

# POLICY ON FAIR REGULATION OF BROADCASTERS

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## CORE POLICY

Regulation of broadcasters in Ireland is not fair and requires change because it is not a level playing pitch.

Irish broadcasters have many obligations under their broadcasting licences and in the case of RTÉ, they also have an obligation to spend a minimum statutory amount on independently commissioned programmes. This is not the case with broadcasters located outside of the jurisdiction, many of whom sell "opt-out" advertising into Ireland. This is not fair.

The rules governing European broadcasting across territorial borders is determined by the Audio-Visual Media Services Directive (AVMS Directive). The AVMS Directive dictates that broadcasters be regulated in the country in which they are established and not the country or countries into which they broadcast. This is known as the "country of origin" principle.

While the "country of origin" principle deals adequately with the complex scenario of broadcasters having to comply with different regulations in every territory into which they broadcast, it does not address the inequity being experienced by broadcasters located in smaller European territories, where a common language is shared with their nearest and larger neighbour.

Ireland and the UK are good examples in this regard. Irish broadcasters compete with UK broadcasters for audience and advertising revenue. UK broadcasters such as SKY and Channel 4 sell "opt-out" advertising into Ireland. For example, in 2014, the value of "opt out" advertising sold into Ireland was €48 Million. This means substantial advertising revenue which would otherwise remain in Ireland is lost to the UK. The UK and major international brand broadcasters who sell advertising and other services into the Irish market have no obligation to produce locally produced content in Ireland. This is not equitable.

International manifestations of the same problem exist in Austria where German broadcasters broadcast and provide "opt-out" advertising to the Austrian market but invest little in indigenous Austrian programming. Similarly for Portugal where Spanish broadcasters provide "opt-out" advertising and invest little in Portuguese programming.

SPI wants to have this inequity addressed through amending the AVMS Directive to ensure channels that sell "opt-out" advertising into other territories are regulated to ensure minimum spend commitments are made to locally produced content in those territories. This will be for the benefit of both the Irish viewing public and the indigenous Irish audio-visual production industry. This will address the current inequity that exists.

## Fair Regulation of Broadcasters Policy Principles

### PRINCIPLES ON WHICH THIS POLICY IS BASED

The current “country of origin” principle is not fair, particularly for smaller European territories.

For example, SKY broadcasts 11 channels into Ireland but has no broadcast regulatory obligations here. SKY sells satellite subscriptions, fixed line broadband and “opt-out” advertising to the Irish market.

In 2014, SPI estimates the revenue earned by SKY INC in Ireland was in excess of €500 million.

While SKY has been involved in financing some TV productions made in Ireland, compared to income earned by SKY in Ireland, the amount spent by SKY on TV production in the country is negligible. In 2014 SKY made a commitment to have a programme commissioning editor located in their Dublin office for three days every month to engage with Irish independent producers. This promise did not materialise. This indicates that SKY has little or no editorial or commissioning interest in Ireland.

“Opt-out” advertising sold by UK broadcasters transmitting into Ireland has had a major negative effect on all Irish broadcasters advertising income. There are now 34 TV channels selling “op-out” advertising in the Irish market. Sky Media Ireland is the advertising sales arm of SKY and is the agent for 31 of the channels selling op-out advertising in Ireland, including 11 SKY TV channels. Media Link manages the commercial interests for the three Channel 4 channels broadcasting into Ireland.

In 2014, the total value of the TV advertising market in Ireland was €217 million. “Opt-out” advertising by UK broadcasters amounted to approximately 22% of the market, draining €48 million out of the domestic Irish TV market. This is a major depletion of resources available to Irish broadcasters, particularly RTÉ and TV3, to invest in home produced programming for the Irish viewing public.

All Irish broadcasters have obligations to their Irish audiences under broadcasting legislation. RTÉ, as a public service broadcaster, also has an obligation to a minimum spend on independently commissioned programmes. No such content creation or spend obligations apply to SKY or Channel 4.

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The rules governing European broadcasting across borders is determined by the Audio-Visual Media Services Directive (AVMS Directive). The AVMS Directive dictates that broadcasters be governed in the country from which they broadcast. This is known as the “country of origin” principle.

SPI policy proposes a change to the “country of origin” principle in the AVMS Directive so that broadcasters selling “opt-out” advertising into other jurisdictions are also bound by minimum obligations to invest in and commission locally produced content.

It is currently unfair that broadcasters based in dominant media territories are permitted to sell “opt-out” advertising into small territories like Ireland but are not bound to re-invest in the territory from which they receive this income. This requires change.

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