

**Paul Mulligan**

Mr Ed Mulhall, my colleague, will be directing his submission and remarks to the first of the areas above and I will generally attempt to address the second and also where there is overlap between the two areas. I will explain the systems and controls in place and specific dealings with regulators including the Financial Regulator.

As will have been clarified in Mr Mulhall's submission there was and is no ongoing working relationship between programme output of the News and Current Affairs Division of RTÉ and the sales functions in RTÉ Radio, Television or Digital Divisions. There are contacts and working relationships between the programme output of these divisions and the commercial functions within each of these divisions and sometimes commercial functions in the other divisions. I hope to explain the nature of these working relationships in this submission.

RTÉ is a dual funded public service broadcaster in that it receives income from the Television Licence Fee from the state and also earns commercial revenue. This model is common across Europe and is particularly suited to small countries as it reduces the burden on households and the state to fully fund the services provided. Under legislation, most recently the Broadcasting Act 2009, RTÉ is required to maximise its commercial revenue. As a dual funded organisation RTÉ is restricted in the amount of advertising it is permitted to broadcast to roughly half of that allowed to commercial broadcasters. Yet the vast bulk of commercial revenue is earned by selling advertising and sponsorship around its programmes although smaller revenue sources exist including the sale of facilities and content sales.

Advertising and particularly television advertising would be RTÉ's most significant commercial activity. From its inception RTÉ drew up codes to cover advertising based on international best practice as it was the first licensed broadcaster. Later the codes of the Advertising Standards Authority of Ireland (ASAI) were developed and finally the Broadcasting Authority of Ireland (BAI) drew up codes in relation to programmes and commercial activity which govern the activity of all licensed broadcasters in Ireland. Notwithstanding huge changes in the media landscape in recent years the fundamental principles of good advertising have not altered. Advertising is required to be legal, decent, honest and truthful and to not mislead the consumer.

The Principles of the ASAI code are;

**General Rules**

**Principles**

2.1

Marketing communications should be legal, decent, honest and truthful.

2.2

Marketing communications should be prepared with a sense of responsibility to consumers and to society.

2.3

Marketing communications should respect the principles of fair competition generally accepted in business.

## 2.4

The Code is applied in the spirit as well as in the letter.

## 2.5

A marketing communication should not bring advertising into disrepute.

## 2.6

Primary responsibility for observing the Code rests with advertisers. Others involved in the preparation and publication of marketing communications, such as agencies, media and other service providers, also accept an obligation to abide by the Code.

While the BAI code would generally reflect these principles it places additional responsibilities on the broadcaster.

### **1. Objectives of the Code**

☐ To ensure that the public can be confident that commercial communications are legal, honest, truthful, decent and protect the interests of the audience.

☐ To ensure that commercial communications do not impinge on the editorial integrity of broadcasts.

☐ To provide clear guidance to broadcasters as to the standards to which commercial communications shall adhere.

☐ To provide guidance to the general public on the standards they can expect from commercial communications on broadcasting services.

☐ To provide broadcasters with a simple, flexible and comprehensive code that does not impede in an unwarranted manner their right to communicate commercial messages.

The BAI Code requires the broadcaster to ensure that commercial communications do not impinge on the editorial integrity of broadcasts.

.

### **The Boom Period**

Throughout the period which could be described as the boom commercial revenue grew significantly. This did not benefit RTÉ until 2004. 2003 commercial revenue was down on 2002 as the fallout of the dotcoms downturn affected all media. Between 2002 and 2007 commercial revenue grew by approximately 55% mainly driven by growth in Television Advertising revenue of 60%. While advertising from property related activity and financial institutions grew during the period the overall importance of these categories was, however, relatively small. Property related advertising accounted for less than 1% of total commercial revenue at its highest point in 2007 and the total of the financial institution category less than 5%. As a not for profit public service broadcaster all the growth in revenue to RTÉ was directly reinvested into new programme output and providing additional choice to Irish audiences. RTÉ and audiences undoubtedly benefited from the period of economic buoyancy but the contribution of property related revenue was quite small.

Over the period under review by the Joint Committee RTÉ was not directly involved in any significant property related commercial activity. RTÉ had gone through a reorganisation between the years of 2001 and 2004 whereby it lost a net 500 employees. It also required to invest in infrastructure and technology and looked at divesting property assets to fund this. It sold a four acre site in Beaumont on the north side of Dublin which was the site of a medium wave transmitter for development. This was the total extent of involvement in property related activities throughout the period under examination.

### **Relationship between Editorial and Sales Functions**

RTÉ fully understands that its relationship with the Irish public is different than that of many other media companies. As part of that relationship not only should the audience, who indirectly own the organisation, expect the highest standards of editorial output but they should also expect that they are fully protected from any erroneous or inaccurate commercial messages.

In order to ensure compliance with all commercial codes RTÉ has in place a Copy Clearance Committee and a Sponsorship Committee. The first clears all advertising copy prior to approving it for transmission on its services and the latter reviews any sponsorship proposals and decides on the suitability or otherwise of an association between programmes and commercial companies. The Copy Clearance decisions are viewed as the standard and used by other broadcasters as guidance. It may be illuminating to the Committee to view relevant extracts from the minutes of the weekly Sponsorship Committee meetings as they give an indication of the thought process and approach to sponsorship in general and property related programmes in particular in the period under review. The attached appendix contains specific extracts from those internal minutes together with the dates.

### **The Financial Regulator**

The Irish Financial Services Regulatory Authority (Financial Regulator) came into existence in 2003. In pursuance of its functions it reviewed its Consumer Protection Code over the next two years and launched a revised code. This code covered the area of advertising and added significant requirements on regulated entities as to what advertisements must contain. It was the view of RTÉ that the inclusion of excessively lengthy terms and conditions did not work in the interest of audiences. Indeed at times these terms and conditions became the object of ridicule. A number of meetings were organised with the Regulator where this was explained and suggestions made as to how to offer the consumer real advice that might protect their interests when faced with advertising for a growing array of financial offers.

It was suggested that a simple message like “Only enter a financial arrangement following professional advice” together with a web address to the regulators site where sound advice and the consumer code existed. Initial meetings met with little movement and RTÉ requested the BAI and the ASAI to attend a subsequent meeting with the Financial Regulator where again simple messages were encouraged by the Advertising Regulators with experience in this area of activity.

Unfortunately that and further meetings have not altered the amount of terms advertising for financial products must contain. RTÉ does not believe this on its own would have prevented individuals from entering arrangements that may have resulted in financial harm. Rather the engagement demonstrates our efforts, together with advertising regulators, to act in the interest of helping to protect consumers during the period. This may be an issue that the Committee might want to consider addressing in their report. RTÉ would be happy to assist in any way that is useful.

**Appendix**  
**Extracts from minutes of internal RTÉ Sponsorship Committee Meetings**

25<sup>th</sup> October 2007

1. One Thing To Do Before I Die & Seniors Money – Update on content of programme. Are Seniors Money an unsuitable sponsor?

*The Committee noted this customer is regulated by the Financial Services Regulator and also a consistent advertiser with RTÉ. The nature of the particular contract whereby elderly people are encouraged to take out loans or mortgages on their residence is a sensitive issue. It was felt that the presence on a programme could be perceived as an RTÉ endorsement of this type of contract. This was considered inappropriate.*

7<sup>th</sup> March 2007

- About the House – Marcus has asked the following, “I also hadn't mentioned that we would be approaching IIB bank who were with us a number of years ago promoting their Home loans scheme. Will there be implications with that? Are there new rules regarding Mortgage products?”

A response should go to Marcus explaining that Sponsorship Rules and Codes are evolutionary in nature and do change over time. Last year in relation to a number of our ‘capital house’ programmes it was considered that banks generically could sponsor these programmes but they could not be specifically mortgage related in the sponsorship credits. Thus IIB Bank could sponsor the programme but IIB Mortgages could not.

10<sup>th</sup> January 2007

- House Strand:  
All programming to be sponsored by Tegral Roofing Slates

- I’m an Adult – would present no difficulties
- Househunters – would present no difficulties

- Room to Improve– deals with mainly the construction and fitting of extensions to homes and it is likely that roofing will be a significant factor in this process. It is felt that slates were not a suitable sponsor
- I want a Garden – would present no difficulties
- Community Challenge - would present no difficulties
- Designs for Life – is the closest thing RTÉ would be doing to Grand Designs and would be very much concerned with construction and roofing is likely to form a significant part of the programmes. It was felt the fit here was too close.
- Showhouses - was also mentioned as a suitable sponsor should the existing sponsor opt out

29<sup>th</sup> November 2006

1. Rea Mortgage Brokers & House Hunters  
As previously clarified mortgage products could not sponsor House Hunters or I'm An Adult. A financial institution could provide it was not using its mortgage product. There would be less of an issue with a house renovation series as mortgages would not play a major part therefore conversations could proceed.

15<sup>th</sup> November 2006

1. I'm An Adult Get Me Out Of Here  
No problems with Financial Regulator – lovely fit.

Whirlpool again no problem.

22<sup>nd</sup> August 2006

1. How Long Will You Live? & Vivas Healthcare – If it can be made clear that there can be no health screening or no specifically related health checks which are likely to appear in the programme health checks within their Credits there should be no problem. . In other words general Vivas as a service is no problem but we must make clear that nothing is likely to clash with the editorial content. In principle the Sponsor can promote the association with the programme but the programme nor the presenters can be used in any point of sale promotion for their products. RTÉ needs to approve any proposals in this regard.