# European Commission: Decision on financing and advertising behaviour of public service broadcasting

**IRIS 2017-9:1/6**

*Ronan Ó Fathaigh*
*Institute for Information Law (IViR), University of Amsterdam*

On 11 July 2017, the European Commission published its decision concerning the financing of public broadcasting in Ireland, following a complaint from a private broadcaster regarding alleged breaches of State aid rules under the Treaty on the Functioning of the European Union. Notably, the decision also concerns the competitive behaviour of public broadcasters in the advertising market.

The current system of State financing of public broadcasters RTÉ and TG4 in Ireland was approved by the European Commission in a 2008 Decision (see IRIS 2008-4/8), under which the Irish authorities agreed to implement a number of measures in order to bring the financing system into line with State aid rules. In order to implement these commitments, the Broadcasting Act 2009 was enacted (see IRIS 2009-10/18).

A complaint was lodged with the European Commission in August 2014 by a commercial broadcaster, News 106 Ltd, arguing that Ireland had not fulfilled the conditions of the 2008 Decision. The complaint concerned a number of alleged infringements of State aid rules, including the fact that (i) there was allegedly no proper oversight of RTÉ's accounting, governance and commercial strategy, (ii) a gap in the regulatory framework has allowed RTÉ to refuse on arbitrary grounds advertisements promoting its indirect competitors and to undercut prices offered for similar radio advertising products, and (iii) RTÉ did not respect market principles when carrying out commercial activities. However, in an eighteen-page decision, the Commission concluded that Ireland has complied with the 2008 Decision and the commitments contained therein.

Firstly, the Commission examined the independent supervision of RTÉ, and noted that all elements of the supervision commitments, as set out in the 2008 Decision, were implemented by the 2009 Broadcasting Act, including the establishment of the Broadcasting Authority of Ireland (BAI) as a supervisory authority. In this regard, the Commission considered that the BAI's review process ensures the effective supervision of RTÉ's operations, including its commercial activities. Secondly, the Commission also examined and rejected the allegation that RTÉ had been overcompensated by means of excessive public funding. The Commission also considered the complainant's allegation that RTÉ's commercial activities are not being carried out on market terms, arguing that RTÉ would refuse

© European Audiovisual Observatory (Council of Europe) 2026

advertisements of its indirect competitors on arbitrary grounds and undercut prices offered for similar radio advertising products. In this regard, the Commission examined RTÉ's Competing Services Guidelines, and noted that RTÉ allows competitors to broadcast advertisements on RTÉ which promote their services and the attributes of those services in a positive manner. Moreover, the Commission noted that the Guidelines state that "advertisements should not implicitly or explicitly, either denigrate or claim superiority over any other broadcasting service nor should exhort viewers to switch radio channels". Notably, the Commission considered that this limitation was intended to protect RTÉ's own commercial interest and that it was "inconceivable that any broadcaster, acting on market terms, would permit advertisements on its own services which specifically and overtly enticed viewers or listeners to switch to the competing broadcaster, thereby adversely affecting its market position and ability to earn revenue". The Commission concluded that there is no indication of a violation of the principle of market behaviour on the part of RTÉ by the refusal to run a certain type of advertising competitors.

Lastly, the Commission also rejected the complainant's argument that RTÉ undervalues prices of advertising on its online offerings.

***European Commission, Implementation of Commission Decision in case E 4/2005 - State financing of Radio Teilifís Éire Ann (RTÉ) and Teilifís na Gaeilge (TG4), C(2017) 5024 final, 11 July 2017***

http://ec.europa.eu/competition/state_aid/cases/254086/254086_1921800_301_2.pdf

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026