



Sky Ireland Response to the Future of Media Commission's Public Consultation

INTRODUCTION

1. Sky Ireland welcomes the opportunity to respond to this consultation on the future of media in Ireland.
2. Sky plays an important role in the Irish media sector. We are the number one TV platform in Ireland, present in more than 40% of Irish homes, watched by over 2 million viewers and delivering over 500 channels, including the Irish public service channels, to our customer base. We also operate our own wholly owned channels across general entertainment, news and current affairs, sport and film.
3. While we have been offering our services in Ireland since the early 1990s, in 2013 we significantly ramped up our presence in Ireland with the opening of our headquarters in Burlington Road, Dublin 4. Since then, we have increased our Irish workforce substantially from 40 to approximately 1000.
4. We have continued to create new jobs in Ireland in recent months, hiring 140 more people in Q4 2020 and with plans to hire 100 more in Q1 2021 as more people working from home means customers spending more time consuming our services and interacting with our products.
5. Sky also makes a direct contribution from a content perspective – as a news provider through Sky News, in particular our Dublin bureau; as a sports broadcaster through Sky Sports and our longstanding partnership with the GAA; and from an entertainment perspective with past and current Irish produced comedy shows and documentaries.
6. We set this out at the outset both to show our commitment to and investment in the Irish market and to demonstrate how we have a very real stake in policy decisions taken in this area.
7. In this response we focus primarily on broadcasting/audio-visual media. That is not to diminish in any way the contributions of the wider media sector (print, radio etc), but simply reflective of our own area of expertise.



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QUESTION 1: How should Government develop and support the concept and role of public service media and what should its role in relation to public service content in the wider media be?

8. Currently, there are a number of interventions designed to deliver public service objectives in the TV sector in Ireland:
 - (a) Provision of content and services by State supported, not-for-profit entities (RTÉ and TG4) with different objectives to purely commercial, profit-driven companies;
 - (b) Provision of in-kind subsidies and other transfers of value to the holders of the Channel 3 licence in return for the delivery of public service content that would not otherwise be provided; and
 - (c) Horizontal cross-sector interventions such as tax credits, contestable funding etc that may have criteria attached but are open to all providers (e.g. the Sound & Vision fund).
9. RTÉ and TG4 are designed and funded by the State to be the bedrock of the public service broadcasting sector, with the objective of driving a substantial contribution in public value and serving a vital role in Ireland's overall broadcasting ecology.
10. In this context, there is clearly merit in Government continuing to provide direct financial support to both entities for them to continue these missions.
11. In return, it is important Government ensures that the primary focus of their operations should be to maximise the public value that they deliver, in part by making their content as widely available as possible so that as wide an audience as possible can benefit.
12. Viewers have a legitimate expectation that, as they are significant funders of public service content, in return they should be able to watch what they want, how they want, be that on their platform of choice such as Sky, Saorview, Virgin, Eir, Vodafone or through the PSBs' own apps.
13. The channel 3 licence would appear to be delivering on its stated intentions, with Virgin Media deriving value from holding it and public service content being delivered.
14. Where there may be scope for further expansion is in the domain of cross-sector interventions such as contestable funds.
15. Clearly there is already an established model in Ireland in this regard through Sound & Vision, which is financed from the Broadcast fund.





16. Should the issues with the licence fee collection model (outlined in more detail below) be addressed this would have the benefit of also allowing more funding to be available for this scheme.
17. It would also allow various targeted schemes to potentially be run. In this regard, the 'Young Audiences Content Fund' is a good recent example from the UK, whereby funds are made available for the production of public service children's programming on any free-to-access regulated service with significant UK-wide audience reach.
18. Beyond this, there are also material contributions towards public service objectives being made by the wider market even absent any specific intervention – including by Sky.
19. Sky News, for example, makes a significant contribution through its dedicated Ireland correspondents based out of our Dublin Bureau which we opened in 2017, and supporting production staff, who bring high-quality reporting to bear on domestic matters of the day. There is also substantial public value in the international coverage of Sky News, reporting daily on a wide variety of issues of interest to the Irish public.¹ In this regard we note that a recent BAI commissioned report listed Sky News as the fourth most trusted news brand in Ireland, closely following RTÉ News, the Irish Times and the BBC.
20. We also have a GAA rights deal in place until 2022, continuing our longstanding partnership with the sport. As part of this deal, we are investing €3m over 5 years in Grassroots GAA, particularly targeting participation and youth drop out.
21. Looking forward to 2021, we have a new scripted comedy show, 'The Deirdre O'Kane Show', and will have Jim Sheridan making his documentary series debut with a new five-part series that examines the murder of Sophie Toscan du Plantier.
22. We remain actively on the lookout for more compelling Irish productions as part of the overall commitment we announced last year to double our investment in original content across Europe by 2024.
23. Sky of course recognises that public service broadcasters face challenges as a result of the increased competition posed by new online services, reducing

¹ To the forefront in this regard would be the extensive and award-winning coverage of Brexit by Sky News, a seminal issue for Irish viewers over the last number of years and into the future.





levels of viewing of their services by young people, and the growth in on-demand viewing.

24. These are challenges faced by all broadcasters, not simply the PSBs. As a commercial broadcaster who must continually convince customers that we have a proposition worth paying for, our own response to this has been to relentlessly innovate and to forge stronger partnerships with both new and existing partners.
25. We would suggest this is something that will also be essential for public service broadcasters, to ensure they continue to thrive in the long term.
26. Sky have long standing partnerships with the Irish PSBs and are keen to strengthen these further. Such partnerships have the potential to both deliver more value for the PSBs and, just as importantly, deliver better outcomes for the Irish public.

QUESTION 2: How should public service media be financed sustainably?

27. It has been widely reported that the funding of public service broadcasting has suffered from licence fee evasion/non-TV set declaration, which results in a loss of approximately €50m to PSBs annually.
28. It would seem clear then that measures need to be taken to either reduce this level of evasion or, alternatively, a replacement for the licence fee, which brings more households into the net, needs to be found, as the PSBs themselves have noted.
29. Sky is agnostic as to how this can be best achieved but we would strongly hold the view that, so long as the Government continues to believe that public service broadcasting is an appropriate intervention, any such market intervention should be done in as minimally a distortive way as possible.
30. The least distortive manner of funding is recognised to be via the exchequer (i.e. through a licence fee, household media charge or through a share of general taxation).
31. One suggestion which has been mooted by some (including RTÉ) as a potential source of funds is for RTÉ to be allowed to drop the obligation it faces to distribute channels as widely as possible at no extra cost to consumers.
32. However, there is little to suggest this would lead to a sustainable source of funding for public service broadcasting. On the contrary, it would have the



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potential to have a detrimental effect on the broadcasting market as a whole and exacerbate problems that the PSBs currently face, while undermining the universality commitment that the licence fee (or any potential further replacement for it) is based on.

33. In our view the current legislation provides significant mutual benefits to all parties.
34. Sky currently beams RTÉ's channels into approximately 40% of Irish homes, and places them in the most prominent positions in our Electronic Programme Guide (i.e. channel 101, 102 etc.) and catch up sections.
35. This ensures that RTÉ's public service broadcasting reaches the widest possible audience, enabling RTÉ to drive high viewing figures and earn significant advertising revenue. We estimate that around €35 million of RTÉ's advertising income is derived from viewing on the Sky platform. RTÉ also benefits beyond this from additional commercial arrangements with Sky for the provision of ancillary services.
36. At the same time, Sky also makes an annual contribution to the exchequer, in terms of corporation tax, VAT and employer PRSI, which is in excess of €150 million.
37. In terms of what a 'sustainable future funding model' looks like for PSBs therefore, we see one where platforms such as Sky and PSBs work together to deliver the best possible outcome for Irish viewers, from whom both Sky and the PSBs derive their income, and who they must both serve well in order to continue to thrive.

QUESTION 3: How should media be governed and regulated?

38. In this section we outline our views on how both broadcasting and online audiovisual media should be governed and regulated in future.

Broadcasting regulation

39. We have already covered the importance of must-offer regulation in the previous section so do not propose to relitigate that question again here.
40. What we stress again however is that, should additional funding be provided to public service broadcasting (through, for example, a universal household charge), it is even more important that such public service content is made available to all Irish viewers, in as convenient a manner as possible, and at no additional charge.



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41. Another issue that we recognise is central to public service broadcasters is prominence (and relatedly, discoverability).
42. It is therefore important to note that Sky places the Irish PSBs in the most prominent locations in both our EPG and our catch-up sections, as indeed do all of the other major TV platforms in Ireland.
43. This is not particularly surprising, as commercial platforms must respond to the wishes of their customers, and Irish viewers continue to show an appetite for watching Irish public service programming.
44. We in turn enter into a commercial arrangement with the PSBs, in order for us to be able to make their on-demand content available in a way that is convenient for our customers.
45. In our view, therefore, there is limited value in further regulation in this area, given that the market is already demonstrably delivering the desired public policy outcome.
46. Indeed, typically, when customers complain to us about not being able to find on-demand PSB content, it is not because such content is available but not easily findable on our platform, but because PSBs have made a commercial decision to only make the content available for access through our platform for a limited window with the content being made available for a longer period on the PSB's own 'player' or app.
47. We are actively working with PSBs on making more of their on-demand content available to our customers, and are confident that we will be able to come to commercial arrangements that will be in the interests of PSBs and, just as importantly, Irish viewers.
48. But it is therefore critical that if there is to be any additional regulatory intervention (such as one mandating that PSBs on-demand services receive a certain level of prominence) it should come with accompanying obligations for the PSBs to make such content more widely available in a non-discriminatory manner, in a format that is convenient for Irish viewers, and which imposes no additional cost on them.
49. Central to the case for additional prominence is the argument that the public policy goal is for more people to watch and engage with public service content.
50. In this context, it stands to reason that such content must then be as widely distributed as possible, to allow viewers to watch it when they want, how they want.



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Online services regulation

51. Clearly a major trend across media sectors in recent years has been the significant growth of online services. This has served to grant audiences a greater choice of content to access than ever before, both Irish and international in origin. But the additional competition has also had implications for more established media in terms of audience share and revenues.
52. Increased competition in these sectors is not a new phenomenon – PSBs have faced major expansions in the quantity of content provided to Irish households before, including the launch of commercial television in the 1990s to the rise in multichannel television availability more generally through digital platforms like Sky's in the 2000s. This has created an audiovisual sector that is highly competitive, and one where investment, innovation and competition have consistently benefited viewers.
53. However, the more recent rise of online services has taken place largely outside of a common regulatory framework, creating an uneven playing field and risking harms to audiences.
54. In this context, we note and welcome the recent publication of the Online Safety and Media Regulation Bill which implements the European Audiovisual Media Services Directive (AVMS). In particular the creation of the new Media Commission, with the power to regulate Video Sharing Platforms (VSPs) will be a critical step in ensuring that major online services are accountable to audiences and policymakers.
55. Self-regulation by VSPs has failed to tackle the serious harms posed to both adult and child users of online platforms. As such, the VSP measures within the AVMSD are an important step forward and should be implemented in a way consistent with the Government's stated aim of ensuring that online services are "*subjected to similar regulatory obligations as television broadcasters*".² In our view this means the VSP regulatory framework must be straightforward, broad and futureproofed, accommodating emerging technical developments.

Sky

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² Statement by Minister Martin, "Additions to new law proposed for online safety and media regulation", 9th December 2020.

