[IE] Broadcasting Authority publishes submission to public consultation

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On 24 June 2019, the Broadcasting Authority of Ireland (BAI), the country's independent regulator for radio and television broadcasters, published its submission to the Irish Government's "Public Consultation on the Regulation of Harmful Online Content on Online Platforms and the Implementation of the Revised Audiovisual Media Services Directive" (AVMSD (EU) 2018/1808). The public consultation was initiated by the Communications Minister, Richard Bruton, in March 2019, in response to the European Council's adoption of the revised AVMSD, which all EU member states are required to transpose into law by September 2020. The purpose of the consultation was to gather the views of all relevant stakeholders on key issues as part of the development of an Online Safety Act. The consultation sought views under "Four Strands", representing the different services and regulatory systems to be established or updated, comprising: "National online safety laws to apply to Irish residents; the Regulation of Video Sharing Platforms (VSPs); the Regulation of On-Demand Services; and Minor Changes to the Regulation of Traditional Television.' The BAI, in its extensive submission to the consultation, sets out its proposed regulatory approach in respect of the four key strands outlined in the consultation document.

The BAI submits that the statutory regulation of online videos and harmful online content for Irish residents can be "most effectively accomplished through the introduction of a single, comprehensive regulatory scheme and regulator" and that this would provide "an opportunity to develop a vision for the further regulation of media content across all platforms and services which at its heart seeks to serve and protect audiences and users in the new media environment." According to the BAI, the regulator should have regard to the wider objectives of content and services that serve citizens, such as "ensuring Diversity and Plurality, the promotion of Freedom of Expression, sustaining and enhancing democratic discourse and facilitating linguistic and cultural diversity." In addition, the BAI proposes that "a single regulator would provide consistency in the regulation at a time when the same content can be disseminated by multiple means." Furthermore, the regulator could act as a single point of contact for all other European regulators and various stakeholders thereby improving efficiency. The BAI is of the view that "given its extensive regulatory experience in the area of audio-visual regulation and its application of content principles across the sector,"

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it would be able to play a "leading role" in this scheme. Moreover, the BAI proposes that the new regulator "should have the power to rectify online harms by issuing harmful online content removal notices on behalf of Irish residents that have been directly affected by harmful content." The BAI, in its submission, also proposes "the development and enforcement of an online safety code, which would be applicable to key Irish online service providers in order to minimise harms generally."

On the issue of video-sharing platforms, the BAI notes that most of Europe's largest providers of video-sharing platform services, such as Facebook, Google and Twitter, are based in Ireland and submits that these platforms should be "directly regulated by a statutory regulator" and that the AVSMD rules should be implemented through legislation and statutory codes. The Broadcasting Authority is of the view that the "media regulator should be responsible for the development of high-level rules and regulation" and also for the assessment of the measures put in place by VSPs to implement those rules. Furthermore, the BAI considers that "a robust and transparent complaint system and independent appeals mechanism" would form part of that regulatory framework.

On the issue of the regulation of on-demand services, the BAI, in its submission, notes that the revised AVMSD "envisions a more level playing field in regulation between television broadcasting services and on-demand services like the RTE player or YouTube channels". The Broadcasting Authority proposes that the most appropriate means of introducing the revised Directive's new rules for on-demand services is through statutory regulation and codes, with the statutory regulator being assigned to the role of overseeing on-demand services.

On the issue of minor changes to the regulation of linear television broadcasting, the BAI states that "viewers and listeners in Ireland are served by a wide range of linear broadcasters all of whom play a valuable role in providing choice and diversity for Irish audiences." The Broadcasting Authority observes that 'the revised AVMSD requires member states to ensure a more level playing field in the audiovisual marketplace by increasing standards of protection rather than weakening them." Accordingly, the BAI proposes that "linear broadcasting should continue to be regulated as before, except to the extent that changes may be made pursuant to the revised Directive."

BAI - Submission to the Department of Communications, Climate Action & Environment Public Consultation on the Regulation of Harmful Content on Online Platforms and the Implementation of the Revised Audiovisual Media Service Directive'

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