



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN | BROADCASTING
AUTHORITY
OF IRELAND

Indicators for Regulatory Independence of
Regulatory Authorities:
Definition, Practice and Verification

Ireland: Case Study

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Independence: Irish Case Study

This presentation will address:

- Irish Legal Framework for Independence of Broadcasting Authority of Ireland
- BAI initiatives to support principles of transparency and accountability
- Measuring our performance – monitoring and evaluation of Independence



Irish Legal Framework 1

- BAI and its independence established in law
- Objectives, Powers, Functions and Duties prescribed in law
- Procedures specified for the Appointment and Removal of members of Authority and Statutory Committees and clear criteria for membership
- Rules for meetings of Authority
- Provisions for appointment and removal from office of CEO



Irish Legal Framework 2

- Appointment of staff and advisory committees
- Accountability under Irish Law
- Disclosure of Conflicts of Interest
- Statement of Strategy
- Extensive Reporting obligations, including financial reporting
- Self-financing model established in statute



Irish Legal Framework 3

- Minister has some reserved powers in broadcasting matters e.g. policy communications, decision on level of television licence fee
- However, over the years since its establishment, the trend has been to increase rather than reduce the powers and responsibilities of the BAI



Irish Legal Framework 4 Establishment of BAI

- Broadcasting Act 2009 underpins many of the generally accepted standards and indicators for independence of NRAs in broadcasting
- Specific provision on independence of BAI



Irish Legal Framework 5

BAI Objectives, Powers, Functions and Duties

Objectives, Powers, Functions and Duties prescribed in very specific detail in statute, including requirements re:

- Diversity in services and content
- Plurality in ownership and control of broadcast media and in sources of news and current affairs
- Fostering and sustaining independent and impartial journalism and freedom of expression



Irish Legal Framework 6

Authority and Committee Members

- Statute specifies criteria for membership but quite wide-ranging
- Exclusions apply e.g. serving members of Irish Parliament or European Parliament
- Majority of members appointed by Government on the nomination of the Minister
- Minority of members appointed by Government on nomination of Oireachtas - follows public appointments process
- Upper limit on terms of appointment that apply
- Limited grounds for dismissal and must be approved by Government and Parliament



Irish Legal Framework 7

Rules for Meetings

- Authority can regulate its procedures and practices but rules must be published
- Quorum and voting arrangements are set in statute



Legal Framework 8

Position of CEO

- CEO appointed by Authority with consent of Minister following public competition
- CEO is Chief Accounting Officer and is accountable to Authority for efficient and effective management of BAI
- Removal from office only on decision of the Authority with the consent of the Minister for stated reasons



Legal Framework 9

Staff and Advisory Committees

- Authority appoints staff – numbers are subject to consent of the Minister and must be recruited through Public Competition
- Authority may establish Advisory Committees to advise and assist in the performance of its functions, or may appoint Consultants and Advisors for this purpose also – designed to support accountability



Legal Framework 10

Accountability under Law

- Chief Executive and/or Chairperson are accountable to Committees of Irish Parliament on any matter unless it is the subject of court or tribunal proceedings
- Chief Executive is accountable on matters of General Administration and Financial Governance
- BAI accountable to Irish Courts for its decisions – judicial review of decisions possible – limited grounds



Legal Framework 11

Disclosure on Conflicts of Interest

Extensive obligations on Members of Authority and Statutory Committees to disclose Conflicts of Interest, pursuant to:

- Broadcasting Act 2009
- Ethics in Public Office Acts
- Code of Practice for the Governance of State Bodies
- BAI Code of Business Conduct

Requirement to formally record disclosures



Legal Framework 12

Statement of Strategy

BAI required to produce:

- 3-Year Statement of Strategy
- 3-Year Rolling Budget Estimates
- Both must be published on BAI Website



Legal Framework 13

BAI Reporting Obligations

- BAI has extensive reporting obligations across all aspects of its operations
- Annual Report and Financial Statements are key
- Many reports require approval of Irish Parliament



Legal Framework 13

Finance

- BAI is largely independent in the area of finance by way of levy
- Self-financing through levy on broadcasting sector
- High degree of efficiency, effectiveness, accountability and transparency expected in use of funds



Other Initiatives to Increase Transparency & Accountability

- Compliance with Freedom of Information Acts
- BAI provides detailed reasons for its decisions
- Extensive consultation in all our processes
- Accessibility is key e.g. webstreaming
- Publication of Minutes of BAI meetings
- Code of Business Conduct for Boards and Staff



Monitoring and Evaluation of Standards of Independence 1

- Through Statutory “checks” e.g. Annual Report and other Reporting
- EU surveys have provided an important benchmark at different points in time
- Extent to which economic investment takes place in the Broadcasting Sector and in the Independent Content Production Sector in Ireland. Independence can provide degree of certainty for investors



Monitoring and Evaluation of Standards of Independence 2

- BAI operations incorporate routinely e.g.
 - Stakeholder consultation, particularly on Statement of Strategy
 - Annual Performance Review of Workplan
 - Project evaluation
- Independent verification of operations of State Bodies by Irish Government Departments
- Extent to which Minister, Government and Irish Parliament accept recommendations of BAI and adopt e.g. Funding of PSBs, Broadcasting Codes and Rules



Monitoring and Evaluation of Standards of Independence 2

- Scrutiny by Irish Comptroller & Auditor General e.g. Sound and Vision
- Outcomes of Judicial Review proceedings



Conclusion

BAI has a strong legislative underpinning to ensure independence, accountability, transparency and efficiency in the performance of its functions

Key focus is always to find enhanced ways of increasing the achievement of these principles



Thank You

Any Questions?