

Ireland

The Irish language, *de jure* the first official national language, is *de facto* a minority language. Existing broadcasting legislation is sprinkled with general references to the promotion of the language (and associated facets of culture). One Irish-language television station and one Irish-language radio station broadcast nationwide. Both are public service stations and maintain a steady, if minority, audience, drawn to a large extent from the Irish-language speaking areas. Their services complement the offer of Irish-language programming on the mainstream national public service broadcasting channels. In the independent broadcasting sector, some degree of Irish-language programming is provided by most radio stations, but the volume of such programming varies considerably from station to station. Various non-legal initiatives are afoot to promote the use of the Irish language in broadcasting. These include inter-agency campaigns and the recent creation of the post of Irish Language Officer by the Broadcasting Commission of Ireland (the statutory body with responsibility for the licensing, monitoring and development of independent broadcasting services in Ireland). Irish-language broadcasting does not suffer from any recognisable discrimination, apart from those dictated by audience levels and a shortage of funding that appears to be commensurate to that being experienced by the main public service broadcaster. As regards other languages, these have not yet been used in a prevalent manner. However, the main public service radio station has, over the past couple of years, catered for the needs and interests of the so-called “new” minorities by broadcasting a nightly programme which also includes items in foreign (minority) languages.

1 Introduction¹

1.1 Linguistic topography

The safeguarding of linguistic pluralism is of the utmost importance for freedom of expression in Ireland, given that it is a bilingual country. The Irish language is the first official national language (by virtue of Article 8 of the Constitution of Ireland), even though it is spoken regularly by a minority of the population. According to the results of the 2002 Census, only 42.8% of the country’s total population of 3.9 million persons² consider themselves able to speak Irish and the age-group with the highest proportion of persons able to speak Irish is the school-going population (i.e., aged between 10 and 19 years).³ The linguistic contours drawn by Article 8 of the Constitution—to loosely paraphrase the Irish playwright Brian Friel—no longer match the landscape of fact.⁴ Article 8 is the expression of a somewhat vestigial cultural nationalism; it dates from a time when the “de-anglicisation of

¹ The author is extremely grateful to Celene Craig of the Broadcasting Commission of Ireland for her advice concerning the preparation of certain sections of this report. Michelle Hocht, RTÉ Radio Publicist, and Mairéad Ní Nuadháin, RTÉ Commissioning Editor, also provided useful information about relevant broadcasting policies of *Radio Telefís Éireann*. Nevertheless, any omissions or inaccuracies remain the sole responsibility of the author.

² The national census conducted on 28 April 2002 recorded the population of Ireland as 3,917,203 persons. See further the website of the Central Statistics Office of Ireland: <http://www.cso.ie>.

³ For further information, see the Central Statistics Office of Ireland website: <http://www.cso.ie>.

⁴ In Friel’s play, *Translations*, the character Hugh states: ‘It can happen that a civilization can be imprisoned in a linguistic contour which no longer matches the landscape of... fact.’ B. Friel, “Translations”, in *Brian Friel: Plays 1* (Faber & Faber, London, 1996), pp. 377-451, at p. 419.

Ireland”⁵ was the guiding principle of Ireland’s attempts at self-definition and self-assertion in the earlier stages of the post-independence period.

1.2 Broadcasting

Notwithstanding the highlighted ambiguities regarding linguistic issues in Ireland, no pressing problems exist as regards freedom of expression in the medium of Irish, other than those associated with any language which is only spoken by and intelligible to a minority section of a national population. The use of the Irish language is provided for on national radio and television by *Radio Telefís Éireann* (RTÉ - the national public service broadcaster);⁶ an Irish-language radio station—*Raidió na Gaeltachta*⁷—has been broadcasting since 1972 and commands 26% of the adult listenership within the *Gaeltacht* regions;⁸ an Irish-language television station—*TG4*⁹—has been in operation since 1996 and since its inception, it has benefited enormously from RTÉ in terms of personnel, expertise, technology, and financing. In particular, it should be noted that despite the financial difficulties it is currently experiencing,¹⁰ RTÉ accounts for 365 hours of original output on TG4,¹¹ including ‘its entire news service and a comprehensive range of other programmes.’¹² It is the short-term ambition of TG4 to increase original Irish-language output to six hours per day.¹³ According to RTÉ’s Annual Report for the year 2000, TG4 was the channel with the ‘greatest audience growth rate’¹⁴ in Ireland in that year. By the end of 2000, it had achieved an audience share of 2.4% and an average daily reach of 730,000 people. However, it should also be noted that complaints have been articulated concerning the linguistic standards of TG4.¹⁵

⁵ This phrase is generally attributed to Douglas Hyde, the first President of Ireland.

⁶ See: <http://www.rte.ie>. It should be noted that the RTÉ Programme-Makers’ Guidelines (2002) contain a section entitled ‘Irish Language’ (p. 20). This section deals with broadcasting in Irish by RTÉ, and also communications in Irish with the public service broadcaster.

⁷ See: <http://www.rnag.ie>. *Raidió na Gaeltachta* operates under the aegis of RTÉ.

⁸ Gaeltacht areas are those officially designated as Irish-speaking. See further, M. Kelly & W. Truetschler, ‘Ireland’, in B. S. Ostergaard, Ed., *The Media in Western Europe – The Euromedia Handbook* (2nd Edition), pp. 110 – 125, at p. 120. The combined total population of the Gaeltacht areas, according to the 1991 Census, is 79,563, of whom 56,469 or 71% are Irish-speaking. See further, ‘Report submitted by Ireland pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities’ (Received on 13 November 2001), Council of Europe Doc. ACFC/SR (2001) 6, available at: <http://www.humanrights.coe.int/Minorities/Eng/FrameworkConvention/StateReports/Toc.htm>.

⁹ See: <http://www.tg4.ie>. TG4 also operates (for the moment) under the aegis of RTÉ. See further *infra*.

¹⁰ RTÉ is now reporting a Net Deficit of 71 million Euros for 2001 - Submission to the Forum on Broadcasting, Radio Telefís Éireann, 2002, p. 23, available at: <http://www.rte.ie/about/organisation/forum/index.html>. See also in this connection: M. McGonagle, ‘IE – Digital Broadcasting’, *IRIS – Legal Observations of the European Audiovisual Observatory*, 2001-8: 11.

¹¹ This is actually a statutory obligation, by virtue of s. 47 of the Broadcasting Act, 2001. See further, *infra*.

¹² Submission to the Forum on Broadcasting, Radio Telefís Éireann, 2002, *op. cit.*, p. 28.

¹³ As noted in the Report of the Forum on Broadcasting, August 2002 (see further *infra*), p. 44.

¹⁴ Annual Report/Tuairisc Bhliantúil Radio Telefís Éireann 2000, p. 59, available at: <http://www.rte.ie/about/organisation/annualreport/index.html>.

¹⁵ See, for example, the Final Report of *Coimisiún na Gaeltachta*, 2002, p. 19, Section 8 ‘Summary of Issues Raised at Public Meetings’, para. 7: ‘In general the Gaeltacht community is satisfied with Raidió na Gaeltachta, both with the quality of service and the Irish language ethos of the station. Young people in the main felt that there should be an additional service (RnaG2) available to meet their own particular needs, while not interfering with Raidió na Gaeltachta as it currently exists. The Gaeltacht community welcomed TG4 and it is generally agreed that the station has performed remarkably well with limited resources. The community did feel, however, that TG4 does not relate to the Gaeltacht to the extent that it should. It is evident that ordinary Irish speakers in the Gaeltacht, especially in those areas where the language is strongest, are unhappy with the poor standard of Irish on certain TG4 programmes.’ The Report is available at: <http://www.pobail.ie/en/AnGhaeltacht/Tuairisc/ChoimisiunnaGaeltachta/d5248.en.v1.0.t4.PDF>.

The national public service broadcaster also caters to a limited extent for the needs of the new minorities in Ireland. A weekly half-hour television show with the aim of providing the general public a more comprehensive and multidimensional portrayal of new minorities has been broadcast for the past two years. ‘Mono’, as it is called, is a magazine-type show in the English language.¹⁶ A multicultural radio service, ‘Radio One World’, has also been provided by RTÉ over the past couple of years. It sometimes includes items in the languages of immigrants and refugees and targets this audience specifically.¹⁷ In 2002, these television and radio initiatives won national “media and multicultural” awards.¹⁸

2 Constitution

Bunreacht na hÉireann (the Constitution of Ireland), 1937,¹⁹ the fundamental source of law in Ireland, is antecedent to the United Nations and European human rights instruments. In consequence, the chapter entitled ‘Fundamental Rights’ is not entirely co-extensive with the rights and freedoms elaborated by these international instruments.

2.1 Freedom of expression

Article 40.6.1

The state guarantees liberty for the exercise of the following rights subject to public order and morality:-

(i) The right of the citizens to express freely their convictions and opinions.

The education of the public opinion being, however, a matter of such grave import to the common good, the state shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of government policy, shall not be used to undermine public order or morality or the authority of the state.

The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law.

2.2 Broadcasting

The regulation of broadcasting in Ireland has taken a predominantly statutory form; thus, the passing constitutional reference to the “organs of public opinion” is developed in greater detail by way of legislation.

2.3 Minority rights

The Constitution contains no specific mention of minorities. General references to the equality of all citizens do, however, exist and the protection of minorities could—to an extent—be extrapolated therefrom:

¹⁶ See further: <http://www.rte.ie/tv/mono/index.html>.

¹⁷ See further: <http://www.rte.ie/radio/radiooneworld/>.

¹⁸ See further: ‘RTÉ’s Mono and Radio One World winners at MAMA 2002’, RTÉ News Release of 3 May 2002, available at: <http://www.radio1.ie/infocenter/programmeneews/mama2002.html>.

¹⁹ Available at: <http://www.taoiseach.gov.ie/upload/static/256.pdf>.

Article 3

It is the firm will of the Irish Nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions [...]

Article 40.1

All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the state shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

Article 40.3.1

The state guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.

2.4 (Official/State) language(s)

Article 8

1. The Irish language as the national language is the first official language.
2. The English language is recognised as a second official language.
3. Provision may, however, be made by law for the exclusive use of either of the said languages for any one or more official purposes, either throughout the state or in any part thereof.

3 Legislation

THE BROADCASTING ACT, 2001

The Broadcasting Act, 2001, constitutes the most recent statutory bulwark for the practice of Irish-language broadcasting.²⁰ Section 28(2)(a) of the Act, for instance, obliges the public broadcaster to “provide a comprehensive range of programmes in the Irish and English languages that reflect the cultural diversity of the whole island of Ireland and include, both on television and radio [...] programmes that entertain, inform and educate, provide coverage of sporting, religious and cultural activities and cater for the expectations of the community generally as well as members of the community with special or minority interests and which, in every case, respect human dignity.” Section 28(2)(b) then requires the public broadcaster to “provide programmes of news and current affairs in the Irish and English languages, including programmes that provide coverage of proceedings in the Houses of the Oireachtas and the European Parliament”. This represents a wider and more clearly-defined range of responsibilities than the “general duty” of the national broadcaster “with respect to national aims” as set out in Section 17 of the Broadcasting Authority Act, 1960.²¹ According to that Act, “In performing its functions, the Authority shall bear constantly in mind the national aims of restoring the Irish language and preserving and developing the national culture and shall endeavour to promote the attainment of those aims.”

Sections 42 *et seq.* of the 2001 Act establish *Teilifís na Gaeilge* (now known as TG4) as a body corporate with the responsibility of providing a national, public service, free-to-air

²⁰ Available at: <http://www.gov.ie/bills28/acts/2001/a401.pdf>.

²¹ Available at: <http://193.120.124.98/front.html>.

broadcasting service. It is the intention of the newly-elected coalition government of Ireland to ‘establish TG4 as a separate statutory body’, in line with existing legislation on the matter.²² Section 45 of the Act requires TG4 to ‘commission the making of programme material, originate programme material and [...] acquire programme material from such sources as it thinks appropriate so as to ensure that the programme schedules [...]’:

- (a) provide a comprehensive range of programmes, primarily in the Irish language, that reflect the cultural diversity of the whole island of Ireland and include programmes that entertain, inform and educate, provide coverage of sporting, religious and cultural activities and cater for the expectations of those of all age groups in the community whose preferred spoken language is Irish or who otherwise have an interest in Irish,
- (b) provide programmes, primarily in the Irish language, of news and current affairs,
- (c) provide coverage of proceedings in the Houses of the Oireachtas and the European Parliament, and
- (d) facilitate or assist contemporary cultural expression and encourage or promote innovation and experimentation in broadcasting.

The sphere of TG4’s activities is not restricted to broadcasting, as traditionally defined. It is free to embrace other forms of electronic communications in its activities (s. 45(8)(c)) and, in more general terms, it enjoys much operational latitude (see s. 45(8) generally). The Act also provides for the possibility of TG4 becoming involved in pursuits that could be considered ancillary to its primary task of broadcasting (e.g. subscription to news services (s. 45(8)(e)), educational, musical and dramatic bodies, international associations (s. 45(8)(f)); organisation and subsidisation of entertainment events (s. 45(8)(h)); publication and distribution of printed and audiovisual material which is relevant to its functions (ss. 45(8)(i) & (j)).

The broadcasting services provided by TG4 are explicitly ‘public’ in character. Section 46, for example, states that in performing its functions, TG4:

- (a) shall use its best endeavours to commission the making of, procure, adapt or originate programme material for the purposes of the broadcasting service referred to in *section 45(1)* that is responsive to the interests and concerns of the whole community,
- (b) shall—
 - (i) be mindful of the need for understanding and peace within the whole island of Ireland, and
 - (ii) ensure that the programme material aforesaid reflects the varied elements which make up the culture of the whole island of Ireland and have special regard for the elements which distinguish that culture, and, in particular, the Gaeltachtaí,
- (c) shall uphold the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, and
- (d) shall have regard to the need for the formation of public awareness and understanding of the values and traditions of countries other than the State, including in particular those of the Member States of the European Union.

²² ‘We will continue to support the development of Irish language broadcasting. In line with legislation which we have already enacted, we will establish TG4 as a separate statutory body.’, p. 33, ‘Culture and Heritage’ Section, *An Agreed Programme for Government between Fianna Fáil and the Progressive Democrats*, June 2002, available at: <http://www.taoiseach.gov.ie/upload/publications/1480.pdf>.

Furthermore, the station benefits from a statutory obligation on RTÉ to provide it with the equivalent of one hour's programme material each day (s. 47). The total number of hours per year of broadcasting provided by TG4 is decided by the station and approved by the Minister for Arts, Heritage, Gaeltacht and the Islands (s. 48.). For present purposes, one final crucial provision is s. 51, which empowers the aforementioned Minister, with the consent of the Minister for Finance, "from time to time [to] pay to Teilifís na Gaeilge such an amount as he or she determines to be reasonable for the purposes of defraying the expenses incurred by Teilifís na Gaeilge in performing its functions."

In addition to the statutory provisions governing broadcasting organisations, the relevant legislation also contains provisions concerning the Broadcasting Commission of Ireland (BCI), the statutory body with responsibility for the licensing, monitoring and development of independent broadcasting services in Ireland. The operative part of Section 11 of the Broadcasting Act, 2001, reads:

(2) In performing the function conferred on it by this section or the functions conferred on it by the Act of 1988, the Commission shall endeavour to ensure that the number and categories of broadcasting services made available in the state by virtue of this Act or the Act of 1988 best serve the needs of the people of the island of Ireland, bearing in mind their languages and traditions and their religious, ethical, and cultural diversity.

RADIO AND TELEVISION ACT, 1988

Furthermore, under Section 6(2) of the Radio and Television Act, 1988, the Broadcasting Commission of Ireland (BCI) must have due regard to a number of concerns when considering applications for sound broadcasting contracts.

In practice, the BCI's relationship with independent broadcasters is regulated, based on legislation, by way of individual contracts with each broadcaster. The terms of such contracts are set by the Commission and include a range of programming requirements, *inter alia*, in respect of programmes in the Irish language. The BCI, however, has yet to invoke these clauses to any undue extent. Each contractor is bound by its individual programme policy statement and programme schedule which contain commitments to provide certain levels of Irish-language programming. Any changes to these documents must be duly communicated to the BCI. So far, the BCI has not sought any additional programming from any contractor; an approach which could be explained by the level of Irish-language programming and services provided by public service broadcasting.²³

Section 6.— Determination of applications for award of sound broadcasting contracts.

(1) The Commission shall, in accordance with the provisions of this Act, consider every application for a sound broadcasting contract received by it pursuant to a notice under *section 5 (5)* for the purpose of determining the most suitable applicant, if any, to be awarded a sound broadcasting contract.

(2) In the consideration of applications received by it and in determining the most suitable applicant to be awarded a sound broadcasting contract, the Commission shall have regard to—

[..]

²³ The bulk of the information provided in this paragraph was gleaned from correspondence with C. Craig, BCI.

- (d) the quantity, quality, range, and type of programmes in the Irish language and the extent of programmes relating to Irish culture proposed to be provided;
- (e) the extent to which the applicant will create within the proposed sound broadcasting service new opportunities for Irish talent in music, drama and entertainment;
- (f) the desirability of having a diversity of services in the area specified in the notice under section 5 (5) catering for a wide range of tastes including those of minority interests;

[..]

- (i) the extent to which the service proposed:

- (i) serves recognisably local communities and is supported by the various interests in the Community, or

- (ii) serves communities of interest, and

[..]

(3) In considering the suitability of any applicant for the award of a sound broadcasting contract to provide a sound broadcasting service in respect of an area which includes a Gaeltacht area, the Commission shall have particular regard to the preservation as a spoken language of the Irish language.

4 Application of legislation and other measures affecting language

The Broadcasting Act, 2001, was signed into law on 14 March 2001.²⁴ The application of the Act throughout its brief existence has been smooth and has yet to give rise to any issues of note in respect of either Irish-language broadcasting in general or the operation of TG4 in particular.

The BCI has formulated a Policy Statement on the Irish language. It reads:

The IRTC²⁵ respects the unique place the Irish language holds for people on this island as a language of communication and as a cultural and linguistic expression of their identity.

In order to recognise the status of the Irish language, the first official language of the state, the IRTC encourages the use of Irish language programming as part of normal programming. In accordance with each individual station's style of broadcasting, the IRTC envisages that this programming could take many forms and have a multiplicity of purpose. The IRTC will seek to promote and develop the use of the Irish language in natural and relevant ways and is committed to increasing the proportion of Irish spoken on-air.²⁶

²⁴ See further, M. McGonagle, "Broadcasting Bill Becomes Law", *IRIS - Legal Observations of the European Audiovisual Observatory*, 2001-4: 9).

²⁵ Prior to the enactment of the Broadcasting Act, 2001, the Broadcasting Commission of Ireland was known as the Independent Radio and Television Commission (IRTC).

²⁶ *Irish Language Programming in the Independent Broadcasting Sector*, The Independent Radio and Television Commission/Foras na Gaeilge, 6 December 2000, p. 2.

A survey of the then-existing 21 commercial radio stations and 10 ‘community and community of interest’ stations was undertaken by the Commission in November 1998,²⁷ with a view to determining the extent of Irish-language usage in programming on local radio stations. This survey revealed varying levels of Irish-language use among stations; with lower-than-expected levels overall. ‘The lack of, and the difficulty in sourcing, Irish language speakers with the relevant radio/broadcasting skills were identified’ by the survey ‘as the major hindrances’ for initiatives aimed at increasing programming output in the Irish language.²⁸ The current situation is that all independent radio services carry some Irish-language programming, although levels remain generally quite low. Irish-language programming tends to be broadcast at off-peak times. Given the difficulties which stations encounter in sourcing Irish-language contributors to programmes, it is quite common for Irish-language programmes to adopt music-centred or bilingual (i.e., Irish and English) formats in order to honour their Irish-language programming commitments.

In May 1999, the Independent Radio and Television Commission (IRTC), with the participation of *Bord na Gaeilge/Foras na Gaeilge*,²⁹ set up an Advisory Committee on Irish-language programming. The focus of this (ongoing) initiative is exclusively on broadcasting in the independent sector. Membership of the Advisory Committee comprises representatives of the aforementioned organisations, *Gael Linn*³⁰ and five independent (radio) stations.³¹ Its main objectives are to:

1. Examine the types and level of usage of Irish language programming in the independent sector.
2. Identify factors that inhibit and support the production of Irish language programming.
3. Make recommendations to encourage more Irish language usage on-air by independent radio and television stations.

The Advisory Committee concluded a survey on ‘the views of all independent stations on the potential for Irish language programming’ in July 1999.³² The findings of this survey, coupled with further market research indicating a favourable disposition towards Irish-language programmes among a certain section of the Irish population,³³ has prompted a number of pertinent recommendations.³⁴ The BCI recently appointed its first-ever, full-time Irish Language Officer, who took up her position at the beginning of July 2002. The key objectives of the post are cited as being to ‘coordinate the implementation of the recommendations of the Advisory Committee on Irish Language Programming and to

²⁷ The BCI currently licenses one national television programme service (TV3); one national radio broadcasting service (Today FM); 24 broad-based local commercial radio services; three special interest services (commercial and non-commercial) and 13 community and community of interest radio services, including one Irish-language programme service, *Raidió na Life*, which operates in Dublin City and County.

²⁸ *Ibid.*, p. 2.

²⁹ ‘Foras na Gaeilge is the new body responsible for the promotion of the Irish language throughout the whole island of Ireland’, see further: http://www.bnag.ie/about_fnag.htm.

³⁰ *Gael Linn* is a cultural organisation which aims to strengthen and spread the Irish language and Irish heritage. See further: <http://www.gael-linn.ie/>.

³¹ *Raidió na Life*, Radio Kilkenny, Radio Kerry, Lite FM and NEAR FM.

³² Details of this survey are available in *Irish Language Programming in the Independent Broadcasting Sector*, *op. cit.*, pp. 3-4.

³³ ‘The results of a survey conducted by Irish Marketing Surveys Limited in January 2000, on behalf of Bord na Gaeilge/Foras na Gaeilge, revealed that 20% of the population like listening to Irish language programming, a figure perhaps higher than would be expected.’ – *op. cit.*, p. 4.

³⁴ These Recommendations are set out in full in Appendix II.

increase the use of the Irish language across the range of broadcast output in the independent sector nation wide.”³⁵ The principal duties of the Coordinator also include: liaising with station managers and Irish language organisations on matters of relevant concern; assisting the independent sector in marketing Irish language programmes; encouraging businesses to sponsor Irish-language programming in the independent sector; undertaking (market) research on relevant matters and having some input into the (linguistic) training of programme presenters and producers.³⁶

5 Current developments

In April 2002, the Irish Government published its long-awaited *Bille na dTeangacha Oifigiúla (Comhionannas)* (Official Languages (Equality) Bill), 2002.³⁷ The primary objectives of the Bill include the promotion of respect for Irish and English as the official languages of the state; the promotion of equality of status and equal rights and privileges as to their use, especially in parliamentary proceedings, legislation, the administration of justice, in communicating with or providing services to the public and in discharging the functions of public bodies. For the purposes of the Bill, RTÉ, Raidió na Gaeltachta and TG4 all qualify as public bodies.

When enacted,³⁸ the greatest impact of the Bill on the aforementioned public service broadcasters will concern RTÉ, as the other two routinely conduct their business through the medium of the Irish language anyway. Its impact will, however, be mainly in administrative terms, as broadcasting in the Irish language by RTÉ is the subject of specific provisions in the Broadcasting Act, 2001 (see *supra*). The Bill focuses on measures aimed at increasing the use of the official languages in the day-to-day operations of public bodies, for example by making certain documents of public interest (e.g. policy proposals or annual reports) available simultaneously in both languages (Section 11). It also envisages a duty for public bodies to ensure that members of the public can communicate with them and receive services from them in either of the official languages (Section 9).

In its recently published Programme for Government, the Irish Government pledged that “[A] comprehensive study of the current status of the language in the Irish media will be undertaken.”³⁹ No further details of this proposed study have been disclosed yet, but if it is indeed to be pursued, this will most likely take place in tandem with the examination of the relevant conclusions of the recently established Forum on Broadcasting.⁴⁰ The Forum was established on 22 March 2002 by the Minister for Arts, Heritage, Gaeltacht and the Islands to consider, *inter alia*, the roles of public and commercial/independent broadcasters in Ireland

³⁵ Job Description: Irish Language Co-ordinator, Broadcasting Commission of Ireland, 2002.

³⁶ *Ibid.*

³⁷ *Bille na dTeangacha Oifigiúla (Comhionannas)*, 2002 (Official Languages (Equality) Bill, 2002), No. 24 of 2002, April 2002, available at: <http://www.gov.ie/bills28/bills/2002/2402/default.htm>. See further, T. McGonagle, ‘IE – Effect of New Languages Bill on Public Service Broadcasters’, *IRIS – Legal Observations of the European Audiovisual Observatory*, 2002-5: 14.

³⁸ A general election was held in Ireland on 17 May. However, the future of the Bill would not appear to be in jeopardy as a result of this election as the new Government comprises the same coalition parties (i.e., Fianna Fáil and the Progressive Democrats) as when the Bill was first published. The new Programme for Government, *op. cit.*, includes an undertaking to enact the Official Languages Bill (p. 33).

³⁹ *Op. cit.*, p. 34.

⁴⁰ See further: <http://www.forumonbroadcasting.ie/>. See also: C. van Strien-Reney, ‘IE – Establishment of Forum on Broadcasting’, *IRIS – Legal Observations of the European Audiovisual Observatory*, 2002-7: 13.

today.⁴¹ In particular, the Forum was asked to consider, ‘having regard to the present level of provision of sound and television broadcasting services in the Irish language, what responsibilities broadcasters should have for the development and broadcasting of programme content in the Irish language’. The responsibilities of different broadcasters for “development and broadcasting of cultural content” also figures among the terms of reference of the Forum. The Programme for Government also contains an undertaking to “consider with urgency the recommendations” of the Forum.⁴²

In its Submission to the Forum on Broadcasting, the BCI made the following recommendation:

The Commission considers that the current approach to Irish language programming on the RTE services is satisfactory and should be maintained. The Commission is also satisfied that the joint approach with Foras na Gaeilge to improving the levels of usage and increasing awareness on independent broadcasting services is appropriate and should be continued.⁴³

RTÉ’s Submission to the Forum gives important recognition to the centrality of Raidió na Gaeltachta and TG4 to its own public service remit. It is observed that their output plays a crucial role in addressing the needs of the audience for programmes in Irish, which ‘is as diverse in interests, age range, geographical spread and viewing habits as that for programmes in English—the stress on diversity is crucial.’⁴⁴ It also states:

The Broadcasting Act, 2001 provides for statutory independence for TG4 at an unspecified future date. RTÉ’s view is that the well-being and continued development of the channel will be best served in the medium-term by its remaining under the aegis of the RTÉ Authority. With so much uncertainty in the broadcasting economy for the foreseeable future, a change to the existing relationship between RTÉ and TG4 is undesirable now and likely to disadvantage TG4.⁴⁵

The Forum on Broadcasting’s Final Report contained four main recommendations under the heading, ‘Broadcasting and the Irish language’:

1. The level of additional public funding required for the establishment of TG4 as a separate statutory entity should be clearly identified prior to its establishment.
2. The fulfilment by RTÉ of its obligations to Irish language broadcasting should be a key element of the Charter.⁴⁶ This could include, for instance, more programmes of a bilingual character.
3. Programmes aimed at learners of Irish, both adults and children, should be available at a variety of levels either on RTÉ or TG4.

⁴¹ For the Terms of Reference of the Forum on Broadcasting, see: <http://www.forumonbroadcasting.ie/terms.html>.

⁴² *Op. cit.*, p. 33.

⁴³ Submission to the Forum on Broadcasting from the Broadcasting Commission of Ireland, 15 May 2002, available at: <http://www.irtc.ie/forum.htm>.

⁴⁴ Submission to the Forum on Broadcasting, Radio Telefís Éireann, 2002, p. 28, *op. cit.*

⁴⁵ *Ibid.*

⁴⁶ Editor’s note: The Forum recommended that “[t]he Minister for Communications, Marine and Natural Resources should agree with RTÉ a Charter for the exercise of its public service remit, and rolling business planning for the delivery of agreed objectives” (Recommendation No. 12).

4. The BAI⁴⁷ should continue the work of the BCI in exploring new ways of enhancing and incentivising Irish language broadcasting in the commercial sector.⁴⁸

The Department of Communications, Marine and Natural Resources subsequently prepared a report for the Minister, outlining its response to the Report of the Forum on Broadcasting. As far as the Irish language is concerned, it proposed the following action:

- (i) Proposals on how to proceed in relation to the commitment in the Programme for Government in relation to the separate establishment of TG4 will be brought forward shortly to Government after consultation with relevant Ministers.
- (ii) The Charter to be published by RTÉ will include specific proposals in relation to bilingual programming and Irish language broadcasting.
- (iii) The issue of programmes aimed at learners of Irish will also be addressed as part of the public service broadcasting remit and will be included in the relevant business plans.
- (iv) [...] ⁴⁹

One final matter to be considered concerns digital television: of the envisaged six multiplexes to serve the Irish market, a half of one multiplex has been set aside for TG4 by statute (see Section 9 of the Broadcasting Act, 2001). However, at the time of writing, no multiplex operator had been licensed pursuant to the 2001 Act.

⁴⁷ Editor's note: The Forum recommended the establishment within three years of a new single regulator for broadcasting in Ireland to be called the Broadcasting Authority of Ireland ('BAI'), to assume the existing regulatory functions of the BCI and the RTÉ Authority (Recommendation No. 8).

⁴⁸ Recommendation Nos. 32-35, 'Forum on Broadcasting Report to the Minister For Communications Marine and National Resources Dermot Ahern TD', August 2002, available at: <http://www.dcmnr.gov.ie/files/BroadcastingFinal.doc>. See further, M. McGonagle, 'IE – Broadcasting Forum Report', *IRIS – Legal Observations of the European Audiovisual Observatory*, 2002-10: 10.

⁴⁹ Report of the Forum on Broadcasting – Department's Report to the Minister, November 2002, pp. 29-30, available at: <http://www.dcmnr.gov.ie>.

Appendix: Ireland

EXTRACTS FROM THE BROADCASTING ACT, 2001:⁵⁰

45. [...]

(4) Without prejudice to the generality of *subsection (1)*, Teilifís na Gaeilge shall commission the making of programme material, originate programme material and, subject to, and in accordance with, *subsection (5)*, acquire programme material from such sources as it thinks appropriate so as to ensure that the programme schedules of the broadcasting service referred to in *subsection (1)* (and also, where appropriate, any means of transmission referred to in *subsection (8)(c)*)—

(a) provide a comprehensive range of programmes, primarily in the Irish language, that reflect the cultural diversity of the whole island of Ireland and include programmes that entertain, inform and educate, provide coverage of sporting, religious and cultural activities and cater for the expectations of those of all age groups in the community whose preferred spoken language is Irish or who otherwise have an interest in Irish,

(b) provide programmes, primarily in the Irish language, of news and current affairs,

(c) provide coverage of proceedings in the Houses of the Oireachtas and the European Parliament, and

(d) facilitate or assist contemporary cultural expression and encourage or promote innovation and experimentation in broadcasting.

(5) Teilifís na Gaeilge may, for the purpose of complementing the programme material it broadcasts in the Irish language, acquire programme material in other languages; in acquiring such material, Teilifís na Gaeilge shall have regard to the need to maintain the distinctive character of the broadcasting service referred to in *subsection (1)* and to cater for the expectations of audiences who are not generally catered for by other broadcasting services.

(6) Each amount paid to Teilifís na Gaeilge under *section 51* shall be used by it solely for the purposes of performing its function under *subsection (1)* and exercising the powers conferred on it by this Act with respect to that function.

(7) Teilifís na Gaeilge may use moneys it obtains from any source, other than under *section 51*, in whole or in part for the purposes referred to in *subsection (5)*.

(8) Without prejudice to the generality of the preceding provisions of this section, Teilifís na Gaeilge shall have the following powers—

(a) to make contracts, agreements and arrangements incidental or conducive to the functions of Teilifís na Gaeilge,

(b) to provide, in addition to the broadcasting service referred to in *subsection (1)*, broadcasting services which are of a special interest to only certain members of the community or which are made available on a subscription or pay-per-view basis,

(c) to transmit by any electronic means (other than by means of broadcasting) such of the programme schedules of the broadcasting services referred to in *subsection (1)* or *paragraph (b)*, with such alterations or adaptations as are appropriate, as it thinks fit,

(d) to acquire and make use of copyrights, patents, licences, privileges and concessions,

⁵⁰ Available at: <http://www.gov.ie/bills28/acts/2001/a401.pdf>.

- (e) to collect news and information and to subscribe to news services and such other services as may be conducive to the functions of Teilifís na Gaeilge,
- (f) to subscribe to such international associations and to such educational, musical and dramatic bodies and such other bodies promoting entertainment or culture as may be conducive to the functions of Teilifís na Gaeilge,
- (g) to arrange with other broadcasters for the distribution, receipt, exchange and relay of programme material
(whether live or recorded),
- (h) to organise, provide and subsidise concerts and other entertainments in connection with the broadcasting service referred to in *subsection (1)* or for any purpose incidental thereto and, in relation to any such concert or entertainment, to provide or procure accommodation, and, if desired, to make charges for admission,
- (i) to prepare, publish and distribute, with or without charge, such magazines, books, papers and other printed matter as may seem to Teilifís na Gaeilge to be conducive or incidental to its functions,
- (j) to compile, publish, distribute, sell and exchange recorded aural and visual material in whatsoever form contained (including any form of electronic storage developed after the establishment day).

46.—In performing its functions, Teilifís na Gaeilge—

- (a) shall use its best endeavours to commission the making of, procure, adapt or originate programme material for the purposes of the broadcasting service referred to in *section 45(1)* that is responsive to the interests and concerns of the whole community,
- (b) shall—
 - (i) be mindful of the need for understanding and peace within the whole island of Ireland, and
 - (ii) ensure that the programme material aforesaid reflects the varied elements which make up the culture of the whole island of Ireland and have special regard for the elements which distinguish that culture, and, in particular, the Gaeltachtaí,
- (c) shall uphold the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, and
- (d) shall have regard to the need for the formation of public awareness and understanding of the values and traditions of countries other than the State, including in particular those of the Member States of the European Union.

47.—The Authority shall provide to Teilifís na Gaeilge programme material in the Irish language of such amounts and at such times as may be agreed between them, being such amounts and such times as, in their opinion, will result in the equivalent of one hour of such programme material being provided daily by the Authority to Teilifís na Gaeilge.

48.—The total number of hours per year of broadcasting by Teilifís na Gaeilge in providing the television broadcasting service referred to in *section 45(1)* shall neither exceed a maximum nor be less than a minimum fixed by Teilifís na Gaeilge, with the approval of the Minister, for that service.

[..]

51.—The Minister, with the consent of the Minister for Finance, may from time to time pay to Teilifís na Gaeilge such an amount as he or she determines to be

reasonable for the purposes of defraying the expenses incurred by Teilifís na Gaeilge in performing its functions.

IRISH LANGUAGE PROGRAMMING IN THE INDEPENDENT BROADCASTING SECTOR

Section 4: Recommendations and Implementation

Recommendation:

1. A consultation process should be initiated with the programme controllers in each station prior to the commencement of any programme initiatives to ensure the programming is of relevance to the listeners.

Action Required:

Workshops targeting programme controllers should be organised to facilitate this consultation phase.

Recommendation:

2. A person to co-ordinate the implementation of the recommendations should be appointed.

Action Required:

This person would be partly financed by Bord na Gaeilge/Foras na Gaeilge and partly by the IRTC. The Irish Language Co-ordinator would operate from the offices of the IRTC and would oversee the implementation phase in conjunction with the Advisory Group.

Recommendation:

3. Information database to be created, which would include names of Irish speakers, various organisations with whom stations could link, musicians, projects being undertaken, etc.

Action Required:

The compilation of the information for this database is to be undertaken by Fionnuala MacAodha, current member of the Irish Language Advisory Group. A person will be required to maintain and up-date the information. The distribution of advertisements for Irish language speakers initiated by this advisory committee and conducted through AdSat should be continued.

Recommendation:

4. Sponsorship/funding should be sought for programme production and an award category established for Irish programming initiatives under the IRTC's New Adventures in Broadcasting scheme.

Action Required:

The IRTC has created an award category for the 'best' Irish language programme funded under its Scheme 2000/01.

Recommendation:

5. Increase awareness of advertising in Irish among advertisers and marketing departments.

Action Required:

An information leaflet should be produced for distribution, which would outline the benefits of advertising in Irish, list a few facts concerning the potential market, the public's attitude to the Irish language, the cost benefits, etc. A body such as Bord na Gaeilge/Foras na Gaeilge could produce such an information leaflet.

Recommendation:

6. Investigate the possibility of producing programming centrally, e.g., news bulletin by INN, and linking stations that have similar programmes.

Action Required:

This will require consultation with INN personnel and station programme controllers. A news bulletin in Irish would require the appointment of a person within INN to read the news in Irish on a daily basis. This could be a full-time journalist who is recruited with this extra duty in mind or could be a person employed on a part-time basis.

Recommendation:

7. Training should be organised and a series of workshops scheduled to run around the country, which would concentrate on ways of integrating the use of Irish in programmes and programme schedules.

Action Required:

These should be given by skilled and nationally recognised presenters and producers and should be hosted in and by stations. The IRTC will incorporate Irish language programming in its training policy. The Commission's Development Officer will assist in the organising of the training workshops. Gael-linn/Comhar na Múinteoirí Gaeilge and other interested parties should be approached with a view to providing Irish language teaching programmes.

Recommendation:

8. A glossary of terms should be compiled.⁵¹

Action Required:

Proinsias Ó Donncha will compile the glossary, which on completion will be distributed by the IRTC.

Recommendation:

9. The programmes with an Irish language content that the Committee would envisage would include;

- Programmes through Irish only.
- Bilingual programmes; sports, music, news, lifestyle.
- Irish to cater for student interest at all levels.
- Short information type features.
- Magazine style programmes and pre-recorded programmes of general interest/documentaries, these could be bi-lingual or through Irish only.
- Competitions/cash giveaways.
- Pre-recorded vignettes/phrases in Irish for presenters.

Action Required:

It is envisaged that the Co-ordinator would facilitate the development of such programming with stations on an individual basis.

⁵¹ Note: This glossary has since been compiled: *Nathanna Cainte don Raidió/Irish Phrases for Radio*, Foras na Gaeilge/Broadcasting Commission of Ireland, 30 April 2002.

