

# The Competition Authority

-and-

## Raidió Teilifís Éireann

### AGREEMENT AND UNDERTAKINGS

This Agreement and Undertakings is made by and between the Competition Authority (the "Authority") and Raidió Teilifís Éireann ("RTÉ") on the date set forth below. The Authority and RTÉ are referred to collectively herein as the "Parties".

#### **WHEREAS:**

1. The Authority has been investigating allegations that RTÉ was operating an anticompetitive discount scheme (share deal) contrary to section 5 of the Competition Act 2002 (the 'Act'). RTÉ cooperated fully with the Authority's investigation and responded to all queries arising from the aforementioned allegations.
2. Section 5 of the Act prohibits any abuse by one or more undertakings of a dominant position in trade for any goods or services in the State or in any part of the State.
3. The Authority's investigation identified concerns that the Authority has in respect of certain types of arrangements used by RTÉ for trading television advertising airtime. In particular, the Authority was concerned that RTÉ's scheme for the sale of television advertising airtime under which the discounts given to advertisers depend, among other things, on the percentage (i.e. share) of the advertiser's total television advertising budget committed with RTÉ may give rise to an infringement of section 5 of the Act.
4. The Authority notes that RTÉ indicated to it that quite separate to the concerns raised by the Authority that RTÉ intended a fundamental review of how it sells airtime along with the planned introduction of a new scheme in order to *inter alia* improve efficiencies within RTÉ.
5. The Authority informed RTÉ that this Agreement and Undertakings resolves the concerns of the Authority.

#### **Undertakings**


6. RTÉ undertakes that, from 1 July 2012, the share of budget element of their scheme for the sale of television advertising airtime shall be discontinued and abolished and shall no longer feature as a component

of RTÉ's trading scheme. Under the new trading scheme, discounts given to advertisers shall not depend on the share of the advertiser's total television advertising budget committed with RTÉ.

7. RTÉ undertakes that it shall start the process for implementing the new trading scheme (excluding the share of budget element) as at the date of formal acceptance of the Undertakings by the Authority, such new trading scheme to be implemented no later than 1 July 2012.
8. On the execution of this Agreement and Undertakings, the Authority undertakes that it shall conclude its investigation in this matter and shall refrain from instituting proceedings against RTÉ in relation to the operation of the share deal scheme for so long as RTÉ remains in compliance with the undertakings set out in paragraphs 6 and 7 above.
9. This Agreement and Undertakings shall be and is intended by the Parties to be a binding and enforceable agreement which may be enforced by the Parties by an action in any court of competent jurisdiction in the State.
10. This Agreement and Undertakings shall be binding on both RTÉ and on any organisation which in the future carries on business which is the same or materially similar to the business of RTÉ.

Dated this 7<sup>th</sup> day of October 2011, in Dublin, Ireland

AGREED TO AND ACCEPTED BY:

Signed: 

(Print Name) Noel Curran

(Position) Director General

For and on behalf of RTÉ

Signed: 

(Print Name) DAVID MCFADDEN

(Position) MEMBER

For and on behalf of the Authority