

## **Interim Radio Licensing Policy 2001 Act (2005)**

The *Broadcasting Act, 2001* (“the 2001 Act”) extends the licensing functions of the BCI by requiring that suppliers of “compilations of programme material”, which are defined to include television and radio services, enter into a content contract with the BCI prior to the broadcasting of such material on satellite, digital terrestrial and/or cable-MMD platforms.

In developing television services under the 2001 Act, the Commission published in July 2004 its *Television Licensing Policy (2004)*, before inviting applications for television services on satellite, digital terrestrial and/or cable MMD platforms. The Commission is currently developing its policy for the licensing of radio services under the 2001 Act along the same broad principles as those set out in the *Television Licensing Policy (2004)*.

Pending completion of the Radio Licensing Policy, the current interim policy, which allows the public radio services to be transmitted via satellite, will be extended to apply to private potential contractors as follows:

- Interim Satellite Content Contracts pursuant to Section 36 of the 2001 Act will be available for the retransmission<sup>1</sup> of existing radio services and for the transmission of new services by satellite (whether for reception in the State or elsewhere).
- Interim Satellite Content Contracts will be awarded for a maximum period of three years.
- Interim Satellite Content Contracts will be available only to persons who come under the jurisdiction of the Republic of Ireland, that is:
  - (i) the person is established in Ireland;<sup>2</sup> or

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<sup>1</sup> Retransmission is defined as: ‘simultaneous, unaltered and unabridged transmission which does not involve any alteration to the service, i.e. opt out advertising or additional facilities such as interactivity.

<sup>2</sup> Establishment will be determined using the following criteria: (a) the broadcaster has its head office in Ireland and the editorial decisions about programme schedules are taken in Ireland; (b) if a broadcaster has either its head office in Ireland or the editorial decisions on programme schedules taken in Ireland, it shall be deemed to be established in Ireland if a significant part of the workforce involved in the pursuit of the radio broadcasting activity operates in Ireland; if a significant part of the workforce involved in the pursuit of the radio broadcasting activity operates in both Ireland and another Member State of the European Union or European Economic Area (“EEA”), the broadcaster shall be deemed to be established in Ireland if it has its head office in Ireland; (c) if a broadcaster has its head office in Ireland but decisions on programme schedules are taken in a third country, or vice-versa, it shall be deemed to be established in Ireland, provided that a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Ireland.

- (ii) if the person is not established in Ireland or in another Member State of the European Union or European Economic Area, it will be deemed to be under the jurisdiction of Ireland if it uses a frequency granted by Ireland or a satellite capacity appertaining to Ireland or a satellite up-link situated in Ireland.
- The Commission will have regard to Section 11(2) of the 2001 Act and to whether the proposed radio service will contribute to ensuring that the number and categories of broadcasting services available in the State best serve the needs of the people of the island of Ireland, bearing in mind their languages and traditions and their religious, ethical and cultural diversity.
  - Contractors will be required to comply with all current statutory requirements and the codes and rules in existence and those being developed under Section 19 of the 2001 Act, including, without limitation, the *Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services* drawn up by the Minister for Arts, Culture and the Gaeltacht; *Children's Advertising Code*; *Access Rules*; *Code of Programme Standards*; and *General Advertising*.
  - The *Ownership and Control Policy* of the Commission will apply. Applicants will be required to provide information on their ownership and control structure, including on their character, their directors and managers and shareholders and on their media interests.
  - The payment of a non-refundable application fee in the amount of €500 will be requested prior to the processing of any application for Interim Satellite Content Contracts.
  - The payment of a contract fee in the amount of €250 per annum will be requested prior to the conclusion of Interim Satellite Content Contracts.

