



Coimisiún
na Meán

Guidance for Public Service Media on Codes of Fair-Trading Practice

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1. Introduction

This Guidance for Public Service Media on Codes of Fair-Trading Practice (“the Guidance”) is issued pursuant to Section 112 of the Broadcasting Act 2009, as amended (“the Act”)¹. The purpose of the Guidance is for Coimisiún na Meán (“An Coimisiún”) to provide a framework to assist Public Service Media organisations (“PSMs”) in the development and presentation of their Code of Fair-Trading Practice (“COFTP”), and to highlight key elements to which particular regard should be given.

The Guidance is issued at a pivotal moment for Ireland’s media sector. The industry is being reshaped by new hybrid-production models and both PSM organisations need to respond to rapid technological transformation, and major shifts in audience behaviour. Since the last iteration of this Guidance, Subscription Video on Demand (“SVOD”) services, global streaming platforms, and the personalisation of media consumption have fundamentally transformed the environment in which the PSMs and independent producers operate. In this context, the Guidance aims to support fair, transparent, and sustainable relationships between the PSMs and the independent production sector, from which they commission a significant proportion of their content.

Rooted in the legislative framework that defines our regulatory role, and in the statutory requirement for PSMs to develop their own Codes of Fair-Trading Practice with due regard to this Guidance, the Guidance seeks to reflect the evolving regulatory landscape, PSM public objects, independent commissioning quotas, and wider legislative developments that have impact on the production and creative eco-system.

We recognise the essential and complementary roles of independent producers and PSMs in Irish programme-making and creative leadership that delivers significant investment, technical expertise, facilities, and skilled personnel into the Irish economy. This Guidance seeks to ensure that all contributions are recognised and respected, and it encourages good-faith and transparent negotiations as PSMs develop their own Codes of Fair-Trading Practice, balancing the needs and legitimate interests of both sides. In line with An Coimisiún’s strategic goals and informed by extensive engagement with industry stakeholders and PSMs, this Guidance aims to foster a collaborative, accountable, and future-focused commissioning and production ecosystem that delivers high-quality content and strengthens Ireland’s media sector and cultural output.

This Guidance is effectively structured in two parts. The first sets out the governance context within which the Guidance has been developed, and the second comprises the substantive guidance provisions. The governance section outlines the relevant legislative context, the alignment of the Guidance with the broader regulatory framework and strategic objectives of An Coimisiún, and the approach adopted to stakeholder engagement and research. High-level key themes arising from this stakeholder engagement are included in an appendix for reference. The guidance section then sets out the guiding principles applied, followed by detailed consideration of each element of the Guidance.

¹ See [Broadcasting Act 2009 \(as amended\)](#).

2. Scope and Legislative Framework of the Guidance

2.1. SECTION 112 OF THE ACT:

This Guidance is developed pursuant to Section 112 of the Broadcasting Act, which aims to establish Codes of Fair-Trading Practice that govern interactions between the PSMs and the independent production sector in Ireland. Key requirements of Section 112 include:

1. Obligation to publish Codes of Fair-Trading Practice
 - Within 15 months of the passing of the Act, and every four years thereafter, RTÉ and TG4 must each prepare and publish a Code of Fair-Trading Practice explaining the principles of fair trade they will apply when commissioning programmes from independent producers.
2. Coimisiún na Meán Guidance
 - Within 12 months of the Act's passing, and every four years thereafter, Coimisiún na Meán, after consulting with the Minister for Culture, Communications and Sport ("the Minister"), RTÉ, TG4, and independent producers (or their representative groups), must prepare and issue Guidance to PSMs on the format of a PSM COFTP.
3. This Guidance should be general in nature.
4. Approval process
 - After considering An Coimisiún's Guidance, RTÉ and TG4 must each prepare a Code of Fair-Trading Practice and submit it to the Minister for approval.
 - The Minister, after consulting with An Coimisiún, may approve a PSM COFTP. Once approved, it comes into force, and the broadcaster must comply with it.
5. Content of the Codes of Fair-Trading Practice

A PSM COFTP must include its approach to:

 - Multi-annual commissioning.
 - Acquisition of rights – including how long rights last and whether they are exclusive.
 - Timetables for contract negotiations.
 - Dispute resolution – a PSM COFTP must provide a process for resolving disputes (e.g., independent arbitration or otherwise) in a way that the Minister considers appropriate.
6. Compliance oversight
 - Coimisiún na Meán must, if directed by the Minister, report to the Minister on whether a PSM is complying with its COFTP.
7. Cooperation on Marketing
 - RTÉ must work with independent producers to help market commissioned programmes internationally.

- 2.2 While a PSM must give due regard to the Guidance when updating its Code of Fair-Trading Practice, it must also remain cognisant that it does not operate in isolation and must adhere to its wider legislative obligations. A summary of some of those relevant legislative

provisions are set out below. This list is indicative only and where any ambiguity arises in respect of PSM's statutory obligations, legal advice should be sought. Statutory provisions include but are not limited to:

2.2.1 SECTION 116 OF THE ACT:

Section 116 is relevant in that it provides some key definitions relating to the independent production sector.

- Definition of what constitutes a Commissioned Independent Programme
 - An independent programme will only be considered as having been commissioned by RTÉ if, before production begins, RTÉ has legally agreed to cover at least 25% of the programme's production costs.
 - For the purposes of this guidance, Coimisiún na Meán considers that this threshold could also be applicable to TG4 and An Coimisiún recommends that TG4 should develop its COFTP accordingly.
- Definition of what constitutes an Independent Programme
 - An independent programme means a TV or radio programme made by someone who meets the following conditions:
 - (a) They, or people working directly under their control, make all the key decisions about:
 - (i) who will appear in the programme,
 - (ii) who will help make the programme, and
 - (iii) what equipment and facilities will be used to make it.
 - (b) They are not owned or controlled by a broadcaster, and
 - (c) They do not own or control a broadcaster themselves.

2.2.2 SECTION 7 OF THE ACT:

Section 7(3)(f) outlines Coimisiún na Meán's statutory requirement to "*promote and encourage environmental sustainability in the policies and practices of providers of broadcasting services, audiovisual on-demand media services, and relevant online services*".

2.2.3 EUROPEAN UNION ("EU") COPYRIGHT DIRECTIVE (2019):²

The EU Copyright Directive (2019) was transposed into Irish law in November 2021. To aid implementation of, and compliance with, the 2019 EU Copyright Directive in Ireland, industry guidelines ("[Interim Guidelines](#)") were drawn up and published by a collaboration of representative organisations³ to serve as an informational guide for producers, authors and performers.

² See [EU Copyright Directive \(2019\)](#).

³ Animation Ireland, Equity, Screen Composers Guild of Ireland, Screen Directors Guild of Ireland, Screen Producers Ireland and Writers Guild of Ireland with the support of Screen Ireland.

2.2.4 EU AUDIOVISUAL MEDIA SERVICES DIRECTIVE (“AVMSD”):⁴

Introduced in 2010, the AVMSD regulates audiovisual media across all EU member states. In 2018 the Directive was reviewed and updated to reflect technological developments and changing market conditions.

2.2.5 EU ARTIFICIAL INTELLIGENCE (“AI”) ACT:⁵

The EU AI Act is the world’s first comprehensive legal framework for regulating artificial intelligence. It introduces a risk-based approach to ensure AI systems are safe, transparent, and respect fundamental rights. The Act applies to any AI system used in the EU, regardless of where it is developed.

2.2.6 EUROPEAN MEDIA FREEDOM ACT (“EMFA”):⁶

EMFA is a legislative measure aimed at protecting media freedom and pluralism within the European Union. It established a framework to ensure that media services can operate freely across EU borders, promoting editorial independence and preventing undue political influence.

2.2.7 CLIMATE ACTION AND LOW CARBON DEVELOPMENT (AMENDMENT) ACT 2021:⁷

This legislation underpins the Government of Ireland’s annual [Climate Action Plan](#) that envisages the public sector leading by example on climate action to reach the target of reducing Ireland’s greenhouse gas emissions by 51% by 2030 and becoming climate neutral no later than 2050.

- Any new PSM COFTP should also be mindful of the work done as part of a PSM’s membership of [Sustainability Media Ireland](#).
- Any new PSM COFT should be mindful of the PSM’s own commitments under the Climate Action Framework for commercial state bodies to which they are party.

2.2.8 RELEVANT ACCESSIBILITY CODES AND RULES:

Other relevant Codes and Rules include, but are not limited to:

- Coimisiún na Meán’s Media Service Rules for Television Broadcasting Services (“Access Rules”)⁸
- National Disability Authority’s Code of Practice on Accessibility of Public Services and Information Provided by Public Bodies.⁹

⁴ See EU [Audiovisual Media Services Directive \(2018\)](#).

⁵ See EU [Artificial Intelligence Act \(2024\)](#).

⁶ See EU [European Media Freedom Act \(2024\)](#).

⁷ See Ireland’s [Climate Action And Low Carbon Development \(Amendment\) Act 2021](#).

⁸ See Coimisiún na Meán’s [Access Rules](#).

⁹ See National Disability Authority’s [Code of Practice on Accessibility of Public Services and Information Provided by Public Bodies](#).

2.3 POTENTIAL LEGISLATIVE CHANGES DURING THE LIFETIME OF THIS GUIDANCE AND ANY NEW PSM COFTP

Coimisiún na Meán is preparing this Guidance at a time when changes are being proposed to the Broadcasting Act by means of the General Scheme of a Broadcasting (Amendment) Bill (“the General Scheme”). While publication is still awaited following pre-legislative scrutiny, Coimisiún na Meán advises PSMs, when updating their Codes of Fair-Trading Practice, to consider current policy developments within planning of their new code where appropriate and reasonable.

3. Coimisiún na Meán’s Approach to Development of the Guidance

3.1 ALIGNMENT WITH AN COIMISIÚN’S VISION, STRATEGIC FOCUS AND VALUES

In accordance with our statutory remit, Coimisiún na Meán’s vision is for a thriving, diverse, creative, safe and trusted media landscape. As the independent media regulator, we are responsible for regulating broadcasters, video-on-demand providers and online platforms established in Ireland. Our wide-reaching remit also includes supporting and developing the Irish media sector. In striving to realise our vision, Coimisiún na Meán’s [Strategy](#) is focused on six key outcomes for the media landscape, as follows:

Children: A media landscape that upholds the rights, wellbeing and development of children and their safe engagement with content.

Democracy: A media landscape that supports democracy and democratic values, underpins civic discourse, and reduces the impact of disinformation.

Trust: A media landscape that consumers can trust, and where they are protected from exploitation and fraud.

Public Safety: A media landscape that strengthens public health and safety.

Diversity and Inclusion: A media landscape that promotes the values of justice, equality, diversity and inclusion.

Irish Culture and Media: A media landscape that is sustainable, pluralistic and participative, and that reflects and shapes who we are as a society.

Of particular relevance is our focus on Irish Culture and Media, with an aim to create a sustainable, pluralistic and participative media landscape. For Coimisiún na Meán it is vital that the Irish media sector is economically sustainable, supporting an innovative and creative production sector. The health of the independent production sector is intrinsically linked to that of the public service media organisations RTÉ and TG4, and in developing this Guidance we aim to support both PSMs in their work with the independent production sector and the creation and broadcast of high-quality, audience-focused public content.

Coimisiún na Meán’s values – **Trust, Impact, Independence, Courage, Integrity and being People-Focused** – determine our culture and the way we hold ourselves to account. Our values guide us in the implementation of our strategic objectives and in our engagement with the public and with those we regulate and support. As such, this Guidance is

underpinned by clear, credible and consistent regulation that is objective, impartial and delivered with honesty and transparency. It adopts a principled and practical approach that aims to support sector stability, embrace innovation and change, and remain firmly focused on listening to and supporting stakeholders.

3.2 STAKEHOLDER ENGAGEMENT AND CONSULTATION

Coimisiún na Meán has developed this Guidance following extensive consultation with the relevant statutory stakeholders and having had regard to its statutory functions, the objects of the PSMs and the interests of independent producers, viewers and listeners. All stakeholder submissions were given due regard in the preparation of this Guidance; however, the final content reflects the independent position of Coimisiún na Meán. High-level key themes arising from stakeholder submissions are summarised in Appendix 1. An Coimisiún carried out its consultation as follows:

3.2.1 Five-Year Review of Public Funding for Public Service Media

Future of Media Commission (FOMC) recommendation 5.10 called for both a review of how RTÉ's independent production account, provided for in Section 116 of the Act, was operated and for the minimum amount RTÉ spent in the independent sector to be set at 25% of public funding. An Coimisiún felt that the Five-Year Review was the best vehicle in which to conduct this review, and it was decided to widen the scope of the review to include aspects of TG4's engagement with the independent production sector. To inform this section of the Five-Year Review, An Coimisiún requested its external consultants to conduct both a quantitative survey and qualitative interviews with independent producers and associated trade bodies. Feedback from these interviews has been taken account of in the development of this Guidance.

3.2.2 Independent submission-gathering from key industry stakeholders

An Coimisiún gathered additional feedback from key industry stakeholders to further inform this Guidance. A questionnaire was circulated to stakeholders to elicit views on the following areas:

- Impact of Current Guidance
- Sustainability of the Sector and Growth of the Ecosystem
- Value of Investment (Irish Audiences and Culture)

Respondents were asked to consider (non-exhaustive) key questions to guide the feedback process and to submit a response to Coimisiún na Meán to aid us in our drawing up of this updated Guidance.

Individual responses are not cited in this document but have been brought together to form a more overarching industry view of how the Codes of Fair-Trading Practice have been operating and how they might best operate into the future.

3.2.3 Feedback from other statutory stakeholders

An Coimisiún consulted with RTÉ and TG4 to gather their views on how the PSM Codes of Fair-Trading Practice have been implemented and adhered to and how they have influenced

the development of the Irish independent production sector. An Coimisiún also consulted with both PSMs and the Minister on the development of the revised guidance.

4. Guiding Principles

The purpose of this Guidance is to support the development and implementation of effective Codes of Fair-Trading Practice by PSM organisations. PSM Codes of Fair-Trading Practice play a central role in ensuring that the respective contributions of both the PSM and independent producers to the programme-making process are recognised, respected, and appropriately balanced. Coimisiún na Meán encourages all negotiations between PSMs and independent producers to be conducted in good faith, with a shared commitment to fair dealing and mutual understanding of each party's interests and needs.

A number of key principles underpin the expectations for PSM Codes of Fair-Trading Practice.

4.1 FLEXIBILITY

A PSM COFTP should be sufficiently flexible to adapt to changing market conditions, technological developments, and the evolving interests and needs of audiences. This flexibility enables PSMs to continue fulfilling their public service role in a dynamic media environment while supporting innovation in independent production.

4.2 CERTAINTY AND TRANSPARENCY

While flexibility is important, independent producers must also be able to rely on a clear degree of certainty when engaging with a PSM. A PSM COFTP should therefore provide transparent information on the terms, processes, and conditions under which programmes are commissioned. Transparency should underpin all interactions between broadcasters and independent producers, helping to ensure fairness, predictability, and consistency in commissioning practices.

4.3 FAIRNESS

A PSM COFTP must ensure that neither the PSM nor the independent producer is disadvantaged in their dealings with one another. Fairness requires that each party's rights, interests, and contributions are recognised and respected, and that processes relating to commissioning, contracting, rights, and commercial arrangements operate on equitable and balanced terms.

4.4 PUBLIC SERVICE OBJECTS

A PSM COFTP may include provisions that assist a PSM in achieving its public service objects under the Act. This allows the COFTP to support the statutory role of the PSM while ensuring that compliance with these obligations is carried out in a manner consistent with fair-trading principles.

4.5 COMMERCIAL OBLIGATIONS AND EXPECTATIONS

A well-constructed PSM COFTP must also acknowledge the commercial realities faced by both PSMs and independent producers. Recognising the statutory obligations of PSMs to fulfil their public service objects, and the legitimate commercial expectations on both sides, a PSM COFTP shall provide for appropriate profit-sharing from any commercial exploitation of the commissioned programme. This ensures that both the PSM and the independent producer can benefit fairly from the success of the content they jointly bring to audiences.

4.6 SUPPORTING INNOVATION

A PSM COFTP should further audience interests by supporting investment and innovation in content and ensuring it is efficiently distributed and widely available to viewers.

4.7 AVAILABILITY AND ACCESSIBILITY

A PSM COFTP, along with any associated documentation, should be clearly published, easy to find and accessible on the PSM's website. Producers should be informed of a PSM COFTP in advance of any contractual discussions. We also believe that producers whose primary language is Irish would benefit from access to an Irish-language version of the COFTP, and we therefore encourage PSMs to make their Codes of Fair-Trading Practice available in both Irish and English.

5. Guidance for PSM on a Code of Fair-Trading Practice

The structure of this Guidance aligns with the requirements of Section 112 of the Act, which specifies the matters a PSM must address in its Code of Fair-Trading Practice. In addition, as previously outlined in Section 2.2, PSM should ensure adherence to wider legislative requirements, and they must be given due consideration in the development of an updated PSM COFTP.

In line with Section 116 of the Act, which defines an independent commissioned programme, this Guidance considers that a PSM's Code of Fair-Trading Practice should apply once the PSM has legally agreed, before production begins, to invest at least 25% of the cost of the production. An Coimisiún, however, is cognisant that this threshold or definition may be subject to change during the lifetime of the Guidance.

5.1 RIGHTS

In recognition of the contribution of independent producers, the starting point for this Guidance and for any PSM Code of Fair-Trading Practice is that, in general, an independent producer should retain ownership of the rights in a programme commissioned by a PSM, unless those rights are expressly acquired by the PSM or another party.

5.1.1 Categories of Rights

A PSM COFTP shall contain a clear statement of the various categories of rights. While Coimisiún na Meán recognises that rights categories may vary across broadcasters and circumstances, a PSM COFTP shall, at a minimum:

- Distinguish between primary rights and any other applicable rights categories.
- Explain how each category of rights operates within the PSM's commissioning framework.
- Indicate any variations in rights that apply to different genres, platforms, or distribution models.
- Describe the principles that will apply to returning series or strands (series that are linked by a theme, narrative or format) during the licence period of the commissioned programme.

This information shall be sufficiently detailed to provide transparency and certainty for independent producers.

5.1.2 Primary Rights

- A PSM COFTP shall define primary rights as including exclusive acquisition by a PSM of all platform rights for the island of Ireland (IOI) for an agreed period, with availability terms negotiated between the parties.
 - In exercising this exclusivity, PSMs shall take care not to unduly restrict producers from exploiting secondary rights or to negatively impact fair competition.
- Where appropriate, it is encouraged that additional limited rights be included to enable a PSM to fulfil its statutory public service objects, including services for Irish communities outside the island of Ireland. These rights shall not exceed what is necessary for that purpose unless otherwise agreed.
- The typical duration for primary rights shall be five years, unless otherwise agreed.
- A PSM COFTP shall outline the process for extending primary rights, including the period and terms of extension, with negotiations conducted through the regular commercial process.

5.1.3 Other Rights

- Rights beyond primary rights shall be negotiated separately between the PSM and the independent producer, should both parties wish to agree on such rights.
- There shall be no automatic bundling of primary and other rights unless explicitly agreed by both parties.

5.1.4 Archiving

A PSM COFTP shall specify archiving arrangements, ensuring that programmes commissioned by PSM are preserved in line with statutory obligations¹⁰ and agreed terms, while respecting the rights of independent producers.

¹⁰ All rights conferred on a PSM should allow it to comply with the obligations placed on it by the Act, including, in particular, the provisions of Sections 111, and 114(1)(e) or 118(1)(e).

5.1.5 Commercial Exploitation and PSM Co-operation

- Recognising both the statutory obligations of PSM and the legitimate commercial expectations of independent producers, a PSM COFTP shall provide for fair and transparent profit-sharing between the parties from any commercial exploitation of commissioned programmes. Full details of any commercial exploitation plan should be provided for at the contracting stage.
- In fulfilment of Section 112(12), a PSM COFTP shall specify its requirement and commitment to cooperation in the marketing of any sound and audiovisual programme¹¹ commissioned from independent producers, outside the State.
 - While Section 112(12) of the Act refers only to RTÉ, this Guidance considers that TG4 shall outline similar measures in their COFTP to reflect the changing media landscape and the opening up of international markets to Irish Language programming.

5.1.6 Usage

- A PSM COFTP shall provide that a commissioning PSM shall, during its licence term, be permitted to broadcast short extracts from a commissioned programme for use in promotion of the programme.
- A PSM COFTP shall provide a mechanism which facilitates the use by a commissioning PSM, of some or all of the content of a commissioned programme, in a separately produced programme. Agreement on usage rates shall be addressed at contract stage.

5.2 COMMISSIONING PROCESSES

A PSM Code of Fair-Trading Practice shall clearly and comprehensively set out all relevant information relating to its commissioning processes. This information may be included within the main body of the COFTP or, alternatively, provided through a dedicated appendix or a clearly accessible online link. This section shall include, but is not limited to, the following:

5.2.1 Categories of Rights

As outlined above in section 5.1.1, a PSM COFTP shall clearly outline all categories of rights relevant to commissioned content.

5.2.2 Multi-Annual Commissioning

A PSM COFTP shall set out the principles guiding the PSM's approach to multi-annual commissioning. This section shall explain, at a minimum:

- Any expectations, obligations, or funding structures associated with multi-year agreements.

The aim is to ensure clarity and predictability for producers engaged in ongoing or long-term projects.

¹¹ This wording is taken from new definitions wording in the General Scheme of a Broadcasting (Amendment) Bill (2025).

5.2.3 Production Funding

In the interests of transparency, a PSM COFTP shall clearly outline the PSM's principles on, and approach to, the negotiation of production funding to be provided by the broadcaster. This section shall include, but is not limited to, the following:

- Details of how funding decisions are made and the factors which determine the level of funding.
- Clarity on what elements are typically included within a production funding package.
 - Typically, a production fee shall be included within the overall production funding provided. A PSM COFTP shall explain how this fee is determined and any relevant constraints or policies governing its calculation.
- Details of any obligations or expectations associated with the provision of broadcaster funding, including, but not limited to, programme access provisions.
- A reasonable level of information on the standard price ranges and indicative tariffs a PSM offers for particular genres, the methodology they will use to draw up standard price ranges and indicative tariffs and the arrangements the PSM will use for publishing a list of indicative tariffs to ensure this information is available to producers in advance of any negotiations.

5.2.4 Timetable and Process for Commissioning and Contractual Negotiations

A PSM COFTP (or directly linked documentation) shall outline its terms of business relating to programme commissioning. This shall include, but is not limited to, clear and accessible information on the following:

- How commissioning proposals should be submitted, including format, required materials, and any preliminary engagement steps.
- A broad overview of the timeline for assessing proposals and making commissioning decisions.
- Identification of the individuals or roles within the organisation responsible for evaluating proposals and making decisions.
- The process and timeline for negotiation and conclusion of contracts once a proposal has been approved.
- Indication of any information needed by the PSM from producers for them to fulfil statutory reporting and transparency requirements.

Coimisiún na Meán considers that the language (English or Irish) of negotiation of a contract shall be the definitive contract language in case of any query or dispute.

An Coimisiún encourages the provision of template contracts and Plain English guides where possible to aid transparency and understanding.

5.2.5 Expeditious Completion of Contracts

A PSM COFTP shall include a formal commitment to the timely completion of contract negotiations. Typically, a PSM and an independent producer should expect that all

negotiations will be concluded at least one month prior to the commencement of recording or principal photography for the commissioned programme. This standard promotes certainty, reduces production risk, and supports efficient planning.

5.3 TECHNOLOGICAL ADVANCEMENTS AND ADAPTATION OF A PSM COFTP

A PSM Code of Fair-Trading Practice shall include clear provisions on how the PSM will respond to significant technological developments that may affect commissioning practices, rights exploitation, programme delivery, or commercial models within the audio and audiovisual sectors. As the industry continues to evolve rapidly, it is essential that a PSM COFTP remain relevant, practical, and capable of addressing new technologies in a fair and transparent manner.

5.3.1 Monitoring and Identification of Relevant Technological Change

A PSM COFTP shall outline the PSM's commitment to monitoring emerging technologies and assessing their potential impact on the production and distribution environment. This may include, but is not limited to, developments in areas such as:

- AI generated content
- AI tools
- Digital platforms
- Content personalisation
- Data usage
- Production technologies, or
- New modes of audience engagement.

5.3.2 Pre-Agreed Threshold for Review

To ensure predictability for independent producers, A PSM COFTP shall specify that updates or adaptations will be triggered when a new technology reaches a pre-agreed level of impact on the industry. This threshold should be determined through consultation and negotiation between the PSM and the independent production sector and may include, but is not limited to, criteria such as:

- Demonstrable adoption of the technology across a substantial portion of the sector;
- Material effects on production practices, costs, or workflows;
- Changes to rights exploitation models or revenue opportunities; or
- Implications for programme delivery, archiving, or audience access.

Once this threshold is met, the PSM shall initiate a review of relevant sections of the COFTP.

5.3.3 Process for Updating a PSM Code of Fair-Trading Practice

A PSM COFTP shall describe the process by which updates will be made, including, but not limited to:

- Engagement with the independent production sector to identify the implications of the technological change.

- An assessment of whether commissioning, contracting, rights frameworks, or funding structures require adjustment.
- Transparent communication regarding proposed modifications.
- The publication of amendments or supplementary guidance in a timely and accessible manner, in line with point 5.6 below.

5.4. SUSTAINABILITY MEASURES

- 5.4.1 A PSM Code of Fair-Trading Practice shall include provisions ensuring that sustainability measures are mandatory components of all production plans and that these complement the requirements of the Climate Action Plan and the work done as part of a PSM's membership of [Sustainability Media Ireland](#).

These provisions should reflect the shared responsibility to promote and encourage environmental sustainability in the policies and practices of the PSMs and independent producers.

- 5.4.2 At a minimum, any new PSM COFTP shall require or encourage, as appropriate:

- The inclusion of practical measures to improve the environmental sustainability of productions, including the use of a recognised carbon calculator and associated certification and/or verification processes.
- Actions that positively contribute to Ireland's legally binding commitment to reduce greenhouse gas emissions by 51% by 2030 (relative to 2018 levels), as set out in legislation.
- Initiatives that support the transition towards Net Zero greenhouse gas emissions by 2050.
- Consideration of carbon budgeting as a tool for managing and reducing emissions, including the potential for reduced carbon budgets where a production is recommissioned.

These provisions shall support the integration of sustainability considerations throughout the production lifecycle and encourage continuous improvement in environmental performance across the sector.

5.5 DUTY OF CARE PROVISIONS

- 5.5.1 A PSM Code of Fair-Trading Practice shall include provisions ensuring that duty of care measures for staff and contributors are mandatory components of all production plans. These provisions should reflect the PSM's and the independent producer's shared responsibility to safeguard the wellbeing, dignity, and safety of all individuals involved in the creation of commissioned content.

- 5.5.2 At a minimum, any new PSM COFTP shall require:

- Clear and robust duty of care policies to be identified and incorporated into production documentation.

- Appropriate measures to protect staff and contributors during all stages of production, including pre-production, filming, post-production, and promotional activity.
- Systems for reporting, managing, and addressing any concerns related to wellbeing, safety or conduct.

These requirements shall help to ensure that professional standards are upheld and that all participants are treated fairly, respectfully, and in accordance with recognised industry best practice.

5.6 AMENDMENTS TO A PSM COFTP

Where a PSM proposes to revise and publish an amendment to its Code of Fair-Trading Practice (including as outlined above in, but not limited to, section 5.3) pursuant to Section 112(11) of the Act, the Minister shall consult with Coimisiún na Meán on any proposed revisions. In providing its views, An Coimisiún shall have regard to whether the proposed amendments are consistent with this Guidance. A PSM shall also provide Coimisiún na Meán with any information necessary to support its evaluation of any proposed new or revised PSM COFTP.

5.7 DISPUTE RESOLUTION

- 5.7.1 Pursuant to Section 112(9) of the Act, a PSM shall, either in its COFTP or a related document, set out procedures for the resolution of a dispute arising in respect of the provisions of its COFTP. The mechanism proposed for resolving such a dispute, whether by mediation, arbitration or otherwise, shall be clearly specified. It is not envisaged that Coimisiún na Meán shall act as a mediator or arbiter in any dispute.
- 5.7.2 Any dispute resolution procedure shall ensure that costs are minimised, so that neither an independent producer nor a broadcaster is disadvantaged by the expense of such a procedure.

5.8 REPORT TO THE MINISTER ON COMPLIANCE BY A PSM WITH ITS COFTP

Should the Minister direct Coimisiún na Meán to report on compliance by a PSM with its COFTP pursuant to Section 112(10) of the Act, it is expected that the relevant broadcaster shall co-operate with An Coimisiún in respect of any request for information in accordance with their statutory obligation under section 110(3) of the Act. This may include, without limitation, information on the number and nature of independent commissions, the timeframe for the conclusion of contracts, the nature and duration of rights and the nature and resolution of disputes which have arisen.

6. Provision for Review of Guidance

In accordance with Section 112(2) of the Act, Coimisiún na Meán shall review this Guidance no later than four years after its publication.



7. Appendix 1: Key Themes from Stakeholder Submissions



Key Themes from Industry Consultation Submissions



Sector at a Critical Juncture

Independent production in Ireland is at a turning point, with concerns about overreliance on PSMs and risk of becoming an outsourced hub rather than fostering indigenous creativity.

Calls for greater Exchequer funding to strengthen domestic production, including parity of funding of Irish and English programming.



Need for Ecosystem Rebalance

Opportunity to diversify voices and reduce dependence on traditional broadcasters through measures like content levies, continued tax incentives, and digital-first funding.



Importance of Codes of Fair-Trading Practice

Codes of Fair-Trading Practice provide structure, transparency, and rights retention for producers, which supports reinvestment and sustainability. Stakeholders want these protections maintained.



Updating and Modernising Codes of Fair-Trading Practice

Current Codes of Fair-Trading Practice are outdated and need regular updates.

Must address emerging issues like AI, copyright alignment with EU standards, and safeguarding provisions.



Intellectual Property and Innovation

Stronger emphasis needed on Irish-owned IP and original formats to reduce reliance on imported concepts and encourage creative risk-taking. Consideration should be given to reducing the 25% PSM investment threshold for a PSM COFTP to apply. This would reflect modern co-production models and protect Irish IP.



Commissioning Challenges (High Level)

Concerns about access, fairness, timelines, and financial sustainability across commissioning.



Key Themes from TG4 Consultation Submission



Overall Positive View of Guidance

TG4 believes existing Guidance has worked well but requires targeted updates in key areas, most of which are outlined below.



Regulatory and Policy Alignment

Need to address:

- Updating in line with recent amendments to Broadcasting Act 2009
- EU AI Act transparency requirements (effective August 2026).
- Increased funding to meet public service objectives.
- Implementation of Future of Media Commission Recommendation 7.1.
- Compliance with European Media Freedom Act (EMFA) provisions.
- Commencement of prominence rules for discoverability of public service content.



Minority-language Considerations

Guidance should better reflect TG4's statutory remit to promote and protect the Irish language.



Extension of Primary Rights Term

Recommendation to increase rights term from 5 to 7 years for minority-language PSM.



World-wide Rights as Default

TG4 proposes global rights should be assumed unless otherwise negotiated, supporting diaspora access.



Abolition of Clip Fee

TG4 maintains clip fees hinder archive reuse and visibility of Irish-language content.



Key Themes from RTE Consultation Submission



Regulatory Approach

Current Guidance seen as effective and complementary; RTE cautions against overly prescriptive regulation that could undermine flexibility and competitiveness.



Rights Framework

Supports existing rights model for value and universal access; advocates platform-neutral rights for futureproofing.
Notes practice of allowing non-exclusive resale before end of primary rights term.



Impact of Global Platforms

Significant growth of SVOD and multinational audio platforms has reshaped the market, raised audience expectations, and increased financial pressure on domestic producers.
These platforms rarely prioritise indigenous stories, reinforcing PSM's role in addressing market failure.



Funding Needs

Emphasises need for adequate funding to sustain Irish-centred programming amid global competition.
Welcomes policy measures like increased independent production spend and new tax credits.

