



Coimisiún
na Meán

Registration Rules for Media Service Providers

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Preface

Coimisiún na Meán, pursuant to section 46H(1) of the Broadcasting Act 2009 as amended, and having regard to the efficiency of the registration process and the need to maintain an up-to-date register, makes the following Rules which may be referred to as the “*Registration Rules for Media Service Providers*”.

If you require further information or clarification relating to these Rules, please contact VODregistration@cnam.ie and a member of staff will assist.

1. Interpretation

In these Rules, unless the context otherwise requires:

“2009 Act”	means the Broadcasting Act 2009 as amended.
“audiovisual broadcasting service”	means an audiovisual media service provided for simultaneous or near-simultaneous viewing of audiovisual programmes on the basis of a programme schedule.
“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 (as defined in the 2009 Act).
“audiovisual on-demand media service”	means an audiovisual media service provided for the viewing of programmes at the moment chosen by the user and at the user’s request on the basis of a catalogue of programmes selected by the provider of the service.
“audiovisual programme”	means a set of moving images with or without sound which, in the case of an audiovisual media service, constitutes an individual item, irrespective of its length, within a programme schedule or a catalogue.
“Commission”	means Coimisiún na Meán.

“media service provider”	means a person who provides an audiovisual media service.
“Register”	means the register of media service providers established and maintained by the Commission pursuant to section 46A of the 2009 Act.

2. Information to be included in the Register

- 2.1 The Register shall include the following information in respect of each media service provider subject to registration -
- (a) The name or names of the media service provider.
 - (b) The contact details of the media service provider.
 - (c) The name or names of each audiovisual on-demand media service provided by the media service provider.
 - (d) In each case, a description of the nature of the service and the nature of the content provided by the service.
 - (e) A statement of the basis upon which the media service provider is under the jurisdiction of the State.
 - (f) Such further or other matters as may be prescribed by the Commission under section 46H.

3. Information to be provided by media service providers

- 3.1 A media service provider that is subject to registration shall notify the Commission not later than ten (10) working days from the date on which the provider becomes subject to registration of the following matters and information in accordance with Rule 3.2 -
- (a) The name or names of the media service provider.
 - (b) The contact details of the media service provider.
 - (c) The name or names of each audiovisual on-demand media service provided by the media service provider.
 - (d) In each case, a description of the nature of the service and the nature of the content provided by the service.
 - (e) A statement of the basis upon which the media service provider considers that it is under the jurisdiction of the State.
 - (f) Such further or other matters as may be prescribed by the Commission under these Rules, including by updating the prescribed Notification Form from time to time.

- 3.2 Notification shall be provided on the prescribed Notification Form at Schedule 1.¹
- 3.3 Nothing in this Rule 3 or the prescribed Notification Form prevents the provision of additional information by a media service provider where such further information is considered to be relevant to the potential registration of the media service provider.

4. Notification of changes to the information provided

- 4.1 Pursuant to section 46C of the 2009 Act, media service providers on the Register are required to notify the Commission of any change to the information provided (as set out in Rule 3.1 or in the Notification Form). Such notification is required to be made to the Commission not later than ten (10) working days from the date on which the relevant change or changes have occurred.
- 4.2 Notice under Rule 4.1 must be provided on the prescribed Notification Form at Schedule 1. The media service provider is required to clearly identify the information in the Notification Form and/or the Register that has changed, provide full details of the new information and identify any changes that are required to be made to the Register.

5. Review and correction of the Register by the Commission

- 5.1 Where the Commission receives a notification from a media service provider under Rules 3 or 4, it will review and verify the information provided, and may issue a request for information under Rule 6 below. The Commission must make a decision as to whether the provider is subject to registration, or as to the appropriate entry in/change to the Register, as soon as practicable.
- 5.2 Where the Commission decides that a media service provider is not subject to registration, it will notify the provider of that decision and will provide its reasons.
- 5.3 Where the Commission decides that a media service provider is subject to registration, or where a media service provider on the Register has notified the Commission of a change under Rule 4, the Commission will notify the provider of its decision and (as appropriate) provide a copy of any new entry in, or a statement of any amendment to, the Register.
- 5.4 The Commission can amend the Register if it is satisfied, following a review of the Register or otherwise, that a provider to which an entry relates is not subject to registration or that the information included in the Register is incorrect. Where the Commission provisionally forms such a view, it will, where practicable, consult with the provider concerned before amending the Register.
- 5.5 In the event that the Commission decides to amend the Register, it will notify the media service provider of any amendment made.

6. Requests for further information by the Commission

- 6.1 The Commission may request further information from a media service provider which has notified the Commission that:

¹ A MS Word version of the Notification Form is also available on the Coimisiún na Meán website at [Registration of Media Service Providers - Coimisiún na Meán](#)

- (a) the media service provider is subject to registration (pursuant to section 46B of the 2009 Act),
or
 - (b) there has been a change in the information provided under Rule 3.1 or in the Notification Form.
- 6.2 A request under Rule 6.1(a):
- (a) may be made for the purposes of determining whether the media service provider is subject to registration and/or determining the appropriate entry which is required to be made in the Register;
 - (b) shall specify the time period within which the media service provider is required to comply with the request;
 - (c) shall inform the media service provider that any failure to comply with the request may result in the Commission issuing a direction to comply pursuant to section 46F.
- 6.3 A request under Rule 6.1(b):
- (a) shall specify the time period within which the media service provider is required to comply with the request;
 - (b) shall inform the media service provider that any failure to comply with the request may result in the Commission issuing a direction to comply pursuant to section 46F.
- 6.4 The Commission may request further information from a provider for the purposes of determining whether to make an amendment in accordance with Rule 5.4 above.

7. Directions by the Commission to comply with section 46B

- 7.1 When it appears to the Commission that a media service provider is subject to registration and has failed to notify the Commission in accordance with section 46B, the Commission may issue a direction to comply to such media service provider.
- 7.2 Before issuing a direction in accordance with Rule 7.1, the Commission will provide the said provider with an opportunity to make representations to the Commission in respect of its apparent failure to comply. The Commission will provide a reasonable period for such representations, which will not normally be shorter than five (5) working days.
- 7.3 A direction under Rule 7.1 shall include:
- (a) the reasons for the Commission's decision that the media service provider is subject to registration;
 - (b) the reasons for the Commission's decision that the media service provider has failed to comply with section 46B;
 - (c) the actions that the media service provider is required to take;
 - (d) the time period within which the media service provider is required to comply with the direction;
 - (e) a statement that the media service provider may appeal the direction of the Commission to the Circuit Court within 28 days of receipt of the direction;

- (f) a statement that a failure to comply with a direction made under section 46F without reasonable excuse is a category 2 offence.

8. Directions by the Commission to comply with section 46C

- 8.1 When it appears to the Commission that a media service provider has failed to notify the Commission pursuant to section 46C of a change or changes to the information provided under Rule 3.1 or the Notification Form, the Commission may issue a direction to comply to such media service provider.
- 8.2 Before issuing a direction in accordance with Rule 8.1, the Commission will provide the said provider with an opportunity to make representations to the Commission in respect of its apparent failure to comply. The Commission will provide a reasonable period for such representations, which will not normally be shorter than five (5) working days.
- 8.3 A direction under Rule 8.1 shall include:
 - (a) the reasons for the Commission's decision that there has been a relevant change or changes;
 - (b) the reasons for the Commission's decision that the media service provider has failed to comply with section 46C;
 - (c) the actions that the media service provider is required to take;
 - (d) the time period within which the media service provider is required to comply with the direction;
 - (e) a statement that the media service provider may appeal the direction of the Commission to the Circuit Court within 28 days of receipt of the direction;
 - (f) a statement that a failure to comply with a direction made under section 46F without reasonable excuse is a category 2 offence.

9. Directions by the Commission to comply with section 46D(2) or section 46E(4)

- 9.1 When it appears to the Commission that a media service provider has failed to provide further information requested by the Commission in accordance with section 46D(2) or section 46E(4), the Commission may issue a direction to comply to such media service provider.
- 9.2 Before issuing a direction in accordance with Rule 9.1, the Commission will provide the said provider with an opportunity to make representations to the Commission in respect of its apparent failure to comply. The Commission will provide a reasonable period for such representations, which will not normally be shorter than five (5) working days.
- 9.3 A direction under Rule 9.1 shall include:
 - (a) full particulars of the request or requests for further information which the media service provider has failed to comply with;
 - (b) the reasons for the Commission's decision that the media service provider has failed to comply with section 46D(2) or with section 46E(4);
 - (c) the actions the media service provider is required to take;

- (d) the time period within which the media service provider is required to comply with the direction;
- (e) notice that a failure to comply with a direction made under section 46F without reasonable excuse is a category 2 offence.

10. Removal of entries relating to a provider or service

- 10.1 Where under Rule 5.3 or 5.4 the Commission removes from the register the entry relating to a media service provider, or removes from the entry relating to a media service provider reference to an audiovisual on-demand media service, the Commission shall enter in the register a statement to that effect and a statement of the reasons for that removal.

Schedule 1

Notification Form

Note: Where completing the form in respect of a change under Rule 4.1, please fill in the entire form. If there has been no change to a particular section of the form, write “no change” or “not applicable”.

1. The name or names of the media service provider.

Please provide the following information –

- 1.1 The name or names of the media service provider that provides the on-demand service/s. Please specify whether the media service provider is a legal or a natural person.
- 1.2 If the media service provider is a legal entity e.g. a body corporate, co-operative society etc., please provide the company registration/identification number or equivalent documentation.
- 1.3 If the media service provider holds or operates, or has previously held or operated, a broadcasting or on-demand service, please provide details in this regard.

2. The contact details of the media service provider.

Please provide the following information –

- 2.1 Registered office/branch address of the media service provider.
- 2.2 Contact details by which the **public** can contact the media service provider, including in respect of the service/s being operated.
- 2.3 Contact details for the individual who will deal with the Commission on the **notification** process.
- 2.4 Contact details for the individual dealing with **compliance** matters, should the service be included on the statutory register following notification.
- 2.5 Names and addresses of the **directors** of the media service provider.

3. The name or names of each audiovisual on-demand media service provided by the media service provider.

Please provide the following information –

- 3.1 The trading name of the on-demand service(s) that is/are being provided including, where different, the name used for promotion and branding to the public of each service.

4. In each case, a description of the nature of the service and the nature of the content provided by the service provided by the media service provider.

4.1 Nature of the Service/s

Please provide the following information –

- 4.1.1 **A brief description of the nature of the service.** This shall include whether the service provides original content, provides a catch-up facility, archive services or other services. Where the service provides a mix of the above, each type of service shall be detailed.
- 4.1.2 **Information on the funding model for each service.** This should indicate whether the service/s is using a transactional, subscription, advertiser-funded service or other funding model.² Where the service is free-to-view, the funding model shall be detailed e.g., the service is free to users³ but advertiser funded.
- 4.1.3 **Information on the target audience for the service.** This should include whether the target audience is the Irish public or elsewhere. If elsewhere, the other jurisdictions that are the target audience shall be listed including information on whether there is a primary target audience in another jurisdiction and whether the jurisdiction is a member of the European Union or outside of the EU.
- 4.1.4 **Information on the different ways in which the on-demand service can be accessed by the public.** This should include any information on access via apps, online, set-top boxes (including those under the direct control of the media service provider) or other avenues.

4.2 Nature of the Content

Please provide the following information –

- 4.2.1 **A brief description of the nature of the content.** This should include the genre of programme/s that are provided, the age group/s at which the content is aimed, and other information considered relevant by the media service provider.

5. A statement of the basis upon which the media service provider considers that it is under the jurisdiction of the State.

- 5.1 With specific reference to section 2A of the 2009 Act (set out in Schedule 2), please outline how the media service provider is under the jurisdiction of the State.

6. A statement of the basis upon which the media service provider considers that it is a “relevant media service provider” under section 46I of the Act.

Please answer the following questions –

² Including public funding.

³ A free-to-view service includes a service funded by a television licence fee or similar mechanism.

- 6.1 Is the media service provider a corporation or a subsidiary of a corporation, being RTÉ or TG4?
- 6.2 Does the media service provider hold a broadcasting contract entered into under section 63, 64, 68 or 70 of the Act?
- 6.3 Does the media service provider or a related person⁴ publish a newspaper or periodical consisting substantially of news and comment on current affairs?
- 6.4 Is the media service provider or a related person a broadcaster?
- 6.5 Does the media service provider or a related person provide programme material consisting substantially of news and comment on current affairs to a broadcaster?
- 6.6 Does the media service provider or a related person make available on an electronic communications network any written, audio, audiovisual or photographic material consisting substantially of news and comment on current affairs under their editorial control?
- 6.7 Are the annual sales derived from the activities at 6.3-6.6 above greater than €2 million?

⁴ A person is a related person if the person is part of the same group of companies (within the meaning given to that term by section 8 of the Companies Act 2014).

Schedule 2

Section 2A (Meaning of “under the jurisdiction of the State”)

- (1) For the purposes of this Act, the question whether a media service provider is under the jurisdiction of the State (or another Member State) is to be determined in accordance with this section.
- (2) A media service provider is under the jurisdiction of a Member State if under subsection (5) it is established in that state.
- (3) If a media service provider is not, under subsection (5), established in a Member State, then the provider is under the jurisdiction of a Member State if—
 - (a) it uses a satellite up-link situated in that state, or
 - (b) it uses satellite capacity appertaining to that state.
- (4) If subsections (2) and (3) do not determine the question in relation to a media service provider, then the provider is under the jurisdiction of the Member State in which it is established within the meaning of Articles 49 to 55 of the Treaty on the Functioning of the European Union.
- (5) The following provisions apply to a media service provider for the purposes of subsections (2) and (3):
 - (a) if the provider has its head office in a Member State, and the relevant editorial decisions are taken in the same Member State, the provider is established in that Member State;
 - (b) if the provider has its head office in a Member State, and the relevant editorial decisions are taken in another Member State, then—
 - (i) if a significant part of the workforce involved in the pursuit of the programme-related audiovisual media service activity operates in the Member State where the provider has its head office, the provider is established in that Member State,
 - (ii) if subparagraph (i) does not apply but a significant part of the workforce involved in the pursuit of the programme-related audiovisual media service activity operates in the Member State where relevant editorial decisions are taken, the provider is established in that Member State, and
 - (iii) if neither subparagraph (i) nor subparagraph (ii) applies, the provider is established in the Member State where it first began its activity in accordance with the law of that Member State, provided that it maintains a stable and effective link with the economy of that Member State;
 - (c) if the place where the provider has its head office and the place where the relevant editorial decisions are taken are different, and only one of them is in a Member State, the provider is established in that Member State, provided that a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in that Member State.
- (6) In this section—

“audiovisual media service activity” means activity relating to the audiovisual media service concerned;

“relevant editorial decisions” means editorial decisions about the audiovisual media service concerned.