



Broadcasting Commission of Ireland
Coimisiún Craolacháin na hÉireann

Review of Submissions Received

Consultation

BCI policy on the statutory news and current affairs
requirements

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Contents

Introduction	1
The possible affect of derogations	5
Introduction	5
Questions asked	5
Feedback	5
Concluding remarks	11
Influencing factors and options	13
Introduction	13
Questions asked	13
Feedback	13
Concluding remarks	19
Types of derogation	21
Introduction	21
Questions asked	21
Feedback	22
Concluding remarks	28
Concluding remarks	29
Appendices	33
Submissions	35

Appendices

I	Extracts from the <i>Radio and Television Act, 1988</i> and the <i>Broadcasting Act, 2001</i>	33
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Consultation:

BCI policy on the statutory news and current affairs requirements - review of submissions received

Introduction

On 1 June 2005, the Broadcasting Commission of Ireland (BCI) launched its consultation document: *BCI policy on the statutory news and current affairs requirements*.¹ Views were invited regarding the BCI's policy on the provision of news and current affairs. At present, the BCI is required to ensure that contractors broadcast a minimum level of news and current affairs programming across the broadcast day and two hours between 7am and 7pm. A quota of twenty per cent is set in this regard and is currently the only quota pertaining to content provision on broadcast media licensed by the BCI. This policy is statutorily based, having as its foundations in the *Radio and Television Act, 1988* and the *Broadcasting Act, 2001*.² Based on these sections, the BCI can authorise derogations from the news and current affairs requirement if it is satisfied that authorisation of such would be beneficial to the listeners of radio stations in a particular area. If permitted, derogation could mean a radio station would be allowed to broadcast an amount less than the minimum twenty per cent news and current affairs. Such a reduction would constitute a partial derogation. A full derogation could also be granted where no news and current affairs would be provided by a station.

Current practice

Operating under the terms of Section 15 of the *Radio and Television, 1988*, as amended by Section 62 of the *Broadcasting Act, 2001*, derogations have been granted to radio services on application. Up to the year 2000, the twenty per cent requirement was calculated on the basis of the total number of hours a station was broadcasting. Consequently, the requirement for a station broadcasting for twenty four hours was greater than a station broadcasting for eighteen hours. In this situation, many stations did not continue broadcasting overnight or repeated some speech programming between 1am and 7am to meet the quota.

From 2000, a derogation from the twenty per cent requirement was available informally to all operators in relation to the 1am to 7am period; a situation which was formalised in March 2002. Derogations have been assessed on a case-by-case basis

¹ The launch took place at the BCI's offices at Warrington Place, Dublin 2. From here on, the document will be referred to as the *Consultation Document*.

² See Appendix I for Sections 9.1(c) and 15 of the *Radio and Television Act, 1988* and Section 62 of the *Broadcasting Act, 2001*.

with the potential benefits of such a reduction to listeners in a given franchise area being given prime consideration. In their applications, stations generally make reference to the fact that the derogation will allow them to develop programming in the overnight period and/or focus news resources when the greatest audiences are available.

At present, most services are operating with derogation between 1am and 7am. In practise, there has been no significant reduction in news and current affairs output in the overnight period.

Consultation process

The BCI is now considering the issue of news and current affairs provision in light of its plans to license further radio services and its key policy objective of guaranteeing diversity of radio services to listeners.³ Through this consultation it sought to elicit views from interested parties vis-à-vis the approach that might be taken and modifications that could be made. In light of submissions received, the BCI will consider if amendments to its existing news and current affairs policy could contribute to an increase in the diversity of services and sources of news available. In addition, it will consider if, in changing this provision, the viability of radio services will be enhanced. The central issue for discussion in the consultation process was whether or not stations should be granted derogations and if so, the types of derogation which it was possible to apply.

Present report

The present report summarises information submitted in response to the consultation. A series of questions was posed in the *Consultation Document*. It is therefore advised that that document be read in conjunction with this *Review of Submissions Received*.

The approach taken in this summary is linear. It considers the initial request and the information received in the three principal areas: (i) possible affect of derogation; (ii) influencing factors and options; and (iii) types of derogations. Each section introduces the subject matter and groups responses made under the questions asked.

Views expressed often centred on recurring themes. Rather than duplicate concluding remarks in each section, an overview of points made is presented at the conclusion of this report. Key questions arising from the review were provided as appropriate.

Approach taken

Twenty nine submissions were received, predominantly from existing and potential players in the industry but also from related interests and the general public.⁴ This was the level of response to the 148 documents which were sent out. Responses could be made by email, post or through a designated section of the BCI's website.

³ The BCI has five guiding regulatory principles: (i) diversity; (ii) flexibility and consistent approach; (iii) adequate regulation based on current conditions; (iv) openness and dialogue; and (v) clear decision-making.

⁴ A list of submissions received is provided at the end of this report.

The approach adopted to the submissions received was systematic and analytic. As this was a general call, all representations were afforded equal weighting. The method applied allowed for a through appraisal of information received in terms of respondent's objectives, context, content and his/her overall contribution to the present discussion.

The reporting style of this document is informative rather than analytic. Responses received have been reviewed and similarities/differences highlighted therein. Where additional comments and/or observations were made, consideration was given as appropriate. Viewed as a whole, this document should be seen as part of the overall process in the discussion about news and current affairs provision rather than a stand alone report.

1. The possible affect of derogations

1.1. Introduction

Set against the backdrop of developments internal to the Broadcasting Commission of Ireland (BCI), and within the broadcasting sector generally, questions were asked vis-à-vis the affect increased flexibility might have on various aspects of news and current affairs provision. Essentially, the BCI asked whether or not a general policy of providing greater flexibility in news and current affairs derogations is desirable.

In this section, questions asked are identified and opinions voiced are outlined thereafter. Rationale for answers was provided under the headings set and this has been reflected accordingly.

1.2. Questions asked

The BCI posed a four part question. Here it asked:

1. What is your view on whether a policy of providing greater flexibility in news and current affairs derogations would:
 - i. result in a greater range of services;
 - ii. result in a greater range and number of news sources for listeners;
 - iii. assist in the development of viable new services in the context of reducing the start-up and running costs of such services;
 - iv. be beneficial to listeners in the relevant franchise area by creating a climate in which the number and type of radio services currently in place will grow.
2. Please provide a rationale for your responses in respect of (i) to (iv) above.

1.3. Feedback

Opinions were proffered under all four headings. At these junctures, reasons for viewpoints expressed were often included. On all points considered, significant difference of opinion occurred.

1.3.1. *Greater flexibility in news and current affairs derogations would result in greater range of services*

There were many who believed that greater flexibility regarding derogations would result in a greater range of services for the consumer. With reduced commitment to news and current affairs, which is often considered a cost dependent output, it is argued that niche and smaller stations which can offer more choice will have a 'greater possibility of attaining viability.'¹ In addition, it was believed that a reduction in this commitment would allow such services to adapt their style and output more in line with the needs and tastes of specific audiences than is thought possible under current policy. According to Fox Radio Ltd. 'We have little doubt that a new environment will produce a demand for innovative ways of delivering news and current affairs that will differentiate services from their competitors.'² Some saw increased derogations having a direct impact on services provided by individual operators, that less news would mean that 'musical diversity will be enhanced.'³ For Spin 103.8,

A relaxing of the quota and a more flexible approach to the time bands in which news and current affairs are provided would serve to offer firstly, a greater choice to the casual listener, but would also allow existing services to take a fresher approach to scheduling and programming structure. It would also significantly reduce the entry cost start up stations [sic] and give them a lower on-going cost base.⁴

Reducing the obligation would not affect the quality of news some respondents argued. Less news would produce higher quality bulletins, where radio stations would seek to cater for need and/or taste rather than producing a quantity of news simply to meet quotas set. On this point it was said that 'If a reduction in the quantity of news on individual stations results in a higher quality, more focused news from more diversified sources on a greater number of stations, then that has got to be good for the listener.'⁵

In saying that derogations could lead to greater diversity among services, the importance of news and current affairs coverage was not being undermined. Views were expressed, that while niche stations could provide specialist services with low output in terms of news and related information, mainstream stations could continue as they are. For Ross Cunningham 'only broad based services, which often try to be

¹ WLRfm: w2, 1.

² Fox Radio Ltd.:e4, 3.

³ Ross Cunningham: web303.

⁴ Spin 103.8: w7, 1.

⁵ United Christian Broadcasters: w3, 1.

all things to all people, thus generating large audiences and revenue, can swallow the huge cost of current affairs coverage.’⁶

Many remained unconvinced of the merits of this approach. Some expressed the view that greater flexibility did not automatically equal the proliferation of a greater range of services. The National Union of Journalists (NUJ) said that ‘greater flexibility may well lead to new entrants to the market. Low-budget entrants with no news, information or current affairs obligation may add to the number of services but would not necessarily lead to greater choice or variety of programmes.’⁷ It added that while greater flexibility might be afforded, the benefits of having more low budget services, ‘such as they are, could be offset by the negative impact on existing services.’⁸ The UTV owned stations concurred with this view.⁹ For them the quota was perceived as a positive factor and so they argued that derogation would not necessarily lead to quality, diversity or to the viability of new or existing stations.¹⁰ For Liam O’Shea, while a reduction in news and current affairs coverage might lead to a reduction in start up costs, it did not necessarily increase the range of quality services available.¹¹ Mid West Radio echoed this view.¹²

Jack Kincade argued that derogation could offer less services and less choice for the listener. For him, it is news and current affairs programming which differentiates service from service:

While some may contend that they would funnel the resources saved from producing news/current affairs programmes back into a wider variety of programming, it is my belief that current affairs programmes are already offering a greater form of diversity than playing more music would and any money saved is more likely to be banked by the existing stations than put back into news/current affairs.¹³

Other respondents also stressed the view that news and current affairs were often the demarcation between stations. Indeed one person argued that ‘News and current affairs appropriate to the particular type of station ought to be considered a necessary feature of the overall range of services that is desired.’¹⁴

The question of applicability was raised at this juncture. Many were unclear how derogations would be distributed to new and/or old stations. Some argued that such derogations should be available to new licensees exclusively.¹⁵ Should this occur, however, many felt it would create an uneven playing field.¹⁶ Recognising that all stations, irrespective of size, are competing for the same listeners and advertisers, the

⁶ Ross Cunningham: web303.

⁷ National Union of Journalists: e6, 5.

⁸ National Union of Journalists: e6, 5.

⁹ These stations are: Cork’s 96 and 103FM; Limerick’s Live 95FM; Dublin’s Q102; and LMFm

¹⁰ Submission on behalf of UTV owned stations: e5, 5-6.

¹¹ Liam O’Shea: web311.

¹² Mid West Radio: w9, 1.

¹³ Jack Kincade: w4, 1-2.

¹⁴ Colum Kenny: web310.

¹⁵ See, for example, Power FM: w13, 2.

¹⁶ See, for example, River Media: e7, 1 and UTV owned stations, e5, 1.

UTV owned stations argued that all stations should be subject to the same regulation as has been the situation to date. Moreover, they stated that ‘Should increased derogation be made available, all stations should be able to avail of it equally to ensure fair competition into the future.’¹⁷ Tipp FM was of a similar view. For it, lessening ‘the 20% news and current affairs content, which is the most expensive ingredient of radio programming, must be applied across the board, if equity is to be maintained between all players in the radio market.’¹⁸

Views were expressed across the board that changes had to be made to take account of changing lifestyles and work patterns. Whether a formal derogation was the way to make such adaptations was not agreed upon.

1.3.2. Greater derogations in news and current affairs derogations would result in a greater range and number of news sources for listeners

The Specialist Radio Association (SRA), Phantom FM and Beat FM would support this view.¹⁹ The SRA, for example, believed that

derogation will result in a greater range and number of news sources as new services will be more selective in their approach to the type of news covered. The present situation only encourages stations to produce bulletins largely “padded” out with items of little relevance in an effort to fulfil the requirements.²⁰

While it has been argued that niche stations should be able to tailor their services to meet the needs and tastes of the specialist audience, others remained unconvinced. Points made were particularly strong in this respect. Primarily, it was believed that derogations could mean less news sources for listeners.²¹ With regard to current affairs programming, it was said that ‘If the requirement is lowered or done away with, [new] hosts will not be cultivated. Each host represents a unique set of views and ideas that bring diversity to the listener. The more hosts, the more diversity.’²²

It was recognised that, if not mixed with local content, an over-reliance on syndicated news makes for bland coverage.²³ Near FM, for example, argued that ‘...there is a need to ensure that any process of significant derogation does not result in limiting public access to a satisfactory regional and local news and current affairs service.’²⁴ The second argument stated that irrespective of these factors, people generally receive information from one source at any given time.²⁵

Whether or not derogation could result in more news sources, one must remember the listener above arguments of diversity and greater choice. Ryan Media and Research

¹⁷ Submission on behalf of UTV owned stations, e5, 1.

¹⁸ Tipp FM: e12.

¹⁹ Specialist Radio Association (SRA): e10, 3; Phantom FM: e9, 4; and Beat FM, w8, 1.

²⁰ SRA: e10, 3.

²¹ See, for example, Dublin’s Country 106.8: w10, 1; and Liam O’Shea: web311.

²² Jack Kincade: w4, 2.

²³ NUJ: e6, 2.

²⁴ NEAR FM: e2, 1.

²⁵ Jack Kincade: w4, 2.

Ltd. summarised views on this third point: ‘It is likely that even where there is no legislative requirements, listeners will still expect news and information content that is relevant in content and quality to their age and lifestyle (and in keeping with the format).’²⁶ This is the style many stations argue they have been providing to date, moulding programme format to suit audience tastes; a spectrum which ranges from rural to urban to youth-oriented stations such as Spin 103.8. For River Media, ‘the key issue is really about what listeners want.’²⁷ Meeting this requirement for big and small, it has been argued, ‘has not unduly effected [sic] the viability of the existing service or overall profitability.’²⁸

Expressing its opinion, the NUJ brought together a number of themes. Here it stated the argument

that greater flexibility would provide “a greater range and number of news sources” is flawed. The existing definition of news and current affairs is sufficiently broad that any new entrant to the market would meet the obligation without incurring major costs. The market is limited and further segmentation is unlikely to enhance independent radio. Segmentation with greater flexibility may lead to more stations but with shared news services and syndication it is likely that there would be no real improvement in the quality of service provided. Flexibility, through derogations, could lead to a dumbing down of standards rather than an enhancement of services.²⁹

1.3.3. Greater flexibility in news and current affairs derogations would assist in the context of reducing the start-up and running costs of such services

The provision of news and current affairs programming is costly. While the majority agree that having derogations would reduce start-up and running costs of new services, the long term effect of this is disputed. Views expressed agreed and disagreed while some hovered in the middle.

WLRfm has said while stations ‘in their first three to four years of existence experience huge difficulty in achieving viability, listeners to niche or music stations do not demand comprehensive News, Sports, Current Affairs content and therefore a derogation would assist in both developing new services and encouraging a climate of growth in the radio market in Ireland.’³⁰ Arguing along similar lines, Fox Radio Ltd. believed that derogations could free up funds, thus providing ‘the opportunity to focus funds into key areas that are fundamental in sustaining the service.’³¹ It does not, however, identify what those key areas are.

²⁶ Ryan Media and Research Ltd.: e11, 3.

²⁷ River Media: e7, 1.

²⁸ Jack Kincade: w4, 4.

²⁹ NUJ: e6, 5.

³⁰ WLRfm: w2, 1.

³¹ Fox Radio Ltd.: e4, 4.

Beat FM, for example, occupied the middle ground. Here it stated that ‘It is difficult to imagine a radio service without some form of news and or information content. With that in mind, derogations probably would not lead to any significant reduction in the start-up and running costs.’³²

There were many who argued that a reduction in costs would not lead to greater diversity or quality of new services.³³ One respondent argued that this could elevate commercial viability over quality. Furthermore, he argued that the BCI should be defending public interest but ‘The public is not served by diversity if the cost of that diversity is a loss of quality.’³⁴ Taking a similar view, the European Commission Representation in Ireland argued that derogations from news and current affairs requirements would diminish the opportunity to relay key information to audiences. It stated its concern ‘that any derogation...might lessen even further the amount of EU-related news and debate which is broadcast on the airwaves. This would make it difficult to for [sic] the [European Commission Representation in Ireland] to explain to the Irish people how EU directives and policy impacts on their daily lives.’³⁵

Cutting costs could lead to a ‘dumbing down’ of services. More specifically, the UTV owned stations argued that

Greater flexibility regarding news & current affairs derogations will reduce the cost base of existing and potential services and would obviously result in a greater desire to provide new services in particular. While this may facilitate a greater number of services, the overall quality and public service elements of the industry as a whole would be greatly eroded. In addition, the introduction of more flexible derogation to select stations would also create a situation where competition for listeners and advertisers would not be fair and equitable.³⁶

Maintaining a level playing field is believed to be paramount by these stations. The current policy applies to all. On this point, they have said ‘Increased derogation would assist in the improved viability of the new services but would also result in an independent broadcasting sector that is not fair and equitable...while the viability of the new services may be improved, the viability of the existing services may be undermined by increased derogation.’³⁷

1.3.4. Greater flexibility in news and current affairs derogations would be beneficial to listeners in the relevant franchise area by creating a climate in which the number and type of radio services currently in place will grow

Again views were split. On one side, many argued that derogations would lead to an increase in the number of niche stations equipped to meet the specialist needs of

³² Beat FM: w8, 1.

³³ See, for example, Liam O’Shea: web311.

³⁴ Colum Kenny: web310.

³⁵ European Commission Representation in Ireland, e.13.

³⁶ Submission on behalf of UTV owned stations: e5, 2.

³⁷ Submission on behalf of UTV owned stations: e5, 2-3.

listeners. With more stations, and specialisation, comes more choice. Fox Radio Ltd. believed ‘that a lower overhead base will be essential in developing alternative formats that are currently unavailable, particularly in smaller franchise areas and in franchises where at least two or more stations exist at present.’³⁸ For this respondent, reduced costs would enhance the potential viability of such new services. In their joint submission, the Institute of Advertising Practitioners in Ireland (IAPI) and the Association of Advertisers in Ireland (AAI) saw this as beneficial: ‘...by reducing start-up costs the BCI can encourage new, diverse services from smaller, niche and/or community stations. This competition will encourage existing larger stations to review their programme formats to respond.’³⁹ For the SRA, any changes in existing policy would be a positive development, allowing new entrants into the market. Beat FM, however, considered the possible negativity of the situation when it stated: ‘We don’t believe that derogations would lead to an increase in the number of radio stations – there is a finite market for viable services both in terms of listenership and commercial considerations.’

Many felt that while more choice could be available, quality would become problematic if other services were created.⁴⁰ For Colum Kenny, ‘...diversity ought not to be introduced at the expense of quality in the area of current affairs.’⁴¹ According to River Media, ‘The concept of creating a new regime, free from the requirements of existing policy, raises the issue of whether the on-going development of new services will merely threaten existing stations with no real benefit to listeners. A growth in the number of radio stations is not automatically beneficial to listeners.’⁴² The NUJ continued on these lines, suggesting that the provision of news and current affairs coverage is essential to the provision of listener choice; any reduction would diminish rather than enhance diversity. This led it to assert ‘that the legislative quota in relation to the key area of news and current affairs remains valid and that any change would have adverse impact on the quality of service offered to listeners.’⁴³

For one respondent, derogation alone would not lead to greater flexibility. The geographical position of the niche station would also be a factor. On this point, it was said that ‘A niche operator in a local commercial rural area may not in fact provide the diversity that the Commission is seeking if the focus of that station is too narrow and in itself would provide little or any diversity. Such diversity will only be achieved if set alongside a broad based service...’⁴⁴

1.4. Concluding remarks

The affect derogations might have on existing and potential services was considered. As seen, difference of opinion emanated from this aspect of the debate. The key difference was where some saw derogation as a necessary prerequisite to achieving quality on niche services, others argued that derogations could hinder quality, thus

³⁸ Fox Radio Ltd.: e4, 5.

³⁹ Institute of Advertising Practitioners in Ireland (IAPI) and the Association of Advertisers in Ireland (AAI): w6, 4.

⁴⁰ Liam O’Shea: web311.

⁴¹ Colum Kenny: web310.

⁴² River Media: e7, 3.

⁴³ NUJ: e6, 2.

⁴⁴ Mid West Radio: w9, 3.

leading to an overall 'dumbing down' of the high standard of services currently provided.

2. Influencing factors and options

2.1. Introduction

The focus of the *Consultation Document* narrowed at this point. Questions were asked regarding the strengths and weaknesses of applying particular criteria. Again questions posed and answers elicited are outlined hereunder.

2.2. Questions asked

The BCI invited views on a number of areas. These were as follows:

1. How relevant and important are the following factors in assessing a station's eligibility to apply for a derogation?
 - Programme Policy Statement;
 - Diversity – mix of services and news sources;
 - Resources;
 - Viability.

Please provide a rationale for your response.

2. Are there additional factors that you believe should be considered?

Please provide a rationale for your response.

2.3. Feedback

A multi-layered approach was adopted in respect of criteria that could be applied vis-à-vis the granting of a derogation. Answers given, and rationale expressed, are grouped under each criterion identified.

2.3.1. *Programme Policy Statement*

The Programme Policy Statement was considered important by many albeit for different reasons. Spin 103.8 summed up the importance attributed when it said

The [Programme Policy Statement] is the cornerstone of each station's programming and is a crucial tool in defining what is broadcast on-air and the structure and content of a station's programming. It also helps to define for both broadcaster and regulator how and at whom a station is targeted. It offers measurable goals and targets for the station to deliver.¹

In general, it was felt that, as this was a method for judging the potential diversity being offered by an incumbent, it was the appropriate juncture at which to assess the suitability of a derogation from the news and current affairs requirement. Fox Radio Ltd. felt 'The more niche and specialised the service expressed within the programme policy statement, the more the service should qualify for a larger derogation from the current news and current affairs quota.'² Arguments for derogations had to be substantiated and no one was therefore in favour of automatic derogations based simply on a station's status as specialised or niche.

While allowing judgements to be made regarding diversity, assessment at the Programme Policy Statement stage also allowed applicants to outline succinctly 'the compensatory gains for listeners relative to any proposed derogation.'³ For some, no derogation should be granted to stations unless they could conclusively prove that their audience had no wish to listen to twenty per cent news and current affairs.⁴

Adjustments being made after the Programme Policy Statement stage elicited many comments. While it was believed that a degree of flexibility should be maintained to reflect changing circumstances, significant changes being made were seen as unfair to competitors.⁵ Too many changes could unsettle the market. Questions were raised regarding existing stations. It was acknowledged that licenses were granted on the basis of Programme Policy Statements and if derogations were now granted to new stations at this stage, existing stations should then be allowed to revisit, and thus renegotiate, their Programme Policy Statements. The submission from the UTV owned stations, while disagreeing with derogation, argued in favour of maintaining parity between old and new. For them, '...the likely outcome of such a situation would be for "dumbing down" of existing and new services which we believe is not in the best interests of Irish broadcasting. Any flexibility regarding derogations should be available to all stations to ensure fair competition for listeners and advertisers.'⁶

2.3.2. *Diversity – mix of services and news sources*

For many, the quality and output of news and current affairs is what differentiates one service from another. The Specialist Radio Association (SRA) argued that as the music on specialist stations would be 'niche', 'it therefore stands to reason that any other services provided should be sympathetic to the genre considered.'⁷ Liam Byrne says that 'A diverse viewpoint and source of news is essential for the public to arrive at an informed decision on current affairs. Far too much media coverage at present is

¹ Spin 103.8: w7, 3.

² Fox Radio Ltd.: e4, 6.

³ Colum Kenny: web310.

⁴ WLRfm: w2, 1.

⁵ Liam O'Shea: web311.

⁶ Submission on behalf of UTV owned stations: e5, 3.

⁷ Specialist Radio Association (SRA): e10.

comprised of comment, not facts.’⁸ Phantom FM concurred with this view. It stated, however, that allowing stations to determine news and current affairs output would ‘lead to the airing of more editorial viewpoints than are available at present’ while meeting the quota as set would result in an over reliance on syndicated services.⁹ Near FM also believed that an increase in niche services can only increase diversity of services in a given geographical area.¹⁰ Ross Cunningham, however, asks that if there are already stations in a particular area providing such services, is there a need to increase these further? More specifically, he asks

Should FM104 have obligations to the Irish language when Raidio na Life and Raidio na Gaeltachta both provide comprehensive services through Irish? In my view the answer is no. The same goes for News and Current Affairs...It is very mute...if having both 98FM and FM104 providing news is really providing choice for listeners. Is a choice between Pepsi and Coke really a choice?¹¹

Dublin’s Country 106.8 expressed similar, albeit not identical, sentiments. More specifically, it stated that ‘if all services are required to have the same commitment to news and current affairs output, there is an argument that the actual level (ie.20% etc) should not need to be as high in an area that is served by multiple services.’¹²

The UTV owned stations were not convinced of this ‘less equals more’ argument. Instead they suggested that increased derogation

may improve the chances of additional services operating on a more viable basis but provides no guarantees regarding the improved diversity or quality of news services available. In fact, the opposite is the likely outcome. Any station operating under significantly reduced quotas is likely to commit few resources to their news & current affairs area and as such will add little to the improvement of the range and quality of services.¹³

Establishing the news and current affairs requirement in the Programme Policy Statement and ensuring that sufficient funds exist by which to provide the agreed service therefore assumes great importance. Diversity of services, at the expense of news and current affairs, is not supported by all. On this point, one respondent argues that ‘Diversity must not become a byword for increased profit margins: it is intended to assist viability, not to cut operating costs for the benefit of investors. There is at present no shortage of parties interested in operating radio services.’¹⁴

⁸ Liam Byrne: web276.

⁹ Phantom FM: e9, 5.

¹⁰ NEAR FM: e2, 1.

¹¹ Ross Cunningham: web303.

¹² Dublin’s Country 106.8: w10, 2-3.

¹³ Submission on behalf of UTV owned stations: e5, 4.

¹⁴ Colum Kenny: web310.

2.3.3. Resources

The belief was expressed that smaller audiences ‘reduce potential income and thus resources making the provision of services more difficult. A derogation may help reduce costs and thus improve quality of the service.’¹⁵ Essentially, it was seen that while the twenty per cent quota had not deterred people from applying for licences, meeting this requirement had placed smaller stations at a disadvantage when obliged to meet the same requirements as more mainstream and commercially viable stations.¹⁶ If obliged to provide the same level of news and current affairs, it was argued that smaller stations would rely increasingly on syndicated services. If this were to happen, there would be less diversity and thus, more repetition. According to Liam Byrne: ‘If there is to be choice in radio in Ireland, additional niche services are essential; these should preferably be localised services, catering for local audiences. A news requirement might impact on the viability of these essential services, and so should only be imposed if there are sufficient resources, so as to avoid expanding the relay of existing news services.’¹⁷

Granting derogations simply on the basis of resources was not acceptable. For Fox Radio Ltd., limited resources must be considered in line with other criteria. More specifically, it states that

Insufficient resources should not be an issue which should qualify of any form of derogation in its own right. We believe that there may be a justifiable case for niche operators that are providing a diverse service, where resources would be better concentrated into other programming areas that are the principle function of output. We are of the opinion that this aspect should only be considered in conjunction with viability of that service.¹⁸

How funds are to be channelled into an improved service must, however, be substantiated in a way that clearly demonstrates how such change will benefit listeners.¹⁹ According to Colum Kenny, ‘It is...possible to persuade broadcasters that it is in their own long-term interest to invest in news and current affairs, thus building the quality of their brand in the eyes of both advertisers and listeners.’²⁰ Liam O’Shea expressed concern in this regard: ‘I agree the distribution of resources could possibly improve the diversity of programming but it could also be used to reduce responsibility of incumbents for more meaningful current affairs.’²¹

For the UTV owned stations, reallocation of resources could be beneficial but not necessarily in line with a reduction of the twenty per cent. Here they state that

The only derogation which we feel will benefit the industry as a whole is increased derogation to all services in off-peak

¹⁵ Ross Cunningham: web303.

¹⁶ Phantom FM: e9, 5; SRA: e10.

¹⁷ Liam Byrne: web276.

¹⁸ Fox Radio Ltd.: e4, 7.

¹⁹ Colum Kenny: web310.

²⁰ Colum Kenny: web310.

²¹ Liam O’Shea: web311.

times. This will afford stations the opportunity to shift resources to improving the quality of services available in peak times, when audience availability is at it highest. In addition, it may also lead to the further development of specialist programmes that tend to occupy off-peak programming. We would favour the availability of a more flexible derogation for the 7pm to 7am period.’²²

2.3.4. Viability

According to the Institute of Advertising Practitioners in Ireland (IAPI) and the Association of Advertisers in Ireland (AAI), ‘...suspending the current derogation system will enhance the viability of existing stations and encourage new programming and new stations to emerge.’²³ If a station is to be truly specialist, its potential to earn and to compete with larger entities is thus reduced. It is for this reason, many tag the need for derogation to the viability of the station. For Ross Cunningham, ‘A station proposing to broadcast traditional music solely [sic] cannot obtain the same income as a pop music service. It is reasonable for them to seek a derogation in order to help ensure their services is more viable.’²⁴ A blanket approach, however, is not sought. Instead he suggests that all stations be assessed on a case-by-case basis. Fox Radio Ltd. believed that ‘the determination of new licenses, should be balanced between adding diversity of choice to the existing franchise with viability of the proposed service.’²⁵ Beat FM would argue that listener’s tastes will determine overall viability. On this point, it stated that ‘As competition increases, the ability of stations to focus their programming directly on their target audience is extremely important. At the end of the day, listeners will determine the success or failure of a station and that will depend on whether it is providing them with relevant programming.’²⁶

Power FM took a slightly different approach. It stated that

Enhancing viability and greater profitability should not be confused. All existing stations have shown themselves to be viable, otherwise they would not be still operating, and where applicable those stations would not have reapplied for the licences. Viability is the most important factor for determining a stations eligibility to apply for derogation where those stations propose in the future to operate small, niche services, or service with a broader programming format that have a small franchise area.²⁷

For some, meeting present news and current affairs requirements should not affect the viability of the service proposed. While it might help vis-à-vis start up costs, it might

²² Submission on behalf of UTV owned stations: e5, 4.

²³ IAPI/AAI: w6, 5.

²⁴ Ross Cunningham: web303.

²⁵ Fox Radio Ltd.: e4, 7

²⁶ Beat FM: w8, 3.

²⁷ Power FM: w13, 9.

not make it more viable in the long term.²⁸ For Colum Kenny, viability should not ‘be at the expense of the legislative objectives which require not just a multiplicity of stations, or the maximisation of competition, but the provision overall throughout the state of stations providing programming of a type, range and quality specified in law. Very few stations have failed, and those that have may have failed for very particular reasons unconnected with programming requirements.’²⁹ Mid West Radio argued along similar lines:

As current operators...have little difficulty in meeting the existing requirements we do not see how any new entrant, with a listening population of more than 75,000 would not be viable under the current regulation. This may be debateable in large urban centres where there are a multiple of service providers – many chasing the same audience. For niche providers below 75,000 the first consideration the Commission is faced with is whether or not it in itself would be viable regardless of news and current affairs content.³⁰

Derogation, in the opinion of the UTV owned stations, will not lead to higher quality. Nor can it enhance viability. Stressing news and current affairs coverage as a means to differentiate between services on offer, they stated that

Increased derogation will inevitably result in decreased investment in news & current affairs programming, thereby, improving overall financial performance in the short to medium term. There is however evidence from both the Irish and UK markets that a decrease in levels of news & current affairs and the resultant erosion of local ethos, could actually lead to a decline in overall listenership. In addition, should increased derogation not be available to all operators, the viability of some services might be improved to the detriment of others.³¹

Dublin’s Country 106.8 wondered what might happen if a niche station was not only viable but becomes highly profitable. It argued that such success ‘should not mean that it automatically has an obligation to increase its news and current affairs output (if it previously had a derogation). Such a move could impact directly on the station’s listenership and subsequently, its revenue.’³²

2.3.5. *Additional factors*

The UTV owned stations expressed concern regarding what the possible long-term effect of granting derogations to new or more specialist services might be on existing and larger stations. They stated that any new policy must create an environment of fair competition with all stations operating under the same regulation. More specifically, they believed that while under current regulation this is the case,

²⁸ Liam O’Shea: web311.

²⁹ Colum Kenny: web310.

³⁰ Mid West Radio: w9, 5-6.

³¹ Submission on behalf of UTV owned stations: e5, 4.

³² Dublin’s Country 106.8: w10, 3.

should more flexible derogation be afforded to select stations, fair competition will be distorted. In fact, those who provided greater public service and local ethos in their broadcasting could be penalised. Stations who have decreased investment in news & current affairs are also likely to divest any cost savings into areas such as marketing which will directly target and undermine stations operating under full quotas. In terms of fair competitions, the system has worked well to date and as a result, any revised quotas should apply across the board.³³

2.4. Concluding remarks

Possible criteria to be applied were considered in this section. Difference of opinion was once again discernible, particularly between existing and potential niche services and larger, more mainstream, operators. Difference was also perceived between those who saw news and current affairs as an obligation and those who saw it as a service.

³³ Submission on behalf of UTV owned stations: e5, 5.

3. Types of derogation

3.1. Introduction

In its *Consultation Document*, the Broadcasting Commission of Ireland (BCI) presented four alternative approaches vis-à-vis news and current affairs requirements. Questions asked centred on these themes and views expressed are identified below.

3.2. Questions asked

The BCI invited views on four main areas. These were as follows:

1. The four options as presented:
 - i. maintain current policy;
 - ii. minimum requirement of two hours between 7am and 7pm;
 - iii. increasing derogations in line with a sliding scale;
 - iv. new minimum %.

Please provide a rationale for your response.

2. In relation to option (iii), what are the most appropriate thresholds in relation to audience share, population size and derogation?
3. In relation to option (iv), what is the most appropriate minimum threshold that might be utilised and should **any** specification be made as to the hours within which this percentage of news and current affairs programming should be broadcast?

Are there other options that the Commission should consider?
Please provide a rationale for your view.

3.3. Feedback

Difference of opinion was evident on all four areas considered. Division was apparent between potential and existing niche providers and potential and existing mainstream providers. The division was not clear-cut, however, as the following comments will show.

3.3.1. *Maintain current policy*

Opinion was split on whether the current policy should be maintained. On one side, it was argued that the current policy impedes diversity and restricts listener choice.¹ Some believed that in order to meet present requirements, smaller stations are ‘forced to veer towards a hybrid mainstream format in order to sustain viability.’² The similarity of approach and use of syndicated news caused others concern. Ross Cunningham, for example, believed that ‘The glut of speech programmes in the morning and early afternoon reduce listener choice rather than increasing it.’³ And finally, current policy was seen as requiring niche broadcasters to carry a level of news and current affairs that is considered by some as neither necessary or expected by listeners.⁴

Conversely, many believed that existing policy had worked well and should therefore be retained. It was seen as serving the public interest and being of benefit to listeners. With such requirements to meet, diversity in content was offered. It was posited that ‘There is insufficient evidence to support claims that a change in the system of regulation could benefit listeners.’⁵ It was also argued that the current policy had not hindered greatly the development and success of niche services in today’s world and ‘as such should have no impact on other new entrants to the market.’⁶ For Liam O’Shea, current policy places incumbents under pressure to provide services to its listeners. Changing current policy would ‘seem to be drifting away from what local radio should be all about.’⁷ For the UTV owned stations,

The current policy has resulted in unique programming output which is high in quality and public service. It is fair and equitable to all and has resulted in stations developing a strong local ethos. All stations who have applied for licenses have not seen it as a barrier to entry and have proposed viable services even under the current policy.⁸

Supporting the maintenance of current provisions did not come without conditions. Adjustments should be made to adapt it to changing life styles and work patterns, for example. Greater emphasis on the provision of local content and a move away from a perceived over reliance syndicated news was suggested. While supporting current policy, one respondent believed that it could be applied more imaginatively; for example, ensuring that not all talk shows and news go out at the same time.

¹ See, for example, Fox Radio Ltd.: e4, 8; Ross Cunningham: web303; Phantom FM: e9, 6; Dublin’s Country 106.8: w10, 3; Spin 103.8: w7, 7.

² Fox Radio Ltd.: e4, 8.

³ Ross Cunningham: web303.

⁴ Dublin’s Country 106.8: w10, 3.

⁵ National Union of Journalists: e6, 2.

⁶ Jack Kincade: w4, 5; examples given: Dublin’s Country 106.8; Spin 103.8 and Beat FM.

⁷ Liam O’Shea: web311.

⁸ Submission on behalf of UTV owned stations: e5, 5.

Consequently, it is suggested that ‘It would be in the public interest to insist on greater diversity in the timing, style and content of bulletins.’⁹

3.3.2. *Minimum requirement of two hours between 7am and 7pm*

Many sought to retain this minimum requirement of two hours in this designated time period. In general, the measure was believed to ensure improved quality of services when audiences are at their highest.¹⁰ Reservations were voiced, however. Some felt that while this measure was appropriate for local stations, it was too much to expect of niche stations.¹¹ Many felt that it was time to move the goalposts, to revisit the 7am to 7pm demarcation. Greater flexibility was requested regarding this time frame, partly to take account of different working patterns and partly to allow stations to match committed resources with the availability of their specific audiences.¹²

Others believed that it should be changed, that it was ‘a crude measurement of the content provided.’¹³ Maintaining this requirement would reduce, not enhance, diversity. More specifically, the Specialist Radio Association (SRA) has said that ‘In an effort to circumvent [the two hour rule] stations engage in news/chat shows as is evidenced in Dublin whereby the majority of evening drive programmes have virtually become music free zones. A requirement of this nature would effectively drive any new services down the same route thereby stifling diversity.’¹⁴ For Spin 103.8, the removal of this current requirement could allow greater flexibility and diversity.¹⁵

3.3.3. *Increasing derogations in line with a sliding scale*

A selection of respondents supported this option, believing it could increase opportunities for flexibility and diversity. For Fox Radio Ltd., ‘This is a far more flexible proposal, which takes into account the diversity of the proposed service and the way in which it broadens choice in a particular area. The scale of the derogation for the proposed service can then be measured against the expected level of audience share and reach.’¹⁶ Spin 103.8 saw it as an opportunity to allow a tailor made level for different stations to fit their target audience.¹⁷ The United Christian Broadcasters (UCB) also voiced their support for this measure: ‘It will allow the Commission maximum discretion and allow issues like audience share and population of franchise to be considered. This is of particular importance for Special Interest stations who provide a valuable service to minority interest groups.’¹⁸ Believing this to a flexible alternative, River Media stated that it could be left up to each existing station to decide how it will deliver its overall commitment to news and current affairs. Furthermore, it said that

⁹ Colum Kenny: web 310.

¹⁰ Submission on behalf of UTV owned stations: e5, 5.

¹¹ WLRfm: w2, 3.

¹² See, for example: submission on behalf of UTV owned stations: e5, 5; Fox Radio Ltd.: e4, 9; Colum Kenny: web310.

¹³ Phantom FM: e9, 6

¹⁴ SRA: e10, 5.

¹⁵ Spin 103.8: w7, 9.

¹⁶ Fox Radio Ltd.: e4, 9.

¹⁷ Spin 103.8: w7, 9.

¹⁸ United Christian Broadcasters: w3, 2.

We need to move on from the rather paternalistic view that news and current affairs is like a daily portion of fruit and vegetables and is good for the listener. River Media believes that listeners should ultimately be able to decide what is good for them and what best suits their individual needs and this process could be carried out and continually monitored through listener reaction and market research.¹⁹

Ross Cunningham also supported the notion of a sliding scale. He added, however, that ‘it should be judged within the context of provision of service by other operators, the viability of the service and its programme policy statement.’²⁰

Reservations were voiced. Firstly, how such a scale could be administered efficiently and effectively and secondly, how existing stations would fare vis-à-vis existing stations? Such concerns were expressed by both those in favour of a sliding scale and those arguing against such a measure. While agreeing with the measure, Phantom FM, for example, believed it would be difficult to administer. In addition, it felt that it might lead to success being met by punishment: ‘The station, having provided an appropriate service to its audience, is not forced to change that service in order to meet its increased commitments.’²¹ Similar comments were voiced by the SRA about the administration of this scheme. Should it go ahead, the SRA believed it could effectively create a multi-tiered situation which would prove difficult to administer: ‘We would foresee this particular mechanism creating more problems than it would solve and would in all likelihood lead to disputes as to where any one operator should be slotted on the scale.’²² Colum Kenny expressed his viewpoint thus:

The sliding scale concept is impractical. It would be very difficult for the BCI to monitor, and for the public to understand in practice. It would also be unsatisfactory in that it might sound on air as though certain stations were “getting away” with a different kind of requirement compared to their competitors, thus exacerbating dissatisfaction with regulation overall. A preferable option is to maintain the 20% requirement but specify ways in which it may be met that are most appropriate to the audiences of particular stations.²³

Dublin’s Country 106.8 supported this sliding scale, if it came without the 7am to 7pm requirement. It noted, however that ‘A system would need to be developed to ensure that the Commission is seen to afford all stations fair and equal treatment.’²⁴ Disagreeing with the appropriateness of this measure, the UTV owned stations believed a sliding scale could not guarantee equality among all stations and would merely result in an uneven playing field of different stations having different quotas.²⁵

¹⁹ River Media: e7, 2.

²⁰ Ross Cunningham: web303.

²¹ Phantom FM: e9, 7

²² SRA: e10, 5.

²³ Colum Kenny: web310.

²⁴ Dublin’s Country 106.8: w10, 4

²⁵ Submission on behalf of UTV owned stations: e4, 9.

Other reasons for disliking this option were voiced. Believing that this sliding scale could result in full derogation, Jack Kincade argued that

The idea of doing away with a requirement to broadcast news and current affairs would bring into question the right for people to have freedom of information not filtered by the government broadcasters. Citizens in a democracy should have the right to express their views on a commercial radio station, and hear a wide range of views on news and current affairs that are not subject to government approval.²⁶

* * * * *

3.2.3.1. What are the most appropriate thresholds in relation to audience share, population size and derogation?

Most respondents wove their responses to this question into their overall approaches to the section. A few salient comments were made, however. According to Ross Cunningham, ‘The smaller the audience share, the less revenue, therefore the need to reduce costs. It is difficult to identify thresholds outside the context of individual cases.’²⁷ Emphasising the need to assess on a case-by-case basis was echoed by Fox Radio Ltd. It argued that all points mentioned were relevant in making an accurate assessment but most particularly ‘The relationship between the proposed market share of the new service and the existing operator has to be a determining factor in the size of the derogation.’ It continued on to say that

Apart from the dynamics of a particular market, the derogation should also have a direct relationship between size of Transmission Service Area and the potential market share of the proposed service. Therefore, the smaller the transmission service area, assuming that the potential share is substantially less than existing service or services, the greater the level of derogation.²⁸

Phantom FM questioned the relevance of population levels as they pertain to the viability of specialist stations. More specifically, ‘Even in a largely populated area, a station providing a specialist service may only attract a small number of listeners and yet still succeed. Population size may also be unrelated to the number of services, sources of news, and suitability of news services in a given area.’²⁹ The SRA contended that a specialist station by design sets out to cater for a specific target audience. ‘The measure of its success is that it attracts its stated percentage irrespective of the overall population figures.’³⁰ Pulling all thoughts together, the SRA believed

²⁶ Jack Kincade: w4, 6.

²⁷ Ross Cunningham: web303.

²⁸ Fox Radio Ltd.: e4, 11.

²⁹ Phantom FM: e9, 7.

³⁰ SRA: e10, 6.

the sliding scale system is flawed as it is all but impossible to take into account the variables that occur with a shift in audience figures. If a station's news content is directly tied to its market share, even a small increase in audience may serve to increase its news costs significantly. Conversely, a downward turn in listening figures that audience measurement figures relate to dates in the past there is a likelihood that an improvement/deterioration may have occurred in the intervening period. The sliding scale should in effect be a reactive system of little value as well as being an administrative headache.³¹

Dublin's Country 106.8 suggested a different approach. It believed that the total number of services available in any one area should be taken into account prior to considering an appropriate threshold. In turn, the threshold should be considered in relation to station branding (biggest versus smallest listenership) rather than an absolute share/size figure.³²

3.3.4. New minimum percentage

Arguments were made in favour and against reducing the existing percentage of twenty per cent while others were in favour of adjusting current figures. Arguing for reduction, Phantom FM and Ross Cunningham believed that each applicant station had to be assessed on a case by case basis. Such an approach would reflect not only the difference in status but also in service provided. The need for individual assessments was echoed by Spin 103.8 when it said 'If all stations reduced their News and Current affairs content simultaneously, it would obviously reduce the position of radio as a news source. We would be in favour of a tailored reduction in partnership with the BCI on a case by case basis...' Commitments to different levels could be made in the Programme Policy Statement area of the contract.³³ Ryan Media and Research Ltd. also favoured this approach, where each applicant could 'clearly demonstrate, through research, what content quota is relevant to the format and of relevance to the target listener.'³⁴ Fox Radio Ltd. supported this approach as long as the approach taken was flexible and a level playing ground between broadcasters was maintained.³⁵ Beat FM also viewed such reductions positively, believing it provided greatest flexibility to operators 'while ensuring that a level of news and current affairs is provided by all radio stations which is appropriate to their format and target audience.'³⁶

There were those who felt the current percentage should be retained, that it had served the industry well. One respondent, for example, argued that gaining a licence was a privilege rather than a right. Furthermore,

The Oireachtas has repeatedly demonstrated, in debate and in legislation, that the price of that privilege is the delivery of

³¹ SRA: e10, 6.

³² Dublin's Country 106.8: w10, 4.

³³ Phantom FM: e9, 6; Ross Cunningham: web303.

³⁴ Ryan Media and Research Ltd.: e11, 7.

³⁵ Fox Radio Ltd.: e4, 9.

³⁶ Beat FM: w8, 3.

programming that does not merely represent the lowest common denominator commercially but that provides a broad range of quality programming. It is the range of quality and not of sound that is important.³⁷

* * * * *

3.2.4.1. What is the most appropriate minimum threshold that might be utilised and should any specification be made as to the hours within which this percentage of news and current affairs programming should be broadcast?

Suggestions were made regarding what a minimum percentage could be. Fox Radio Ltd. did not favour this approach but contended that if it was the way forward, it 'would expect that the level of derogation would have to be less than 10 per cent between 7am and 7pm, in order to promote new niche operators into the market. We are unsure that this would support any increase in providing further diversity of news sources.'³⁸ While not in favour of this approach *per se*, the SRA suggested eight per cent: 'This we feel will ensure that the level of service is not unduly affected while at the same time providing the listener with an adequate and relevant news service.'³⁹ Beat FM suggested ten per cent Monday to Friday with no minimum given at the weekend.⁴⁰ Power FM argued that there should be one hour between 7am and 7pm (that is, eight per cent of total output), a maximum of four percent of total output between 7pm and midnight with zero per cent output overnight.⁴¹ For Mid West Radio, the BCI has 'by default already got two "minimum" requirements over a 24 hour day and an 18 hour day.' It continued on to say that

A 20% requirement over an 18 hour day would equate to 3.6 hours. The Commission should allow this to be spread over a full 24 hours which would equate to a new minimum of 15% in a full day. However, as we subscribe to a minimum of 2 hours in the 7am – 7pm threshold there would be a requirement to make up the remaining 1.6 hour outside of this time frame. Again diversity and level playing field are assured.⁴²

Phantom FM held the opinion that due to the specialist nature of niche services, only a very minimum threshold could be set for news and current affairs provision. It suggested five per cent, asserting that this could relieve pressure on stations while having a positive affect on both quality of service provided and the range of editorial

³⁷ Colum Kenny: web310.

³⁸ Fox Radio Ltd.: e4, 9.

³⁹ SRA: e10, 5-6. The SRA believes that one approach could not fit all and the allocation of different percentages would prove difficult to police. Consequently, it argues in favour of classifying 'niche radio' separately, creating a third category between 'commercial' and 'community' radio.

⁴⁰ Beat FM: w8, 3.

⁴¹ Power FM: w13, 12.

⁴² Mid West Radio: w9, 8-9 at 9.

sources and viewpoints.⁴³ The SRA believed if a threshold was set that it must be set at a level which makes it cost effective for the individual niche station.⁴⁴

While supporting a retention of current policy, the UTV owned stations believed that adjustments could be made to existing figures. Moreover, they argued that ‘a new minimum percentage for off-peak periods would be welcome, while there is no great desire for any significant change during peak time programming.’⁴⁵ Spin 103.8 mirrored this emphasis on case-by-case assessment, believing that ‘Any quota which applies a standard percentage across the board is difficult. It makes for heavy handed minute based regulation and always seems to involve stopwatch and precise second timings.’⁴⁶ On the need to assess each case individually, Spin 103.8 stated that ‘There is rarely a one size fits all in the radio market – and when a size fits all solutions is applied it tends to discourage diversity and limit the options available to the audience.’⁴⁷

3.4. Concluding remarks

Looking at possible methods to be used in the future, no one option proved acceptable to all. There was no clear division into camps as some supported one, two or all options. The tendency was, however, that existing and potential large scale providers supported a retention of current policy while existing and potential niche services veered towards one or all of the other options.

⁴³ Phantom FM: e9, 7.

⁴⁴ SRA: e10, 6

⁴⁵ Submission on behalf of UTV owned stations: e5, 6.

⁴⁶ Spin 103.8: w7, 11.

⁴⁷ Spin 103.8: w7, 11.

Concluding remarks

Throughout this review, it was not possible to determine distinct camps. Respondents combined opinion and at times, contradicted statements made. What was clear was that all respondents saw news and current affairs as important but to different degrees. No one argued for the complete abandonment of such information provision. While all saw news and current affairs as important, attitudes towards current policy differed significantly. Difference of opinion emanated from those who saw news and current affairs as simply programmes they were obliged to carry versus those who viewed such requirements as providing an essential service to the listening public.

Opinion was split vis-à-vis who should receive significant derogations if made available. Existing and potential niche stations often argued that news and current affairs on their services should be slimmed down, ‘tailored’ to meet the needs and tastes of specialist audiences. For some, the provision of news and current affairs, and accompanying costs, should be borne by larger, more mainstream organisations. Extending derogations to such stations was not seen as necessary. For existing and potential mainstream stations, if derogations were to be available, they should be available to all. If this situation was to occur, arguments were made that existing stations be allowed to renegotiate this part of their contract accordingly. A level playing field should be maintained. Granting derogations to some but not all would, it was argued, be both unfair and difficult to administer and monitor. Should significant derogations be made available, questions were raised regarding what would happen to niche services which became very successful. Would there be an obligation to change the existing derogation for a particular station and if so, why? What might be the long term effect of such alteration on a given station?

In many instances, attention was paid to viability and profitability. One respondent went so far as to say that ‘The entire motivation of the existing stations in pushing for a derogation seems to be to enhance their profit margin rather than to provide more diversity of programming.’¹ Many existing and potential niche stations argued that obtaining substantial derogations would significantly lower start-up costs. It was argued that this was vital because, being specialists, resources and target audience levels were greatly reduced in comparison with larger stations. What was absent, however, was a development of these arguments. There was little explanation of how

¹ Jack Kincade: w4, 2.

monies saved might be channelled back into the reduced news and current affairs coverage which might now be offered. There was no substantiation of the argument that reduced start-up costs would enhance the quality of news and current affairs or other content on a given station. And, although stated on many occasions, there was no identification and development of the so-called 'innovative' ways of delivering news which would occur if significant reductions were granted. Conversely, opinions voiced from existing and potentially larger stations tended to see news and current affairs as an asset, as something which could, and did, differentiate one service sharply from another. Accepting costs incurred, and the effect on setting up new stations, many argued that they had survived and that in many ways present policy had served them well.

As smaller entities, it was argued that niche stations would have lower audience levels and thus, resources to draw on. Such factors differentiated them sharply from larger and more mainstream stations. Expecting them to provide the same level and quality of service as the larger organisations was, therefore, construed as inequitable. One respondent suggested creating another category between 'commercial' and 'community' stations. This would be for 'specialist' stations, where quotas and requirements appropriate to the genre would be determined.

News and current affairs, it was argued, were of interest only to the older age groups. Youth services could therefore trim back the service provided with no ill effect to its target audience. Many respondents focused on the here-and-now with little attention being paid to long term consequences. What was missing, for example, was that provision of news and current affairs on youth stations might cultivate audiences for the future. Many argued that their audiences wanted or did not want news and current affairs coverage; few substantiated these arguments. One respondent focussed on this, arguing that there is a great need to carry out research to determine the reality of the news and current affairs provision, its impact on resources and to document the style and timing of services provided.²

* * * * *

No one accepted that current policy was perfect. Adjustments were suggested in many respects by those who wanted to abandon the policy and also by those who supported it. Change to the time frame to reflect alterations in life styles and working patterns was recommended. Similarly, a more imaginative approach to scheduling was raised, to remove the glut of early morning and drive time chat shows which were often at the expense of other material or music. Syndicated news was also raised. Over reliance on such service, it was argued, created bland coverage between stations and did not lead to diversity between services.

Throughout submissions reviewed, the listener received scant attention. Arguments made tended to hinge on increasing viability and profitability instead of quality of service provided. This led some to argue that an increase in the number of services on offer did not automatically equal quality of service provided. What was often missing was an appreciation that, irrespective of the services provided, individual listeners often received their news from only one source at a time. How derogations could

² Colum Kenny: web310.

potentially benefit listeners was given only brief consideration. This is, however, the basis upon which the BCI must assess applications for a reduction in news and current affairs provision.

Appendices

Appendix I

Extracts from: *Radio and Television Act, 1988* and the *Broadcasting Act, 2001*

Section 9.1 of the *Radio and Television Act, 1988* states that:

‘Every sound broadcasting contractor shall ensure that-

(c) a minimum of-

- (i) not less than 20 per cent. of the broadcasting time, an
- (ii) if the sound broadcasting service is provided is more than 12 hours in any one day, two hours of broadcasting time between 07.00 hours and 19.00 hours, is devoted to the broadcasting of news and current affairs programmes; provided a derogation from this provision is not authorised by the Commission under section 15 [of the 1988 Act].’

Section 15 of the 1988 Act states that:

Notwithstanding section 9 (1) (c), the Commission may authorise a derogation from the requirement in question in whole or in part in the case of sound broadcasting services which it contracts to provide in any area to meet specific special interests, provided it is satisfied that there is a reasonable plurality of sources of news and current affairs programming available to the public in question from other sound broadcasting services.

Section 15 of the 1988 Act was subsequently amended by Section 62 of the *Broadcasting Act, 2001*. This latter section states that

Notwithstanding section 9(1)(c), the Commission may authorise a derogation from the requirement in question in whole or in part in the case of a sound broadcasting service which a sound broadcasting contractor contracts to provide in any area, but only if it is satisfied that the authorisation of such a derogation would be beneficial to the listeners of sound broadcasting services in that area.

Submissions

Submissions

BEAT FM
Byrne, Liam
Cunningham, Ross
Dublin's Country 106.8FM
European Commission Representation in Ireland
FM104
Fox Radio Ltd.
Hambleton, Derrick
Independent Broadcasters of Ireland (IBI)
Institute of Advertising Practitioners in Ireland (IAPI)/ Association of Advertisers in
Ireland (AAI) – joint submission
Irish Congress of Trade Unions (ICTU)
Kenny, Dr. Colum
Kincade, Jack
Mid West Radio
Mullally, Michael
National Union of Journalists (NUJ)
NEAR fm
O'Shea, Liam
Phantom FM/Dublin Rock Radio Ltd.
Power FM
River Media (shareholders in Kfm and Ocean FM)
Ryan Media & Research Ltd., UK
Specialist Radio Association
SPIN 1038
Submission on behalf of UTV owned stations (Cork's 96 and 103FM; Limerick's
Live 95FM; Dublin's Q102; and LMFm)
TV3
TippFM
United Christian Broadcasters (UCB)
WLRfm