



Broadcasting Commission of Ireland
Comisiún Craolacháin na hÉireann

Access Consultation Document

Review of Submissions Received

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Dr. Ruth-Blandina Quinn
Research Officer,
Broadcasting Commission of Ireland

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Introduction

On 31 August 2004, the Broadcasting Commission of Ireland (BCI) launched its *Access Consultation Document*.¹ The document outlined the process for devising rules for subtitling, sign language and audio description. When devised, this will be the first time in the history of Irish broadcasting that such rules will exist and be applied.

The purpose of this present document is to review submissions received during the consultative process. This primary section introduces how this review has been carried out. Beginning with an overview of the statutory basis for the rules, it moves on to identify those who will be affected by these new rules. It outlines the stages of the consultative process and it introduces the outline of the present report and the style which characterises it.

Statutory basis

Section 19 of the *Broadcasting Act, 2001* provides the impetus for this process. It requires the BCI to draw up rules which will require broadcasters to take steps to promote the understanding and enjoyment of programmes by people who are deaf or hard of hearing and by those who are blind or partially sighted.² This legislation also requires the BCI to notify the public when the rules are at a draft stage and to consult with the public in finalising those rules.³

Applying the Access Rules

The practical application of the Access Rules will affect home-based broadcast media exclusively. They will apply equally to public and independent broadcasters in Ireland. In addition, they will apply to those who make use of a frequency or satellite capacity or up-link in Ireland. More specifically, they will apply to RTÉ radio and television services, TG4, to those television and radio stations licensed under the

¹ The launch took place at the BCI's offices at Warrington Place, Dublin 2.

² The BCI coordinates principal activities unfolding in Irish radio and television. Legislation outlining its functions, and thus underpinning its work, are the *Radio and Television Act, 1988* and the *Broadcasting Act, 2001*. Relevant sections of the *Broadcasting Act, 2001* are 19.5, 19.6, 19.11, 19.12 and 19.13.

³ See Appendix I for the relevant extracts from Section 19 of the *Broadcasting Act, 2001*.

Radio and Television Act, 1988 (including the national broadcasters, TV3 and Today FM) as well as content contractors licensed by the BCI under the *Broadcasting Act, 2001*. It will not apply, however, to those services received from abroad – for example, Sky, CNN and MTV – which remain subject to the rules and regulations of their country of origin.

Consultative process: Phase One

The BCI has engaged in different levels of consultation to arrive at this point. An initial report was prepared by the BCI entitled *Accessing Television*.⁴ Running parallel to this process, pre-consultation meetings were held with key stakeholders – representative bodies and broadcasters predominantly. It was felt that while the Access Rules might be of interest to all Irish people, they will affect only specific segments therein. In addition, those directly affected expressed the view that a full public consultation was not appropriate at that particular juncture.

Phase One saw the establishment of the Access Consultative Forum. Key stakeholders were invited to attend and to participate in this process which was independently chaired by Kieran Mulvey, Chief Executive of the Labour Relations Commission and a former Commission member of the BCI.⁵ Essentially, the forum provided for a targeted form of consultation. It required stakeholders to consider the views of other stakeholders and to enter into dialogue vis-à-vis how best to devise the rules.⁶ A subcommittee was also formed to discuss the more technical aspects of service provision. It subsequently produced a report for the forum entitled *Technical Subcommittee Report*.⁷ On the basis of information received, a report was produced by the Chairperson of the forum and presented to the BCI for consideration.

Consultative Process: Phase Two

The *Access Consultation Document* constitutes the beginning of Phase Two. It details progress made to date and introduces draft Access Rules for consideration and debate.

The document was presented in a number of formats designed to meet the needs of constituent groups. Requests from stakeholders and from the general public were as follows:

⁴ See Quinn, R-BM, *Accessing Television* (Dublin: Broadcasting Commission of Ireland) – www.bci.iw/Accessing%20Television.doc.Copies in large font and Braille are also available on request.

⁵ Membership of this Forum was made up of representatives of TV3, RTÉ, TG4, the Commission for Communications Regulation (ComReg), the Irish Deaf Society, the Irish Hard of Hearing Association, the National Association for Deaf People, the National Council for the Blind of Ireland, Chorus, ntl, Setanta Media and the BCI.

⁶ For further information on the Access Consultative Forum, see BCI (2004), *Access Consultation Document*, pp 10-12.

⁷ A copy of this document is available from the BCI on request.

Document format	
Document	1,350
Signed video tape	554
Audio tape	75
Braille	25
<i>Total:</i>	2004

Demand for the *Access Consultation Document* was therefore very high. Submissions could be made through email, post or through the BCI website. In total, the consultation attracted 47 responses.

Outline of the present report and the approach taken

This document presents a summary of the submissions made during Phase Two. It is divided into five key sections: (i) general considerations; (ii) subtitling; (iii) sign language; (iv) audio description; and (v) review of rules. Concluding remarks are not presented in each individual section but at the end of the document. It should be noted that while respondents were invited to answer all questions set, they were under no compulsion to do so. Consequently, submissions received were often patchy, addressing questions deemed relevant to that individual and/or group but avoiding other areas. Where broadcasters tended to answer all sections, the blind and visually impaired sought to answer questions relevant to audio description exclusively. Similarly, the deaf and hard of hearing chose to remain within the parameters of subtitling and sign language.

The approach taken to the consideration of submissions was systematic and analytic. As this was a general call, all representations were afforded equal weighting. Each individual submission was counted as one irrespective of the numbers represented therein. Representations made by individual members of key organisations were counted separately. The method applied allowed for a thorough appraisal of information received in terms of the respondent's objectives, context and content and his/her overall contribution to the rules currently being devised.

The format of this document mirrors the *Access Consultation Document*. Context is of particular importance. Consequently, it is advised that this review of submissions be read in conjunction with the consultation document distributed.

The reporting style of the document is informative rather than analytic. It aims to record rather than to advance/discuss suggestions made. Where possible, comments are grouped according to three categories: (i) members of the public; (ii) representative organisations; and (iii) broadcasters. Such an approach shows succinctly the diversity of views presented and provides clarity vis-à-vis positions taken. Where additional comments and/or observations were made by respondents, consideration was given as appropriate.⁸ Viewed as a whole, this document should be seen as part of the overall process in the devising of Access Rules rather than a stand alone report.

⁸ These are dealt with in the final section: 'Matters arising'.

1. General considerations

1.1. Introduction

The *Access Consultation Document* set out some general considerations. These centred on the setting of specific targets and timeframes and the specification of programme types or genres in the draft rules. It also considered attitudes vis-à-vis children's programming. This section summarises the information given and reviews submissions made under these headings.

1.2. The use of specific targets and timeframes

While Section 19 of the *Broadcasting Act, 2001* does not specify targets and timeframes, the Access Consultative Forum concluded that these should be identified and followed. The use of specific targets and timeframes allows for the measurement and evaluation of progress made in the development and delivery of these services by each broadcaster. The Broadcasting Commission of Ireland (BCI) agreed with this majority view, that having targets clarifies the expectations of user groups as to the progress which will be made in the development of access services and the timeframe in which this progress will be achieved. The alternative, as recognised by the BCI, would be to have guidelines which might encourage broadcasters but would not specify the level of provision required. Such a situation, it has been acknowledged, would not guarantee provision of access to the viewer.

1.3. Targets and timeframes

The BCI asked the public for its views on targets and timeframes. Here it asked:

What is your overall view of the BCI's proposal to use specific targets and timeframes in the *Access Rules* for the provision of:

- A. subtitling;
- B. sign language;
- C. audio description?

1.3.1. Feedback

In general, there was support for this approach. For Shane Buckley, ‘It is a fair mean [sic] to measure each broadcaster’s performance on implementation against targets. It enables BCI to determine and response [sic] appropriately.’⁹

Similar agreement existed among the representative organisations. Three key points were made by the Irish Hard of Hearing Association (IHHA). Firstly, it stated that ‘The setting of different long-term targets together with annual interim targets is the best approach to realise our vision.’ Secondly, it accepted ‘the setting of different long-term targets for each channel, recognising the difference in remit, resources and audience share between channels.’ And finally, the IHHA said that ‘Setting long-term targets reassures deaf and hard of hearing people that their needs will be met.’¹⁰ The National Association for Deaf People (NAD) said it agreed with such an approach ‘as it provides a guarantee as to what and when in relation to the development of such services.’¹¹ While accepting the need for targets and frameworks, the National Council for the Blind of Ireland (NCBI) said that ‘the specification of such targets should not preclude the wider issues surrounding accessible broadcasting which cannot be quantified by percentile targets.’¹² The National Disability Authority (NDA) welcomed the proposed use of targets, believing it would help ensure that

- User groups know what the level of service is they [sic] can expect from their service provider
- Service providers are clear about their obligations to their end users and can plan accordingly
- The progress and achievements of broadcasters can be measured and acknowledged.¹³

Broadcasters, while agreeing in principle, were concerned about the reality of how such targets would be devised and met. In addition, they provided more in-depth responses, often considering the three areas – subtitling, sign language and audio description – in isolation. While agreeing that there must be some mechanism to ensure compliance, TG4 stated that it was

worried about the specific level of the targets and the timeframes as set down by the Access Rules. The Document does not give any indication on how targets or timeframes will be monitored. Nor does it give any indication/guidelines on how a broadcaster can achieve this [sic] targets or timeframes.¹⁴

TG4 believed the targets and timeframes specified took ‘no account of the broadcasters’ budgets, resources or available trained personnel.’ In addition, it stated that the targets did not take account of audience share or programme ratings.¹⁵ The

⁹ Shane Buckley: email submission 2.

¹⁰ IHHA: email submission 4, p.5.

¹¹ NAD: written submission 14, p.1.

¹² NCBI: web submission 121.

¹³ NDA: written submission 22, p.8.

¹⁴ TG4: written submission 9, p.3.

¹⁵ TG4: written submission 9, p.2.

technical difficulties of producing audio description, for example, must also be taken into account. In reference to all three methods, TG4 recommended ‘more research and development and see this as BCI’s role in aiding the broadcasters to achieve the Access Rules. Perhaps it should be a requirement for all programmes funded through the ‘special 5% of licence fee managed by BCI.’¹⁶ For TG4, ‘The BCI must provide positive leadership in these matters, work in partnership with broadcasters rather than be a passive regulator seeking unattainable targets.’¹⁷

TV3 proceeded along similar lines. It argued that translation into reality will be impeded by financial constraints. More specifically, it said that

TV3’s programming cost amongst elected programming would increase over time by between 20%-50% of the Access Rules were introduced unaltered and the company believes it is not capable of meeting the financial burden this represents based on current technology and the impact of unregulated use of state aid to distort the market. This additional cost is greater than the operating margin on a large proportion of our programming that already subsidises the production of all indigenous programming.¹⁸

The lack of suitable technology by which to transmit sign language and audio description was also referred to. ‘In the context of a digital environment with a properly regulated state broadcast system and appropriate state funding, they are theoretically possible. Ireland possesses none of these.’¹⁹ It did agree to ‘undertake all reasonable endeavours to meet the percentage targets referred to on page 41 of the consultation document for years 1 to 3 inclusive. This is conditional upon:

- (a) A twelve hour day (12 noon to midnight)
- (b) The inclusion of all forms of subtitling and not only the ones mentioned on pages 39-40 in the calculation of the percentage achieved.
- (c) The linking of future year targets to financial performance and technological advancements – similar to the Ofcom rules...that would be reviewed annually with the BCI
- (d) BCI assistance in mitigating the provisions of the Disability Bill, 2004 (section 52)
- (e) The immediate investigation by the BCI into the establishment of a central agency, which would be state supported, to provide the programming, in conjunction with appropriate disability groups and the broadcasters in Ireland.’²⁰

RTÉ voiced concerns about finance, technology and trained personnel.²¹ Regarding technological limitations, it stated that ‘It is not practical for broadcasters to develop

¹⁶ TG4: written submission 9, p.3.

¹⁷ TG4: written submission 9, p.3.

¹⁸ TV3: written submission 12, p.2.

¹⁹ TV3: written submission 12, p.4.

²⁰ TV3: written submission 12, pp 2-3.

²¹ RTÉ: written submission 13, p.1.

some audio description ‘in anticipation’ of technology becoming available.’²² It has discussed buying suitable material from many UK access service companies and intends to monitor developments in this area closely. It cannot, it argued, buy-in signed programmes given the uniqueness of ISL. This restriction, it stated, has also been overlooked.

Looking at the targets generally, RTÉ is concerned that mathematical progressions to increase subtitling output time is not a useful measure. RTÉ has other reservations about the BCI’s targets and timeframes:

- The targets: RTÉ One in peak time is already at 60% plus, achieving 100% appears to be an artificial and unachievable target. It does not allow scope for changes in technology.
- The time-frame is too short in the first five years.
- Both targets and timeframes are equitable as not all broadcasters are expected to provide the same level of output.²³

While there is a certain degree of overlap when the views of broadcasters are compared, it is this latter point which differentiates RTÉ from the other two. It

is concerned at the clear difference in expectations between RTÉ and other broadcasters with regard to the level of subtitling produced, and the time-frame involved in achieving identified targets. RTÉ does not believe that it is appropriate for the BCI to suggest that “certain factors can impact on the ability of the broadcaster to reach the same targets as other broadcast services.”²⁴

This, it argued, contradicts the BCI’s own principle of access that all citizens should have access to broadcast media and that ‘...all indigenous broadcasters are required to develop access services.’²⁵ Furthermore, it stated that ‘Differentiating between TV channels, in terms of access requirements, will result in segregating user groups into a category that can only be catered for through public service. This is to deny these groups complete integration and also denies them their right to access all broadcasters.’²⁶ It believed that other rules - for example advertising codes – are applied equally and consequently, this should be the same for the Access Rules.

1.4. Specification of programme types or genres

Whether or not programme genres should be specified was a topic for discussion at the Access Consultative Forum. It was agreed that such specifics should be left out of the draft rules. The majority view expressed was that deaf and blind are not monolithic groups with identical tastes. Choice of viewing and access to a range of viewing was seen therefore as a priority.

²² RTÉ: written submission 13, p.7.

²³ RTÉ: written submission 13, p.1.

²⁴ RTÉ: written submission 13, p.1.

²⁵ RTÉ: written submission 13, p.1.

²⁶ RTÉ: written submission 13, p.2.

1.4.1. *The BCI asked...*

What is your overall view of the BCI's proposal that programme types or blocks of time should not be specified for broadcasters in respect of:

- A. subtitling;
- B. sign language;
- C. audio description?

1.4.2. *Feedback*

Different opinions emerged in this respect. Shane Buckley and Mary Regan, for example, agreed that programme blocks should not be specified to allow for changing tastes. For Buckley, 'Broadcasters need to carry out survey [sic] to establish the preference for the programme and to prioritise the access.'²⁷ Fergus Dunne 'would like to see [an ISL] signer in the box on screen for programmes relating to politics like Primetime and the Elections.'²⁸

Representative organisations disagreed with the proposal. The IHHA, for example, did not accept this proposal for subtitling provision. More specifically, it stated that

Peak-time, 6pm to 11pm, is the period with the highest audience share and where most of the programmes favoured for subtitling are concentrated. Studies show that live news is the programme with the highest rating for subtitling among both deaf and hard of hearing people. The hard of hearing, who tend to be in the oldest age groups, favour serious programmes such as current affairs and documentaries along with drama. As these programme genres are concentrated in peak-time, we recommend that the BCI specify it for subtitling.²⁹

The NCBI also felt this was unacceptable. Here it stated that the

NCBI believes that with outrageously low targets set for audio description, not specifying a particular type of programme or block of programmes for audio description will give broadcasters free reign to decide what programme (or part of a programme) to audio describe and when. We recommend that home produced dramas be prioritised initially for audio description.³⁰

The NDA emphasised the individuality of consumers. Consequently, it recommended that they have input into the type and range of programming chosen by broadcasters for which access services are developed. For this to occur, broadcasters must elicit feedback from target audiences and work on that basis accordingly.³¹

²⁷ Shane Buckley: email submission 2; Mary Regan: written submission 10.

²⁸ Fergus Dunne: written submission 25.

²⁹ IHHA: email submission, p.4.

³⁰ NCBI: web submission 121.

³¹ NDA: written submission 22, p.9.

Rehab provided a similar response. It stressed that deaf, hard of hearing and people with a visual impairment 'are not an homogenous group and don't like the same programmes...'³² In addition, it stated that

The Access Rules should not prescribe specific types of programming but they should encourage the provision of access services across the programming spectrum to ensure that people who require such services can access mainstream programming as well as special interest. Particular attention should be given to developing these services for popular, peak broadcasting.³³

The broadcasters agreed with the proposal that programme types or blocks of time should not be specified. Regarding subtitling, TG4 believed that it should be up to the broadcaster to decide what is subtitled 'bearing in mind the viewing patterns of the user groups and indeed in consultation with the user groups where possible.'³⁴ Referring to sign language it stated that 'The technology at present dictates that signed programmes would be shown outside peak viewing times so as not to alienate the general viewing audience.'³⁵ Such a situation should be reviewed when the necessary technology is introduced. It does not provide an answer on audio description, stating that it is not possible to broadcast such in Ireland at present.

TV3 agreed with the proposal. Moreover, it stated that

The peak viewing hours is often unique to the service in question. Given the unique programming of the service, regulatory conditions that exist in the broadcast sector and the costs associated with this requirement, it should be left to the broadcaster's discretion. TV3 is disappointed that there is no state provision in regards to the availability of funding, or discretion to alter these requirements downwards in the draft rules.³⁶

For RTÉ, it is preferable to prioritise subtitling programmes that go out at peak viewing times (6pm to 11.30pm) 'keeping in mind that the deaf and hard of hearing user groups have the same viewing patterns as the wider viewing audience.'³⁷ In addition, it believed it is preferable to subtitle programmes recommended by user groups than to follow blocks of specified time. With regard to sign language, it stated that '...the production of sign language programming is dependent upon technological developments. Targets for signing would be better set when the technology allows a separate broadcast path for users to access it.' Similarly to TG4, it noted that while audio description can be bought in Britain, the technology is not yet available to broadcasters in Ireland to provide this service to the user group.³⁸

³² Rehab: written submission 23, p.4.

³³ Rehab: written submission 23, pp 4-5.

³⁴ TG4: written submission 9, p.4.

³⁵ TG4: written submission 9, p.4.

³⁶ TV3: written submission 12, p.4.

³⁷ RTÉ: written submission 13, p.7.

³⁸ RTÉ: written submission 13, p.8.

1.5. Children’s programming

Such opinions pertained to general viewing exclusively. Children’s programmes, it was suggested, should be treated differently. Availability of auxiliary services at a young age was believed important so that children became familiar with these as they grew up. Consequently, the draft Access Rules place a requirement on RTÉ One and RTÉ Two to include children’s programming in the development of these services. The decision to do so was largely due to their public service remit and the amount of children’s programmes transmitted.

1.5.1. *The BCI asked...*

What is your view of the proposal to require RTÉ 1 and Network 2 to include some children’s programming in its development of sign language and audio description each year?

1.5.2. *Feedback*

There was general support that children’s programming should be specified for development of access services. Like many others, Martina Nolan wanted the provision of both subtitling and Irish Sign Language (ISL). For her, ‘my children are hearing and I like to share in enjoying TV with them.’³⁹

The word ‘some’ received attention from the representative organisations. The Irish Deaf Society (IDS) stressed the importance of access for deaf and hard of hearing children but noted that this cannot be achieved by just providing access to ‘some’ of the programming as is referred to in the document. This, the IDS argued, would not afford full rights to deaf and hard of hearing children. Access should be available through both subtitling and sign language and should be available for all children’s programmes.⁴⁰ Similarly the IHHA questioned the use of ‘some’, believing that ‘amounts of children’s programmes’ should be subtitled.⁴¹ According to the NAD, it ‘would not include the word “some”, i.e. “some children’s programming”, in the Rules as this could be taken to imply a small amount and have the effect of weakening the provision.’⁴²

The NCBI highlighted potential problems that may occur in the area of audio description: ‘Not specifying a type of programme or block of time for audio description while specifying that children’s programmes should be audio described could result, with only 14 minutes [sic] per day of audio description, in children’s programmes being the only ones audio described. It should not be an “either or” situation but both children’s and adults programmes should be prioritised.’⁴³

The NDA supported paying particular attention to children’s programming. Again it referred to the perceived need for broadcasters to work with user groups to determine the choice and range of children’s programmes to be made accessible.⁴⁴

³⁹ Martina Nolan: written submission 17.

⁴⁰ IDS: written submission 11, p.3.

⁴¹ IHHA: email submission, p.3.

⁴² NAD: written submission 14, p.2.

⁴³ NCBI: web submission 121.

⁴⁴ NDA: written submission 22, p.9.

While agreeing with the proposal, TV3 shifted the onus onto the other broadcasters. It believed ‘that this is appropriate given that all such services are provided using the €200m in state aid the state broadcasters receive. Given that TG4 is also state funded to 90% of its turnover, it should also have a specific requirement similar to that of RTÉ.’⁴⁵

RTÉ referred to its track record in subtitling children’s programming and believes it has made significant progress in this respect. It said, however, that this ‘genre of programming...provides a good example of why a target of 100% is not practicable.’⁴⁶ More specifically, it stated that ‘Pre-school programmes for children are specially made for non-readers. A substantial amount of the children’s schedule on RTÉ Two during the day – typically the hours between 09.00 and 14.30 – is devoted to pre-school children, who are non-readers.’^{47 48} In addition, it noted that deaf and hard of hearing children read at a slower pace: ‘There may be significant differences in reading speeds within children’s age groups. This makes it difficult to calculate best practice for a majority audience.’⁴⁹ Accommodating this requires the skills of special staff, staff which, RTÉ states, is currently not available in Ireland.

With reference to sign language, RTÉ stated that it ‘appreciates the significance of providing, as soon as possible, separate signing for children who are deaf.’⁵⁰ It cited technical restraints here, that it is better to provide increased subtitling until a separate broadcast path for signing is developed. Referring to audio description, it noted that while the necessary technology is not currently available, RTÉ will nevertheless monitor developments in this area.⁵¹

* * * * *

The inclusion of ISL vis-à-vis children’s programming received considerable attention. Four reasons explain the perceived importance of ISL in this context. Firstly, it was stated that where hearing children acquire language naturally within their home environment, deaf children depend on the visual world around them.⁵² More specifically, it has been argued that ‘Young Deaf children especially need to have that visual stimulation from ages 4 and 5 upwards.’⁵³ Secondly, for the majority of deaf children ISL is their first language. Consequently, it ‘is needed because some Deaf children are too young to be able to understand English. ISL is better for those who are weak at English reading.’⁵⁴ Thirdly, having ISL for at least an hour a day increases the deaf children opportunities to integrate, to socialise with peers as they can discuss television programmes with others. This allows interactions with hearing children to be both facilitated and encouraged.⁵⁵

⁴⁵ TV3: written submission 12, p.5.

⁴⁶ RTÉ: written submission 13, p.8.

⁴⁷ RTÉ: written submission 13, p.8.

⁴⁸ RTÉ Two was launched on 2 October 2004 and replaces the former name, Network 2.

⁴⁹ RTÉ: written submission 13, p.8.

⁵⁰ RTÉ: written submission 13, p.9.

⁵¹ RTÉ: written submission 13, p.9.

⁵² Kevin J. Mulqueen: written submission 24.

⁵³ Kevin J. Mulqueen: written submission 24.

⁵⁴ Edward Moyles: written submission 29.

⁵⁵ Teresa Lynch: written submission 26.

The importance of providing ISL in children's programmes has been highlighted for another key reason. For deaf parents, it is currently not possible to monitor programmes watched by children to any effective degree. Provision of ISL not only allows parents to watch with their children but also to be able to protect their children from potentially harmful material.⁵⁶

⁵⁶ Julianne Gillen: written submission 26.

2. Subtitling

2.1. Introduction

In the *Access Consultation Document*, the distinction between subtitling and captions was outlined. In brief, it was seen that subtitling is a more rounded approach – incorporating sounds and colours for different speakers – captioning is narrower and does not include such sounds or colours. Clarification was given as captions may already be available on, for example, US imports. Consequently, the central issue here is whether the completed rules should permit captioning as well as subtitling or whether the rules should permit broadcasters to use a percentage of captioning each year to attain their targets.

Other key questions were asked under this heading. These centred on such concerns as the use of an eighteen hour day as the basis for sign language provision. The principle of setting different targets for each broadcaster, using a ten-year time frame and the suitability of specific targets being set for national broadcasters.

2.2. Captioning

The Broadcasting Commission of Ireland (BCI) asked three questions in this respect. The first was as follows:

What is your view on the use of captioning?

2.2.1. Feedback

Different views abounded in respect of the question on captioning. In general, the user groups and individuals found captioning to be substandard and unable to meet their needs. According to Francis Dunne, ‘...captioning is inferior to subtitling...In a scene where a person hears a phone ringing but does not decide to answer it, subtitling would state that the phone was ringing, but closed captioning would not, therefore leaving the deaf person unaware that this is happening.’⁵⁷ For Amy O’Shea, captioning is also viewed as inadequate:

⁵⁷ Francis Dunne: email submission 1.

I think that for years we have thought that it is better than nothing to have captioning, but if [the Access Rules are] to set out best practice, to create once and for all some standards which must be achieved, then I think it is pretty clear that subtitling is the best form of access in this medium. I don't think that any captioning should be allowed, to make clear the BCI's commitment to this.⁵⁸

Frank Dunne did not agree with this opinion, however. Instead, he stated, that 'it does not matter what form texting takes if it helps towards a better understanding of what's on the screen. Distinguishing between one format and another simply complicates possible remedies and lets the broadcasters off the hook.'⁵⁹

The Irish Hard of Hearing Association (IHHA) were not in favour of captioning, believing it to be 'inferior to the standards laid down for teletext subtitling.'⁶⁰ Again the opinion expressed was that captions did not convey all necessary information to a deaf person. In addition, it was asserted that reading captions demanded too much of the viewer: 'The viewer must intently watch the image and text simultaneously, with little opportunity for distraction. Subtitling with good formatting and line breaks make a programme more readable, especially for a long programme.'⁶¹

The National Association for Deaf People (NAD) concurred with views expressed by the IHHA and others. Here it said:

As the objective of the draft Rules is the development of *quality* access services within broadcasting which facilitate the fullest possible access to persons who are deaf, hard of hearing and visually impaired, NAD takes the view that the Rules should not permit the targets to be met by way of a lower standard of service by way of captioning. The principle of equality requires that services should provide for people with disabilities the nearest possible equivalent of the norm enjoyed by the rest of the community.⁶²

The National Disability Authority (NDA) agreed that subtitles should be promoted over captioning. Moreover, it stated that it is 'preferable that targets in this area be met through the provision of subtitles that adhere to all relevant standards.'⁶³

All national broadcasters believed that captioning should be acceptable. For TG4, 'it is vital that, in implementing the Rules, the BCI should accept that the current level of TG4 subtitles are 'acceptable subtitles'. It explained this by saying

⁵⁸ Amy O'Shea: web submission 107.

⁵⁹ Frank Dunne: written submission 1.

⁶⁰ IHHA: email submission 6, p.4.

⁶¹ IHHA: email submission, p.4.

⁶² NAD: written submission 14; its emphasis.

⁶³ NDA: written submission 22, p.10.

It was deemed acceptable for TG4 when the targets and timeframes were set by the BCI for the [Forum Chairperson, Kieran Mulvey's] document of 19/03/04 which states, *inter alia* "For the purpose of facilitating access, the figures above included captioning albeit this does not reflect some of the technical standards associated with subtitling. On screen captioning is seen to provide a useful service for user groups and the service provider and the user groups may wish to negotiate this balance."⁶⁴

TG4 continued on to say that it "believes that the "Access Document" has a very narrow U.K. definition of captioning and subtitling. The user groups for which these rules are to be applied do not appear to have the same difficulty, and have indicated that they are happy with the captioning service TG4 supplies."⁶⁵

TV3 said that captioning "should be allowed to meet the obligation in its entirety." Furthermore, it stated that it

cannot afford to generate the level of in-house subtitling that the Access Rules call for...it should be noted that US captioning will rarely be useable as the US encodes subtitles in programming in a fundamentally different way than happens in Europe. It is for this reason that the Broadcaster should have complete freedom in regard to its subtitles programming.⁶⁶

RTÉ stated that where a programme has neither captions nor subtitling, it believes that subtitling is preferable. "However, RTÉ takes the view that a captioned programme is better than a programme with neither captions nor subtitles."⁶⁷

2.3. Subtitling targets

Additional questions were asked in this respect. The first was as follows:

Do you believe broadcasters should be permitted to include some captioning per year in attaining their subtitling targets?

2.3.1. Feedback

For Shane Buckley, captions are only acceptable until they can be phased out in favour of subtitles.⁶⁸ While accepting captioned programmes on TG4 as a transitional measure, the IHHA said that "The laying down of dual standards for RTÉ would be a retrograde step, encouraging increased captioning."⁶⁹ Furthermore, it stated that since it

⁶⁴ TG4: written submission 9, p.3; its emphasis.

⁶⁵ TG4: written submission 9, p.4.

⁶⁶ TV3: written submission 12, p.5.

⁶⁷ RTÉ: written submission 13, p.9.

⁶⁸ Shane Buckley: email submission 2.

⁶⁹ IHHA: email submission 4, p.7.

is committed to high standards, [the IHHA] could not accept dual standards for subtitling within the 18 hours (7am to 1am) or outside it in the long run. The notion of a lower standard for some programmes is incompatible with the principle of excellence which will underpin the development of access rules as stated in the access consultation document: “The Access Rules when completed will be accompanied by a set of standards and guidelines that broadcasters must attain to ensure a quality service.”⁷⁰

The NDA felt that captioning could be used initially. The first two to three years of the ten year timeframe were specified but the use of captions, according to the NDA would be ‘only as a last resort.’⁷¹

Broadcasters believed that they should be allowed to include some captioning per year in attaining their subtitling targets. According to TG4, ‘Since Ireland lacks an indigenous subtitling industry, the targets and the timeframes set down in the Access Rules are unattainable unless some forms of captioning are acceptable.’⁷² RTÉ echoed this opinion: ‘If an acquired programme already has captions, it is preferable not to replace them with subtitles as the cost outweighs the benefits. The resources needed to do this would be better used to subtitle these programmes that have neither captioning nor subtitles.’⁷³

Respondents were asked an additional question in this respect. The *Access Consultation Document* asked:

If so, what percentage of the overall target should be allowed in caption form?

Responses to this question were low. For Shane Buckley, captioning ‘should be no more than 30% of overall target but the percentage should be whittle down [sic] to 0% over 5 years.’⁷⁴

RTÉ stated its belief that this approach was flawed. ‘This is not practicable to measure – or police – in percentage terms. It depends on the amount of acquired programmes with captioning – and this depends on programmes/acquisition policy.’⁷⁵

2.4. Standards and guidelines

The BCI will produce a set of guidelines and standards for subtitling. Consequently, it asked:

What is your view on the type of issues that should be addressed within these standards and guidelines?

⁷⁰ IHHA: email submission 4, p.6.

⁷¹ NDA: written submission 22, p.10.

⁷² TG4: written submission 9, p.4.

⁷³ RTÉ: written submission 13, p.9.

⁷⁴ Shane Buckley: email submission 2.

⁷⁵ RTÉ: written submission 13, p.9.

2.4.1. Feedback

The IHHA provided a list of issues it wants to see addressed within these standards and guidelines. Here it included:

- Summary versus Verbatim subtitling for live programming;
- Block versus scroll for live programmes;
- Synchronisation of text with speech;
- Editing to include concerns for censoring and language used;
- Subtitles lagging progressively behind speech;
- Subtitling of children's programmes;
- Speed of subtitles;
- For live programmes, particularly live news, can some items be pre-recorded to match speech?
- Use and type of colour;
- Subtitling positioning on screen.⁷⁶

The NAD asked for four areas to be included. These were:

- Whether subtitles should be verbatim or summary;
- Whether subtitles should be in block format or scrolled;
- Synchronisation of text and speech;
- On-screen notification if subtitles break down for any period.⁷⁷

The NDA adopted a different approach. Here it stated that 'Any standards and guidelines in this area should be based on similar international standards and international best practice. The development of these guidelines should involve key stakeholders to include people with disabilities.'⁷⁸

Each of the national broadcasters identified issues they want included. For TG4, these were:

- How the 'Access Rules' are monitored;
- The development and adoption of a standard symbol for indicating in print media that programmes are subtitled;
- How to develop a sustainable subtitling industry which are trained to the highest standard.⁷⁹

Ability to provide services specified is the principal issue for TV3. More specifically, it stated

The main issue that should be addressed is the means to provide the services, the impact on the broadcaster's ability to compete and the cost. There should also be a reference to effectiveness i.e. given that the majority of viewing is done between 7-11pm, this reality should be addressed and

⁷⁶ IHHA: email submission 4, p.6.

⁷⁷ NAD: written submission 14, p.2.

⁷⁸ NDA: written submission 22, p.10.

⁷⁹ TG4: written submission 9, p.5.

broadcasters should be encouraged to concentrate on this time period by reductions in the overall percentage required if certain time specific quotas are met.⁸⁰

RTÉ hoped their present guidelines will feed into the BCI process for setting rules of excellence for all Irish broadcasters. 'Issues must be raised as to preferred types of subtitles, colours to differentiate speakers, ability to raise subtitles when obscuring other vital information, position of subtitles, and other issues already laid down in RTÉ's guidelines.'⁸¹

2.5. The use of an eighteen-hour broadcast day as the timeframe for daily targets

A time period of eighteen hours has been proposed. This would run from 7am to 1 am and take in all main viewing times. It has been proposed in a bid to ensure that broadcasters develop their subtitling provision within mainstream broadcasting hours to increase access to programming.

2.5.1. The BCI asked...

The BCI asked three questions in this respect. The first was as follows:

What is your view on the use of an 18 hour day as the basis for subtitling targets?

2.5.2. Feedback

In general, individuals supported either an eighteen hour day or more. While Shane Buckley supported the use of an eighteen hour day, there were others who felt it was still too little.⁸² Many respondents wanted eighteen hours, 100% access, where subtitling matched speech throughout.⁸³ One respondent stated 'Why? Because I am Deaf and need access.'⁸⁴ Two people felt entitled to this level since the radio was, and would remain, totally inaccessible. Requesting complete access to television was therefore considered appropriate in this context.⁸⁵ 'Hearing people have the radio, what do we have?'⁸⁶

Significant difference of opinion exists when representative organisations are compared. While the IHHA wanted a reduction of hours where subtitling should occur, the NAD wanted an increase to twenty four hours. The IHHA stated that

⁸⁰ TV3: written submission 12, pp 5-6.

⁸¹ RTÉ: written submission 13, p.9.

⁸² Shane Buckley: email submission 2; Anonymous: written submissions 4, 5 and 6.

⁸³ See, for example, Martina Nolan: written submission 17; Patricia McHale: written submission 18; Kathryn O'Brien: written submission 19; Catherine Naughton: written submission 20; Angela Larkin: written submission 21; Fergus Dunne and Dee Byrne-Dunne: email submission 8; Fergus Dunne: written submission 25; Frankie Berry: written submission 28; Mary Griffin: written submission 30; Anonymous: written submission 31; Breda O'Grady: written submission 32; Anonymous: written submission 33; Tony Griffin: written submission 34; Anonymous: written submission 35; Julianne Gillen: written submission 36.

⁸⁴ Anonymous: written submission 5.

⁸⁵ Catherine Naughton: written submission 20; Anonymous: written submission 31.

⁸⁶ Anonymous: written submission 31.

A long period such as 18 hours gives a broadcaster wide scope to avoid subtitling the most costly programmes such as lives [sic] news, live entertainment and current affairs. These are the programmes most in demand for subtitling. A large increase in subtitled programmes with a low subtitling rating would be of little benefit to hard of hearing people. For this reason, the period should be narrowed considerably to focus on evening and afternoon programmes.⁸⁷

If the broadcaster is transmitting twenty four hours a day, the NAD believes that subtitling targets should apply to that time period. In doing so, attempts would be made to mirror services available for the hearing. ‘To provide in the Rules for just part of the broadcast day would be to institutionalise discrimination, i.e. to formally permit discrimination against deaf, hard of hearing and blind people during certain hours every day.’⁸⁸ It continued on to say that ‘To avoid the possibility of a broadcaster developing the service at times of low demand the Association recommends that:

- Time blocks are specified so that peak viewing times can be prioritised for development of the services.
- Programme types be specified so that the more popular programmes can be prioritised.’⁸⁹

The NDA advocated a mainstreaming approach to the implementation of all accessibility. For this organisation, ‘The recommendation of an 18-hour broadcasting day is based on the experience of deaf groups in other jurisdictions and it is important to learn from the experience of others who have encountered these issues. Therefore the use of an 18-hour day seems reasonable.’⁹⁰

Broadcasters produced different opinions on this subject. TG4 asserted that in ‘the absence of special access funding, one must look at the cost-benefit when setting down timeframes for daily targets.’⁹¹ TG4 carries a significant amount of *Euronews* at both ends of the eighteen hour day segment: ‘Subtitling this output would be the largest cost involved – greater than the acquisition or rights cost.’⁹²

TV3 argued that this eighteen hour specification should be narrowed to twelve. ‘TV3 is seeking this alteration to the targets to reflect this view. TV3 believed it would also be appropriate to review annually the targets set for each broadcaster in relation to its means to provide services, in addition to technological changes.’⁹³

While accepting an eighteen hour day as an appropriate aspiration, RTÉ believes that in the interim resources should be concentrated on peak viewing hours. ‘As is the case of RTÉ Two, there is a concentration of programmes, in the morning and afternoon,

⁸⁷ IHHA: email submission 4, p.6.

⁸⁸ NAD: written submission 14, p.2.

⁸⁹ NAD: written submission 14, p.1.

⁹⁰ NDA: written submission 22, p.11.

⁹¹ TG4: written submission 9, p.5.

⁹² TG4: written submission 9, p.5.

⁹³ TV3: written submission 12, p.1.

for pre-school children who cannot read, and it would be superfluous to subtitle all these programmes during the entire 18hr timeframe.’⁹⁴ It added that

RTÉ’s current approach is to highlight programmes on RTÉ Two which target older age-groups, family groups, educational and indigenous programming for subtitling. This ensures the most effective method of ensuring access for all. A more appropriate time-frame for RTÉ Two would be 17.00 to 01.00 with all matinees and special events for children, outside these hours, also subtitled.⁹⁵

2.5.3. Additional questions

Two other questions were asked in this respect. These were:

Do you believe 7am to 1am is an appropriate timeframe?

If not, what alternatives would you suggest?

Some felt that this was acceptable⁹⁶ while others felt that emphasis should be on peak times when most viewing took place.⁹⁷ Arguing for twenty four-hour access, Julianne Gillen believed that ‘We should not be dictated to about what hours are provided.’⁹⁸

The IHHA agreed with this while adding that it would like to see priority given to afternoons and evenings.⁹⁹ RTÉ stated that it was its current practice to subtitle either side of peak viewing (6-11.30) ‘taking into account the recommendation of the user groups.’¹⁰⁰

TG4 was alone in considering alternatives. Here it stated that ‘In the absence of any separate funding structures, alternatives such as proposed audience share/actual peak – viewing time, cost benefit or some ratio or equation thereof...The user groups should be consulted as to ascertain the type and range of programmes they want to access.’¹⁰¹

2.6. Targets and timeframes

The BCI has sought to develop a set of targets for each broadcaster mindful of the natural differences which exist between them. These were outlined in the *Access Consultation Document*.¹⁰² In addition, a ten-year timeframe is being proposed for each broadcaster and the interim targets to be reached each year are specified. The BCI asked three questions in this respect. The first was as follows:

⁹⁴ RTÉ: written submission 13, p.10.

⁹⁵ RTÉ: written submission 13, p.10.

⁹⁶ See, for example, Martina Nolan: written submission 17; Patricia McHale: written submission 18.

⁹⁷ See, for example, Shane Buckley: email submission 2; Anonymous: written submission 7.

⁹⁸ Julianne Gillen: written submission 36.

⁹⁹ IHHA: email submission 4, p.8.

¹⁰⁰ RTÉ: written submission 13, p.10.

¹⁰¹ TG4: written submission 9, p.5.

¹⁰² BCI (2004), *Access Consultation Document*, pp 28-33.

What are your views on the principle of setting different targets for each broadcaster in relation to subtitling?

2.6.1. *Feedback*

Individual respondents believed that all broadcasters should be treated in a similar fashion. This would ensure that maximum access might be achieved.¹⁰³

The IHHA accepted the idea of a differential target, with more demanding levels of public service channels. Based on its receipt of a licence fee as well as commercial revenue, the IHHA asserted that RTÉ should 'reach 100% subtitling well in advance of others.'¹⁰⁴ It also argued that TG4 should achieve targets in advance of TV3 given that it receives public monies. It emphasised that subtitles on TG4 are currently a translation service aimed at the English speaking audience and thus, need to be developed for the deaf and hard of hearing.¹⁰⁵

Conversely, the NAD disagreed with the principle of setting different targets for each broadcaster in relation to subtitling. More specifically, it stated that

The basic principle which should be applied is that of universal access, that is, that all services targeted at the public as a whole (as opposed to specialist services for particular sub-groups of the public) should be accessible to all, including those with disabilities. The cost of making a service accessible to people with disabilities should be factored in as one of the basic costs of the service, not left as an extra to be added if convenient. To argue that more should be expected from a State funded body as opposed to a purely private, commercial one, implies that at least part of the State funding is intended to cover the cost of making the service accessible and this is not necessarily the case. Even if this argument were accepted it would beg the question as to why the private operator should not be funded by the State also for this cost element.¹⁰⁶

Conversely, the NDA believed that targets set 'seemed reasonable.' It continued on to say that 'It is appropriate that the targets for public broadcasters reflect their responsibilities in this area.'¹⁰⁷

Diverging opinions characterised the response of broadcasters. TG4 made two points in this respect. Primarily, it noted that while the idea of setting different targets for different broadcasters might seem logical, it negated the reasons for the Rules – i.e. to increase access to broadcast media for people who are deaf or visually impaired. And secondly, it argued that

¹⁰³ See, for example Francis Dunne: email submission 1; Martina Nolan: written submission 17.

¹⁰⁴ IHHA: email submission 4, p.8.

¹⁰⁵ IHHA: email submission 4, p.8.

¹⁰⁶ NAD: written submission 14, p.3.

¹⁰⁷ NDA: written submission 22, p.11.

Broadcasters who are already providing service appear to have been penalized with stricter targets and timeframes than the broadcasters who have not. The distinctions appear to have been made on how the broadcasters are funded and not that of which broadcaster the user groups watch. Some consideration should be taken of the audience share of the broadcaster as opposed to how they are funded.¹⁰⁸

TV3 supported the idea of setting different targets for public and for commercial stations. Furthermore, it argued that RTÉ Two and TG4 should have the same targets as RTÉ One since they are in receipt of public funding.¹⁰⁹

RTÉ disagreed with the idea of different targets. Moreover, it stated that it regards ‘this proposal as inequitable, and believes it is it [sic] conflicts with the BCI’s own Principle of Access.’¹¹⁰

2.6.2. *The BCI asked...*

What are your views on the BCI’s proposal to use a ten-year timeframe for the development of subtitling?

2.6.3. *Feedback*

Individual respondents disagreed with this proposal. It was believed to be too long and it was argued that targets could be achieved within five years or thereabouts.¹¹¹ One respondent remarked: ‘I’ll be an old woman by then. I like to be able to enjoy life now.’¹¹² Accepting that ten years was too long, Amy O’Shea did believe that ‘the spread of work across this time seems fair.’¹¹³

For the IHHA, ten years was also considered too long, especially as it pertains to an eighteen hour day. Arguing that the licence fee entitles the viewer to watch all four national stations, it stated that the absence of subtitling mitigates such access. It also expressed disappointment that TV3 was to achieve only 60% within a ten-year period.¹¹⁴

Similarly, the Irish Deaf Society (IDS) considered ten years to be too long and even then there would not be 100% subtitling across the four stations. It asserted that the process should be completed by 2010. Furthermore, it stated that it ‘considers 60%

¹⁰⁸ TG4: written submission 9, p.6.

¹⁰⁹ TV3: written submission 12, p.1.

¹¹⁰ RTÉ: written submission 13, p.11.

¹¹¹ Shane Buckley: email submission 2; Mary Regan: written submission 10; Martina Nolan: written submission 17; Patricia McHale: written submission 18; Kathryn O’Brien: written submission 19; Catherine Naughton: written submission 20; Angela Larkin: written submission 21; Fergus Dunne and Dee Byrne-Dunne: email submission 8; Frankie Berry: written submission 28; Edward Moyles: written submission 29; Fergus Dunne: written submission 25; Anonymous: written submission 31; Breda O’Grady: written submission 32; Anonymous: written submission 33; Anonymous: written submission 35.

¹¹² Anonymous: written submission 35.

¹¹³ Amy O’Shea: web submission 107.

¹¹⁴ IHHA: email submission 4, p.10.

subtitling by TV3 to be an insult to equal rights of Deaf and hard of hearing people...economic factors should not be given an excuse in all circumstances.’¹¹⁵

The NAD also believed that ten years is too long. It could not understand why the rate of development after Year 5 was substantially reduced vis-à-vis the first five years, considering that the resources and expertise would have been built up over that initial period. Moreover, it stated that ‘for the same reason, it would be expected that an accelerating rate of progress should be possible within the first few years enabling higher targets to be achieved in a shorter timeframe.’ It recommended a six year period to achieve the same targets, adding that the International Federation of Hard of Hearing People, the European Federation of Hard of Hearing People and the European Union of the Deaf all recommend a target of 100% within a six year timeframe.¹¹⁶ Should the timeframe be reduced to six years, the NAD envisages reviews every three years with an interim review a year previously.

Rehab felt ten years was too long. Believing that broadcasters should be encouraged to implement access services as soon as possible, it stated that such a long timeframe ‘only served to put off compliance when the technology is already in existence and is constantly changing.’¹¹⁷

While accepting that some targets and timeframes should be set down, TG4’s ‘consideration of the optimum period would be greatly aided by some indication of how the BCI proposes to monitor and aid the broadcasters in attaining the desired targets.’¹¹⁸ It emphasised that ‘The pace of technological advances and the development of a sustainable professional subtitling industry in Ireland and a funding mechanism are essential components in ensuring that the targets and timeframes are met.’¹¹⁹ Consequently, TG4 suggests that setting more attainable targets, within a shorter timeframe might be a better option ‘thus giving the BCI more time to look at the question of funding/training and standards.’¹²⁰

TV3 accepted ten years as appropriate and sought undertakings that any alterations in the Disability Bill, 2004 would not alter this timeframe. Furthermore, it stated that the ability to pay, while relevant, was not proposed or considered in the BCI consultation document.¹²¹

It was RTÉ’s opinion that a ten year timeframe was too lengthy to predict with confidence. Considerations of technology and training lead it to state that targets imposed on RTÉ in the primary years are unattainable. ‘In order to properly assess developments in the field the first few years are crucial in learning what CAN be done by ALL broadcasters in providing the service. In this way, attainable targets can be readjusted.’¹²²

¹¹⁵ IDS: written submission 11, p.2.

¹¹⁶ NAD: written submission 14, p.3.

¹¹⁷ Rehab: written submission 23, p.2.

¹¹⁸ TG4: written submission 9, p.6.

¹¹⁹ TG4: written submission 9, p.6.

¹²⁰ TG4: written submission 9, p.6.

¹²¹ TV3: written submission 12, p.1.

¹²² RTÉ: written submission 13, p.11; its emphasis.

2.7. Specific targets

Setting targets for individual broadcasters was proposed. More precisely, the question asked was

What is your view on the appropriateness of the specific targets proposed for:

- A. RTÉ 1
- B. RTÉ 2
- C. TG4
- D. TV3

2.7.1. Feedback

Tommy Broughan stated, that while the arguments for the subtitling targets for RTÉ One and Two are well supported in the document, targets could be achieved within a shorter time frame. Here he said ‘given the 100% target timeframe for the BBC (by 2009)...RTÉ should reach 100% over a six year time span with 100% peak time subtitling in two years.’¹²³ For RTÉ Two, 100% should be attainable in eight years. Such expectations, Broughan continued, are acceptable given the level of public funding. Similarly, he stated that 100% could be attained by TG4 and TV3.¹²⁴

The IHHA was very specific in its views vis-à-vis the appropriateness of specific targets for the national broadcasters. Overall, it believed that ten years is too long and suggested the following:

RTÉ1

- Reach 100% subtitling in 6 years for the period 7am to 1am
- Reach 100% of peak-time in 2 years
- Reach 100% across the 24 hours in 10 years

RTÉ2

- Reach 100% subtitling in 8 years, for the period 7am to 1am
- Reach 100% of peak-time in 2 years
- Reach 100% across the 24 hours in 10 years

TG4

- Reach 100% subtitling in 8 years for the period 7am to 1am
- Reach 100% of peak-time in 3 years
- Reach 100% across the 24 hours in 10 years

TV3

- Reach 100% subtitling in 8 years for the period 7am to 1 am
- Reach 100% of peak-time in 4 years
- Reach 100% across the 24 hours in 10 years.¹²⁵

¹²³ Tommy Broughan: email submission 6.

¹²⁴ Tommy Broughan: email submission 6.

¹²⁵ IHHA: email submission 4, pp 10-11.

TG4 referred again to its current level of funding. With regard to the allocation of specific targets, it said that ‘It is extremely difficult for TG4 to commit to attaining any increased access targets given the uncertainty about all aspects of [its] funding.’¹²⁶

RTÉ stated that the same targets and timeframes should be set for all broadcasters. It argued that ‘Setting separate targets for broadcasters does not take into account the different balances of home produced (which have to have subtitles put on in-house) and acquired (which may/may not come with subtitles) programmes.’¹²⁷ In this respect, it said that it is being put at a disadvantage as it produces more home produced programmes than any other station, meaning more resources are devoted to subtitling and this incurs heavier costs. As for the figures proposed, it said ‘The targets proposed for RTÉ One is 75% by year 3 and 42% for RTÉ Two. These recommended targets have been set without any research into whether the Irish market can satisfy this supply.’¹²⁸

¹²⁶ TG4: written submission 9, p.7.

¹²⁷ RTÉ: written submission 13, pp 11-12, at 12.

¹²⁸ RTÉ: written submission 13, p.11.

3. Sign language

3.1. Introduction

Sign language carries its own technical limitations. Consequently, the requirements to be met by individual broadcasters are less extensive than for subtitling. Development and progress is considered to occur at a slower pace. In addition, a twenty four-hour broadcast day has been assigned to signing where an eighteen hour broadcast day applied to subtitling.

3.2. The use of a twenty four-hour broadcast day as the timeframe for daily targets

Questions asked centred on the twenty four hour day, targets and timeframes. The first question:

What is your view on the use of a 24-hour day as the basis for sign language targets?

3.2.1. Feedback

A variety of views was proffered vis-à-vis the twenty hour-day being used as a basis for sign language. A view was expressed that if a twenty four-hour day is used, off peak programmes might be signed in preference to peak time.¹²⁹ Buckley suggested that if a twenty four-hour day is to be the basis, '75% of target be used between 7am and 1am.'¹³⁰ Some people believed that an avatar could be made available to allow more programmes to carry sign language.¹³¹ Acknowledging that the presence of an avatar on screen might prove unacceptable to certain people, Shane Buckley argued 'If [the] public can get used to no smoking ban, surely they can get used to having a sign language interpreter.'¹³²

The National Association for Deaf People (NAD) agreed with the use of a twenty four-hour day as the basis for sign language. Furthermore, it stated that 'Deaf people would not wish to inconvenience other viewers by having open signing on all

¹²⁹ Shane Buckley: email submission 2; Amy O'Shea: web submission 107; Mary Regan: written submission 10.

¹³⁰ Shane Buckley: email submission 2.

¹³¹ Shane Buckley: email submission 2; Mary Regan: written submission 10.

¹³² Shane Buckley: email submission 2.

programmes and would be agreeable to a provision whereby closed signing would be mandatory when the necessary technology is available and in the meantime open signing could be used for off-peak programmes.’¹³³

The National Disability Authority (NDA) stated that it was aware of the technical issues which limit the provision of closed signing. Consequently, it accepted a twenty four hour day as the basis for sign language targets.¹³⁴ Rehab also accepted the twenty four-hour day but stressed that signed programmes ‘should not be confined to unattractive broadcasting hours.’¹³⁵

TG4 also referred to technological considerations albeit adopting a different track. Here it said that ‘The technology at present dictates that signed programmes would be shown outside peak viewing times as not to alienate the general viewing audience. This should be considered again in the future when the technology allows for signed programmes to be accessed in teletext or via “red button” technology.’¹³⁶ Furthermore, it stated that ‘Any proposal for off-peak or overnight transmission of programming should factor in the staff and other costs of the actual transmission and the rights implications that will arise given that broadcasters usually acquire rights to transmit a programme for a specified run or number of times.’¹³⁷

RTÉ acknowledged the technical difficulties surrounding the provision of sign language and the implications for trying to predict the pace at which such services might develop. Here it made two distinct points. Firstly, it stated its belief that the twenty four-hour day as a basis for sign language targets is only feasible if there is a ‘closed’ method of broadcasting signing. Secondly, it argued that the cost of providing sign language would deplete budgets for the preferred subtitling service currently in operation. ‘It would also dilute investment in research and development to lead to a more sophisticated service.’¹³⁸

3.3. Targets

RTÉ One and RTÉ Two were asked to meet targets for sign language while TG4 and TV3 were not. Singling out these stations fits closely with the experience of other jurisdictions where such standards are sought of public service broadcasters.

3.3.1. The BCI asked...

What is your view of the BCI’s proposal to set targets for RTÉ 1 and Network 2 only in relation to sign language?

3.3.2. Feedback

For Shane Buckley, TG4 should be included with RTÉ One and Two as it receives money from the State coffers. TV3, Buckley continued, could be excluded on the

¹³³ NAD: written submission 14, p.4.

¹³⁴ NDA: written submission 22, p.12.

¹³⁵ Rehab: written submission 23, p.3.

¹³⁶ TG4: written submission 9, p.7.

¹³⁷ TG4: written submission 9, p.7.

¹³⁸ RTÉ: written submission 13, p.12.

condition that it archives 100% in five years.¹³⁹ Julianne Gillen also believed that TG4 should have targets for sign language.¹⁴⁰ Amy O'Shea wondered 'If these channels show an increase in viewing then maybe the others will follow naturally!'¹⁴¹

The NAD expressed dissatisfaction with this proposal. It believed that all broadcasters should provide access for the deaf and hard of hearing. Consequently, it argued that the NAD 'could not accept a situation where certain bodies were permitted to discriminate while others were not.'¹⁴² Conversely, the NDA felt the proposal 'seemed reasonable.'¹⁴³

Due to its receipt of public money, TV3 argued that TG4 should also have targets for sign language. More specifically, it said that TG4 relies almost exclusively on State aid and with that aid distorts the market increasingly as its aid is increased. This would make these measures consistent in that the State funded broadcasters would have been given appropriate targets.¹⁴⁴ It added its belief 'that the imposition at these quotas in any way on a commercial sector particularly when faced with a non-regulated Irish targeted but UK based services is discriminated under EU internal-Market rules. TV3 also made the point, in regard to the 2004 [Disability] Bill 'that the affected parties have never had this issue discussed with them and that the provisions are manifestly unfair and not desirable.'¹⁴⁵

RTÉ argued that targets should apply to all broadcasters, thus providing more access for user groups. It expressed a preference, however, for concentrating its resources on increasing subtitling 'as it includes a wider group (hard of hearing) and prevents any dilution of funds and resources.'¹⁴⁶

3.4. Timeframes

It is believed that technical developments may impact on the ability to provide sign language in the near future. Consequently, it was suggested that a three-year timeframe be introduced with the provision to review after this initial period. The envisaged review would concur with one for subtitling.

3.4.1. The BCI asked...

What is your view of the proposed three-year timeframe for the development of sign language provision?

3.4.2. Feedback

The view was expressed that three years was acceptable given the uncertainty in pace of technological development.¹⁴⁷ As long as progress is made properly and professionally with consultation, this timeframe is considered acceptable.¹⁴⁸

¹³⁹ Shane Buckley: email submission 2.

¹⁴⁰ Julianne Gillen: written submission 36.

¹⁴¹ Amy O'Shea: web submission 107.

¹⁴² NAD: written submission 14, p.4.

¹⁴³ NDA: written submission 22, p.12.

¹⁴⁴ TV3: written submission 12, p.7.

¹⁴⁵ TV3: written submission 12, p.7.

¹⁴⁶ RTÉ: written submission 13, p.12.

¹⁴⁷ Shane Buckley: email submission 2; Amy O'Shea: web submission 107.

The NAD also accepted the three-year timeframe ‘allowing as it does for a review to assess advances in relevant technology.’ Furthermore, it stated its anticipation ‘that any significant advance in technology will lead to the upward revision of targets for the following period.’¹⁴⁹ The NDA considered the three-year timeframe to be ‘reasonable.’¹⁵⁰

RTÉ accepted this basis for the development of sign language. It said that it especially ‘welcomes this time to create and develop a separate transmission path for the service.’¹⁵¹

3.5. One per cent target

The setting of a one per cent target for sign language was proposed. The question asked was

What is your view of the BCI’s proposal to set a 1% target for the development of sign language over three years?

3.5.1. Feedback

Disappointed with the proposed one per cent, Shane Buckley requested five per cent in the first three years. He argued that as public funding has been used to increase the number of Irish speaking programmes, the same should be applied to the promotion of programmes in sign language.¹⁵² Other requests were made for five to six per cent sign language on all channels in ten years and pertaining to an eighteen hour day from 7am to 1am.¹⁵³ Tommy Broughan echoed many of these sentiments when he said

The 1% target over three years seems very, very minimal given that we are familiar with extensive signing on BBC already (especially in the off-peak hours). The [*Access Consultation*] document raises important issues about signing (different language, etc.) but this indigenous Irish language deserves more support from the four TV stations. Would an annual 3 to 5% target be considered, especially to include all major national events?¹⁵⁴

Suggestions were made that the target be at least ten per cent within the specified timeframe. Conversely, Val Greaney argued that the provision of ISL should increase by five per cent every two years.¹⁵⁵

The provision of Irish Sign Language (ISL) was described by some as an issue of equality. The absence of sufficient subtitling and the low level of ISL to be achieved made Geraldine McGurney remark: ‘I feel I am half [a] citizen.’¹⁵⁶ Brian Lynch

¹⁴⁸ Amy O’Shea: web submission 107.

¹⁴⁹ NAD: written submission 14, p.4.

¹⁵⁰ NDA: written submission 23, p.12.

¹⁵¹ RTÉ: written submission 13, p.13.

¹⁵² Shane Buckley: email submission 2.

¹⁵³ Anonymous: written submissions 4, 7 and 8; Julianne Gillen: written submission 36.

¹⁵⁴ Tommy Broughan: email submission 6.

¹⁵⁵ Val Greaney: email submission 9.

¹⁵⁶ Geraldine McGurney: written submission 15.

linked this issue of equality to the fact that while the State places demands on him, the service he needs is not forthcoming. Here he stated that

ISL is my first language and only 4 hours of the whole year on one channel has ISL while the other channels practically has [sic] no ISL...The hearing have the luxury of all those channels. Yet I pay for a TV license at the same rate as the hearing. That's total INJUSTICE.¹⁵⁷

Kevin J. Mulqueen sought an hour every evening. He believed such a request was both appropriate and acceptable, recognising that 'ISL is the language of Deaf people. Some Deaf, he continued, cannot use subtitling as a means of access because English is not their first language.'¹⁵⁸

The Irish Deaf Society (IDS) argued that one per cent too low as 'it would equate to a daily exposure to ISL of only half an hour.'¹⁵⁹ It 'demands the minimum of 5% output in each television station by 2010.' Furthermore, the IDS added that

It must be remembered that ISL is the preferred language of [the] Deaf community, which should be reflected upon by the BCI. While the full subtitling access is important, the essence of ISL should not be overlooked. ISL should be given the same status as spoken Irish, which is on TG4 as well as on RTÉ.^{160 161}

The NAD described the one per cent target as a 'token' gesture. 'Deaf people who use sign language would regard the provision of sign language as real equality and would be very disappointed at an achievement of a mere 1% over 3 years.'¹⁶² Similarly for Rehab, 'A 1% target for sign language over three years does not represent a significant commitment...'¹⁶³

RTÉ welcomed the target believing it 'concentrates broadcasters on acquiring the best technology for delivery and broadcast.'¹⁶⁴ It voiced reservations, however, believing that it may be possible 'but broadcasters need at least that time to research and develop a sophisticated service.'¹⁶⁵ Consequently, it recommended that the BCI carry out quantity surveys to establish the percentage of viewers requiring subtitling and the percentage of viewers requiring signing.¹⁶⁶

¹⁵⁷ Brian Lynch: written submission 16; his emphasis.

¹⁵⁸ Kevin J. Mulqueen: written submission 24.

¹⁵⁹ IDS: written submission 11, p.2.

¹⁶⁰ IDS: written submission 11, p.3.

¹⁶¹ In the BCI report, *Accessing Television* (p.15), it was seen that the IDS estimated the total number of Deaf people in Ireland as 3,500. This figure refers to deaf people defined as ISL users regardless of their level of hearing loss. The wider European approach calculates that one in every five people has some hearing difficulty. As recorded in the 2002 Census, 1,570,894 people say they can speak Irish.

¹⁶² NAD: written submission 14, p.4.

¹⁶³ Rehab: written submission 23, p.3.

¹⁶⁴ RTÉ: written submission 13, p.13.

¹⁶⁵ RTÉ: written submission 13, p.13.

¹⁶⁶ RTÉ: written submission 13, p.13.

4. Audio description

4.1. Introduction

Technical difficulties are omnipresent in the area of audio description. While the will to deliver such a service may exist, the technology is not currently available to do so. Many aspects of audio description provision were reviewed in this section. Responses to questions were, however, particularly sparse.

4.2. The use of a twenty four-hour broadcast day as the timeframe for daily targets

The BCI asked for views regarding the broadcast day suggested. Here it said:

What is your view of the BCI's proposal to use a 24-hour day as the basis for targets for audio description?

4.2.1. Feedback

Tim Culhane expressed disappointment with this proposal. Basing targets on a twenty four-hour day may mean, he stated, that broadcasters will 'shunt audio description off into times such as 3.00 a.m.' Consequently, he asked that it be based on an eighteen hour-day.¹⁶⁷

Conversely, the National Council for the Blind in Ireland (NCBI) supported this proposal. It considered this as acceptable as 'broadcasting of audiodescribed programmes is at least initially reliant on broadcasting in the early hours of the morning, outside "normal" broadcasting hours. Also 1% of 24 hours is somewhat slightly more than 1% of 18 hours.'¹⁶⁸

The National Disability Authority (NDA) stated that it advocates the principle of mainstreaming in all services.¹⁶⁹ It believed technology is developing at such a rate that, with the introduction of Digital Terrestrial Television, closed audio description will be possible in Ireland as it is in other jurisdictions.¹⁷⁰

¹⁶⁷ Tim Culhane: web submission 110.

¹⁶⁸ NCBI: web submission 121.

¹⁶⁹ NDA: written submission 22, p.12.

¹⁷⁰ NDA: written submission 22, pp 12-13.

TG4 rejected the proposal. More specifically, it said

Technology dictates that audio description subtitles can not [sic] be broadcast in Ireland at present. It seems pointless setting out any hours for something that can not be broadcast. This should be looked at again when the technology for audio description subtitles can be accessed.¹⁷¹

RTÉ accepted the proposed twenty four hour time frame. It stated, however, that this was only feasible if there is a “closed” method of broadcasting.¹⁷²

4.3. Targets

Targets have been suggested for RTÉ One and RTÉ Two but not for TG4 and TV3. This fits with the public service remit of the former two stations. It was also recognised that technology has yet to develop to a sufficient degree to allow wide scale availability of such a service.

4.3.1. The BCI asked...

What is your view of the BCI’s proposal to set targets only for RTÉ1 and Network 2 in relation to audio description?

4.3.2. Feedback

Tim Culhane stated that targets should also be set for TV3. He said this is possible because TV3 broadcasts many shows produced by UK companies: ‘As the UK has set targets with regards to audio description, it is safe to assume that TV3 will be able to source audio described content from its partners in the UK.’¹⁷³ Tommy Broughan expressed a similar view when he said ‘I have received submissions from TV3 in relation to audio description but I believe that TV3 as a national station should be included in your three year audio description target.’¹⁷⁴

The NCBI also felt that targets should be set for other broadcasters besides RTÉ One and Two. More specifically, it said

It has been argued that Ireland is inexperienced in the field of audiodescription [sic] with a steep learning curve ahead, and that time is needed for people to be trained in the field and for broadcasters to come to terms with the culture of audiodescription. One can only wonder then how long it will be before TV3 and TG4 even begin to come to terms with accessibility, and start to consider training staff in the field. NCBI does not believe that non-public service broadcasters should be expected to cover the cost of making television accessible to people with disabilities alone in the long term,

¹⁷¹ TG4: written submission 9, p.7.

¹⁷² RTÉ: written submission 13, p.13.

¹⁷³ Tim Culhane: web submission 110.

¹⁷⁴ Tommy Broughan: email submission 6.

but that financial and practical support should be provided by government to do so.¹⁷⁵

The NDA considered the proposal to be ‘reasonable.’ It did not elaborate further.¹⁷⁶

TV3 stated that TG4 should also have targets set for audio description. It argued that since TG4 is in receipt of public monies, it should be included.¹⁷⁷ It reiterated points made vis-à-vis subtitling, that cost is a primary concern and should be given suitable consideration by the Broadcasting Commission of Ireland (BCI).

For RTÉ, it ‘is not simply a matter of cost’. There is an absence of suitable technology, skills and resources to make the provision of audio description a reality.¹⁷⁸ Furthermore, RTÉ added that ‘The acquired audio description is available at a market value to anyone requiring the service. It could be argued that a bigger international television network may have stronger bargaining powers than a small public service.’¹⁷⁹

4.4. Timeframes

An initial three-year timeframe has been suggested for the introduction of audio description. A review after this time is envisaged. This would concur with reviews of subtitling and sign language provision.

4.4.1. The BCI asked...

What is your view of the BCI’s proposal to set an initial three-year timeframe for the development of audio description?

4.4.2. Feedback

Accepting technical difficulties and the fact that audio description is an emerging technology, Tim Culhane supported the three-year timeframe.¹⁸⁰ The NCBI also accepted this timeframe, acknowledging the requirement for a digital television platform for the widespread implementation of audio description. ‘A longer timeframe’, the NCBI continued, ‘would not be possible with the ever changing technical developments, and it is hoped that within three years some progress on this matter will be made. It would however be preferable to have incremental targets for year 1, 2 and 3 to prevent broadcasters from “shelving” the matter until the three year deadline approaches in 2008.’¹⁸¹ The NDA considered the proposal to be ‘reasonable.’ It did not elaborate further.¹⁸²

TG4 rejected the three year timeframe. In addition, it questioned the idea of building up an archive. TG4 explained itself by saying

¹⁷⁵ NCBI: web submission 121.

¹⁷⁶ NDA: written submission 22, p.13.

¹⁷⁷ TV3: written submission 12, p.7.

¹⁷⁸ RTÉ: written submission 13, p.14.

¹⁷⁹ RTÉ: written submission 13, p.14.

¹⁸⁰ Tim Culhane: web submission 110.

¹⁸¹ NCBI: web submission 121.

¹⁸² NDA: written submission 22, p.13.

This seems pointless since the technology currently in use does not allow transmission. One assumes that the type of programmes that user groups require audio description for would be dated and perhaps inappropriate for broadcast when we have the technical capacity to broadcast them. One interim possibility might be providing this service on commercial DVD released by broadcasters.¹⁸³

RTÉ agreed with the proposed framework. It recommended, however, ‘that the BCI sets up a working unit to initiate research into the development of access services, remembering that timeframe is wholly dependent on new technology services being available.’¹⁸⁴ Rehab also suggested such a measure. More specifically, it asked that ‘a permanent user group be established to monitor the implementation of the access tools [sic] and to highlight the need to keep up with new technologies for access to broadcast services.’¹⁸⁵

4.5. One per cent target

Opinions were sought vis-à-vis the setting of a one per cent target. More specifically, the question asked

What is your view of the BCI’s proposal to set an initial 1% target for the audio description to be attained over three years?

4.5.1. Feedback

For Tim Culhane, the one per cent target ‘is pathetic.’ He asserted that ‘Setting a low target will simply not encourage the broadcasters to make an effort. Setting a higher target would motivate them more.’¹⁸⁶ Similarly, Amy O’Shea saw the figure as too low and believed that ‘a higher figure is achievable and certainly appropriate. Either that or a commitment to make that 1% to be prime time viewing.’¹⁸⁷ Brian Dalton was also disappointed, stating that ‘The 1% which you offer in your guidelines is just not adequate to meet my needs as a blind person.’¹⁸⁸ As someone who pays his TV licence fee, he feels ‘the lack of commitment to audio description is unsatisfactory and unresponsive to [his] needs as an Irish listener.’¹⁸⁹

The NCBI saw the one per cent target as ‘insulting and derisory.’ Recognising the absence of a digital broadcasting platform in Ireland, it asserted that this does not negate the possibility of audio description completely. Furthermore, it argued that ‘There is no reason why more audiodescribed [sic] programmes cannot be produced and broadcast in the early hours of the morning as currently happens in the UK. This would have the added benefit of providing a library of audiodescribed programmes so

¹⁸³ TG4: written submission 9, p.7.

¹⁸⁴ RTÉ: written submission 13, p.14.

¹⁸⁵ Rehab: written submission 23, p.2.

¹⁸⁶ Tim Culhane: web submission 110.

¹⁸⁷ Amy O’Shea: web submission 107.

¹⁸⁸ Brian Dalton: email submission 7.

¹⁸⁹ Brian Dalton: email submission 7.

that when Digital television finally arrives, there is a legacy of durable programmes with audiodescription archived for broadcast.’¹⁹⁰

The NDA considered the proposal to be ‘reasonable.’ It did not elaborate further.¹⁹¹ Rehab believed that the one per cent target was low and consequently, recommended that it ‘should be revisited and consideration given to a 24 hour day where audio description programming could at least be broadcast in off peak times for recording and watching later.’¹⁹²

TG4 gave the same answer to this question as it did to the proposed three year timeframe. Consequently, it viewed the setting of a one per cent target as ‘pointless’ as technology does not allow transmission and archiving material might also prove redundant as it could quickly date.¹⁹³

RTÉ suggested that the one per cent target could be achieved by buying in audio described programmes from the UK or USA. It recommended both the encouragement of audio description in Ireland and the establishment of ‘a group, separately funded, of broadcasters and users.’¹⁹⁴

¹⁹⁰ NCBI: web submission 121.

¹⁹¹ NDA: written submission 22, p.13.

¹⁹² Rehab: written submission 23, p.3.

¹⁹³ TG4: written submission 9, p.7.

¹⁹⁴ RTÉ: written submission 13, p.14.

5. Review of rules

5.1. Introduction

When devised, this will be the first time in the history of the State that rules to increase access to television will exist and be applied within the Irish context. While exciting, the newness of this departure must also be given due consideration. In consequence, it is envisaged that once introduced, the rules will be fully reviewed at two key junctures – after three, and again after five, years. This allows for a review by both broadcasters and stakeholders on progress made up to that date. Such a process is considered important for another key reason. Due to the pace of technical advancement, changes will occur which will impact directly on the provision of such services and have the ability to extend them to more consumers.

5.2. Opinions on proposed review periods

The Broadcasting Commission of Ireland (BCI) asked two questions. These were as follows:

What is your view of the proposed review periods?

Have you any comment to make on the process which should be used to conduct these reviews?

5.2.1. Feedback

While accepting the two review periods, Tim Culhane asked that an additional review be carried out after seven or eight years. He also enquired what penalties might be imposed if broadcasters fail to meet targets.¹⁹⁵ Others accepted the two periods specified, believing it is important that technological changes be incorporated into developing the Access Rules.¹⁹⁶ Tommy Broughan stated that future ‘reviews should include close liaison with other EU states to ensure that Access Rules will be standardized throughout the EU...’ and that future consultations ‘should include regular reports on the mode of monitoring and reports on compliance levels.’¹⁹⁷

¹⁹⁵ Tim Culhane: web submission 110.

¹⁹⁶ Mary Regan: written submission 10; Tommy Broughan: email submission 6.

¹⁹⁷ Tommy Broughan: email submission 6.

The Irish Hard of Hearing Association (IHHA) did not accept the initial review period of three years, seeing it as too long. ‘If any group is dissatisfied with progress or any aspect of the rules, there should be an early opportunity for all sides to review the situation, otherwise the standing of the process could be compromised.’¹⁹⁸ Consequently, it suggested a year and a half to two years for the first review and ‘at least every two years to avert alienating any of the stakeholders.’ The IHHA would like to see BCI targets measured weekly and averaged over a year for greater scheduling flexibility. It asked vis-à-vis the position of repeat programmes for meeting subtitling quotas, believing that ‘The screening of a disproportionate number of repeat programmes with subtitles to meet a target would detract from progress...’¹⁹⁹

The National Association for Deaf People (NAD) believed that an accelerating rate of progress should be possible within the first few years. This, it believed, would enable higher targets to be achieved in a shorter timeframe. Based on these assumptions, the NAD recommended a six year timeframe to achieve the targets, a timeframe it believed reflects recommendations from European and International deaf organisations. ‘In the context of a 6-year timeframe, reviews should be every 3 years, with an interim review a year previously.’²⁰⁰

The National Council for the Blind in Ireland (NCBI) welcomed the two review periods as they enable all stakeholders to consider their position, interests and obligations, and provides a forum for discussion. It stated that

The review of the rules should be independently assessed to consider if, how and why each stakeholder involved in the process is progressing the matter and should provide a method for members of the public as well as stakeholders to submit comment. This would ensure that a full review of the access rules and the success or otherwise of their implementation in terms of quality and quantity would include the recommendations of members of the public who use or wish to use these services.²⁰¹

The National Disability Authority (NDA) supported reviews at three and five year junctures. For it, reviews were necessary: ‘To ensure that broadcasters are making efforts to reach their annual targets the review system should endeavour to review the progress made by broadcasters and any obstacles they encounter in the each [sic] of the first three years of the overall timeframe.’²⁰² The NDA stated that the review process should incorporate: (i) input from user groups; (ii) input from industry; and (iii) input from broadcasters.²⁰³ Moreover, it believed that it is imperative ‘that advances in technology inform the three and five year reviews.’²⁰⁴

¹⁹⁸ IHHA: email submission, p.11.

¹⁹⁹ IHHA: email submission 4, p.15.

²⁰⁰ NAD: written submission 14, p.3.

²⁰¹ NCBI: web submission 121.

²⁰² NDA: written submission 22, p.13.

²⁰³ NDA: written submission 22, p.14.

²⁰⁴ NDA: written submission 22, p.14.

TG4 believed it was difficult to answer the question as no indication was given regarding how the review process would work.²⁰⁵ TV3 agreed with review periods, believing that ‘the BCI be empowered to alter targets to allow for the means to deliver them, ensure competitiveness and to allow for technological improvements to be taken on board.’²⁰⁶ Such reviews should be carried out on an annual basis if they are to ‘be effective and responsive to changes in the financial position of the broadcaster and technological developments.’²⁰⁷ Furthermore, TV3 believed

that the BCI must periodically negotiate with each individual broadcaster, to assess developments in technology related to access provision, assess their individual ability to pay for the service levels suggested and assess the impact of their competitiveness. This is imperative as TV3 is the only commercial broadcaster in the Irish broadcasting market which is affected by these types of obligation, receives no state aid and after 6 years has just moved into modest profit only after curtailing its planned programming investments.²⁰⁸

RTÉ felt that reviews should be held at least every year. For this to happen, it foresees a ‘dedicated access services group, made up of broadcasters and user groups [that] should meet more regularly.’²⁰⁹ It voiced its concern that, in its view, ‘The BCI has not indicated how it intends to calculate quotas recommended and this is an essential element of proposed percentage implementation.’²¹⁰ It asserts that quantity surveys need to be carried out to establish the preferences of user groups. It also stated that ‘It is important to understand audience preferences for audio description and perhaps encourage radio stations to become involved.’²¹¹

²⁰⁵ TG4: written submission 9, p.7.

²⁰⁶ TV3: written submission 12, p.7.

²⁰⁷ TV3: written submission 12, p.7.

²⁰⁸ TV3: written submission 12, p.1; its emphasis.

²⁰⁹ RTÉ: written submission 13, p.14.

²¹⁰ RTÉ: written submission 13, p.14.

²¹¹ RTÉ: written submission 13, p.14.

6. Matters arising

6.1. Introduction

Throughout the *Access Consultation Document*, emphasis was placed on striving for the development of succinct and relevant Access Rules. The approach taken was designed to be efficient and effective, to be linear but not exclusive. While interested parties were invited to group responses under set headings, efforts were made to accommodate new material arising as appropriate.

Additional information was considered thoroughly, included when and where applicable. Points made, but falling outside the framework proper, are considered hereunder. Information reviewed comes under the following headings and one should note that no ranking has been applied to the order of presentation:

- Advertising;
- Listings in publications;
- Promotion of services;
- Promotion of Irish Sign Language (ISL);
- Preparation;
- Quality of subtitling services received;
- Penalties;
- Funding and resources.

6.2. Advertising

The Irish Hard of Hearing Association (IHHA) referred to advertisements. It stated that it understood that subtitling targets do not cover advertising. In addition, it said ‘If the subtitling of adverts is a low percentage of total cost they should be subtitled, in keeping with the requirement for the Equal Status Act, 2000.’²¹²

Julianne Gillen also made reference to advertisements. She asked that public announcements – for example, to check smoke alarms, drink driving, etc. – be subtitled. ‘We have rights to access these ads especially if they are promoted by the Department of Health.’²¹³

²¹² IHHA: email submission 4, p.15.

²¹³ Julianne Gillen: written submission 36.

6.3. Listings in publications

The need to provide consumer information in magazines was a recurring theme to alert people to the availability of subtitling and/or other auxiliary services. RTÉ took this a step further when it recommended ‘that the BCI [Broadcasting Commission of Ireland] take the lead in establishing universal “subtitling” labelling for all television listings in newspapers and magazines.’²¹⁴

6.4. Promotion of services

The need to promote services received considerable attention. RTÉ, for example, urged the BCI to promote subtitling services to encourage uptake and to increase audiences. It did so in the belief that ‘Successful promotion of subtitling services will also be an incentive for commercial channels to increase output.’²¹⁵ Regarding current levels, RTÉ referred to a recent survey carried out by RTÉ Aertel and reported that only 3% of those surveyed used RTÉ Aertel page 888.²¹⁶

The IHHA also expressed its concern about the lack of promotion and consequently, the lack of awareness of services presently available in Ireland. Seeing subtitling as important to many people, it argued that ‘the service warrants strong promotion.’²¹⁷ It would therefore like to see an intensive and broad campaign to promote subtitles on all channels.²¹⁸

The National Association of Deaf People (NAD) echoed these sentiments. It cited *The Communications Act, 2003* in the United Kingdom as making it mandatory for broadcasters to promote the service and ‘the NAD strongly supports the inclusion of a similar provision in the Access Rules. There should be the same requirement for closed sign language when available.’²¹⁹

6.5. Promotion of Irish Sign Language (ISL)

The argument was made that increased use of ISL would lead to greater understanding and thus, integration of the deaf into mainstream society. Julianne Gillen stated that

My son is sometimes embarrassed that this mother uses ISL. If he saw ISL on TV he would feel more proud of me using ISL. For him and other people he meets who see ISL on TV, it does promote our language.²²⁰

²¹⁴ RTÉ: written submission 13, p.14.

²¹⁵ RTÉ: written submission 13, p.14.

²¹⁶ RTÉ: written submission 13, p.14.

²¹⁷ IHHA: email submission 4, pp 11-12, at 11.

²¹⁸ IHHA: email submission 4, p.13.

²¹⁹ NAD: written submission 14, p.4.

²²⁰ Julianne Gillen: written submission 36.

6.6. Preparation

The view was expressed that broadcasters could do more in advance of certain programmes. Frank Dunne, for example, said that certain inserts into live broadcasts or into news programmes could be pre-recorded and thus, suitably subtitled.²²¹

The National Council for the Blind in Ireland (NCBI) also referred to what work can be done at present. Here it highlighted measures which can be taken to make broadcasters, producers and presenters aware of the fact that blind people are also present in the audience and that their needs should be catered for accordingly. More specifically, the NCBI stated that

...the specification of such targets should not preclude the wider issues surrounding accessible broadcasting which cannot be quantified by percentile targets. The Access Rules should include recommendations for broadcasters to consider people without sight in all matters such as sports commentary which should support visual imagery rather than relying solely on it, and on broadcasters who display information on screen without verbalising it. This is not a funding issue, but an awareness issue, however [sic] unless guidelines are provided there is no obligation on broadcasters to consider these simple measures.²²²

6.7. Quality of subtitling services received

The quality of subtitling services currently provided in Ireland received attention. One participant in Rehab's consultative process said that 'While more subtitling would [be] fantastic, the quality of the subtitling is of the utmost importance.'²²³

Requests were made that any breakdown in transmission be conveyed to the viewer. When this happens, the viewer is left not knowing what has happened and/or if service will be resumed. When such a situation occurs, Patricia McHale said she wonders 'Did some Technician take a break?! Would hearing like it if we switched off sound for 15 minutes through a programme?'²²⁴ For Julianne Gillen, 'Disappearing subtitling, that's not access.'²²⁵

One respondent used an analogy of books and subtitling. Here it was said that when subtitling breaks down

That's the same as reading a book that suddenly skips nine pages. Nine pages of the story is missing...We can't follow what happened. It's like people must think Deaf people can figure out what happened by catching up!²²⁶

²²¹ Frank Dunne: written submission 1.

²²² NCBI: web submission 121.

²²³ Rehab: written submission 23, p.4.

²²⁴ Patricia McHale: written submission 18.

²²⁵ Julianne Gillen: written submission 36.

²²⁶ Anonymous: written submission 31.

Kevin J. Mulqueen wants subtitling to match the spoken word and not lag behind as is often the situation. In addition, he would like care to be taken to avoid subtitles to block the speakers face and visual graphics.²²⁷

The quality of signed news was also referred to. In general, people did not want a summary but wanted the full news in ISL.²²⁸ Signed news is currently problematic as ‘...the RTÉ signers are using predominantly signed English.’²²⁹ Such sign language is not easily understood by ISL users.

6.8. Penalties

Questions were raised regarding what penalties might apply should broadcasters not meet their targets or violate rules set. According to the Irish Deaf Society (IDS), the BCI ‘did not indicate on whether the Access Rules would be legally binding. There is no mention in the draft document of financial deterrents, which are absolutely necessary to obligate broadcasters.’²³⁰

6.9. Funding and resources

Funding was mentioned throughout many submissions received. Here two key arguments were juxtaposed. On the one hand, representative organisations believed that money should not be used as an excuse not to provide such services while on the other, broadcasters said the delivery of services specified was dependent on funding and resources being in place. Of the representative organisations, the IDS, for example, stated that

The question of funding in the document reveals the stubbornly held perception that costs associated with making programmes accessible to Deaf, hard of hearing and visually impaired viewers are regarded as auxiliary rather than as an intrinsic part of the budget. This perception allows broadcasters to argue issues on economic grounds while other intrinsic parts of programme budgets (such as pay for actors, costs of transmitting, etc) are not open or irrelevant for discussion. The IDS challenges this perception, as it would solve the arguments given in the document in a much shorter timeframe.²³¹

Referring to broadcasters, the following demonstrates the comments made. TG4 referred to its absence of funds to supply these services. Here it stated that despite it ‘having raised it at every opportunity during the Consultative Forum, TG4 is disappointed and puzzled that the final document does not make any clear statement on the need for special additional State funding to ensure that broadcasters could hope to achieve the timeframe and targets.’²³² On the question of staff, TG4 said that all its

²²⁷ Kevin J. Mulqueen: written submission 24.

²²⁸ See, for example, Teresa Lynch: written submission 24; Kevin J. Mulqueen: written submission 24.

²²⁹ See, for example, Teresa Lynch: written submission 24.

²³⁰ IDS: written submission 11, p.3.

²³¹ IDS: written submission 11, p.2.

²³² TG4: written submission 9, p.1.

current subtitles had to be created and generated out-of-house as it did not have the capacity or staff to do so.²³³ In addition, it stated that the *Access Consultation Document* did not take into account ‘the fact that there is practically no subtitling industry currently in operation in Ireland and seems oblivious to the economic realities of small broadcasters like TG4 and the even smaller subtitling sector it attempts to sustain.’²³⁴ TG4 made reference to new funding now available through the Broadcasting Programme Fund and stated that it believed such money should be made available for this process.²³⁵

TV3 also paid considerable attention to the matter of funding. It suggested that the provision of such services should be means tested:

TV production in Ireland is obviously very expensive and resource intensive. In the event that TV3 is not in a position to invest funds in programme production generally, it will not be able to grow or survive. The diversion of funding from the core activities of production will act to undermine this basic fact. It is therefore vital that all expenditure on these ancillary services is means tested. Means testing would also take into account the fact that Technology is improving such that in time it may improve the financial ability of broadcasters to provide access services and that consideration should be part of any review mechanism.²³⁶

TV3 continued to urge the BCI to conclude these negotiations with individual stations. Furthermore, it said that it

is satisfied that the BCI has met all statutory requirements for consultation with the various stakeholder groups and in the public interest of maintaining a high level of service to the general public, should negotiate realistic and achievable access and prosper in so doing. The BCI must also look to establishing a funding mechanism for the provision of these services. To do otherwise, given the structure of Irish Television broadcasting, is to endanger it.²³⁷

RTÉ linked its concerns regarding funding to staff availability. It pointed out that subtitling as an industry in Ireland is underdeveloped and consequently, ‘The recommended incremental increases expected from broadcasters as proposed by the BCI cannot be achieved under the current levels of suitably qualified personnel.’ It continued on to say that this point had been raised at the consultative fora and suggestions had been made that the issue of funding and the need for skilled staff should be addressed by the government.²³⁸ For RTÉ, ‘Unless training needs are urgently addressed, the cost of funding subtitling will remain higher than it is

²³³ TG4: written submission 9, p.8.

²³⁴ TG4: written submission 9, p.8.

²³⁵ TG4: written submission 9, p.3.

²³⁶ TV3: written submission 12, p.2.

²³⁷ TV3: written submission 12, p.8.

²³⁸ RTÉ: written submission 13, p.2.

elsewhere in the world. Both the costs and availability of trained personnel could prove prohibitive and affect the broadcasters' ability to meet the BCI's proposed quotas.²³⁹

²³⁹ RTÉ: written submission 13, p.3.

Concluding remarks

Submissions received traced through a variety of themes relating to subtitling, sign language and audio description. Two principal camps were discernible from the information received.

For representative organisations, the recurring themes were having the needs of the deaf, hard of hearing, blind and visually impaired met, perceiving the availability of these ancillary services as a rights based issue and wanting change achieved in a shorter timeframe than suggested in the draft Access Rules. In many instances, the need for specifics was highlighted, to ensure that service received met the consumer's needs and did not apply to times when no one was watching. Throughout, the reader was reminded of the fact that deaf and blind people are not homogenous groups but are as individual and discerning in their tastes as everyone else. The social aspect was highlighted, the need to receive information and to be entertained by broadcast media in line with enjoying programmes with kith and kin. The demands from the State that these constituent groups pay the same level of television licence fee, while not being able to full access television, was also referred to.

For broadcasters, the recurring themes were budgets, resources, suitably trained personnel and the technical ability to provide such services in the timeframe suggested. Three requests for more research were made. Firstly, it was stated that work should be carried out to determine how the Broadcasting Commission of Ireland's (BCI) role could be developed to aid broadcasters in achieving rules set. Secondly, quantity surveys were requested to determine the actual number of people in user groups and to design responses accordingly. And thirdly, the establishment of a working group of specialists and broadcasters was requested to chart and plan future development with input from user groups. In general, it was felt that to develop in anticipation of service was not practical. It was not considered feasible to truly plan for sign language provision or audio description until suitable technology was developed, until closed systems are made available. Divergence existed on the notion of targets – some felt that different targets was best while others believed the same targets should be applicable to all. The timeframe was also a matter for debate. On the one hand, it was considered to be too short by which to achieve all targets set. On the other hand, it was described as being too lengthy to predict with any confidence due to problems that may be encountered and the technical advances which may occur.

Amongst representative organisations and amongst broadcasters, one often found accord. When the representative organisations and broadcasters are compared, however, division rather than overlap is apparent. Such a pattern was in evidence throughout submissions reviewed.

Appendix I

Extract from Section 19 of the *Broadcasting Act, 2001*:

Section 19.5:

Before making a code or making a rule under this section, the Commission shall make available for inspection by any person who makes a request of it in that behalf a draft of the code it proposes so to prepare or the rule it proposes so to make and shall have regard to any submissions made to it, within such period as it specifies for the purpose, by that person in relation to the draft before it prepares the code or makes the rule concerned.

Section 19.6:

The BCI shall cause to be published in at least one newspaper circulating in the State notice of the fact that, pursuant to subsection (5), a draft referred to in that subsection is available for inspection, of the place at which or the means by which the draft can be inspected and of the period specified by it under that subsection within which submissions may be made to it in relation to the draft.

Section 19.11:

The Commission shall make rules requiring each broadcaster to take specified steps to promote the understanding and enjoyment by-

- a) Persons who are deaf or hard of hearing, and
- b) Persons who are blind or partially sighted,

of programmes transmitted on any broadcasting service provided by him or her.

Section 19.12

Rules under subsection (11) may, in respect of any specified period beginning on or after the commencement of this subsection, 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 the enjoyment by persons referred to in paragraphs (a) and (b) of the subsection of that percentage of programmes may be promoted.

Section 19.13:

In subsection (12) 'specified' means specified in, or in accordance with, the rules concerned.

Submissions²⁴⁰

Berry, Frankie
Broughan, Thomas, TD
Buckley, Shane
Culhane, Tim
Clark, Joe
Dalton, Brian
Dunne, Fergus
Dunne, Fergus and Dee Byrne-Dunne
Dunne, Francis
Dunne, Frank
Gillen, Julianne
Greaney, Pat and Val
Griffin, Mary
Griffin, Tony
Irish Deaf Society (Kevin Stanley)
Irish Hard of Hearing Association (Pat Mc Kenna)
Larkin, Angela
Lynch, Brian
Lynch, Teresa
Maloney, Mary
Mc Gurney, Geraldine
Mc Hale, Patricia
Moyle, Edward
Mulqueen, Kevin J
Naughton, Catherine
National Association for Deaf People (Sandra O' Brien)
National Council for the Blind of Ireland (Des Kenny)
National Disability Authority (Dónal Rice)
Nolan, Martina
O' Brien, Kathryn
O' Grady, Breda
O' Shea, Amy
Reagan, Mary

²⁴⁰ Eight submissions were made anonymously.

Rehab Group (Sonya Felton)
RTÉ (Patricia Galvin)
Seward, Terry
Sheehan, Mary
TG4 (Pádraic Ó Ciardha)
TV3 (David Mc Munn)