultation, the Committee considers that consideration of how to apply restrictions on online platforms is essential to making an informed decision with relation to the moratorium.

The Joint Committee considers that rigorous application of the existing regulatory powers on the part of Coimisiún na Meán and Coimisiún na Toghcháin must have a role to play in ensuring responsible behaviour on the part of digital platforms. While

rigorous enforcement of these powers should be a general policy goal on the part of regulators, the Joint Committee considers that electoral events should be periods of particular vigilance with ongoing engagement with digital platforms in relation to disinformation on their platforms.

The Joint Committee requests that Coimisiún na Meán responds on the question of options for expanding the moratorium to online platforms.

4. The Joint Committee calls for Coimisiún na Meán to examine the feasibility of a mechanism to level the playing field and facilitate the ability of broadcast media to respond to false and misleading claims that may be circulated online or via other media not subject to the broadcast moratorium.
5. The Joint Committee's preference therefore is to afford a reflective period to the electorate in such a way that it is applied in a fair and balanced manner to all forms of media including social media.

In the event that application of broadcast moratorium rules to online platforms is not possible in the short-term, and where the only options available are to retain or abolish the moratorium, the Joint Committee would favour abolition of the moratorium until such time that it can be enforced in a fair and balanced manner to all forms of media.



LAW SOCIETY
OF IRELAND

Broadcast Moratorium Consultation 2024

Coimisiún na Meán

4 September 2024

www.lawsociety.ie

Consultation on the Broadcast Moratorium

Key Conclusions

The Law Society of Ireland appreciates the opportunity to provide this submission relating to the broadcast moratorium. In brief terms:

1. We support Option 4: Abolish the moratorium and replace it with guidance imposing positive obligations rather than negative obligations.
2. We support the principle of positive obligations such as impartiality and fairness, refraining from voicing personal political opinions, and the balanced representation of political parties on broadcasters.
3. We support an obligation to debunk viral misinformation in the days leading up to election.

The Law Society has commented on questions 1, 2, and 6 of the consultation, providing a rationale for the endorsement of policy Option 4: Abolish the moratorium and replace with guidance imposing positive obligations rather than negative obligations. We have also provided background information on all other sections of the consultation document within the 'background' of this submission.

Introduction

The Law Society of Ireland (the **Law Society**) is the educational, representative and professional body of the solicitors' profession in Ireland.

The Law Society's main statutory functions in relation to the education, admission, enrolment, and discipline of the solicitors' profession are provided by the *Solicitors Acts 1954 to 2015*. These statutory functions are exercised by the Council of the Law Society or by the various committees, task forces and working groups to which the Council may delegate certain statutory functions. A separate organisation - the Legal Services Regulatory Authority - is responsible for regulating the provision of legal services by legal practitioners.

The Law Society delivers high-quality legal education and training and also places significant emphasis on civic engagement, supporting local community initiatives and driving diversity and inclusion. The Law Society is committed to participating in discussion and advocacy on the administration of justice and the effective implementation of public policy.

Background

The Current Situation: Inadequacy of the Broadcast Moratorium

The Law Society recognises and supports in principle the policy objectives that lay behind the original introduction of the broadcast moratorium in Ireland. The fair treatment of electoral candidates in broadcast media, impartiality of such media, freedom of information, and fair access to broadcasting and the media are all important principles in the context of an election in a democratic society. It is also important that voter autonomy is respected, and that impartial and fulsome information is available and accessible to each member of the public.¹

¹ In addition to reporting on the performance of the incumbent government, the media can educate voters on how to exercise their rights, report on campaign developments, provide a platform for the

At the same time, the volume of unverified and user-generated information available through online platforms, including social media, have undeniably changed the information landscape and have an increasing influence on voters' decision-making. In addition, it is clear from recent research that the general population is not confident enough to differentiate between genuine and mis- or disinformation.

Therefore, in the present environment, a broadcast moratorium can be harmful when more traditional media are not able to correct wrong information, challenge a particular narrative that is emerging, or provide reliable, impartial news. Indeed, recent examples from the US, Slovakia, and elsewhere² have shown that broadcast moratoriums can be harmfully exploited to spread misinformation about election candidates.

Public opinion about the efficacy of broadcast moratoriums in general is split, with international experts not in agreement regarding best practice to achieve its general goals. Comisiún Toghcháin, in their mandate to facilitate and promote independent and effective elections, have recently recommended the abolition of the broadcast moratorium.³ Therefore, and without additional safeguards being in place, the Law Society's view is that whilst it did serve a useful purpose, the broadcast moratorium is no longer adequate to achieve its goals.

Rationale for the Endorsement of Option 4 in this Consultation

The Law Society endorses the abolition of the broadcast moratorium and would encourage the introduction of positive obligations on broadcasters in order to achieve the broader policy objectives of Coimisiún na Meán. Therefore, the Law Society endorses Option 4 as put forward in the consultation document.

candidates to debate one another and communicate their message to the electorate, also monitor the vote count and report the results to the public. Candidates have the right of reply to statements or reports in the media, which were inaccurate or offensive, and to be able to exercise that right during the election campaign. (CDL-AD(2009)031 Guidelines on media analysis during election observation missions, by the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Venice Commission, adopted by the Council for Democratic Elections at its 29th meeting (Venice, 11 June 2009) and the Venice Commission at its 79th Plenary Session (Venice, 12- 13 June 2009) (para. 12).)

² In the recent Chicago mayoral election and the Slovakian national election, AI-generated voice recordings of two candidates were circulated on the eve of the election. Their impact remains unclear. (See Irene Benedicto, 'AI-generated election content is here and the social networks aren't prepared', *Forbes*, 06 July 2023, <https://www.forbes.com/sites/irenebenedicto/2023/07/05/ai-generated-2024-election-content-social-media/>; and Curt Devine et al, 'A fake recording of a candidate saying he rigged the election went viral. Experts say it's only the beginning', *CNN Investigates*, 02 February 2024, <https://edition.cnn.com/2024/02/01/politics/election-deepfake-threats-invs/index.html>). The European Commission has traced disinformation online in all European member states during the last European elections (refer to 'EU Elections- Disinfo Bullet', European Commission, <https://ec.europa.eu/newsroom/edmo/newsletter-archives/53787>.)

³ An Comisiún Toghcháin, 'Report on the Referendums on Family and Care Held on 08 March 2024', July 2024, <https://cdn.electoralcommission.ie/app/uploads/2024/07/12004754/Report-on-the-Referendums-on-Family-and-Care.pdf>, page 22.

Question 1: How important are the policy objectives set out in Section 2 in enhancing the right of individuals to participate in free elections? Are there other policy objectives that you consider Coimisiún na Meán should take into account? How much weight should be placed on the objectives set out in Section 2 when balancing the impact of different options set out in this Document against liberty of expression?

The policy objectives set out in Section 2 in enhancing the right of individuals to participate in free elections are extremely important. Safeguarding democracy requires that elections be free, fair, transparent, inclusive, and trusted by voters and those running for election. Therefore, the right of individuals to participate in free and fair elections is intrinsically linked to a number of other human rights and freedoms. These prerequisite rights include the right to freedom from discrimination, the right to freedom of opinion and expression; the right to freedom of association and of peaceful assembly; and the right to freedom of movement.⁴

The Law Society recognises the policy objectives set out in section two of the consultation document as critical in enhancing this array of rights. A positive information environment and information parity distinctly serves two purposes. First, they facilitate the right to participate in government by making meaningful deliberation by the voters possible. Second, they are crucial to ensure meaningful participation to freedom of opinion and expression. Both are distinctly affected by misinformation and information access. Therefore, the objective of high-quality deliberation and an avoidance of mis-or disinformation are of particular importance in the context of elections. Therefore, the Law Society strongly endorses the general policy aims as set out by Coimisiún na Meán.

There are other policy objectives that Coimisiún na Meán should take into account. The policy objectives alone do not fully justify a restriction of the freedom of expression under the broadcast moratorium. Indeed, the Council of Europe's Venice Commission states that any limitations to freedom of expression shall be respectful of four main principles:

1. Legality: any restriction to the freedom of expression must be defined by law,
2. Legitimacy: legitimate purposes include securing respect for the rights and freedom of others, preventing disorder or crime, protecting national security and public order, as well as public health or morals,
3. Necessity: imposed limitations shall be necessary in a democratic society,
4. Proportionality: any provisions implying restrictions of the right to freedom of expression shall be proportionate to the aim that such restrictions pursue.⁵

Therefore, the measures taken to fulfil the policy objectives listed in section 2 should be carefully assessed on the basis of their legitimacy, necessity, and proportionality.

While the current broadcast moratorium is legal and legitimate, it is no longer appropriate or proportionate with regard to its intended purpose.

The continued necessity or efficacy of the broadcast moratorium, owing to the combined effects of societal and technological changes, however, is subject to debate. It can be noted

⁴ 'OHCHR and Elections and Human Rights', OHCHR, Accessed 16 August 2024, <https://www.ohchr.org/en/elections>.

⁵ CDL-AD(2005)032 Guidelines on media analysis during observation missions, prepared in co-operation between the OSCE's Office for Democratic Institutions and Human Rights, the Council of Europe's Venice Commission and Directorate General of Human Rights, and the European Commission, adopted by the Council for Democratic Elections at its 14th meeting (Venice, 20 October 2005) and the Venice Commission at its 64th Plenary Session (Venice, 21-22 October) (paras. 1.1, 1.2).

that 11 of the 27 EU Member States do not apply an election silence period in respect of democratic elections.⁶ Further, it can be asserted that a blanket broadcast moratorium is no longer proportionate because it does not allow for broadcasters to debunk potentially harmful misinformation which consequently harms information parity.

Alternative measures to achieve the policy objectives might be considered.

Question 2: Do you consider that, on balance, the current moratorium is more likely to support the policy objectives set out in Section 2, or to undermine them?

On balance, it is more likely that the current broadcast moratorium undermines the policy objectives set out in section 2. Given the rise of online mis- and disinformation, the availability of information outside of broadcast media, and the lack of research supporting the impact of the broadcast moratorium on voting decisions, the adequacy of the broadcast moratorium in achieving the policy objectives is doubtful. As some of the examples from other jurisdictions cited above show, there is a risk that this restriction of the freedom of expression can lead to the persistence of harmful misinformation about electoral candidates which can influence voter perceptions and voter decisions.

As the Council of Europe's Venice Commission has pointed out, the shift of election campaigning to online platforms makes it more difficult to respect and duly enforce the broadcast moratorium.⁷ It has become particularly difficult to monitor and enforce the moratorium on the internet, specifically on social media platforms, shortly before or on election day. This means that those members of the public who regularly access online information sources (e.g. websites and social media) for their information, receive more and more recently generated information during the time of the broadcast moratorium. This crucially affects information parity and potentially excludes older members of the public who are less likely to access the internet for information about the election from being equally informed. In the worst case, this could be said to give rise to demographic exclusion and discrimination.

At the same time, the broadcast moratorium removes a source of information that many people trust as balanced and impartial. With mis- and disinformation circulating online, and many Irish voters are unable to confidently differentiate fabricated information (AI generated or not) and genuine data,⁸ this poses a distinct danger for voters to be influenced by wrong online information in their decision-making prior to an election. The effect of the operation of the broadcast moratorium is that it denies voters the ability to have misinformation parsed, critiqued and corrected, which can often be done quite effectively through discursive forums hosted by broadcasters.

⁶ Micaele DelMote et al, 'Length of the Election Campaign and the Electoral Silence Period in European Parliament Elections', European Parliament Briefing Document, September 2023, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/751463/EPRS_BRI\(2023\)751463_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/751463/EPRS_BRI(2023)751463_EN.pdf).

⁷ 'Compilation of Venice Commission Opinions and Reports Concerning Media and Elections', *The Venice Commission*, Council of Europe, 04 July 2018, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2018\)006-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2018)006-e).

⁸ With 51% of people indicating in Coimisiún na Meán's research that they understand 'little' or 'nothing at all' about AI ([Digital News Report Ireland 2024](#)).

In the period immediately before an election, meaningful conversation about the election might, as a result, get compartmentalised to voters with internet access who are not fulsomely informed, and excludes those who are already at a higher risk of marginalisation.⁹

In short, the current broadcast moratorium does not adequately balance the restriction of the freedom of expression with the furthering of democracy and voter autonomy.

Question 6: To what extent do you think Option 4 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.

The Law Society favours Option 4 as presented in the consultation document which proposes to abolish the moratorium and replace it with a positive obligation on broadcasters, for example an obligation to exercise particular care with regard to material addressing election or referendum issues in the lead-up to a referendum or election.

As detailed above, in the era of social media and the prevalence of online information, including unverified news sources and extensive misinformation, the broadcast moratorium does not serve its initial purpose in the current climate:

- First, it is not able to provide an intentional period of calm/reflection for the deliberation of voters as most of the population can be reached by social media commentary and other online sources that is flooded with political opinions and canvassing.¹⁰
- Second, in this digital age, it appears that, by silencing broadcasters, the broadcast moratorium has the potential to result in undue prominence being given to potentially harmful material circulating on social media in the hours before and during an election.
- Third, for those not accessing social media and the internet, or other online information, the current broadcast moratorium simultaneously diminishes information parity, putting them at a comparative disadvantage.

In circumstances where there is no prospect of extending the moratorium to social media or other online sources, the most compelling argument is to abolish the moratorium, a move which would emphasise the value of informed, impartial broadcast journalism to a functioning democracy. In addition to equalising the information landscape in the crucial period leading up to the election, in which up to a third of people make their voting decision, the abolition of the broadcast moratorium would enhance freedom of expression. Further, it provides the opportunity for broadcasters to continue to be a trusted source of news and information, able to differentiate between genuine information and falsified claims.

In advocating for the abolition of the broadcast moratorium however, we are conscious that it could encourage parties and politicians to ramp up their campaign in the last 48 hours leading up to an election. Therefore, we are advocating for the introduction of positive obligations upon broadcasters in the period leading up to a vote.

⁹ Elderly people and the unemployed get the majority of their information from broadcast media. Especially older people are economically disadvantaged, socially affected, and at higher risk of marginalisation. (See, for example 'The State of Aging in Ireland 2022', Age Action Equality, [Reframing Ageing - The State of Ageing in Ireland 2022 | Age Action.](#))

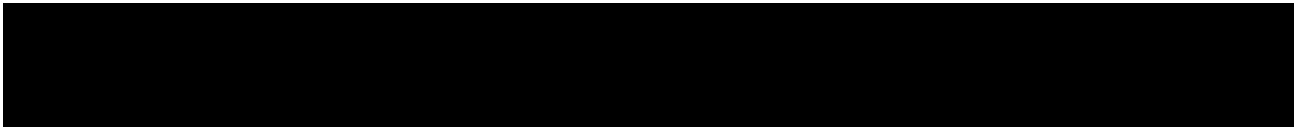
¹⁰ Kate McDonald, 'Who spent what on online ads to try and sway your vote?', RTÉ, 08 June 2024, <https://www.rte.ie/news/primetime/2024/0608/1453646-the-data-who-spent-what-on-online-ads-to-try-to-sway-your-vote/>.

The positive obligations we are proposing lean on the general electoral guidance issued in advance of elections by Coimisiún na Meán. We endorse calls for impartiality and fairness, the refraining from voicing personal political opinions, and the inadmissibility of party adverts on broadcasting channels.¹¹ In that new environment, broadcasters would continue to carefully consider any new information released in the last period leading up to the elections, assessing its factuality and potential to influence opinion. This would afford broadcasters an opportunity to debunk online misinformation, including on social media, in the period immediately before an election. This would help to ensure information parity, and support voters' capacity for meaningful deliberation.

In conclusion, this implementation of Option 4 would be a timely replacement of the broadcast moratorium, serving the policy objectives of Coimisiún na Meán.

Conclusion

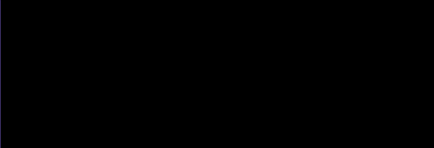
The Law Society appreciates the opportunity to contribute towards the potential reform of the current broadcast moratorium. The Law Society remains available to assist Coimisiún na Meán on any aspect of this submission. We are also available to meet with you to discuss this submission if that would be helpful.

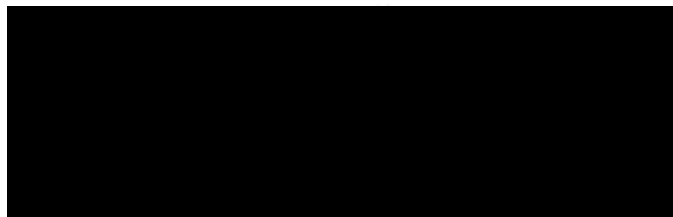


¹¹ Such as provided in the current 'Guidelines in Respect of Coverage of Elections', most recently in April 2024: https://www.cnam.ie/wp-content/uploads/2024/04/2024_ElectionGuidelines_vFinal_Update.pdf.



© Law Society of Ireland, 2024





4 September 24

Dear Sir/Madam

I write in relation to Coimisiún na Meán's Consultation Document on the Broadcast Moratorium and the request for submissions. Near FM would like to make the following comment:

With the growth of online media in the previous decade, the moratorium has put radio and tv at a disadvantage and now serves no practical purpose. Given the very strong policies and guidelines already in place around election coverage we feel the time has come to bring the moratorium to an end.

Please let me know if you have any queries.

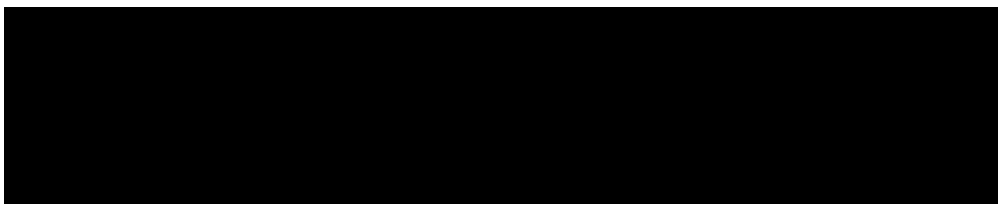
Yours faithfully,

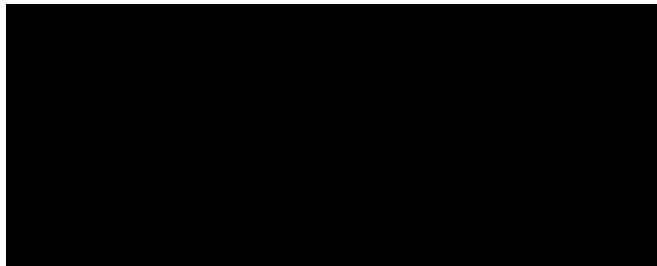
A handwritten signature in black ink, appearing to read 'Alan Braddish', written in a cursive style.

Alan Braddish

Administrator

Near Media Co-op





4 September 24

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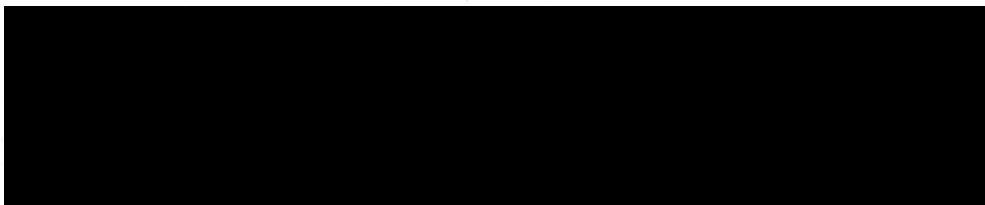
Yours faithfully,

A handwritten signature in black ink, appearing to read 'Alan Braddish'.

Alan Braddish

Administrator

Near Media Co-op





**Submission to Coimisiún na Meán
on behalf of the
Public Relations Institute of Ireland (PRII)
regarding the reform of the broadcast
moratorium.**

3 September 2024

Submitted on behalf of the PRII by

David Geary, President, PRII and Dr Martina Byrne, CEO, PRII



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The Public Relations Institute of Ireland

Established in 1953, the Public Relations Institute of Ireland (PRII) is dedicated to promoting the highest professional practice of public relations and communication in Ireland.

The Institute works towards:

- wider recognition of the role of public relations in the Irish society and economy; and
- higher standards of professionalism among public relations and communications practitioners.

With nearly 1,200 members from both public and private sectors, PRII now represents approximately one-third of all professionals in the field—a record high in its 70-year history. Membership comprises of public relations and communication professionals drawn from consultancies, industry, Government, semi-state, voluntary and business organisations.

According to research released earlier this year there has been an increase of €200m in the contribution of the public relations and communications sector to the Irish economy over the past five years - which includes the years of pandemic lock-down. In 2019, the contribution was estimated at €1.2 billion and in 2024 it was estimated to have risen to €1.4 billion.

Relatedly, occupation data from the Central Statistics Office in Ireland shows the sector experienced a 20 per cent growth in jobs in that period and now employs over 3,300.

All PRII members subscribe to Codes of Practice and Ethics that promote professional integrity in the implementation of public relations programmes. Compliance is backed up by a rigorous Standards Management Procedure which includes independent external input.

This Submission

The PRII welcomes the opportunity to respond to the Coimisiún na Meán public consultation published on 7 August 2024 on the broadcast moratorium applied in advance of elections and referendums.

We believe that the current broadcast moratorium should be reformed. However, if this is not possible, abolition of the moratorium must be considered.

In the public consultation document, An Coimisiún set out five main options for consideration:

1. Keeping the moratorium as it is
2. Amending the duration of the moratorium
3. Changing the types of broadcast coverage included under the moratorium
4. Reframing the obligation on broadcasters as a positive obligation to exercise particular care on issues related to elections or referendums
5. Abolishing the moratorium entirely.

As representatives of the communications profession, the PRII see first-hand the shifting dynamics in media consumption and the evolving challenges posed by disinformation. The rapid developments in digital and social media, combined with the rise of artificial intelligence, have dramatically transformed the landscape in which elections and public discourse unfold.

Consequently, a rigid adherence to the existing moratorium risks undermining the very objectives it seeks to uphold. While options to amend the duration and scope of broadcast coverage included under the moratorium are worthy of investigation, changes to the moratorium must enable traditional media to counter organised and highly resourced disinformation campaigns.

It would also be advisable to assess the intention and scope of the policy objectives set out for the moratorium to ensure that they are deliverable and appropriate in the current media and political environment in which elections take place.

The Case for Reform and the PRII rationale for Option 2 and 3

Option 2. Amending the duration of the moratorium

Option 3. Changing the types of broadcast coverage included under the moratorium

An Outdated Regulatory Framework in a Post-Truth Era

The current moratorium was conceived in a pre-digital age, where traditional broadcast media was dominated by public service broadcasting holding significant influence over public opinion. However, the media ecosystem has evolved. Today, social media platforms and online content dominate, providing ample space for disinformation and divisive narratives to flourish, often unchecked by traditional regulatory frameworks. Given that these platforms remain outside the scope of the broadcast moratorium, the current restrictions unfairly curtail licensed and regulated broadcasters while leaving a vacuum that can be filled by less regulated, and often misleading, online content. Reform is urgently needed to ensure the moratorium remains relevant and fit for purpose in the digital age.

The Growing Threat of Disinformation

The rise of disinformation, particularly during electoral periods, cannot be overstated. We have seen foreign actors attempting to distort public discourse during Irish elections, as evidenced by data on the origins of social media activity during recent anti-migrant protests. Moreover, AI-generated content, such as deepfakes and fake audio, has been used internationally to undermine political leaders and manipulate voters. These developments make it clear that the current moratorium is insufficient in safeguarding electoral integrity. A reformed approach should take into account not only broadcast media but also the digital platforms where much of this harmful activity now occurs.

The Role of Professional Communicators

As communications professionals, we are acutely aware of the need for agility and expertise in addressing the challenges posed by disinformation. We believe that good communications – based on truth, integrity, and transparency – is essential to safeguarding public trust. Our profession is committed to combating disinformation, and we recognise that broadcasters play a key role in this effort. However, the current moratorium limits broadcasters' ability to respond to disinformation in real-time, leaving the public vulnerable to misleading information. Reforming the moratorium would allow broadcasters to continue fulfilling their role as trusted sources in the public discourse.

Suggested Reforms

The PRII suggest the following reforms to the broadcast moratorium:

Shortening or Modifying the Duration of the Moratorium

The current blackout period, from 2 pm on the day preceding the election until the close of polls, is overly restrictive given the pace of modern media cycles. Shortening this period or allowing for more nuanced guidelines that account for real-time developments would enable broadcasters to respond to evolving events without compromising the fairness of electoral coverage.

Inclusion of Digital and Social Media in the Regulatory Framework

While noting that this area is outside the scope of the current consultation, a comprehensive approach that includes digital platforms is necessary to address the significant role these mediums play in shaping public opinion. While regulating social media directly may fall outside the purview of this specific consultation, we urge Coimisiún na Meán to consider how the moratorium could be adapted to mitigate the spread of disinformation across digital channels, either through collaborative efforts with digital platforms or parallel regulatory measures.

We hope this is an area that can be returned to in due course.

Permitting Factual Reporting and Critical Response

While the spirit of the moratorium is to ensure fairness and objectivity, it should not impede factual reporting or critical responses to disinformation. Broadcasters should be allowed to continue providing balanced, fact-based coverage that counters false narratives, even during the moratorium period. This would ensure that the public is not left in an information void, which could be exploited by bad actors.

Conclusion

In an era where disinformation is increasingly sophisticated and pervasive, it is critical that regulatory frameworks evolve to meet these new challenges.

The PRII firmly believe that reforming the broadcast moratorium by amending the duration and scope of broadcast coverage is a necessary step in strengthening the integrity of our electoral processes and confronting the broader issue of disinformation.

If it is not possible to reform the moratorium to meet the needs set out above, it may be necessary to actively consider abolishing the current approach, setting guidelines to govern more responsible coverage of election issues and events.

Given the key role professional public relations and communications professionals play in communicating with the public, the Public Relations Institute of Ireland would be happy to assist Coimisiún na Meán in bringing different perspectives from the profession together to discuss the moratorium and the communications landscape in which it operates in more detail.

The PRII appreciate the Commission's attention to this important matter and are happy to provide further input or engage in discussions on this issue.

ENDS

Broadcast Moratorium – Consultation

RTÉ Response

19 August 2024

Dear 

Further to the Consultation Document issued by Coimisiún na Meán on the Broadcast Moratorium, RTÉ's position is outlined below.

RTÉ acknowledges the comprehensive consultation document which outlined the policy objectives and background, along with various options in respect of the moratorium.

As you know, RTÉ's position and that of other broadcasters was outlined in the Statutory Report published by the then BAI in March 2023, namely that the moratorium should be removed.

It is RTÉ's view that Coimisiún na Meán should adopt Option 5, that is, the abolition of the moratorium for election/referendum coverage and that broadcast content would continue to be regulated by the *Code of Fairness, Objectivity and Impartiality in News & Current Affairs* and within this, the election rules (Rule 27).

As it currently stands, it is entirely anomalous that RTÉ online news could report on a significant breaking story, and particularly one based on disinformation/misinformation in the moratorium period, but that RTÉ television and radio could not report it.

If a story based on misinformation or disinformation, emerges in what would be the moratorium period, broadcasters should have editorial freedom to report on this and bring relevant facts into the public domain. This is central to the democratic process in the digital era.

It is RTÉ's view that this is also consistent with the policy objectives set out by Commission in that it allows a broadcaster the scope to deal with misinformation/disinformation on all platforms, thereby providing voters with equitable access to information.

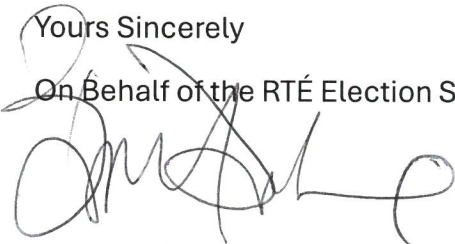
Placing the obligation on a broadcaster to act within the Code, during what would be the moratorium period, is no more nor no less, than the obligation that already exists throughout the election period.

In all circumstances, it will fall to the broadcaster to make an editorial decision on what stories should be carried during what would normally be the moratorium period, and where a story is published, it will be for the broadcaster to ensure it is in keeping with the regulatory codes and election rules.

I trust this clarifies RTÉ's position and happy to deal with any queries or follow-up.

Yours Sincerely

On Behalf of the RTÉ Election Steering Group



BRIAN DOWLING

Head of Editorial Standards and Compliance

Ceannasaí um Chaighdeáin Eagarthóireachta agus Comhlíonadh

ENGLISH VERSION AT THE END OF DOCUMENT



Aighneacht TG4
mar fhreagra ar chomhairliúchán poiblí Choimisiún na Meán ar
Thodhchaí an Mhoratóra Craolacháin
le linn toghcháin agus reifrinn

Submission from TG4
in response to Coimisiún na Meán's public consultation on
the Future of Broadcast Moratorium for elections and referendums

Dáta: 4 Meán Fómhair 2024

Tuairimí á lorg ag Coimisiún na Meán ar úsáid an mhoratóra craolacháin le linn toghcháin agus reifrinn sa todhchaí

Tá cúig phríomhrogha á chur chun cinn ag Coimisiún na Meán lena mbreithniú:

1. An moratóir a fhágáil mar atá sé
2. Fad an mhoratóra a leasú
3. Na cineálacha tuairiscithe craolacháin atá san áireamh faoin moratóir a athrú
4. Athchóiriú a dhéanamh ar an oibleagáid atá ar chraoltóirí mar oibleagáid dhearfach chun cúram ar leith a fheidhmiú i dtaobh saincheistanna a bhaineann le toghcháin agus reifrinn
5. Deireadh iomlán a chur leis an moratóir.

Freagra TG4:

Tacaíonn TG4 le rogha a 5 *Deireadh iomlán a chur leis an moratóir* atá mar ceann de chúig phríomhrogha ag Coimisiún na Meán sa chomhairliúchán poiblí ar thodhchaí an mhoratóra craolacháin le linn toghcháin agus reifrinn.

Toisc nach gceadaítear faoin reachtaíocht an moratóir a chur i bhfeidhm ar mheáin eile, amhail meáin chlóite nó ar líne, tá éagothromaíocht ann idir na meáin chraolta agus meáin eile maidir le clúdach toghcháin agus reifrinn. D'fhonn cothromaíocht a bheith idir na meáin ar fad, tá gá dar linn deireadh iomlán a chur leis an moratóir.

Tá Nuacht TG4 agus an tsraith cúrsaí reatha '7 Lá' á léiriú ag RTÉ do TG4 mar chuid den soláthar reachtúil uair a chloig sa lá atá leagtha síos in Alt 120 den Acht Craolacháin, 2009. Tá freagracht eagarthóireachta ag RTÉ ar ábhair na gclár Nuacht TG4 agus 7 Lá a chuirtear ar fáil do TG4.

In 2022, ghlac an rialtas le Moladh 7.1 a rinneadh i dTuarascáil an Choimisiúin um Thodhchaí na Meán go mbeadh ceannas eagarthóireachta neamhspleách ag TG4 ar a sheirbhísí nuachta féin:

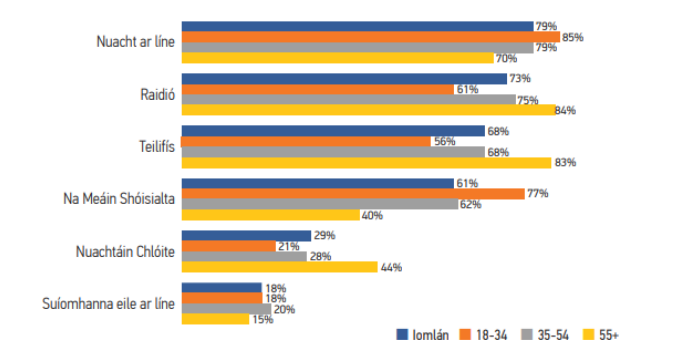
Ba chóir go mbeadh ceannas neamhspleách eagarthóireachta ag TG4 ar a sheirbhís nuachta. Trí sin, beidh iolracht níos fearr i gceist maidir leis an gclúdach nuachta agus cuirfear ar chumas TG4 seirbhís feabhsaithe a chur ar fáil dá lucht féachana.

Tá TG4 i mbun próiséis ó shin i leith le Coimisiún na Meán agus RTÉ chun Moladh 7.1 den tuarascáil a bhaint amach. Tá seirbhís nuachta i gcroílár gach craoltóra seirbhíse poiblí, agus tá sí chomh tábhachtach d'fhéiniúlacht an chraoltóra nár cheart go mbeadh craoltóir eile ina bun. Tá sé i gceist go mbeadh neamhspleáchas iomlán ó thaobh eagarthóireachta, struchtúir agus maoinithe ag TG4 ar an nuacht agus cúrsaí reatha. Trí neamhspleáchas eagarthóireachta a bheith ag TG4 ar a seirbhís nuachta, neartófar feidhm TG4 mar chraoltóir seirbhíse poiblí. Beidh TG4 in ann clár oibre nuachta éagsúil a fhorbairt a sholáthróidh iolrachas, éagsúlacht agus dearcthaí nua sa tseirbhís nuachta. Dá thoradh neamhspleáchas eagarthóireachta a bheith ag TG4 ar a seirbhís nuachta, bheadh freagrachtaí an mhoratóra i gclúdach toghcháin agus reifrinn ar TG4 in áit ar RTÉ.

Tá sé i gceist ag TG4 an tseirbhís nuachta a fhorbairt ó fheasachán laethúil go seirbhís ilardáin lena n-áirítear suíomh nua do Nuacht TG4, podchraoltaí agus uileláithreacht ar na meáin shóisialta, a thuilleadh feasacháin teilifíse, a thuilleadh iriseoireacht iniúchta, agus méadú ar an seirbhís nuachta do pháistí.

De réir taighde a choimisiúnaigh TG4 agus a rinne OÉG agus RedC in 2021 ar phobal na Gaeilge agus an áit a bhfaigheann siad an nuacht, tá lucht labhartha na Gaeilge ag lorg seirbhís nuachta níos mó, níos doimhne agus níos leithne ó TG4 nach bhfuil srianta go hamanna áirithe. Léiríodh go suntasach sa taighde go bhfuil nósanna an lucht féachana ag athrú i ngach aoisghrúpa. Faigheann 79% de chainteoirí Gaeilge a gcuid nuachta ar líne. Is ar an raidió a fhaigheann 73% an nuacht agus ar an teilifís a fhaigheann 68% an nuacht.¹

¹ Nuacht, Cúrsaí Reatha agus Pobal Labhartha na Gaeilge (OÉG, 2021) https://tg4-docs.s3.amazonaws.com/tg4-redesign-2015/wp-content/uploads/2021/06/Tuarascáil_Cúrsaí-Reatha-TG4_Acadamh_GAEILGE-21Meith.pdf



Figiúr 1: Foinsí Nuachta Phobal na Gaeilge, OÉG, 2021

Léirítear na nósanna céanna i dtuarascáil Reuters Digital News 2024.² Is ar líne a fhaigheann 78% de phobal na hÉireann an nuacht. Faigheann 56% den phobal an nuacht ón teilifís. Is é an fón póca a úsáideann 79% de phobal na hÉireann chun teacht ar an nuacht.

Ba iad bunchuspóirí an mhoratóra tréimhse machnaimh a thabhairt do vótálaithe roimh dóibh a gcuid vótaí a chaitheamh, chun a chinntiú nach gcuirfí faisnéis nua nó mífhaisnéis nua i láthair na vótálaithe ag an nóiméad deireanach nuair a bhí sé ró-dhéanach chun é a mheas nó a phlé i gceart. Bunaithe ar fhianaise an taighde agus an méadú ar úsáid foinsí nuachta ar líne, tá TG4 ag moladh deireadh iomlán a chur leis an moratóir ionas gur féidir clúdach nuachta cothrom a chur ar fáil trasardáin do phobal na Gaeilge agus Gaeltachta ar cibé ardán a fhaigheann siad an nuacht. Táimid ag moladh go gcloífear le Cód Choimisiún na Meán maidir le Cothroime, Oibiachtúlacht agus Neamhchlaontacht i gCláir Nuachta agus Cúrsaí Reatha inár gclúdach arthoghcháin agus ar reifrinn.

² Reuters Digital News Report 2024, lch 89 <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2024>

Coimisiún na Meán seeks views on future of broadcast moratorium for elections and referendums

Coimisiún na Meán is putting forward five main options for consideration:

1. Keeping the moratorium as it is
2. Amending the duration of the moratorium
3. Changing the types of broadcast coverage included under the moratorium
4. Reframing the obligation on broadcasters as a positive obligation to exercise particular care on issues related to elections or referendums
5. Abolishing the moratorium entirely.

TG4 Response:

TG4 supports option 5 *Abolishing the moratorium entirely*, which is one of five main options for consideration by Coimisiún na Meán in its public consultation on the future of broadcast moratorium for elections and referendums.

Because reporting restrictions of the moratorium do not apply to other media, such as online and print media, there could be a potential imbalance in coverage of elections and referendums between broadcast and other media. In order to have better balance across all media, we believe it is necessary to abolish the moratorium entirely.

Nuacht TG4 and current affairs series ‘7 Lá’ are produced by RTÉ for TG4 as part of the statutory provision of one hour a day set out in Section 120 of the Broadcasting Act, 2009. RTÉ has editorial responsibility for the output of Nuacht TG4 and for 7 Lá provided to TG4.

In 2022, the government accepted Recommendation 7.1 in The Future of Media Commission Report which stated that TG4 should have independent editorial control over its news services:

TG4 should have independent editorial control over its news services. This will allow for greater plurality in news coverage and allow TG4 to provide an enhanced service to its audiences.

TG4 has engaged since 2022 with Coimisiún na Meán and RTÉ to achieve Recommendation 7.1, a process which is ongoing.

A news service is core to every public service broadcaster, serving as a manifestation of the values of the broadcaster in the public sphere. It is so integral and of such importance to a broadcaster's identity that no other broadcaster should be tasked with its oversight. TG4 aims to have full editorial, structural and funding independence over our news and current affairs. TG4 having editorial independence over its news service will reinforce our role as a public service media provider. We will be able to develop an alternative news agenda which will provide plurality of news services, diversity and new perspectives. TG4 would assume responsibility in relation to election and referendum coverage and of any changes to the broadcast moratorium as a result.

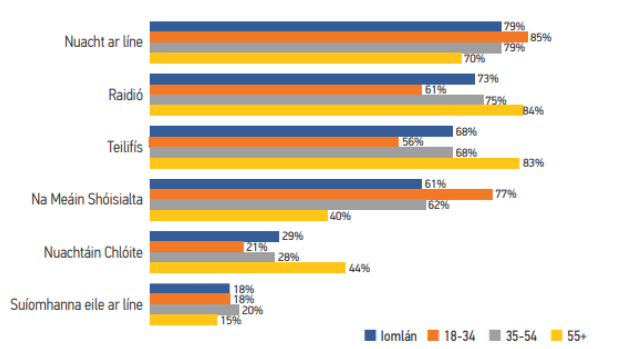
TG4 with independent editorial control over our news service intends to develop the service from a daily bulletin to a multi-platform service including a Nuacht TG4 website, digital news services, podcasts, prominence on social media, more investigative journalism, and further development of our children's news service.

The original purpose of the moratorium was to allow voters a period of reflection before casting their votes, and to guard against voters being presented with new information or misinformation at the last minute when it was too late for it to be properly evaluated or discussed.

Research commissioned by TG4 in 2021, conducted by NUIG and RedC³ about where Irish language speakers get their news revealed that Irish speakers are looking for a bigger and better news service from TG4, that is not restricted to certain times of the day. The research showed that audience news habits have changed significantly across all age groups.

79% of Irish speakers get their news online. 73% get their news from radio and 68% get the news from television broadcasts.

³ **Nuacht, Cúrsaí Reatha agus Pobal Labhartha na Gaeilge** (OÉG, 2021) https://tg4-docs.s3.amazonaws.com/tg4-redesign-2015/wp-content/uploads/2021/06/Tuarascáil_Cúrsaí-Reatha-TG4_Acadamh_GAEILGE-21Meith.pdf



Figiúr 2: News Sources Irish Language Speakers, NUIG, 2021

Reuters Digital News Report 2024 shows similar audience habits.⁴ 78% of the Irish public get their news online. 56% get their news from television. The smart phone is the most used device for news at 79%.

Based on evidence of Irish language audiences news habits revealed in the research conducted by NUIG and RedC, and the increase use and preference for online news, TG4 supports abolishing the moratorium entirely in order to provide balanced news coverage across all platforms for Gaeltacht and Irish language audiences on whatever platform they get their news from.

Continued compliance with Coimisiún na Meán’s Code of Fairness, Objectivity and Impartiality in News and Current Affairs would apply in our coverage of elections and referenda.

⁴ Reuters Digital News Report 2024, pg 89 <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2024>



Virgin Media Television response to:
Consultation Document: Broadcast Moratorium.

Non-Confidential
4 September 2024



Introduction

Virgin Media Television welcomes the opportunity to respond to the consultation on the Broadcast Moratorium. Please find below Virgin Media Television's response to the questions.

Please do not hesitate to contact us should you require clarification on any of our responses.

Virgin Media Television Response to Consultation on the Broadcast Moratorium

Q1. How important are the policy objectives set out in Section 2 in enhancing the right of individuals to participate in free elections? Are there other policy objectives that you consider Coimisiún na Meán should take into account? How much weight should be placed on the objectives set out in Section 3 when balancing the impact of different options set out in this Document against liberty of expression?

Virgin Media Television observes and implements the moratorium to the absolute. We strongly believe that the broadcast moratorium is outdated and is no longer effective. The original basis of the moratorium to allow a reflection period to protect and facilitate deliberative democracy/good information environment is no longer achievable or sustainable under the moratorium with the prevalence of online/social media in today's society.

Television news is a trusted, reliable and valued news source. Under the current system, broadcasters are prevented from acting or fulfilling their remit to present fair, impartial and accurate coverage. The moratorium does not allow broadcasters tackle the rise of disinformation/bad actors during the moratorium period. In fact, by silencing broadcasters, the moratorium completely undermines and hinders the trust and credibility in broadcast news. Abolishing the moratorium would permit television news to fulfil its primary public service function of delivering fair, balanced and impartial coverage of all election issues

Q2. Do you consider that, on balance, the current moratorium is more likely to support the policy objectives set out in Section 2, or to undermine them

Virgin Media Television believes that the current moratorium is an outdated model for the digital age. For example, during the referendum campaign in March 2024, an online outlet published a story during the moratorium period. It was important and worthwhile journalism that should have been analysed and contextualised for the benefit of potential voters however Virgin Media Television and other broadcasters were unable to cover it due to the



moratorium restrictions. This led to much inaccurate misinformation being published online that broadcasters were unable to counter. If the current moratorium system remains in place, we will undoubtedly see more examples of the situation which arose in March.

Q3. To what extent do you think Option 1 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.

Virgin Media Television does not support retaining the moratorium as broadcast news would only continue to be restricted and disadvantaged and treated differently to digital media sources. Under the current system online outlets do not have to abide by any moratorium restrictions which gives them an unfair competitive advantage in the hours before an election or referendum. Such outlets are also free to report, comment and analyse breaking stories that could impact people's voting preference, in effect creating an unlevel playing field. Broadcaster such as Virgin Media Television already abide by the Coimisiún na Meán's Code on Fairness, Impartiality and Objectivity. These guidelines are adhered to regardless of whether a moratorium is in place or otherwise.

Q4. To what extent do you think Option 2 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.

Virgin Media Television would not be supportive of option 2. While a short duration would be less restrictive than the current situation, it would still disadvantage broadcasters and audiences. Any extension the duration of the moratorium would only exacerbate the issues previously outlined and lead to more misinformation and disinformation on unregulated social media platforms. This has the potential to unfairly influence voters, who may not have up to date and accurate information prior to casting their ballot.

Q5. To what extent do you think Option 3 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.



While option 3 would ease the level of restriction for broadcasters, Virgin Media Television would not be supportive of implementing the option to restrict the moratorium to a narrowing the categories. This option would still allow for online outlets to publish stories that could impact on voter preference. Broadcasters would still be unable to cover such stories and counter misinformation.

Q6. To what extent do you think Option 4 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.

Virgin Media Television strongly supports the abolishment of the moratorium provided in option 4. However, we do believe that replacement with positive obligations and standards for broadcasters would be subjective and open to varying interpretations. Again, online outlets would not have to operate under such restrictions and would continue to enjoy a competitive advantage. Coimisiún na Meán's consultation paper on this issue states that "A standard could be articulated by which the broadcaster should assess the case for going ahead with the broadcast." Virgin Media Television believes the current guidelines on Fairness, Impartiality and Objectivity is the best method for ensuring standards.

Q7. To what extent do you think Option 5 would contribute to achieving the policy objectives set out in Section 2? Do you have any views on how this option could best be implemented in order to best serve those policy objectives? Please provide reasons and evidence for your view.

Virgin Media Television strongly supports and recommends the implementation of option 5. We believe that it offers the most balanced approach. It maintains consistency and compliance in standards as broadcasters are already regulated by the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Implementing this approach, and abolishing the moratorium, would also ensure the continuity of trust, reliability and value the public place in broadcast news today and into the future.