



STATUTORY INSTRUMENTS.

S.I. No. 657 of 2023



BROADCASTING ACT 2009 (SECTION 21) LEVY ORDER 2023

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Coimisiún na Meán (“Commission”) in exercise of the powers conferred on it by section 21 of the Broadcasting Act 2009 (No. 18 of 2009) (as substituted by section 8 of the Online Safety and Media Regulation Act 2022 (No. 41 of 2022)) hereby makes the following Order:

1. (1) This Order may be cited as the Broadcasting Act 2009 (Section 21) Levy Order 2023.

(2) This Order comes into operation on the 1 January 2024.

(3) The Broadcasting Act 2009 (Section 33) Levy Order 2010 (S.I. No. 7 of 2010) and the Broadcasting Act 2009 (Section 33) Levy Order 2020 (S.I. No. 521 of 2020) are revoked as and from 31 December 2023.

2. (1) In this Order, including the schedules unless it is otherwise indicated-

“Act of 2009” means the Broadcasting and Other Media Regulation Acts 2009 and 2022;

“date of default” means the date on which a provider fails to pay to the Commission a sum which is payable to it under this Order;

“levy” means a levy imposed by this Order;

“levy period” means a year in which the Commission operates or, where the Commission operates for part only of a year, the part of such year during which the Commission operates;

“overdue sum” means a sum payable to the Commission under this Order which a provider has not paid and which remains outstanding;

“qualified person” means a person who is qualified for appointment as auditor of a company under section 468(6) of the Companies Act 2014 as amended;

“qualifying income” means income so described in Schedule 7 and Schedule 8;

“provider” means a provider, falling within one or more of the categories of providers set out in Schedule 1, who must pay a levy by virtue of a decision made by the Commission pursuant to section 21(6) of the Act of 2009;

“three-month Euribor” means the Euro Interbank Offered Rate with a maturity date of three months as advertised by the Euribor EBF Secretariat;

“VAT” means the tax provided for in the Value-Added Tax Act 1972 (as amended).

(2) In this Order including the schedules unless it is otherwise indicated—

(a) a word or expression defined in the Act of 2009 shall have the same meaning when used in this Order;

- (b) a reference to legislation is a reference to that legislation as amended from time to time;
- (c) a reference to an article or schedule is to an article of or schedule to this Order;
- (d) a reference to a sub-article is to the sub-article of the provision in which the reference occurs unless it is indicated that a reference to another provision is intended; and
- (e) a reference in a schedule to a paragraph is to a paragraph in the schedule in which the reference appears unless it is indicated that a reference to another provision is intended.

4. This Order shall apply to providers.

5. (1) A levy is hereby imposed on providers in respect of the levy period in which the providers are in operation as such.

(2) For the removal of doubt, a levy is hereby imposed on a provider in respect of a levy period in which it is in operation as such, notwithstanding that it has not been in operation as such for all of such levy period.

6. The Commission shall seek to ensure that the amount of any levy imposed on providers in respect of a levy period shall be sufficient to meet the Commission's expenses properly incurred and its working capital requirements in that levy period, in so far as those expenses and requirements are not met in any other way.

7. The Commission shall have different methods for calculating the applicable levy for each category of provider in accordance with the methodologies for the relevant providers set out in Schedule 2, Schedule 3, Schedule 4, Schedule 5 and Schedule 6 as applicable, in accordance with the provisions of Section 21(9) of the Act of 2009.

8. Having determined that a provider must pay a levy in respect of a levy period the Commission shall determine—

(1) the amount of such levy in accordance with the methodologies for the relevant providers set out in Schedule 2, Schedule 3, Schedule 4, Schedule 5 and Schedule 6 as applicable; and

(2) either that such levy is to be paid in one sum on or before a specified date, or that it is to be paid by way of instalments.

9. Where, pursuant to article 8(2), the levy is to be paid by a provider in instalments, the Commission shall determine the amount of each such instalment and the date upon which it is to be paid.

10. The Commission shall serve a notice on each provider setting out—

(1) the amount of levy which it must pay;

(2) where such amount is to be paid in one sum, the date on which such payment is to be made; and

(3) where such amount is to be paid by way of a number of instalments, the amount of each such instalment and the date on which it is to be paid.

11. A provider on which a notice has been served pursuant to article 10 shall comply with its terms.

12. A provider which is obliged to make a payment of a levy to the Commission shall make such payment by electronic funds transfer to the bank account which the Commission has by way of notice in writing to the provider specified for such purpose. Where a provider has initiated an electronic funds transfer, it shall promptly notify the Commission of the date on which such transfer was initiated, the amount which is to be transferred and the name of the bank which is to effect the transfer.

13. Subject to article 14, the Commission may, by way of notice in writing, require that a provider provide to the Commission on or before a date specified in such notice and in such manner as may be prescribed by the Commission —

(1) accounts for any financial period as specified by the Commission;

(2) a statement showing its qualifying income within any such financial period; and/or

(3) a statement showing the average monthly users within any such financial period.

14. (1) Such accounts as are referred to in sub-article 13 (1) shall be audited by a qualified person.

(2) Such statement as is referred to in sub-article 13 (2) shall be accompanied by a certificate in support of such statement from the person who has audited such accounts.

15. A provider on whom a notice has been served under article 17 shall comply with its terms.

16. A provider shall retain, for the period determined in accordance with article 17—

(1) records relevant to the preparation of accounts in accordance with article 13(1); and

(2) records relevant to the preparation of a statement in accordance with article 13(2) and/or 13(3); and

(3) such other records as may be prescribed by the Commission by way of a notice in writing served on the provider.

17. (1) Where a provider is obliged, under article 16, to retain a record which relates to one financial period only, it shall retain such record for six years from the end of such financial period.

(2) Where a provider is obliged, under article 16, to retain a record which relates to more than one financial period, it shall retain such record for six years from the end of the latest period to which such record relates.

18. Subject to article 19, the Commission may, by way of notice in writing, require a provider to permit the Commission or a person nominated by it on a specified date or dates to inspect records held by it or by any person on its behalf which are relevant to the calculation and payment of levy for a specified levy period or levy periods.

19. At least seven days must elapse between the date on which the Commission gives notice under article 18 and the earliest date specified in such notice for the inspection of records.

20. A provider on which a notice is served under article 18 shall comply with its terms.

21. Subject to article 22 the Commission may by way of notice in writing require a provider to provide to the Commission within a specified period—

(1) copies of records held by it, or by any person on its behalf, which are relevant to the calculation and payment of levy for a specified levy period or levy periods; and/or

(2) replies to such queries concerning its activities as the Commission may have incorporated in such notice.

22. The period specified in article 21 shall be not less than 21 days.

23. A provider on which a notice is served under article 21 shall comply with its terms.

24. Subject to article 25, interest shall accrue on an overdue sum from the date of default until the date of payment at an annual rate of 2% over three-month Euribor.

25. The three-month Euribor rate which is applicable for the purpose of article 24 shall be the three-month Euribor rate on the date of default, provided that thereafter the Commission may, at three-month intervals, substitute for such rate the then applicable three-month Euribor rate.

26. The Commission shall, where applicable, include in any notice requiring the payment of a levy, details of the VAT which the provider must pay in respect of such levy.

27. Any surplus of income, from levies imposed under this Order, in excess of the expenses properly incurred by the Commission and its working capital requirements in a levy period shall be deemed to be monies derived through the imposition of a levy for a levy period and shall either:

(1) be retained by the Commission to be offset against levy obligations for the subsequent year; or

(2) be refunded proportionately to the relevant providers on whom the levy concerned was imposed.

28. The Commission shall consider any applications by providers for a review of any of the levies that are imposed under this Order.

SCHEDULE 1
CATEGORIES OF PROVIDERS WHO MUST PAY A LEVY

In accordance with section 21 of the Act of 2009, this Order is applicable to the following providers:

- (1) Providers of audiovisual media services;
- (2) Providers of sound broadcasting services; and
- (3) Providers of designated online services.

SCHEDULE 2

Calculation of the Levy for television programme service providers

1. In this schedule—

“B” means the numerical value which when expressed as a percentage represents the rate at which base year qualifying income of €1 to €1,000,000 is to be levied, as contemplated in the template;

“base year” means the year which commences two years preceding a levy period or, where a television programme service provider has been in operation for part only of the year which commences two years preceding a levy period, such part of that year;

“base year qualifying income” means the qualifying income of a television programme service provider in the base year;

“community broadcaster” means a person holding a contract under section 72 of the Act of 2009;

“complete table” means the table referred to in paragraph 10;

“levy” means the levy calculated in accordance with this schedule 2;

“levy payer” means a television programme service provider who must pay a levy.

“television programme service provider” means a provider of services which comprises a compilation of audio-visual programme material of any description and is transmitted, distributed or relayed by means of wireless telegraphy directly or indirectly for reception by the general public;

“template” means the table set out in paragraph 7;

“value for B” means the numerical value attributed to B in the complete table;

2. The levy which a television programme service provider must pay in a levy period shall be based on its qualifying income in the base year.

3. The qualifying income of a television programme service provider in a base year shall be determined in accordance with Schedule 7.

4. Television programme service providers whose base year qualifying income is not more than €500,000 are not obliged to pay a levy.

5. Community broadcasters are not obliged to pay a levy.

6. Television programme service providers holding content provision contracts pursuant to section 71 of the Act of 2009 shall pay a levy in accordance with Schedule 4.

7. A television programme service provider whose base year qualifying income is more than €500,000 must, in respect of the levy period, pay a levy which is computed by reference to its base year qualifying income in accordance with the following table—

Base year qualifying income	Percentage Levy
€1 to €1,000,000	B %
€1,000,001 to €10,000,000	(B — .25) %
€10,000,001 to €20,000,000	(B — .50) %
€20,000,001 to €45,000,000	(B — .75) %
Over €45,000,000	(B — 1.75) %

8. The table in paragraph 7 shall be applied so that, for example,—

- (a) a levy payer whose base year qualifying income is not more than €1,000,000 must, in the levy period, pay a levy which is equal to B % of its base year qualifying income; and
- (b) a levy payer whose base year qualifying income is more than €1,000,000 but is not more than €10,000,000 must, in the levy period, pay a levy which is equal to the aggregate of B % of the first €1,000,000 of its base year qualifying income and (B — .25) % of its base year qualifying income over €1,000,000.

9. When the Commission has sufficient information to enable it to estimate the qualifying income of each levy payer for the base year, it shall attribute a numerical value to B for the levy period such that the levy imposed in respect of the levy period shall meet the expenses properly incurred and the Commission's working capital requirements, in the levy period, by the Commission in the performance of its functions, in so far as those expenses and requirements are not met in any other way.

10. Having calculated the numerical value of B for a levy period, the Commission shall prepare a complete table for such year by inserting in the template a numerical value for each percentage rate which appears in it.

11. The Commission shall, in each levy period, publish such complete table in a manner determined by it.

12. The Commission shall only serve notices under article 10 in respect of a levy period after it has published the complete table for such year, and no fewer than seven days shall elapse between such publication and the service of such notices.

13. An entity which has generated qualifying income from operating as a television programme service provider in the base year shall pay a levy in the levy period even if it has ceased to be a television programme service provider before the levy period begins.

SCHEDULE 3

Calculation of the Levy for sound broadcasting services providers

1. In this schedule—

“C” means the numerical value which, when expressed as a percentage, represents the rate at which base year qualifying income of €1 to €1,000,000 is to be levied, as contemplated in the template;

“base year” means the year which commences two years preceding a levy period or, where a sound broadcasting service provider has been in operation for part only of the year which commences two years preceding a levy period, such part of that year;

“base year qualifying income” means the qualifying income of audiovisual media service providers and sound broadcasting providers in the base year;

“community broadcaster” means a person holding a contract under sections 64 or 68(1)(b) of the Act of 2009;

“complete table” means the table referred to in paragraph 10;

“institutional broadcaster” means a person holding a contract under section 68(2) of the Act of 2009;

“levy” means the levy calculated in accordance with this schedule;

“levy payer” means a sound broadcasting service provider who must pay a levy.

“sound broadcasting service provider” means a provider of a service, within the meaning of Articles 56 and 57 of the Treaty on the Functioning of the European Union, where—

- (a) the principal purpose of the service is devoted to providing sound programmes, by electronic communications networks, to the general public, under its own editorial responsibility, in order to inform, entertain or educate, and
- (b) the service is provided for simultaneous or near-simultaneous listening to sound programmes on the basis of a programme schedule;

“template” means the table set out in paragraph 7;

“temporary broadcaster” means a person holding a contract under section 68(1)(a) of the Act of 2009;

“value for C” means the numerical value attributed to C in the complete table;

2. The levy which a sound broadcasting service provider must pay in a levy period shall be based on its qualifying income in the base year.

3. The qualifying income of sound broadcasting service providers in a base year shall be determined in accordance with Schedule 7.

4. A sound broadcasting service provider, institutional broadcaster or temporary broadcaster whose base year qualifying income is not more than €500,000 are not obliged to pay a levy.

5. Community broadcasters are not obliged to pay a Levy.

6. Sound broadcasting service providers holding content provision contracts pursuant to section 71 of the Act of 2009 shall pay a levy in accordance with Schedule 4.

7. A sound broadcasting service provider whose base year qualifying income is more than €500,000 must, in respect of the levy period, pay a levy which is computed by reference to its base year qualifying income in accordance with the following table-

Base year qualifying income	Percentage Levy
€1 to €1,000,000	C %
€1,000,001 to €10,000,000	(C — .25) %
€10,000,001 to €20,000,000	(C — .50) %
€20,000,001 to €45,000,000	(C — .75) %
Over €45,000,000	(C — 1.75) %

8. The table in paragraph 7 shall be applied so that, for example,—

- (a) a levy payer whose base year qualifying income is not more than €1,000,000 must, in the levy period, pay a levy which is equal to B % of its base year qualifying income; and
- (b) a levy payer whose base year qualifying income is more than €1,000,000 but is not more than €10,000,000 must, in the levy period, pay a levy which is equal to the aggregate of C % of the first €1,000,000 of its base year qualifying income and (C — .25) % of its base year qualifying income over €1,000,000.

9. When the Commission has sufficient information to enable it to estimate the qualifying income of each levy payer for the base year, it shall attribute a numerical value to C for the levy period such that the levy imposed in respect of the levy period shall meet the expenses properly incurred and the

Commission's working capital requirements, in the levy period, by the Commission in the performance of its functions, in so far as those expenses and requirements are not met in any other way.

10. Having calculated the numerical value of C for a levy period, the Commission shall prepare a complete table for such year by inserting in the template a numerical value for each percentage rate which appears in it.

11. The Commission shall, in each levy period, publish such complete table in a manner determined by it.

12. The Commission shall only serve notices under article 10 in respect of a levy period after it has published the complete table for such year, and no fewer than seven days shall elapse between such publication and the service of such notices.

13. An entity which has generated qualifying income from operating as a sound broadcasting provider in the base year shall pay a levy in the levy period even if it has ceased to be a sound broadcasting provider before the levy period begins.

SCHEDULE 4

Calculation of the Levy for Providers of audiovisual media services and sound broadcasting services holding contracts under section 71 of the Act of 2009

1. In this schedule-

“content provision contract holder” means an audiovisual media service provider or a sound broadcasting service provider holding a content provision contract in accordance with section 71 of the Act of 2009.

2. The levy which a content provision contract holder must pay shall be equivalent to the sum paid by the content provision contract holder to the Commission by way of a fee prior to entering a content provision contract.

3. Where a content provision contract holder has already paid a fee to the Commission in advance of entering into a content provision contract and where such fee exceeds the amount of any levy to be imposed under this schedule, the Commission shall refund so much of the relevant fee paid as exceeds the amount of any levy to be imposed under this schedule.

SCHEDULE 5

Calculation of the Levy for AudioVisual on-demand media service providers

1. In this schedule—

“audiovisual on-demand media service provider” means a provider of audiovisual on-demand media services;

“base year” means the year which commences two years preceding a levy period or, where an audiovisual on-demand service provider has been in operation for part only of the year which commences two years preceding a levy period, such part of that year;

“base year qualifying income” means the qualifying income of an audiovisual on-demand media service provider in the base year;

“costs” includes the Commission’s working capital requirements;

“D” means the numerical value which when expressed as a percentage represents the rate at which the base year qualifying income is to be levied, as contemplated in the formula;

“formula” means the formula set out in paragraph 5;

“sector” means the sector comprising the total number of audiovisual on-demand media service providers;

“value for D” means the numerical value attributed to D in the formula;

2. The levy which an audiovisual on-demand media service provider must pay in a levy period shall be based on its qualifying income in the base year.

3. The qualifying income of an audiovisual on-demand service provider in a base year shall be determined in accordance with Schedule 8.

4. An audiovisual on-demand service provider whose base year qualifying income is not more than €500,000 is not obliged to pay a levy.

5. An audiovisual on-demand media service provider must in respect of the levy period pay a levy which is computed by reference to its base year qualifying income in accordance with the following formula-

$$D = \frac{\text{Estimated Costs of Regulation of Sector}}{\text{Qualifying Income of Sector}}$$

6. The levy payable by an audiovisual on-demand media service provider in respect of the levy period is equal to D multiplied by its base year qualifying income.

7. When the Commission has sufficient information regarding the qualifying income of each audiovisual on-demand media service provider for the base year, it shall attribute a numerical value to D in the formula for the levy period such that the levy imposed in respect of the levy period shall meet the expenses properly incurred in the levy period and the Commission's working capital requirements in the performance of its functions, in so far as those expenses and requirements are not met in any other way.

8. Having calculated the numerical value of D for a levy period the Commission shall publish the value for D.

9. The Commission shall in each levy period publish the value for D in a manner determined by it.

10. The Commission shall only serve notices under article 8 in respect of a levy period after it has published the value for D for such year, and no fewer than seven days shall elapse between such publication and the service of such notices.

SCHEDULE 6

Calculation of the Levy for designated online service providers

1. In this schedule—

"base period" means the six-month period prior to the date upon which the designated online service providers should have published information on its average numbers of users in accordance with the requirements of Article 24(2) of the Digital Services Act;

"costs" include the Commission's working capital requirements;

"designated online service provider" means a service provider designated as such by the Commission under section 139E of the Act of 2009;

"Digital Services Act" means Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC;

"E" means the charge for the sum of the average number of monthly users per each individual designated online service across the sector as whole;

"formula" means the formula set out in paragraph 3;

"sector" means the sector comprising of the total number of designated online service providers;

"value for E" means the numerical value attributed to E in the formula;

2. The levy which a designated online service provider must pay in a levy period shall be based on the sum of the average number of users per each individual designated online service provider in the base period. Such figures shall be published by each individual designated online service provider each six months in accordance with Article 24(2) of the Digital Services Act.

3. The average number of monthly users per each individual designated online service provider in the base period shall be determined by the Commission in accordance with the figures that such designated online service providers are obliged to publish pursuant to Article 24(2) of the Digital Services Act.

4. A designated online service provider must in respect of the levy period pay a levy which is computed by reference to the sum of the average number of monthly users per each individual designated online service in accordance with the following formula-

$$E = \frac{\text{Estimated Costs of Regulation of Sector}}{\text{Sum of Service Users across Sector}}$$

5. The levy payable by a designated online service provider in respect of the levy period is equal to E multiplied by its average monthly users.

6. When the Commission has the information regarding the average monthly users of each designated online service provider for the base period pursuant to Article 24(2) of the Digital Services Act, it shall attribute a numerical value to E to the formula for the levy period such that the levy imposed in respect of the levy period shall meet the expenses properly incurred and the Commission's working capital requirements, in the levy period by the Commission in the performance of its functions, in so far as those expenses and requirements are not met in any other way.

7. Having calculated the numerical value of E for a levy period the Commission shall publish the value for E.

8. The Commission shall in each levy period publish the value for E in a manner determined by it.

9. The Commission shall only serve notices under article 6 in respect of a levy period after it has published the value for E for such year, and no fewer than seven days shall elapse between such publication and the service of such notices.

10. An entity which has generated average number of monthly users from operating as designated online service provider in the base period shall pay a levy in the levy period even if it has ceased to be a designated online service provider before the levy period begins.

SCHEDULE 7

Qualifying Income of television programme service providers and sound broadcasting service providers

1. In this schedule—

“broadcasting funding scheme” means a scheme administered by the Commission by virtue of Part 10 of the Act of 2009, or a scheme under section 154 of the Act of 2009

“commercial communication” means a communication so described in paragraph 6;

“Government” means the Government provided for in Bunreacht na hÉireann;

“interactive income” means income generated by a provider from listener or viewer response to a broadcast including, without limitation, telephony income and income from online payments which are so generated;

“non-linear service” means a service provided by a television programme service provider whereby a person may view or listen to programmes at the moment chosen by the user and at his or her individual request on the basis of a catalogue of programmes selected by the television programme service provider;

“public body” means an entity whose decisions are subject to judicial review.

“provider” means each provider of services set out in this Order whose levy shall be determined based on qualifying income.

2. Subject to paragraph 4, money which the Government or a public body pays to a provider by way of grant is qualifying income of that provider.

3. Without limitation, money which the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media pays to a provider is qualifying income of that provider.

4. Money which the Commission pays to a provider under a broadcasting funding scheme is not qualifying income of that provider.

5. Subject to paragraph 8, income of a provider from commercial communications (including late payment surcharges and cancellation penalties) net of agent’s commission, computed on a normal accruals basis, is qualifying income of that provider.

6. In this schedule “commercial communication” means images, with or without sound, and radio announcements which are designed to promote,

directly or indirectly, the products, services or image of a natural or legal entity pursuing an economic activity. Such images and radio announcements accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, advertising, sponsorship, teleshopping and product placement but do not include public service announcements and charity appeals broadcast free of charge.

7. Where a provider gives early payment discounts and/or volume discounts in respect of commercial communications such discounts may be taken into account in computing the qualifying income of the provider.

8. Where a provider pays commission to an agent in respect of a commercial communication and such commission exceeds 15% of the amount payable to the provider by the person for whom such communication is broadcast, the amount by which such commission exceeds 15% may not be deducted in computing such provider's qualifying income.

9. Subject to paragraph 10, where reasonable provision is made in the audited accounts of a provider for bad debts relating to commercial communications, a corresponding deduction may be made in computing such a provider's qualifying income.

10. No such deduction, as is referred to in paragraph 9, may be made for a provision for bad debts to the extent that the income to which such provision relates would not be qualifying income.

11. Subject to paragraphs 5 and 8, costs incurred by a provider in securing commercial communications may not be deducted in computing such a provider's qualifying income.

12. Where a provider receives non-cash consideration for a commercial communication, the qualifying income of the provider shall be increased by an amount equal to the Commission's estimate of the value of such non-cash consideration.

13. Subject to paragraph 14, where a provider generates interactive income such income is qualifying income of that provider.

14. Where a provider generates interactive income through broadcasting programmes featuring competitions, the value of prizes awarded to participants may be deducted in computing qualifying income, but no deduction may be made for the value of a prize which is provided at the cost of a third party.

15. Costs incurred by a provider in providing interactive services or applications may not be deducted in computing qualifying income.

16. Notwithstanding any other provision of this schedule, income which a provider earns from the provision of a non-linear service is not qualifying income of that provider.

17. All qualifying income should be apportioned to the service in which it was raised. Where such an apportionment is not possible, qualifying income shall be spread across all services provided by the provider based on percentage breakdown of apportioned qualifying income of all the services provided by the provider.

SCHEDULE 8

Qualifying Income of audiovisual on-demand service providers

1. In this schedule—

“broadcasting funding scheme” means a scheme administered by the Commission by virtue of Part 10 of the Act of 2009, or a scheme under section 154 of the Act of 2009

“commercial communication” means a communication so described in paragraph 6;

“Government” means the Government provided for in Bunreacht na hÉireann;

“interactive income” means income generated by a provider from listener or viewer response to a broadcast including, without limitation, telephony income and income from online payments which are so generated;

“non-linear service” means a service provided by a television programme service provider whereby a person may view or listen to programmes at the moment chosen by the user and at his or her individual request on the basis of a catalogue of programmes selected by the television programme service provider;

“public body” means an entity whose decisions are subject to judicial review.

“provider” means each provider of services set out in this Order whose levy shall be determined based on qualifying income.

2. Subject to paragraph 4, money which the Government or a public body pays to a provider by way of grant is qualifying income of that provider.

3. Without limitation, money which Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media pays to a provider is qualifying income of that provider.

4. Money which the Commission pays to a provider under a broadcasting funding scheme is not qualifying income of that provider.

5. Subject to paragraph 8, income of a provider from commercial communications (including late payment surcharges and cancellation penalties) net of agent’s commission, computed on a normal accruals basis, is qualifying income of that provider.

6. In this schedule “commercial communication” means images, with or without sound, and radio announcements which are designed to promote, directly or indirectly, the products, services or image of a natural or legal entity

pursuing an economic activity. Such images and radio announcements accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, advertising, sponsorship, teleshopping and product placement but do not include public service announcements and charity appeals broadcast free of charge.

7. Where a provider gives early payment discounts and/or volume discounts in respect of commercial communications such discounts may be taken into account in computing the qualifying income of the provider.

8. Where a provider pays commission to an agent in respect of a commercial communication and such commission exceeds 15% of the amount payable to the provider by the person for whom such communication is broadcast, the amount by which such commission exceeds 15% may not be deducted in computing such provider's qualifying income.

9. Subject to paragraph 10, where reasonable provision is made in the audited accounts of a provider for bad debts relating to commercial communications, a corresponding deduction may be made in computing such a provider's qualifying income.

10. No such deduction, as is referred to in paragraph 9, may be made for a provision for bad debts to the extent that the income to which such provision relates would not be qualifying income.

11. Subject to paragraphs 5 and 8, costs incurred by a provider in securing commercial communications may not be deducted in computing such a provider's qualifying income.

12. Where a provider receives non-cash consideration for a commercial communication, the qualifying income of the provider shall be increased by an amount equal to the Commission's estimate of the value of such non-cash consideration.

13. Subject to paragraph 14, where a provider generates interactive income such income is qualifying income of that provider.

14. Where a provider generates interactive income through broadcasting programmes featuring competitions, the value of prizes awarded to participants may be deducted in computing qualifying income, but no deduction may be made for the value of a prize which is provided at the cost of a third party.

15. Costs incurred by a provider in providing interactive services or applications may not be deducted in computing qualifying income.

16. All qualifying income should be apportioned to the service in which it was raised. Where such an apportionment is not possible, qualifying income shall be spread across all services provided by the provider based on percentage breakdown of apportioned qualifying income of all the services provided by the provider.



GIVEN under the seal of Coimisiún na Meán,
18 December, 2023.

JEREMY GODFREY,
Chairperson of Coimisiún na Meán.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order imposes a levy on certain specified classes of providers of audiovisual media service providers, providers of sound broadcasting services and providers of designated online services, for the purpose of meeting the Commission's expenses properly incurred and its working capital requirements in respect of a levy period, in so far as those expenses and requirements are not met in any other way.

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