

BCI Access Rules

Statement of Outcomes

December 2008

1. Introduction

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

In accordance with these provisions, the BCI developed the *Access Rules* following a substantial consultation process with broadcasters and representatives of the Deaf, hard of hearing and vision-impaired communities. The *Access Rules* have been in effect since **March 1st 2005** and they specify percentage targets and timeframes in relation to the level of subtitling, Irish Sign Language and audio description to be provided by broadcasters.¹ These rules apply to broadcasters under the jurisdiction of the Republic of Ireland or those who make use of a frequency or satellite capacity or up-link based in the Republic of Ireland. In practical terms, the *Access Rules* apply to the four free-to-air services, namely RTÉ 1, RTÉ2, TG4 and TV 3 and to six services licensed further to the provisions of the 2001 Act, namely Setanta Ireland, NASN (UK and Ireland), Channel 6, City Channel (Dublin), City Channel (Waterford/South East) and City Channel (Galway).²

Further to the *Access Rules*, the BCI has reserved the right to set targets and timeframes for access provision on contractors licensed under the 2001 Act on a case-by-case basis. In this context, the Board of the BCI has considered what obligations, if any, should be placed on two community television contractors licensed under the 2001 Act. The two contractors are as follows:

- i) **DCTV** (Dublin City TV), a community television service provider for the Dublin City region, and;
- ii) **P5tv**, a community television service provider for the Navan area in Co. Meath.

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

2. Decision-Making Process

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

- ***The Access Principles and Influencing Factors***
Four Access Principles and a number of Influencing Factors were adopted by the BCI following completion of the consultation process used to develop the *Access Rules*. These are the decision-making criteria utilised by the BCI to determine whether access obligations should be placed on television contractors, including the two community television contractors. The Access Principles and Influencing Factors are outlined at Appendix 3.

¹ The three types of access provision are detailed in Appendix 2.

² The subtitling targets and timeframes for these ten services are outlined in Appendix 1. Requirements in respect of Irish Sign Language and audio description are detailed in Section 3.1 of the Statement.

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

3. Application to Community Television Contractors

The BCI considered the application of the *Access Rules* to DCTV and P5tv utilising the decision-making framework set out above. Decisions reached related to two key issues:-

- The Type of Access Provision, and;
- Levels of Access Provision.

3.1 Type of Access Provision (Subtitling, Irish Sign Language, Audio Description)

The *Access Rules* place subtitling commitments on all ten broadcasters specified in the rules. In the case of RTÉ services, these have additional limited requirements in respect of audio description and Irish Sign Language. This entails a requirement to meet a cumulative target of 1% of audio described and 1% signed programming across both RTÉ television services by end February 2008. The provision of audio description and Irish Sign Language were limited to RTÉ on account of the costs associated with the provision of these types of access services and because of technological difficulties associated with their provision.

The BCI has decided that the type of access services to be provided by community television contractors, including DCTV and P5tv, will not be restricted to the provision of subtitling alone. In reaching this decision, the BCI took into account a number of factors including, among others, the nature of community television and the opportunities that community television provides to address the challenges of providing a broader range of access services. The decisions and rationale for the decisions are now outlined.

Specifically, the BCI has decided:

- To set targets and timeframes for each of the community television contractors which can be achieved each year either by the provision of audio description, subtitling or Irish Sign Language or via a combination of all three forms of access provision.
- To recognise, in the case of *community* television alone, Assistive Text Services as an additional type of access provision and to permit community television contractors to meet targets established via the provision of a limited amount of programming with assistive text. Assistive Text Services provide synthetic verbalisations of on-screen text, for example, as part of community noticeboards;

- To re-examine these decisions as part of the review of the *Access Rules* scheduled for 2010. Consequently, the targets established for the community television contractors have been set for a two-year period running up to this review i.e. targets will run from April 2008 to February 2010, and;
- To undertake research to examine the challenges/impacts of further developing access services on community television services.

These decisions have been informed by the following considerations:

- i) These contractors have a stated commitment to serving all members of their community but are resource poor (financially and from a human resources perspective) resulting in limits on the type and volume of access service that they can provide at this stage of their development;
- ii) ‘Open’ Irish Sign Language and ‘open’ audio description and experimental services are suitable for community television services;³
- iii) The contractors are already providing some access services other than subtitling, and setting a target that precludes these other access services would not recognise these efforts;
- iv) Setting a subtitling-only target could dis-incentivise innovation, for example, P5tv have started a text service for the Blind, which the BCI has supported through its Training and Development funds;
- v) The contractors have, within their membership, groups such as the Irish Deaf Society, which should make Irish Sign Language provision more likely. Again, this approach would not be recognised within a subtitling-only target;
- vi) By virtue of the community model, the contractors are in a position to share programming thereby maximising the potential to broadcast programming with access services and attain targets established;
- vii) Neither Section 19(11) of the Broadcasting Act 2001 or Section 53 of the disability Act 2001 limit access services to subtitling, audio description or Irish Sign Language. For this reason, an Assistive Text Service such as that used by P5tv will comply with the requirements of both pieces of legislation.

However, in order to meet the spirit of the legislation in question, it is not desirable to permit a community television service to meet access targets entirely or predominantly through the use of an Assistive Text Service given the limited benefit of this type of service to hearing or vision-impaired audiences and the type of programming during which it will likely be used, and;

- viii) This approach will assist in providing a diversity of access provision available in so far as the approach proposed would facilitate, in principle, the provision of sign language and audio description by services other than RTÉ.

³ Programmes with ‘open’ sign language and audio description are those where a viewer will see or hear sign language or audio description provided regardless of whether they require such services.

3.2 Levels of Access Provision

In making a determination regarding the targets and timeframes, if any, to be established for the two community television contractors considered, the BCI utilised the decision-making process set out above in Section 2. The key component of this process is the application of the Access Principles and Influencing Factors.

3.2.1 Targets and Timeframes

3.2.2 DCTV (*Dublin City TV*)

The following targets and timeframes have been set by the BCI for DCTV. Targets established may be met via the provision of subtitling, Irish Sign Language and audio description or a combination of all three types of access provision. Targets may also be met via the use of Assistive Text Services. However, the use of Assistive Text Services may contribute no more than 50% towards the attainment of the target established for each year: -

2008	2009
1%	2%

The targets and timeframes for DCTV are informed by the following *Influencing Factors*:-

The nature of the broadcast provider

The contractor is a community television provider with limited and variable year-on-year revenue streams. For this reason, its financial capacity to develop access services is linked with its revenue streams. However, it is appropriate that the contractor should have some access commitments, given its overriding community remit. Furthermore, the contractor is well positioned to provide ‘open’ access services and has access to resources amongst its membership that will assist in meeting these targets.

The stage of development of the broadcast provider

This contractor is at a very early stage of development with little experience in the provision of access services. Revenue is also relatively low at this stage. Therefore, the BCI is mindful of the need to ensure that access obligations placed on the contractor are proportionate in light of the stage of development of the service.

The level of current provision

The contractor is already providing access provision on its television service. For this reason, the initial figure is, in the BCI’s opinion, attainable. However, extending access provision will require the contractor to further develop its capacity and skills. It will also require further funding. The incremental percentage progression is intended to reflect these challenges.

The type of programme schedule

The initial 1% figure established is, in the BCI's opinion, reasonable given the type of programme schedule. The schedule is entirely pre-recorded. Furthermore, a high percentage of programming is repeated on a regular basis. In addition, the contractor has been granted funding from BCI Sound and Vision scheme for a range of programming requiring subtitling as a condition of funding. Finally, the contractor provides some Irish Sign Language programming on its service.

However, it should be stated that programming from the BCI Sound and Vision scheme will only partly contribute and the level of funding will be dependent on successful applications from year-to-year. This is factored into the decision in respect of the target set.

The technical capacity and technical and human resource cost

The contractor has no current technical capacity to provide 'closed' or 'in-house' access provision of acquired or own-produced programming. However, there is no technical impediment to producing 'open' access programming and this has been considered by the BCI in setting targets and timeframes.

3.2.3

P5tv

The following targets and timeframes have been set by the BCI for P5tv. Targets established may be met via the provision of subtitling, Irish Sign Language and audio description or a combination of all three types of access provision. Targets may also be met via the use of Assistive Text Services. However, the use of Assistive Text Services may contribute no more than 50% towards the attainment of the target established for each year: -

2008	2009
1%	2%

The targets and timeframes for P5tv have been informed by the following ***Influencing Factors***:

The nature of the broadcast provider

The contractor is a community television provider with limited and variable year-on-year revenue streams. For this reason, its financial capacity to develop access services is linked with its revenue streams. However, it is appropriate that the contractor should have some access commitments given its overriding community remit. Furthermore, it is well positioned to provide 'open' access services.

The stage of development of the broadcast provider

While a television service has been established for the franchise area since 1991, this service is only operating as a community television service since 2007. Consequently, the contractor is at a very early stage of development as a community service provider and has little experience in the provision of access services. Furthermore, the contractor has low revenue. Therefore, the BCI is mindful of the need to ensure that access obligations placed on the contractor are proportionate in light of these factors.

The level of current provision

The contractor is already providing access provision on its television service via its Assistive Text Service and via programming funded by the BCI Sound and Vision scheme. For this reason, it is the BCI's opinion that the initial 1% figure is attainable. However, extending access provision will require the contractor to further develop its capacity and skills. It will also require further funding. The proposed incremental percentage progression is intended to reflect these challenges.

The type of programme schedule

The initial 1% figure established is, in the BCI's opinion reasonable given the type of programme schedule in place. The schedule is predominantly pre-recorded with little live programmes and a high percentage of regular repeats. The contractor has secured funding for programming from the BCI Sound and Vision scheme. Programming funded by this scheme requires subtitling and, given the high level of repeat programming, this should contribute to meeting the initial target. However, as in the case of DCTV, programming from the BCI Sound and Vision scheme will only partly contribute and the level of funding will be dependent on successful applications from year to year.

The technical capacity and technical and human resource cost

The contractor has the capacity to provide an Assistive Text Service but has no current technical capacity to provide 'closed' or 'in-house' access provision for acquired or own-produced programming. However, there is no technical impediment to producing 'open' access programming and this has been considered by the BCI in setting the targets and timeframes.

APPENDIX 1

Subtitling Targets and Timeframes

RTÉ 1 (2005-2014)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
55%	65%	75%	85%	93%	95%	97%	98%	99%	100%

RTÉ 2 (2005-2014)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
24%	33%	42%	51%	60%	67%	73%	80%	85%	90%

TG4 (2005-2014)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
24%	30%	36%	42%	50%	56%	62%	68%	74%	80%

TV3 (2005-2014)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
12%	19%	26%	33%	40%	44%	48%	52%	56%	60%

Setanta Ireland (2006-2015)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
2%	4%	6%	8%	10%	12%	14%	16%	18%	20%

NASN (2006-2015)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
2%	4%	6%	8%	10%	12%	14%	16%	18%	20%

City Channel - Dublin (2006-2015)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
0%	1%	2%	3%	4%	5%	6%	7%	8%	9%

City Channel - Galway (2007-2016)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
0%	1%	2%	3%	4%	5%	6%	7%	8%	9%

City Channel - Waterford/South East (2007-2016)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
0%	1%	2%	3%	4%	5%	6%	7%	8%	9%

Channel 6 (2007-2016)

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
2%	4%	6%	8%	10%	12%	14%	16%	18%	20%

APPENDIX 2

Definitions

Subtitling

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

Captioning

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

Irish Sign Language

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

Audio Description

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

APPENDIX 3

ACCESS PRINCIPLES AND INFLUENCING FACTORS

Access Principles

There are four access principles which set out the aims of the *Access Rules* and the BCI's approach towards setting the rules. They are:-

i) Access

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

ii) Excellence

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

iii) Incremental progression

This principle acknowledges that the level of subtitling, audio description and Irish Sign Language will develop incrementally over a period of time. This is intended to facilitate broadcasters to further develop their capacity and expertise to deliver access services. The use of a ten-year timeframe in the *Access Rules* is based on the principle of increasing access provision in incremental stages, allowing the broadcaster to plan for the development and delivery of quality access provision.

It acknowledges that there are a number of issues, other than funding, which need to be addressed in order to increase access provision.

iv) Responsiveness

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

Influencing Factors

Bearing in mind the *Access Principles*, the *Influencing Factors* are those used by the BCI to determine the specific access targets and the timeframes associated with those targets, in a manner which reflect the individuality of each service under consideration.

The influencing factors are as follows: -

a. *Differentiation between broadcast services*

The *Access Rules* differentiate between broadcasters based on a number of factors. These factors are:

i) *The nature of the broadcast provider*

Is the broadcasting service a public or private service? Is the broadcaster in receipt of public monies and as a result has greater public service duties? Does the broadcaster have specific aims which might impact on its ability to provide access services?

ii) *The stage of development of the broadcast provider*

How long has the broadcaster been in operation? How much experience does the broadcaster have of providing access services? Is there already a level of expertise within the broadcasting service in the provision of access services?

iii) *The level of current provision*

What level of subtitling, Irish Sign Language and audio description does the broadcaster currently provide? What is their starting point?

iv) *Type of programming schedule*

Does the broadcast service produce live programming? Does it acquire a lot of programming from other broadcasters? How much home produced programming does the broadcaster provide? Is programming independently produced?

These questions are relevant, as the type of programming in the schedule has an influence on the cost, technical facilities, personnel and ability of the broadcaster to provide access services.

v) *The technical and human resource cost*

What facilities and expertise currently exist within the broadcasting service to provide access services? What are the costs associated with commencing and/or extending access provision?

vi) *Technical capacity*

Does the broadcast service have the technical capacity to provide access services? What level and type of technical facilities and expertise would be required?

b. *Funding*

The BCI also has had regard to the likely financial impact of any requirement to comply with targets and timeframes set for the provision of access services. In particular, the BCI examined the type of programming across various schedules, including the number of repeat programmes as this has a bearing on the costs. The BCI also had regard to the nature of the broadcaster, whether it is a private commercial or publicly funded entity.

However, it should be noted that it is difficult to arrive at definitive costs, as in many instances the cost will depend on the scheduling decisions made by broadcasters, the type of programming and the decisions made with regard to what programming they are going to prioritise for access provision.