



# Response to Consultation: Draft Media Service Codes & Rules for Broadcasting

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This document contains:

1. Response to Consultation on
  - a. Children's Commercial Communications Code
  - b. Media Service Code and Media Service Rules (Advertising – Radio Broadcasters)
  - c. Code of Fairness, Objectivity and Impartiality in News and Current Affairs

# Contents

<b>1. Introduction</b>	<b>3</b>
1.1. Public Consultation	4
1.2. Purpose of the Response to Consultation	5
<b>2. Proposed Changes to the Broadcasting Codes and Rules</b>	<b>6</b>
2.1. Relevant Background	6
2.2. Legal Framework for the Making of Codes and Rules	6
<b>3. Next Steps</b>	<b>8</b>
3.1. Final version of the Draft Codes & Rules	8
<b>4. Commission Response to Submissions</b>	<b>9</b>
4.1. Draft Children’s Commercial Communications Code	10
4.2. Draft Media Service Code and Media Service Rules (Advertising – Radio Broadcasters)	13
4.3. Draft Code of Fairness, Objectivity & Impartiality in News and Current Affairs	16



# 1. Introduction

Coimisiún na Meán (“**the Commission**”) is Ireland’s public body responsible for developing and regulating a thriving, diverse, creative, safe and trusted media landscape. Its responsibilities include:

- Overseeing the funding of and supporting the development of the wider media sector in Ireland.
- Overseeing the regulation of broadcasting and video-on-demand services.
- Developing and enforcing the Irish regulatory regime for online safety.

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

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

The Commission, on establishment, inherited various media service codes and media service rules relating to television and radio broadcasting (“**the Broadcasting Codes and Rules**”) previously introduced by its regulatory predecessor, the Broadcasting Authority of Ireland, namely:

- (i) General Commercial Communications Code
- (ii) Children’s Commercial Communications Code
- (iii) Code of Programme Standards
- (iv) Rules on Advertising and Teleshopping (Daily and Hourly Limits)
- (v) Code of Fairness, Objectivity & Impartiality in News and Current Affairs
- (vi) Short News Reporting Code

Over the past number of months, the Commission has been working on updating each of the Broadcasting Codes and Rules to incorporate necessary changes required under Irish and European law. As part of this process, the Commission engaged in a public consultation on proposed revisions to these regulations.

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

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

This Response to Consultation document addresses consultation submissions received in response to the proposed changes to the following Broadcasting Codes and Rules:

- Children’s Commercial Communications Code
- Rules on Advertising & Teleshopping (Daily and Hourly Limits) sections applying to radio broadcasts only
- Code of Fairness, Objectivity and Impartiality in News & Current Affairs

The Commission’s response to the submissions relating to the other Broadcasting Codes and Rules have been addressed in a separate “Response to Consultation” document (published 4 November 2024) which is available to view on the [publications page](#) of the Commission’s website at [www.cnam.ie](http://www.cnam.ie).

## 1.1. Public Consultation

On 4 September 2024, the Commission [published](#) draft revised versions of the Broadcasting Codes and Rules (“**the Draft Codes & Rules**”), together with a [Consultation Document](#), as part of its initiative to update the regulations for the reasons outlined at Paragraph 2.1 below.

The Commission commenced a public consultation on the Draft Codes and Rules, inviting the public and relevant stakeholders to provide submissions on the proposed regulations. The public consultation was to be conducted in two distinct stages:

- Stage 1 invited submissions up to 3 October 2024 and is focused on changes being proposed under the Draft Codes & Rules.
- Stage 2 invited submissions up to 30 November 2024 (subsequently extended to 20 December 2025) on broader issues relating to the regulation of broadcasting, which may inform future revisions anticipated to take place in 2025.

This Response to Consultation document exclusively addresses the submissions received during Stage 1 of the consultation process. It does not address the wider issues raised under Stage 2, which are to be considered separately as part of the future review of the Broadcasting Codes and Rules.

In total, the Commission received 17 submissions in response to the consultation from the following person(s) / organisations: -

- Association of Advertisers in Ireland
- National Disability Authority
- Warner Bros. Discovery
- TG4
- Shine
- Dublin Community Television
- Baby Feeding Law Group Ireland
- Private Individual

- Independent Broadcasters of Ireland
- RTÉ
- Alcohol Action Ireland
- Wireless Ireland
- Bauer Media
- Sunshine 106.8
- Food Drink Ireland
- Dairy Industry Ireland
- Virgin Media Television

Copies of all submissions received, together with a summary of the submissions, are available to view on the [publications page](#) on the Commission's website at [www.cnam.ie](http://www.cnam.ie).

The public consultation was undertaken in accordance with the Commission's statutory obligations to consult on any draft media service codes or media service rules it intends to introduce under Section 46Q of the Act.

## **1.2. Purpose of the Response to Consultation**

In accordance with the Commission's [Consultation Guidelines](#) published in June 2023, the Commission is publishing this Response to Consultation following its conclusion of the public consultation process.

The purpose of the Response to Consultation is to set out the key issues emerging from the submissions received during the public consultation, and to explain how these issues have been considered by the Commission in the context of determining the final versions of the regulations.

The Commission has considered all of the submissions received. With due regard to the submissions as a whole, the Commission has exercised its judgement and formed its views on the final versions of the revised Broadcasting Codes and Rules.

The Response to Consultation provides an account of the issues raised in consultation that have resulted in amendments being made to the Draft Codes & Rules, as well as the issues that could not be considered for practical, legal or policy reasons. In view of the range and volume of responses to consultation, it is not intended to be exhaustive. The failure to refer to any specific issue should not be taken as failure on the part of the Commission to have regard to any particular submissions or the submissions as a whole.

The Commission reserves the right, in the exercise of its discretion, to adopt measures on which it has consulted, with or without amendment.

## 2. Proposed Changes to the Broadcasting Codes and Rules

### 2.1. Relevant Background

The primary objective of the proposed changes to the Broadcasting Codes and Rules under the Stage 1 review is to give effect to Ireland's obligations as a member of the European Union, in particular by incorporating into national law EU Directive 2018/1808, which updated the Audiovisual Media Services Directive ("**the AVMS Directive**").

The AVMS Directive provides for minimum standards and obligations that media service providers (including television and radio broadcasters) must adhere to in a variety of areas, including the protection of children, the accessibility of the service, and the prohibition of content that incites hatred or violence.

The latest version of the AVMS Directive has introduced new requirements for television broadcasters and providers of on-demand services, which necessitated changes to the Broadcasting Codes and Rules.

In addition to this, the Commission proposed amendments to the Broadcasting Codes and Rules to account for changes to our national legislation under the Act, which include the establishment of the Commission as the new regulator for broadcasting and other media services, as well as a new compliance framework relating to media service codes and media service rules.

Although the Children's Code, News and Current Affairs Code, and Advertising Rules relating to radio broadcasts were not directly impacted by the AVMS Directive, they required updating to ensure alignment with the Act and the other media service codes and rules.

Further information on the specific changes to the Broadcasting Codes and Rules proposed and the reason for these proposals is contained in the [Consultation Document](#).

### 2.2. Legal Framework for the Making of Codes and Rules

In terms of the preparation of the Draft Codes & Rules, Section 46N(6) of the Act requires the Commission, in making or amending a media service code, to have regard to the following matters: -

- The degree of harm likely to be caused by the inclusion of a particular matter in programming material.
- The likely size and composition of the potential audience for programming material.
- The likely expectation of the audience as to the nature of programme material, and the extent to which the nature of the programme material can be brought to the attention of potential members of the audience.
- The likelihood of persons who are unaware of the nature of programme material being unintentionally exposed to it by their own actions.
- The desirability of securing that the provider of an audiovisual on-demand media service informs the Commission of any change affecting the nature of the service, and of any change relevant to the application of media service codes.

- The desirability of maintaining the independence of editorial control over programmes.

As per Section 46Q of the Act, before the finalisation of a media service code or media service rule, the Commission is required to:

- Make a draft of the code or rule available for inspection by any person.
- Allow individuals to make submissions in relation to the draft within a specified period.
- Publish a notice that a draft is available for inspection, details on how it can be inspected, and the period for making submissions.

The drafting of the Draft Codes & Rules and the public consultation have been undertaken in accordance with the statutory obligations of the Commission under the Act as listed above.



## 3. Next Steps

### 3.1. Final version of the Draft Codes & Rules

The Commission has made a number of changes to the Draft Codes & Rules published in September 2024 on foot of the submissions received in response to this public consultation. These changes are reflected in the final versions of the Broadcasting Codes and Rules which have been published and which are available to view on the [publications page](#) of the Commission's website at [www.cnam.ie](http://www.cnam.ie).

A summary of the key issues identified in the consultation submissions, together with a summary of the Commission's response to these issues, are detailed below under Section 4 of this Response to Consultation.

The final versions of the Broadcasting Codes and Rules apply to all licensed television and radio broadcasters that are based in or operate under the jurisdiction of the State.





## 4. Commission Response to Submissions

This section summarises in broad terms the key issues raised by the submissions received in response to each of the consultation questions listed in the [Consultation Document](#).

Each subsection provides a summary of the relevant changes to the Broadcasting Code and Rules, an overview of the submissions received in response to the relevant consultation question, and the response of the Commission to these submissions in making its decision on the final version of the regulations.

Please note that the overview of the submissions below is intended to provide a general sense of the responses received and highlight some of the more prominent issues raised. It is not a comprehensive account of every submission or concern expressed.

In general terms, some issues included in submissions received require, in the view of the Commission, further consideration. Where appropriate, these issues will be considered under the Stage 2 consideration of the Broadcasting Codes and Rules and proposals emerging will be the subject of further public consultation before being introduced.

A number of responses sought clarification on interpretative or implementation matters. In this respect, the final versions of the Broadcasting Codes and Rules (under Section 9 of each respective Code or Rules) provide for guidance to be requested from the Commission on any aspect of the regulations. Guidance may also be published on specific aspects of the Broadcasting Codes and Rules further to Section 7(3)(i) of the Act.

In regards Consultation Question 1 (relating to the general amendments applying to all of the Broadcasting Codes and Rules), the Commission's response to the submissions received in response to this question have been detailed in the Response to Consultation published on 4 November 2024, which available on the [publications page](#) of the Commission's website.

## 4.1. Draft Children’s Commercial Communications Code (“the Draft Children’s Code”)

### 4.1.1. Proposals for public consultation

The Children’s Commercial Communications Code sets out the rules applying to broadcasters when airing commercial communications that promote products, services, or activities that are deemed to be of direct or indirect interest to children and/or is broadcast in or around children’s programmes.

The substantive changes proposed under the Draft Children’s Code included:

- The introduction of an “Interpretative Note” section addressing the “Principle of Age Differentiation” and shared responsibilities between broadcasters and parents / guardians.
- The removal of references to “children’s product placement” to align with Article 11(2) of the AVMS Directive. Provisions on advertising time limits, sponsorship, and sponsor logos have been relocated to other codes, while provisions on Christmas-themed advertising remain.
- The removal of the sections titled “Social Values” and “Parental Responsibility”, with the latter section included as part of the Interpretative Note.

A list of the changes being proposed and the reasons for these proposals are detailed in the [Consultation Document](#).

### 4.1.2. Overview of submissions received in response

#### **Consultation question (Question 3): *Do you have any comments on the proposed changes to the Children’s Commercial Communications Code?***

One submission recommended the removal of the term “direct or indirect” in Section 10 on “children’s commercial communications” on the basis that it was inconsistent with the existing definitions under the BAI Children’s Code and the AVMS Directive. It was submitted that the current Code defines them as “commercial communications that promote products, services, or activities that are deemed to be of particular interest to children and/or broadcast during and between children’s programmes”. There was concern that the use of this terminology “direct or indirect” could lead to an overly broad interpretation, introducing uncertainty for advertisers. It was recommended that the definition in the previous version of the Children’s Code be retained to provide clarity and reduce ambiguity.

With respect to Section 11.1, a recurring concern was voiced regarding the inclusion of provisions requiring broadcasters to comply with other Irish and EU laws. It was suggested that such references could lead to an unintended overlap in regulatory investigations.

Another submission suggested to amend wording in Section 13.5 on the portrayal of gift-giving in children's commercial communications. More specific language was requested to clarify that that this provision does not exclude the portrayal of gift-giving as generous but rather is limited to direct claims that a parent is more generous than a parent who does not purchase this product for their child.

In response to the provision in Section 17.7, it was suggested that children's commercial communications relating to HFSS food (food high in fat, sugar and salt) products and services should also include a ban on infant formula and follow-on formula, in addition to HFSS foods. This prohibition should extend to the hours after watersheds, not just during children's programming.

#### **4.1.3. Commission response**

The Commission has decided to maintain the current draft with the following changes:

- The Commission has accepted several recommendations raised in the submissions for minor rewording of sections for the purposes of clarity.
- With respect to the definition of 'children's commercial communication', the Commission has amended the first part of the definition such that it refers 'to products, services, or activities of interest to children'. The proposed wording in the draft Children's Code was considered too broad and commercial communications of an 'indirect interest' to children are already addressed by the General Commercial Communications Code. It is not intended that products, services, or activities of 'interest' to children would include items of incidental interest to children or those which would be of general interest to audiences as a whole. Rather, the definition is intended to capture items of clear interest to children because they are the intended users, for example a product of exclusive interest to an under 18-year-old, or because the form and content of the commercial communications is such that it is clearly and evidently targeting children. The applicability of the Code, as set out in the second part of the definition, to any commercial communications broadcast in or around children's programmes remains unchanged.
- The Commission has reframed the obligation under Section 11.1 of the Draft Children's Code requiring all commercial communications to comply with rules, regulations, and codes of practice under Irish and European Law to an obligation that broadcasters take appropriate measures to ensure that all commercial communications are compliant.
- Section 13.5 has been amended for the purposes of clarity regarding the portrayal of gift-giving in children's commercial communications. The revised wording ensures the Code addresses concerns raised in the consultation regarding the portrayal of gift giving in children's advertising.
- The definition of "commercial communication" has been amended to align with the definition provided for under the General Commercial Communications Code.

The Commission has noted the proposals to extend restrictions on infant formula and follow-on formula advertising to post-watershed times but considers that such a change would require further consideration. It intends to consider any potential revision of the sections relating to these products as part of the Stage 2 review of the Broadcasting Codes and Rules.



## 4.2. Draft Media Service Code and Media Service Rules - Advertising – Radio Broadcasters (“the Draft Radio Rules”)

### 4.2.1. Proposals for public consultation

The Draft Radio Rules is a new set of rules being introduced by the Commission addressing advertising time limits for radio broadcasters. The Draft Radio Rules intend to replace the sections of the Advertising and Teleshopping Rules (Daily and Hourly Limits) relating to radio broadcasts.

The proposals under the Draft Radio Rules included:

- Section 11 requires radio broadcasters to ensure that advertising is readily recognisable to audiences and does not affect the integrity of a programme.
- Section 12 sets a maximum daily limit for advertising of 15% of the total daily broadcasting time, with an hourly maximum time of 10 minutes.
- Former exclusions relating to “information announcements” broadcast on RTÉ for certain musical events or performances (such as the National Symphony Orchestra), or “no charge” events organised by a broadcaster no longer apply.

A list of the changes being proposed and the reasons for these proposals are detailed in the [Consultation Document](#).

### 4.2.2. Overview of submissions received in response

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

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

A submission proposed the removal of the prohibition on political advertising on radio, stating that this change would contribute to a more balanced distribution of media revenue and help safeguard the long-term sustainability of the sector.

It was further suggested that Section 11 (“Advertising”) of the Draft Radio Rules be amended to permit integrated commercial content, such as presenter live-reads, as this would bring radio into closer alignment with online media. Another proposal focused on loosening restrictions around the proximity of sponsorship messages to advertisements from the same client within a single break.

The proposals under Section 12 of the Draft Radio Rules relating to advertising minutage limits was received with considerable interest. Respondents to the consultation expressed a variety of views on the draft and offered varied proposals for its amendment.

One submission proposed to increase the hourly limit from 10 to 12 minutes while maintaining a 15% daily average. Another submission proposed to maintain the 15% daily average with an hourly limit of 15 minutes. Further suggestions included the introduction of pilot programs to explore a higher average limit of up to 18%, and to align radio with television regulations.

A separate proposal was made to increase the hourly limit to 22.5% in any clock hour, arguing that radio broadcasting was a mature industry with the ability to effectively self-regulate its advertising.

Other submissions requested more flexibility during peak advertising periods, such as the run-up to Christmas or major public holidays. In contrast, other submissions expressed satisfaction with a 10-minute minutage, as proposed in the Draft Radio Rules.

#### **4.2.3. Commission response**

The Commission has decided to maintain the current draft with the following changes:

- Language in Section 11 has been updated to reflect the equivalent provisions in the rules for television advertising and previously adopted by the Commission and published November 4<sup>th</sup> last.
- Regarding Section 12.1 and proposals to adjust the hourly limits for radio advertising, the Commission has decided to increase the hourly maximum time from 10 minutes to 12 minutes per clock hour, with the daily limit for advertising not exceeding 15% of the total broadcasting time.

The Commission's decision to increase the hourly limit to 12 minutes follows due consideration of the submissions from broadcasters and relevant stakeholders, which each emphasised the importance of flexibility in planning their advertising apportionment. The increase to 12 minutes aligns the radio advertising limits with television advertising limits recently determined by the Commission. The Commission is of the view that the increase to 12 minutes adequately addresses the calls for greater flexibility made by respondents to the consultation, while aligning audience expectations with that of television broadcasts, which have operated with a 12-minute hourly limit since 2010. The Commission is of the view that to remove the hourly limit entirely would require a more extensive impact assessment and consultation. The Commission intends to review the impact of the new 12-minute hourly limit in due course before deciding on whether further revision of the hourly limit is appropriate.

- The Commission has declined to remove the prohibition on political advertising on radio as addressed in Section 1. The Commission notes that the Act prohibits political advertising and, as such, the Commission is not permitted to alter this provision. The Commission will continue to monitor any legislative developments in this area which may require this prohibition to be reassessed in the future.

While the Commission notes the suggestions to permit integrated commercial content (such as presenter live-reads and loosening restrictions on the proximity of sponsorship messages to advertisements). Distinctions between advertising and sponsorship are important to maintain in the interest of transparency for audiences and to ensure a clear separation in the types of commercial communications where some are time-limited (advertising) while others are not (sponsorship). It is of the view that these proposals would require further public consultation before such a significant policy change were to be considered.



### **4.3. Draft Code of Fairness, Objectivity & Impartiality in News and Current Affairs (“the Draft News and Current Affairs Code”)**

#### **4.3.1. Proposals for public consultation**

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

The changes proposed under the Draft News and Current Affairs Code included:

- The “Principles” section of the Code of Fairness, Objectivity & Impartiality in News and Current Affairs has been removed. Key elements of this section are now included in a new section headed “General Requirements”.

No other significant changes were proposed aside from rephrasing and minor changes in language.

#### **4.3.2. Overview of submissions received in response**

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

One submission commented that Draft News and Current Affairs Code should explicitly state that editorial decisions rest solely with the broadcaster. In particular, it should be made clear that the regulations do not require broadcasters to provide airtime to people that the broadcaster has reason to believe may engage in hate speech, defamation, misinformation or other forms of content that could put the broadcaster at risk. Similarly, recognised scientific experts should not be juxtaposed with people of different points of view simply to maintain balance.

Further recommendations suggest the need for clearer guidance on the editorial discretion broadcasters have in terms of content selection and production and incorporating language on freedom of expression into the Code.

A suggestion was received that Section 1 should indicate that the Code only applies to content produced by or on behalf of broadcasters, arguing that broadcasters, when dealing with acquired programming, are not involved in the production process.

In addition, a proposal was made to extend the scope of the Code to include online news sources. The submission states that a more consistent and fair application of media standards across platforms would help prevent discrepancies in news reporting.



One submission raised concerns about the integrity of news reporting in situations where content is censored by states or military authorities, and no independent verification is available. It is argued that when broadcasters are subject to such censorship, the public should be informed of the lack of independent verification. There is also a recommendation to ensure that known perpetrators of military actions are clearly identified in news headlines and bulletins. Another point raised concerns on the language used to describe conflicts and wars. Lastly, there is a recommendation regarding the consistent reporting of death tolls in conflicts around the world and a proposal to introduce guidance on how broadcasters should handle situations where independent verification of claims made by military or other authorities is not possible.

#### 4.3.3. Commission response

The Commission has decided to maintain the current draft with the following changes:

- The Commission has accepted several recommendations raised in the submissions for minor rewording of sections for the purposes of clarity.
- Section 12.2.6 has been reworded to reflect the language of Article 4 EU Regulation 2024/1083 (European Media Freedom Act) which relates to the confidentiality of sources. The wording now states that that the Code does not place an obligation on broadcasters “*or their editorial staff to disclose information related to or capable of identifying journalistic sources or confidential communications or oblige any persons who, because of their regular or professional relationship with a broadcaster or its editorial staff, might have such information to disclose it*”.
- The Commission has included an additional reference to the right to freedom of expression under Section 4.3, stating that the Commission is to have due regard to this right in its interpretation of the regulations.

Regarding the submission that the regulations should not require broadcasters to provide airtime to persons that may engage in hate speech, defamation, misinformation or other forms of content, the Commission is of the view that an addition of this nature is not required, and the Code in no way places any such obligation on broadcasters to provide airtime in this manner. Decisions in this regard are a matter for broadcasters having regard to the provisions of this Code and also the Code of Programme Standards. The Commission may consider addressing in further detail the issues of false equivalence and false balance in news reporting and current affairs content in future published guidance on the Code.

While the Commission notes the suggestion that the Code should apply only to content produced by or on behalf of broadcasters, it has determined that such a significant change would not be in accordance with the general principle that broadcasters are responsible for the decision to broadcast programme material in accordance with their statutory obligations.

The Commission notes the proposal to extend the scope of the Code to include other online entities, however this is outside the scope of the current legislative framework. The Act entrusts the Commission with the power to make media service codes and media service rules solely for broadcasters and providers of audiovisual on-demand services.

The Commission further notes the concerns raised regarding the integrity of news reporting, especially in situations where content is censored, or independent verification is not possible. However, as these proposals raise potential issues about the extent to which the Code should specify requirements for particular types of news and current affairs content, it is not proposed to adopt them. The Commission considers that the general and specific requirements of the Code can address the issues highlighted in the context of a complaint or an investigation.

