



Coimisiún
na Meán

Licensing: Regulatory Measures

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1. Regulatory Principles

Coimisiún na Meán (“the Commission”) commits to implementing its regulatory role in a manner that balances sectoral sustainability with audience needs and preferences and the statutory requirements for plurality and diversity in broadcasting. In carrying out its regulatory functions pursuant to the Broadcasting Act 2009 (“the 2009 Act”), the Commission will regulate to further its objectives in relation to plurality and diversity in broadcasting and ensure that its regulatory arrangements operate proportionately, consistently and fairly. The Commission will:

- Ensure broadcasting contractors adhere to their contractual commitments ensuring diversity and plurality for Irish audiences;
- Keep the administrative costs of meeting contractual obligations to a minimum;
- Reduce unnecessary regulatory burden;
- Devise licensing procedures that minimise the cost of making a licence application;
- Ensure its regulation practices are efficient, effective and responsive;
- Consult on the regulatory principles and regulatory activities with licensed broadcasters; and
- Publish detailed documentation for each licensing category, that sets out its licensing and regulatory approach for that particular category.

2. Regulatory Measures

This document sets out the regulatory measures which underpin the Commission’s licensing and contractual compliance related activities. These regulatory measures are mainly informed by the Broadcasting Act 2009 and also, the objectives of the Commission’s Broadcasting Services Strategy. This Strategy outlines the Commission’s vision for the optimum mix of broadcasting services and sets out how the Commission will apply its statutory functions and regulatory practices over the lifetime of the strategy, in order to facilitate the realisation of that vision.

The Commission’s approach to each of these regulatory measures for radio services is set out in the following sections.

2.1 News & Current Affairs Requirement

The 2009 Act sets out requirements for news and current affairs minuteage and permits the Commission to consider derogations as follows:

46L.— (5) *Subject to subsection (6), a provider of a sound broadcasting service shall ensure that the time devoted to the broadcasting of news and current affairs programmes on the service—*

(a) is not less than 20 per cent of the broadcasting time of the service, and

(b) if the service is provided for more than 12 hours in any one day, is not less than 2 hours of the broadcasting time of the service between 07. 00 hours and 19. 00 hours.

(6) The Commission may authorise a derogation in whole or in part from the requirement in subsection (5) in the case of a sound broadcasting service, if the Commission is satisfied that the derogation would be beneficial to the listeners of the service.

The Commission acknowledges that news and current affairs provided by Irish broadcasters makes a substantive and valuable contribution to Irish audiences however, derogation from the statutory requirement is considered appropriate where, in the Commission's view, it is beneficial to listeners and is likely to increase programming diversity to the audience in a franchise area.

In implementing the statutory requirement for a 20% minimum level of news and current affairs content on specified sound broadcasting services licensed by Coimisiún na Meán, the Commission shall have regard to the following:

- It shall apply a broad definition of news and current affairs for the purpose of meeting the provision, as has been the case to date;
- It shall have regard to the nature of a broadcasting service as an important determinant of the character of the news and current affairs content on a particular service;
- In the case of national and local broad-format radio services on the FM band, the Commission permits derogation between the hours of 1am and 7am. The Commission does not propose that any additional derogation from the statutory requirement will be granted to such services;
- The Commission shall give consideration to derogation from the statutory requirement in the case of music-driven, youth and niche services.

In determining any derogation to be granted, the Commission shall have regard to three influencing factors:

1. The innovative nature of the alternative editorial and schedule proposals that the contractor submits and the impact that the proposed derogation will have on the audience being served;
2. The impact of the derogation on the overall quality of news and current affairs output in the relevant franchise area, and;
3. The contribution the derogation would be likely to make to the diversity and quality of news and current affairs output for the relevant audience of music-driven, youth and niche services or of those services targeting a particular demographic.

2.2 Opt-out Programming

The Commission will permit the broadcast of opt-out programming by radio services from a main studio location, having regard to the following:

- Whether the granting of such permission would compromise the focus of the content for the intended audience;
- Whether the arrangements proposed support the principles of diversity and plurality, particularly in relation to serving audience needs;
- Whether the proposals are consistent with the nature of the service licensed i.e. national, regional, local; and
- The impact on the viability of other services in the franchise area.

2.3 Opt-out Advertising

The Commission may, in some limited circumstances, permit opt-out advertising without the requirement for opt-out programming. In considering any such proposals, the Commission shall have regard to the likely impact on the viability of the service as well as the general impact on the viability of other services in the franchise area and the wider broadcasting sector.

2.4 Programme Automation & Networking

The Commission may permit greater levels of automation and networking in certain circumstances. In considering proposals from broadcasters, it shall have regard to the following:

- Impact on the audience for the service;
- Potential to increase the viability of the service, particularly in the case of niche services;
- In the case of community radio services, the impact of the proposals on the ethos of, and social benefits offered by, the service;
- In the case of proposals to automate elements of the programme service, the time of day – generally, it is expected that automated content would occur during off-peak hours.

2.5 Sharing of non-Programme Functions

In the case of commercial radio services, the Commission permits the sharing of non-programming functions such as finance, engineering and administration. A radio contractor must notify the Commission of any such arrangements prior to implementation.

The Commission may also be open to considering proposals for a further extension of shared services, provided that this does not impact on the delivery of the core programme service. The Commission shall have particular regard to the nature of the proposed service when considering such matters.

The Commission does not consider such arrangements are appropriate for community media services, given its requirement that a community service should be established, owned and controlled by the community it serves.

2.6 Studio Location

The Commission shall require that broad-based local radio and community media services locate their principal studios in the relevant franchise areas. In the case of other commercial services, including niche services and operators of content provision contracts, the Commission may permit co-location with another service or location of the service outside of the franchise area, provided that such location does not result in listeners or viewers being unduly affected by the proposed arrangements.

3. Contractual Variation Requests

If a contractor wishes to make a change to any of its contractual obligations under any of the six regulatory measures outlined above, the Commission should be notified and/or requested to consider the proposed change at that time.

If you require any assistance concerning a contractual variation request, please contact the Broadcasting Licensing Division by email at licensing@cnam.ie or by phone at 01 6441200.