



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

**Report and Recommendations by the  
Broadcasting Authority of Ireland on the  
exercise of its functions under  
Statutory Instrument No.67 of 2011**

August 2011

## Preface

On the 16<sup>th</sup> February 2011, the Minister for Communications, Energy and Natural Resources signed Statutory Instrument No.67 of 2011, pursuant to Section 26(5) of the Broadcasting Act 2009, conferring a number of additional functions on the Broadcasting Authority of Ireland. In accordance with the terms of the Statutory Instrument, the BAI consulted with interested parties, sought expressions of interest for the provision of broadcast content and subsequently produced the following report. This report was submitted to the Minister for Communications, Energy and Natural Resources on the 6<sup>th</sup> May 2011. The BAI was not in a position to publish this report until the Minister had considered the material provided. On the 21<sup>st</sup> July 2011, consent was received from the Department of Communications, Energy and Natural Resources (“DCENR”) to publish this report.

Given the launch of the Irish DTT platform, Saorview, on the 26<sup>th</sup> May 2011, subsequent to the BAI’s submission to the Minister, and given further developments regarding costs of carriage on the platform, some of the information in this report may not be current at the date of publication (August 2011). In addition, some submissions were made to the BAI on a confidential basis and the report, therefore, reflects the provision of information on this basis.

The report should be read as representing the views and recommendations of the Authority based on the information available to the BAI at the end of April 2011.

## 1. Introduction

On the 16<sup>th</sup> February 2011 the Minister for Communications, Energy and Natural Resources signed Statutory Instrument No.67 of 2011 ( attached as Appendix 1 ), under section 26(5) of the 2009 Act, conferring a number of additional functions on the Authority. These relate to:

- Consulting with RTÉ,
- Consulting with other parties in relation to the provision of broadcasting services on the RTÉ DTT multiplexes,
- Recommending to the Minister the number of services that can be accommodated on the RTÉ DTT multiplexes,
- Seeking expressions of interest from broadcast content providers for the provision of content on (i) a free to air basis on the RTÉ DTT multiplexes and (ii) on a pay (scrambled) or free to air basis on DTT Multiplexes that may be established by the Authority, and
- To report and make recommendations to the Minister on the matters outlined above.

These functions are set out in sections 3 (a) – (e) of the Statutory Instrument.

In pursuance of the functions contained in the Instrument, the BAI held meetings with RTÉ to discuss multiplex capacity and cost issues; met with the Irish Film Board and the Houses of the Oireachtas to ascertain whether any progress had been made towards the development of services by these bodies and sought expressions of interest from broadcast content providers as required. At the commencement of the process, it was agreed with officials from the Department of Communications, Energy and Natural Resources (“DCENR”) that the expressions of interest element would be limited to free to air broadcasting services for the present.

An executive summary of the BAI's conclusions and recommendations is set out at section 2; the report of the expressions of interest and recommendations to the Minister are set out at section 3; consultation outcomes with the Irish Film Board and Houses of the Oireachtas at Section 4 and a report of the issues emerging in respect of capacity and costs on the RTÉ multiplexes is set out at section 5.

## 2. Executive Summary of conclusions and recommendations

The Authority recommends that the new services proposed by TV3, TG4, DCTV/NvTv, Mark Pilkington (Chilli Hits) and Irish TV merit consideration by the Minister for inclusion on the RTÉ multiplexes. However, none of these services will be in a position to be included at launch stage and it is the Authority's view that a more realistic timeframe for their inclusion on the multiplexes would be at or just before analogue switch off in October 2012. In this regard, there are cost issues associated with all of the proposals while there are significant

questions around the development of those services proposed by persons who are currently not providing broadcasting services (Chilli Hits and Irish TV).

With regard to radio, the Authority recommends that all three proposals be considered for inclusion on the multiplexes. At present, the only radio services being carried on the multiplex are provided by RTÉ and the addition of these three services would result in the provision of greater diversity.

The position in respect of the Oireachtas and Irish Film Channels is that there remains a desire on the part of both the Houses of the Oireachtas and the Irish Film Board to have the channels developed but this will not be possible in the short term for cost reasons. The Authority considers that it is a matter for the Minister to determine whether space should be reserved on the second RTÉ multiplex to cater for these services. It is the BAI's understanding that the Ceann Comhairle has recently written to the Minister in relation to the proposed Oireachtas Channel.

The issue of greatest concern to the prospects of any new services emerging relates to the proposed cost structure for carriage envisaged by RTÉ/RTÉNL. It is the Authority's view that the RTÉ proposal that content providers should be charged on a pro-rata basis across the DTT platform rather than on an individual multiplex basis is not sustainable. Should this approach to cost be continued, it is the Authority's view that it is unlikely that any services, other than those proposed by RTÉ, will be in a position to be carried on the platform.

Section 130 of the Act gives power to the Minister to designate payments to be made by providers of services on the multiplex. Such payments are to be determined following consultation with ComReg, RTÉ and the intended provider of the service. It is the view of the Authority that any directions issued to RTÉ in respect of payments should have regard to the concerns expressed in this report.

Finally, on the question of multiplex capacity, there would appear to be sufficient capacity on Multiplex 1 to carry the services currently available during the test period, together with the additional RTÉ services which were recently approved, following the sectoral impact assessment and public value review. With regard to the proposed services emerging from the expressions of interest process, these are not likely to be in a position to commence operations until near to or beyond analogue switch off in October 2012. In these circumstances, the question of the requirement to introduce the second RTÉ multiplex in 2011 should be considered further by the Minister.

### **3. Report of Expressions of interest**

Nine groups/individuals provided expressions of interest for 3 radio and 11 television channels on the RTÉ DTT multiplexes. Copies of the expressions of interest are available from the BAI if required. The expressions of interest have been divided into 3 groups, those

from existing television channel operators, those proposing new television channels and those proposing new radio channels. A brief summary of each expression of interest is given below together with the BAI's conclusions and recommendations in respect of each proposal.

**a. Existing Television Channel Operators**

**TV3**

TV3 is a national television broadcaster, licensed by the Authority to provide the TV3 and 3e channels. TV3 is well known to the Authority and has provided full details of the company and its experience in the area of television production and distribution.

TV3 has submitted expressions of interest for 3 television channels.

1. "3 Kids" and "3 Classic"  
This proposes the sharing of a channel for a children's entertainment channel during the day and an evening service showing classic Irish movies and documentaries.
2. TV3+1  
This proposes the present TV3 channel with a 1 hour delay.
3. TV3HD  
This proposes a High Definition version of the present TV3 channel.

The "3 Kids" and "3 Classic" proposal is described as public service in nature as it will provide entertainment and information for Irish people reflective of their changing society and culture.

The TV3+1 proposal is described as public service as it meets the public service requirements of TV3 and will provide additional opportunities for the public to access TV3 content, particularly for those without recourse to the "TV3 Player" facility. In this regard it is similar to the recently approved RTÉ+1 service.

The TV3 HD proposal is described as public service as it meets the public service requirements for TV3 and will also provide improved picture and sound quality.

The proposed start date will be September 2012, approximately 15 months after the launch of Saorview. Analogue switch off (ASO) in Ireland is proposed for late 2012 which would effectively mean that the proposed new TV3 channels would not come on air until close to or after ASO.

All 3 proposals have included full technical details with costings for upgrade work required and the increased carriage costs on RTÉ multiplexes. TV3 have also indicated

that they have issues regarding the cost of carriage on the RTÉ multiplexes. In TV3's submission they suggest that the quoted costs have effectively doubled from €500k to €1m p.a. for a standard definition channel.

### **BAI conclusion and recommendation**

TV3 is an established broadcaster and would appear to have the technical and financial capabilities to provide the channels listed. On the basis of the submissions, the proposed new services would appear to fulfil the 'public service' requirement outlined in section 130 of the Act. The question of carriage costs is significant, but the Authority takes the view that is a matter for the Minister to make a decision on this matter in accordance with section 130 of the Act. The Authority is satisfied to recommend that the TV3 proposals be considered by the Minister for carriage on the RTÉ DTT multiplexes.

### **TG4**

TG4 is a national television broadcaster and is well known to the Authority. TG4 has submitted an expression of interest for a mixed channel. This will be a young people's Irish language service during the day and a TG4+1 service (Irish content only) in the evening. The Irish language content is described as being public service in nature

A capital cost of circa €275k will be required to upgrade equipment prior to the launch of this service. TG4 proposes that this comes from Grant-in-Aid from the Exchequer. TG4 has provided full details of other technical work required to bring this service on air. Carriage costs of €750k p.a. are quoted.

Although a start date is not mentioned, TG4 says that the cost of carriage of the RTÉ multiplex will be offset by not having to broadcast in analogue following ASO.

### **BAI conclusion and recommendation**

TG4 is an established broadcaster and would appear to have the technical and financial capabilities to implement the new channel. The quoted carriage costs are less than those quoted by RTÉ, but not by a significant amount. It would also appear that TG4 does not intend launching the new service until after ASO. The proposed service would appear to fulfil the public service requirement. However, the Authority is of the view that a sectoral impact assessment and public value review would require to be undertaken in respect of this service in accordance with section 103 of the Act. Accordingly, the Authority recommends that the Minister would consider the inclusion of this service on the multiplex, subject to a satisfactory outcome of a sectoral impact assessment and public value review.

### **Dublin Community Television (DCTV) and Northern Visions Television (NvTv)**

This is a combined submission by DCTV (licensed by the BAI for the Dublin City and County area) and NvTv (licensed by Ofcom in the Belfast area). DCTV is known to the Authority, but the only information provided about NvTv is that it has been licensed by Ofcom since 2004 to provide a television service in the Belfast area.

DCTV/NvTv intends broadcasting original programming showcasing local communities across Ireland and the world around them. The service is described as public service in nature as; it hopes to build community through media, programming is made for public benefit and it will provide plurality of voice catering for all ages, interests and tastes.

Technical and financial details have been provided for new equipment required to link to the RTÉ multiplex. DCTV/NvTv has also asked that they be granted free carriage on the RTÉ multiplexes under section 26(3) of the Broadcasting Act 2009.

This service is proposed to operate on the Irish Saorview and UK Freeview platform with a commencement date of early 2012.

### **BAI conclusion and recommendation**

Both DCTV and NvTv are established television broadcasters who have been operating for several years in the Dublin and Belfast areas respectively. DCTV/NvTv would appear to have the technical capability to implement the new channel, but are asking that the Authority direct RTÉ to provide free carriage on the PSB multiplexes. The submission, through its community focus, would appear to have a public service nature to it. The issue of free carriage is outside the remit of the Authority and would have to be decided upon by the Minister. With regard to their proposal to be carried on the UK Freeview service, this is not within the ambit of the powers of the Minister or BAI and could only be determined by Ofcom or the UK Government.

#### **b. New Entities/ Individuals ( Television)**

##### **Chilli Hits (Mark Pilkington)**

Mark Pilkington has experience in the broadcasting market, including television production transmission and the launching of television channels. However, he is not currently providing a broadcasting service and does not appear to have done so in the past.

The proposal is for an indigenous music television channel, starting with a 24/7 schedule of videos and eventually introducing programming segments between videos. The service has been described as public service in nature because it provides a

dedicated music video channel showcasing existing and upcoming Irish talent and international bands.

Mark Pilkington has provided costed technical details of his proposal. He has provided carriage costs of circa €200k p.a. for a 2 Mbps SD service compared to the variable RTÉ cost of between €500k to €1m p.a. He proposes that advertising, sponsorship and premium text messages would cover the cost of running the service.

Mark Pilkington has not specified a start date for the channel, but has suggested that he could be ready to start at one month's notice.

### **BAI conclusion and recommendation**

Mark Pilkington has experience in the broadcasting area, although not currently providing a broadcasting service, and would appear to have the technical ability to implement the proposed service. He has provided a very low estimation of cost of carriage and the Authority would question whether he could fund the extra cost required to provide the carriage on the RTÉ multiplexes. The Authority would accept that the focus on indigenous music and nurturing of new talent provides a public service dimension to the proposal. Accordingly, the Authority is satisfied to recommend to the Minister that it be considered for inclusion in the multiplex. However, the proposal would need to be developed substantially and the funding issues resolved before it could be included on the multiplex. In these circumstances a timescale for launch of mid 2012 is probably more realistic.

### **Irish TV**

The proposal is from Kenneth Murray and John Brown. Kenneth has over 15 years experience as a journalist, while John has significant experience in the music industry.

The service proposes Irish themed music videos. Irish TV has not explicitly provided evidence of how the proposed service is public service in nature, but has highlighted how the proposed music line up would promote a dimension of Irish culture that is under threat due to changing tastes in radio airplay and would aim to save and promote the distinct nature of the Irish ballad.

Irish TV has not provided any details of technical requirements or costs. A staff of 10 has been suggested with an annual staff budget of circa €700k. The cost of carriage of the RTÉ multiplexes of €800k is not too different to that quoted by RTÉ. A launch date of late autumn 2011 has been suggested. Income is stated as coming from advertising, programme sponsorship deals and regular competitions, but there is no breakdown of income from the various streams.

### **BAI conclusion and recommendation**

Kenneth Murray and John Brown would appear to have little experience in the area of content acquisition or programme distribution. They have provided a reasonable estimation of cost of carriage, but the Authority would question whether they can fund the large staff requirement and marketing budget. The Authority would also question how much work has been done on the technical aspect of the project. A channel launch of late autumn 2011 would appear unrealistic given the amount of work required in securing content, licences, staff, carriage contracts etc. The Authority would accept that the focus on indigenous music and nurturing of new talent provides a public service dimension to the proposal. Accordingly, the Authority is satisfied to recommend to the Minister that it be considered for inclusion in the multiplex. However, the proposal would need to be developed further and a timescale for launch of mid 2012 is probably more realistic.

### **Éamonn Geoghegan**

Éamonn Geoghegan has qualifications in the media area but has provided no details of his experience in the area of content acquisition, programme compilation etc.

Éamonn Geoghegan proposes 4 television channels; NITV providing news, current affairs, feature programming, film, drama and documentary from Northern Ireland; FISÉ, a film channel; CEOL, a music channel and EOLAS, a channel providing parliamentary coverage from the Oireachtas, Stormont and the EU. Éamonn Geoghegan has not explicitly provided evidence of how the proposed service is public service in nature, but has said that each service has public service aspects to them

Éamonn Geoghegan has proposed carriage costs of €500k p.a. per channel which is at the lower end of the variable RTÉ costs of between €500k to €1m p.a. Other technical and rights costs amount to around €10m per year. There is no indication of how the proposed channels will be linked to the RTÉ multiplex. The channels are proposed to start on a phased basis, with the first to come on stream in late September 2011. Income will be in the form of advertising, sponsorship and product placement.

### **BAI conclusion and recommendation**

This would appear to be a highly aspirational expression of interest from a person who has no direct involvement in the provision of programme services, content or any experience in the area of content acquisition or programme distribution. Furthermore, he has not provided details of other staff with experience in this area. The proposed channels have some merit from a public service perspective, but there is no sense from the expression as to how they might be developed. Éamonn Geoghegan has provided a reasonable estimation of cost of carriage, but the Authority would question whether the extremely high rights costs can be

funded by advertising and other income. The Authority does not consider that the proposals are sufficiently developed and accordingly does not recommend that they be considered for inclusion by the Minister at this point

### **c. Radio Channels**

#### **Digital Radio Ltd. (Dusty Rhodes)**

Dusty Rhodes has over 25 years experience in the radio industry and is well known to the Authority.

Dusty Rhodes proposes an 80's music channel with no news and current affairs programming. He states that this is a very niche service which would add to the diversity of content available and would therefore be an important public service.

Dusty Rhodes has presented costings for carriage and linking to the RTÉ multiplex. He has not provided a start date for the service, but says that he could be on air in a short space of time using the same delivery system as used in the DTT trials.

### **BAI conclusion and recommendation**

Dusty Rhodes has experience in the radio sector. He has provided a good estimation of cost of carriage and other costs, which the Authority expects could reasonably be funded via advertising. The Authority would acknowledge that there is a question as to the public service nature of the proposal other than it provides additional diversity. It might equally be argued that this comment could apply to the RTÉ Gold radio service which is being carried on the multiplex. Accordingly, and in the context of supporting the provision of additional radio services on the multiplex, other than those provided by RTÉ, the Authority recommends that the Minister would consider the inclusion of this service on the multiplex

### **Raidió Rí–Rá**

Raidió Rí–Rá has been broadcasting online since 2008. It has also had temporary FM licences from the Authority over the past 3 years.

Raidió Rí–Rá proposes a current affairs and music channel through Irish for young people. They say that the service is public service in nature as it provides a radio service in Irish for the young people in the State.

Raidió Rí–Rá has not provided any details of a proposed start date for the service and has not provided financial details for carriage costs on the RTÉ multiplexes or how these costs would be met.

### **BAI conclusion and recommendation**

Raidió Rí-Rá has experience in the radio sector with its temporary FM licenses and has demonstrated a public service element to their submission. Raidió Rí-Rá has provided no cost breakdown for carriage and other costs, and has not detailed any income sources. The Authority is satisfied that Raidió Rí-Rá is public service in nature and accordingly recommends that the Minister would consider that the service be included in the multiplex. However, the proposal would need to be developed further, particularly from a financial perspective, before its inclusion could be finalised.

### **Easy FM**

Easy FM comprises 4 individuals, each with over 20 years of experience in radio. There is a broad range of skills among the 4 individuals. Easy FM has an online presence through [www.easyfm.ie](http://www.easyfm.ie)

Easy FM proposes an Irish and American country music channel. It has not stated how this service is public service in nature, but says that they can offer a unique service to country music fans across Ireland.

Easy FM has provided details of carriage costs of €20k p.a. and other costs of €50k in year 1, rising to €300k in year 3 when the station moves to full live broadcasting. They say that their existing internet service covers most of their costs. Easy FM has identified sponsorship and advertising to cover the additional running costs.

Easy FM has not provided a start date for the service, but says that they are in contact with RTÉ NL regarding provision of their service on the RTÉ multiplex.

### **BAI conclusion and recommendation**

Easy FM has experience in the radio sector. They have provided a low estimation of cost of carriage while other costs would appear reasonable. The Authority expects that the costs of running the channel could reasonably be funded via advertising. The Authority would acknowledge that there is a question as to the public service nature of the proposal other than it provides additional diversity. It might equally be argued that this comment could apply to the RTÉ Gold radio service which is being carried on the multiplex. Accordingly, and in the context of supporting the provision of additional radio services on the multiplex, other than those provided by RTÉ, the Authority recommends that the Minister would consider the inclusion of this service on the multiplex.

#### **4. Houses of Oireachtas and Irish Film Channels**

Sections 125-128 of the Broadcasting Act allows for the establishment of the Irish Film Channel and the Houses of the Oireachtas Channel. Section 130 allows, where requested by the Minister, for carriage of these channels on the RTÉ multiplexes.

The Executive of the Authority met with the Irish Film Board and the Houses of the Oireachtas to determine their interest in being carried on the RTÉ multiplexes. The Irish Film Board provided well thought out plans and costs for the carriage on DTT, but were relying on Government funding for the film channel. In 2008, when this plan was produced, the Department of Tourism, Culture and Sport had indicated that they would fund the project. Given the changed economic situation, the issues of funding will have to be re-assessed before plans for this channel can proceed.

The Houses of the Oireachtas would also like to provide content on the RTÉ multiplexes. Indications from the new Ceann Comhairle are that he would like to see this new channel implemented. Funding for this channel is an issue which will have to be resolved before any proposals to develop the channel could be advanced further. It is our understanding that a letter in this regard is being sent from the Ceann Comhairle to the Minister.

#### **BAI conclusion and recommendation**

It is clear that the Irish Film Board and Houses of the Oireachtas remain committed to the implementation of their respective channels, but a solution to the funding of these channels is critical to their ability to develop them. It is not within the capability of the BAI to resolve this issue and further contact between the Minister, the Ceann Comhairle and the Minister for Arts, Heritage and The Gaeltacht will be necessary to progress this matter.

#### **5. RTÉ multiplex capacity and cost**

The BAI met with RTÉ in January, to establish the level of costs that potential applicants are likely to have to pay for carriage on the RTÉ multiplexes and also to determine if there is sufficient capacity for the carriage of services additional to those already being carried or planned to be carried on the RTÉ multiplexes.

At the meeting, RTÉ agreed with the proposition that additional content would make the “Saorview” DTT platform a more attractive consumer offering. However, they indicated that the first DTT multiplex was full and that any new content would require the establishment of a second DTT multiplex. Costs would be calculated on a multiplex basis rather than total platform. This would mean that the cost associated with each multiplex would be borne by the content providers on each multiplex. Different costs would arise depending on which multiplex the content was on and also the number of channels that are carried on the multiplex. Hence if only one television channel was on the second multiplex, the entire operating costs of the second multiplex (€3.5m to €5m per annum) would be borne by the

single content provider. Whereas, if the same content provider was on the first multiplex, the annual costs would be shared across all operators on the first multiplex and be in the region of €500k per annum for a standard definition television channel.

In February 2011, the Minister consented to certain new RTÉ channels being carried on the PSB multiplexes. This consent specified that RTÉ establish a second DTT Multiplex and that the RTÉ Two High Definition (HD) channel should be carried on this second multiplex with RTÉ jr/RTÉ plus moving to the second multiplex by the 1<sup>st</sup> September 2011

The BAI Executive was advised by RTÉNL on Tuesday 12<sup>th</sup> April that the annual transmission costs for content providers on the RTÉ DTT Multiplexes would now be calculated on a platform basis. The total DTT platform cost of between €8 and €11m annually would be divided between the content providers on the platform and not on a per multiplex basis. Costs would be calculated based on the actual data capacity used by each content provider divided by the total data capacity in use on the two multiplexes. The costs would increase or decrease annually based on the total number of content providers on the platform. In effect, this would mean that RTÉNL would receive a guaranteed income each year, while any spare or reserved capacity would be paid for by all operators on the platform. A content provider therefore would have a variable and unpredictable annual transmission cost for a standard definition channel of between circa €600K and €1m per annum depending on the total number of content providers on the platform and whether analogue television is still on air. Similarly for a HD channel, the annual DTT transmission costs would be variable and could range from circa €1.2m to €2.4m per annum. For radio services carried on DTT, the annual costs again would be variable year on year and range from €50k to €100k per annum. All of these costs have been calculated by the BAI Executive using a spreadsheet calculation tool provided by RTÉNL and using different scenarios of platform usage.

In terms of multiplex capacity, in the event that the main four television services migrate to HD, then capacity exists for between four and five further Standard Definition (SD) television services and some radio services in addition to those sanctioned by the Minister to date. If TV3 and TG4 decide to remain transmitting in SD, then capacity exists for up to 8 additional standard definition television services on the RTÉ multiplexes

The Oireachtas channel may not require the full data capacity of other channels due to the nature of the service. A lower data capacity of circa 1.5Mbps would appear appropriate. This is in line with capacity used for parliamentary channels in other administrations.

The data capacity used on the multiplex for video services should be reviewed closer to analogue switch off (ASO) to see if any changes are required to data rates due to improvement in coding technologies. This could accommodate extra channels or facilitate further digital teletext, audio or assistive services. The only digital teletext service on the multiplexes is provided by RTÉ and it is unclear if analogue teletext is suitable post ASO in

an all digital environment. The interest by other operators should be reviewed closer to ASO in light of any data capacity requirement changes as outlines above.

### **BAI conclusion and recommendation**

On a cost basis, the variable and uncertain cost of carriage on the RTÉ multiplexes is likely to be of serious concern to content providers and is very challenging in developing a viable business plan. It is the Authority's view that the RTÉ approach to cost will make the DTT proposition unsustainable for most if not all service providers. It is therefore likely that the only services carried on the RTÉ DTT multiplex will be those provided by RTÉ.

Section 130 of the Act gives power to the Minister to designate payments to be made by providers of services on the multiplex. Such payments are to be determined following consultation with ComReg, RTÉ and the intended provider of the service. It is the view of the Authority that any directions issued to RTÉ in respect of payments should have regard to the concerns expressed in this report.

In terms of multiplex capacity, it would be possible to carry between four and eight additional SD television channels and some radio services. If capacity is reserved, for an Oireachtas and Film Channel, then the number of potential additional television channels reduces to between three and six. In general terms, there would appear to be sufficient capacity on Multiplex 1 to carry the services currently available during the test period, together with the additional RTÉ services which were recently approved, following the sectoral impact assessment and public value review.

With regard to the proposed services emerging from the expressions of interest process, these are not likely to be in a position to commence operations until near to or beyond analogue switch off in October 2012. In these circumstances, the question of the requirement to introduce the second RTÉ multiplex in 2011 should be considered further by the Minister.

**Appendix One: Statutory Instrument No.67 of 2011**

STATUTORY INSTRUMENTS

**S.I. No. 67 of 2011**

BROADCASTING ACT 2009 (SECTION 26(5)) (CONFERRAL OF ADDITIONAL FUNCTIONS — BROADCASTING SERVICES) ORDER 2011

**(Prn. A11/0284)**

2 [67]

S.I. No. 67 of 2011

BROADCASTING ACT 2009 (SECTION 26(5)) (CONFERRAL OF ADDITIONAL FUNCTIONS — BROADCASTING SERVICES) ORDER 2011

I, PAT CAREY, Minister for Communications, Energy and National Resources, in exercise of the powers conferred on me by section 26(5) of the Broadcasting Act 2009 (No. 18 of 2009), hereby order as follows:

1. This Order may be cited as the Broadcasting Act 2009 (Section 26(5)) (Conferral of Additional Functions — Broadcasting Services) Order 2011.

2. In this Order—

“Act” means Broadcasting Act 2009 (No. 18 of 2009);

“available capacity” means the unused bandwidth on the RTÉ multiplexes;

“RTÉ multiplexes” means the television multiplexes established, maintained and operated by RTÉ under section 114(1)(i) of the Act.

3. The following additional functions in relation to broadcasting services are conferred on the Authority:

(a) to consult with RTÉ—

(i) in relation to the amount of available capacity on the RTÉ multiplexes, and in particular—

(I) for broadcasting services for the purposes set out in section 130(1)(a)(iii) and (iv) and for broadcasting programme material for the purposes of section 130(1)(e) of the Act, and

(II) the cost of carriage of broadcasting services on the RTÉ multiplexes,

and

(ii) in relation to any other issues considered relevant by the Authority,

(b) to consult with other parties as considered appropriate by the Authority in relation to the provision of broadcasting services on the RTÉ multiplexes,

(c) to recommend to the Minister the number of broadcasting services for the purposes of section 130(1)(a)(iii) and (iv) and the amount of  
*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 15th February, 2011.*

[67] 3

programme material for the purposes of section 130(1)(e) of the Act, that can be accommodated on the RTÉ multiplexes;

(d) to seek expressions of interest from broadcast content providers for the provision of—

(i) free to air broadcasting services for transmission on the RTÉ multiplexes in accordance with section 130 of the Act, and

(ii) pay or free to air broadcasting services for transmission on a multiplex established, maintained and operated in accordance

with section 131 of the Act,  
and

(e) to report and make recommendations to the Minister with regard to  
the exercise of its functions under this Order.

GIVEN under my Official Seal,  
10 February 2011.

PAT CAREY,  
Minister for Communications, Energy and Natural Resources.

4 [67]

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

This Order confers additional functions on the Broadcasting Authority of Ireland which include conferring with RTÉ on the amount of spare capacity on the RTÉ multiplexes and seeking expressions of interest from broadcasters interested in providing broadcasting services over digital television multiplexes in Ireland.

The Order also requires the Authority to report and make recommendations to the Minister for Communications, Energy and Natural Resources in this regard.

BAILE ÁTHA CLIATH

ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón

OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,

TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,

nó tríd an bpost ó

FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,

AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,

CONTAE MHAIGH EO,

(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)

nó trí aon díoltóir leabhar.

---

DUBLIN

PUBLISHED BY THE STATIONERY OFFICE

To be purchased directly from the

GOVERNMENT PUBLICATIONS SALE OFFICE

SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,

or by mail order from

GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,

UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,

(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)

or through any bookseller.

---

€1.27

Wt. (B28267). 335. 2/11. Cahill. Gr. 30-15.

