



Coimisiún
na Meán

Response to Consultation: Code of Fair-Trading Practice

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1. Introduction

Pursuant to Section 112 of the Broadcasting Act 2009, as amended (“the Act”), Coimisiún na Meán (“An Coimisiún”) is required to prepare and issue Guidance (“the Guidance”) to Public Service Media (“PSM”) organisations RTÉ and TG4 in relation to Codes of Fair-Trading Practice (“COFTP”, “the Code(s)”). The purpose of the Guidance is for Coimisiún na Meán to provide a framework to assist RTÉ and TG4 in the development and presentation of their respective Codes of Fair-Trading Practice, and to highlight key elements to which regard should be given. The Codes govern the interactions between the PSMs and the independent production sector, setting out the principles of fair trade to be applied when commissioning programmes from independent production companies.

Section 112 of the Act requires Coimisiún na Meán to develop Guidance every four years. RTÉ and TG4 are required to consider the Guidance and, having done so, to prepare a Code of Fair-Trading Practice, submitting it to the Minister for approval. Once approved, the Code comes into force, and the broadcaster must comply with it.

1.1 Stakeholder Engagement and Consultation

In this context, Coimisiún na Meán engaged with industry stakeholders to carry out targeted consultation to inform the development of the Guidance. Consultation took place in three main phases across 2025, and further detail is provided below:

1.1.1 Consultation as part of 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 considered 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 and stakeholder consultation was conducted between March and May 2025. Relevant feedback from the Five-Year Review consultation was taken into account in the development of the Guidance.

1.1.2 Targeted submission-gathering from key industry stakeholders

Between April and November 2025, An Coimisiún gathered additional feedback from key industry stakeholders to directly inform the development of the 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 in its drawing up of the updated Guidance.



Individual responses are not cited in this Response to Consultation 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.

1.1.3 Feedback from other statutory stakeholders

In December 2025, Coimisiún na Meán consulted with RTÉ and TG4 to gather their views on how the PSM Codes of Fair-Trading Practice have been implemented and adhered to in the past 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.

1.2 Summary of Consultation Responses and An Coimisiún Actions

This Response to Consultation document provides a summary of the main issues raised in submissions and feedback received by Coimisiún na Meán. Section 2 of the document sets out key themes emerging from consultation with industry stakeholders and Section 3 sets out key themes emerging from consultation with RTÉ and TG4.

Informed by the above consultation and having had regard to its statutory functions, the objects of the PSMs and the interests of independent producers, viewers and listeners, Coimisiún na Meán has now drafted its Guidance. All stakeholder submissions were given due regard in the preparation of the Guidance; however, the final content reflects the independent position of Coimisiún na Meán.

2. Key Themes from Industry Stakeholder Consultation

Consultations with industry stakeholders revealed a commonly held belief that Ireland's independent production sector is at a critical turning point, particularly with RTÉ's move towards a hybrid-production model under its current strategy¹. Stakeholders noted that the COFTP has not achieved the broad and transformative impact seen in the UK, leaving the sector still heavily dependent on a small number of PSM commissioners and government supports that often favour large international players over indigenous creative development. Producers argue that greater Exchequer investment in PSMs remains essential to strengthening domestic production capacity, including securing parity of funding between Irish- and English-language content. Meanwhile, existing tax incentives and increasing global production activity risk positioning Ireland primarily as an outsourced production hub, rather than cultivating a diverse, culturally rooted, and creatively autonomous industry. With the growing importance of non-traditional platforms, there is now an opportunity to rebalance the ecosystem, through measures such as the introduction in Ireland of the content levy as provided for in the AVMSD, extending the Section 481 *Scéal*/ uplift, developing new regulatory frameworks, and directing a portion of public funding to producers for digital-first content (likely through the forthcoming Media Fund as outlined in the General Scheme of the Broadcasting (Amendment) Bill), to reduce over-reliance on traditional broadcasters and expand the range of Irish voices represented in the media.

¹ Hybrid-Production Model - RTÉ is moving towards only producing News & Current Affairs, Sport and Special Events coverage in-house, with all other genre/programming being produced by the independent sector.

However, despite their views on this overreliance there was a generally positive view of RTÉ, TG4 and their respective existing Codes of Fair-Trading Practice. Stakeholders emphasised that the Codes play a vital role in the independent production sector, providing a structured framework for negotiation, helping to address power imbalances between producers and broadcasters, and enhancing transparency across the commissioning process. They also recognised the Codes as aiming to set clear standards and expectations for both parties. Importantly, stakeholders highlighted the value of the Codes in regulating rights ownership within RTÉ and TG4 commissions, allowing producers to retain and monetise certain rights. They also highlighted how the revenue this generates is then frequently reinvested into new creative projects, and it was hoped that any updated Codes would continue to prioritise rights retention for producers.

Alongside these benefits, however, a number of recurring issues and challenges were identified during the consultation process. While some of these issues pertained directly to the Codes themselves, others were more concerned with the practicalities of working with the PSMs on independent commissions. Commissioning issues are not directly within the scope of Coimisiún na Meán's Guidance but are worth highlighting here for contextual purposes.

2.1 Issues and Challenges with the Existing Guidance and PSM Code

First and foremost, all stakeholders mentioned how the existing Codes are outdated and not flexible enough to keep pace with rapid technological changes in the industry and beyond. RTÉ's agreement dates back to 2013 and most stakeholders believed it does not reflect the realities of the industry as it currently stands. While TG4's Code is more recent, coming into effect in 2021, it was felt that nonetheless both need to be updated.

Stakeholders called for both the Guidance and the existing PSM Codes to be updated more regularly than every four years (as is currently in statute) or at least to allow for a mid-term update to take account of any major developments in the industry.

Stakeholders specifically pointed out that the existing Codes do not address AI opportunities/challenges. Stakeholders suggested that the new Codes should:

- Address copyright issues related to AI-generated content in the new Codes.
- Help to develop a clear framework to guide how artificial intelligence is used in PSM-commissioned content and that this should be jointly agreed by both PSMs and producers.
- Stakeholders called for the mediating of such an agreement to be part of the regulatory role, along with other similar agreements once a new technology had reached a threshold of impact on the sector.
- Consider prioritising human creativity by not using generative AI in animation production.
- Consider mandating the introduction of a labelling system to indicate whether AI was used in a production.

Stakeholders called for the new Codes to adopt the Interim Guidelines of the European Copyright Directive² citing it as essential to ensure alignment with EU standards and to continue to return Intellectual Property (IP) to the producer after the initial five-year term.

² See: ['Implementation of the European Copyright Directive - Industry Interim Guidelines for Producers, Authors and Performers in the Irish Screen Industry'](#) (January 2025).



Many stakeholders also noted that the current requirement for a PSM to cover 25% of a production's budget in order for the Codes to apply should be reduced, reflecting modern international co-production models.³ They argued that lowering this threshold could help to ensure that more Irish intellectual property (IP) remains in Ireland, especially if the new Codes had clearer provisions for protecting and retaining Irish IP.

There was a call for provisions to be clearly outlined in the new Codes to ensure the safeguarding of young and vulnerable staff and participants, including consideration of standardising Garda vetting across productions.

Specifically related to RTE's COFTP, stakeholders raised concerns regarding the following:

- The clause outlining how cumulative producer fees could be determined by the total volume of commissioned work a production company receives from RTE, describing this approach as unfair. They believed the metric presumed economies of scale; however, stakeholders emphasised that such efficiencies are not always achievable across different projects, even within the same production company. They further noted that this model could discourage producers from pursuing smaller, culturally significant commissions once they exceed a certain threshold, as doing so may no longer be financially viable.
- The practice of negotiating terms after a commission has taken place and basing them on custom and practice rather than on the existing Codes.

And in the case of TG4's Codes, many stakeholders said that some of TG4's own contracts go against the spirit and letter of their Codes. One example cited saw a producer receive a contract where the rights were not returned to them after the five-year term but rather assigned to TG4 in perpetuity. This was done without any prior negotiation or knowledge of the producer.

Most concerns, however, centred on the practical application and consistent implementation of the Codes in the commissioning process. Some of these concerns were experienced in dealings with both PSMs but others were individual to either RTE or TG4 directly.

2.2 Issues and Challenges Pertaining to Both PSMs' Commissioning Processes

There was a general perception that commissioning processes require better communication.

While the Codes and subsequent commissioning guidelines of both broadcasters outline indicative timelines and procedures, it was the experience of many stakeholders that these timelines were not adhered to and that this caused undue uncertainty and planning difficulties for producers awaiting decisions. These delays were often compounded by further delays at the contracting stage when producers had queries on the terms of the contracts. Again, it was highlighted how these delays often caused increased burden and financial strain on producers in the interim period awaiting resolution.

Suggestions to remedy confusion and delays to the contracting stages included the following:

³ Note: this 25% threshold is currently enshrined in the Act so any changes to it would require new legislation.



- Template contracts could be shared in advance; currently producers only see them after being commissioned, which limits early understanding of obligations.
- Plain English (or Plain Irish) versions of legal documents could help clarify producers' legal obligations.
- Ensure consistent contract terms across similar projects.

Most stakeholders believed the commissioning process of both PSM was difficult to access for many producers, particularly new entrants. There was a perception that only a small number of bigger companies were being awarded the majority of RTÉ's commissions, leaving little room for other companies to get enough work to remain sustainable. A similar view was levied at TG4 though this was compounded by multi-annual commissioning contracts. While in theory most stakeholders were in favour of multi-annual contracts in order to allow companies to grow and employees to have security, it was noted that when only a few key companies are getting those multi-annual contracts, it locks others out for a longer period. Many stakeholders also considered that this had an impact on the levels of diversity and plurality of voices on air.

A key challenge many stakeholders wished to emphasise was the insufficient levels of production budgets with most citing how budgets were not keeping pace with inflation and the rising cost of living. It was a commonly held belief that low budgets deterred many producers from entering the sector, particularly those from economically challenged or diverse backgrounds. It was also felt that this had a similar effect on the attraction and retention of both production and technical staff. Many stakeholders also pointed out that these already stretched budgets did not take adequate account of the level of effort and expense that goes into social media contractual obligations.

One suggestion to mitigate this, other than more public funding, was that greater transparency around budget expectations at the commissioning stage could prevent producers from significantly undercutting even themselves, in an attempt to gauge a broadcaster's budget level; however, this would need to be paired with a commitment from broadcasters to recognise that pushing every producer to their financial limit is unsustainable for the sector and ultimately harms the industry as a whole. This is even more relevant in light of RTÉ's strategic goal for a hybrid-production model with the majority of its programming coming from the independent sector within the next five years.

Stakeholders noted that, while the Codes acknowledge the importance of producers retaining certain rights to support economic activity and sectoral sustainability, a broader issue persists around IP. Specifically, some stakeholders highlighted an overreliance on imported formats, which disproportionately benefits larger companies with the resources to negotiate territorial rights and simultaneously reduces the development of original Irish IP. This limits long-term returns for both producers and PSMs, diminishes opportunities for third-party sales, and contributes to a risk-averse commissioning culture that places insufficient emphasis on innovation and new ideas.

Recommendations to mitigate these issues included:

- Updating the Codes to explicitly support the creation, development, and exploitation of Irish-owned IP.
- Evolving PSM commissioning processes so they foster a culture of greater risk taking and prioritising the development of original Irish IP with the potential to travel internationally.



- Placing a cap on the number of international formats a PSM can feature, creating space for commissioners to take more risks on indigenous ideas.
- Providing targeted support for innovation to position Ireland as a recognised source of original formats and creative concepts.

It was noted that while efforts were being made to address power imbalances there was a lack of understanding of the realities of running a small company and many producers did not feel like they were 'partners' in the commissioning/production process.

And finally, stakeholders noted issues surrounding contingency payments and the Finder's Fee. While contingency payments were provided for in both PSMs' Codes, they were regularly not part of actual negotiated contracts, putting productions under financial strain. Additionally, the terms of TG4's budgeting where underspend is split between both parties but overspend (above any agreed contingency) is the responsibility of the producer were specifically called out. Stakeholders felt that this should be dealt with on a case-by-case basis as not all overspend was the direct fault of the producer and TG4 needed to be cognisant of that. Finder's Fee is not automatically applied and stakeholders considered that this should be remedied to mitigate inexperienced producers not getting their money due to not fully understanding their entitlements and thus not invoicing for the amount. (Earlier point on Plain English documentation clearly outlining obligations and entitlements could remedy this scenario).

2.3 Issues and Challenges Pertaining to RTÉ Commissioning Processes

Stakeholders considered there was a lack of clarity surrounding what exactly RTÉ wanted from the content when they were commissioning, and it was suggested that greater direct access to the commissioning teams earlier on in the process could mitigate this.

Stakeholders highlighted the lack of multi-annual commissioning deals offered by RTÉ, despite it being explicitly highlighted in the Act, saying that multi-annual deals would help the sustainability of sector. Note though the earlier points re: unfair distribution and how when only a small number of companies are getting the lion's share of commissioning either on an annual basis (or multi-annual basis as with TG4) this can similarly undermine the sector's sustainability and diversity.

There was a lack of clarity over payment terms, with stakeholders citing waiting weeks or months for invoices to be processed, which particularly affected the cashflow of smaller producers who were paying staff while waiting for money from RTÉ. There was also a perception that RTÉ sometimes raised what stakeholders consider to be minor or unnecessary queries about cost reports, prolonging payment timelines. It was also highlighted that some smaller companies felt that they were not treated like equal partners but more like freelancers, which exacerbated issues around financial management.

There was a perception that RTÉ's Radio commissioning processes were not as user friendly as TV's – one particular point was highlighted regarding the inability to save and review applications before submitting and how this increases levels of stress for producers and the chances of errors in applications which could affect chances of being commissioned.

Also noted was the difficulty in gaining access to RTÉ internal systems which is often necessary to fulfil the commissioned brief (e.g. archive systems Mediaweb and Radioman or RTÉ internal email, etc.). This can cause costly delays and place undue stress on production companies.



2.4 Issues and Challenges Pertaining to TG4 Commissioning Processes

Some stakeholders reported that at times TG4's contracts have contradicted the terms outlined in their own COFTP, creating confusion and undermining trust. This is compounded by the fact that TG4 regularly negotiates its contract in English but then translates it into Irish where some shifts in meaning can happen and the TG4's legal team holds the Irish version as the definitive one.

Another point regarding contract negotiations was that some stakeholders found that there were insufficient briefings supplied by the commissioning teams to the legal team requiring producers to effectively re-pitch their ideas during the contract negotiations.

While it was acknowledged that TG4 performed much better than RTÉ in multi-annual commissioning, the absence of inflation clauses and a tendency to favour a small group of companies (as already outlined) limits broader access and financial stability.

And finally, many stakeholders considered TG4's auditing practices to be intrusive and beyond reasonable scope.

3. Key Themes from PSM Consultation

Submissions were received from both RTÉ and TG4 in response to the review of the Guidance on Codes of Fair-Trading Practice. While both organisations acknowledged the importance of maintaining fair, transparent, and sustainable relationships with the independent production sector, their feedback reflected differing institutional roles, funding models, and market positions within a rapidly evolving audiovisual environment.

3.1 TG4 Submission

TG4 considered that much of the existing Guidance has worked quite well to date but did highlight a few key areas that needed revision or updating. In doing so TG4 focused strongly on the particular circumstances of minority-language public service media and the need for the Guidance to better reflect TG4's statutory remit.

TG4 proposed extending the primary rights term for minority-language PSM from five to seven years, arguing that this would be more consistent with Coimisiún na Meán's statutory role under Section 7 of the Act to promote and protect the Irish language. TG4 also considered that a longer primary rights window would deliver improved value for public money by maximising the return on its investment in commissioned content. While this argument may have merit there was no financial data to back up their assertion that 7 years would make for better value. A compromise could be reached in that the additional two years rights are non-exclusive, allowing producers to still sell their rights to other parties but it would lessen the financial gain to producers for content that TG4 would traditionally re-buy for another 5-year term.

TG4 called for the abolition of the clip fee currently mandated under the 2017 Guidance. TG4 argued that the payment of clip fees for publicly funded commissioned content when reused in other publicly funded programming does not represent value for money. It further maintained that the fee acts as a barrier to the reuse of archive material, limiting the visibility and promotion of Irish-language content, and undermines TG4's statutory obligation to provide access to its archive, particularly given the relatively limited scale of minority-language archives.

TG4 proposed that worldwide rights should be the default position under the Guidance, unless otherwise negotiated. TG4 viewed the absence of such a presumption as inconsistent with the public objects of both TG4 and RTÉ, which include providing programming to the Irish diaspora, insofar as is reasonably practicable.

TG4 also highlighted a number of wider regulatory and policy considerations. It drew attention to the forthcoming EU Artificial Intelligence Act, due to apply from August 2026, and the relevance of its transparency requirements where programmes include AI-generated content. TG4 further emphasised the need for increased funding, stating that current levels of funding hinder its ability to fully deliver its public service objectives, including the provision of a plurality of voices on air.

In addition, TG4 called for the implementation of Recommendation 7.1 of the Future of Media Commission, the consideration of all relevant provisions of the European Media Freedom Act (EMFA)—particularly the protection of the functional and editorial independence of PSMs—and the commencement of prominence provisions to support the discoverability of public service content.

3.2 RTÉ Submission

RTÉ placed greater emphasis on the broader market and economic context in which public service media now operates.

RTÉ highlighted the significant growth and impact of global SVOD services since the publication of the 2017 Guidance, noting that these platforms have captured substantial market share, raised audience expectations through high-budget content and advanced discovery tools, and exerted financial pressure on the domestic independent production sector. RTÉ also observed that, despite their scale, SVOD services generally do not prioritise indigenous stories or culture, reinforcing the essential role of PSMs in addressing market failure. Similar structural changes were identified in the audio sector, driven by multinational platforms and the shift to on-demand consumption.

RTÉ further pointed to changing audience behaviours, particularly among younger audiences, who have moved away from linear viewing towards on-demand consumption, requiring new approaches to engagement. These challenges have been compounded by economic pressures, including disruption to advertising markets by global platforms, reduced commercial revenues for PSMs, and a series of external shocks since 2017, including the Covid-19 pandemic, the Russian invasion of Ukraine, and RTÉ's own 2023 payments controversy.

In terms of regulatory approach, RTÉ considered that the current Guidance remains effective and complementary to existing legislation and its own Codes of Fair-Trading Practice and therefore did not see a need for significant change. RTÉ cautioned that more prescriptive regulation or expanded regulatory constraints could undermine flexibility and competitiveness in an increasingly international marketplace. It noted that an overly detailed approach would be



inconsistent with Section 112(3) of the Broadcasting Act, which provides that guidance should be general in nature.

On rights, RTÉ expressed support for the existing framework, arguing that it delivers value for money for licence fee payers and supports universal access by allowing RTÉ-funded content to remain on the RTÉ Player during the five-year primary rights window. RTÉ also noted that, in practice, it often allows producers to resell primary rights on a non-exclusive basis before the end of this period. RTÉ emphasised the importance of platform-neutral rights arrangements to ensure future-proofing.

RTÉ acknowledged the importance of producer rights and highlighted ongoing collaboration with independent producers to secure international co-financing for projects that might otherwise be unaffordable.

RTÉ stressed the need for adequate funding to continue delivering Irish-centred programming in a market dominated by global SVOD budgets. In this context, RTÉ welcomed supportive policy measures, including proposals in the General Scheme to increase independent production unit spend to 25%, encompassing VOD and podcasts, as well as the introduction of the unscripted productions tax credit. RTÉ argued that these developments are likely to bring significant investment into the independent sector and, accordingly, favoured stability in the Guidance during this period of transition.

Finally, RTÉ addressed issues of diversity and underserved audiences, noting that while explicit provisions are not set out in the current Guidance or its Codes, these matters are addressed through existing legislation and are reinforced by Coimisiún na Meán's role in identifying underserved audiences under the General Scheme. RTÉ also emphasised its public service obligation to serve both mass and niche audiences across a wide range of genres and noted that its commissioning approach is designed to accommodate producers of all sizes in order to meet this remit.

4. Conclusion and Acknowledgements

Coimisiún na Meán would like to thank stakeholders from across all parts of the independent production industry and RTE and TG4 for their constructive engagement in the review of the Guidance, including through the submission of written responses. Independent industry submissions were made on the understanding that responses would be anonymised in any published material, and this is reflected in the way the key themes have been presented in this Response to Consultation document. In its preparation, best efforts have been made to faithfully represent the comments made and the points raised by respondents and to summarise the main themes emerging from those submissions. While many of the issues raised fall outside the scope of the Guidance and the Codes of Fair-Trading Practice themselves, they are nonetheless important and are noted here for completeness. These matters will be considered, where relevant, through other regulatory instruments and in related Coimisiún na Meán policy work.



5. Next Steps

Coimisiún na Meán has now consulted with the Minister in relation to the finalisation of the Guidance to Public Service Media on Codes of Fair-Trading Practice, and An Coimisiún will issue the Guidance in Q4 2026.

