



Coimisiún
na Meán

Media Service Code and Media Service Rules

Audiovisual On-demand Media Service Providers

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1. Introduction

- 1.1 Pursuant to Section 46N(1) and Section 46O(1) and (5) of the Broadcasting Act 2009, as amended by the Online Safety and Media Regulation Act 2022, (the “**Act**”) Coimisiún na Meán (the “**Commission**”) may make codes and rules (“**media service codes**” and “**media service rules**”) governing the standards and practices of broadcasters and providers of audiovisual on-demand media services.
- 1.2 Pursuant to Section 46N(5) of the Act, the Commission shall make media service codes providing for the matters required to be provided for by Articles 5, 6(1), 6a(1) to (3), 7b, 8, 9, 10 and 11 of Directive (EU) 2010/13 (as amended by Directive (EU) 2018/1808) (the “**Audiovisual Media Services Directive**”) (except in so far as provision is made by media service rules).
- 1.3 Pursuant to Section 46O(9) of the Act, media service rules shall provide for the matters required to be provided for by Articles 6(1), 6a(1), 7, 7b, 8, 9, 10, 11, Chapter VI and Articles 23(2), 24 and 25 of the Audiovisual Media Services Directive (except in so far as provision is made by media service codes).
- 1.4 In accordance with its statutory duties and obligations set out above, the Commission has prepared this media service code (the “**Code**”) and these media service rules (the “**Rules**”).¹ The Code and Rules shall take effect on the 5 November 2024.

2. Scope and Jurisdiction

- 2.1 The Code and Rules gives effect to Articles 5, 6(1), 6a(1) to (3), 7, 8, 9, 10, and 11 of the Audiovisual Media Services Directive in Ireland, in so far as they relate to audiovisual on-demand media services.
- 2.2 The Code and Rules apply, accordingly, to media service providers providing audiovisual on-demand media services.
- 2.3 The Code and Rules apply only to media service providers providing audiovisual on-demand media services that are under the jurisdiction of the State within the meaning of Section 2A of the Act.

¹ Coimisiún na Meán recognises the role of the On-Demand Audiovisual Services Group (“ODAS”) and their Code of Conduct in providing a regulatory framework for media service providers of on-demand services prior to the introduction of the Code and Rules. Following publication of the Code and Rules, the statutory basis for the ODAS Code of Conduct will be revoked via a Statutory Instrument. Coimisiún na Meán will continue its ongoing engagement with members of the ODAS group as part of its regulatory engagement with the wider on-demand sector.



3. Purpose, Preparation, and Application of the Code and Rules

Purpose

- 3.1 The purpose of the Code and Rules is to ensure that media service providers providing audiovisual on-demand media services that are under the jurisdiction of the State comply with the requirements of Articles 5, 6(1), 6a(1) to (3), 7,8, 9, 10, and 11 of the Audiovisual Media Services Directive.

Preparation of the Code and Rules

- 3.2 Pursuant to Section 46N(6) of the Act, the Commission has had regard to the following matters when preparing the Code: -

- the degree of harm or offence likely to be caused by the inclusion of a particular matter in programme material.
- the likely size and composition of the potential audience for programme material.
- the likely expectation of the audience as to the nature of programme material, and the extent to which the nature of the programme material can be brought to the attention of potential members of the audience.
- the likelihood of persons who are unaware of the nature of programme material being unintentionally exposed to it by their own actions.
- the desirability of securing that the provider of a broadcasting service or an audiovisual on-demand media service informs the Commission of any change affecting the nature of the service and, in particular, of any change relevant to the application of media service codes.
- the desirability of maintaining the independence of editorial control over programmes.

- 3.3 The Code and Rules have been prepared in accordance with the procedures provided for by Section 46Q of the Act.

4. Regulatory Principles Relevant to the Code and Rules

- 4.1 In its interpretation, application and enforcement of the Code and Rules, the Commission must, in accordance with its public law duties, act lawfully, rationally and fairly.

- 4.2 More particularly, the Commission must act in accordance with:

- its general statutory objectives and functions under the Act.



- the specific statutory objectives underpinning the Code and Rules.
- the rights conferred by the Constitution, the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights insofar as applicable under the European Convention on Human Rights Act 2003 and the EU Treaties.

4.3 In its interpretation and application of the Code and Rules, the Commission will have due regard to:

- the State's ratification of the United Nations Convention on the Rights of Persons with Disabilities, in particular Articles 9 (Accessibility), Article 21 (Freedom of expression), and Article 30 (Participation in cultural life, recreation, leisure, and sport).
- the provisions of the European Accessibility Act and S.I. No. 636/2023 – European Union (Accessibility Requirements of Products and Services) Regulations 2023 (scheduled to come into operation on 28 June 2025).

General Statutory Objectives and Functions

4.4 Section 7(2) of the Act provides that, in performing its functions, the Commission shall endeavour to ensure that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, are upheld, and that the interests of the public, including the interests of children, are protected, with particular commitment to the safety of children. The Commission shall also endeavour to ensure the Commission's policies in relation to audiovisual on-demand media services best serve the needs of the people of the island of Ireland as regards people with disabilities, and their requirements for accessibility to those services.

4.5 In addition, the Commission must endeavour to ensure that its regulatory arrangements (i) address programme material and other content which are harmful or illegal; (ii) take account of technological and societal change; and (iii) operate proportionately, consistently and fairly.

4.6 Section 7(3) of the Act provides that, in addition, the Commission shall, inter alia:

- stimulate the provision of high quality, diverse, and innovative programmes by providers of audiovisual on-demand media services.
- promote and encourage environmental sustainability in the policies and practices of providers of audiovisual on-demand media services.
- engage in evidence-based decision-making in the exercise of its functions, and promote evidence-based decision-making by those with which it consults.
- encourage compliance with the provisions of the Act, and the provisions of any code, rule or other statutory instrument made under it, in any manner the Commission considers appropriate, including by the publication of guidance as



to how those provisions may be complied with.

- 4.7 Pursuant to Section 7(4) of the Act, in performing its functions, the Commission shall have regard to: the safety of children, and published policies of the Minister for Children, Equality, Disability, Integration and Youth in respect of that matter; the regulation of gambling, and published policies of the Minister for Justice in respect of that matter; climate change and environmental sustainability, and published policies of the Minister for the Environment, Climate and Communications in respect of that matter; and published policies of the Government in respect of any of those matters.

Specific Statutory Objectives

- 4.8 Pursuant to Section 46N(5) and Section 46O(9) of the Act it is the objective of the Code and the Rules to ensure that media service providers that provide audiovisual on-demand media services and are under the jurisdiction of the State comply with the requirements of Articles 5, 6(1), 6a(1) to (3), 7, 8, 9, 10, and 11 of the Audiovisual Media Services Directive.

5 Severability

- 5.1 If any provision of the Code and Rules is found to be unlawful, invalid, prohibited, unenforceable or inapplicable (either generally or with respect to a particular media service provider(s)) in any respect, on the basis of any law (including the Constitution and European law), such finding shall not affect the lawfulness, validity, enforceability or applicability of any other provision of the Code and Rules or part thereof, unless the finding is declared to be applicable to such other provision or part thereof, or the same is the subject of the relief granted by a court.
- 5.2 Without prejudice to the foregoing, all of the other provisions and/or parts of the Code and Rules shall remain fully effective, applicable and enforceable. To the extent necessary any provision or part of the Code and Rules, found to be unlawful, invalid, prohibited, unenforceable or inapplicable, shall be severed from the Code and Rules.

6 Waiver

- 6.1 The fact that the Commission does not respond to or comment upon any submission, assessment, proposal, report, compatibility statement or any analogous document submitted to it by an on-demand audiovisual media service provider, included on the register of on-demand audiovisual media service providers created by the Commission in accordance with the Act, shall not be deemed to be an acceptance or approval of the contents of any part of the same and shall not imply that the media service provider has complied with its obligations under the Act and/or the Code and Rules.
- 6.2 Without prejudice to the foregoing, the fact that the Commission does not respond or comment on any such document shall not create an estoppel against, or constitute a waiver by, the Commission of any of its powers or rights pursuant to the Act and/or the Code and Rules.



7 Compliance and Enforcement

- 7.1 Pursuant to Sections 46N(10) and 46O(11) of the Act, a failure by an audiovisual media service provider to comply with the Code or Rules shall be a contravention for the purposes of Part 8B of the Act.
- 7.2 An audiovisual media service provider shall ensure that they have systems and controls in place to demonstrate compliance with the obligations contained in the Code and Rules.
- 7.3 Pursuant to Section 47(3) of the Act, media service providers providing an audiovisual on-demand media service are required to prepare and implement a code of practice for the handling of complaints relating to the failure of the media service provider to comply with a media service code or media service rules.

8 Complaints and Information

- 8.1 A person may make a complaint if they believe that a media service provider of on-demand services has not complied with this Code and Rules.

In this respect and having regard to the obligation under Article 7 of the Audiovisual Media Services Directive for each Member of the European Union to designate a singly, easily accessible, including by persons with disabilities, and publicly available online point of contact for providing information and receiving complaints regarding any accessibility issues, the Commission has established a Contact Centre for handling queries, and receiving complaints regarding any accessibility issues.

Information on the complaints handling process is available on our website (www.cnam.ie) or you can contact Coimisiún na Meán's Contact Centre on + 353 1 963 7755 or at usersupport@cnam.ie.

- 8.2 The Commission advises complainants to make their complaint to the media service provider of on-demand services in the first instance as this is the quickest way to have a complaint considered and responded to.²

9 Guidance

- 9.1 The Commission may provide general non-binding guidance regarding the provisions of the Code and Rules on request or as and when it is deemed necessary. The Commission reserves the right to publish and amend guidance from time to time as it sees fit.

² In the case of commercial communications, a non-statutory complaints process is operated by the Advertising Standards Authority (ASA). The ASA assesses complaints against its Code of Standards for Advertising and Marketing Communications in Ireland – see <https://adstandards.ie> for more information. Similar complaint processes are operated in other European Member states by other members of the European Advertising Standards Alliance (see <https://www.easa-alliance.org/>).



- 9.2 Requests for guidance must include the relevant material linked to the request for guidance. The request should clearly state the sections(s) of the Code and Rules, which the requestor believes are relevant, and set out the specific question about which the requestor would like a view.
- 9.3 The Commission accepts no liability for any decision (or consequences arising therefrom) made following receipt of non-binding guidance from the Commission.

10 Definitions – Media Service Code & Media Service Rules

“access services” means subtitling, captioning, sign language (including Irish Sign Language in the case of services targeting Irish audiences) and audio description as defined in this Code and Rules.

“audio description” means a commentary that gives audiences who are vision-impaired a verbal description of what is happening on the screen at any given moment. It is provided as an aid to the understanding and enjoyment of the programme. The technique uses a second sound track that gives a description of the programme content and the on-screen action.

“audiovisual commercial communication” means a commercial communication consisting of images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity; such images accompany, or are included in, a programme or user-generated video in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, television advertising, sponsorship, teleshopping and product placement.

“audiovisual media service” means:

- (a) a service, within the meaning of Articles 56 and 57 of the Treaty on the Functioning of the European Union, where -
 - (i) the principal purpose of the service is devoted to, or
 - (ii) the principal purpose of a dissociable section of the service is devoted to, providing audiovisual programmes, by electronic communications networks, to the general public, under the editorial responsibility of the provider of the service, in order to inform, entertain or educate, or
- (b) an audiovisual commercial communication.

“audiovisual on-demand media service (on-demand service)” means an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider.



“captioning” means 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.

“child or children” means a person or persons under the age of 18 years.

“editorial responsibility” means the exercise of effective control both over the selection of the programmes and over their organisation either in a chronological schedule, in the case of television broadcasts, or in a catalogue, in the case of on-demand audiovisual media services. Editorial responsibility does not necessarily imply any legal liability under national law for the content or the services provided.

“electronic communications network” means transmission systems, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including internet) and mobile networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.

“Irish Sign Language” means the indigenous natural language of the Deaf community in Ireland. It is a visual, spatial language of the hands but also of the face and the body. Irish Sign Language has its own complex linguistic structures, rules and features.

“media service provider” means the natural or legal person who has editorial responsibility for the choice of the audiovisual content of the audiovisual media service and determines the manner in which it is organised.

“product placement” means any form of audiovisual commercial communication consisting of the inclusion of, or reference to, a product, a service or the trade mark thereof so that it is featured within a programme or a user-generated video in return for payment or for similar consideration.

“programme” means a set of moving images with or without sound constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a media service provider, including feature-length films, video clips, sports events, situation comedies, documentaries, children's programmes and original drama.

“Sign Language” is the indigenous natural language of a Deaf community. It is a visual, spatial language of the hands but also of the face and the body. Sign Language has its own complex linguistic structures, rules and features.



“sponsorship” means any contribution made by public or private undertakings or natural persons not engaged in providing audiovisual media services or video-sharing platform services or in producing audiovisual works to the financing of audiovisual media services, video-sharing platform services, user-generated videos or programmes with a view to promoting their name, trade mark, image, activities or products.

“surreptitious audiovisual commercial communications” means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the media service provider to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration.

“subliminal techniques” means commercial communications that include any technical device, which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware or fully aware of what has been done.

“subtitling” means 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 made visible or not visible as audiences wish, using, for example, a remote control. Subtitling is formatted so as to assist interpretation and understanding of the text and link it more accurately to the on-screen action.



Media Service Code Provisions

The following provisions are made pursuant to Section 46N(1) and Section 46N(5) of the Act.

11 Harmful Content

- 11.1 Pursuant to Section 46J(1)(c) and (d) of the Act, media service providers of on-demand services shall not make available in a catalogue of the service:
- (a) anything which may reasonably be regarded as conduct falling within the concept of public provocation to commit a terrorist offence as set out in Article 5 of Directive (EU) 2017/541;
 - (b) anything which may reasonably be regarded as likely to incite to violence or hatred directed against a group of persons, or a member of a group, based on any of the grounds referred to in Article 21 of the Charter,³ namely sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation. Nationality constitutes such a ground without prejudice to the special provisions of the Treaty establishing the European Community and of the Treaty on European Union.
- 11.2 Without prejudice to Section 11.1, media service providers of on-demand services shall provide sufficient information to audiences about content which may impair the physical, mental or moral development of children. The media service provider shall use a system describing the potentially harmful nature of the content of its audiovisual on-demand media service.
- 11.3 Media service providers of on-demand services shall take appropriate measures to ensure that programmes containing content which may impair the physical, mental or moral development of children, including, but not limited to:
- (a) content consisting of pornography,
 - (b) content consisting of gratuitous violence, are only made available in such a way as to ensure that children will not normally hear or see them.
- 11.4 Appropriate measures for the purpose of Section 11.3 may entail the use by audiovisual on-demand media service providers of some or all of the following protection mechanisms:
- the use of prior content warnings.
 - the provision of parental controls, including restricted modes and PIN Access.
 - age assurance tools.⁴

³ This includes but is not limited to members of the Traveller Community and Roma Communities.

⁴ An age assurance measure based solely on self-declaration of age by users of the service shall not be an effective form of age assurance for the purpose of this Code and Rules.



- account access systems e.g. where content is accessible only via credit card or other sign-up mechanisms.
 - other technical measures that achieve an equivalent outcome of the foregoing.
- 11.5 Appropriate measures for the purpose of Section 11.3 shall be proportionate to the potential harm of the programme for children. In this respect, media service providers of on-demand services shall have regard to the potential of the material to harm children when determining the proportionate approach to be taken. Factors to consider include: -
- i. The likely degree of harm potentially caused by the programme content.
 - ii. The likelihood of children accessing the content.
 - iii. The nature of the on-demand service and its likely audience.
- 11.6 Without prejudice to the generality of Sections 11.3, 11.4 and 11.5, the most harmful content, namely gratuitous violence and pornography, shall be subject to the strictest measures.
- 11.7 Personal data of children collected or otherwise generated by media service providers pursuant to sections 11.3, 11.4 or 11.6 shall not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.

12 Rights to Cinematographic Works

- 12.1 Media service providers of on-demand services shall not transmit cinematographic works outside periods agreed with the rights holders.

13 Audiovisual Commercial Communications

- 13.1 Media service providers of on-demand services shall ensure that audiovisual commercial communications they provide shall be readily recognisable as such.
- 13.2 Media service providers of on-demand services shall not include in or alongside programmes any surreptitious audiovisual commercial communications or audiovisual commercial communications that use subliminal techniques.



13.3 Media service providers of on-demand services shall not provide audiovisual commercial communications that are harmful to the general public, namely: -

- i. audiovisual commercial communications which prejudice respect for human dignity.
- ii. audiovisual commercial communications which include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age, or sexual orientation.
- iii. audiovisual commercial communications which encourage behaviour prejudicial to health or safety.
- iv. audiovisual commercial communications which encourage behaviour grossly prejudicial to the protection of the environment.
- v. audiovisual commercial communications for cigarettes and other tobacco products, as well as for electronic cigarettes and refill containers.
- vi. audiovisual commercial communications which encourage immoderate consumption of alcoholic beverages.
- vii. audiovisual commercial communication for medicinal products and medical treatment available only on prescription in the State.

13.4 Media service providers of on-demand services shall not provide audiovisual commercial communications harmful to children, namely:

- i. audiovisual commercial communications that directly exhort children to buy or hire a product or service by exploiting their inexperience or credulity.
- ii. audiovisual commercial communications that directly encourage children to persuade their parents or others to purchase the goods or services being advertised.
- iii. audiovisual commercial communications which exploit the special trust children place in parents, teachers or other persons.
- iv. audiovisual commercial communications which unreasonably show children in dangerous situations.
- v. audiovisual commercial communications for alcoholic beverages aimed specifically at children.

13.5 Media service providers of on-demand services shall ensure that audiovisual commercial communications for alcoholic beverages they provide, with the exception of sponsorship and product placement, comply with the following requirements:

- i. audiovisual commercial communications shall not be aimed specifically at minors or, in particular, depict minors consuming these beverages.



- ii. audiovisual commercial communications shall not link the consumption of alcohol to enhanced physical performance or to driving.
- iii. audiovisual commercial communications shall not create the impression that the consumption of alcohol contributes towards social or sexual success.
- iv. audiovisual commercial communications shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts.
- v. audiovisual commercial communications shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light.
- vi. audiovisual commercial communications shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

14 Sponsorship

14.1 Media service providers of on-demand services or programmes that are sponsored shall comply with the following requirements:

- i. the content of the on-demand services or programmes they provide shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider.
- ii. the on-demand services or programmes they provide shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services.
- iii. audiences shall be clearly informed of the existence of a sponsorship agreement.
- iv. sponsored programmes shall be clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in an appropriate way for programmes at the beginning, during and/or at the end of the programmes.

14.2 Media service providers of on-demand services shall not permit on-demand services or programmes they provide to be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers.

14.3 Media service providers of on-demand services shall not permit on-demand services or programmes they provide to promote specific medicinal products or medical treatments available only on prescription in the State.

14.4 Without prejudice to Section 14.3, media service providers of on-demand services may permit on-demand services or programmes they provide to be promoted by the name or image of undertakings whose activities include the manufacture or sale of medicinal products and medical treatment.



14.5 Media service providers of on-demand services shall not permit news and current affairs programmes they provide to be sponsored.

14.6 Media service providers of on-demand services shall not permit the showing of a sponsorship logo during documentaries or religious programmes they provide.

15 Product Placement

15.1 Media service providers of on-demand services shall permit product placement in on-demand services they provide, except on news and current affairs programmes, consumer affairs programmes, religious programmes and children's programmes.

15.2 Media service providers of on-demand services shall ensure that programmes containing product placement comply with the following requirements:

- i. the content and organisation of such programmes within a catalogue shall under no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider.
- ii. they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services.
- iii. they shall not give undue prominence to the product in question.
- iv. audiences shall be clearly informed of the existence of product placement by an appropriate identification at the start and at the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer.

Section 15.2. iv. above shall only apply to programmes that have been produced or commissioned by the media service provider of on-demand services or a company affiliated to them.

15.3 Without prejudice to Sections 15.1 and 15.2, programmes shall not contain product placement of: -

- i. cigarettes and other tobacco products, as well as electronic cigarettes and refill containers, or product placement from undertakings whose principal activity is the manufacture or sale of those products.
- ii. specific medicinal products or medical treatments available only on prescription in the State.

15.4 Sections 15.1, 15.2, and 15.3 shall apply only to programmes produced after 19 December 2009.



Media Service Rules Provisions

The following provisions are made pursuant to Section 46O(1)(5)(6)(7) and (9) of the Act.

16 Accessibility of audiovisual on-demand services

16.1 Media service providers of on-demand services shall take proportionate measures to ensure that programmes made available on their on-demand services are made continuously and progressively more accessible to persons with disabilities through the provision of access services as defined in this Code and Rules.

Accessibility Action Plan

16.2 Media service providers of on-demand services shall develop an accessibility action plan, to be agreed with the Commission, in respect of the obligation set out under Section 16.1.

16.3 Media service providers of on-demand services shall make available to the Commission their first accessibility action plan within six months from the date of publication of this Code and Rules and annually thereafter.

16.4 Media service providers of on-demand services shall, in developing their first and subsequent accessibility action plan demonstrate that they have had due regard to the influencing factors set out under Section 16.6.

16.5 The accessibility action plan to be developed and agreed with the Commission in respect of the obligation set out under Section 16.1 shall address the following: -

- i. The proportion of access services that the media service provider of on-demand services proposes to make available each year on the on-demand service(s) that it provides.
- ii. The measures to be taken to adhere to the quality standards developed by the Commission further to Section 16.7.
- iii. Proposals with respect to the provision of emergency information further to Section 16.8.
- iv. The manner in which the media service provider of on-demand services will promote access services made available on the on-demand service(s) that it provides.
- v. Proposals to consult with users of access services, including Disabled Persons Representative Organisations, on the provision by the media services provide of access services on the on-demand media service(s) that it provides.



- vi. Proposals with respect to ensuring that there is an accessible mechanism for dealing with complaints and queries from audiences with respect to the provision of access services.
- vii. Proposals by the media service provider of on-demand services to improve the quality of their access services and monitor their service to ensure quality standards are consistently met.

Media service providers of on-demand services shall provide the Commission with their annual accessibility action plan in an accessible format and suitable for publication on the Commission's website.

Influencing Factors

16.6 In determining the proportionate measures to be taken further to Section 16.1 and specified in their annual accessibility action plan, media service providers of on-demand services shall demonstrate that due regard was had to the following influencing factors,⁵ namely: -

- i. The nature of the audiovisual on-demand media service provider and the services provided.
- ii. The stage of development of the audiovisual on-demand media service provider and its capacity to provide accessible programmes.
- iii. The level of current provision of access services made available by the media service provider on the on-demand services that it provided.
- iv. The type of programmes provided in the catalogue of the on-demand services provided by the media service provider.
- v. The technical and human resource cost for the media services provider of providing access services.
- vi. The technical capacity of the media services provider to provide access services on the on-demand services it provides.

Quality Standards

16.7 Media service providers of on-demand services shall adhere to quality standards, insofar as it is practicable to do so, for the provision of access services applied by the Commission and developed following consultation with the public and media service providers of on-demand services.

⁵ Non-binding guidance with respect to these influencing factors has been developed by the Commission and may be accessed at <https://cnam.ie>



Emergency Information

- 16.8 Where an on-demand service transmits emergency information, including public communications and announcements in natural disaster situations, the provider of that service shall ensure that this information is provided in a manner which is accessible to persons with disabilities.

Reporting

- 16.9 Pursuant to enabling the Commission to meet its reporting obligation set out under Article 7(2) of the Audiovisual Media Services Directive, media service providers of on-demand services shall provide a report to the Commission, in a manner to be further specified, on the implementation of the first and subsequent annual accessibility action plans agreed with the Commission.



Guidance

Influencing Factors

Section 16 of Coimisiún na Meán's 'Media Service Code and Media Service Rules - Audiovisual On-demand Media Service Providers' states that in determining the proportionate measures to be taken to ensure that programmes made available on their on-demand services are made continuously and progressively more accessible to persons with disabilities, media service providers of on-demand service shall in the development of their first and subsequent accessibility action plan demonstrate that they had due regard to the influencing factors set out under Section 16.6 of the Rules. This document provides further guidance in this respect.

i. The nature of the audiovisual on-demand media service provider and the services provided.

Guidance: Does the service(s) have a public or private service character? Is the service in receipt of public monies and as a result may have greater public service duties? Does the service have specific aims, cultural, social or linguistic, which might impact on its ability to provide accessible services?

ii. The stage of development of the audiovisual on-demand media service provider and its capacity to provide accessible programmes.

Guidance: How long has the service(s) been in operation? How much experience does the media service provider have of providing access services? Is there already a level of expertise within or available to the media service provider in the provision of access services? What is their share of the market?

iii. The level of current provision of access services.

Guidance: What is their starting point? How much subtitling, captioning, sign language or audio description is current available on the on-demand services(s) that they provide?

iv. The type of programmes provided in the catalogue of the audiovisual on-demand media service(s).

Guidance: Does the service(s) acquire a lot of content from third parties? How much home-produced programming does the service provide? Is programming independently produced? These questions are relevant, as the type of programming in the catalogue has an influence on the cost, technical facilities, personnel and ability to provide access services.

v. The technical and human resource cost for the audiovisual on-demand media service provider of access services.

Guidance: What is the financial capacity of the media service provider and the likely financial impacts of providing access services?



vi. The technical capacity of the audiovisual on-demand media service provider.

Guidance: What facilities and expertise currently exist within the service to provide access services? Does the service have the technical capacity to provide access services? What level and type of technical facilities and expertise would be required?

