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Media Mergers Guidelines Consultation  
Media Mergers Applications  
Department of Communications, Energy and Natural Resources  
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Draft Guidelines on Media Mergers

Dear Justina,

Please find below the submission of the Broadcasting Authority of Ireland ("BAI") in response to your invitation for comments and/or observations from all interested parties on any or all of the issues outlined in the Draft Guidelines on Media Mergers ("draft Guideline") published recently.

At the outset it is important to state that the BAI welcomes the commencement of the Competition and Consumer Protection Act 2014 ("the Act") and the publication of the draft Guidelines. We believe these Guidelines, when finalised, will assist all stakeholders in submitting and considering proposals on the potential impact of proposed media mergers on plurality in the state. Broadly speaking, the draft Guidelines are sufficiently detailed to allow media businesses to make comprehensive submissions and to allow the Minister, and the BAI if required, to assess such proposals in the context of the statutory provisions. There are two areas, Section 2 and Section 5, that the BAI believes could be amended in order to provide greater clarity for all stakeholders and these are outlined below.

(a) Section 2

In the interest of clarity the BAI believes that the definition of "sector" in Section 2 should be aligned more closely with the legislative definition of "media business". The definition of "media business" in the Act is quite specific and the terms "sector" and "sectors" in the definition of "relevant criteria" reference the "media business" definition. The current draft may lead to some confusion about the scope of the "sector" definition. In addition it is noted that the "sector" definition as applied in the draft is referenced as a "media sector" and "media sectors" on some occasions. This could cause confusion and should be clarified and standardised.

(b) Section 5

The BAI believes that a number of the sections here could be combined to reduce the overall number of headings and to emphasise and reflect the interconnected nature of some of the areas being examined. It is important to point out that the relevant "media businesses" would nonetheless still be required to make a full and informative submission, as driven by the relevant sections in the Application Form. Suggested changes are outlined below:
1. Section 5.3 Governance and Section 5.4 Editorial Ethos could be combined into one section “Governance and Editorial Management”. This would reduce the headings for submission and evaluation. Some consolidation of the text in the two sections could be considered if this proposal is acceptable.

2. Sections 5.5, 5.6 and 5.7 could be combined into one section – “Content”. Similarly, some consolidation of the text in the two sections could be considered if this proposal is acceptable.

Should you have any queries on these points please contact me. I would also suggest that the final document should include some clarity in terms of the approach and timeframe to be adopted for reviewing the Guidelines.

Finally, the BAI tender process in relation to the research provided for in Section 28M will close shortly. I will keep you updated on progress in relation to this project during 2015.

Yours sincerely,

Michael O'Keeffe
Chief Executive