[IE] BAI launch public consultation on draft General Commercial Communications Code

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The Broadcasting Authority of Ireland (BAI) has launched a public consultation on a draft General Commercial Communications Code. The draft code "sets out the rules for Irish radio and television stations with regard to airing advertising, sponsorship, product placement and other forms of commercial broadcasting." The Code clarifies for broadcasters the definitions and exclusions of various forms of paid-for communications.

The BAI General Commercial Communications Code was introduced in 2010 under section 42 of the Broadcasting Act 2009 (see IRIS 2011-7/29). The BAI is required to review the effect of a broadcasting code every four years, under Section 45(3) of the Act. In 2015 the BAI completed a statutory review of the Code, which encompassed a number of strands of research including a legal and jurisdictional review of regulation in other countries and an operational review of the effect and impact of current Code. The key finding from the statutory review is that the current code is "broadly effective and its principles respected and understood". However, certain areas of the code require "consideration and modification". The rules on sponsorship and the extent to which the public engages with the Code are two such areas under consideration in the revised draft Code.

The revised draft code is divided into 22 sections and sets out the general rules and principles, definitions, and requirements regarding particular products and services on both radio and television. The code does "not apply to websites, online players or apps." The Code covers inter alia the advertising of food, alcohol, medicines, health services, financial services and products, cosmetic treatments, gambling, premium-rate telecommunications' services, teleshopping and prohibited communications. The draft code has proposed a series of changes to its rules, including removing a restriction on gambling companies mentioning "betting odds" in their adverts, although the draft code retains a ban on the mention of "promotional offers of odds". Rule 19.4 of the draft code states that "Commercial Communications that seek to promote services to those who want to gamble ... shall not contain anything deemed to be a direct encouragement to gamble". The word "direct" is not defined in the draft Code.

The draft code also contains a new prohibition in relation to commercial communications for electronic cigarettes (Rule 22.3), which derives from the

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Tobacco Products Directive (2014/40/EU) that was recently transposed into Irish Law under the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016 (see also IRIS 2016-5/21).

A key proposed change in the draft Code on the rules concerning "Sponsorship on Television, including competitions" is the addition of a new rule (rule 7.3). This new rule sets out a clear distinction between sponsorship and product placement, "wherein references to products or services built into the action of a programme will be considered product placement not sponsorship (where they meet the definition of paid or prop placement)". In contrast, sponsor announcements or references may be shown during a programme but must not be part of the plot or narrative of the programme. The draft Code also distinguishes between two types of product placement as provided for in the Audiovisual Media Services Directive (2010/13/EU) (Articles 1 and 11).

The closing date for public consultation on the draft General Commercial Communications Code is 20 September 2016.

Broadcasting Authority of Ireland, BAI Draft General Commercial Communications Code - Consultation Document, July 2016

http://www.bai.ie/en/download/131043/

Broadcasting Authority of Ireland, "BAI launches public consultation on draft General Commercial Communications Code", 1 August 2016

http://www.bai.ie/en/bai-launches-public-consultation-on-draft-general-commercial-communications-code/

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