

**Composite Brief – Broadcasting Sector
Subheads C1 – C6**

***Shaded Areas Contain Confidential Information – Not
For Public Release***

BROADCASTING	2
1. 2007 OUTTURN AND 2008 ESTIMATES.....	2
2. TELEVISION LICENCE FEE COLLECTION	3
3. LICENSING MOBILES / LAPTOPS.....	3
4. RTE.....	4
5. TELEVISION LICENCE FEE INCREASE / FUTURE INCREASES	4
6. TG4.....	5
7. BROADCASTING COMMISSION OF IRELAND (BCI)	6
8. THE BROADCASTING FUNDING SCHEME.....	12
9. ANALOGUE SWITCHOVER	13
10. THE AUDIO VISUAL MEDIA SERVICES DIRECTIVE.....	15
11. DESIGNATION OF EVENTS OF MAJOR IMPORTANCE TO SOCIETY	19
12. STATE AID COMPLAINT – FINANCING OF RTÉ AND TG4.....	20
13. PROPOSED BROADCASTING BILL.....	21
14. ADVERTISING CODES ON JUNK FOOD.....	28

BROADCASTING

1. 2007 Outturn and 2008 Estimates

Subhead	2007 Outturn €000	2008 Estimate €000
C1 – Grant to RTE for Broadcasting Licence Fees	194,838	208,940
C2 – Payment to an Post for collection of Broadcasting Licence Fees	12,221	12,718
C3 – Broadcasting Commission of Ireland	3,810	6,442
C4 – Deontas I Leith Theilifís na Gaelige (Grant to TnG)	31,897	36,580
C5 – Broadcasting Fund	10,225	10,997
C6 – Digital Terrestrial Television	4,320 *	2,000

* Of which €1.8m was from the 2007 capital carryover

2. Television Licence Fee Collection

From 2006, An Post's annual target is based on direct sales by An Post, (i.e., over-the-counter sales, payments by direct debit, by phone, etc.), and its agency fee will reflect this. An Post will continue to be paid a fee for the database processing of the "free" licences issued by DSFA.

A lifetime licence for those persons who qualify for a "free" licence under the Household Benefits scheme operated by the Department of Social and Family Affairs (DSFA) was introduced from 1 August 2004. Under the new arrangements, DSFA pay for 97% of one twelfth of its client base per month.

Negotiations are ongoing between DCENR and An Post in relation to a multi annual licence fee collection contract to cover the years 2008-2009.

The estimates include a provision of approx €12.7million for An Post collection fee in 2008 (€12.2 million was paid to An Post in 2007).

A Service Level Agreement (SLA) was agreed with An Post in October 2007. This SLA outlined an agreed framework for the mutual provision of services, resources, information and advice between the Department and An Post in respect of the Television Licence Fee collection system. It established commitments to be met in terms of delivery and communication of outputs, objectives and outcomes in regard to the Television Licence fee collection process. The SLA covers an initial rolling period of three years and commenced on 1 October 2007. New commitments will be agreed and incorporated into the agreement on an annual basis.

3. Licensing Mobiles / Laptops

Mobile Phones: 2 G and 3 G mobile phones currently excluded from television licensing requirements by means of an exemption under S.I. 158 of 2003.

New technology such as broadcasting DVB-H signals to a mobile handset requires that an additional module is fitted to the phone. This module would receive DVB-H transmissions in the UHF broadcast band. As this band is not included in those listed in the above exemption order, its use is not covered by the exemption order and would require a television licence (unless exempted under a future S.I).

DVB-H technology is not in widespread use at present although there was a closed trial by a mobile phone operator in 2006 (o2).

Laptops: Existing legislation requires that a laptop or computer capable of receiving TV programme, on its own or along with another device, requires a television licence.

Forthcoming legislation (Broadcasting Bill, 2008) sets out a number of definitions necessary to establish a definition of a television set, which is separate and distinct from wireless telegraphy legislation. The Bill also empowers the Minister to exempt devices from television licence requirements, e.g. mobile phones, types of laptops etc.

4. RTE

Issues

Increases in the television licence fee are linked to the accountability and transparency of RTÉ in relation to the use of the television licence fee. RTÉ has been restructured into Integrated Business Divisions providing greater accountability within each Division. As part of its continued accountability as a public service Broadcaster, RTÉ published its latest annual "Statement of Commitments" in 2007.

Officials of the Department and management of RTÉ continue to meet on a regular basis.

The Strategic Corporate Plan 2006 was submitted to the Department in March 2006. A second iteration was submitted in June 2007. A further iteration is expected later this year.

Following a Government decision to increase the television licence fee by €2 with effect from 1 January 2008, the annual process regarding television licence fee adjustment is being re-engineered. Pricewaterhouse Coopers were awarded the tender to assist the Department of Communications, Energy and Natural Resources in the re-engineering of the current annual review and related adjustment to the television licence fee process. The aim of this re-engineering process is to identify more precise and structured performance indicators, aligned to high quality, high impact public service broadcasting. The Department, assisted by Price Waterhouse Coopers, will work closely with RTÉ to create a model which will provide a basis for future annual reviews.

5. Television Licence fee increase / future increases

The Government decision of 2002 provided that the licence fee may be increased annually, following an independent evaluation and using a formula based on Consumer Price Index minus X.

These annual reviews have been carried out by independent consultants, engaged by the Department. Three reviews undertaken in respect of 2003, 2004 and 2005 resulted in the licence fee being increased by €2, €3 and €3 respectively.

A further review of RTÉ's performance in 2006 was undertaken in 2007. The review was carried out by Indecon consultants. The report concluded that RTÉ had exceeded most of its Output Commitments i.e. its objectives in broadcasting output and financial managements and that RTÉ had progressed well in its Change Programme i.e. restructuring and change management. Overall, it concluded that RTÉ was providing value for money for the Irish taxpayer.

A €2 Television Licence fee increase was announced in November 2007. This brought the total payable for a television licence to €160. This increase was with effect from 1 January 2008.

In addition to the licence fee increase, the Minister announced that the Department would be reinvigorating the current annual review process with increased focus on value for money, cost management and more precise performance.

The intention is that a new body, the Broadcasting Authority of Ireland, will undertake future annual reviews of RTÉ's performance when it is established under proposed Broadcasting legislation.

6. TG4

Background Information

TG4 is primarily an Irish Language television station based at Baile na hAbhann, Co. Galway. The channel's first broadcast took place on the 31 October, 1996.

At present, TG4 broadcasts 4.3 hours of new original Irish language material every day (their goal is to broadcast 6 hours of new original Irish language material).

The daily Irish language programme schedule is its core service - 6 hours of innovative quality programming in Irish supported by a wide range of material in other languages.

The Irish language programming is generally broadcast at peak viewing time.

800,000 viewers tune into the channel each day. It captures a share of 3% of the national television market.

TG4 commissions a high degree of its programming, and has had a very positive and significant impact on the independent production sector. TG4 estimates that its funding sustains over 400 jobs in the independent production sector.

TG4 has a core staff of 88.

Establishment of TG4 as separate entity

TG4 previously operated as part of the RTE family of services. It was established as an independent statutory body from 1 April 2007, under the provisions of the Broadcasting Act, 2001.

Pól Ó Gallchoir (current Ceannasai) has been selected for the position of Chief Executive and his contract is currently being finalised.

This Department is implementing corporate governance requirements with TG4.

Teilifís na Gaeilge (TG4) – Current and Capital Funding 1996 to date.

	Current €'000	Capital €'000	Total €'000
1996	4,128	15,494	19,622
1997	12,956	254	13,210
1998	14,767	508	15,275
1999	17,776	674	18,450
2000	17,813	1,105	18,918
2001	22,893	2,902	25,795
2002	21,812	2,796	24,608
2003	21,065	845	21,910
2004	22,292	869	23,161
2005	23,989	869	24,858
2006	28,632	869	29,501
2007	30,980	917	31,897
2008 (Estimate)	35,663	917	36,580

7. Broadcasting Commission of Ireland (BCI)

Background

The Independent Radio and Television Commission (IRTC) was established in 1988 under the provisions of the Broadcasting Act of that year. The name of the Commission was changed to the Broadcasting Commission of Ireland (BCI) by Section 10 of the Broadcasting Act, 2001.

The Broadcasting Act, 2001, expanded the remit of the BCI and provided for the BCI to be funded directly by the exchequer. The 2008 estimate has a provision of €6.442 million for BCI expenditure. The BCI currently has a staff compliment of 42.

The Commission's functions include:

- Licensing: The Commission licenses independent broadcasting services, aiming to provide listener choice and diversity. Licensing includes, on an ongoing basis, a national television programme service, a national radio service and local, community, community of interest and institutional services. The Commission is also responsible for the licensing of additional television services on digital cable, MMD and satellite systems.
- Codes and Rules: The Commission is responsible for the development of codes and rules in relation to programming and advertising standards. The codes apply to all broadcasters both public and private.
- Monitoring: The Commission monitors all of the above services to ensure that license holders comply with their statutory obligations, as well as the terms of their contracts with the BCI. This activity includes monitoring and assessment of programme performance, ownership and control structures, financial and trading performance, human resource management practices and transmission and studio facilities.
- Development: The Commission provides support for training and development initiatives in an effort to develop a culture of excellence within the independent broadcasting sector. The Commission also supports programming initiatives such as the New Adventures in Broadcasting. (The Minister presented the awards for this initiative in 2004.)
- Information: The Commission performs an advisory and information role for those involved in the broadcasting sector and for the public at large. They also provide for the inspection of licences and broadcasting contracts by the general public at the Commission's offices.
- Broadcasting Funding Scheme: The Commission is responsible for the development and administration of funding scheme(s) to support new television and radio programmes.
- DTT: The Broadcasting (Amendment) Act, 2007 gives the Commission responsibility for licensing DTT multiplex operators.

The Commission

The Commission is a statutory body comprising ten members. Board meetings are held on a monthly basis to discuss all policy issues relating to the activities of the Commission. The current Board was

appointed by the Minister for Communications, Marine and Natural Resources on the 2nd December, 2003. The term of office for the Board will expire after 5 years or on the establishment of the Broadcasting Authority of Ireland (BAI). The BAI will be established by statute and will take over the role and functions of the BCI and certain regulatory functions from the RTÉ Authority.

Licensing

The Commission currently licenses a range of different TV and radio services in Ireland.

The Commission has also embarked on the process of licensing additional television services on digital, cable, MMD and satellite systems. Thirteen contractors providing content on satellite and cable/mmd platforms have been licenced.

The Commission is responsible for the licensing of:

- a national television programme service (TV3),
- a national radio service (Today FM)
- a quasi national service (Newstalk)
- 2 regional radio services (Beat FM & Spin South West)
- A total of 52, local, community, community of interest and institutional radio services.

The Commission also issues temporary licences, allowing applicants to broadcast for 30 days in any 12 month period.

All national, regional, local, special interest and television content services are licensed for a period of 10 years. Community, community of interest and institutional services are licensed for 5 years. Temporary services are licensed for 30 days in a 12 month period.

TV3's licence is due for renewal in 2008.

All services licensed by the BCI are governed by legislation, namely the Radio and Television Act, 1988 and the Broadcasting Act, 2001.

Recent Radio Licencing Decisions

On the 31 January 2008, the Commission announced the signing of ten-year community sound broadcasting contracts with Raidió Corca Baiscinn (South West Clare Community Radio) and Tipperary Mid West Radio for the provision of community sound broadcasting services on the FM band. Both stations have previously held five year contracts with the Commission and these new contracts will facilitate the long term development of the services.

The Commission announced on the 28 January 2008 that it had awarded a ten year licence in principle to Choice Broadcasting Limited FM (trading as 4 FM) for the provision of a new music driven service aimed at listeners in the 45+ age category. The franchise area for the service is for Dublin City and County and commuter belt, Cork City and County, Galway City and County, Limerick City and County and County Clare. The award is subject to the successful outcome of contract negotiations and these are expected to be completed in the coming months.

On the 7 January 2008, the Commission signed a contract with i Radio Limited (trading as i102-104) for a regional youth radio service for the north-west of Ireland. Aimed at 15-34 year olds, the service is to cover the counties of Galway, Mayo, Longford, Roscommon, Sligo, Leitrim and Donegal.

On the 17 October 2007, the Commission announced the signing of a ten-year contract with Treaty Radio Limited (trading as Limerick's Live 95FM) to provide a local sound broadcasting service for Limerick City and County.

On the 17 September 2007, the Commission announced the signing of a ten-year community sound broadcasting contract with Inishowen Community Radio Limited for the provision of a community sound broadcasting service on the FM band. The station is to broadcast on 105FM (Malin) and 107.6 (Moville) and to serve the Inishowen peninsula of Donegal.

On the 29 June 2007, the Commission signed a ten year sound broadcasting contract with SPIN South West Limited (Trading as SPIN South West), to provide a regional sound broadcasting service to the South West of Ireland (counties of Kerry, Limerick, Clare, North Tipperary and South-West Laois. SPIN South West will operate a mix of speech and music programming targeting 15-34 year olds in the region including a range of news and sports coverage as part of its programme output. The station will also provide a number of specialist shows focusing on music genres, primarily dance and urban.

On the 18 June 2007, the Commission signed ten-year sound broadcasting contracts with Castlebar Community Radio, Connemara Community Radio, Dublin South FM, Flirt FM and Near FM.

On 21 May 2007, the Commission announced its decision regarding the award of the Midlands/North-East Regional licence. The Commission awarded a ten year licence in principle to i Radio North East & Midlands Limited (trading as i 107FM) for the provision of a new youth-based service for the midlands and north east of Ireland. This service will cover the counties of Louth, Meath, Cavan, Monaghan, Kildare, Offaly, Westmeath and North-East Laois.

Codes

The Children's Advertising Code, which became fully operational from 1 January 2005, specifies the standards, rules and practices, which must be observed with regard to children's advertising. This Code covers advertising which is likely to be of direct or indirect interest to children. The Code specifies standards to be complied with and rules and practices to be observed. It applies to all Irish broadcasting services.

The Code was developed using a three phased public consultation which ran over 18 months. The Commission took into account submissions received from members of the public, children, broadcasters, advertisers, health bodies and government bodies.

The Commission is currently undertaking a review of the Code and is expected to report to the Minister mid-year.

The Access Code which is provided for under Section 19 (11) of the Broadcasting Act, 2001, refers to the steps that broadcasters must take to improve access to their services by people with visual and hearing difficulties. The Code came into effect on 1 March, 2005, and addresses three forms of access provision: subtitling, Irish sign language and audio description.

The Code sets targets to be achieved by Irish broadcasters in the provision of these services. The targets for subtitling are incremental and are set over a ten-year timeframe for all stations. The initial targets for Irish Sign language and audio description are based on a three-year timeframe. The Code also requires that broadcasters regularly promote the existence of the forms of access provision available on their services. The BCI has committed to a review of the Code after year three and year five of implementation.

The Code of Programme Standards was launched in March 2007, and took effect on the 10 April 2007. This Code applies to all radio and television broadcasters licensed in the State. The Code addresses the concepts of taste, decency, harm and offence with regard to radio and television broadcasting.

Performance Contract

A Statement of Commitments covering an initial rolling period of 3 years was agreed between the Department and the BCI in August 2006. This Statement of Commitments document outlines an agreed framework for the mutual provision of services, resources, information and advice between the two organisations. It establishes commitments to be met in terms of delivery and communication of outputs, objectives and outcomes. The Statement of Commitments provided for an annual review of commitments and accordingly an updated Statement of

Commitments was agreed in August 2007. This updated Statement of Commitments covers the period 1 August 2007 to 31 July 2008. Work will begin shortly on the next update of the Statement.

Broadcasting Fund – Recoupment of Administrative Costs incurred by the Broadcasting Commission of Ireland in the operation of “Sound & Vision” (The Broadcasting Funding Scheme)

The Broadcasting Funding Act 2003 was enacted to provide that the Broadcasting Commission of Ireland prepare a scheme or schemes for the funding of grants to support certain television and radio programmes and projects out of an amount of 5% of the net receipts for television licence fees.

Section 4 (2) of the Broadcasting Funding Act provides for the payment of reasonable administration costs relating to the scheme from this funding:

Section 4 (2) The Minister, with the approval of the Minister for Finance, may pay to the Commission out of moneys provided by the Oireachtas for the purposes of grants under a scheme and any administration of or reasonable expenses relating to a scheme, in respect of each financial year, after the financial year ending on 31 December 2002, an amount being equal to 5 per cent of net receipts in that year in respect of broadcasting licence fees.

During a BCI audit by the C&AG the fact that these monies had not been drawn down was highlighted. Measures were subsequently put in train by the BCI to recoup these monies for the years in question i.e. since the scheme began in 2004. This has resulted in a commensurate reduction in the direct grant aid drawn down by the BCI in 2007.

Broadcasting Complaints Commission

The Broadcasting Complaints Commission is an independent body with the remit of considering and adjudicating upon complaints about material broadcast, including both programmes and advertisements. The Commission's Annual Report covering 2006 was presented to and noted by Government in September 2007.



8. The Broadcasting Funding Scheme

Purpose of the Scheme

The purpose of the scheme under the Broadcasting (Funding) Act 2003 is to encourage both private and public broadcasters to include additional programming of a particular character in their programme schedules.

The scheme can be used to support the development of additional programmes on Irish culture, heritage and experience; programmes aimed at improving adult literacy, and in the Irish language. The Act also provides that the scheme may be used for the development of an archive of programme material produced in the State. The scheme is open to broadcasters and independent producers.

EU & Ministerial Approval

The EU Commission wrote to the Irish Authorities on 5th October 2005 indicating that following its assessment and understanding of how the scheme will operate, it decided not to raise any objections to the scheme considering that it constitutes state aid compatible with the common market under Article 87(3) (d) EC until the end of 2009.

Minister Dempsey wrote to the Broadcasting Commission of Ireland formally approving the scheme entitled "Sound & Vision" on 13th October, 2005.

Sound & Vision Scheme

The Broadcasting Commission of Ireland announced in February 2006 the allocation of a total of €11.17m in funding for programming in the first round of "Sound & Vision". A second round allocated €9.95, the third round of funding allocated €10.1. and the Fourth round €9.62. The fifth round of funding was announced in October 2007 and the sixth round will take place in the first half of 2008.

Funding

The amount payable annually under Section 4(2) of the Broadcasting (Funding) Act 2003 is equal to 5 per cent of net receipts of broadcasting licence fees. The allocation for 2008 is €10.997m. This represents an increase of €742,000 over 2007.

Audit Query/Amendment of the Broadcasting Funding Act 2003

Following an Audit Query in 2007 on the interpretation of the Broadcasting Funding Act 2003, the actual establishment of a fund was called into question. The Office of Comptroller and Auditor and General initially raised the issue orally during a routine audit. Subsequent to this the Department sought legal advice from the Office of the Attorney General on the precise interpretation of the legislation. That advice concurred with the interpretation issues raised by the Office of the

Comptroller and Auditor General. In essence the legal advice received was that the provisions of the Broadcasting Funding Act dealing with the payment of monies were not as detailed as they might have been.

To address the issue raised by the C&AG and following the advice of the AG the Department have drafted a suitable provision for inclusion in the Broadcasting Bill. The provision is modelled on other similar but more established funds.

9. Analogue Switchover

Analogue terrestrial TV is currently provided by RTE1 and is used to deliver RTE 1, RTE2, TV3 and TG4.

Throughout Europe and the rest of the world, a digital revolution is taking place in the world of broadcasting. Terrestrial TV platforms which previously had been delivered over analogue networks are being updated to digital. Digital Terrestrial TV (DTT) is more versatile than analogue TV in that it uses less spectrum and can provide more services such as more TV channels, radio channels, electronic programme guides, interactive ("red button") services and High Definition TV (HDTV).

A big driver for this change throughout Europe comes from the fact that DTT uses less spectrum than analogue TV. In switching from analogue to digital terrestrial TV, spectrum can be made available (the so called "digital dividend") for other services such as mobile services or rural broadband services.

The EU is keen that Europe should take advantage of the "digital dividend" at the earliest opportunity and has requested countries to switch off analogue terrestrial services by 2012. The challenge for Ireland therefore is to have a viable national digital terrestrial television service in place in advance of this deadline.

More widely, countries in Europe, Africa, the Middle East and Asia have, at an International Conference held in Geneva in 2006, agreed a deadline of 2015. After 2015, analogue terrestrial services cannot be protected from interference from other services. Ireland is a signatory to this Conference.

In 2006 this Department started a trial of Digital Terrestrial Television in order to awaken stakeholder interest and to develop momentum around the development of DTT in Ireland. This trial will end in August 2008.

In parallel, this Department drafted new legislation to provide for the development of national Digital Terrestrial Television services in Ireland. In 2007, the Broadcasting (Amendment) Act was enacted.

Under this Act, RTE must roll out a national DTT service with space for RTE, TV3 and TG4. The Broadcasting Commission of Ireland (BCI) must provide for commercial DTT services.

Since the Act was established, RTE has started to plan for the development of public service DTT in Ireland and the BCI has initiated a competition for commercial DTT contracts. It is anticipated that initial DTT services will be made available in late 2008 or early 2009. RTE and the BCI are aware that a speedy rollout of DTT is essential to achieve analogue switch-off by the 2012 deadline and the Department is confident that these Organisations will work to achieve this ambitious target.

From the viewer's perspective, a move to DTT will allow for the provision of more channels and services and may also create possibilities for additional private sector investment and product offerings. Customers will need to purchase either a set-top box – which currently cost from €40 to €200 in the UK – or, if they wish, a high spec digital television, which can cost from €800 upwards. In some cases, viewers may be required to make adjustments to rooftop aerials.

In the run up to analogue switch-off, it will be necessary to organise a significant awareness campaign to ensure that the public is kept informed. It is also likely that there will be a need to provide assistance to the elderly and to disadvantaged members of society. Although this will not impact on the estimates for 2008, it is likely to be a requirement over the next 4 years.