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BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland
RIGHT OF REPLY SCHEME

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Appendix 1 - Terms Explained

Appendix 2 – Section 49 of the Broadcasting Act, 2009

1. Introduction

This document has been developed by the Broadcasting Authority of Ireland (“BAI”) ¹ to set out the Statutory Right of Reply Scheme (Right of Reply), explain its aim and objectives, and to outline to members of the public how the process for exercising a Right of Reply works and how they can utilise the Right of Reply Scheme.

The document also outlines the review process in cases where a Right of Reply has been refused by a broadcaster. The review process is conducted by the Compliance Committee of the BAI. The High Court can also play a role in the event that a broadcaster does not abide by the Compliance Committee’s findings. Finally, this document outlines the technical aspects associated with the Right of Reply Scheme, explains some of the terms used in the document (see Appendix 1), and includes general information for members of the public and for broadcasters.

1.1 What is understood by a Right of Reply?

A Right of Reply, as set out in the Broadcasting Act 2009 (“the Broadcasting Act”), provides for the **correction of incorrect facts or information** which have been broadcast about a person, where the assertions of such incorrect facts or information have impugned that person’s honour or reputation (see terms explained in Appendix 1).

A Right of Reply is about the correction of incorrect facts or information; it **does not** provide for the broadcast of an alternative or contrary opinion. In other words, a person may not be satisfied with the manner in which a broadcaster has relayed information about him/her, but a Right of Reply will not be granted unless the facts or information are factually incorrect such that their honour or reputation have been impugned.

1.2 Why has the Right of Reply Scheme been established?

The ability of any person to exercise his/her right to the correction of incorrect facts or information was established, further to Section 49 of the Broadcasting Act, in an effort to provide speedy redress without having to have recourse to legal proceedings which may prove time-consuming and costly.

1.3 What is the Statutory Right of Reply Scheme?

The Broadcasting Act has given the BAI responsibility for the development of the Right of Reply Scheme. The Right of Reply Scheme applies to all broadcasters regulated in the Republic of Ireland. It does not apply to broadcasters licensed in other countries, but widely received here, for example the BBC services, Channel 4, or Sky 1.

¹ The Broadcasting Authority of Ireland was established on October 1st 2009, as the independent regulator of radio and television broadcasters in Ireland. The BAI is made up of an Authority and two statutory committees. The organisation’s functions, roles and responsibilities are set out in the Broadcasting Act 2009.

A decision to broadcast a Right of Reply will hinge on two key factors: firstly, was there an assertion of incorrect facts or information and, secondly, has a person's reputation or honour been impugned because of this being broadcast? Therefore, in seeking to exercise a Right of Reply, the onus is on the person requesting the Right of Reply to provide as much detail as possible to show that the information or facts broadcast about him/her were incorrect and, further, that it impugned his/her reputation.

Seeking or being granted a Right of Reply does not preclude any person from pursuing a defamation action (or any other remedy they may have) but it may have an impact on defamation actions as referred to in section 6 of this document.

There are circumstances in which a Right of Reply will not be granted (see section 5).

Exercising a Right or reply is **free of charge** and the broadcasting legislation provides that **no charges** can be made by a broadcaster for processing a request under this Scheme. In addition, broadcasters are not liable for any costs incurred by the requester of a Right of Reply in relation to such a request.

There are of course other remedies open to parties who are aggrieved by broadcasts which do not fall within the scope of the Right of Reply Scheme, such as complaints to the BAI regarding fairness, objectivity or impartiality.²

1.4 Aim and Objectives of the Statutory Right of Reply Scheme

The **aim** of the Right of Reply Scheme is to have in place a timely process whereby a person can seek the correction of incorrect facts or information which have been broadcast about him/her, where such facts or information have impugned their honour or reputation.

The **objectives** of the Right of Reply Scheme are:-

- To provide recourse other than, or in addition to, legal proceedings for a person whose honour or reputation has been impugned by the broadcast of incorrect information or facts;
- To ensure that the process for the exercise of a Right of Reply under this Scheme, is transparent, fair, and clearly understood both by broadcasters and people seeking to access the Scheme;
- To ensure that the process for the correction of incorrect facts or information, is conducted efficiently and effectively and in line with the timeframe set out in legislation;
- To provide a mechanism for the broadcast of a Right of Reply which is in proportion to the nature of the correction being sought.

² Information on this type of complaint is available on www.bai.ie.

2. Making a Right of Reply Request: the Process Explained

2.1 How does a person make a request under the Statutory Right of Reply Scheme?

A request for a Right of Reply may only be made by a person(s) who has a legally justifiable actual interest in the publication of a Right of Reply i.e. only person(s) who believe that their honour or reputation has been impugned by the broadcast of incorrect facts or information.

If a person becomes aware of any facts or information broadcast about them that they know are incorrect and which impugn their honour or reputation, then that person has the right to apply to the broadcaster concerned to have the facts or information corrected. This section outlines the steps to be followed in seeking a Statutory Right of Reply. In this document, a person seeking a Right of Reply is referred to as “the requester”.

- The request to exercise a Right of Reply must be made in writing to the broadcaster and must state that a Right of Reply is being sought under section 49(6) of the Broadcasting Act, 2009. Broadcasters are required to include on their website the details of the person(s) to whom a request for a Right of Reply should be directed.

- The request for a Right of Reply should include the following information:
 - Name and address of the requester;
 - Name of the channel/service;
 - The date and time of the broadcast and the part of the programme in which the incorrect facts or information were broadcast which are the subject of the Right of Reply request;
 - An outline, in as much detail as possible, of why the information or facts were incorrect and detail of what the correct facts or information are, including the provision of documents or any relevant evidence;
 - Details as to why the requester believes their honour or reputation has been impugned, such that a Right of Reply is warranted;
 - A proposal as to the form and manner that a Right of Reply should take, in line with the provisions of this Scheme. (The form of a Right of Reply is outlined in section 3.1 of this document).

2.2 Is there a time limit on making a request for a Right of Reply?

Yes, a request for a Right of Reply under the Scheme must be made **not later than 21 days** after the date of the broadcast in question. The time limit can only be extended by agreement between the requester and the broadcaster.

2.3 What happens once a request for a Right of Reply has been made?

Once a broadcaster has received a request for a Right of Reply, the broadcaster then has a responsibility to consider all the details in relation to the Right of Reply request, including, among other things:

- The broadcast as specified by the requester;
- The reasons and other information provided by the requester to demonstrate that the information or facts broadcast were incorrect, including any documents or other evidence submitted as part of the Right of Reply request;
- Whether the nature of the broadcast was such that it impugned the requester's honour or reputation so that a Right of Reply is therefore warranted;
- Any other information which the broadcaster may have in relation to the making of the broadcast and which is of relevance to a Right of Reply request.

2.4 What are the potential outcomes for a Right of Reply request?

A broadcaster must respond to the requester in writing, **not later than 10 days** after receipt of the request, setting out its decision as to whether or not it proposes to broadcast a Right of Reply.

If a broadcaster has decided to **grant** a Right of Reply relating to a request, then it must provide details to the requester as to:

- The form the Right of Reply statement will take;
- The date and time of the broadcast of the Right of Reply statement;
- A copy of the information that the Right of Reply statement will contain when it is broadcast.

Requirements in respect of the form and scheduling of the Right of Reply Statement are detailed in **the next section of this document**.

If a broadcaster **refuses** a request for a Right of Reply, then it should explain why the request has been refused. It should also inform the requester of their right to apply for a review of its decision to the Compliance Committee of the Broadcasting Authority of Ireland and of the time limit within which an application for review must be made. Information on requesting a review of a refusal to broadcast a Right of Reply statement and the grounds for rejecting this request for a review are provided in **Sections 4 and 5** below.

Broadcasters must immediately notify the Compliance staff in the BAI once a decision to refuse a request for a Right of Reply has been made.

3. What Information should a Right of Reply Statement contain?

If a broadcaster **grants** a request for a Right of Reply, there are a number of important points that must be taken into account:

- Any Right of Reply broadcast must clearly state to what extent the original information or facts broadcast were incorrect or misleading, and;
- Any Right of Reply broadcast must be limited to broadcasting **only** the factual assertions necessary to rectify the incorrect facts or information.

It is important to remember that a Right of Reply is, in essence, about the correction of incorrect facts which have the capacity to impugn a person's honour or reputation; it is not about differing opinions.

3.1 What form should a Right of Reply Statement Take?

A Right of Reply will generally take the form of a scripted statement drafted and delivered by the broadcaster and approved by requester.

As a general principle, a Right of Reply should be broadcast **at a time, in a manner and with a prominence equivalent to that of the original broadcast**. Therefore, the broadcast of the correct facts should ideally receive an equivalent exposure to those incorrect facts or information which impugned the honour or reputation of the requester.

- i. A Right of Reply must be broadcast as quickly as possible and at the latest **within 10 days** of a decision to broadcast the Right of Reply;
- ii. Each request for a Right of Reply should be considered on its own merits, in recognition of the unique person to whom it pertains;
- iii. In determining the form that a Right of Reply should take, and in seeking to reach agreement with the requester, broadcasters are required to adopt principles of proportionality and fairness when proposing the approach to the Right of Reply statement to be broadcast;

Applying the principles of proportionality and fairness, the form of reply to be broadcast can be determined by a number of factors, including, but not limited to:

- The time at which the original programme was broadcast;
- The likely audience for that programme;
- The likely audience or the time when a Right of Reply is to be broadcast;
- The style of the original broadcast: for example, whether images were used in relation to the incorrect information/facts;
- The complexity of the information which is the subject of a Right of Reply request.

4. Reviewing the Refusal of a Request: The Process Explained

4.1 Can a broadcaster's refusal of a Right of Reply Request be reviewed?

Yes, a person can apply for a review of a decision to refuse a Right of Reply request. A decision to refuse can arise:

- Firstly, if a broadcaster rejects a request for a Right of Reply. In these circumstances, the requester can apply to the Compliance Committee of the Broadcasting Authority of Ireland (BAI) for a review of the broadcaster's decision;
- Secondly, if a decision in respect of a Right of Reply request has not been received from the broadcaster within the specified 10 days from receipt of the request. This is also deemed a refusal of a Right of Reply request and an application for a review can be made directly to the Compliance Committee of the BAI;
- Thirdly, if the broadcaster agrees that a Right of Reply should be broadcast but the form of the reply cannot be agreed by the broadcaster and the requester. In these circumstances, as the broadcaster has decided to refuse to grant a Right of Reply request in the form agreed, the requester can apply to the Compliance Committee of the BAI for a review of the broadcaster's decision;
- Fourthly, if the broadcaster fails and/or refuses to broadcast the Right of Reply formerly agreed. In these circumstances, as the broadcaster has decided to refuse to broadcast the Right of Reply, the requester can apply to the Compliance Committee of the BAI for a review.

4.2 How does the review process work?

The process for review is as follows:

- i. In order to review the decision of a broadcaster to refuse a request for a Right of Reply, the Requester must apply in writing to the Compliance Committee of the BAI for a review of the broadcaster's decision. This written request for a review should include all relevant information relating to the original Right of Reply request.

The application for a review of the refusal of a request for a Right of Reply must be submitted to the Compliance Committee:

- **not later than 21 days** after receipt from the broadcaster of a decision to refuse the request, or;
- **not later than 31 days** after receipt of the initial request where the broadcaster has not made a decision on the request, or;
- **not later than 21 days** of the failure to agree the form of the Right of Reply statement or the failure and/or refusal to broadcast the Right of Reply statement - formerly agreed.

- ii. It is recommended that a requester keeps duplicate copies of all documents relating to his/her dealings with the broadcaster and the Compliance Committee.
- iii. Upon receipt of an application for review, the Compliance Committee will then notify the broadcaster concerned and will request that they provide a copy of the broadcast, together with any relevant material, to the Compliance Committee **within 7 days**. The broadcaster will also be invited at this time to make further comment in relation to the review application.
- iv. The Compliance Committee must then consider all relevant material and shall endeavour, within 21 days of receipt of an application for review, to reach a decision and to communicate its decision, in writing, to the requester and to the broadcaster.

Having reviewed the matter, the Compliance Committee may:

- i. affirm the decision of a broadcaster, or;
- ii. annul the decision of a broadcaster and require it to broadcast the Compliance Committee's decision, including any correction of incorrect information or facts relating to the requester. In this case, a broadcaster must broadcast the decision of the Compliance Committee **within 7 days** of being notified.

4.3 What happens if a broadcaster doesn't broadcast the Compliance Committee's decision?

There is a final process which is followed in the event that the broadcaster fails to broadcast the decision of the Compliance Committee. In these circumstances, the Compliance Committee will notify the broadcaster of its failure to broadcast the Compliance Committee's decision and offer the broadcaster an opportunity to make a representation as to why they failed to do so, or to remedy their non-compliance by broadcasting the Committee's decision.

In either case, the broadcaster must respond to the Compliance Committee's notification either **not later than 10 days** after its issue or at the end of a longer period as agreed to by the Compliance Committee.

4.4 What if a broadcaster still doesn't broadcast the Compliance Committee's decision?

If a broadcaster still has not complied with the decision of the Compliance Committee, the Committee can recommend that the Authority applies to the High Court for an appropriate order to ensure that the broadcaster complies with the Committee's decision.

If the Authority makes an application to the High Court, there are three possible outcomes:

- The Court may rule that a broadcaster must comply with the decision of the Compliance Committee;
- The Court may vary the decision of the Compliance Committee;
- The Court may refuse the Authority's application.

4.5 What happens next?

Generally, what happens next will depend on the order issued by the High Court in relation to any individual application made by the Authority.

5. Reviewing the Refusal of a Request: Reasons why an application might be rejected by the Compliance Committee

When a requester makes an application to the Compliance Committee to review the refusal of a broadcaster of a Right of Reply, the Compliance Committee will have regard to all the information provided by the requester and by the broadcaster. The Broadcasting Act 2009 includes a range of reasons why the Compliance Committee may reject a request for review of a Right of Reply. Such reasons include:

- (a) The request is of a frivolous or vexatious nature or was not made in good faith;
- (b) The error contained in the broadcast was of minor significance and a Right of Reply is manifestly unnecessary;
- (c) The proposed Right of Reply itself contains untrue information or assertions;
- (d) The proposed Right of Reply is personal opinion rather than fact;
- (e) The proposed Right of Reply is an assessment or warning against the future conduct of a person;
- (f) Satisfaction of the proposed Right of Reply would involve a punishable act;
- (g) Broadcasting the proposed Right of Reply would be harmful or offensive;

- (h)** Broadcasting the proposed Right of Reply would result in the broadcaster being liable to civil law proceedings;
- (i)** Broadcasting the proposed Right of Reply would result in the broadcaster breaching its statutory obligation;
- (j)** Broadcasting the proposed Right of Reply would breach the terms of a broadcaster's commercial, community, institutional or temporary contract with the BAI;
- (k)** The person who is injured by the contested information has no legally justifiable actual interest in the publication of a Right of Reply;
- (l)** The original broadcast also contained a statement from the person affected and the contents of that statement are equivalent to a Right of Reply;
- (m)** The broadcaster has already broadcast an equivalent correction and the person requesting the Right of Reply has already been informed of this broadcast;
- (n)** The contents of the proposed Right of Reply would violate the rights of a third party;
- (o)** The matter concerned relates to reports on public sessions of the Houses of the Oireachtas or the Courts;
- (p)** The matter concerned relates to a party political broadcast;
- (q)** The matter concerned relates to a broadcast under Section 3 of the Referendum Act 1998;
- (r)** To broadcast the Right of Reply would not be in the public interest;
- (s)** The application for review to the Compliance Committee was not made within the time periods specified in the Scheme/Act.

In addition to the reasons why a request might not be granted, the Compliance Committee also reserves the right to reply on any further or other reasons and/or considerations in reaching its decision as it considers appropriate.

6. What else do I need to know about the Right of Reply Scheme?

6.1 Right of Reply and Defamation

Exercising a Right of Reply under this scheme does not preclude a person from pursuing a legal action against a broadcaster for defamation. Nevertheless, there are some important points to be aware of in relation to the Right of Reply Scheme and an action under defamation legislation. The points below are provided for in sections 49(13), (14), (15) and (16) of the Broadcasting Act 2009.

1. In the context of a defamation action, the granting of a Right of Reply by a Defendant does not:
 - a. constitute an express or implied admission of liability by that Defendant, and;
 - b. is not relevant to the court's determination of liability in the action.
2. A Defendant in a defamation action may seek to lessen damage to the Plaintiff in the defamation action by giving evidence that they granted or offered the Plaintiff a Right of Reply either:
 - a. Before the bringing of the defamation action, or;
 - b. In cases where the defamation action had commenced and there was no opportunity to grant or offer a Right of Reply, they did so as soon as was practicable thereafter.
3. Evidence of the granting of a Right of Reply by the Defendant is not admissible in any civil proceedings as evidence of liability on the part of the Defendant.

6.2 Right of Reply and Availability of Information

In accordance with the legislation, the BAI publishes this Scheme on its web-site (www.bai.ie). In addition, the BAI also publishes details of who to contact in the event of a request to the Compliance Committee for a review of a decision by a broadcaster to refuse a Right of Reply.

Furthermore, a broadcaster is expected to publish the Right of Reply scheme on its web-site and to provide up-to-date details in relation to the person who deals with any requests for a Right of Reply.

6.3 Right of Reply and Record Keeping

Broadcasters must keep 'due and proper' records in relation to any requests for a Right of Reply. Such records must be kept for a minimum period of two years and it is open to the Compliance Committee of the BAI to request that any record in relation to Right of Reply requests is made available for inspection. This inspection provision is provided for under the Broadcasting Act.

Broadcasters are also required to supply an annual return, in relation to any requests for a Right of Reply, in a form and manner determined by the BAI.

6.4 Right of Reply and Scheme Review

Once published, the BAI commits to reviewing the operation, effectiveness and impact of the Right of Reply Scheme not later than three years after its operation. The operation, effectiveness and impact of the Scheme will be reviewed every 5 years thereafter.

Appendix 1

Terms Explained

This appendix explains the terms that are relevant to the Right of Reply Scheme. The terms are to be understood in accordance with their natural and ordinary common meaning and/or their meaning in a broadcasting context.

- i. *Act* means the Broadcasting Act 2009
- ii. *Authority* means the Broadcasting Authority of Ireland
- iii. *Committee* means the Compliance Committee of the Broadcasting Authority of Ireland
- iv. *Defendant* means a person against whom an action or claim is brought in a court of law
- v. *Impugn* means to call into question, cast doubt upon, the honour or reputation of a person(s)
- vi. *Incorrect facts or information* means facts or information which are not correct, erroneous or wrong, or are incomplete so as to result in a misleading impression as to the true factual position, or which are stated in a such a manner so as to otherwise distort the true factual position
- vii. *Person* means any legal or natural person irrespective of nationality or residence
- viii. *Plaintiff* means a person who brings a civil action in a court of law
- ix. *Requester* means a person who makes a request to the broadcaster
- x. *Scheme* means the Scheme for the Statutory Right of Reply as referred to in Section 49 of the Act and as set out herein
- xi. *Right of Reply* means the broadcast by a Broadcaster of a statement prepared in accordance with this Scheme for a Statutory Right of Reply

Appendix 2

Section 49 of the Broadcasting Act, 2009

49—

(1) In this section—

“requester” means a person who makes a request under *subsection(6)*;

“right of reply” means the broadcast by a broadcaster of a statement prepared in accordance with a scheme;

“scheme” means a scheme under *subsection (3)*.

(2) Subject to this section, any person whose honour or reputation has been impugned by an assertion of incorrect facts or information in a broadcast shall have a right of reply.

(3) The Authority shall prepare, within 6 months of the establishment day, following a period of public consultation, a scheme for the exercise of the right of reply.

(4) A scheme shall set out the procedures to be followed in the exercise of the right of reply.

(5) In preparing a scheme the Authority shall ensure that—

(a) a right of reply shall be broadcast—

(i) within a reasonable time period subsequent to the request for a right of reply being made, and

(ii) at a time and in a manner appropriate to the broadcast to which the request refers, and

(b) a right of reply shall—

(i) state to what extent the information contained in the broadcast under *subsection (2)* is incorrect or misleading, and

(ii) be limited to factual assertions necessary to rectify an incomplete or otherwise distorting assertion.

(6) A person who wishes to exercise a right of reply in accordance with a scheme shall make a request in writing addressed to the broadcaster concerned—

(a) stating that the request is made under this section,

(b) containing sufficient particulars to enable the identification by the taking of reasonable steps of the part of the broadcast which asserted incorrect facts impugning the honour or reputation of the requester, and

(c) if the requester requires the right of reply to be given in a particular form or manner (being a form or manner which is in accordance with the terms of any scheme) specifying the form or manner of the right of reply.

(7) A request for a right of reply shall be made not later than 21 days after the making of the broadcast referred to in the request, unless otherwise agreed between the requester and the broadcaster concerned.

(8) The broadcaster shall, as soon as may be but not later than 10 days after the receipt of a request under *subsection (6)*—

(a) decide whether to grant or refuse the request, and

(b) cause notice in writing of the decision to be given to the requester.

(9) Where notice of a decision under *subsection (8)* is not given to the requester by the expiration of the period specified for that purpose a decision refusing to grant the request under *subsection (6)* shall be deemed to have been made upon such expiration by the broadcaster concerned.

(10) A broadcaster shall give due and adequate consideration to any request under *subsection (6)*, which in the opinion of the broadcaster has been made in good faith and is not of a frivolous or vexatious nature, by a member of the public in respect of the broadcasting service provided by the broadcaster and shall keep due and proper records for a period of 2 years of all such requests and of any reply made to them or of any action taken on foot of them.

(11) A broadcaster shall, if directed by the Compliance Committee, make available for inspection by the Compliance Committee all records kept by him or her under *subsection (10)*.

(12) No charge shall be made for the processing of a request under *subsection (6)* by a broadcaster.

(13) In a defamation action the granting of a request for a right of reply under this section by a defendant in respect of a statement to which the action relates—

(a) does not constitute an express or implied admission of liability by that defendant, and

(b) is not relevant to the determination of liability in the action.

(14) In a defamation action the defendant may give evidence in mitigation of damage, that he or she granted or offered to grant a right of reply under this section to the plaintiff in respect of the statement to which the action relates, either—

(a) before the bringing of the action, or

(b) as soon as practicable thereafter, in circumstances where the action was commenced before there was an opportunity to grant or offer to grant a right of reply.

(15) In a defamation action, a defendant who intends to give evidence to which *subsection (14)* applies shall, at the time of the filing or delivery of the defence to the action, notify the plaintiff in writing of his or her intention to give such evidence.

(16) Evidence of the granting of a right of reply under this section by a broadcaster in respect of a statement to which the action relates is not admissible in any civil proceedings as evidence of liability of the defendant.

(17) Subject to this section, the Compliance Committee, on application to them in that behalf, in writing, by a requester, shall endeavour to within 21 days after the receipt of such an application, review a decision to refuse by a broadcaster under *subsection (8) or (9)* and as they consider appropriate—

(a) affirm the decision, or

(b) annul the decision and require the broadcaster concerned to broadcast the Compliance Committee's decision including any correction of inaccurate facts or information relating to the individual concerned within 7 days of such decision being communicated to the broadcaster and at a time and in a manner corresponding to that in which the broadcast to which the request relates took place,

in accordance with this section.

(18) An application under *subsection (17)* shall be made to the Compliance Committee not more than 21 days after receipt of a decision to refuse under *subsection (8) or (9)*.

(19) Where the Compliance Committee propose to investigate an application made under *subsection (17)*, the Compliance Committee shall afford to the broadcaster to whom the application relates (hereafter in this section referred to as the "broadcaster concerned") an opportunity to comment on the application.

(20) As soon as may be after they decide on an application made under *subsection (17)*, the Compliance Committee shall send to—

(a) the person who made the application, and

(b) the broadcaster concerned,

a statement in writing of their decision, including the reasons for their decision.

(21) The Compliance Committee may reject any request for a right of reply where it is of the opinion *inter alia* that—

(a) the request is of a frivolous or vexatious nature or was not made in good faith,

(b) a right of reply is manifestly unnecessary owing to the minor significance of the error in the broadcast complained of,

(c) the proposed right of reply cites untrue information or assertions,

(d) the proposed right of reply is a personal opinion,

(e) the proposed right of reply is an assessment or warning against the future conduct of a person,

(f) satisfaction of the proposed right of reply would involve a punishable act,

(g) satisfaction of the proposed right of reply would be harmful or offensive,

- (h) satisfaction of the proposed right of reply would render the broadcaster liable to civil law proceedings,
- (i) satisfaction of the proposed right of reply would breach a broadcaster's statutory obligation,
- (j) satisfaction of the proposed right of reply would breach the terms of a broadcaster's contract under *Part 6* with the Authority,
- (k) the person who was injured by the contested information has no legally justifiable actual interest in the publication of a right of reply,
- (l) the original broadcast also contained a statement from the person affected and such contents are equivalent to a right of reply,
- (m) an equivalent editorial correction has been made and the person affected informed,
- (n) the content of the proposed right of reply would violate the rights of a third party,
- (o) the matter concerned relates to reports on public sessions of the Houses of the Oireachtas or the Courts,
- (p) the matter concerned relates to a party political broadcast,
- (q) the matter concerned relates to a broadcast under section 3 of the Act of 1998,
- (r) the broadcast of a right of reply is not in the public interest, or
- (s) the application was not made within the period specified in *subsection (18)*.

(22) Where the Compliance Committee finds that the broadcaster has failed to comply with a decision under *subsection (17)* the Compliance Committee shall notify the broadcaster of those findings and give the broadcaster an opportunity to make representations in relation to the notification or remedy any non-compliance, not later than—

- (a) 10 days after issue of the notification, or
- (b) the end of such longer period as is agreed by the Compliance Committee with the broadcaster concerned.

(23) Where, at the end of the period referred to in *subsection (22)*, the Compliance Committee is of the opinion that the broadcaster concerned has not remedied its non-compliance, the Compliance Committee may recommend to the Authority, and the Authority shall follow such recommendation, that the Authority apply to the High Court for such order as may be appropriate in order to ensure compliance with a decision under *subsection (17)*.

(24) The High Court may, as it thinks fit, on the hearing of the application make an order—

- (a) compelling compliance with a decision under *subsection (17)*,
- (b) varying a requirement under *subsection (17)*, or
- (c) refusing the application.

(25) A scheme shall be—

- (a) published by the Authority on a website maintained by the Authority, and
- (b) carried out in accordance with its terms by the Compliance Committee.

(26)

- (a) A scheme shall be laid before each House of the Oireachtas by the Minister as soon as may be after it is prepared.
- (b) Either House of the Oireachtas may, by resolution passed within 21 sitting days after the day on which a scheme was laid before it in accordance with *paragraph (a)*, annul the scheme.
- (c) The annulment under *paragraph (b)* of a scheme takes effect immediately on the passing of the resolution concerned but does not affect anything that was done under the scheme before the passing of the resolution.

(27) The Authority shall review and report to the Minister on the operation, effectiveness and impact of a scheme not later than 3 years from the date on which it comes into operation and every 5 years thereafter or at such time as may be requested by the Minister.

(28) A copy of a report under *subsection (27)* shall be laid by the Minister before each House of the Oireachtas as soon as may be after it has been made to him or her.

