[IE] New Broadcasting Act

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Marie McGonagle
School of Law, National University of Ireland, Galway

The Broadcasting Act 2009 is a major piece of legislation, which overhauls Irish broadcasting law. It consolidates all previous content-related legislation in a single Act, comprising 185 sections, which are divided into 14 Parts, and two schedules. It sets the regulatory framework for broadcasting services in Ireland. The definitions of terms such as “broadcasting service” are updated (s.2, Part 1). A new regulator, the Broadcasting Authority of Ireland (BAI) is established. It replaces the Broadcasting Commission of Ireland (BCI) and the Broadcasting Complaints Commission (BCC), which becomes the Compliance Committee of BAI (Part 2). BAI is also given a role in respect of various aspects of the operation of the public service broadcasters, RTÉ and TG4.

The Act provides for five members of BAI to be appointed by the Government, while, in a new development, the other four members are to be appointed by the Joint Oireachtas (Parliament) Committee that examines matters relating to broadcasting. A list of criteria for membership of BAI or its Contracts and Compliance Committees is set out in the Act. It details various areas of expertise and requires that members have experience of, or have shown capacity in, one or more of these areas (s.9). The Minister must inform the Joint Oireachtas Committee of the relevant experience and expertise of the members being appointed by Government and the Committee in turn must give similar information in respect of its nominees. The Committee has 90 days to advise the Minister of its proposals. It intends to adopt a public application process.

Broadcasters’ duties are consolidated in Part 3. The ban on political advertising, religious advertising and advertising which has any relation to an industrial dispute is retained (s.41). A list of codes to be drawn up by BAI includes codes of programme standards and of advertising and related forms of commercial promotion. A list of factors to be taken into account in drafting such codes is set out. With regard to advertising codes, particular reference is made to children and to particular foods of concern in relation to general public health interests of children (s.42).

Part 7 of the Act deals with public service broadcasting, including the allocation of public funding, while Part 8 deals with the switchover from analogue to digital.

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Among the many other provisions in the Act are: a detailed right of reply (s.49, Part 4); the establishment of two new channels, an Irish Film channel and a Houses of the Oireachtas (Parliament) channel (Part 7); detailed provision for independent production and for a scheme for the granting of funds to support a specified range of programming under the Broadcasting Fund (Part 10); broadcasting and content provision contracts, as well as electronic programme guides and must-carry and must-offer obligations (Part 6); and issues of licensing, including the requirement of a licence for having a television set (Part 9). "Television set" is defined in the Act (s.140(1)) and an Order was made on 31 July 2009 providing for the classes of television sets that are exempted under the Act (s.142(3)). These are a "television set capable of exhibiting television broadcasting services distributed by means of the publicly available Internet" and a "portable television set", defined as being designed to be carried manually and capable of displaying an image of not more than 160 square centimetres.

The Broadcasting Act 2009 was signed into law on 12 July 2009 and the BAI was established on 1 October 2009.

Irish Broadcasting Act 2009

http://www.oireachtas.ie/documents/bills28/acts/2009/a1809.pdf

S.I. 389 of 2009, Broadcasting Authority of Ireland (Establishment Day) Order 2009

http://www.dcenr.gov.ie/Broadcasting/Broadcasting+Legislation

S.I. 319 of 2009, Television Licence (Exemption of Classes of Television set) Order 2009

http://www.dcenr.gov.ie/Broadcasting/Broadcasting+Legislation

Press release, "Minister Ryan establishes Broadcasting Authority of Ireland", press release of 30 September 2009

http://www.dcenr.gov.ie/Press+Releases/Minister+Ryan+establishes+Broadcasting+Authority+of+Ireland.htm

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