

Government Response to the Section 124 (5 Year) Review of the Funding of Public Service Broadcasters as set out by the Minister for Communications, Energy and Natural Resources

1. The Government;

- notes the continued and valuable service provided by public service broadcasting to the citizens of this State, and affirms its ongoing support for the concept, the purpose and the practise of public service broadcasting in Ireland.
- welcomes the BAI Review of the Public Funding of Public Service Broadcasters. It considers the Report and Recommendations submitted as comprising an important step in ensuring that public service broadcasting continues to be sufficiently well funded and that these funds are used in a transparent way.
- notes and supports the ambition expressed by the BAI that the commercial broadcasting sector continue to make a valuable contribution to the richness and diversity of the media in Ireland.
- notes the view of the BAI and its consultants that further public funding may be required in the medium term if public service broadcasting is to remain relevant, and that there are a series of criteria that must be met before this can be considered, criteria that include examining the scope for further efficiencies within RTÉ and any opportunities that might exist for the greater use of independent production.
- notes the view of the BAI and its consultants that the future strategy of TG4 must be based on a more realistic financial framework.
- notes also the on-going decline in television licence fee receipts and the persistent weaknesses in the advertising market in Ireland, and the effect this is having on all broadcasters in the State.
- notes and welcomes the programme of cost savings in process within RTÉ, the extent of the savings already made, and the commitment to break even in 2013.
- notes also the impact of recent changes on licence fee revenue, the evasion rate and the Programme for Government commitment to introducing a household based Public

Broadcasting Charge to be applied to all eligible households and applicable businesses, regardless of the device used to access content or services, and that this would ameliorate many of the issues surrounding the question of evasion.

- notes that primary legislation is required to amend the Broadcasting Act to give effect to a number of these measures.
- considers that a series of procedural changes in the manner in which RTÉ report and account for the use of their funding is required.
- considers that an independent external review of the efficiency with which RTÉ operate is required, and that New Era is the most appropriate body to conduct this.
- considers that a fundamental revision of the manner in which advertising time limits are set is required in order to ensure that the regulatory framework continues to be suitable for the needs of both public service and commercial broadcasters.

2. Summary of Response

1. The Minister for Communications, Energy and Natural Resources will bring forward new legislation to revise the governance arrangements for advertising minutage for all broadcasters. For Public Service Broadcasters (RTÉ and TG4), this new system will be incorporated into a revised and strengthened annual funding review process, uniting the assessment of both advertising and licence fee funding streams in a single mechanism.
2. TG4 is to revise its current 5-year Strategic Plan by end Q3 2013 on the basis of present revenue allocations. This review should also develop methodologies for identifying and quantifying TG4's audience among Irish language speakers, and identify means of bolstering that reach.
3. RTÉ will be required to publish formal policies and procedures on the separation of public and commercial activities; the methodologies used for the allocation of costs; and the commercial arrangements entered into between its commercial and public service activities before the end of this year. RTÉ will also be required to further

develop its accounting and financial control methodologies. This work is to be overseen by the BAI.

4. The Minister will shortly be commencing a public consultation on the proposed household based Public Service Broadcasting Charge. The results of this consultation will be used in finalising the details of how the charge is to be applied and collected. It is not the Minister's intention that the new PSB charge will be higher than the existing TV Licence Fee.

5. The Minister will initiate the following reviews:
 - a. New Era will conduct a detailed assessment of the scope for further efficiencies to be achieved in RTÉ in 2013 and beyond, including an examination of achievable efficiencies in its performing groups service model and the manner in which it delivers Irish language radio services. As part of this review, New Era will also review the scope for optimising the use of independent productions as part of RTÉ's programme output. The review is to analyse the merits of RTÉ's 'in house' commissioning versus programmes commissioned from the Independent Production Sector, including a cost benefit analysis of each approach across a range of different programme types, and make recommendations as to the approach to be taken in future.
 - b. The Minister will conduct an economic assessment of the Advertising Market in Ireland this year to inform the development of the revised regulatory framework.

Explanatory Note

1. Background

The Section 124(8) or ‘Five Year Review’ process was established in the Broadcasting Act 2009 as a means of conducting a periodic fundamental review of the funding of Public Service Broadcasters in terms of the sufficiency of the funding, the robustness of the systems used to control it and the structure and efficiency of the broadcasters themselves. These reviews are carried out in conjunction with annual or ‘single year reviews’ under Section 124(2). The task of conducting these reviews is conferred on the Broadcasting Authority of Ireland (BAI), the regulatory body also established under the 2009 Act. In doing so, the BAI is required to take account of 10 separate matters identified in Section 124(9), including (a) the existing financial resources available to a corporation, (b) the current level of public funding available to a corporation, (c) the multi-annual nature of public funding requirements, and (d) the level of commercial funding available to a corporation in pursuance of its exploitation of commercial opportunities objects.

The Act requires the BAI to make a recommendation ‘*as to the requisite level of public funding required to permit the corporation to fulfil its public service objects*’, and to submit both these recommendations and the report itself to the Minister for Communications, Energy and Natural Resources. To assist it in its consideration of the Review, the BAI commissioned a consultancy group, Crowe Horwath. The BAI formally submitted its recommendations and the Crowe Horwath Report to the Minister on the 21st June 2013.

The Minister is required to submit both documents to Government, following which the Government is required to publish a response to the BAI recommendations, and to publish both documents submitted to it by the BAI. This document from the Minister for Communications, Energy and Natural Resources sets out the Government’s response.

2. The Broadcasting / Media Landscape in Ireland

The broadcasting/media sector in Ireland has experienced a set of very challenging operating conditions over the last number of years, characterised by a 40% reduction in available advertising revenue and a number of difficult structural changes. These changes include the

rise of online advertising (now absorbing over 20% of available revenue) and the increased penetration of Irish oriented advertising on UK television channels in the Irish market, all of which have served to push down advertising prices and revenue to Irish media operators. These issues have been compounded, as in a number of other sectors, by the fact that many commercial operators ran up large debts at a time when businesses carried far higher valuations than at present.

Public service broadcasters have not been immune from these events, with RTÉ seeing a fall in commercial income of €84m or 35% in the years between 2008 and 2012. TG4's revenue has been more stable, due to the dominance of public monies in its income, but it has also seen a fall in revenues. These falls have been met with economies within broadcasters. RTÉ has made very significant cost savings of the order of 24% on 2008 figures (over €104m) and cut staff numbers by the order of 21%. Moreover, the cost per transmitted hour of programming also fell significantly (down 29% for RTÉ 1 television and 21% for RTÉ 2). At present (2013), RTÉ receives 46% of its funding from commercial sources, reflecting a substantial shift towards an increased reliance on public funds. TG4, on the other hand, receives approximately 8% of its income from commercial revenue (€3.171 commercial revenue vs €34.47m public funds).

These commercial trends aside, there are a number of other pertinent developments in train that are of relevance to any review of the landscape, including on-going developments in social media and the progressive development of a range of internet based audio-visual media services, sometimes collectively termed 'Connected TV, in which all media appear to be converging into a set of online platforms. Taken together, these developments open up the potential for a profound structural reformation of media, with very significant benefits for consumers and for business alike. However, there are attendant challenges also, both generally and more specific to small States like Ireland. The first and obvious challenges is around the business case for smaller media operators, both in terms of access to sufficient advertising funding and in terms of access to high quality content. More pressing from a media pluralism perspective however is the potential for further agglomerations at an international level.

3. Key Recommendations

Public Funding Issues

The BAI “... does not accept that element of Crowe Horwath’s recommendation in respect of RTÉ that there should not be any increase in the level of public funding either from an increase in the licence fee or from the universal broadcast charge. The Authority believes that a greater level of public funding should be made available to RTÉ subject to four conditions”. These conditions include a further round of efficiencies within RTÉ, a focus on the use of the independent production sector and a procedural recommendation around how the use of these funds could be identified. The last condition suggested that, in time, a cap might be placed on RTÉ’s commercial revenues and the gap met by an increase in public funds.

The key finding of the Crowe Horwath report with regard to RTÉ was that the “BAI should accept the RTÉ costed five-year strategic plan as being an affordable plan which will likely sustain existing levels of public service output in the short to medium term” and that RTÉ should not need to receive any additional revenues from licence fee income to sustain existing levels of service. However this was subject to two provisos, the first being that a “... more aggressive approach to generating efficiency savings should be agreed with the BAI during 2013” and the second being that RTÉ should pursue more opportunities for enhancing commercial revenues, consistent with RTE’s overall public service remit.

Critically though, Crowe Horwath go on to say that “greater public funding will be needed if RTÉ is to continue to develop its digital services, distribution and infrastructure” to sustain and enhance its public service contribution in the medium to longer term and that the provision of any additional public investment should be “conditional on RTÉ providing detailed information regarding how this money will be spent, and what return can be expected on this investment, with this information being reviewed by the BAI as part of the annual regulatory process of setting performance commitments and funding review”.

Both the BAI and their consultants consider that a further review of the efficiency with which RTÉ provide their services is required. The Government have decided that this should be an independent external review, and that New Era are best placed to conduct this.

2. *Advertising Minutage*

The BAI suggest that, after ensuring that all possible efficiencies are made within RTÉ, it believes that *“The Minister should determine a point above the current level of licence revenue where further public funding will be matched by a reduction in commercial revenue for RTÉ achieved through a restriction on commercial activities”*. The Authority recommend that this ‘rebalancing’ between public and commercial funding could be phased in over a number of years.

This would involve a substantial shift in policy. The limits on RTÉ television advertising (6.5 minutes per hour as opposed to 12 for commercial broadcasters) have been in place since 1993, and given the critical role RTÉ play in the advertising market (taking approximately 50% of television advertising revenue) could only be changed after considerable evaluation of the impact on the market and on other players. In addition, currently, the limits on advertising minutage on commercial radio, on RTÉ and on commercial television are set by three different methods, with the Minister retaining the function of setting RTÉ advertising time limits under Section 106 of the 2009 Act. Given that the BAI have a central role, through the single and multiannual funding reviews, in reviewing the adequacy of funding for the PSBs, the Government have decided that the setting of advertising limits should be included in this process. As such, this would entail introducing a system similar to that for the setting of the licence fee in primary legislation, which would give the BAI the power to set all radio advertising limits, and to make a recommendation to the Minister for the setting of time limits for PSB television, on foot of both single year and multiannual funding reviews.

However, because of the need to assess the effects of a lesser commercial role for RTÉ (not least as to whether it would lead to further deflation in the advertising market, or would further the outflow to non-domestic broadcasters), it is proposed that Department of Communications, Energy and Natural Resources would conduct an economic analysis of the advertising market in Ireland in 2013. This would be used to inform the BAI in their revised role in setting advertising minutage for all broadcasters based in the State, and specifically in making recommendations to the Minister on foot of single year funding reviews.

3. *Irish Language Issues*

TG4 presented a multiannual plan that assumed a progressive increase in public funds over the next number of years, on the basis of which an increased viewership would be secured. The BAI recommend that the TG4 five year plan needs to be revisited on the basis of no additional public funding being forthcoming, on a number of grounds. Moreover, both BAI and the Crowe Horwath raise questions as to the most appropriate means of assessing the broadcaster's effectiveness in reaching its audience.

The Government concur with the BAI assessment in relation to TG4. Accordingly, TG4 is to be instructed to review its current 5-year Strategic Plan on the basis of present revenue allocations with the assistance of the Department of Communications, Energy and Natural Resources and the BAI. As part of this review, a range of options around making savings in the delivery of present Irish language broadcasting functions will be explored.

4. *Procedural Changes*

Of the 15 recommendations made by Crowe Horwath and agreed by BAI, 10 were on procedural improvements that might be made to RTÉ's reporting arrangements, internal financial systems and the conduct of future 1 and 5 year reviews. All of these recommendations will be implemented in full, including by primary legislation where required. This includes Recommendations 2, 4, 8, 9, 10, 11, 12, 13, 14 and 15 of the Crowe Horwath report.

5. *Public Service Broadcasting Charge*

The Minister will be shortly commencing a consultation process on the proposed Public Service Broadcasting Charge. This consultation process follows a Value for Money (VFM) Policy review, the objective of which was to analyse whether the proposed alternative funding model to the traditional TV licence fee model could provide a more stable source of funding for public service broadcasting into the future by being more efficient and effective in terms of revenue intake and lowering the evasion rate.

The VFM Policy Review supported the concept of a household based Public Service Broadcasting Charge, in line with the Programme for Government commitment, and made recommendations on how such a charge might be implemented. These recommendations will

form the basis of the consultation and, together with the views received from interested parties, will be used in finalising the details of how the charge will be applied and collected. Following this process, the Minister will finalise the Heads of a Bill for submission to Government for approval with the objective of implementing the charge on 1 January 2015.