

# **Statement of Outcomes**

## ***BCI Access Rules***

### **May 2007**

## **1. Introduction**

The *Broadcasting Act, 2001* (“**2001 Act**”) makes a number of provisions in respect of rules to be made by the Commission to promote the understanding and enjoyment of programmes by persons who are deaf or hard of hearing and persons who are blind or vision impaired. The relevant provisions are **Section 19 (11)** and **Section 19(12)** (as amended by **Section 53** of the *Disability Act, 2005*).

In accordance with these provisions, the **Broadcasting Commission of Ireland** (“**the BCI**”) developed the *Access Rules* following a substantial consultation process with broadcasters and representatives of the Deaf, hard of hearing and vision impaired communities. The *Access Rules* have been in effect since **March 1<sup>st</sup> 2005** and they specify percentage targets and timeframes in relation to the level of subtitling, Irish Sign Language and audio description to be provided by broadcasters. These rules apply to broadcasters under the jurisdiction of the Republic of Ireland or those who make use of a frequency or satellite capacity or up-link based in the Republic of Ireland. In practical terms, the *Access Rules* have to date applied to the seven services namely, RTÉ 1, RTÉ 2, TG4, TV3, Setanta Sports Channel Ireland Ltd, NASN Limited and City Channel Limited (Dublin).

The Commission has reserved the right to set targets and timeframes for access provision on services licensed by the Commission under the 2001 Act on a case-by-case basis. In this context, at its meeting in February 2007, the Board of the Commission considered what obligations, if any, should be placed on three services licensed under the 2001 Act. The two contractors and their respective television services are as follows:-

**i) Channel 6 Limited** (Channel 6)

**ii) City Channel Limited** (City Channel Waterford and South East, City Channel Galway)

This document outlines the decisions taken by the BCI in respect of these two contractors.

## **2. Decision-Making Process**

The Commission’s decisions in respect of the two contractors have been informed by the following:-

- *The Access Principles and Influencing Factors.*  
Four Access Principles and a number of Influencing Factors were adopted by the Commission following completion of the consultation process which developed the *Access Rules*. These are the decision-making criteria used by the Commission to determine the obligations incumbent upon the two contractors. The Access Principles and Influencing Factors are outlined at Appendix 1.

- *Written submissions provided by the two contractors.*  
Both contractors under consideration were invited to provide a written submission outlining what, if any, commitments should be placed on their services under the *Access Rules*. The respondents were asked to present their arguments with reference to the Access Principles and Influencing Factors.
- *The targets and timeframes currently in place for other services.*  
The Commission's decisions were also informed by its application of the Access Principles and Influencing Factors in setting targets and timeframes for the seven services currently providing access provision.

### **3. Issues pertaining to Access Provision**

Two issues pertaining to the provision of access services were considered by the Board of the Commission. They are as follows:-

#### **3.1 Type of Access Provision (subtitling, Irish Sign Language, audio description)**

The *Access Rules* contain commitments in terms of three types of access provision, namely subtitling, Irish Sign Language and audio description.<sup>1</sup> However, while all seven television services which currently have access commitments are required to provide subtitling; only RTÉ 1 and RTÉ 2 are obliged to provide Irish Sign Language and audio description. The targets for RTÉ 1 and RTÉ 2 were set in acknowledgement of the public service remit and funding of these stations. The rationale for not requiring the other services to develop audio description and Irish Sign Language provision acknowledges the current technological difficulties associated with providing 'closed' signing and 'closed' audio description, as well as considerations related to financial and personnel resources, previous experience and expertise.

In this context, the Commission considered whether the access services, if any, to be provided by the two contractors under consideration should be restricted to the provision of subtitling only.

#### **Outcome**

The Commission agreed that similar arguments present themselves when examining the issue of whether the two contractors under consideration, City Channel Limited and Channel 6 Limited, should be required to provide Irish Sign Language and/or audio description further to the *Access Rules*. The technical difficulties still remain in relation to 'closed' sign language and 'closed' audio description. Matters concerning the relative starting positions of the two contractors in relation to provision of Irish Sign Language and audio description are also pertinent since the services do not and have not provided these services to date. Furthermore, the two services under consideration are at a relatively early stage of development.

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<sup>1</sup> A brief description of the three types of access provision is attached at Appendix 2.

For these reasons, the Commission has decided that at this time, no audio description or Irish Sign Language targets will be set for the three services operated by the two contractors. This matter will be reviewed as part of the general reviews of the *Access Rules* which will take place in 2008 and 2010. These reviews will allow the Commission to assess any changes in the broadcast environment which may impact on the provision of all three types of access provision and whether additional services should be required to carry all three types of access provision.

### 3.2 Levels of Access Provision

In making a determination regarding the targets and timeframes, if any, to be established for the two contractors considered, the Commission utilised the decision-making process set out above in section 2. The key component of this process is the application of the Access Principles and Influencing Factors. On this basis, the Commission decided that all three services considered should have an obligation to provide subtitling. The Commission’s decision and the specific targets and timeframes set for each service is based on a number of considerations which have their basis in the Access Principles and the Influencing Factors. They are:

- The application of the principle of *Access*.
- The application of the principle of *Incremental Progression*.
- An acknowledgement that both contractors are private commercial broadcasters in receipt of no guaranteed public funding. As a result, the capacity of the services to implement subtitling requirements is linked to their ability to generate revenue.
- An acknowledgement of the relatively early stage of development of the services operated by the contractors and the current absence of access provision on their services. Consequently, the contractors will have to develop the capacity to provide access provision.
- An acknowledgement that the majority of programming on the services considered is pre-recorded. Consequently, the cost of subtitling for the services is lower than if live subtitling were required.

### Outcomes

The following targets and timeframes have been set by the Commission for the three services operated by the two contractors considered.

#### 3.2.1 Targets and Timeframes for City Channel Limited (Waterford/South East and Galway)

The following targets and timeframes for both City Channel services have been set:-

| 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|------|------|------|------|------|------|------|------|------|------|
| 0%   | 1%   | 2%   | 3%   | 4%   | 5%   | 6%   | 7%   | 8%   | 9%   |

The targets and timeframes the City Channel services are informed by the following factors:-

- *The nature of the broadcast provider*  
City Channel Limited is wholly funded through commercial revenue. The service cannot avail of funding via the Sound and Vision scheme and is dependent on commercial revenue to fund the provision of subtitling. For this reason, its financial capacity to develop subtitling is linked to its ability to generate revenue.
- *The stage of development of the broadcast provider*  
The services are at a relatively early stage of development. City Channel's Waterford/South East and Galway services have only been on-air since late 2006 and the contractor as a whole has little experience in the provision of access services. City Channel Limited operates on a smaller scale than any of the other television operators considered to date by the Commission. At this early stage, the long-term viability of the two services under consideration is not guaranteed. Consequently, the targets and timeframes reflect this lack of experience and the stage of development of the broadcaster and its services.
- *The level of current provision*  
While there is currently no provision for subtitling on the Waterford/South East and Galway services, subtitled programming is due to appear on the City Channel Dublin service in 2007. The targets and timeframes are intended to reflect the potential synergies between the Dublin service and the two services considered in light of the subtitling Dublin programming which should be available to both services considered.
- *The type of programme schedule*  
The services considered have a high level of repeat programming, in the region of 60% and derive the majority of programming from the Dublin service. Consequently, both services will have access to subtitled programming produced for the Dublin service which should assist the Waterford/South East and Galway services in meeting the targets and timeframes established. Furthermore, high repeat levels should assist the service in meeting its targets.
- *The technical capacity and technical and human resource cost*  
The services have no current technical capacity to provide subtitling but this capacity is being developed for the Dublin service. As all three services are transmitted from one location, costs should be minimised in comparison with having to provide access infrastructure at three different transmission locations.

Overall, given the low level of live programming, the high level of programming shared with the Dublin service and the level of repeat programming on the services, it is the Commission's view that the targets proposed are attainable for both services.

These targets will be reviewed in 2008 and 2010 as part of the overall review of the *Access Rules* which the Commission committed to on completion of the consultation process which informed the original rules.

### 3.2.2 Targets and Timeframes for Channel 6 Limited (Channel 6)

The following targets and timeframes for Channel 6 Limited have been agreed: -

| 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|------|------|------|------|------|------|------|------|------|------|
| 2%   | 4%   | 6%   | 8%   | 10%  | 12%  | 14%  | 16%  | 18%  | 20%  |

The targets and timeframes for Channel 6 are informed by the following factors: -

- The nature of the broadcast provider*  
Channel 6 Limited is wholly funded through commercial revenue. For this reason, its financial capacity to develop subtitling is linked to its capacity to generate revenue. The service has potential access to Sound and Vision funding. Programming funded by the Sound and Vision scheme requires subtitling and programming funded should contribute to meeting the targets. However, the Commission took into consideration that programming from the Sound and Vision scheme will only partly contribute and the level of funding received by the service will be dependent on successful applications from year to year.
- The stage of development of the broadcast provider*  
This service is at a very early stage of development with no experience in the provision of access services. While the service is available nationally, its current audience share is significantly lower than the four free-to-air services and is broadly comparable with other 2001 Act contractors. At this early stage, the long-term viability of the service is not guaranteed and in setting the targets, the Commission was mindful of the need to ensure that access obligations placed on the service are reasonable in light of the stage of development of the service.
- The level of current provision*  
There is currently no provision for subtitling on the service. For this reason, the service will have to develop its capacity. The proposed incremental progression is intended to reflect this requirement.
- The type of programme schedule*  
The schedule is entirely pre-recorded and there are no live programmes on the service. As a result, the cost of subtitling will be lower in light of the pre-recorded nature of the schedule. While the schedule includes new programming from Irish and US sources, a significant amount of programming consists of programming for which subtitling is available, some of which should be available at a lower cost, depending on the age of the programme.
- The technical capacity and technical and human resource cost*  
The service currently has no current technical capacity to provide subtitling.

Given the absence of live programming and the high level of acquired programming with subtitling available, it was the opinion of the Commission that the targets set are attainable for a service of this nature.

The contractor cited in its written submission the period allowed by the BCI between the establishment of the commercial broadcaster TV3 and the implementation of access requirements for that service and requested a similar lead-in time for Channel 6. However, the Commission noted that the subtitling figures set for TV 3 took into account the length of time since the establishment of TV 3 and the experience built up by the service during that period. Similarly, the subtitling targets and timeframes set for Channel 6 acknowledge that the service is at an early stage of development and acknowledge the requirement for the service to plan the development of access provision in this context.

These targets will be reviewed in 2008 and 2010 as part of the overall review of the *Access Rules* which the Commission committed to on completion of the consultation process which informed the rules.

**May 2007**

## APPENDIX 1

The Access Principles and Influencing Factors are as follows:

### Access Principles

(i) *Access*

A guiding principle for the BCI is that those citizens for whom the *Access Rules* are designed should have the fullest possible access to the broadcast media and to its capacity to educate, inform and entertain. This principle is evident in the *Access Rules* in that all indigenous broadcasters come under the jurisdiction of the rules.

(ii) *Excellence*

This principle recognises the fact that the *Access Rules* are not only concerned with the provision of subtitling, audio description and sign language but also with the standards and consistency which must be used and attained in their delivery, including best practice guidelines in both audio and visual presentation. To this end, the Commission has developed a set of standards and guidelines that broadcasters must attain to ensure a quality service.

(iii) *Incremental progression*

This principle acknowledges that the level of subtitling, audio description and sign language will develop incrementally over a period of time. This will facilitate broadcasters to further develop their capacity and expertise to deliver this service.

The use of a ten-year timeframe in the *Access Rules* is based on the principle of increasing access provision in incremental stages, allowing the broadcaster to plan for the development and delivery of quality access provision. It acknowledges that there are a number of issues other than funding which need to be addressed in order to increase access provision.

(iv) *Responsiveness*

This principle aims to ensure that the development of access provision (subtitling, sign language and audio description) should be in response to the needs and priorities as expressed by the user groups as well as standards laid down by the BCI, in consultation with the broadcast provider.

These questions are relevant, as the type of programming in the schedule has an influence on the cost, technical facilities, personnel and ability of the broadcaster to provide access services. In most cases, subtitles are purchased separately from programming and are not bought as part of the acquired programme.

## **Influencing Factors**

In drawing up the *Access Rules*, the BCI also had regard to the following influencing factors.

### **a. *Differentiation between broadcast services***

The *Access Rules* differentiate between broadcasters based on a number of factors. This differentiation is given practical effect through the setting of different targets for each service. The factors are:-

- i) *The nature of the broadcast provider:*  
Is the broadcasting service a public or private service? Is the broadcaster in receipt of public monies and as a result has greater public service duties? Does the broadcaster have specific aims which might impact on its ability to provide access services?
- ii) *The stage of development of the broadcast provider:*  
How long has the broadcaster been in operation? How much experience does the broadcaster have of providing access services? Is there already a level of expertise within the broadcasting service in the provision of access services?
- iii) *The level of current provision:*  
What level of subtitling, sign language and audio description does the broadcaster currently provide? What is their starting point?
- iv) *Type of programming schedule:*  
Does the broadcast service produce live programming? Does it acquire a lot of programming from other broadcasters? How much home produced programming does the broadcaster provide?
- v) *The technical and human resource cost:*  
What facilities and expertise currently exist within the broadcasting service to provide access services?
- vi) *Technical capacity:*  
Does the broadcast service have the technical capacity to provide access services? What level and type of technical facilities and expertise would be required?

### **b. *Funding***

The Commission has had regard to the likely financial impact of any requirement to comply with targets and timeframes set for the provision of access services. In particular, the Commission examined the type of programming across various schedules, including the number of repeat programmes as this has a bearing on the costs. The Commission has also had regard to the nature of the broadcaster, whether it is a private commercial or publicly funded entity. However, it should be noted that it is difficult to arrive at definitive costs, as in many instances the cost will depend on the scheduling decisions made by broadcasters, the type of programming and the decisions made with regard to what programming they are going to prioritise for subtitling.

## **APPENDIX 2**

### **Subtitling/Captioning**

This is on-screen text that represents what is being said on the screen. It 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.

Captioning and subtitling as terms are sometimes used interchangeably, however, there are differences in the terms. 'Captioning' refers to on-screen text that represents what is being said verbatim on the screen. However in the case of subtitling there are differences in formatting that are designed to assist the interpretation and understanding of the text and to link it more accurately with 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. There are also standards with regards to the font size, number of characters and the number of lines of text carried on the screen at one time. Captioning on the other hand does not include this formatting and is a more basic representation of what is being said on-screen.

### **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 can 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) in a box superimposed in the corner of the screen.

### **Audio Description**

Audio Description is in development and in limited use in North America and the UK. Audio description is essentially 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.