



STATUTORY INSTRUMENTS.

**S.I. No. 698 of 2024**



BROADCASTING ACT 2009 (SECTION 21) LEVY (NO. 2) ORDER 2024

S.I. No. 698 of 2024

BROADCASTING ACT 2009 (SECTION 21) LEVY (NO. 2) ORDER 2024

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) and amended by section 4 of the Digital Services (Levy) Act 2024 (No. 26 of 2024) and further amended by section 17 of the Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024 (No. 30 of 2024)) hereby makes the following Order:

1. (1) This Order may be cited as the Broadcasting Act 2009 (Section 21) Levy (No. 2) Order 2024.

(2) This Order comes into operation on 1 January 2025.

(3) The Broadcasting Act 2009 (Section 21) Levy Order 2024 (S.I. No. 175 of 2024) is revoked as and from 31 December 2024.

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

“Act of 2009” means the Broadcasting Act 2009;

“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;

“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;

“levy” means a levy imposed by this Order;

“levy period” means the period of twelve (12) months commencing on 1 January 2025 and concluding on 31 December 2025;

“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;

“qualifying income” means income so described in Schedule 9 and Schedule 10, as appropriate;

“provider” means a provider, falling within one or more of the categories of providers set out in Schedule 1, who must pay a levy in accordance with the terms of this Order;

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

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

(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.

3. This Order shall apply to providers.

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

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

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

6. The Commission shall calculate 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, Schedule 6, Schedule 7 and Schedule 8 as applicable.

7. Having determined that a provider must pay a levy in respect of the 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, Schedule 6, Schedule 7 and Schedule 8 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.

8. Where, pursuant to article 7(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.

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

(1) the amount of the 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 each such instalment is to be paid.

10. A provider on which a notice has been served pursuant to article 9 shall comply with its terms.

11. 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.

12. (1) Subject to article 13, 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 —

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

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

(c) a statement showing the average monthly active recipients within any such financial period.

(2) In respect of the statement at (b) above, where a provider provides services falling under two or more of the categories under schedules 2, 3 or 5 of this Order, it shall apportion its qualifying income under each of these categories.

13. (1) Such accounts as are referred to in sub-article 12 (1) shall be audited by a qualified person.

(2) Such statement as is referred to in sub-article 12 (2) shall be accompanied by a certificate in support of such statement from the person who has audited such accounts.

14. A provider on whom a notice has been served under article 12 shall comply with its terms.

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

(1) records relevant to the preparation of accounts in accordance with article 12(1); and

(2) records relevant to the preparation of a statement in accordance with article 12(2) and/or 12(3); and

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

16. (1) Where a provider is obliged, under article 15, 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 15, 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.

17. Subject to article 18, 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 a levy for the levy period.

18. At least seven days must elapse between the date on which the Commission gives notice under article 17 and the earliest date specified in such notice for the inspection of records.

19. A provider on which a notice is served under article 17 shall comply with its terms.

20. Subject to article 21, 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 a levy for the levy period; and/or

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

21. The period specified in article 20 shall be not less than 21 days.

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

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

24. The three-month Euribor rate which is applicable for the purpose of article 23 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.

25. 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.

26. 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 the levy period shall be deemed to be monies derived through the imposition of a levy for the levy period and shall either:

(1) be retained by the Commission to be offset proportionately against levy obligations of the relevant providers on whom the levy concerned was imposed for the subsequent levy period; or

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

27. Any provider who is aggrieved by a decision under this Order may, no later than, 21 days after the date of the decision, apply to the Commission for a review of the decision. Save in exceptional circumstances, the Commission shall not consider a review application submitted outside of this 21 day period.

## 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;
- (3) Providers of designated online services;
- (4) Intermediary service providers; and
- (5) Hosting service providers.

## SCHEDULE 2

### Calculation of the Levy for television programme service providers

1. In this schedule—

“B1” 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;

“B2” 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 in paragraph 14;

“base year” means the calendar year of 1 January 2023 to 31 December 2023 or, where a television programme service provider has been in operation for part only of that calendar year, such part of that calendar 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 8;

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

“L1” means, in respect of each television programme service provider, the monetary value which will result from the application of the template;

“L2” means, in respect of each television programme service provider, the monetary value which will result from the calculation at paragraph 13;

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

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

“sector” means the sector comprising of the total number of television programme service providers;

“television programme service provider” means a provider of a service 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; and

“template” means the table set out in paragraph 8.

2. The levy which a television programme service provider must pay in the 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 9.

4. Television programme service providers whose base year qualifying income is not more than €500,000.00 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 in respect of services provided pursuant to section 71 of the Act of 2009.

7. A television programme service provider whose base year qualifying income is more than €500,000.00 must, in respect of the levy period, pay a levy which is equal to half of the sum of L1 and L2.

8. L1 in paragraph 7 is computed by reference to a television programme service provider's base year qualifying income in accordance with the following table—

Base year qualifying income	Percentage Levy
€1 to €1,000,000	B1 %
€1,000,001 to €10,000,000	(B1 — 0.25) %
€10,000,001 to €20,000,000	(B1 — 0.50) %
€20,000,001 to €45,000,000	(B1 — 0.75) %
Over €45,000,000	(B1 — 1.75) %

9. The table in paragraph 8 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 B1% 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 B1% of the first €1,000,000 of its base year qualifying income and (B1 — 0.25) % of its base year qualifying income over €1,000,000.

10. When the Commission has sufficient information regarding the qualifying income of each television programme service provider for the base year, it shall attribute a numerical value to B1 in the template such that the levy imposed in respect of the levy period shall seek to ensure that the amount of the levy is sufficient to meet the Commission's expenses properly incurred in the levy period and the Commission's working capital requirements in that period in so far as those expenses and requirements are not met in any other way.

11. Having calculated the numerical value of B1 for the levy period, the Commission shall prepare a complete table for the levy period by inserting in the template a numerical value for each percentage rate which appears in it.

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

13. L2 in paragraph 7 is computed by multiplying the numerical value of B2 by a television programme service provider's base year qualifying income.

14. B2 shall be calculated in accordance with the following formula

$$B2 = \frac{\text{Estimated Costs of Regulation of Sector}}{\text{Qualifying Income of Sector}}$$

15. When the Commission has sufficient information regarding the qualifying income of each television programme service provider for the base year, it shall attribute a numerical value to B2 such that the levy imposed in respect of the levy period shall seek to ensure that the amount of the levy is sufficient to meet the Commission's expenses properly incurred in the levy period and the Commission's working capital requirements in that period in so far as those expenses and requirements are not met in any other way.

16. Having calculated the numerical value of B2 for the levy period, the Commission shall publish the value for B2.

17. The Commission shall, in the levy period, publish the value for B2 in a manner determined by it.

18. The Commission shall only serve notices under article 9 in respect of the levy period after it has published the complete table and value for B2 for the levy period, and no fewer than seven days shall elapse between such publication and the service of such notices.

## 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 the base year qualifying income is to be levied, as contemplated in the formula;

“base year” means the calendar year of 1 January 2023 to 31 December 2023 or, where a sound broadcasting service provider has been in operation for part only of that calendar year, such part of that calendar year;

“base year qualifying income” means the qualifying income of 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;

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

“formula” means the formula set out in paragraph 7;

“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;

“sector” means the sector comprising of the total number of sound broadcasting service providers;

“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;

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

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

3. The qualifying income of sound broadcasting service providers in the base year shall be determined in accordance with Schedule 9.

4. A sound broadcasting service provider, institutional broadcaster or temporary broadcaster whose base year qualifying income is not more than €500,000 is 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 in respect of services provided pursuant to section 71 of the Act of 2009.

7. A sound broadcasting 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-

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

8. The levy payable by a sound broadcasting service provider in respect of the levy period is equal to C multiplied by its base year qualifying income.

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 seek to ensure that the amount of the levy is sufficient to meet the Commission's expenses properly incurred in the levy period and the Commission's working capital requirements in that period in so far as those expenses and requirements are not met in any other way.

10. Having calculated the numerical value of C for the levy period, the Commission shall publish the value for C.

11. The Commission shall, in the levy period, publish the value for C in a manner determined by it.

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

#### 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 calendar year of 1 January 2023 to 31 December 2023 or, where an audiovisual on-demand service provider has been in operation for part only of that calendar year, such part of that calendar year;

“base year qualifying income” means the qualifying income of an audiovisual on-demand media services 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; and

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

2. The levy which an audiovisual on-demand media service provider must pay in the 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 the base year shall be determined in accordance with Schedule 10.

4. An audiovisual on-demand service provider whose base period qualifying income is not more than €500,000.00 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 seek to ensure that the amount of the levy is sufficient to meet the Commission’s expenses properly incurred in the levy period and the Commission’s working capital requirements in that period in so far as those expenses and requirements are not met in any other way.

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

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

10. The Commission shall only serve notices under article 9 in respect of the levy period after it has published the value for D for the levy period, 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 up to 17 August 2024, in respect of which designated online service providers are required to publish information on the average monthly active recipients of their service pursuant to 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;

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

"formula" means the formula set out in paragraph 4; and

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

2. The levy which a designated online service provider must pay in the levy period shall be based on the sum of the number of average monthly active recipients per each individual designated online service provider in the base period as required to 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 number of average monthly active recipients 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 ought to have published 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 number of average monthly active recipients per each individual designated online service in accordance with the following formula-

$$E = \frac{\text{Estimated Costs of Regulation of Sector}}{\text{Sum of average monthly active recipients across Sector}}$$

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

6. When the Commission has the information regarding the number of average monthly active recipients 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 in the formula for the levy period such that the levy imposed in respect of the levy period shall seek to ensure that the amount



of the levy is sufficient to meet the Commission's expenses properly incurred in the levy period and the Commission's working capital requirements in that period in so far as those expenses and requirements are not met in any other way.

7. Having calculated the numerical value of E for the 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 9 in respect of the levy period after it has published the value for E for the levy period, and no fewer than seven days shall elapse between such publication and the service of such notices.

## SCHEDULE 7

## Calculation of the Levy for intermediary service providers

1. In this schedule—

"base period" means the six-month period up to 17 August 2024, in respect of which intermediary service providers are required to publish information on the average monthly active recipients of their service pursuant to Article 24(2) of the Digital Services Act;

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

"relevant intermediary service" means an online platform or online search engine in respect of which the Commission has powers to supervise and enforce pursuant to the Digital Services Act, and which relevant intermediary service was included in a provisional register of relevant intermediary services compiled by the Commission prior to the commencement of the levy period, and whose average number of monthly active recipients in the base period was more than 1,000,000;

"F" means the charge for the sum of the number of average monthly active recipients per each individual relevant intermediary service across the sector as whole;

"formula" means the formula set out in paragraph 4;

"online platform" has the meaning ascribed to that term in the Digital Services Act;

"online search engine" has the meaning ascribed to that term in the Digital Services Act; and

"sector" means the sector comprising of the total number of intermediary service providers.

2. The levy which an intermediary service provider must pay in the levy period shall be based on the sum of the number of average monthly active recipients per each individual relevant intermediary service provided by that provider in the base period, as required to be published by each individual intermediary service provider each six months in accordance with Article 24(2) of the Digital Services Act.

3. The number of average monthly active recipients per each individual relevant intermediary service provided by each individual intermediary service provider in the base period shall be determined by the Commission in accordance with the figures that such intermediary service providers ought to have published pursuant to Article 24(2) of the Digital Services Act.

4. An intermediary service provider must in respect of the levy period pay a levy which is computed by reference to the sum of the number of average monthly active recipients per each individual relevant intermediary service in accordance with the following formula-

$$F = \frac{\text{Estimated Costs of Regulation of Sector}}{\text{Sum of average monthly active recipients across all relevant intermediary services}}$$

5. The levy payable by an intermediary service provider in respect of the levy period is equal to F multiplied by the total of the number of its average monthly active recipients for each of the relevant intermediary services it provides.

6. When the Commission has the information regarding the number of average monthly active recipients of each relevant intermediary service provider for the base period pursuant to Article 24(2) of the Digital Services Act, it shall attribute a numerical value to F in the formula for the levy period such that the levy imposed in respect of the levy period shall seek to ensure that the amount of the levy is sufficient to meet the Commission's expenses properly incurred in the levy period and the Commission's working capital requirements in that period in so far as those expenses and requirements are not met in any other way.

7. Having calculated the numerical value of F for the levy period, the Commission shall publish the value for F.

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

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

## SCHEDULE 8

## Calculation of the Levy for hosting service providers

1. In this schedule—

"base period" means the six-month period up to 17 August 2024, in respect of which hosting service providers are required to publish information on the average monthly active recipients of their service pursuant to Article 24(2) of the Digital Services Act;

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

"hosting service provider" has the meaning ascribed to that term in the Terrorism Content Online Regulation;

"relevant hosting service" means a service in respect of which the Commission has notified the hosting service provider in accordance with Article 5(4) of the Terrorism Content Online Regulation that the hosting service provider is exposed to terrorist content;

"G" means the charge for the sum of the number of average monthly active recipients per each individual hosting service across the sector as a whole;

"formula" means the formula set out in paragraph 4;

"sector" means the sector comprising of the total number of hosting service providers whose main establishment or legal representative is under the jurisdiction of the Irish state for the purposes of the Terrorism Content Online Regulation;

"terrorist content" has the meaning ascribed to that term in the Terrorism Content Online Regulation; and

"Terrorism Content Online Regulation" means Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online.

2. The levy which a hosting service provider must pay in the levy period shall be based on the sum of the number of average monthly active recipients per each individual relevant hosting service provided by that provider in the base period, as required to be published by each individual hosting service provider each six months in accordance with Article 24(2) of the Digital Services Act.

3. The number of average monthly active recipients per each individual relevant hosting service provided by each individual hosting service provider in the base period shall be determined by the Commission in accordance with the figures that such hosting service providers ought to have published pursuant to Article 24(2) of the Digital Services Act.

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

$$G = \frac{\text{Estimated Costs of Regulation of Sector}}{\text{Sum of average monthly active recipients of relevant hosting services}}$$

5. The levy payable by a hosting service provider in respect of the levy period is equal to G multiplied by the total of the number of its average monthly active recipients for each of the relevant hosting services it provides.

6. When the Commission has the information regarding the number of average monthly active recipients of each hosting service provider for the base period pursuant to Article 24(2) of the Digital Services Act, it shall attribute a numerical value to G in the formula for the levy period such that the levy imposed in respect of the levy period shall seek to ensure that the amount of the levy is sufficient to meet the Commission's expenses properly incurred in the levy period and the Commission's working capital requirements in that period in so far as those expenses and requirements are not met in any other way.

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

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

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

## SCHEDULE 9

### Qualifying Income of providers of television programme services and providers of sound broadcasting services

1. In this schedule—

“broadcasting funding scheme” means a scheme administered by the Commission by virtue of Part 10 of the Act of 2009;

“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; and

“provider” means each provider of services set out in this Schedule 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 7, 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. 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.

7. 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.

8. Subject to paragraph 9, 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.

9. No such deduction, as is referred to in paragraph 8, 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.

10. Subject to paragraphs 5 and 7, costs incurred by a provider in securing commercial communications may not be deducted in computing such a provider's qualifying income.

11. 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.

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

13. 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 or for any other costs incurred in generating interactive income.

14. Where a provider generates income from any licensing arrangement such income is qualifying income of that provider.

15. 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.

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 the percentage breakdown of apportioned qualifying income of all the services provided by the provider.

SCHEDULE 10

Qualifying Income of audiovisual on-demand media 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;

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

“interactive income” means income generated by a provider from listener or viewer response to an audiovisual on-demand media service including, without limitation, income from online payments which are so generated;

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

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

2. Subject to paragraph 5, 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. Income generated by a provider from the provision of an audiovisual on-demand media service, including all income relating to the provision of such service including (but not limited to) public funding and/or income from subscriptions, transactions (including pay-per-view, rental and purchase of programmes) and/or advertising is qualifying income of that provider.

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

6. 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.

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 6 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. Where a provider generates interactive income such income is qualifying income of that provider.

14. 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 the percentage breakdown of apportioned qualifying income of all the services provided by the provider.



GIVEN under the seal of Coimisiún na Meán,  
13 December, 2024.

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 services, providers of sound broadcasting services, providers of designated online services, intermediary service providers and hosting service providers for the purpose of seeking to ensure that the amount of all levies in respect of the levy period is sufficient to meet the Commission's expenses properly incurred and its working capital requirements in respect of the levy period, in so far as those expenses and requirements are not met in any other way.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
BÓTHAR BHAILE UÍ BHEOLÁIN,  
CILL MHAIGHNEANN,  
BAILE ÁTHA CLIATH 8,  
D08 XAO6

Tel: 046 942 3100  
r-phost: [publications@opw.ie](mailto:publications@opw.ie)

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased from  
GOVERNMENT PUBLICATIONS,  
MOUNTSHANNON ROAD,  
KILMAINHAM, DUBLIN 8,  
D08 XAO6

Tel: 046 942 3100  
E-mail: [publications@opw.ie](mailto:publications@opw.ie)

€ 6.50

