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**AN BILLE CRAOLACHÁIN (LEASÚ) 2006  
BROADCASTING (AMENDMENT) BILL 2006**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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*[This Memorandum is not part of the Act and does not purport to be a legal interpretation.]*

*Introduction*

The Broadcasting (Amendment) Bill seeks to establish a more flexible and market-responsive model for licensing DTT in Ireland and to allow for progress to be made towards analogue switch-off. Ensuring that the Irish public continues to have access to a range of quality programming on a universal and free-to-air basis is a core broadcasting policy objective. The development of a DTT platform will involve an upgrade from a legacy analogue system to a modern digital system, which can allow broadcasters to offer more, in terms of content and services, to Irish viewers.

In addition, the Bill will also amend the remit of RTÉ to allow it to utilise public funding in the provision of a broadcasting service to Irish emigrant communities abroad.

*Provisions of Bill*

There are 18 Sections in the Bill and one Schedule to the Bill.

*Section 1* provides for the short title, collective citation, construction and commencement. These are standard provisions in legislation.

*Section 2* provides for interpretation and provides definitions for a number of terms used throughout the Bill.

*Section 3* provides for the Authority (RTÉ) to establish and maintain multiplexes, and sets out a provision for RTÉ and TG4 channels, which ensures that these services are carried on the first multiplex. It also sets out a fall-back provision for TV3 if certain conditions in Section 4 are not met. It provides that TG4 and TV3 may make payments to the Authority in respect of this must-carry provision and may request an increase in capacity for the carriage of their service.

This section also provides for the Authority to establish and maintain a broadcasting service of a public service character that reflects the RTÉ services and TG4, to Irish communities outside the Island of Ireland.

*Section 4* outlines the functions of the Broadcasting Commission of Ireland (BCI) with regard to arranging for and entering into contracts with multiplex contractors to provide additional multiplexes of programming (bundles of channels and content, on both digital terrestrial television and digital terrestrial radio). The BCI will be required to ensure compliance by contractors with the provisions of this Act. It also sets out the conditions to allow for provision of the analogue commercial licensee (TV3) services on the DTT platform, and for any Northern Ireland service that could be designated by the Minister in the future.

*Section 5* provides that the Commission for Communications Regulation (ComReg) is required to make available licences for DTT services, for both RTÉ, and other multiplex service providers. These licences shall allow for the possibility that multiplexes may, so far as it is reasonably practicable to do so, be made available to the whole community in the State. In addition, this Section allows for the possibility that ComReg may allocate further licences for DTT, to be contracted by the BCI, and also other services. It also provides for the Minister to make provisions for the use of services under *Section 5* in the event of a declared emergency.

*Section 6* provides that the Commission for Communications Regulation (ComReg) is required to make available licences, both to RTE and other providers, in a similar arrangement to that of *Section 5* but for digital sound broadcasting.

*Section 7* provides for ComReg to levy fees by regulation in relation to various broadcasting licences, including multiplex licences, with the Minister's consent.

*Section 8* provides that the BCI should run a competition for the awarding of multiplex contracts (both TV and radio), which should be publicly advertised. The competition (applications procedure) can be initiated by the Commission as frequencies become available. Under this provision the BCI has discretion to set the coverage area for any multiplex services and services can include regional and local digital services.

*Section 9* sets out the criteria to be considered by the BCI when awarding contracts to multiplex contractors. The BCI is also empowered to include additional criteria when deemed necessary.

*Section 10* allows the BCI to set out the terms and conditions for multiplex contracts and sets out a number of terms and conditions which may or may not be included. In addition, it provides that the Commission may suspend or terminate the contract under certain conditions, that the contractor may pay fees to the Commission and that each multiplex contract shall be open to inspection by the public.

*Section 11* sets out the provisions to allow consideration by the Minister for Communications, Marine and Natural Resources of a date for analogue switch-off, having consulted with all relevant stakeholders. It provides for the Minister, following consideration of a report from the Commission or the Authority, or at any stage, to issue a policy direction in this regard.

*Sections 12 and 13* give effect to various minor amendments to the 2001 Broadcasting Act in relation to DTT and the new licensing model proposed, in particular with regard to Electronic Programme Guides and the application of BCI Codes and Rules.

*Sections 14 and 15* allow the use of public moneys by the Authority (RTÉ) in both maintaining multiplexes for public services and in broadcasting to Irish communities abroad.

*Section 16* provides for an analogue broadcasting licence for TG4 after TG4 is separated from RTÉ.

*Section 17* provides for the repeal of sections of the Broadcasting Act 2001, so the new alternative licensing regime can apply

*Section 18* allows for the Minister's costs in the administration of this Act.

*The Schedule* sets out the sections of the Broadcasting Act 2001 that are repealed by section 17, so the new alternative licensing regime can apply.

#### *Financial Implications*

No financial implications to the Exchequer are foreseen. The amendments to the remit of RTE will mean that RTE will engage in various activities including the provision of services to Irish communities abroad and the transmission of broadcasting services that are provided across multiplexes. The overall funding mechanism for RTE's public service broadcasting is through the television licence fee and through commercial income. Commercial broadcasters who decide to provide services across multiplexes will meet the costs of transmission by their own means. Some broadcasters will need to meet through their own means the costs of transmission by both analogue and digital means during the simulcast period, before analogue switch-off. As digital transmission entails a more efficient use of spectrum and lower powers it is likely to be a more economical means of transmission in the long term for broadcasters.

*An Roinn Cumarsáide, Mara agus Acmhainní Nádurtha,  
Nollaig 2006.*