[IE] Right of Reply Scheme Introduced

IRIS 2011-7:1/28

Damien McCallig
School of Law, National University of Ireland, Galway

The Broadcasting Authority of Ireland (BAI) on 3 May 2011 published the BAI Right of Reply Scheme. The Scheme, which came into effect from 4 May 2011, provides for the broadcast of a Right of Reply Statement, which will facilitate the correction of incorrect information which has been broadcast and which has resulted in a person's honour or reputation being impugned. It will not be available in respect of incorrect facts that do not result in a person's honour or reputation being impugned. The Scheme applies only to the correction of facts and does not provide for the broadcast of an alternative or contrary opinion.

The BAI was required by section 49 of the Broadcasting Act 2009 to prepare a scheme for the exercise of the right of reply. As required by section 49(3) of the Act, a Draft Right of Reply Scheme was published in January 2011 and a short period of public consultation closed on 4 February 2011.

The aim and objective of the Scheme is to offer a timely, efficient and effective mechanism that is clearly understood, proportionate and fair to all sides. Exercising a right of reply is free of charge and it offers the individual an alternative to the legal route in order to correct the broadcast of incorrect facts about him/her. Utilising the Scheme does not prevent an individual from taking legal proceedings in relation to a broadcast. However a defendant in a defamation action may seek to lessen damages by giving evidence that he/she granted or offered a right of reply.

The Scheme under section 2 details the process for exercising a right of reply. This includes the requirement that the request must be in writing to the broadcaster and that the request must usually be made not later than 21 days after the date of broadcast. Section 2 also details the potential outcomes of a right of reply request. Where a decision to refuse a request has been made, the broadcaster must inform the compliance committee of the BAI.

Section 3 of the scheme describes the information a Right of Reply Statement should contain and the form the statement should take. As a general principle, a right of reply should be broadcast at a time and in a manner and with a prominence equivalent to that of the original broadcast.

A refusal of a right of reply request can be reviewed (section 4). The review request must be made in writing to the BAI Compliance Committee. A reviewable

© European Audiovisual Observatory (Council of Europe) 2026

decision to refuse can also arise where a broadcaster fails to make a decision within 10 days, if the form of a right of reply statement cannot be agreed or if a broadcaster refuses to broadcast a right of reply statement formerly agreed.

Where a refusal is annulled by the compliance committee a broadcaster must broadcast the decision within 7 days of being notified. If a broadcaster fails to broadcast the decision, the compliance committee can recommend that the BAI applies to the High Court for an appropriate order to ensure that the broadcaster complies.

The Scheme applies to all broadcasters regulated in the Republic of Ireland. It does not apply to broadcasters licensed in other countries but widely received in the Republic of Ireland. Under section 49(27) of the Broadcasting Act 2009 the BAI is required to review the operation, effectiveness and impact of the Scheme no later than three years after its operation and every five years thereafter or at such a time as requested by the Minister for Communications, Energy and Natural Resources.

Broadcasting Authority of Ireland, "BAI Right of Reply Scheme", 3 May 2011

http://www.bai.ie/pdfs/201105_rightofreplyscheme.pdf

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026