

## **BROADCASTERS' AGREEMENT**

On the method of fulfilling the obligations under Art. 18a of the Broadcasting Act concerning reception aids in television programmes for vision impaired and hearing impaired persons

Bearing in mind the implementation of the Broadcasting Act as amended in 2011, which in its Art. 18a obligates television broadcasters to provide services for visually impaired and hearing impaired persons of appropriate duration limits, and

- following the recommendations provided in the Directive 2010/13/EU of the European Parliament on the audiovisual media services and the UN Convention on the rights of persons with disabilities
- considering the needs of the disabled persons' community,
- taking into account the technical, organisational and financial capabilities of television broadcasters,
- and also with regard to the necessity to ensure adequate quality of services with respect to the individual types of reception aids and persons benefiting from them,
- having reached certain agreements with representatives of disabled persons' communities,

the signatories of this Agreement have decided to adopt the following:

### **1. Aids for visually impaired persons**

Audiodescription is a service dedicated to visually impaired persons. A clear definition of that service is provided in Art. 4 section 28 of the Broadcasting Act.<sup>1</sup> However, other services, which are created for recipients at large, such as for instance voice over dialogues in foreign movies or sporting events with TV commentator's voice do not constitute a full-value service dedicated to the visually impaired, and must not be included in the obligatory service quota.

Broadcasters of digital terrestrial television are obliged to broadcast programmes with audiodescription which should be developed as defined above, subject to the following duration limits:

Audiodescription means a verbal, sound description of a picture and visual content contained in an audiovisual programme addressed to visually impaired persons, which is included in the programme or transmitted concurrently with the programme;

- **In each settlement quarter starting from Q3 2013:**

- 11 hours of broadcasting TV programmes with audiodescription, for programmes with the highest audience ratings (TVP1, TVP2, Polsat, TVN) and representing the following genres: feature movies and series, documentary films and series, education and practical advice programmes, TV theatre, sports shows, programmes addressed to children and to the youth;
- 6 hours of TV broadcasting other programmes with audiodescription, for programmes offered on digital terrestrial multiplexes, such as TVP Polonia, TVP Kultura, TVP Historia, TVN7, TV4, TV6, Puls, Puls2, ATM Rozrywka, TTV.

The above TV broadcasting times with audiodescription have been adopted considering the current situation and the technical, organisational and financial capabilities of TV broadcasters. **They are, however, not meeting all the expectations of visually impaired persons.**

The above limits do not apply to regional public television programmes and Polsat Sport News due to the programme profile.

The above requirements do not apply to programmes transmitted otherwise than by terrestrial diffusion and to music programmes. The programmes are not released from the obligation to provide aids for disabled persons, which shall represent 10% of the quarterly broadcasting time excluding advertisements and teleshopping. No expected programme duration limits with audiodescription are determined for them.

## **2. Aids for hearing impaired persons**

### **2.1 Captions for the hearing impaired**

Subtitles for the hearing impaired are understood to be:

- **Captions prepared in the mother tongue which are the text equivalent of spoken dialogues or narratives, and which are strictly corresponding to the picture displayed on the screen while featuring differentiation of the individuals participating in the dialogue (using colours or text identifiers – initials, names of characters etc.) and text descriptions of sound effects;**
- **“Live” captions – service enabling the hearing impaired to gain access to the sound content accompanying the picture in the almost-real time (i.e. with a slight time-shift); used in news programmes and commentaries;**
- **Dialogue captions containing texts in the mother tongue of dialogues and narratives of foreign programmes.**

If possible, captions for the hearing impaired should be a closed caption service (such as teletext) i.e. available once selected by the user.

**No obligatory duration limits are specified with regard to the services dedicated to the hearing impaired. Those limits should be at least complementary with respect to the entire quota required under the statutory obligations so that the transmission time with audiodescription, captions for the hearing impaired and translation into the sign language accounted for at least 10% of the quarterly transmission time excluding advertisements and teleshopping.**

## 2.2 Translation into the sign language

Translation into the sign language is understood to be the translation done in the Polish Sign Language (PJM) or in the Manually-Coded Language System (SJM) (Act on the sign language and other communication means, Journal of Laws of 3 October 2011 as amended). The two are not equivalent; their users can be different groups of hearing impaired persons. A TV broadcaster shall define the translation method independently; however, it is the PJM that is recommended for translations prepared for the youngest viewers.

**It has been agreed to have at least 10 hours per quarter of translations into the sign language** in regional public television programmes and in Polsat Sport News, as well as such duration time as appropriate considering the capabilities of broadcasters and the programme profile - for of other programmes - especially for the youngest viewers.

In order to reach little viewers in the most effective way, broadcasters are recommended to contact education centres for deaf and hard of hearing children.

### 3 Information about Services

Information concerning the service type, programme profile, programme duration and the date and hour of starting the programme with aids should be posted:

- on the broadcaster's website (using relevant symbols in the TV guide next to the programming services featuring the aids or on separate pages containing the list of such programmes offering clear navigation);
- in the teletext - if the broadcaster provides this service<sup>2</sup> (using specific symbols on pages with the TV guide: N (for captions), AD (for audiodescription), JM (for sign language) or a list of programmes with such aids on separate pages);
- in broadcaster's announcements promoting a specific programme (by using the above symbols next to the programming services featuring aids; for programming services with audiodescription, adding the voice information is recommended);
- in the Electronic Programme Guide (EPG) in the programme description (symbols of aid types as described above)

and in printed press, if possible.

<sup>2</sup> Although the digital technology enables captions in the DVB standard, the broadcasters are recommended the retention of the teletext transmission. It should serve, amongst others, to ensure fast (much faster than via the Internet) retrieval of all sort of information including information about the TV programme and shows featuring aids for disabled persons. For cable networks which do not yet offer digital services, teletext is the only method of carrying content for the deaf and hard of hearing.

#### 4. Access services in cable networks

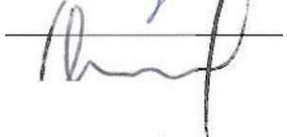
Polish TV broadcasters are pointing out that both an additional sound track featuring audiodescription and closed captions for the hearing impaired should be delivered by the operator to all recipients benefiting from its digital offer.

However, operators of analogue cable networks should carry the teletext signal to recipients to enable the hearing impaired to have access to captions for hearing impaired persons.

#### 5. The review and potential update of this Agreement is scheduled for mid 2014.

Warsaw, 5 June 2013

#### Agreement signatories:

<b>TVP SA</b>	Marian Zalewski – Management Board Member	
<b>Telewizja POLSAT</b>	Maciej Stec - Management Board Member	
<b>Telewizja TVN</b>	Edward Miszczak - Management Board Member Maciej Maciejowski - Management Board Member	
<b>Telewizja PULS</b>	Małgorzata Ceckowska - Legal Affairs Director	
<b>Polskie Media (TV4)</b>	Mariusz Walkiewicz – Vice President of Management Board	
<b>ATM Grupa SA</b>	Maciej Grzywaczewski - President of Management Board Adam Baworowski - Programme Director	
<b>Stavka Sp. z o.o.</b>	Stanisław Krzemiński - President of Management Board	

## JUSTIFICATION

As of 1 July 2011, an amended version of the Broadcasting Act has come into force (hereafter the Broadcasting Act); its Art. 18a obligates TV broadcasters to provide special aids to visually impaired and hearing impaired persons to enable them access to the content.

As of 2012, programmes with aids are to constitute 10% of the quarterly transmission time excluding advertisements and teleshopping.

This Agreement has been developed in connection with the works conducted by the Working Team established in May 2012. It has been prepared on the basis of the outcome of public consultations conducted by the National Broadcasting Council (May – June 2012), which have disclosed that for the broadcasters' part there are major interpretation areas which are inconsistent with the Act and on the recipients' part - their expectations as to the size and character of the services provided to them.

Furthermore, this standpoint has been worked out with the support of documents developed in other European countries such as statutes, ordinances and codes of good practice.

Art. 18a of the Broadcasting Act does not specify what part of the statutory obligations towards disabled persons concerns the visually impaired and which the hearing impaired. The abovementioned public consultations conducted by the Broadcasting Council supported the view that the proportions between different types of aids should be a function of the programme's profile rather than the effect of rigid percentages imposed. This solution would be more favourable both for broadcasters and recipients and particularly relevant for the audiodescription quotas. It would allow the broadcasters to allocate their energy and resources in an efficient way in order to satisfy the recipients' needs; the priorities of those recipients were clearly determined by the said Working Team.

The audiodescription quotas proposed in the Agreement apply only to programmes transmitted via a digital terrestrial platform for the following reasons:

- the audiodescription service may be carried in the digital technology only; analogue terrestrial television and analogue telecommunication networks (cable networks) are not able to carry it,
- the digital terrestrial television is carried free of charge to the recipient without additional subscription costs to telecommunication operators (satellite or cable operators),
- some satellite platforms and digital telecommunication networks are not in a position to carry programmes with audiodescription to the recipient due to technical reasons (limited stream capacity) or due to contracts with broadcasters concluded earlier which do not provide for transmission of additional sound. The "transitory period" stipulated in Section 5 of the Agreement will operate as a tool to remove those impediments.

Art. 18a of the Broadcasting Act names captions for the hearing impaired and translation into the sign language as being the aids earmarked for hearing impaired persons. However, unlike audiodescription which is an aid dedicated to visually impaired persons, the Act does not define either of those terms. Therefore establishing definitions of the different methods of providing content for the hearing impaired has been regarded as especially important for the purpose of this Agreement, particularly in a situation where some broadcasters treat all teletexts shown on the TV set screen as being a service for hearing impaired persons.

In view of the comprehensive programme offer, the method of informing the recipient with a visual or hearing impairment about the date, hour, duration, programme profile and types of aids offered is particularly important. At present, each broadcaster applies its own method that it deems fit. Therefore, Section 3 of the Agreement specifies the methods which broadcasters should apply when informing recipients suffering from sensory impairment about the offer specifically addressed to them. An appropriate method of providing information proves beneficial for both parties.

The digital technology enables access services to be provided to visually impaired and hearing impaired persons also via cable networks. However, not all operators have adjusted their networks and end devices to be able to receive those services. Section 4 of the Agreement is pointing out to the necessary adjustments in that respect.

The obligations involving the provision of aids to disabled persons are a new challenge for TV broadcasters. The latter need some time to get ready for their full implementation in terms of meeting the technical, organisational and financial requirements. Moreover, the first implementation stage of the digital terrestrial television has not been completed yet, and it is only in Q2 2014 that three free-of-charge terrestrial multiplexes will offer nationwide services and will carry the intended target programme offer.

