



ÚDARÁS  
CRAOLACHÁIN  
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BROADCASTING  
AUTHORITY  
OF IRELAND

# Access Rules Review

Public Consultation  
December 2011



**Broadcasting Authority of Ireland**

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## **Subtitling**

Subtitling is on-screen text that represents what is being said on the screen. Subtitling can be open or closed. Open subtitling is subtitling that remains on the screen at all times. Closed subtitling can be added to the picture or taken away as viewers wish, using, for example, page 888 on Teletext. Subtitling is formatted so as to assist interpretation and understanding of the text and link it more accurately to the on-screen action. For example, in subtitling the colour of the text changes to alert the viewer that a different person is speaking in the scene.

## **Captioning**

Captioning refers to on-screen text that represents what is being said on the screen. However, while similar to subtitling, it is not as sophisticated and entails a more basic representation of what is being said on screen sometimes having only one colour, verbatim and can have the text only in upper case.

## **Irish Sign Language**

Irish Sign Language is the indigenous language of the Deaf community in Ireland. It is a visual, spatial language with its own syntax and complex grammatical structure. Signing may be presented on-screen through the use of a signer as part of the programme content, or the use of a signer (either a real person or avatar) acting as an interpreter in a box superimposed in the corner of the screen.

## **Audio Description**

Audio description is a commentary that gives a viewer with a visual impairment a verbal description of what is happening on the screen at any given moment, as an aid to the understanding and enjoyment of the programme. The technique uses a second sound track that gives a description of the scene and the on-screen action.

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## 1. Introduction

The Access Rules were introduced in 2005. The Rules set out the amount of subtitling, Irish Sign language and audio description which Irish television broadcasters must provide to increase the understanding and enjoyment of television for people who are deaf, hard of hearing, partially sighted or blind.<sup>1</sup>

In the Rules there are numerical targets which set out what percentage of programming on each channel should have subtitling or Irish Sign language or audio description.

In the case of subtitling there is a ten-year timeframe with targets set for each year for each broadcaster.

In the case of audio description (AD) and Irish Sign Language (ISL) there is a three-year timeframe with targets set for RTÉ.

The Access Rules also require that any increase in subtitling and Irish Sign Language each year must include some increase in children's programming. In addition increases in audio description are required to prioritise home-produced Irish programming.

Broadcasters are also required to consult with user groups representing people with a hearing or visual impairment and to promote the access services they provide.

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<sup>1</sup> The requirement to develop these rules is provided for in the Broadcasting Act 2009. The legislative provision is detailed in the Draft Revised Access Rules in Appendix 2.

The Broadcasting Authority of Ireland (BAI) has reviewed the current Access Rules. This review involved research, consultation with people who use access services about their experience and a review of the progress made by broadcasters over the years since the introduction of the Rules. If you would like to know more about the review process, this is detailed in Appendix 3 of this document. The research documents produced during the review process are available. These can be received in a range of formats including Braille, from the BAI.

Based on the outcomes of this review, the BAI is now proposing a number of changes to the current Rules. This document sets out those changes and asks for your views. The BAI believes that the changes proposed will result in a better approach to the Rules and a better service for viewers who need access services to enjoy and understand television. These proposed changes are explained in this document and are reflected in the revised Draft Access Rules provided at Appendix 1. We recommend that you review the revised Draft Rules when considering your response to the consultation questions in the following sections of this document. The closing date for submissions on the Rules is 24<sup>th</sup> January 2012.

Submissions can be made to the BAI by

Writing to: 2-5 Warrington Place, Dublin 2

E-mail to: [access@bai.ie](mailto:access@bai.ie)

Telephone: LoCall 1890 940 490

SMS: Text "BAI" followed by your response to 51000

**Please note:**

Calls will cost up to 6 cent per minute.

A standard text rate will apply for sms messages. A maximum of 160 characters will be accepted per text message. The service is being provided by Phonovation Limited. The helpline number is 0818 217 100.

## **2. Proposals for the Rules on Subtitling**

### **2.1 Timeframe for Achievement of Targets**

The Access Rules contain targets and timeframes regarding the provision of subtitling. The rules on subtitling initially used a ten-year timeframe in which broadcasters were to achieve set targets. So for each channel the percentage of subtitled programming that the broadcaster had to provide each year was specified. Each year there was an increase in the amount to be provided. This was useful because:

- It gave both access users of access services and broadcasters clear expectations of the amount of progress to be made and the pace at which that progress would be made;
- It allowed broadcasters to plan;
- It allowed for incremental progression, i.e. small increases each year.

The targets were set based on a range of influencing factors that were discussed and agreed during the initial process to develop the Access Rules.<sup>2</sup> The influencing factors are:

- Differentiation between broadcasters e.g. type of schedule, type of broadcaster, technical capacity, starting point etc;
- Funding;
- Technical Considerations.

The BAI believes that having a timeframe and targets is still important and appropriate for these same reasons. However, the review of the Rules highlighted how much broadcasting can change in a short period of time. For example, the type of programming shown on Irish channels has changed a lot in the last ten years. There is much more home-produced Irish programming and more live programming and this has implications for the type of subtitling used and the skills and costs involved. Also, technology has changed considerably in that time and access user needs can change also. For this reason the BAI is proposing that the revised targets would be set for a five-year period to be reviewed every two years. This would allow the targets to keep pace with changes in Irish broadcasting and user needs.

### **Consultation Question**

- **What are your views on the change from a ten-year timeframe to a five-year timeframe for the reasons set out above?**

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<sup>2</sup> See BCI Access Rules Consultation Document for more details on the influencing factors. [http://www.bci.ie/documents/access\\_consult.pdf](http://www.bci.ie/documents/access_consult.pdf)

## **2.2 Approach to Setting of Subtitling Targets**

In the consultation and research undertaken with access users during the review of the rules a very strong outcome was the need for the Rules to consider not just the availability of subtitling but also the reliability and the quality of subtitling. This review suggested that the Rules should do more to encourage broadcasters to focus on not just availability of subtitles but also the reliability and quality of subtitles, in that order of importance.

To respond to this, the BAI is proposing to change its approach to the setting of targets. Instead of a single percentage target for each year, a target range would be proposed. Taking this approach, instead of saying that 79% of programming should be subtitled in 2014, the Rules would say that between 76-81% should be reached. The reason for this is that sometimes the amount of work a broadcaster has to put in to achieve a better quality service for the viewer may not actually result in a large increase in the amount of programming that is subtitled.

So, for example, a broadcaster may decide that in a particular year they are going to begin subtitling one of their live or home-produced programmes. This may provide a very important new service for a user of access services. It would require a lot of effort and resources from the broadcaster as live subtitling is more resource intensive. In that year the broadcaster would be permitted to aim for the lower end of the range, because it is delivering something valuable for the viewer that does not actually result in a large percentage increase of programming. Or perhaps a broadcaster decides that they will make an investment in a

particular year in bringing all its subtitling up to a very high standard, with no dropping-out of subtitles or subtitles that are out of sync with the programming.

Again, in that year the broadcaster may be permitted to go for the lower target because ultimately it will not result in an increase in the amount of subtitling available but they are going to deliver reliability and quality of existing subtitling for the users of subtitling.

The review found that having one specified target for each year does not encourage broadcasters to address issues of reliability or quality. It does push broadcasters to increase the availability of subtitled programming but the review has also shown that viewers want reliability and quality addressed also. The BAI believes that this new approach will encourage broadcasters to consider making the investment in reliability and quality.

### **Consultation Question**

- **What are your views on the move from a single target to a target range?**

## **2.3 Proposed Subtitling Targets**

The following table sets out the proposed subtitling targets for each broadcaster for the next five years. The proposed increase per year is based on the average increases in subtitling achieved over the last number of years. There are increased levels of live and home produced programmes on some services. The targets set for each service reflect these differences. As the targets increase the efforts required to deliver subtitling increase.

Compliance with subtitling targets is currently measured over an 18-hour day, from 7am to 1am. It is proposed that this will continue.

### Subtitling Targets 2012-2016

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>RTÉ 1</b>	78 - 83%	80 - 85%	82 - 87%	84 - 89%	85 - 90%
<b>RTÉ2</b>	53 - 60%	56 - 62%	60 - 66%	63 - 69%	67 - 73%
<b>TV3</b>	39 - 43%	41 - 45%	43 - 47%	45 - 49%	47 - 51%
<b>TG4</b>	36 - 42%	40 - 46%	44 - 50%	47 - 53%	51 - 57%
<b>3e</b>	10 - 14%	13 - 17%	16 - 20%	19 - 23%	22 - 26%
<b>Setanta Ireland</b>	6 - 8%	7 - 9%	8 - 10%	9 - 11%	10 - 12%
<b>RTÉ 1+1</b>	Programme must be subtitled if the original carried subtitles. Targets to be determined at the next review of percentages				
<b>RTÉ News Now</b>	Programme must be subtitled if the original carried subtitles. Targets to be determined at the next review of percentages				
<b>RTÉ jr.</b>	Programme must be subtitled if the original carried subtitles. Targets to be determined at the next review of percentages				
<b>CCTV</b>	1%	2%	3%	4%	5%
<b>DCTV</b>	1%	2%	3%	4%	5%
<b>P5TV</b>	1%	2%	3%	4%	5%

### Consultation Questions

- **What are your views on the proposed targets, as detailed above?**
- **Are you satisfied that the level of subtitling provided would continue to be measured over an 18-hour day?**

## **2.4 Digital Channels**

The move from analogue to digital broadcasting is underway. Digital switch-over will occur on the 24<sup>th</sup> October 2012. This means that from that date the current analogue TV network will close down and anyone who wants to continue to receive Irish free- to-air television must upgrade to digital TV, e.g. Saorview via cable, or satellite. In this context, the BAI proposes that access targets for existing analogue terrestrial channels be carried forward to digital terrestrial channels. This means that any access provision available on programmes on the analogue service be made available to viewers of the digital service also. This will apply in the first instance to the new RTÉ television channels available on Saorview e.g. RTE 1 +1

Targets for new digital channels will be examined in more detail as part of the next review of the rules in two years time. This will include consideration of whether applicants for new digital channels will be required as part of the application process to identify proposed access provision to be provided on the service if licensed.

### **Consultation Questions**

- **What are your views on the approach to**
  - **Existing digital channels?**
  - **New digital channels?**

### **3. Audio Description and Irish Sign Language**

#### **3.1 Targets and Timeframes for RTÉ**

Currently, targets for Irish Sign Language and Audio Description are only set for RTÉ Services. There is currently a target of 1% for each type of access provision. This target has not been met to date although significant work has been undertaken by RTÉ, in conjunction with the National Council for the Blind, to improve the availability of audio description.

The setting of audio description and Irish Sign Language targets only for RTÉ reflects a European-wide approach whereby only Public Service Broadcasters are required to provide these two types of access service. The Authority remains of the view that RTÉ should provide these access services and that an increase in their provision is appropriate as a further step towards ensuring user groups are served. In addition, the opportunity to provide closed audio description following digital switch-over in October 2012 reduces some of the barriers to the provision of this type of access service and this has informed the Authority's approach.

The BAI proposes Audio Description and Irish Sign Language targets for RTÉ as set out below.

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>RTÉ 1+2 AD</b>	1%	1.25%	1.5%	1.75%	2%
<b>RTÉ 1+2 ISL</b>	1%	1.25%	1.5%	1.75%	2%

The targets propose a small increase over the five-year timeframe.

### **3.2 Proposed Change to Time Period for Audio Description**

Audio Description and Irish Sign Language targets are currently measured over a 24-hour day. This is to allow for open audio description and Irish Sign Language to be broadcast at off-peak hours, which may then be recorded by users for viewing during the daytime. Open means the service remains on the screen regardless of whether the viewer wants to use it or not. As closed audio description will be possible in a digital environment, the BAI is proposing that audio description targets be set and measured over an 18-hour day, as with subtitling. This change will come into effect following digital switchover in October 2012. Closed audio description means that the viewer can turn the audio description service on or off.

With regard to Irish Sign Language, as this cannot as yet be provided in closed format it is proposed that the 24-hour day be retained.

## **Consultation Questions**

- **What are your views on:**
  - **the change to the time period for measuring audio description, and;**
  - **the retention of the 24-hour measuring period for Irish Sign Language?**

### **3.3 Approach Taken to Other Broadcast Services**

The setting of audio description and Irish Sign Language targets only for RTÉ reflects a European-wide approach whereby only Public Service Broadcasters are required to provide these two types of access service.

The BAI is not proposing to change that requirement but equally the revised Access Rules will seek to encourage any other broadcasters who wish to provide Irish Sign Language or Audio Description to do so. The revised rules proposed seek to encourage such provision. While it is not suggested that a target be set for other broadcasters, were they to provide any audio description or Irish Sign Language it is proposed that this would be off-set against the subtitling target for that year.

### **Consultation Question**

- **What are your views on this approach to other broadcast services?**

#### **4. Approach to Compliance**

The BAI measures compliance with the Rules. Each year the BAI asks broadcasters to submit a report of how much subtitling, audio description and Irish Sign Language (where applicable) they have broadcast and then the BAI verifies the report. Given that the BAI would like the Rules to respond to viewers concerns about reliability and quality, it is proposing to amend the current approach to compliance in a manner which it believes will be more meaningful.

Rather than wait until the end of a year to find out what broadcasters have done to comply with the Rules, the BAI is proposing that it would meet with broadcasters at the start of each year to discuss with them what they are going to do in that year. The BAI would also ask that broadcasters would not only come to that meeting with their plans for the year but would also have consulted with access users as to those plans in advance. The Access Rules have always required that broadcasters consult with users of access services, but how and when this happens has been left to the discretion of the broadcaster. This has resulted in varying degrees of consultation being carried out. The BAI believes this proposed new approach to compliance gives a real basis for consultation between broadcasters and users of access services.

The requirement to provide reports on access provision will remain and the BAI will continue to monitor content for quality and reliability in line with its Guidelines.<sup>3</sup>

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<sup>3</sup> The BAI guidelines on the quality of access provision can be viewed here: [http://www.bai.ie/?page\\_id=138](http://www.bai.ie/?page_id=138)

The approach to compliance will be detailed and set out in the document entitled - **BAI Procedures Applying to the Assessment of Compliance**. This will be published once the Access Rules have been revised. All broadcasters will be required to comply with these procedures.

#### **Consultation Question**

- **What are your views on this approach to compliance?**

#### **5. BAI Consultation with Access Users**

The BAI is required to assess compliance with the Access Rules on a yearly basis and to review the Rules every two years. In order to ensure that the BAI has access to user's experience to assist in these processes, it is proposed that the BAI would put in place a consultative panel of access users who would be called upon to assist in these processes. This would allow the BAI to easily access user experience while also building knowledge among a group of access users as to how the BAI processes work. This panel would be convened as required and its views would inform decision making by the BAI Compliance Committee and the Authority.

#### **Consultation Question**

- **What are your views on the setting up of a User Consultative Panel?**

## **6. Other elements of the Access Rules**

There are a number of other elements of the Access Rules which the BAI does not propose to change at this time. These are as follows:

### **6.1 Use of captioning**

When the Rules were established, it was agreed that broadcasters could count captioning as part of their subtitling provision.

Captioning is regarded as being of lesser quality to subtitling in that it usually does not change colour to indicate different speakers or indicate any off-screen sounds. It was agreed that whether captioning should be included would be reviewed after a number of years. The feedback from the review process undertaken by the BAI has not indicated that users differentiate between captioning and subtitling and that availability is a higher priority than quality. For that reason, at this point in time it is proposed that captioning would still be permitted to contribute to the subtitling target.

### **6.2 Prioritisation of programming**

When the Rules were developed there was no agreement among user groups as to which programmes should be prioritised by broadcasters for access provision. However, RTÉ was required to ensure that any increase in subtitling provision and Irish Sign Language provision would include a reasonable proportion of children's programming. Of the total increase in audio description provision on an annual basis, a reasonable proportion should include Irish programming.

The Broadcasting Act 2009 requires the BAI to have regard to types of programming when considering the Rules and revisions to the Rules. News and news related content amongst others are referenced in the Act. The review process has not identified any unanimity among user groups as to what programming should be prioritised by broadcasters. For this reason, it is not proposed that the Rules will specify what programming should be prioritised.

### **6.3 Promotion of Access Rules**

The current rules require broadcasters to indicate through the use of a standard symbol those programmes for which access provision is available. Insofar as possible broadcasters should ensure that any programme listings also indicate those programmes for which access provision is available. Broadcasters are also required to promote the access services available. It is not proposed to change these requirements at this time.

#### **Consultation Questions**

- **What are your views on the retention of the current approach in respect of captioning, the prioritisation of programmes and the promotion of Access Services?**

## **Appendix 1**

### **Draft Revised Access Rules**

## **1. Introduction**

The Broadcasting Act 2009 makes a number of provisions in respect of rules to be made by the Broadcasting Authority of Ireland (BAI) to promote the understanding and enjoyment of programmes by persons who are deaf or have a hearing impairment, persons who are blind or partially sighted and persons who have a hearing impairment and are partially sighted. The relevant provisions of the Act are Sections 43(1)(c), 43(2), 43(3) and 43(6).<sup>4</sup>

In accordance with these provisions of the Broadcasting Act 2009, the BAI hereby sets out the following rules.

## **2. Definitions**

A number of terms are used throughout the Rules. These terms are set out and defined below.

### **Subtitling**

Subtitling is on-screen text that represents what is being said on the screen. Subtitling can be open or closed. Open subtitling is subtitling that remains on the screen at all times. Closed subtitling can be added to the picture or taken away as viewers wish, using, for example, page 888 on Teletext. Subtitling is formatted so as to assist interpretation and understanding of the text and link it more accurately to the on-screen action. For example, in subtitling the colour of the text changes to alert the viewer that a different person is speaking in the scene.

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<sup>4</sup> The provisions are detailed in the Appendices .

## **Captioning**

Captioning refers to on-screen text that represents what is being said on the screen. However, while similar to subtitling, it is not as sophisticated and entails a more basic representation of what is being said on screen sometimes having only one colour, verbatim and can have the text only in upper case.

## **Irish Sign Language**

Irish Sign Language is the indigenous language of the Deaf community in Ireland. It is a visual, spatial language with its own syntax and complex grammatical structure. Signing may be presented on-screen through the use of a signer as part of the programme content, or the use of a signer (either a real person or avatar) acting as an interpreter in a box superimposed in the corner of the screen.

## **Audio Description**

Audio description is a commentary that gives a viewer with a visual impairment a verbal description of what is happening on the screen at any given moment, as an aid to the understanding and enjoyment of the programme. The technique uses a second sound track that gives a description of the scene and the on-screen action.

### **3. Jurisdiction**

Broadcasters within the jurisdiction of Ireland must comply with the provisions of the Access Rules. The Rules shall not apply to other services commonly received in this State but licensed in the United Kingdom or in other jurisdictions.

The BAI reserves the right to extend the Rules and their applicability to new services licensed by the BAI under the Broadcasting Act 2009, from time-to-time. The BAI will make this assessment on a case-by-case basis.

### **4. Complaints**

Any viewer or listener can refer a complaint directly to the relevant broadcaster, in the first instance, if they are dissatisfied with the manner in which a broadcaster is complying with the Rules. Further information is available on [www.bai.ie](http://www.bai.ie).

### **5. Compliance**

In evaluating and measuring performance, the Authority will take into account, *inter alia*:

- The BAI Compliance Policy;
- The BAI Procedures Applying to the Assessment of Compliance with the Access Rules.

## **6. Subtitling Rules**

1. Specific targets have been identified for each broadcast service and broadcasters shall comply with the targets and timeframes applying to their service(s). All targets are based on a five-year timeframe.

Targets are specified as a range of percentages and targets are based on an 18-hour broadcast day from 7am to 1am. Current timeframes and targets are detailed at Appendix 1.

2. In the case of RTÉ 1 and RTÉ 2, of the annual percentage increase in subtitling, a reasonable proportion shall include children's programming, where applicable.
3. The rules do not, at this time, prioritise any programme genres/types or time-blocks within the 18-hour day. However, broadcasters shall consult periodically and not less than once annually, with user groups, as to their viewing preferences.
4. Broadcasters are permitted to include some captioning in the attainment of subtitling targets. However, it is the intention of the Authority that the five-year timeframe of the rules will function as a transition period to facilitate a changeover from captioning to subtitling.
5. Broadcasters shall comply with standards and guidelines set out from time to time in the BAI Subtitling Guidelines.

## **7. Irish Sign Language Rules & Audio Description**

1. Specific Irish Sign Language and audio description targets have been identified for RTÉ 1 and RTÉ 2 and RTÉ shall comply with the targets and timeframes applying to these services. The targets are based on a five-year timeframe

Targets are specified as a range of percentages and targets are based on a 24-hour broadcast day taking into account the cumulative percentage across the two services. Current timeframes and targets are detailed in the Appendices.

2. In the case of audio description, percentages will be calculated over an 18-hour broadcast day from 7am-1am following Digital Switchover in 2012.
3. Of the total increase in Irish Sign Language provision provided on an annual basis, a reasonable proportion of children's programming shall be included.
4. Of the total increase in audio description provision provided on an annual basis, a reasonable proportion shall comprise home-produced programming.
5. There are no Irish Sign Language or audio description requirements in respect of other broadcast services at this time. Requirements in this regard will be reviewed periodically. However, other services may choose to provide

audio description and/Irish Sign Language and any provision will be set off against the targets for subtitling.

6. Broadcasters shall comply with standards and guidelines set out from time to time in the BAI Irish Sign Language and Audio Description Guidelines.

## **8. Promotion of Access Services**

Broadcasters are required to indicate through the use of a standard symbol those programmes for which access provision (subtitling, sign language or audio description) is available. Insofar as possible, broadcasters should ensure that any programme listings also indicate those programmes for which access provision is available.

Broadcasters shall promote regularly the existence and usage of the form(s) of access provision available on their services.

## **9. Review of the Access Rules**

These Rules will be reviewed in 2014 and 2016.

## Appendix

### Access Targets and Timeframes 2012-2016

#### Subtitling

	2012	2013	2014	2015	2016
<b>RTÉ 1</b>	78 - 83%	80 - 85%	82 - 87%	84 - 89%	85 - 90%
<b>RTÉ2</b>	53 - 60%	56 - 62%	60 - 66%	63 - 69%	67 - 73%
<b>TV3</b>	39 - 43%	41 - 45%	43 - 47%	45 - 49%	47 - 51%
<b>TG4</b>	36 - 42%	40 - 46%	44 - 50%	47 - 53%	51 - 57%
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<b>Setanta Ireland</b>	6 - 8%	7 - 9%	8 - 10%	9 - 11%	10 - 12%
<b>RTÉ 1+1</b>	Programme must be subtitled if the original carried subtitles. Targets to be determined at the next review of percentages				
<b>RTÉ News Now</b>	Programme must be subtitled if the original carried subtitles. Targets to be determined at the next review of percentages				
<b>RTÉ jr.</b>	Programme must be subtitled if the original carried subtitles. Targets to be determined at the next review of percentages				
<b>CCTV</b>	1%	2%	3%	4%	5%
<b>DCTV</b>	1%	2%	3%	4%	5%
<b>P5TV</b>	1%	2%	3%	4%	5%

#### Audio Description and Irish Sign Language Targets

	2012	2013	2014	2015	2016
<b>RTÉ 1+2 AD</b>	1%	1.25%	1.5%	1.75%	2%
<b>RTÉ 1+2 ISL</b>	1%	1.25%	1.5%	1.75%	2%

The AD and ISL percentages are based on the cumulative programming output of RTÉ1 and RTÉ2.

## **Appendix**

### **Legislative Provisions**

**Section 43(1)(c) of the Broadcasting Act 2009** provides that: -

“The Authority shall, subject to the requirements of section 41(2) and, in accordance with subsection (4), prepare, and from time to time as occasion requires, revise rules (“broadcasting rules”) with respect to-

(c) The specific steps each broadcaster is required to take to promote the understanding and enjoyment by –

- i) persons who are deaf or have a hearing impairment,
- ii) persons who are blind or partially sighted, and
- iii) persons who have a hearing impairment and are partially sighted,

of programmes transmitted on any broadcasting service provided by the broadcaster.”

**Section 43(2) of the Broadcasting Act 2009** provides that: -

“Without prejudice to the generality of subsection (1)(c), broadcasting rules with respect to that paragraph shall require each broadcaster of audio-visual material to take specified steps to provide access to that material by persons who are deaf or have a hearing impairment, persons who are blind or partially sighted, and persons who have a hearing impairment and are partially sighted by means of specified services such as -

- (a) sign language,
- (b) teletext services.
- (c) subtitling, and audio description, and

- (d) Have regard to whether the foregoing material is being provided –
  - (i) Daily or at other regular intervals,
  - (ii) At popular viewing times as well as at other times, and
  - (iii) For news and news-related matters as well as for other matters.”

**Section 43(3) of the Broadcasting Act 2009** provides that: -

“Rules under subsection (1)(c) may, in respect of any period specified in them beginning on or after the passing of this Act, require a broadcaster to ensure that a specified percentage of programmes transmitted on a broadcasting service provided by him or her in that period employs specified means by which the understanding and enjoyment by persons referred in subparagraphs (i), (ii) and (iii) of that paragraph of that percentage of programmes may be promoted.”

**Section 43(6) of the Broadcasting Act 2009** provides that: -

“The Authority shall every two years, or such lesser period as it may decide, review a broadcasting rule made under subsection (1)(c).”

## Appendix 2

### Targeted and achieved levels of subtitling 2005-2011

	Jan – June 11		Mar – Dec 10		Mar 09 – Feb 10		Mar 08 – Feb 09		Mar 07 – Feb 08		Mar 06 – Feb 07		Mar 05 – Feb 06	
	Targ	Act	Targ	Act	Targ	Act	Targ	Act	Targ	Act	Targ	Act	Targ	Act
<b>RTÉ 1</b>	97	79	95	78	93	76	85	73	75	67	65	66	55	61
<b>RTÉ 2</b>	73	54	67	54	60	46	51	43	42	39	33	29	24	23
<b>TG4</b>	62	42	56	36	50	35	42	35	36	37	30	23	24	13
<b>TV3</b>	48	37	44	39	40	34	33	18	26	24	19	28	12	24
<b>Setanta Ireland</b>	12	2.4	10	1.2	8	5	6	5	4	3	2	0.5	-	-
<b>NASN/ESPN</b>			-	-	-	-	6	47	4	1	2	0	-	-
<b>City Chan (Dublin)</b>	5		4	4.6	3	5	2	0	1	0	0	-	-	-
<b>City Chan (Galway)</b>	5		3	4.6	2	5	1	0	-	-	-	-	-	-
<b>City Chan (South)</b>	5		3	4.6	2	5	1	5	-	-	-	-	-	-
<b>3e</b>	10	8.7	8	10.3	6	5.6	4	0	2	0	-	-	-	-
<b>P5TV</b>					1	43	1	0.5	-	-	-	-	-	-
<b>DCTV</b>					1	13.2	1	4	-	-	-	-	-	-

## **Appendix 3**

### **Overview of Current Review of Access Rules**

The review of the Access Rules by the Broadcasting Commission of Ireland began in 2008 and a number of activities were undertaken over the following years. These are outlined below.

- **Target Audience Consultation**

This targeted consultation focused on those principal audiences benefiting from the Access Rules, namely members of the general public who have a sensory disability and who use subtitling, sign language and audio description to assist their understanding and enjoyment of television programmes. The purpose of this research was to elicit views concerning the quality of access provision. The research study also set out to obtain feedback about Irish based television viewers' use and experience of the access services made available by the Irish based broadcasters.

The two main findings of this consultation are:

#### **Three main needs exist**

Users have three main needs. These are availability, reliability then quality. Users, in the first place, want to have access services even if they are not reliable or the best quality. Once the access services are in place they want them to be reliable, i.e. they want them to stay on for the duration of the programme. Once these two factors have been met then the quality of the access service is the final requirement.

## **Reliability**

The reliability of subtitles is an issue. If a programme has subtitles, users want them to start on time, stay in place for the duration of the programme and stay in synch with the programme.

- **Jurisdictional Review**

This report outlines existing regulatory provisions regarding access to audiovisual services or people with aural and visual disabilities in other countries. The recent Audiovisual Media Services Directive will, in the near future, increase the level of regulation in the area of access services throughout EU member states.

This report shows that although there may be general legal principles regarding the provision of access to broadcasting services, in practice very few countries have specific regulations in this area. The MeAC study (EC, 2007) rated the UK and Ireland highest in terms of the policy environment for promoting access. The report also highlighted that many countries do not have obligations on broadcasters to provide subtitling or sign language interpretation. The MeAC study also showed that in almost all cases, a high or medium level of regulatory provision leads to a high or medium level of access services.

- **Human Resource Analysis**

This analysis was undertaken in order to develop a clearer understanding of the role of human resource factors and cost of those resources involved in the provision of access services by broadcasters in the Republic of Ireland.

Broadcasters stated that the main reason for not meeting the subtitling targets is the current economic climate. Other issues include the steep learning curve to provide subtitling and the high cost and limited availability of subtitlers in Ireland.

### **Review of Compliance with Existing Access Rules**

The BAI monitors the level, availability and quality of access services of Irish broadcasters on an ongoing basis. Appendix 2 lists the target and actual achieved percentage of subtitles for the various Irish broadcasters in the period 2005-2010.

In general it can be seen that broadcasters have not met the targets set in 2005, 2006 and 2007. The review found a range of factors that impacted on the ability of broadcasters to comply with the requirements. This includes significant changes to schedules over this time, as outlined in the research reports produced as part of the review. These are available on the BAI's website.

## **Freedom of Information**

This is a public consultation process and following consideration of submissions by the Board of the BAI, all information submitted will be publicly available on request. However, there may be aspects of your submission which you may wish to make in confidence. If this is the case, when making the submission please identify any information which you do not wish to be publicly disclosed and specify the reasons for its sensitivity.

Agreements between the BAI and respondents to the consultation, regarding confidential information, are without prejudice to the BAI's obligations under the Freedom of Information Act, 1997 and the Freedom of Information (Amendment) Act, 2003. If the BAI receives a request for information submitted in confidence, you will be consulted before any decision is made.



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