

ACT
on radio and television broadcasting

NON OFFICIAL TRANSLATION

PART I General provisions and definitions

Article 1. [This Flemish Parliament Act regulates a community and regional matter. It transposes, inter alia, the provisions of Directives:

[1° Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector;]¹

[2° ...]²

3° Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).]³

[4° ...]⁴

[4° Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code

5° Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services]⁵

Article 2. For the purposes of this Act:

[1° Recommendation means : recommendation of the European Commission on relevant markets for products and services;]⁶

[[1°/1]⁷ video-sharing platform provider: the natural or legal person who provides a video-sharing platform service;]⁸

[1°/2 significant market power means: an undertaking shall be deemed to have significant market power if, either individually or jointly with other undertakings, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers;]⁹

¹ Replaced by the act of 02.07.2021

² Lifted by the act of 02.07.2021

³ Replaced by the act of 13.07.2012

⁴ Added by the act of 12.02.2021 with planned entry into force on 01.01.2023 withdrawn by the act of 03.06.2022

⁵ Added by the act of 03.06.2022

⁶ Inserted by the act of 02.07.2021

⁷ Renumbered from 1° to 1°/1 by the act of 02.07.2021

⁸ Inserted by the act of 19.03. 2021

⁹ Inserted by the act of 02.07.2021

[1°/3]¹⁰] ¹¹ current affairs program: a program in which one or more current events are addressed and/or commented on;]¹²

[[1°/4]¹³]¹⁴]¹⁵ application program interface or API means: software interface between external applications, made available by broadcasters, service distributors or network operators, and the resources for digital television and radio broadcasting as regards advanced digital terminal equipment;]¹⁶

[1°/5 SMP guidelines means: guidelines of the European Commission for market analysis and the assessment of significant market power;]¹⁷

[1°/5/1 audiovisual work: an animation, documentary or fiction film or an animation, documentary or fiction series;]¹⁸

[1°/6 BEREC means: the Body of European Regulators for Electronic Communications, established by regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009;]¹⁹

[1°/7 associated service means: a service associated with an electronic communications network or an electronic communications service which enables or supports the provision, self-provision or automated-provision of services via that network or service, or has the potential to do so, and includes conditional access systems and electronic program guides (EPGs), as well as other services such as identity, location and presence information services;]²⁰

[1°/8 associated facilities means: associated services, physical infrastructures and other facilities or elements associated with an electronic communications network or an electronic communications service which enable or support the provision of services via that network or service, or have the potential to do so, and include buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets;]²¹

2° wide-screen television program means: program that has been partly or wholly produced and edited to be rendered in a full-frame wide-screen format. The 16:9 format is the reference for wide-screen television programs;

3° public service announcements means:

¹⁰ Renumbered from 1° to 1°/1 by the act of 19.03.2021

¹¹ Renumbered from 1°/1 to 1°/3 by the act of 02.07.2021

¹² Inserted by the act of 13.07. 2012

¹³ Amended by the act of 13.07. 2012.

¹⁴ Renumbered from 1°/1 to 1°/2 by the act of 19.03. 2021

¹⁵ Renumbered from 1°/2 to 1°/4 by the act of 02.07.2021

¹⁶ Changed by the act of 19.03.2021

¹⁷ Inserted by the act of 02.07.2021

¹⁸ Inserted by the act of 01.03.2024

¹⁹ Inserted by the act of 02.07.2021

²⁰ Inserted by the act of 02.07.2021

²¹ Inserted by the act of 02.07.2021

a) each message on policy, emanating from the authorities or from public institutions, associations or government companies, with [the governing body]²² or Directors made up of a majority of government representatives and whose task involves carrying out a public service that is not executed by the private sector, and who are competent for and which are wholly or mostly directed at the Flemish Community and the Dutch-speaking population of the bilingual Brussels-Capital Region, irrespective of the form, and irrespective of the payment or payment method;

b) each message pertaining to their duty of public interest, which emanates from social and humanitarian associations or from associations related to general welfare, irrespective of their form and irrespective of the payment or payment method;

c) each message emanating from the cultural associations that are accredited or funded by the public administration services, and which are aimed at publicizing their cultural activities to the general public, irrespective of their form and irrespective of the payment or payment method;

4° collective aerial for a closed user group means: an installation for capturing radio and television broadcasting signals, to which various receiver terminals are connected and the use of which – excluding the user's contribution to the real costs resulting from its installation, its operation and the maintenance of the installation – does not require a subscription fee of any kind;

[5° commercial communication: images, with or without sound, or sounds which are designed to promote, directly or indirectly, the goods, the services or the image of a natural or legal person pursuing an economic activity. Such images or sounds accompany, or are included in, a program or user-generated content in return for payment or for similar consideration or for self-promotional purposes. Forms of commercial communication include, inter alia, advertising, sponsorship, teleshopping and product placement;]²³

6° competition means: a series of competitions of a group of clubs in which every club plays all the other clubs or in which two clubs have to play each other, so that the loser is eliminated;

[6°/1 Contact Committee: the contact committee, mentioned in article 29 of directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (audiovisual media services directive);]²⁴

7° service distributor means: every legal entity that provides one or more broadcasting services to the general public using electronic communication networks. The broadcaster which only makes available its own broadcasting services to the general public is not a service distributor;

[7°/1 user-generated content: a set of moving images, with or without sound, or a series of sounds or noises, aimed at the general public or part of it, constituting an individual item,

²² Replaced by the act of 19.04.2024

²³ Replaced by the act of 19.03.2021

²⁴ Inserted by the act of 19.03. 2021

irrespective of its length, that is created by a user and uploaded to a video-sharing platform by that user or any other user;]²⁵

[[7°/2 terminal equipment with interactive computing capability used for access to television services: any type of equipment for use by consumers whose principal function is to provide access to television services;]^{26]}²⁷

[8° electronic communications network means: transmission systems, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals for radio and television broadcasting by wire, radio, optical or other electromagnetic means, to the extent that they are used for the purpose of transmitting signals including satellite networks, fixed (circuit- and packet-switched, including internet) and mobile networks, electricity cable systems, [television broadcasting networks, radio broadcasting networks]²⁸ and cable broadcasting networks;]²⁹

[9° electronic communications service means: a service normally provided for remuneration via electronic communications networks, which consists wholly or mainly in the conveyance of signals for radio broadcasting and television;]³⁰

[10° ...]³¹

11° European productions means:

a) the following productions :

1) productions created in the Member States of the European Union;

2) productions from third-party European states that have signed the Council of Europe's Treaty as regards cross-border television and which comply with the conditions, as set out in item b);

3) co-productions produced within the scope of the agreements between the European Union and third-party countries concerning the audiovisual sector and which comply with the conditions of the aforementioned agreements. A condition for the application of items 2) and 3) is that productions made in Member States are not affected by discriminatory measures in the third-party countries concerned;

b) the productions, referred to in items a), 1), and a), 2), are productions that were mainly produced with the help of authors and collaborators who reside in one or more of the Member States mentioned in items a), 1), and a), 2), and meet one of the three following conditions :

1) the productions were created by one or more producers, established in one or more of these Member States;

²⁵ Inserted by the act of 19.03. 2021

²⁶ Inserted by the act of 03.06.2022. Comes into force on 28.06.2025

²⁷ Entry into force amended by decree of 01.03.2024. Comes into force on 01.01.2025

²⁸ Replaced by the act of 10.07.2026

²⁹ Replaced by the act of 02.07.2021

³⁰ Replaced by the act of 02.07.2021

³¹ Lifted by the act of 10.07.2026

2) their creation came about under the supervision and effective control of one or more producers established in these Member States;

3) the contribution of the co-producers of these states to the total cost of the co-production is significant and the co-production is not controlled by one or more producers established outside of these Member States;

c) productions that are not European productions as referred to under item a), but which are created within the framework of co-production agreements concluded between the Member States and third-party countries, are considered to be European products as long as the European Union co-producers hold a majority share in the total product costs and the production is not controlled by one or more producers established outside of the Member States;

12° event means: an event that is open to the public. The event is a complete happening with a natural beginning and end. If an event extends over several days, every day is considered as a separate event;

13° holder to the exclusive right means: any broadcaster that falls under the Flemish Community, another community or another European Union Member State,[or another state in the European Economic Area]³² which has acquired the exclusive broadcasting rights for the Flemish Community for a given event;

[14° enhanced digital terminals means: boxes with converter and decoder and integrated digital television sets for the reception of digital interactive broadcasting services;]³³

[14°/1 interconnection means: a specific type of access implemented between public network operators by means of the physical and logical linking of public electronic communications networks used by the same or a different undertaking in order to allow the users of one undertaking to communicate with users of the same or another undertaking, or to access services provided by another undertaking where such services are provided by the parties involved or other parties who have access to the network;]³⁴

15° minor means: any person between twelve and sixteen years of age;

[15°/1 news program: a program consisting of news reports in which the general news of the day is treated;]³⁵

16° cable broadcasting network means: electronic communication network used to transmit potentially encrypted radio and television broadcasting signals, using any type of cable, to third parties;

[17° Administrative Act: the Administrative Act of 7 December 2018]³⁶

18° child means: a person under the age of twelve;

³² Inserted by the act of 19.04.204

³³ Replaced by the act of 02.07.2021

³⁴ Inserted by the act of 02.07.2021

³⁵ Inserted by the act of 13.07. 2012

³⁶ Replaced by the act of 07.12.2018

19° children's program means: a program that is mainly aimed at children, as is clear, among others, from the content, the time of broadcast, the design, the presentation and the manner in which it is announced;

20° linear radio service means: a linear, audio broadcasting service, i.e. a broadcasting service offered by a broadcaster for the simultaneous listening to audio programs based on a program schedule;

21° linear television broadcasting service means: a linear, audiovisual broadcasting service, i.e. a broadcasting service offered by a broadcaster for the simultaneous viewing of audiovisual programs based on a program schedule;

[21°/0 microenterprise: enterprise which employs fewer than 10 persons and which has an annual turnover or an annual balance sheet total not exceeding EUR 2 million;]³⁷

[21°/1 very high capacity network means: either an electronic communications network which consists wholly of optical fibre elements at least up to the distribution point at the serving location, or an electronic communications network which is capable of delivering, under usual peak-time conditions, similar network performance in terms of available downlink and uplink bandwidth, resilience, error-related parameters, and latency and its variation; network performance can be considered similar regardless of whether the end-user experience varies due to the inherently different characteristics of the medium by which the network ultimately connects with the network termination point;]³⁸

22° network operator means: the provider of an electronic communication network. This includes the building, exploiting, managing and making available of an electronic communication network;

23° non-linear radio service means: a non-linear, audio broadcasting service or on-demand audio broadcasting service, i.e. a broadcasting service offered by a broadcaster, offering the user the possibility of listening to audio programs at his or her individual request and at a moment of his or her own choice from a program catalogue selected by the broadcaster;

24° non-linear television service means: a non-linear, audiovisual broadcasting service or on-demand audiovisual broadcasting service, i.e. a broadcasting service offered by a broadcaster, enabling the user to watch audiovisual programs at his or her individual request and at a moment of his or her own choice from a program catalogue selected by the broadcaster;

25° broadcasting activity means: any activity consisting of making available moving images, with or without sound, or of a series of sounds or noises aimed at the general public or part thereof by means of electronic communication networks. Broadcasting activity is also referred to as radio and television broadcasting;

[26° broadcasting service:

³⁷ Inserted by the act of 03.06.2022. Comes into force on 28.06.2025

³⁸ Inserted by the act of 02.07.2021

a) a service as mentioned in articles 56 and 57 of the Treaty on the Functioning of the European Union, which falls under the editorial responsibility of a broadcaster, its main object or the main object of a stand-alone part being to supply audiovisual or audio programs to the general public, with the aim of providing information, entertainment, education or of a cultural nature, by means of electronic communication networks. Broadcasting services are radio services or television services;

b) commercial communication;]³⁹

27° broadcaster means: the natural person or legal person which holds editorial responsibility for the choices as regards the broadcaster's content and which determines how it is organized;

28° broadcasting program means: all programs and all supplementary accompanying information, which is offered by a broadcaster based on a program schedule, under a brand or title;

29° organizer means:

a) the person or association that organizes an event

b) the holder of the use and operational rights to the event;

[29°/1 persons with disabilities: persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;]⁴⁰

[29°/2 production project: a project submitted or carried out in the context of the application of article 188/2, §1, first paragraph, 1°, and which meets the conditions as determined by the Flemish Government;]⁴¹

[30° product placement: any form of audiovisual commercial communication consisting of the inclusion of, or reference to, a product, a service or the trade mark thereof so that it is featured within a program or user-generated content, in return for payment or for similar consideration;]⁴²

[31° program: a set of moving images, with or without sound, or a series of sounds or noises, constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a broadcaster, including feature-length films, video clips, sports events, situation comedies, documentaries, children's programs and original drama;]⁴³

32° programming means: all programs offered;

33° radio service means: an audio broadcasting service;

³⁹ Replaced by the act of 19.03.2021

⁴⁰ Inserted by the act of 03.06.2022. Comes into force on 28.06.2025

⁴¹ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴² Replaced by the act of 19.03.2021

⁴³ Replaced by the act of 19.03.2021

[33° /1 radio broadcasting network: an electronic communications network through which, primarily, radio broadcasting signals in analogue or digital form are transmitted to third parties via terrestrial transmitters throughout the Flemish Community or part thereof;]⁴⁴

34° radio broadcaster means: a provider of radio services;

35° advertising means: the audiovisual or audio message transmitted by a public or private company or natural person – in any form – related to the exercise of a commercial, industrial, or trading activity or of a profession to promote the supply of goods or services in return for payment, including immovable goods, rights and duties, which are then broadcast in the frame of a linear broadcasting service, in return for payment or similar compensation or for self-promotional purposes [in a linear broadcasting service]⁴⁵;

36° editorial statute means: a written reference framework in which the joint relations are established between the editors, the editor-in-chief and the management. It guarantees editorial independence with respect to the broadcaster;

[36°/1 editorial decision: a decision which is taken on a regular basis for the purpose of exercising editorial responsibility and linked to the day-to-day operation of the broadcasting service;]⁴⁶

37° editorial responsibility means: the exercise of effective control on the choice of programs and their organisation, either in a chronological schedule, in case of linear television and radio services, or in a catalogue, in case of non-linear television and radio services;

38° audiovisual media services Directive means: Directive 89/552/EEC of 3 October 1989 of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, and later amendments to this Directive;

[39° satellite broadcasting network means: an electronic communications network that transmits radio and television broadcasting signals in digital form, whether encrypted or not, by satellite to the general public;]⁴⁷

40° secondary linear broadcaster means: the broadcaster of the Flemish Community or every linear broadcaster that has not acquired exclusive broadcasting rights for the Flemish Community, in case exclusive broadcasting rights have been granted to the event.

[41° sponsorship: any contribution made by a public or private undertaking or natural person not engaged in providing broadcasting services or video-sharing platform services or in producing audiovisual or audio works to the financing of broadcasting services, video-sharing

⁴⁴ Inserted by the act of 10.07.2026

⁴⁵ By act of 19 December 2025, the words ‘in a linear broadcasting service’ are interpreted as follows: embedded in the broadcasting programme to be viewed or listened to simultaneously by all viewers or listeners of the linear broadcasting service. Commercial communication that is not included in the signal of the linear broadcasting programme is not advertising

⁴⁶ Inserted by the act of 19.03.2021

⁴⁷ Replaced by the act of 02.07.2021

platform services, user-generated content or programs with a view to promoting its name, trade mark, image, activities or products;]⁴⁸

[42° conditional access system means: any technical measure, authentication system and/or arrangement whereby access to a protected radio or television broadcasting service in intelligible form is made conditional upon subscription or another form of prior individual authorisation;]⁴⁹

43° television service means: an audiovisual broadcasting service;

[43° /1 television broadcasting network: an electronic communications network through which television signals, primarily in digital form, whether or not encrypted, are transmitted to third parties via terrestrial transmitters throughout the Flemish Community or part thereof;]⁵⁰

44° television broadcaster means: a provider of television services;

45° teleshopping means: direct offers broadcast to the public with a view to supplying goods or services in return for payment, including immovable property, rights and obligations;

[45°/0 services providing access to television services: services transmitted by electronic communications networks which are used to identify, select, receive information on, and view television services and any provided features, such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation, which result from the implementation of measures to make services accessible as referred to in article 151. The services providing access to television services also include electronic programme guides;]⁵¹

[45°/1 transnational markets means: markets identified in accordance with article 65 of Directive (EU) 2018/1972, which cover the European Union or a substantial part thereof located in more than one Member State;]⁵²

[[45°/2 video-sharing platform service]⁵³: a service as mentioned by articles 56 and 57 of the Treaty on the Functioning of the European Union, where the principal purpose of the service, of a stand-alone part of it or of an essential functionality of the service is devoted to providing [audiovisual]⁵⁴ programs, user-generated [audiovisual]⁵⁵ content, or both, to the general public, for which the video-sharing platform provider does not have editorial responsibility, in order to inform, entertain or educate, by means of electronic communications networks and the organisation of which is determined by the video-sharing platform provider, including by automatic means or algorithms, in particular by displaying, tagging and sequencing;]⁵⁶

⁴⁸ Replaced by the act of 19.03.2021

⁴⁹ Replaced by the act of 02.07.2021

⁵⁰ Inserted by the act of 10.07.2026

⁵¹ Inserted by the act of 03.06.2022. Comes into force on 28.06.2025

⁵² Inserted by the act of 02.07.2021

⁵³ Replaced by the act of 19.04.2024

⁵⁴ Inserted by the act of 19.04.2024

⁵⁵ Inserted by the act of 19.04.2024

⁵⁶ Inserted by the act of 19.03.2021

[[45°/3 Flanders Audiovisual Fund, abbreviated FAF]⁵⁷: the non-profit organization Flanders Audiovisual Fund, established by the act of 13 April 1999 authorizing the Flemish Government to accede to and to participate in the establishment of the non-profit association Flanders Audiovisual Fund;]⁵⁸

46° self-promotion means: a broadcasting service's recommendation of its own products, services, programs or networks;

47° broadcasting equipment means: any equipment that is destined, in whole or in part, for the wireless broadcast of radio and television broadcasting signals to the general public;

48° broadcasting licence means: licence for the exploitation of any equipment that is destined for transmitting wireless radio or television broadcasting signals;

[49° independent producer: one of the following producers:

a) the producer who meets all the following conditions:

- 1) the legal personality of the producer is distinct from that of a television broadcaster;
- 2) the producer is not affiliated, as mentioned under article 1:20 of the Companies and Associations Code, with a television broadcaster;
- 3) the producer does not directly or indirectly hold more than 25% of the voting rights or property rights of a television broadcaster;
- 4) no more than 25% of the producer's voting rights or property rights are held directly or indirectly by a television broadcaster;
- 5) no more than 25% of the voting rights or property rights of the producer are held directly or indirectly by a company that directly or indirectly holds more than 25% of the voting rights or property rights of a television broadcaster;

b) the producer who does depend in accordance with point a), 2), 3), 4) or 5), but who meets one of the following conditions:

1) the figures underlying the last three approved annual accounts show that the producer has an average annual turnover from audiovisual productions of less than 25% realised directly or indirectly with the television broadcasters on which that producer depends. For the producer who does not yet have three approved annual accounts, the average annual turnover shall be assessed on the basis of a good faith estimate;

2) the television broadcaster on which the producer is dependent has only a limited proven average annual turnover as shown by the figures underlying the last three approved annual accounts, i.e. a maximum of €10 million. The turnover stated means the revenue, excluding VAT, acquired as part of:

I payment by the consumer;

II B2B agreements relating to the exploitation and/or distribution of audiovisual content;

⁵⁷ Replaced by the act of 19.04.2024

⁵⁸ Inserted by the act of 01.01.2024

III valorisation of data;

IV audiovisual commercial communication.

For the television broadcaster that does not yet have three approved financial statements, the average annual turnover shall be assessed on the basis of a good faith estimate;]⁵⁹

50° teletext means: analogue text-based service, which is shown on screen and is transmitted with the linear broadcasting signal, under the editorial responsibility of a provider of broadcasting services, and the digital version thereof;

51° audio subtitling means: an audio rendering of the subtitling of non-Dutch language films and dialogues;

52° audio description means: a technique for facilitating access to audiovisual products such as film and television programs for the blind and the visually impaired. A voice-over describes the visual elements;

53° subtitling means: a textual version of the dialogue, which is shown on screen or which can be called up;

54° sign language means: a visual-manual language, in which concepts and notions are represented using gestures in a three-dimensional gesture space.

[55° digital services act: 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;]⁶⁰

[55° administration: the department responsible for media policy;]⁶¹

[56° general data protection regulation: regulation (EU)2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (general data protection regulation).]⁶²

[56° intermediary service: an intermediary service as mentioned in article 3, g), of the digital services act;]⁶³

[57° competent authority: a competent authority as mentioned in article 49 of the digital services act;]⁶⁴

PART II. The public broadcaster of the Flemish Community

⁵⁹ Replaced by the act of 01.03.2024

⁶⁰ Added by the act of 26.01.2024

⁶¹ Inserted by the act of 19.04.2024

⁶² Inserted by the act of 19.04.2024

⁶³ Added by the act of 26.01.2024

⁶⁴ Added by the act of 26.01.2024

TITLE I. STATUTE OF THE VRT

Article 3. The Flemish radio and television broadcaster, abbreviated VRT, is a broadcaster which takes the form of a limited company governed by public law. Except for all that is not expressly regulated otherwise in this Act, [she]⁶⁵ is subject to the provisions of the [Companies and Associations Code of 23 March 2019]⁶⁶ which applies to limited companies.

Article 4. The VRT's duration is undetermined.

Article 5. The Flemish Community cannot transfer its shares in the VRT. [...]⁶⁷

The same rights and obligations are attached to all the shares. All the shares are and will continue to be registered.

TITLE II. Purpose, competence and the task of public broadcaster

Article 6. § 1. The VRT's purpose is to provide radio programs, television programs and other types of programs within the mandate of the public broadcaster as set forth below, as well as to carry out activities which directly or indirectly contribute to this, including producing programs or having programs produced, acquiring programs, putting together programming, broadcasting programs, having these broadcast and publicising them in the broadest sense of each of these terms given in Article 2.

§ 2. As a public broadcaster, the VRT has the task to reach the largest possible number of media users with a diversity of high-quality programs which attract and meet the interests of the media users.

The VRT shall provide high-quality programming in the information, culture, educational and entertainment sectors. The VRT must first and foremost provide the viewer and listener with specific information and cultural programs. In addition, [she]⁶⁸ shall also provide sport, contemporary education, original drama and entertainment. The VRT's entire offer must be characterised by the high quality of the programs, both in terms of content and in terms of form and use of language. In all [her]⁶⁹ programs the VRT shall aim to achieve the highest possible quality, professionalism, creativity and originality, while also tapping into new talents and innovative forms of expression. The VRT's programming shall appropriately target certain specific population and age groups, in particular, children and young people.

Programs must contribute to the continued development of the identity and diversity of Flemish culture and of a democratic and tolerant society. With its programs, the VRT shall contribute to forming independent, objective and pluralist opinion in Flanders. For this reason [she]⁷⁰ should aim for leadership in the field of information and culture.

In order to involve the highest possible number of Flemish citizens and in order to safeguard its credibility as a public broadcaster, the VRT will develop a sufficient number of programs aimed at a broad and general public. In addition to these general programs, other programs will meet

⁶⁵ Repaced by the act of 19.04.2024

⁶⁶ Replaced by the act of 19.04.2024

⁶⁷ Lifted by the act of 19.04.2024

⁶⁸ Replaced by the act of 19.04.2024

⁶⁹ Replaced by the act of 19.04.2024

⁷⁰ Replaced by the act of 19.04.2024

the specific areas of interest of the viewers and listeners. The target groups shall be sufficiently broad and will also be reached by the programs concerned.

The VRT shall closely follow technological developments, so that [she]⁷¹ when it is necessary and desirable, can also offer [her]⁷² programs to viewers and listeners through new media applications.

The public service task of the VRT also includes all the activities which directly or indirectly contribute to the implementation of its task. [This also includes the possibility to process personal data necessary to carry out [her public mission]⁷³.]⁷⁴

§ 3. With the authorisation of the Flemish Government, the VRT can expropriate immovable property in order to carry out [her]⁷⁵ public service tasks related to public broadcasting, as determined in § 2.

§ 4. In the context of its purpose, the VRT can also participate in companies, associations and [foundations]⁷⁶ insofar as this participation contributes to the exercise of [her]⁷⁷ broadcasting activities.

The VRT can establish a limited company on its own and subscribe to all the shares of that company, and, [...] ⁷⁸, own all the shares in a limited company, without any restriction as regards duration and without being deemed to be severally liable for the obligations of that company.

§ 5. The VRT may take out loans or issue debt securities in the context of the financial plan that was established in the management agreement. The Flemish Government can provide a Flemish Community guarantee for this.

The Flemish Government can issue public loans on the Belgian capital market on behalf of the VRT, insofar as these loans contribute to the exercise of its broadcasting activities.

§ 6. The VRT may receive donations and legacies. The VRT may award gifts and prizes worth less than 7,000 euros.]⁷⁹

Article 7. The VRT autonomously determines its programming and [her]⁸⁰ broadcasting schedule.

[The act of 17 June 2016 on the standards for Flemish government communication applies to the VRT. Contrary to the act of 17 June 2016 on the standards for Flemish government

⁷¹ Replaced by the act of 19.04.2024

⁷² Replaced by the act of 19.04.2024

⁷³ Replaced by the act of 19.04.2024

⁷⁴ Added by the act of 29.06.2018

⁷⁵ Replaced by the act of 19.04.2024

⁷⁶ Replaced by the act of 19.04.2024

⁷⁷ Replaced by the act of 19.04.2024

⁷⁸ Lifted by the act of 19.04.2024

⁷⁹ Added by the act of 19.04.2024

⁸⁰ Replaced by the act of 19.04.2024

communication, this act does not apply to the communication of the VRT about its offer and its policy as a broadcasting organization.]]⁸¹

Article 8. [Besides her]⁸² public broadcasting task, the VRT can carry out merchandising and subsidiary activities if they are related to or associated with its public broadcasting task and if these are incorporated in a framework which is approved beforehand by the Board of Directors, taking into account the following conditions:

1° the aim of these activities is to support the programs and services offered by the VRT within the scope of its public service task, to facilitate distribution thereof and to reduce the costs of offering these;

2° activities are self-sustainable and the transparency of the associated expenses and income is assured through separate accounts;

3° the activities are carried out in accordance with market-compliant conditions and shall not seriously impact competition.

The merchandising activities referred to in the first paragraph should be taken to mean any activities which are aimed at benefiting from the notoriety of programs in the VRT's programming. Additional activities, as referred to in the first paragraph, should be interpreted as all other activities. [The merchandising and ancillary activities are not regarded as an exercise of the tasks of VRT as a public authority within the meaning of the General Data Protection Regulation.]]⁸³

TITLE III. Organisation

CHAPTER I. General provisions

Article 9. The bodies of the VRT are:

1° the General Meeting of all shareholders;

2° the Board of Directors;

3° the Managing Director.

Insofar as this has not been regulated in this Act, the competence and operation of these bodies are determined in the articles of association in accordance with the [Companies and Associations Code of 23 March 2019]⁸⁴.

Article 10. [The Board of Directors, mentioned in articles 12 and 13, and the Chief Executive Officer, mentioned in article 14, shall lay down in mutual consultation, and in accordance with

⁸¹ Added by the act of 29.06.2018

⁸² Replaced by the act of 19.04.2024

⁸³ Added by the act of 29.06.2018

⁸⁴ Replaced by the act of 19.04.2024

the provisions of this Act and the Articles of Association, the following elements in a VRT Charter on Corporate Governance:

1° the manner in which they exercise their powers, mentioned in articles 13 and 14;

2° the principles of good governance with which they must comply. Those principles shall at least include the principles, mentioned in §§ 2 and 3.

The charter, mentioned in the first subparagraph, shall be submitted to the Flemish Government for notification.

§2. Each member of the Board of Directors shall always put the corporate interest of VRT first when acting and taking decisions.

If the Board of Directors considers that a director has violated the corporate interest, the chairperson shall propose to the Flemish Government that this director be dismissed from his position.

§3. Each member of the Board of Directors shall maintain discretion with regard to all information that comes to his knowledge in the context of the exercise of his directorship, except for information that has already been made public by the VRT or that can be shown beyond doubt to be in the public domain.

The duty of discretion, mentioned in the first subparagraph, also applies after the termination of the directorship.

If the Board of Directors considers that a director has violated the duty of discretion, the chairperson shall propose to the Flemish Government that this director be removed from his position.

The information, mentioned in the first subparagraph, may only be communicated outside the Board of Directors, made public or otherwise made available to third parties if a majority of the Board of Directors and the Chief Executive Officer give their consent. If the Board of Directors and the Chief Executive Officer give their consent, the Chairman of the Board of Directors shall ensure the external communication of the information.]⁸⁵

CHAPTER II. General meeting

Article 11. The General Meeting discharges the Directors and the Auditors(s) as well as the Managing Director of their activities in accordance with the provisions of Article [7:149]⁸⁶ of the [Companies and Associations Code of 23 March 2019]⁸⁷.

Without prejudice to the provision of the first paragraph, the General Meeting shall have no other competences than those assigned to it by the [Companies and Associations Code of 23

⁸⁵ Replaced by the act of 04.02.2022

⁸⁶ Replaced by the act of 19.04.2024

⁸⁷ Replaced by the act of 19.04.2024

CHAPTER III. The Board of Directors

Article 12. [§1. The Board of Directors shall consist of twelve members.

Eight members of the Board of Directors shall be appointed by the Flemish Government, with due regard to the proportional representation of the political groups in the Flemish Parliament.

Four members of the Board of Directors shall be independent directors appointed by the Flemish Government in accordance with §§ 1/1 to 1/3 inclusive.

The independent directors, mentioned in the third subparagraph, are appointed on the grounds of:

1° their demonstrable expertise in the general management of the VRT or their specific expertise in the subject matter and policy area in which the VRT is active;

2° their independence with regard to the members and the daily management of the VRT. The independence of the directors is established in accordance with article III.42 of the Management Act.

The Board of Directors shall elect a chairperson among its members, mentioned in the second subparagraph, and a vice-chairperson among its members, mentioned in the third subparagraph.]⁸⁹

[§1/1. The outgoing Board of Directors shall draw up a job profile for the mandate of independent director. At the latest three months before the term of office of the outgoing Board of Directors expires, it shall issue an open call for candidates. The call for candidates shall specify the requirements in terms of skills, knowledge and experience that the candidates must meet and shall set out the procedure for submitting applications, which shall include at least a curriculum vitae.

The outgoing Board of Directors shall appoint an independent and external nomination consultancy firm with proven expertise in selection and recruitment at the latest three months before the end of its term of office.

§1/2. The independent and external nomination consultancy firm, mentioned in §1/1, second subparagraph, shall select two candidates per vacancy for independent director on the basis of the job profile and shall recommend those candidates to the Flemish Government. At the same time, the independent and external nomination consultancy firm shall inform the outgoing Board of Directors of this nomination.

The nomination by the independent and external nomination consultancy firm shall take place at the latest one month before the term of office of the outgoing Board of Directors expires.

⁸⁸ Replaced by the act of 19.04.2024

⁸⁹ Replaced by the act of 04.02.2022

§1/3. The Flemish Government shall appoint one of the nominated candidates for each vacancy, based on the proposal by the independent and external nomination consultancy firm, mentioned in §1/1, second subparagraph.]⁹⁰

§ 2. The mandate of Director cannot be combined with:

1° membership of a legislative, decreeing or ordinating meeting and membership of the European Parliament;

2° the office of minister or state secretary;

3° the office of provincial governor;

4° the office of provincial delegate;

5° the office of provincial registrar;

6° the office of officer-general of a ministry;

7° the office of member of a ministerial cabinet;

8° the office of mayor, alderman, or chairperson of the public social welfare centre (OCMW).

The mandate of Director is also incompatible with:

1° a position or mandate of permanent or contractual employee of the VRT;

2° a position or a mandate, in:

a) in a media company, including electronic media;

b) in an advertising or promotional company;

3° a management position or mandate in a production firm which supplies to the electronic media, or any other company which provides services for the VRT, supplies it or carries out activities for it.

One exception to this, mentioned in § 2, paragraph 2, concerns a position or mandate in companies, associations or [foundations]⁹¹ referred to in Article 6, § 4.

§ 3. The functioning of the Board of Directors is regulated in the articles of association. [In accordance with the provisions of this Title and in accordance with the Articles of Association, the Board [of Directors]⁹² shall lay down in regulations the manner in which it exercises its powers, mentioned in article 13, § 1, 2°. In the aforementioned regulations the Board of Directors may determine the manner in which it shall exercise its other powers, mentioned in article 13.]⁹³

⁹⁰ Inserted by the act of 04.02.2022

⁹¹ Replaced by the act of 19.04.2024

⁹² Inserted by the act of 19.04.2024

⁹³ Replaced by the act of 04.02.2022

§ 4. The mandate of the members of the Board of Directors shall expire after five years.

[Where the office of a director, as referred to in § 1, second subparagraph, becomes vacant during his term of office as a result of death or resignation, the Flemish Government shall appoint a replacement, taking into account the proportional representation of the political groups in the Flemish Parliament.

Where the office of an independent director as referred to in § 1, third subparagraph, becomes vacant during the course of his term of office as a result of death or resignation, the independent and external nomination consultancy firm, mentioned in §1/1, second subparagraph, shall propose two candidates to the Flemish Government within one month of the vacancy of the office, on the basis of the job profile, from the pool of candidates who had presented themselves after the open call, mentioned in §1/1, first subparagraph. At the same time, the independent and external nomination consultancy firm shall inform the Board of Directors of such nomination. The Flemish Government shall appoint one of the nominated candidates as a replacement on the basis of this nomination by the independent and external nomination consultancy firm.

The directors appointed pursuant to the second and third subparagraphs shall carry out the term of office of their predecessor.]⁹⁴

Article 13. § 1. The Board of Directors has, [in derogation to the Companies and Associations Code of 23 March 2019]⁹⁵, the following competences:

1° laying down the VRT's general strategy;

2° making decisions regarding matters of a strategic nature. A matter shall be deemed to be strategic if it has an important impact on the VRT's actions in Flemish society or on the media landscape. The Board of Directors shall make a decision as to a matter's strategic nature [in accordance with the manner laid down in the regulations, mentioned in article 12, §3]⁹⁶;

3° approving, on behalf of the VRT, the management agreement and any changes to it;

4° approving the annual business plan and of strategic multiannual plans, which set forth the goals and strategy in the medium term. The annual business plan among others comprises the general program policy, the strategy as regards communication and public relations, the estimate of income and expenditure and of the personnel contingent;

5° the drawing up of the inventory and the annual accounts with the balance sheet, the income and expenditure account and information pertaining to it, and the drawing up of the annual report;

6° approving the rules as regards personnel recruitment and personnel's legal position;

⁹⁴ Added by the act of 04.02.2022

⁹⁵ Inserted by the act of 19.04.2024

⁹⁶ Added by the act of 04.02.2022

7° appointing and dismissing members of the Management Committee at the suggestion of the Managing Director;

8° exercising control on the Managing Director as he implements the management agreement, the business plan and the Board of Directors' decisions;

9° negotiating in case of personal conflicts within the Management Committee;

10° decisions as regards the VRT's participation in companies, associations and [foundations]⁹⁷;

11° decisions as regards the establishment of companies by the VRT;

12° the supervision of the companies', associations' and [foundations]⁹⁸ functioning and results, as referred to in items 10° and 11°;

13° the appointment of representatives of the VRT to the administrative bodies of companies, associations and [foundations]⁹⁹, as referred to in items 10° and 11°;

14° convening a general meeting and setting an agenda;

15° the drawing up of the framework within which the VRT carries out merchandising and additional activities.

§ 2. The competences summarised in § 1 cannot be delegated to the Managing Director or to other members of personnel of the VRT.

The decisions of the Board of Directors are taken at the initiative and at the proposal of the Managing Director, the President of the Board of Directors or at least one third of the members of the Board of Directors.

The Managing Director shall provide the Board of Directors with all useful information and shall place all the matters that are deemed useful or necessary for the proper exercise of the Board of Directors' competences on the agenda of the Board of Directors.

§ 3. In order to exercise its competences as summarised in § 1, members of the Board of Directors can inspect all the documents and writings of the VRT at any time via the president. The President can demand any clarifications and any verifications which the Board [of Directors]¹⁰⁰ or a member deem necessary for the exercise of the competences of the Board of Directors through the Managing Director, from the members of the Management Committee and from all other personnel members.

CHAPTER IV. The Managing Director

⁹⁷ Replaced by the act of 19.04.2024

⁹⁸ Replaced by the act of 19.04.2024

⁹⁹ Replaced by the act of 19.04.2024

¹⁰⁰ Inserted by the act of 19.04.2024

Article 14. [§ 1. The Chief Executive Officer is appointed by the General Meeting. The General Meeting shall adopt the profile of the Chief Executive Officer, following the advice of the Board of Directors.

The Chief Executive Officer shall be dismissed by the General Meeting after having received the advice of the Board of Directors.]¹⁰¹

§ 2. The Managing Director is, [in derogation to the Companies and Associations Code of 23 March 2019]¹⁰², charged with and is exclusively competent for the following tasks of the operational management of the VRT:

1° with regard to the management of the services provided: the preparation and execution of the annual business plans and strategic multiannual plans, which result from the management agreement and are approved by the Board of Directors;

2° as regards product development: the development of new, and the improvement of existing services, products and processes which correspond with the VRT's policy;

3° as regards HR policy: implementing a coherent personnel policy, aimed at the VRT's strategic development and the environmental factors for the exercise of this service, in accordance with the regulations and the legal position of the personnel and also in accordance with the instructions of the Board of Directors in the annual business plan for this;

4° as regards financial policy: the execution of all the budgetary and bookkeeping transactions within the scope of the annual business plan, including the registration of commitments, the approval and the booking of commitments, the booking of claims and assuring the receipts and expenditures within the authorising budget;

5° as regards the management of infrastructure: implementing a coherent policy for buildings, consumer goods and heritage goods, an efficient management of supplies, as well as the optimum management of the infrastructure of the VRT within the limits of the investment program approved by the Board of Directors;

6° as regards communication and public relations: implementing a contemporary internal and external communication policy, in accordance with the guidelines laid down by the Board of Directors with regard to this;

7° setting the programming and the broadcasting schedule;

8° making operational decisions that are useful or essential for the VRT's proper operation and which do not fall under the Board of Directors' competences.

The Managing Director takes part in the meetings of the Board of Directors with an advisory vote. The Managing Director is charged with the preparation of the decisions of the Board of Directors. He shall provide the Board of Directors with all the necessary information and shall submit all the proposals which are useful or necessary for the operation of the VRT to the agenda of the Board of Directors.

¹⁰¹ Replaced by the act of 04.02.2022

¹⁰² Inserted by the act of 19.04.2024

The Managing Director represents the VRT in legal and extra-legal activities, including acting for administrative judicial tribunals and acts in law in the name of and on behalf of the VRT, without requiring the support for this in a decision of the Board of Directors.

Without prejudice to the regulation on the legal position of the personnel, the Managing Director may delegate one or more specific competences, including those mentioned in this Article, under his own responsibility, to one or more members of personnel of the VRT.

The Managing Director carries out the decisions of the Board of Directors.

§ 3. The Managing Director is assisted by the Management Committee, consisting of at least two and no more than five [members of the Management Committee]¹⁰³, besides the Managing Director. The Managing Director chairs the Management Committee.

Under his exclusive responsibility, the Managing Director can delegate part of his competences to one or more members of the Management Committee and to members of personnel of the VRT. The Managing Director determines the limits within which and the forms within which these delegations and other sub-delegations are carried out in a regulation.

§ 4. The Managing Director and the other members of the Management Committee are employed on the basis of an agreement concluded with the VRT.

CHAPTER V. The Auditors

Article 15. The Auditor(s) is/are appointed by the General Meeting on the nomination of the Managing Director and carry out the competences assigned to him/them in the [Companies and Associations Code of 23 March 2019, the Flemish Public Finance Codex of 29 March 2019 and the Administrative Act of 7 December 2018 and other specific regulations, if any]¹⁰⁴

TITLE IV. Management agreement

Article 16. The special rules and conditions for granting the financial means required to carry out the VRT's public broadcasting task, determined in Article 6, are laid down in a management agreement between the Flemish Community and the VRT.

The management agreement enters into effect on the date determined by the Flemish Government.

Article 17. § 1. The management agreement in particular regulates the following matters:

[1° the implementation of the public service tasks, set out in Article 6, § 2, including the innovation task, and measurable performance indicators to be achieved. These performance indicators are related to the formulated strategic objectives and ambitions;]¹⁰⁵

¹⁰³Replaced by the act of 19.04.2024

¹⁰⁴ Replaced by the act of 19.04.2024

¹⁰⁵ Replaced by the act of 14.10.2016

[2° ...]¹⁰⁶

3° the objectives as regards HR policy, financial policy, technology and transmission;

[4 ° the calculation of the envelope of financial resources required to assure that the public tasks can be fulfilled, and the payment conditions thereof. The provisions of Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings apply;]¹⁰⁷

[5° ..]¹⁰⁸

6° the publication of an annual report before 1 June of the following year as regards the execution of the management agreement during the past calendar year and publication of other documents, which have to be submitted annually, for the Flemish Government's approval;

7° the measures to be taken in case one of the parties does not comply with its commitments resulting from the management agreement.

[...]¹⁰⁹

[...]¹¹⁰

§ 2. The Flemish Government can determine further rules for the commercial communication of the VRT in the management agreement, in line with Article 48. [If the general chamber of the Flemish Regulator for the Media, within the limits of its powers as set out in article 220, § 1, finds that VRT has violated the further rules on commercial communication that are included in the management agreement pursuant to this article, the general chamber may impose the sanctions referred to in article 228.]¹¹¹

[Article 17/1. The Flemish Government shall make available to VRT the FM frequencies and the DAB+ frequency block it requires to achieve the objectives of general interest in accordance with the management agreement, pursuant to article 17, § 1, 1°.

If, in accordance with article 134, the Flemish Government decides to discontinue FM broadcasts of the programmes of accredited radio broadcasters, it shall simultaneously determine the date on which VRT's FM broadcasts are to cease and the arrangements for doing so.

VRT shall be involved in the sector-led consultation referred to in article 134.]¹¹²

¹⁰⁶ Lifted by the act of 14.10.2016

¹⁰⁷ Replaced by the act of 14.10.2016

¹⁰⁸ Lifted by the act of 14.10.2016

¹⁰⁹ Canceled by the act of 29.06.2018

¹¹⁰ Canceled by the act of 29.06.2018

¹¹¹ Added by the act of 19.12.2025

¹¹² Inserted by the act of 10.07.2026

Article 18. § 1. The VRT may only undertake new services or activities that are not covered by the management agreement with the express permission of the Flemish Government.

[[§ 2. The Flemish Government requests the advice of the Flemish Regulator for the Media. As part of that advice, the Flemish Regulator for the Media organizes an open public survey. In his advice, the Flemish Regulator for the Media analyzes the public value of the proposal, taking into account the important evolutions in the media market and in technology, the evolving media landscape and the role of the VRT in this. The Flemish Regulator for the Media then weighs the public value of the proposal against the impact of the proposal on the market. The Flemish Regulator for the Media provides its advice within six months after receiving the request for advice from the Flemish Government. The Flemish Regulator for the Media publishes the advice on its website.]¹¹³]¹¹⁴

[§ 2/1. The Flemish Government publishes the note with the reasons for granting or refusing permission for a new service or activity as stated in paragraph 1, on its website.]¹¹⁵

[§ 3. The Flemish Government determines further rules for the application of this article.]¹¹⁶]¹¹⁷

Article 19. § 1. The management agreement is concluded for a period of five years.

[§ 1/1. The VRT provides a vision text to the Flemish Government at the latest one year before the expiry of its management agreement, in which it outlines the specific lines of its future public broadcasting assignment, with specific mention of the planned new services. The Flemish Government sends that text to the [Media Sector Council of the Council for Culture, Youth, Sports and Media]¹¹⁸ with a view to the advice stated in Article 20, § 3. The VRT publishes this vision text on its website simultaneously with the delivery to the Flemish Government.]¹¹⁹

§ 2. The VRT presents the Flemish Government with a draft of a new management agreement, at the latest, six months before the expiry of the management agreement.

If no new management agreement has entered into effect upon the expiry of a management agreement, the management agreement is automatically extended until a new management agreement has entered into effect.

§ 3. The Flemish Parliament is notified immediately of every management agreement, as well as every change and extension of the management agreement .[Any amendment to the management agreement will be formalized through an addendum to the management agreement.]¹²⁰

Article 20. § 1. As a preparation for each new management agreement with the VRT, the Media Sectoral Council of the Council for Culture, Youth, Sports and the Media organises a public

¹¹³ Replaced by the act of 14.10.2016

¹¹⁴ Replaced by the act of 29.06.2018

¹¹⁵ Inserted by the act of 22.03.2019

¹¹⁶ Replaced by the act of 13.07.2012

¹¹⁷ Replaced by the act of 29.06.2018

¹¹⁸ Replaced by the act of 19.04.2024

¹¹⁹ Inserted by the act of 22.03.2019

¹²⁰ Added by the act of 14.10.2016

inquiry about the scope of the public broadcaster's mission and its implementation under the new management agreement, taking account of key media market and technological developments, with due regard to the changing media landscape and the VRT's role therein.

The Media Sectoral Council assesses the media market on the basis of changes in the business and economic situation in the Flemish media sector, the general media opportunities on the Flemish market, technological changes, international trends, the need to protect and promote Flemish cultural and identity and the expectations and needs of the media user.

§ 2. In order to lend support to the public inquiry, the Media Sectoral Council of the Council for Culture, Youth, Sports and the Media calls on the services of scientific experts.

§ 3. In the light of the findings of this public inquiry, the Media Sectoral Council of the Council for Culture, Youth, Sports and the Media presents an advisory opinion to the Flemish Government about the new management agreement with the VRT. This advisory opinion is published on the Media Sectoral Council's website.

Article 21. The annual report referred to in Article 17, § 1, 6° is submitted to the Flemish Parliament by the Flemish Government before 30 September.

TITLE V. Income and bookkeeping

Article 22. The VRT's income is made up of the financial funds agreed in the management agreement, as well as the income from the activities which the VRT can exercise in accordance with this Act, including the income from any form of distribution of the programs provided or parts thereof to the public.

Article 23. [The bookkeeping of the VRT is carried out in accordance with the applicable provisions of the Economic Code of 28 February 2013 and the Companies and Associations Code of 23 March 2019 and their respective implementing orders.]¹²¹

Article 24. [[The Flemish Public Finance Codex of 29 March 2019]¹²²]¹²³ applies to the VRT.

Article 25. The VRT is authorised to set up a reserve fund. In the budget, the reserve fund is at the level of the whole of the VRT.

The VRT may use the funds in the reserve fund to exercise its public broadcasting task, including the acquisition and management of heritage.

Article 26. § 1. The VRT has the option, at the close of each financial year, to build a reserve comprising any aggregate net surplus resulting from the exploitation of its task of public broadcaster during the aforementioned financial year; this is limited to 10 percent of the public grant received during the financial year in question.

¹²¹ Replaced by the act of 19.04.2024

¹²² Amended by the act of 8.07.2011

¹²³ Replaced by the act of 29.03.2019

The term net surplus, as referred to in the first paragraph, indicates the difference between the government grant and the net costs of the public task.

Should the 10 % limit referred to in the first paragraph be exceeded, then the surplus shall be reimbursed to the Flemish Community.

§ 2. Any net surplus as mentioned in paragraph 1 throughout the period covered by the management agreement is set off when the accounts for this period are closed against the public funding for the following management agreement.

§ 3. The reimbursement and compensation mechanisms are controlled as a rule by the Finance Inspectorate on the basis of annual accounts approved by the VRT.

[§ 4...] ¹²⁴

[§ 5...] ¹²⁵

TITLE VI. Personnel

Article 27. § 1. Without prejudice to the provision of Article 14, § 4 with regard to the Managing Director and the other members of the Management Committee, the personnel members of middle management are employed in accordance with the provisions below, on the basis of an employment agreement.

§ 2. The Managing Director establishes the structure of the organization. He terminates the office of the members of personnel who were in office on 12 February 1996 with scales 13, except if that scale was acquired with a promotion in a career, up to 15 and/or of members of personnel who had a position corresponding to scales 13 to 15.

§ 3. As a derogation from Article 13, § 1, 6°, the Managing Director establishes the regulating measures with regard to the administrative and the financial situation of members of personnel whose office was terminated in accordance with § 2, for reasons related to the reorganization of the department.

He declares the new positions in middle management to be established by him to be vacant, selects and recruits the candidates for those positions. The candidates who are recruited are employed with an employment agreement.

The statutory members of personnel who are contractually employed for the implementation of the second paragraph, maintain the statutory and financial position which they had at the start of their contractual employment for the entire duration of their contractual employment, unless they decide not to do so when they sign the agreement.

Article 28. The personnel members of the VRT, except those referred to in Article 27, are employed on the basis of an employment agreement. This provision does not detract from the statutory legal position of personnel members who are already employed.

¹²⁴ Lifted by the act of 19.04.2024

¹²⁵ Lifted by the act of 19.04.2024

TITLE VII. Special provisions concerning programs

Article 29. § 1. The programs of the news service must comply with the standards of ethical journalism as established in a code of ethics and guarantee the customary editorial independence as established in the editorial statute.

The code of ethics and the editorial statute are established by the Managing Director in consultation with the representative trade unions.

§ 2. In the context of [her task of providing information]¹²⁶, laid down in Article 6, the VRT provides one television program lasting thirty minutes every two weeks or one television program lasting fifteen minutes every week [and a weekly radio program of no less than four minutes]¹²⁷ on socio-economic subjects, except in the months of July and August. These programs are created by the VRT's news service in collaboration with the organizations which are represented in the Socio-Economic Council of Flanders.

[§ 3. As part of its task to contribute to a pluralistic public opinion, set out in Article 6, the VRT provides a specific offer on philosophy that is integrated into the wide range of programming of the public broadcaster. There is consultation with the various accredited philosophical and non-philosophical movements.]¹²⁸

TITLE VIII. Supervision

Article 30. § 1. The Flemish Government appoints a community representative who is responsible for ensuring that the VRT carries out [her activities]¹²⁹ in accordance with the laws, acts, decisions and the management agreement. The Flemish Community covers the costs related to the execution of his office.

The community representative attends the meetings of the general meeting, and of the Board of Directors with an advisory vote. He shall receive the complete agenda of the meetings of the general meeting, the Board of Directors and the Management Committee as well as all documents related to this, at least five working days before the date of the meetings. He shall receive the minutes of these meetings.

The community representative can inspect all the documents and writings of the VRT on site at any time. He can demand any information and clarifications from the Directors, the Managing Director and the members of the Management Committee of the VRT and can carry out all the verifications which he deems necessary for the execution of his mandate.

§ 2. Within a period of four working days of the notification or the decision concerned, the community representative can lodge a substantiated appeal with the Flemish Government against any decision of the Board of Directors, the Managing Director, the Management Committee or the organizations or personnel of the VRT to whom they have delegated their

¹²⁶ Replaced by the act of 19.04.2024

¹²⁷ Inserted by the act of 13.07.2012

¹²⁸ Added by the act of 14.10.2016

¹²⁹ Replaced by the act of 19.04.2024

competence, which is related to the public broadcasting task determined in Article 6, and of which he considers that it does not comply with the laws, acts, decisions or management agreement.

The Flemish Parliament is informed immediately of the appeal by the Flemish Government.

The appeal suspends the decision. If the Flemish Government has not declared that it is null and void within a period of twenty work days, starting on the same day as the term assigned to the community representative, the decision becomes final. In such case, the Flemish Parliament and Managing Director are informed that the decision has been declared null and void, within the assigned term.

§ 3. Decisions of the Board of Directors, the Managing Director, the Management Committee or of the bodies or the personnel of the VRT to whom they have delegated their competence, which are related to the implementation of the Act of 13 April 13 regulating the legal position of statutory and contractual personnel of the VRT Philharmonic Orchestra and the VRT Choir, or which result in a change of the salary costs mentioned in Article 4, § 1, of that same Act, must be notified to the community representative immediately.

The community representative can appeal against that decision, stating justified reasons, within a period of four working days from the notification or receipt of the decision concerned, if he considers that the decision concerned can reasonably be considered unjustified and harmful to the interests of the Flemish Community.

This appeal suspends the decision.

If the Flemish Government has declared the decision concerned to be null and void within a period of twenty working days starting on the same day as the term assigned to the community representative for lodging an appeal, the decision becomes final. If the Flemish Government overrules the decision concerned, the Managing Director is informed that the declaration is null and void within the period determined in paragraph 4.

Article 31. An internal audit entity within the VRT shall evaluate the effectiveness of risk and control management and the policy processes, checks whether they are adequate and formulates recommendations for their improvement. For this purpose, it carries out audits for an Audit Committee established by the Board of Directors, which is chaired by a member of the Board of Directors appointed by the Board of Directors, with the exception of the President and the Managing Director. It also carries out audits for an audit unit in the VRT's Management Committee with a view of ensuring the most optimal operational management possible.

The internal audit entity operates independently from the Managing Director and reports directly to the chairman of the Audit Committee.

[The provisions, mentioned in article 33, §2, second to tenth paragraph, of this act, also apply to the activities of the internal audit department of the VRT.]¹³⁰

Article 32. The Court of Auditors is responsible for checking the accounts of the VRT which are presented to the Audit Office before 31 May. It will report annually to the Flemish

¹³⁰ Added by the act of 19.04.2024

Parliament. The Audit Office can inspect all the documents and writings which it needs to carry out its task on site. For this purpose it can also demand any information and clarifications and carry out any verifications.

Article 33. § 1.[Audit Flanders]¹³¹, referred to in [Article III.115 of the Administrative Act]¹³², evaluates the internal control systems of the VRT, checks whether they are adequate and formulates recommendations for their improvement. To this end, [Audit Flanders]¹³³ carries out financial audits, audits to ensure correspondence, and operational audits and is authorised to examine all the operational processes and activities.

[Audit Flanders]¹³⁴ is also competent to carry out [forensic audits]¹³⁵ at the VRT. The confidentiality of commercial and industrial information, as guaranteed in [Article II.35, 3°, of the Administrative Act]¹³⁶, applies fully.

[§1/1. Audit Flanders shall act as data controller as mentioned in article 4, 7) of the general data protection regulation, for the processing of personal data for the performance of the tasks mentioned in paragraph 1.

§1/2. The processing of personal data for the processing purpose, mentioned in paragraph 1/1 shall cover the following categories of data subjects:

1° all persons appearing in the data, information and documents processed in the performance of the tasks mentioned in paragraph 1;

2° all persons contacted by Audit Flanders for the performance or in the performance of the tasks mentioned in paragraph 1, such as, among others, persons working at or for auditees.

§1/3. The processing of personal data for the processing purpose, mentioned in paragraph 1/1, for the data subjects, mentioned in paragraph 1/2, refers to all categories of personal data, including personal data as mentioned in articles 9 and 10 of the general data protection regulation, which appear in the data, information and documents processed in the performance of the tasks, mentioned in paragraph 1.

§1/4. Audit Flanders, as data controller, shall determine the retention period of the personal data it processes in accordance with this article. The personal data can thereby, on the basis of this act, be kept at the latest until fifteen years after the completion of the tasks, mentioned in paragraph 1, and the relevant act provisions. Upon expiration of the retention period, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, such personal data shall be assigned a final destination.]¹³⁷

§ 2. [In order to be able to carry out its competences, Audit Flanders has access to all the information and documents of the VRT, whatever its medium, and to all buildings, spaces and installations where tasks are performed by the VRT. Audit Flanders can ask for any information which it deems to be necessary for the execution of its tasks from any member of personnel of the VRT. Every member of personnel of the VRT is obliged to answer in full as

¹³¹ Amended by the act of 5.07.2013

¹³² Replaced by the act of 7.12.2018

¹³³ Replaced by the act of 19.04.2024

¹³⁴ Amended by the act of 5.07.2013

¹³⁵ Amended by the act of 5.07.2013

¹³⁶ Replaced by the act of 7.12.2018

¹³⁷ Inserted by the act of 19.04.2024

quick as possible and without prior authorization and provide all the relevant information and documents]¹³⁸.

[[[In application of Article 23, first paragraph, e) and h) of the [general data protection regulation]¹³⁹ Audit Flanders may decide not to apply the obligations and rights mentioned in articles 12 to 22 of [this regulation]¹⁴⁰, in the processing of personal data in the context of an investigation concerning a well-defined natural person, if the conditions, mentioned in the third to eleventh paragraphs, are met.

The derogation possibility, mentioned in the second paragraph, only applies during the period in which the person concerned is the subject of a control, an investigation or the preparatory activities related thereto, within the framework of the decretal and regulatory assignments of Audit Flanders, provided that it is or may be necessary for the proper conduct of the investigation that the obligations and rights mentioned in articles 12 to 22 of the [general data protection regulation]¹⁴¹ are not applied. Where appropriate, the duration of the preparatory work may not exceed one year from the receipt of a request to exercise one of the rights mentioned in articles 12 to 22 of the [general data protection regulation]¹⁴².

The personal data mentioned in the second paragraph shall not be kept for longer than necessary for the purposes for which they are processed.

The derogation option, mentioned in the second paragraph, does not concern the data independent of the object of the investigation or control justifying the refusal or limitation of the rights mentioned in the second paragraph.

If, in the case mentioned in the second paragraph, the data subject makes a request based on articles 12 to 22 of the [general data protection regulation]¹⁴³ during the period mentioned in the third paragraph, the competent data protection officer shall acknowledge receipt thereof.

The competent data protection officer shall inform the data subject in writing, as soon as possible and in any event within one month from the day following the day on which he received the request, of any refusal or restriction of the rights referred to in the second paragraph. Further information on the further reasons for such refusal or restriction need not be provided if this would undermine the decretal and regulatory missions of Audit Flanders, subject to the application of the ninth paragraph. If necessary, the aforementioned period may be extended by two months, taking into account the number of requests and their complexity. The controller shall inform the data subject of this extension and the reasons for the postponement within one month from the day following the day on which it received the request.]¹⁴⁴]¹⁴⁵]¹⁴⁶

[The competent data protection officer shall also inform the data subject of the possibility of submitting a request to the Flemish supervisory commission for the processing of personal data

¹³⁸ Replaced by the act of 5.07.2013

¹³⁹ Replaced by the act of 19.04.2024

¹⁴⁰ Replaced by the act of 19.04.2024

¹⁴¹ Replaced by the act of 19.04.2024

¹⁴² Replaced by the act of 19.04.2024

¹⁴³ Replaced by the act of 19.04.2024

¹⁴⁴ Added by the act of 08.06.2018

¹⁴⁵ Enters into force on 25.05.2018

¹⁴⁶ Replaced by the act of 19.07.2019

in accordance with article 10/5 of the Act of 18 July 2008 on electronic administrative data traffic and of lodging a judicial appeal.

The competent data protection officer shall record the factual or legal grounds on which the decision is based. He shall keep this information available to the aforementioned Flemish supervisory Commission.

After the investigation has been concluded, the duties mentioned in articles 13 to 22 of [general data protection regulation]¹⁴⁷ shall, where appropriate, be reapplied in accordance with article 12 of [this regulation]¹⁴⁸.

If a file containing personal data as mentioned in the second paragraph has been sent to the public prosecutor's office and may lead to activities led by the public prosecutor's office or an investigating judge, and there is ambiguity about the secrecy of the investigation led by the public prosecutor's office or an investigating judge, the competent data protection officer may, at the request of the data subject in accordance with articles 12 to 22 of the [general data protection regulation]¹⁴⁹, reply only after the public prosecutor's office or, where appropriate, the investigating judge has confirmed that a reply will not or may not prejudice the investigation.]¹⁵⁰

TITLE IX. Flemish Government announcements

Article 34. § 1. The VRT is required to broadcast a maximum of fifteen minutes of announcements by the Flemish Government, the Flemish Parliament and the ministers of the government and state secretaries of the Brussels Capital Region every month, in accordance with the rules and conditions determined by the Flemish Government.

§ 2. The announcements are broadcast immediately after the main news program. The same message is broadcast only once. The announcements serve to inform the Flemish population with regard to matters of public interest. The VRT does not have any responsibility for these announcements.

§ 3. The announcements must comply with the conditions and the rules to be established by the Flemish Government. They must be clearly identifiable and may not give rise to any confusion with the VRT's own programs. Before and after the announcements, an announcement will be made to say that they have been provided by the Flemish Government or the government of the Brussels Capital Region.

§ 4. The production costs of the announcements are covered by the requesting government.

§ 5. Except in urgent cases, acknowledged as such by the Managing Director, the broadcast of such announcements is suspended during the two months preceding the elections for the municipal council, provincial council, national and European elections. In these cases, the communications may not contain the name or the likeness of a Flemish minister, a minister or

¹⁴⁷ Replaced by the act of 19.04.2024

¹⁴⁸ Replaced by the act of 19.04.2024

¹⁴⁹ Replaced by the act of 19.04.2024

¹⁵⁰ Added by the act of 19.07.2019

state secretary or of a member of parliament, and must be purely factual.

[TITLE X]¹⁵¹]¹⁵²

[Article 35...]¹⁵³

[Article 36...]¹⁵⁴

PART III. Radio and television broadcasting

TITLE I. Provisions covering broadcasting activities

Article 37. Freedom of expression is guaranteed for all broadcasting activities.

Broadcasting activities are free and cannot be subjected to any requirements as regards form or prior control, subject to what is set out below for broadcasting services.

[Article 38. Broadcasting activities may not:

1° incite violence or hatred towards a group of persons or a member of a group of persons, in particular on the basis of

- a) gender;
- b) race;
- c) colour;
- d) ethnic or social origin;
- e) genetic characteristics;
- f) language;
- g) religion or belief;
- h) political or other opinion;
- i) membership of a national minority;
- j) wealth;
- k) birth;
- l) a disability;
- m) age;
- n) sexual orientation;

2° incite publicly to commit a terrorist offence as mentioned in articles 137 and 140bis of the Penal Code.]¹⁵⁵

TITLE II. Provisions covering broadcasting services

CHAPTER I. General provisions

¹⁵¹ Amended by the act (1) of 18.12.2009 and replaced by the act of 13.07.2012

¹⁵² Lifted by the act of 14.10.2016

¹⁵³ Lifted by the act of 14.10.2016

¹⁵⁴ Lifted by the act of 14.10.2016

¹⁵⁵ Replaced by the act of 19.03.2021

Article 39. Any form of discrimination is avoided in the programs. Programming is structured in such a way that it cannot give rise to discrimination between different ideological or philosophical ideas.

Information programs, communications and programs of a general informational nature, as well as all parts of information program must be presented in a spirit of political and ideological impartiality.

This article also applies to teletext.

Article 40. Providers of broadcasting services will make the following information available to listeners and viewers, in a user-friendly, direct and permanent manner:

1° the name of the provider of the broadcaster;

2° the geographical address of the provider of the broadcaster;

3° additional data pertaining to the provider of the broadcaster, including its e-mail or web address, so that the provider is easily, directly and permanently accessible;

[4° the statement that the provider of the broadcasting service falls under the competence of the Flemish Community and under the supervision of the Flemish Regulator for the Media.]¹⁵⁶

[Art. 40/1. § 1. Television broadcasting services from other Member States of the European Union, or from another State in the European Economic Area, have a right to freedom of reception and retransmission.

§2. Without prejudice to paragraph 1, the Flemish Regulator for the Media may take provisional measures relating to freedom of reception or transmission of a specific television broadcasting service offered by a broadcaster falling under the jurisdiction of another Member State. The following conditions apply:

1° during the previous 12 months, the television broadcaster has infringed on at least two prior occasions manifestly, seriously and gravely article 38, 1°, or article 42, or has prejudiced the public health or has presented a serious and grave risk of prejudice to it;

2° the Flemish Regulator for the Media has notified the television broadcaster, the Member State and the European Commission in writing of the alleged infringements and of the proportionate measures the Flemish Regulator for the Media intends to take should any such infringement occur again;

3° The Flemish Regulator for the Media has respected the right of defence of the television broadcaster and, in particular, has given that television broadcaster the opportunity to express its views on the alleged infringements; and

¹⁵⁶ Replaced by the act of 19.03.2021

4° consultations with the Member State and with the European Commission have not resulted in an amicable settlement within one month of the European Commission's receipt of the notification referred to in point 2°.

If the European Commission decides that the measures, mentioned in the first paragraph, are not compatible with Union law, the Flemish Regulator for the Media shall put an end to the measures in question as a matter of urgency.

§3. Without prejudice to paragraph 1, the Flemish Regulator for the Media may take provisional measures if a television broadcasting service provided by a television broadcaster under the jurisdiction of another Member State infringes manifestly, seriously and gravely article 38, 2°, or prejudices or presents a serious and grave risk of prejudice to public security, including the safeguarding of national security and defence.

This exception is subject to the following conditions:

1° during the previous 12 months, the conduct of the broadcaster referred to in the first paragraph, has occurred on at least one prior occasion;

2° the Flemish Regulator for the Media has notified the television broadcaster, the Member State and the European Commission in writing of the alleged infringements and of the proportionate measures the Flemish Regulator for the Media intends to take should any such infringement occur again.

The Flemish Regulator for the Media respects the right of defence of the concerned television broadcaster and, in particular, gives that television broadcaster the opportunity to express its views on the alleged infringements.

If the European Commission decides that the measures, mentioned in the first paragraph, are not compatible with Union law, the Flemish Regulator for the Media shall put an end to the measures in question as a matter of urgency.

§4. The Flemish Regulator for the Media may, in urgent cases, no later than one month after the alleged infringement, derogate from the conditions laid down in paragraph 3, second subparagraph, 1° and 2°. If this is the case, the measures taken shall be notified in the shortest possible time to the European Commission and to the Member State under whose jurisdiction the broadcaster falls, indicating the reasons why the Flemish Regulator for the Media considers that there is urgency]¹⁵⁷.

CHAPTER II. Specific provisions pertaining to the protection of minors when watching linear and non-linear television services

Article 41. The provisions of this chapter are also applicable to teletext.

[Article 42. Television broadcasters broadcast, at individual request or not, no programs which may impair the physical, mental or moral development of minors unless the broadcaster ensures that minors will not normally hear or see them by selecting the time of the broadcast, age

¹⁵⁷ Added by the act of 19.03.2021

verification tools or other technical measures. These measures are proportionate to the potential harm the program might cause. Programs containing pornographic scenes or unnecessary violence shall be broadcast or provided encrypted or are subject to effective parental supervision.

Television broadcasters provide sufficient information to viewers about programs which may impair the physical, mental or moral development of minors by using a system describing the potentially harmful nature of the program. The Flemish Government determines the further conditions and procedures for this.

Personal data of minors collected by television broadcasters pursuant to this article shall not be processed for commercial purposes.]¹⁵⁸

Article 43 [...] ¹⁵⁹

Article 44 [...] ¹⁶⁰

Article 45 [...] ¹⁶¹

CHAPTER III - [...] ¹⁶²

Article 46 [...] ¹⁶³

CHAPTER IV. [Commercial communication and public service announcements] ¹⁶⁴

SECTION I. The use of commercial communication

Article 47. The provisions of this Section are also applicable to teletext.

Article 48. Under the application of Article 37, broadcasters are free as regards the transmission, recording, exploiting and implementation of commercial communication, except for the limitations and duties as set out in this Act.

Article 49

[....] ¹⁶⁵

¹⁵⁸ Replaced by the act of 19.03.2021

¹⁵⁹ Lifted by the act of 19.03.2021

¹⁶⁰ Lifted by the act of 19.03.2021

¹⁶¹ Lifted by the act of 19.03.2021

¹⁶² Cancelled by the act of 13.07.2012

¹⁶³ Cancelled by the act of 13.07.2012

¹⁶⁴ Replaced by the act of 13.07.2012

¹⁶⁵ Canceled from 30 June 2020 by the act of 29.06.2018

Article 50. The broadcaster of the Flemish Community cannot broadcast any advertising, except for radio advertising and advertising aimed at self-promotion.

The television broadcaster of the Flemish Community may not broadcast teleshopping.

The television broadcaster of the Flemish Community is prohibited from relying on sponsorship for its children's programs and using product placement in children's programs.

The Flemish Community's broadcaster is prohibited from broadcasting commercial communication through its teletext service.

[SECTION I/1. Public service announcements]¹⁶⁶

[Article 50/1. Broadcasting organizations are authorized to broadcast public service announcements as long as they apply the provisions of this Act.

Public service announcements can be clearly identified and differentiated from regular programming. In a television program they are preceded and followed by a suitable announcement that it concerns a public service announcement and who is responsible for the message. In a radio program they are differentiated from regular programming by means of an audio signal.

Public service announcements by social and humanitarian associations or associations in the general welfare sector may not be directly or indirectly focused on the commercial promotion of individual products or services, nor on the commercial promotion of the membership of such associations.]¹⁶⁷

SECTION II.

Basic rules as regards the use of commercial communication [and public service announcements]¹⁶⁸

Article 51. [The provisions of this section are also applicable to teletext.]¹⁶⁹

Article 52. Providers of broadcasting services may not broadcast any commercial communication and public service announcements that are in conflict with legal provisions.

[...] ¹⁷⁰ ¹⁷¹

¹⁶⁶ Inserted by the act of 13.07.2012

¹⁶⁷ Inserted by the act of 13.07.2012

¹⁶⁸ Inserted by the act of 13.07.2012

¹⁶⁹ Replaced by the act of 13.07.2012

¹⁷⁰ Replaced by the act of 13.07.2012

¹⁷¹ Lifted by the act of 19.03.2021

Article 53. [Commercial communication and public service announcements must be easy to identify as such.]¹⁷²

Article 54. [Surreptitious advertising shall be prohibited.

Surreptitious advertising, as referred to in the first section, should be taken to mean any form of commercial communication which consists of mentioning or representing goods, services, the name, trade mark or activities of a manufacturer of goods or a service provider in programs, when such representation is intended by the broadcaster to serve as advertising and the general public can be misled as regards the nature of the representation. This intention is, in particular, deemed to be present if the mentioning or representation occurs in return for payment or other compensation.]¹⁷³

[Art. 54/1. Commercial communication and public service announcements shall not use subliminal techniques.]¹⁷⁴

Article 55. [[Commercial communication may not be set up in such a way that it:

1° violates human dignity;

2° includes or promotes any discrimination based on:

- a) sex;
- b) racial or ethnic origin;
- c) nationality;
- d) religion or belief;
- e) disability;
- f) age;
- g) sexual orientation.

Public service announcements may not be set up in such a way that they:

1° violate human dignity;

2° promote any discrimination based on:

- a) sex;
- b) racial or ethnic origin;
- c) nationality;
- d) religion or belief;
- e) disability;
- f) age;
- g) sexual orientation.]¹⁷⁵¹⁷⁶

¹⁷² Replaced by the act of 13.07.2012

¹⁷³ Replaced by the act of 13.07.2012

¹⁷⁴ Inserted by the act of 19.03.2021

¹⁷⁵ Replaced by the act of 13.07.2012

¹⁷⁶ Replaced by the act of 19.03.2021

Article 56 [[....]¹⁷⁷]¹⁷⁸

Article 57 [...] ¹⁷⁹

Article 58 [[....]¹⁸⁰]¹⁸¹

Article 59 [...] ¹⁸²

Article 60 [[....]¹⁸³]¹⁸⁴

Article 61 [[....]¹⁸⁵]¹⁸⁶

Article 62. [Commercial communication and public service announcements may not encourage behaviour that is detrimental to health or safety or that is highly harmful to the environment.

[...] ¹⁸⁷]¹⁸⁸

Article 63 [....]¹⁸⁹]¹⁹⁰

SECTION III - Commercial communication concerning specific products

Article 64. The provisions of this section are also applicable to teletext.

Article 65. Commercial communication concerning cigarettes [, electronic cigarettes and refill containers]¹⁹¹ and other tobacco products is prohibited.

Article 66. Commercial communication about medicinal products for human use and medical treatments for human use, which are only available as prescription treatments, is prohibited.

Article 67. Commercial communication concerning arms is prohibited.

Article 68. Commercial communication as regards alcoholic beverages has to comply with the following criteria:

1° it is not specifically aimed at minors and specifically does not show minors consuming this type of beverage;

¹⁷⁷ Replaced by the act of 13.07.2012

¹⁷⁸ Lifted by the act of 19.03.2021

¹⁷⁹ Lifted by the act of 19.03.2021

¹⁸⁰ Replaced by the act of 13.07.2012

¹⁸¹ Lifted by the act of 19.03.2021

¹⁸² Lifted by the act of 19.03.2021

¹⁸³ Replaced by the act of 13.07.2012

¹⁸⁴ Lifted by the act of 19.03.2021

¹⁸⁵ Replaced by the act of 13.07.2012

¹⁸⁶ Lifted by the act of 19.03.2021

¹⁸⁷ Replaced by the act of 13 July 2012

¹⁸⁸ Lifted by the act of 19 March 2021

¹⁸⁹ Replaced by the act of 13 July 2012

¹⁹⁰ Lifted by the act of 19 March 2021

¹⁹¹ Inserted by the act of 19 March 2021

2° it does not relate the consumption of alcoholic beverages with improved physical performance or motorized driving;

3° it does not give the impression that alcohol consumption contributes to social or sexual success;

4° it does not suggest that alcoholic beverages have therapeutic qualities or have a stimulating, soothing or stress-reducing effect;

5° it does not encourage immoderate alcohol consumption or does not portray abstention or moderate alcohol consumption in a negative manner;

6° it does not emphasize the high alcohol percentages of beverages as a positive characteristic.

Article 69. Commercial communication pertaining to candy which contains sugar has to show a stylized image of a toothbrush in a clear and contrasting manner for the duration of the commercial communication, respecting a size limitation of one tenth of the height of the film image, as shown below.

SECTION IV. Commercial communication aimed at minors, young people and children

Article 70. The provisions of this Section are also applicable to teletext.

Article 71. Commercial communication aimed at children and young people has to be clearly recognizable as such to them.

Article 72. Commercial communication shall not cause physical or moral detriment to minors. Therefore it shall not do the following:

1° directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity;

2° directly encourage them to persuade their parents or others to purchase the goods or services being advertised;

3° unreasonably show minors in dangerous situations;

4° exploit the special trust minors place in parents, teachers or other persons.

[5° containing pornographic content or scenes of unnecessary violence.]¹⁹²

Article 73. § 1. Commercial communication for children and young people has to be created with the necessary sense of social responsibility so that it does not undermine positive social behaviour, lifestyles and attitudes.

¹⁹² Added by the act of 13.07.2012

§ 2. Commercial communication to children may not represent violence, trivialize, tolerate, idealize or encourage or show antisocial or reprehensible behaviour or encourage it.

Commercial communication for young people may not represent violence, trivialize, tolerate, idealize or encourage or show antisocial or reprehensible behaviour or encourage it.

§ 3. Commercial communication for children and young people may not undermine the authority, the responsibility or the judgment of parents and educators, taking into account the applicable social and cultural values.

§ 4. Commercial communication about toys that resemble fire arms is prohibited.

Article 74. § 1. Commercial communication for children and young people has to respect the dignity of children and young people and may not portray children and young people in such a way that their physical or moral integrity is violated or endangered.

§ 2. Commercial communication may not elicit feelings of fear or unease in children and young people.

§ 3. Commercial communication for children and young people may not contain texts or visual representations, which can cause mental, moral or physical detriment to children and young people or which can incite them to act dangerously or find themselves in dangerous situations, which can seriously endanger their health or safety or condone this type of behaviour.

§ 4. Commercial communication may not discourage children and young people from following the established safety rules. Special attention in this regard should be paid to :

1° traffic safety with children and young people as pedestrians, cyclists or passengers;

2° domestic situations;

3° medicinal products and chemical products;

4° dangerous equipment, fire, matches;

5° playing in or near water.

Article 75. § 1. Commercial communication for children has to correctly represent the possibilities and properties of the product portrayed in the commercial communication, so that children can certainly not be misled as to any of these properties.

§ 2. Commercial communication may not mislead children as to:

1° the properties, the dimensions, the value, the nature, the lifecycle or performance of the product;

2° the results that can be achieved with the product;

3° the effects on health;

4° the degree of dexterity or the age required for the use of the product.

The use of fantasy, including animation, is allowed in commercial communication for children, but the fantasy and the animation may not mislead children as to the real properties of the product concerned.

Article 76. Commercial communication for children may not pretend that the ownership or use of a given product will give them a benefit compared to other children, nor that the fact that they do not own a given product will result in the opposite effect. Commercial communication may not state that children who do not own the product are inferior or less popular.

Commercial communication for children may not minimize the price of the product offered, nor may it suggest that the product offered is within range of every family budget.

Article 77. Commercial communication for children and young people may not encourage or trivialize the excessive intake of food and beverages containing nutrients of which immoderate use is not recommended, such as fats, transfatty acids, salt or sodium or sugars.

SECTION V. Specific types of commercial communication

Subsection I. Television advertising and teleshopping

Article 78. The provisions in this subsection are applicable to linear television services.

Article 79. § 1. Television advertising, excluding self-promotion, and teleshopping should be clearly identifiable and should be easy to differentiate from editorial content. Without prejudice to the use of new advertising techniques, television advertising and teleshopping shall be kept quite distinct from other parts of the program by visual and/or acoustic and/or spatial means.

The provisions of this paragraph are also applicable to teletext.

§ 2. Isolated ads and teleshopping ads should remain an exception. One isolated ad or teleshopping ad is allowed per television broadcast per day.

Isolated ads and teleshopping ads are allowed:

1° during the broadcasts of sport events;

2° when a long ad, of at least two minutes, is broadcast;

3° when a broadcaster has not succeeded in selling more than one ad or teleshopping ad for a specific advertising slot, due to a lack of interest from customers.

§ 3. As an exception to paragraph 2, television broadcasters that broadcast in loops, are allowed one separate ad and teleshopping ad per loop instead of per day.

Article 80. Television programs may be interrupted for ads or teleshopping with the understanding that the integrity and the value of the programs is not violated, taking into

account natural breaks in and the duration and the nature of the program, and the fact that the rights of the holders of the rights are not prejudiced.

Broadcasts of children's programs, religious services, religious and philosophical programs and news programs may not be interrupted by advertising and teleshopping.

Teletext pages aimed at children or which pertain to religious and philosophical themes or news may contain advertising or teleshopping.

Article 81. § 1. The broadcasts of television films, feature-length films and news programs may be interrupted once per scheduled period of at least thirty minutes for advertising and/or teleshopping.

[§2. The share of television advertising and teleshopping spots between 6 a.m. and 6 p.m. does not exceed 20 percent of that period. The share of television advertising and teleshopping spots does not exceed 20 percent of that period between 6 p.m. and midnight.

[§3. Paragraph 2 shall not apply to:

1° announcements made by the broadcaster in connection with its own programs and ancillary products directly derived from those programs;

2° announcements made by the broadcaster in connection with programs and broadcasting services from other entities belonging to the same broadcaster;

3° sponsorship announcements, product placement and neutral frames between editorial content and television advertising or teleshopping spots, and between individual spots.]¹⁹³¹⁹⁴

§ 4. The public broadcaster of the Flemish Community and the providers of linear broadcasting services will notify the Flemish Regulator for the Media which public service announcements they are already broadcasting free of charge.

§ 5. The regional and private linear broadcasters can broadcast advertorials that are not taken into account in the calculation of the percentages referred to in § 2 of this article, on condition that these advertorials comply with all the provisions of this chapter.

Advertorials are commercial communication that last longer than advertisements, as the emphasis is on the editorial and informative content.

Article 82. § 1. Linear television broadcasters can broadcast teleshopping programs subject to the following conditions:

1° teleshopping programs have to be designated as such using visual and acoustic flags;

2° teleshopping programs must be distinguishable from editorial content;

¹⁹³ Replaced by the act of 08.05.2020, takes effect on 08.05.2020

¹⁹⁴ Replaced by the act of 19.03.2021

3° teleshopping programs without interruption should last at least 15 minutes;

4° no teleshopping programs can be broadcast in the immediate proximity of children's programs. Immediate proximity means a period of fifteen minutes before and after children's programs.

§ 2. Articles 81, 154 and 155 do not apply to linear television broadcasters that are exclusively dedicated to advertising and teleshopping and to linear television broadcasters that are exclusively dedicated to self-promotion.

[§ 3. It is forbidden to broadcast phone-in quiz programs.

A phone-in quiz program is a television program that primarily consists of providing games in which use is made of series of numbers from the Belgian or a foreign telephone numbering plan and for which it is allowed to charge the caller payment for the content as well as the price of communication.]¹⁹⁵

Article 83. Advertising for alcoholic beverages may not be broadcast in the ad slot just before or after children's programs.

Article 84. Teleshopping with regard to medicinal products for human use, for which a licence is needed to market them, and teleshopping as regards medical treatments for human use are prohibited.

[Teleshopping programs with regard to services that make use of paranormal means are forbidden.]¹⁹⁶

This article also applies to teletext.

SUBSECTION II. Radio advertising

Article 85. The provisions in this subsection are applicable to linear radio services.

Article 86. § 1. Radio advertising, excluding self-promotion, should be clearly identifiable and should be easy to differentiate from editorial content. Radio advertising has to be acoustically flagged in order to differentiate it from other program components.

§ 2. Isolated radio ads remain an exception. One isolated radio ad can be broadcast per broadcasting program per day.

In addition, isolated radio ads are also permitted :

1° during the broadcasts of sport events;

2° when a long ad, of at least two minutes, is broadcast;

¹⁹⁵ Added by the act of 13.07.2012

¹⁹⁶ Inserted by the act of 13.07.2012

3° when a broadcaster has not succeeded in selling more than one ad for a specific advertising slot, due to a lack of interest from customers.

Article 87. Radio programs can be interrupted for advertising. The broadcaster has to take into account the natural breaks in programming as well as the duration and nature of the program and the rights of the holders of the rights may not be violated.

Article 88. Broadcasts of religious services, devotional and philosophical programs and news programs may not be interrupted by advertising.

Article 89. Radio advertising for alcoholic beverages may not be broadcast in the ad slot just before or after children's programs.

SUBSECTION III. Sponsorship

Article 90. The provisions of this subsection are applicable to television services and to teletext, excluding Article 196, which also applies to radio services.

Article 91. Sponsored broadcasting services and programs shall meet the following requirements:

1° the content, and in the case of linear broadcasts, the programming shall never be influenced as such by the sponsor that the responsibility and the editorial independence of the broadcaster are affected;

2° they will not directly encourage listeners or viewers to buy or lease goods or services, specifically by promoting these goods or services;

3° the viewers and listeners will be clearly informed of the existence of a sponsorship agreement. Sponsored programs or teletext pages will be flagged as such, by mentioning the name and/or the logo and/or another distinctive sign thereof, such as a reference to its product(s) or service(s) or a flag, at the beginning, during, and/or the end of the program, program component or teletext pages.

If the sponsors are mentioned in the announcing ads, this will be done in accordance with the provisions of the first paragraph, 2° and 3°.

Article 92.[...]¹⁹⁷

Sponsorship mentions [on the VRT]¹⁹⁸ may only be inserted at the beginning or the end of the program or program component. [The reference may be animated and may not exceed seven seconds per sponsor and twenty-one seconds in total.]¹⁹⁹ No reference to sponsorship may be made within a period of five minutes before and after children's programs broadcast on the television broadcaster of the Flemish Community.

¹⁹⁷ Lifted by the act of 19.12.2025

¹⁹⁸ Inserted by the act of 19.12.2025

¹⁹⁹ Replaced by the act of 19.12.2025

During sports competitions the sponsors may be mentioned when there is an indication of the time or the score is shown.

Article 93. Broadcasting services and programs may not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes[, electronic cigarettes and refill containers]²⁰⁰ and other tobacco products.

Article 94. Children's programs may not be sponsored by companies whose principal activity is the manufacture or sale of alcoholic beverages.

Article 95. For the sponsorship of programs by companies whose activities comprise the production or sale of medicinal products and medical treatments, the name or image of the company may be recommended, but no specific medicinal products or medical treatments which are available only on doctor's prescription in Belgium may be recommended.

Article 96. News and political affairs programs may not be sponsored.

The same applies to teletext pages with news and political information.

Traffic announcements, weather bulletins or predictions and stock exchange news are not considered forms of programs as referred to in the first section, provided they are clearly isolated from the news program.

Article 97. It is prohibited to mention or show a sponsor's logo during children's programs or on teletext pages aimed at children.

SUBSECTION IV. Product placement

Article 98. The provisions in this subsection are applicable to television services.

[Article 98/1. The provisions of this subsection are only applicable to programs which have been produced [from 9 May 2021]²⁰¹.]²⁰²

Article 99. [Product placement shall be prohibited in:

- 1° news and current affairs programs;
- 2° consumer affairs programs;
- 3° religious programs;
- 4° children's programs.]²⁰³

[Making goods and services available free of charge shall only qualify as product placement if these are goods or services of significant value. The Flemish Government shall lay down more detailed criteria for the qualification of goods and services of significant value.]²⁰⁴

²⁰⁰ Added by the act of 19.03.2021

²⁰¹ Replaced by the act of 03.06.2022. Entered into force on 9.05.2021

²⁰² Inserted by the act of 19.03.2021

²⁰³ Replaced by the act of 19.03.2021

²⁰⁴ Added by the act of 03.06.2022

Article 100. § 1. Programs that contain product placement shall meet at least all of the following requirements:

[1° the content and organisation within a schedule, in the case of linear television broadcasts, or within a catalogue in the case of non-linear television broadcasts, shall under no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the broadcaster;]²⁰⁵

2° they shall not encourage the viewer to purchase or lease goods or services, specifically by recommending these products or services;

3° the product or the service in question does not benefit from undue prominence;

4° if the program in question is produced or ordered by the broadcaster or by an enterprise associated with it, the viewers will be clearly informed of the presence of product placement. The program shall be flagged in a suitable manner, at the beginning and at the end, or if it is reprised after an ad break, in order to avoid any confusion on the part of the viewers. To this end, the Flemish Government can lay down further rules.

[§ 2...]²⁰⁶

Article 101. In any event programs shall not contain product placement of:

[1° cigarettes and other tobacco products, as well as electronic cigarettes and refill containers or undertakings whose principal activity is the manufacture or sale of these products;]²⁰⁷

2° specific medicinal products or medical treatments, which are only available on prescription in Belgium.

CHAPTER V. Right of reply and right of communication

Article 102. The provisions of this chapter apply to linear and non-linear broadcasting services and to teletext.

SECTION I. Right of reply

Article 103. Everyone has a right to information via the radio and television.

Article 104. § 1. Everyone has a right of reply with regard to radio and television services, exercised as provided in this Act.

§ 2. Without prejudice to the other legal means, every natural or legal person whose lawful interests, e.g. their standing and reputation, have been adversely affected by an incorrect comment during the broadcasting of a program of a linear or non-linear broadcaster, has the right to submit a request to integrate a reply free of charge.

²⁰⁵ Replaced by the act of 19.03.2021

²⁰⁶ Lifted by the act of 19.03.2021

²⁰⁷ Replaced by the act of 19.03.2021

The petitioner, referred to in the first section, can exercise the right of reply with regard to different episodes of a program which form part of a series, in one reply.

However, no reply has to be included if one of the persons referred to in Article 106, § 1, has voluntarily made a satisfactory rectification or if the petitioner has already been granted the right of reply during the broadcast. If the petitioner, referred to in the first section, does not consider this correction to be satisfactory and compliant with the conditions for a right of reply, he or she can make use of his right of reply.

§ 3. If the person referred to in § 2 has died, the right to request a recording free of charge to submit a reply, passes to any relatives in a direct line and to the spouse or the de facto or legally cohabiting partner, or in the absence of these, to the nearest relatives. The above right is always carried out once and by the most prepared party amongst them. If the period provided in Article 105 is current on the day of the death of the person referred to in § 2, paragraph 1, the persons to whom this right has passed only have this right for the remaining part of that period.

Article 105. The request referred to in Article 104 is submitted in writing and sent within a period of one month.

If the right of reply pertains to a program of a linear broadcasting service, this term will start to run on the day of the first broadcast.

If the right of reply pertains to a program of a non-linear broadcasting service, this term will start to run on the first day that the program can be requested by the user.

As an exception to the third section and for programs of non-linear broadcasting services, which have already been previously divided in a linear manner, the term starts to run from the moment of the first linear broadcast.

Article 106. § 1. The request referred to in Article 1 is sent to the editor-in-chief or the final editor of the program or to any person who can have the reply recorded.

At the request of the petitioner, the broadcaster shall immediately provide the necessary information to identify the persons referred to in paragraph 1.

§ 2. On penalty of inadmissibility, the request contains:

1° all precise information on the grounds of which the identity of the broadcaster, the program in question and the information to which the right of reply pertains, can be determined;

2° proof that all the conditions mentioned in Article 104 have been met;

3° for natural persons, the identity, the place of residence of the petitioner; for legal entities, the name and office of the petitioner, and the capacity of the person signing the request; for de facto organisations, [or partnerships]²⁰⁸ the name and place of residence of the petitioner and the capacity of the person signing the request;

²⁰⁸ Inserted by the act of 19.04.2024

4° the signature of the petitioner, or for legal entities or de facto associations [or partnerships]²⁰⁹, the signature of the person acting in their name;

5° the reply.

Article 107. The text of the reply is in the same language as the information that gave rise to the request.

The reply must be directly related to the information which gave rise to the request.

The reply may not be insulting, nor in conflict with the law or morality, and unless it is strictly necessary, may not involve any third party in the case.

Article 108. The duration of the reply is limited to what is strictly necessary to respond to the information which gave rise to the reply. It must be possible to read it in at most three minutes or consist of at most 4,500 typographical characters.

Article 109. § 1. If the right of reply pertains to a program of a linear broadcasting service, the reply will be included at the latest in the next broadcast of the same program after a term of two working days, not including Sundays and public holidays, which starts on the day on which one of the persons, mentioned in article 106, § 1, receives the reply.

If no broadcast of the program is planned within fourteen days after receiving the request, the reply must be broadcast within that period at a time that is accessible to the public.

If the right of reply pertains to a program of a non-linear broadcasting service, the answer will be appended to the program concerned, after a term of two working days, not including Sundays and public holidays, which starts on the day that one of the persons, mentioned in article 106, § 1, receives the reply.

The petitioner in any event does not have access to the technical installations used by the broadcaster.

§ 2. The reply must be recorded in its entirety, without insertions, in the same way, and in circumstances which correspond as far as possible to those in which the information which gave rise to the request was disseminated.

§ 3. If there is a response or comment accompanying the reply, the person who has requested a right of reply, can demand a new right of reply in accordance with the conditions of this Act.

Article 110. § 1. The petitioner is informed by registered letter within four working days, starting on the day on which one of the persons referred to in Article 105, § 1 receives the reply, and at the latest on the day on which the insert must take place in accordance with Article 109, of a rejection of a request to include a reply free of charge.

The registered letter referred to in paragraph 1 accurately states the reasons for the refusal and the provisions of this Act which were not observed.

²⁰⁹ Inserted by the act of 19.04.2024

§ 2. One of the persons referred to in Article 106, § 1 can formulate a counter-proposal in the same way within a period determined in § 1.

If the petitioner does not respond to the counter-proposal within fifteen calendar days, the latter is deemed to have been accepted.

A counter-proposal sent by mail by registered letter suspends the obligation to include a reply until the petitioner rejects or accepts the counter-proposal.

§ 2. Including a reply too late, if there has been no rejection or counter proposal in accordance with § 1 and § 2, gives a right to compensation for damages suffered to be determined by the court.

Article 111. Without prejudice to the possibility available to the parties, to present the dispute to a competent organisation of the sector, any disputes arising from this title fall under the exclusive competence of the Court of First Instance which is in session, in a hearing in interlocutory proceedings.

The petitioner must present the case to the president of the Court of First Instance within one month, from the date on which the reply had to be included, from the date on which the rejection of the first recording was notified to the person who signed the petition, from the date on which the counter-proposal was rejected or from the date on which a recording was made which does not correspond to the provisions of this Act.

If the president of the Court of First Instance orders that a reply must be included, it decides on the merits of the case and in the last instance.

If the reply has not been included on the date of the decision, the court orders the recording within the period and in the way which it determines, where appropriate on penalty of a fine.

The president of the Court of First Instance can comply with the proposals of the parties which are aimed at modifying the content of the reply.

Article 112. The persons referred to in Article 106, § 1 keep the carriers which contain the disseminated information, as long as a request to include a right of reply can be legally submitted and where appropriate, until the dispute has been definitively settled.

The persons referred to in Article 106, § 1 keep the carrier which contains the right of reply for thirty calendar days, starting from the date on which the reply was included and where appropriate, until the dispute has been definitively settled.

SECTION II. Right of communication

Article 113. § 1. Everyone has a right of communication with regard to radio and television, which is exercised as provided in this Act.

§ 2. Without prejudice to the other legal remedies, every natural person or legal person who has been named as a suspect, or has been accused by name in a program of a broadcaster, has been

shown in a recognizable way or has been implicitly indicated, has the right to request a recording of a right of communication, free of charge.

However, no communication has to be recorded if one of the persons referred to in Article 116, § 1 has voluntarily made a satisfactory communication, as an exception to paragraph 1. If the petitioner does not consider this communication to be satisfactory, he can make use of his right of communication.

§ 3. If the person referred to in § 2 has died, the right to submit a request for recording of a communication free of charge passes to any nearest relatives in a direct line and to the spouse or the de facto or legally cohabiting partner, or in the absence of these to the nearest relatives. This right can only be exercised once, by the most prepared party. If the period provided in Article 115 is current on the day of the death of the person referred to in § 2, the persons to whom this right has passed only have this right for the remaining part of that period.

Article 114. The text of the communication is in the same language as the information that gave rise to the request and exclusively contains the following information:

1° the identity of the person, mentioned in article 113, § 2;

2° the reference to the communication, mentioned in article 113, § 2, on the grounds of which the right of communication can be demanded;

3° the decision to discharge or acquit the petitioner, the date of the decision and the decision-making court;

4° the notion that no defence, no appeal or cassation is possible against the aforementioned decision.

If the discharge was obtained as a result of the expiry of the criminal proceedings, there is no right of communication.

Article 115. The request, referred to in article 113, is made in writing and sent within a term of three months, counting from the day on which the decision to discharge or acquit is no longer susceptible to opposition, an appeal or cassation.

Article 116. § 1. The request referred to in Article 113 is sent to the editor-in-chief or the final editor of the program or to any person who can have the reply recorded.

At the request of the petitioner, the broadcaster will immediately provide the correct personal data of the person referred to in the first paragraph.

§ 2. On penalty of inadmissibility, the request contains:

1° all the precise information on the grounds of which the identity of the linear broadcaster, the program concerned and the information to which the request of inclusion of the right to communication pertains, can be established;

[2° for natural persons: the identity, residence or domicile of the applicant; for legal persons: the name and registered office of the applicant, and the capacity of the person signing the

request; for de facto associations or partnerships: the name and registered office of the applicant, and the capacity of the person signing the request;]²¹⁰

[3° the signature of the applicant; or for legal persons, de facto associations or partnerships: the signature of the person acting on their behalf;]²¹¹

4° the information, mentioned in Article 114.

The proof of the decision to discontinue criminal proceedings or to acquit the petitioner, as well as a declaration of the judicial authorities showing that no appeal has been lodged against that decision and that it is no longer eligible for opposition, appeal or cassation, must be appended.

§ 3. If the right of reply pertains to a program of a linear broadcasting service, the answer will be included at the latest in the next broadcast of the same program after a term of two free working days, not including Sundays and public holidays, which starts on the day that one of the persons, mentioned in paragraph 1, receives the reply.

If no broadcast of the program is planned within fourteen calendar days after receiving the request, the communication must be broadcast within this period at a time accessible to the public.

If the right of communication pertains to a program of a non-linear broadcasting service, the answer will be appended to the program concerned, after a term of two free working days, not including Sundays and public holidays, which starts on the day that one of the persons, mentioned in § 1, receives the reply.

Article 117. The periods laid down in this Act, with the exception of those which are referred to in Articles 109 and 115, are calculated in accordance with Article 52, paragraph 1, Articles 53 and 54 of the Judicial Code.

CHAPTER VI. Right to free information gathering and short news bulletins

Article 118. Each linear broadcaster of or accredited by the Flemish Community or which has registered with the Flemish Regulator for the Media is entitled to free information gathering. This right entails:

1° free access to events for which exclusive broadcasting rights have been granted, insofar as the event takes place in the Flemish-speaking region or in the bilingual Brussels Capital Region, insofar as the body which is organising the event in the Brussels Capital Region can be considered as exclusive part of the Flemish Community due to its activities;

2° the right to record the events, insofar as the events for which exclusive broadcasting rights have been granted take place in the Flemish-speaking region or in the bilingual Brussels-Capital Region, insofar as the body organising the event in the Brussels-Capital Region can be considered as an exclusive part of the Flemish Community due to its activities;

²¹⁰ Replaced by the act of 19.04.2024

²¹¹ Replaced by the act of 19.04.2024

3° the right to short news reports.

With the application of the provisions of this Act, the right to gather information freely applies to linear broadcasting services which fall under the competence of the other communities and the other Member States of the European Union [and of the other states in the European Economic Area]²¹².

Article 119. The organizer can restrict the right to free access and recording only in exceptional cases and exclusively for reasons of safety and to prevent nuisance with regard to the duration of the event. In that case, the organizer must give priority to the providers of linear broadcasting services, which have been granted exclusive broadcasting rights. If no providers of linear broadcasting services have acquired exclusive broadcasting rights, precedence should be given to the broadcaster of the Flemish Community or to the providers of linear broadcasting services, as mentioned in Article 158, 2°.

Article 120. Short news bulletins are permitted only in news programs and in current affairs programs which are regularly programd.

The secondary linear broadcaster shall determine the content of short news reports autonomously.

Article 121. The duration of the brief report is limited to the time that is needed to broadcast the necessary information about the event and may not contain more than three minutes in total of the sound and/or images of the event.

For competitions, the brief report of a competition day may never be longer than six minutes per sports discipline within a news item. For current affairs programs, the duration may not be longer than fifteen minutes. Specific terms and conditions may be specified by the Flemish Government.

Article 122. § 1. The secondary linear broadcaster in principle has the right to make its own recordings with respect to the material priority of the broadcasters which have acquired exclusive broadcasting rights.

For sports events, this right is limited to making recordings on the margins of the event. This restriction does not apply however if holders of exclusive rights violate the right, as mentioned in § 2, first paragraph. If the holders of exclusive rights do not exercise their exclusive broadcasting right for an event, then the secondary linear broadcasters can record free coverage of the event.

§ 2. The secondary linear broadcaster has the right to make use of the recordings and/or signals of the holders of exclusive rights, in return for fair payment, with a view to filing short news reports.

For a brief report in news programs, the payment is made on the basis of the technical costs incurred. For a short report in a current affairs program, it is also possible to take into account the broadcasting rights.

²¹² Added by the act of 19.04.2024

§ 3. When a secondary linear broadcaster takes over the signal and/or the recordings, it is free to choose the fragments of sounds/images for the brief report. As regards the sounds with fragments of images, only environmental sound is transmitted.

Article 123. In the case of taking over the signal and/or the recordings, the secondary broadcaster must visibly present the logo of the holder of the exclusive rights during the brief report as an acknowledgement of the source.

Article 124. § 1. In the case a secondary linear broadcaster takes over the signal and/or the recordings of the holder of exclusive rights, the secondary linear broadcaster may present the brief report as soon as the holders of the exclusive rights have broadcast the event wholly or partially the first time, whether or not this was broadcast directly. If the secondary linear broadcaster has made the recordings itself, it is free to choose the time of broadcasting.

§ 2. The short news reports may not be broadcast separate from the actual event, unless there is a direct relation between its content and another current event. The short news reports may be rebroadcast in overview programs.

§ 3. The short news reports may be preserved in the archives, but may only be re-broadcast subject to the conditions as mentioned in paragraph 2.

§ 4. The linear broadcaster can offer the same programs, in which short news reports are integrated subject to the conditions outlined in this chapter, and which it has broadcast, on demand.

Article 125. On the basis of mutual consultation, the parties concerned may deviate from the provisions of Articles 121 through 124.

Article 126. The provisions of this chapter do not apply to the exclusivity contracts concluded before 1 January 1998.

TITLE III. Radio services

[CHAPTER I. Private accredited radio broadcasters]²¹³

SECTION I. Common provisions

[Article 127. Subject to the conditions set out in this chapter, a radio broadcaster may be accredited by the Flemish Government to broadcast a programme via FM or DAB+ as:

- 1° a national radio broadcaster;
- 2° a network radio broadcaster;
- 3° a local radio broadcaster;
- 4° a digital national radio broadcaster;
- 5° a digital local radio broadcaster.]²¹⁴

²¹³ Replaced by the act of 10.07.2026

²¹⁴ Replaced by the act of 10.07.2026

Article 128. [The accreditations referred to in article 127 shall be granted for a period of nine years.

Where accreditations held by accredited radio broadcasters have expired or been revoked, new accreditations may be granted for the remaining duration of the initial accreditation period referred to in the first paragraph. Accreditations granted to accredited radio broadcasters in the event of under-utilised capacity, as referred to in article 148, shall be granted for the remaining duration of the initial accreditation period of the accredited radio broadcasters that are already part of the partnership referred to in article 147.]²¹⁵

Article 129. [The Flemish Government shall lay down the procedure for submitting an application for an accreditation as referred to in article 127, and the time limits for its examination and processing. Applications for an accreditation shall be submitted in Dutch. Radio broadcasters shall provide the necessary information with the application for an accreditation. The Flemish Government shall determine the content of the information that must form part of the application for an accreditation, as well as the manner and procedure in which an application must be submitted.

The accreditations referred to in article 127 shall be granted on the basis of objective, transparent, competition-promoting, non-discriminatory and proportionate criteria.

The Flemish Government may set an application fee, including a financial guarantee to be paid by the applicant, and a fee for the use and retention of the allocated frequencies and frequency blocks. That fee shall be objectively justified, transparent and non-discriminatory.

The Flemish Government may stipulate that a frequency package for broadcasting via FM is linked to a slot on a DAB+ frequency block. It shall determine the detailed arrangements for such a link.

The accreditations referred to in article 127, which are granted to broadcast a programme via FM and via DAB+, constitute a single, indivisible accreditation. Waiver of the accreditation for broadcasting via FM or via DAB+ shall result in the accreditation lapsing by operation of law.

Notwithstanding the fifth paragraph, the Flemish Government may, however, lay down the conditions under which the right to broadcast via FM may be waived without the accreditation lapsing automatically. When laying down those conditions, the Flemish Government shall take into account the factors set out in article 134, paragraph 2.]²¹⁶

[Article 130...]²¹⁷

[Article 131...]²¹⁸²¹⁹

²¹⁵ Replaced by the act of 10.07.2026

²¹⁶ Replaced by the act of 10.07.2026

²¹⁷ Lifted by the act of 10.07.2026

²¹⁸ Replaced by the act of 23.12.2016(2)

²¹⁹ Lifted by the act of 10.07.2026

SECTION II. [[Transmission via terrestrial frequencies.]]²²⁰²²¹

[SUBSECTION I....]²²²

Article 132. [Accredited radio broadcasters shall broadcast the programme for which they have been granted an accreditation within the coverage area allocated to them, using the FM frequencies allocated to them or the DAB+ frequency blocks allocated to them.

The FM frequencies and DAB+ frequency blocks referred to in the first paragraph, which have been allocated in whole or in part to the accredited radio broadcaster, may be withdrawn, replaced or amended in accordance with international or European regulations and obligations. The associated technical conditions may also be withdrawn, replaced or amended in accordance with international or European regulations and obligations.

The Flemish Government may, at any time, replace the FM frequencies or DAB+ frequency blocks allocated by the decision granting an accreditation with other FM frequencies or DAB+ frequency blocks.]²²³

[[Article 133. The Flemish Government draws up the frequency plans and determines the number of radio broadcasters that may be accredited. On the basis of those frequency plans, the Flemish Government grants the accreditations referred to in article 128. Any intention to amend the frequency plans, the accreditations and the conditions and procedures for acquiring or renewing frequency usage rights, as set out in this section, shall be published in the Belgian Official Gazette. Prior to a decision being taken on the amendments, interested parties may express their views on those amendments during a consultation procedure lasting at least four weeks, organised in the manner determined by the Flemish Government.]²²⁴

[Article 134. FM broadcasts of the programmes of accredited radio broadcasters shall be discontinued.

The Flemish Government shall determine, for each category of accredited radio broadcaster, the date of the discontinuation referred to in the first paragraph and the arrangements for it. In determining that date, account shall be taken of a biennial monitoring report which assesses the growth in total digital radio listening, the progress of DAB+ and the results of sector-led consultations.

If FM broadcasts are discontinued before the current accreditation period has expired, the accreditations to broadcast on FM in question shall be revoked by operation of law.]²²⁵

[Article 134/1. Notwithstanding article 128, the Flemish Government may decide to add FM frequencies that have become available to the frequency packages of accredited radio broadcasters in order to optimise reception. The Flemish Government shall lay down the detailed conditions and procedure relating to this addition.]²²⁶

²²⁰ Replaced by the act of 23.12.2016(2)

²²¹ Replaced by the act of 10.07.2026

²²² Lifted by the act of 10.07.2026

²²³ Replaced by the act of 10.07.2026

²²⁴ Relaced by the act of 10.07.2026

²²⁵ Replaced by the act of 10.07.2026

²²⁶ Replaced by the act of 10.07.2026

[Article 134/2. § 1. The transmission facilities of accredited radio broadcasters or their consortia are situated in the Dutch-speaking region or in the bilingual Brussels-Capital Region and within the initial coverage area of the radio broadcasters in question.

The relocation of transmission facilities may be authorised provided that all the following conditions are met:

- 1° the relocation is compatible with the frequency plan;
- 2° the transmission facility is situated within the original coverage area;
- 3° the original coverage area is maintained.

The Flemish Regulator for the Media shall seek a binding opinion from the administration regarding the relocation and compliance with the conditions set out in the second paragraph, and, in the event of a favourable opinion, shall amend the broadcasting licence to reflect the changes.

At the request of the Flemish Government, the Flemish Regulator for the Media may, with a view to optimising the frequency plan, require accredited radio broadcasters or their consortia to relocate their transmission facilities or to use a shared transmission facility.

§ 2. The accredited radio broadcasters or their consortia, as referred to in article 147, shall use technical equipment that complies with the statutory and regulatory requirements, and shall adhere to the provisions of the broadcasting licence. They shall allow appointed staff to carry out on-site inspections of their operations.

The accredited radio broadcasters shall accept the interference caused by the broadcasts of other accredited radio broadcasters transmitting in accordance with their broadcasting licences, or by the broadcasts of VRT transmitting in accordance with the frequency package and frequency block made available to VRT.

Broadcasts must be carried out in accordance with the applicable standards of the International Telecommunication Union (ITU) and the European Telecommunications Standards Institute (ETSI).]²²⁷

[SECTION III. General conditions for accreditation]²²⁸

[Article. 134/3. Accredited radio broadcasters shall broadcast the programme for which they have been granted an accreditation in Dutch. The Flemish Government may grant exemptions from this rule. An application for an exemption may be submitted either at the time of applying for an accreditation or after the accreditation has been granted.]²²⁹

[Article. 134/4. Accredited radio broadcasters are based in the Dutch-speaking region or in the bilingual Brussels-Capital Region. The Flemish Government may grant exceptions to this rule.

²²⁷ Inserted by the act of 10.07.2026

²²⁸ Inserted by the act of 10.07.2026

²²⁹ Added by the act of 10.07.2026

The exception referred to in the first paragraph may not be combined with an exception as referred to in article 134/3.]²³⁰

[Article 134/5. Accredited radio broadcasters shall be independent of any political party.]²³¹

[Article 134/6. Accredited radio broadcasters shall be established as legal entities. The members of the governing body of an accredited radio broadcaster shall not be directors or trustees of the VRT or of any other accredited radio broadcaster, nor shall they hold any political office.]²³²

[Article. 134/7. Accredited radio broadcasters shall broadcast the programme for which they have been granted an accreditation within one year of the date on which the accreditation comes into effect.]²³³

[Article. 134/8. The broadcasting of radio programmes, regardless of their duration or the time of broadcast, by accredited radio broadcasters, which are identical to radio programmes produced by the VRT or other accredited radio broadcasters, is prohibited. Any other form of structured uniformity in programming policy is also prohibited.

Notwithstanding the first paragraph:

1° accredited radio broadcasters may collaborate with VRT or with other accredited radio broadcasters to organise one-off major campaigns, namely charitable campaigns, or campaigns relating to exceptional events or significant occasions;

2° local radio broadcasters and digital local radio broadcasters may broadcast identical radio programmes for a maximum of ten hours per week, both amongst themselves and between the two categories.

The radio broadcasters shall notify the Flemish Regulator for the Media of this at least two weeks before the start of the structured uniformity. The notification shall be made in accordance with article 219.]²³⁴

[Article 135. Accredited radio broadcasters shall broadcast the programme for which they are accredited in an identical manner via the frequencies or frequency blocks allocated to them.

Notwithstanding the first paragraph:

1° local radio broadcasters which have more than one FM frequency in their allocated frequency package may, in response to local events or occurrences, decouple on no more than one of the FM frequencies in the frequency package allocated to them, for a maximum of twice a year and for a maximum of two weeks on each occasion. Local radio broadcasters must notify the Flemish Regulator for the Media of this at least two weeks before the start of the decoupling. The notification shall be made in accordance with article 219;

²³⁰ Added by the act of 10.07.2026

²³¹ Added by the act of 10.07.2026

²³² Added by the act of 10.07.2026

²³³ Added by the act of 10.07.2026

²³⁴ Added by the act of 10.07.2026

2° accredited radio broadcasters may broadcast decoupled radio advertising within the same programme.]²³⁵²³⁶

Article 136. [[§ 1. A legal person, together with other legal persons with which it is affiliated as referred to in article 1:20 of the Code of Companies and Associations, may hold:

1° no more than two accreditations to broadcast a programme as a national radio broadcaster;

2° no more than two accreditations to broadcast a programme as a network radio broadcaster;

3° no more than one accreditation to broadcast a programme as a national radio broadcaster and one accreditation to broadcast a programme as a network radio broadcaster.

A legal entity that is accredited, or wishes to be accredited, as a national radio broadcaster, a network radio broadcaster or both, may combine those accreditations with one or more accreditations for broadcasting programmes as a digital national radio broadcaster.

§ 2. A legal person must meet the following conditions:

1° the legal person holds no more than two accreditations to broadcast a programme as a local radio broadcaster;

2° the legal person holds no more than two accreditations to broadcast a programme as a digital local radio broadcaster;

3° the legal person holds no more than one accreditation to broadcast a programme as a local radio broadcaster and one accreditation to broadcast a programme as a digital local radio broadcaster.

For the purposes of this article, a legal person that would be established to form a partnership as referred to in article 147 shall not be regarded as an affiliated company.

A legal entity that is accredited, or wishes to be accredited, as a local radio broadcaster, as a digital local radio broadcaster or both, is not affiliated, as referred to in article 1:20 of the Code of Companies and Associations, with other legal entities that are accredited as local radio broadcasters, as digital local radio broadcaster or both, nor with legal entities accredited as a national radio broadcaster, a digital national radio broadcaster or a network radio broadcaster, nor with legal entities holding two or more of such accreditations.

§ 3. For the purposes of this article, any accreditations granted to a legal person that is affiliated with another legal person as referred to in article 1:20 of the Companies and Associations Code shall be regarded as accreditations granted to the latter legal person.]²³⁷²³⁸

[SECTION IV. Specific conditions for accreditation and additional eligibility criteria]²³⁹

²³⁵ Replaced by the act of 23.12.2016(2)

²³⁶ Replaced by the act of 10.07.2026

²³⁷ Added by the act of 02.07.2021

²³⁸ Replaced by the act of 10.07.2026

²³⁹ Inserted by the act of 10.07.2026

[SUBSECTION II National radio broadcasters]²⁴⁰

Article 137. The national radio broadcasters are responsible for providing a variety of programmes, particularly in the areas of news and entertainment.

The national radio broadcasters broadcast the programme schedule for which they are accredited via FM and DAB+.[...] ²⁴¹[...] ²⁴² ²⁴³

[Article 138. § 1. National radio broadcasters may be accredited if they meet all of the following conditions for accreditation:

1° the conditions set out in Section III and article 137;

2° the following conditions:

a) the object of the legal entity is the provision of radio broadcasting programmes. National radio broadcasters may carry out any activities that directly or indirectly contribute to the achievement of their objective, provided that such activities coincide with or are related to their broadcasting activities;

b) the national radio broadcasters shall broadcast, within the broadcasting programme for which they are accredited, at least four news bulletins per day covering a variety of topics;

c) news bulletins and current affairs programmes:

1) National radio broadcasters that broadcast news and current affairs programmes do so using their own editorial teams, consisting mainly of professional journalists. An editor-in-chief is responsible for the news and current affairs programmes. Editorial independence is guaranteed and laid down in an editorial charter;

2) national radio broadcasters that broadcast news and current affairs programmes and do not have their own editorial teams may collaborate with other editorial teams, provided that this does not compromise editorial independence and that those editorial teams meet the conditions set out in point 1);

d) the national radio broadcasters shall ensure that a proportion of their music programming consists of Dutch-language music.

§ 2. The Flemish Government shall lay down additional eligibility criteria in a decree and shall assign a weighting to each of those criteria.

The additional eligibility criteria referred to in the first paragraph shall relate at least to the following aspects:

²⁴⁰ Replaced by the act of 10.07.2026

²⁴¹ Lifted by the act of 23.12.2016(2)

²⁴² Lifted by the act of 23.12.2016(2)

²⁴³ Replaced by the act of 10.07.2026

1° the specific content of the programme offering and the broadcasting schedule, in particular the diversity of the programming;

2° media experience;

3° the financial plan;

4° the business plan;

5° the technical and broadcasting infrastructure;

6° the achievements, plans, intentions and commitments regarding digital radio broadcasts via DAB+ and other forms of digital radio.]²⁴⁴

[[Article 139. § 1. For the entire duration of their accreditation, national radio broadcasters shall comply with the accreditation conditions set out in article 138, § 1, and with the fulfilment of the additional eligibility criteria set out in article 138, § 2, as set out in the application for accreditation on the basis of which the Flemish Government granted them accreditation.

Notwithstanding the first paragraph, national radio broadcasters may make changes to the fulfilment of the following additional eligibility criteria set out in the application for accreditation on the basis of which the Flemish Government granted them accreditation :

1° the additional eligibility criterion relating to the broadcasting schedule, as set out in article 138, § 2, second paragraph, 1°;

2° the additional eligibility criteria, as set out in article 138, § 2, second paragraph, 3° to 5°. The national radio broadcasters shall notify the Flemish Regulator for the Media of the amendments referred to in the second paragraph. Such notification shall be made in accordance with article 219.

§ 2. The national radio broadcasters shall submit for approval to the Flemish Government any amendments to their articles of association and shareholding structure relating to the conditions for accreditation set out in article 138, § 1, and the additional eligibility criteria set out in article 138, § 2. The Flemish Government shall seek an opinion on this matter from the Flemish Regulator for the Media. In drawing up that opinion, the Flemish Regulator for the Media shall take into account the need to maintain pluralism and diversity in the radio landscape.]²⁴⁵] ²⁴⁶] ²⁴⁷

[...] ²⁴⁸

[[Subsection II/1. Network radio broadcasters] ²⁴⁹] ²⁵⁰

²⁴⁴ Replaced by the act of 10.07.2026

²⁴⁵ Replaced by the act of 03.06.2022

²⁴⁶ Replaced by the act of 10.07.2026

²⁴⁷ Replaced by the act of 10.07.2026

²⁴⁸ Lifted by the act of 12.02.2021 Comes into force on 01.01.2023

²⁴⁹ Inserted by the act of 23.12.2016(2)

²⁵⁰ Replaced by the act of 10.07.2026

[[Article 143/1. Network radio broadcasters are required to provide a range of programmes based on one of the following profiles or types of content:

1° a generalist profile or music programme, including the broadcasting of news and information;

2° profiles or types of music other than those referred to in point 1°;

Network radio broadcasters shall broadcast the programme for which they are accredited via FM or via FM and DAB+.]^{251]}^{252]}^{253]}

[[Article 143/2. § 1. Network radio broadcasters may be accredited if they meet all of the following conditions for accreditation:

1° the conditions set out in Section III and article 143/1;

2° the following conditions:

a) the object of the legal entity is the provision of radio broadcasting programmes. Network radio broadcasters may carry out any activities that contribute directly or indirectly to the fulfilment of their objective, provided that such activities coincide with or are related to their broadcasting activities;

b) programme profile or music offering:

1) a network radio broadcaster with a programme offering as referred to in article 143/1, first paragraph, 1°, shall broadcast a significant proportion of its offering in accordance with the generalist profile or music offering. A proportion of that music offering shall consist of Dutch-language and Flemish music productions. The Flemish Government may determine the percentage thereof;

2) the network radio broadcaster with a programme schedule as referred to in article 143/1, first paragraph, 2°, broadcasts a significant proportion of its schedule in accordance with the specific chosen profile or music selection. Part of that music selection consists of Flemish music productions. If this other profile or music selection is a Dutch-language and Flemish profile or music selection, this network radio broadcaster shall broadcast a substantial proportion of its programming in accordance with the Dutch-language and Flemish profile or music selection. The Flemish Government shall determine the percentage thereof.

The term ‘Dutch-language and Flemish profile or music programme’ refers to the music programme and other cultural expressions by Dutch-speaking and/or Flemish artists and/or programmes whose main theme is a Dutch-speaking or Flemish artist;

c) the network radio broadcaster, with a programme schedule as referred to in article 143/1, first paragraph, 1°, shall broadcast at least four news bulletins per day covering a variety of topics;

²⁵¹ Lifted by the act of 18.11.2022

²⁵² Inserted by the act of 23.12.2016(2)

²⁵³ Replaced by the act of 10.07.2026

d) news bulletins and current affairs programmes:

1) Network radio broadcasters that broadcast news and current affairs programmes do so using their own editorial team. An editor-in-chief is responsible for the news and current affairs programmes. Editorial independence is guaranteed and laid down in an editorial charter;

2) Network radio broadcasters that broadcast news bulletins and current affairs programmes and do not have their own editorial team may collaborate with other editorial teams, provided that this does not compromise editorial independence and that those editorial teams meet the conditions set out in point 1).

§ 2. The Flemish Government shall lay down, by decree, additional eligibility criteria for recognition and shall assign a weighting to each of those criteria.

The additional eligibility criteria referred to in the first paragraph relate to the following aspects:

1° the specific content of the programme offering and the broadcasting schedule;

2° media experience;

3° the financial plan;

4° the business plan;

5° the technical infrastructure and the broadcasting infrastructure;

6° for network radio broadcasters offering the range of programmes referred to in article 143/1, first paragraph, 1°: compliance with the conditions set out in paragraph 1, 2°, b), for such network radio broadcasters;

7° for network radio broadcasters with a programme schedule as referred to in article 143/1, first paragraph, 2°: the fulfilment of the conditions set out in paragraph 1, 2°, b), for those network radio broadcasters.]²⁵⁴²⁵⁵

[[Article 143/3. § 1. Network radio broadcasters shall, for the entire duration of their licence, comply with the licensing conditions set out in article 143/2, § 1, and with the fulfilment of the additional eligibility criteria set out in article 143/2, § 2, as set out in accreditation application on the basis of which the Flemish Government granted them an accreditation.

Notwithstanding the first paragraph, network radio broadcasters may make changes to the fulfilment of the following additional eligibility criteria as set out in the application for accreditation on the basis of which the Flemish Government granted them an accreditation:

1° the additional eligibility criterion concerning the broadcasting schedule, referred to in article 143/2, § 2, second paragraph, 1°;

2° the additional eligibility criteria referred to in article 143/2, § 2, second paragraph, 3° to 5°.

²⁵⁴ Inserted by the act of 23.12.2016(2)

²⁵⁵ Replaced by the act of 10.07.2026

Network radio broadcasters shall notify the Flemish Regulator for the Media of the changes referred to in the second paragraph. Such notification shall be made in accordance with article 219.

§ 2. Network radio broadcasters shall submit for approval to the Flemish Government any amendments to their articles of association and shareholding structure that relate to the conditions for accreditation set out in article 143/2, § 1, and the additional eligibility criteria set out in article 143/2, § 2. The Flemish Government shall seek an opinion on this matter from the Flemish Regulator for the Media. In drawing up that opinion, the Flemish Regulator for the Media shall take into account the need to maintain pluralism and diversity in the radio landscape.]^{256]}²⁵⁷

[SUBSECTION III Local radio broadcasters]²⁵⁸

[[Article 144. Local radio broadcasters are tasked with providing a variety of programmes with the aim of acting as a unifying force amongst the population or a target group within their catchment area, based on a specific profile, a thematic focus of the programming or a specific target-group-oriented programme offering, and providing specific information.

Local radio broadcasters shall focus their programme offering on a catchment area comprising a region, a city, part of a city, a municipality, part of a municipality, a limited number of contiguous municipalities, or a specific target group within that same catchment area.

Local radio broadcasters shall broadcast their programmes via FM or via FM and DAB+.

Without prejudice to the application of the other provisions of this decree, the Flemish Government shall designate a local radio broadcaster which, within the bilingual Brussels-Capital Region, is specifically aimed at Dutch-speaking residents of Brussels and which cooperates closely with the regional television broadcaster for the bilingual Brussels-Capital Region. The Flemish Government shall make available to that radio broadcaster the FM frequency and capacity on a DAB+ frequency block that it requires.]^{259]}²⁶⁰

[[Article 145 § 1. Local radio broadcasters may be accredited if they meet all of the following conditions for accreditation:

1° the conditions set out in Section III and article 144;

2° the following conditions:

a) the primary purpose of the legal entity is to provide radio programmes. Local radio broadcasters may carry out any activities directly or indirectly related to the fulfilment of their objective. A legal entity operating a local radio broadcaster for the Brussels area may also

²⁵⁶ Inserted by the act of 23.12.2016(2)

²⁵⁷ Replaced by the act of 10.07.2026

²⁵⁸ Replaced by the act of 10.07.2026

²⁵⁹ Replaced by the act of 23.12.2016(2)

²⁶⁰ Replaced by the act of 10.07.2026

operate the regional television broadcaster whose catchment area is the bilingual Brussels-Capital Region;

b) the local radio broadcasters referred to in article 144 shall broadcast a significant proportion of their content with a specific musical profile, a thematic focus, or a programme schedule targeted at specific audiences;

c) news bulletins and current affairs programmes:

1) Local radio broadcasters that broadcast news and current affairs programmes do so using their own editorial team. An editor-in-chief is responsible for the news and current affairs programmes. Editorial independence is guaranteed and laid down in an editorial charter;

2) local radio broadcasters that broadcast news programmes and do not have their own editorial team may collaborate with other editorial teams provided that this does not compromise editorial independence and that those editorial teams meet the conditions set out in point 1).

§ 2. The Flemish Government shall lay down, by decree, additional eligibility criteria for accreditation and shall assign a weighting to each of those criteria.

The additional eligibility criteria referred to in the first paragraph relate to all of the following aspects:

1° the specific content of the programme schedule and the broadcasting timetable, in particular the fulfilment of the remit set out in paragraph 1, 2°, b), and article 144;

2° the financial plan;

3° the technical infrastructure and the broadcasting infrastructure.²⁶¹²⁶²

[[Art. 146. § 1. Local radio broadcasters shall, for the entire duration of their accreditation, comply with the accreditation conditions set out in article 145, § 1, and with the additional eligibility criteria set out in article 145, § 2, as set out in their accreditation application, on the basis of which the Flemish Government granted them an accreditation.

Notwithstanding the first paragraph, local radio broadcasters may make changes to the fulfilment of the additional eligibility criteria set out in article 145, § 2, as set out in their application for accreditation, on the basis of which the Flemish Government granted them an accreditation.

Any deviations from the provisions of article 145, § 1, 2°, b), may only be made after the end of the second full calendar year following the date of accreditation. The local radio broadcaster shall notify the Flemish Regulator for the Media of these changes. Such notification shall be made in accordance with article 219.

§ 2. Local radio broadcasters shall submit for approval to the Flemish Government any amendments to their articles of association and shareholding structure that relate to the conditions for accreditation set out in article 145, § 1, and the additional eligibility criteria set out in article 145, § 2. The Flemish Government shall seek the opinion of the Flemish Regulator

²⁶¹ Replaced by the act of 23.12.2016(2)

²⁶² Replaced by the act of 10.07.2026

for the Media on this matter. In drawing up that opinion, the Flemish Regulator for the Media shall take into account the need to maintain pluralism and diversity in the radio landscape.]]²⁶³²⁶⁴

[Subsection IV. Digital national radio broadcasters]²⁶⁵

[Art. 146/1. The task of the national digital radio broadcasters is to provide a range of programmes based on one of the following profiles or content categories:

1° a general-interest profile or music content;

2° profiles or music content other than those referred to in point 1°.

The digital national radio broadcasters shall broadcast the programme schedule for which they are accredited throughout the Flemish Community via DAB+.]²⁶⁶

Art. 146/2. § 1. Digital national radio broadcasters may be accredited if they meet all of the following conditions for accreditation:

1° the conditions set out in Section III and article 146/1;

2° the following conditions:

a) the legal entity's object is the provision of radio programmes. Digital national radio broadcasters may carry out any activities that directly or indirectly contribute to the achievement of their objective, provided that such activities coincide with or are related to broadcasting activities;

b) programme profile or music offering:

1) a digital radio broadcaster with a programme offering as referred to in article 146/1, 1°, shall broadcast a significant proportion of its offering in accordance with the generalist profile or music offering. A proportion of that music offering shall consist of Dutch-language and Flemish music productions. The Flemish Government may determine the percentage thereof;

2) a digital radio broadcaster with a programme offering as referred to in article 146/1(2) shall broadcast a substantial proportion of its offering through the implementation of the specific chosen profile or music offering. A proportion of that music offering shall consist of Flemish music productions;

c) the digital national radio broadcaster, with a programme schedule as referred to in article 146/1(1), shall broadcast at least four news bulletins per day covering a variety of topics;

d) news bulletins and current affairs programmes:

²⁶³ Replaced by the act of 23.12.2016(2)

²⁶⁴ Replaced by the act of 10.07.2026

²⁶⁵ Inserted by the act of 10.07.2026

²⁶⁶ Inserted by the act of 10.07.2026

1) digital national radio broadcasters that broadcast news bulletins and current affairs programmes shall do so using their own editorial team consisting mainly of professional journalists. An editor-in-chief shall be responsible for the news bulletins and current affairs programmes. Editorial independence shall be guaranteed and laid down in an editorial charter;

2) digital national radio broadcasters that broadcast news and current affairs programmes and do not have their own editorial team may collaborate with other editorial teams provided that this does not compromise editorial independence and that those editorial teams meet the conditions set out in point 1);

e) the digital national radio broadcasters shall ensure that a proportion of their music programming consists of Flemish music productions.

§ 2. The Flemish Government shall lay down additional eligibility criteria in a decree and shall assign a weighting to each of those criteria.

The additional eligibility criteria referred to in the first paragraph shall relate to at least all of the following aspects:

1° the specific content of the programme offering and the broadcasting schedule, in particular the diversity of the programming;

2° media experience;

3° the financial plan;

4° the business plan;

5° the technical infrastructure;

6° the achievements, plans, intentions and commitments regarding digital radio broadcasting via DAB+ and other forms of digital radio.]²⁶⁷

[Art. 146/3. § 1. For the entire duration of their accreditation, the digital national radio broadcasters shall comply with the accreditation conditions set out in article 146/2, § 1, and shall meet the additional eligibility criteria set out in article 146/2, § 2, as set out in their application for accreditation, on the basis of which the Flemish Government granted them an accreditation.

Notwithstanding the first paragraph, the digital national radio broadcasters may make changes to the fulfilment of the following additional eligibility criteria as set out in their accreditation application, on the basis of which the Flemish Government granted them an accreditation:

1° the additional eligibility criterion referred to in article 146/2, § 2, second paragraph, 1°, concerning the broadcasting schedule;

2° the additional qualification criteria referred to in article 146/2, § 2, second paragraph, 3° to 5°. The national digital radio broadcasters shall notify the Flemish Regulator for the Media of

²⁶⁷ Inserted by the act of 10.07.2026

the changes referred to in the second paragraph. Such notification shall be made in accordance with article 219.

§ 2. The national digital radio broadcasters shall submit for approval to the Flemish Government any amendments to their articles of association and shareholding structure relating to the conditions for accreditation set out in article 146/2, § 1, and the additional eligibility criteria set out in article 146/2, § 2. The Flemish Government shall seek an opinion on this matter from the Flemish Regulator for the Media. In drawing up that opinion, the Flemish Regulator for the Media shall take into account the need to maintain pluralism and diversity in the radio landscape.]²⁶⁸

[Subsection V. Digital local radio broadcasters]²⁶⁹

[Art. 146/4. Digital local radio broadcasters are tasked with providing a variety of programmes with the aim of acting as a unifying force amongst the population or a target group within their catchment area, based on a specific profile, a thematic focus of the programming, or a programme offering specifically tailored to a target group.

Digital local radio broadcasters shall focus their programming on a catchment area comprising a region, a town, part of a town, a municipality, part of a municipality, a limited number of contiguous municipalities, or a specific target group within that same catchment area.

The digital local radio broadcaster shall broadcast its programmes via DAB+.]²⁷⁰

[Art. 146/5. § 1. Digital local radio broadcasters may be accredited if they meet all of the following conditions for accreditation:

1° the conditions set out in Section III and article 146/4;

2° the following conditions:

a) the principal object of the legal entity is the provision of radio programmes. Digital local radio broadcasters may carry out all activities directly or indirectly related to the fulfilment of their purpose;

b) digital local radio broadcasters broadcast a significant proportion of their content with a specific musical profile, a thematic focus, or a programme schedule targeted at a specific audience;

c) news and current affairs programmes:

1) digital local radio broadcasters that provide news and current affairs programmes do so using their own editorial team. An editor-in-chief is responsible for the news and current affairs programmes, and editorial independence is guaranteed and laid down in an editorial charter;

²⁶⁸ Inserted by the act of 10.07.2026

²⁶⁹ Inserted by the act of 10.07.2026

²⁷⁰ Inserted by the act of 10.07.2026

2) digital local radio broadcasters that broadcast news and current affairs programmes and do not have their own editorial team may collaborate with other editorial teams, provided that this does not compromise editorial independence and that those editorial teams meet the conditions set out in point 1).

§ 2. The Flemish Government shall lay down, by decree, additional eligibility criteria for recognition and shall assign a weighting to each of those criteria.
The additional eligibility criteria referred to in the first paragraph relate to all of the following aspects:

1° the specific content of the programme schedule and the broadcasting timetable, in particular the fulfilment of the remit set out in paragraph 1, 2°, b), and article 146/4;

2° the financial plan;

3° the technical infrastructure.]²⁷¹

[Art. 146/6. § 1. Digital local radio broadcasters shall, for the entire duration of their licence, comply with the accreditation conditions set out in article 146/5, § 1, and with the additional eligibility criteria of article 146/5, § 2, as set out in their accreditation application, on the basis of which the Flemish Government granted them an accreditation.

Notwithstanding the first paragraph, local radio broadcasters may make changes to the fulfilment of the additional eligibility criteria set out in article 146/5, § 2, as set out in their accreditation application, on the basis of which the Flemish Government granted them an accreditation. Any deviations from the definition of the remit set out in article 146/5, § 1, 2°, b), may only be made after the end of the second full calendar year following the date of accreditation. The local radio broadcaster shall notify the Flemish Regulator for the Media of these changes. Such notification shall be made in accordance with article 219.

§ 2. Local radio broadcasters shall submit for approval to the Flemish Government any amendments to their articles of association and shareholding structure that relate to the conditions for accreditation set out in article 146/5, § 1, and the additional eligibility criteria set out in article 146/5, § 2. The Flemish Government shall seek an opinion on this matter from the Flemish Regulator for the Media. In drawing up that opinion, the Flemish Regulator for the Media shall take into account the need to maintain pluralism and diversity in the radio landscape.]²⁷²

[Section V. Partnerships]²⁷³

[Article 147. Radio broadcasters accredited to broadcast their programmes on the same frequency block via DAB+ must form a partnership. If the partnership cannot be formed within a reasonable period, the aforementioned radio broadcasters shall seek mediation. The Flemish Government shall determine the detailed arrangements for this mediation procedure.

²⁷¹ Inserted by the act of 10.07.2026

²⁷² Inserted by the act of 10.07.2026

²⁷³ Replaced by the act of 10.07.2026

The partnership referred to in the first paragraph, and any subsequent changes to the partnership, shall be notified to the Flemish Regulator for the Media. The notification shall be made in accordance with article 219.]²⁷⁴

[Article 148. The partnership referred to in article 147 must be the subject of written agreements between the accredited radio broadcasters concerned.

The accredited radio broadcasters forming the partnership referred to in article 147 shall exercise the frequency usage rights granted to them jointly. If one of the accredited radio broadcasters ceases to be part of the partnership, it shall be continued by the remaining radio broadcasters.

Where there is under-utilised capacity, the partnership referred to in article 147 must grant access to that capacity on fair, reasonable and non-discriminatory terms.

The Flemish Government shall determine to which radio broadcasters the partnership must grant such access, as well as the procedure and conditions for doing so..]²⁷⁵

[Article 149. The Flemish Government shall lay down the detailed implementing provisions concerning the establishment, operation, registration, distribution and use of under-utilised capacity, as well as the obligations of the partnerships referred to in article 147, which are formed for the purposes of implementing this section.]]²⁷⁶

[CHAPTER II Private non-linear radio broadcasters]²⁷⁷

[CHAPTER II Other radio broadcasters]²⁷⁸

[Article 150. [§ 1. Anyone can offer non-linear radio services, under the conditions of this chapter, insofar as the entity offering such services has been established as a private legal person, or is a natural person which carries out a professional activity independently and falls under the competence of the Flemish Community. In the case of a private legal person [the object]²⁷⁹ is to provide non-linear radio services. The legal person can carry out any activities which could directly or indirectly contribute to achieving [that object]²⁸⁰.]²⁸¹

§ 2. The Flemish Regulator for the Media has to be notified at least fourteen calendar days prior to the start of service of the fact that a non-linear radio service is being offered. This notification is made in accordance with Article 219. This notification must contain at least the following information: the place of broadcast, the place of establishment, the manner in which the program signal is distributed and the articles of association.

§ 3. The Flemish Government will determine which other data has to be subsequently supplied in the notification and which later changes have to be notified to the Flemish Regulator for the Media.]]²⁸²

²⁷⁴ Replaced by the act of 10.07.2026

²⁷⁵ Replaced by the act of 10.07.2026

²⁷⁶ Replaced by the act of 10.07.2026

²⁷⁷ Will be replaced on 01.01.2028 by ‘CHAPTER II Other radio broadcasters’

²⁷⁸ Replaced by the act of 10.07.2026. comes into force on 01.01.2028

²⁷⁹ Replaced by the act of 19.04.2024

²⁸⁰ Replaced by the act of 19.04.2024

²⁸¹ Replaced by the act of 19.12. 2021

²⁸² Will be lifted on 01.01.2026 en be replaced by the new art. 150

[Article 150. Radio broadcasters that transmit their programmes via networks other than radio broadcasting networks are referred to as other radio broadcasters.]²⁸³

[Art. 150/0. § 1. Other radio broadcasters must meet the following conditions:

1° the entity providing the service must be established as a legal person or a natural person carrying out a professional activity on a self-employed basis and falling within the jurisdiction of the Flemish Community;

2° in the case of a legal person, its object is the provision of radio programmes via networks other than radio broadcasting networks. They may carry out any activities directly or indirectly related to the fulfilment of that object.

§ 2. Other radio broadcasters shall notify the Flemish Regulator for the Media of the start of their broadcasts at least two weeks before they begin broadcasting a programme.

The notification referred to in the first paragraph shall be made in accordance with Article 219. The notification shall contain all of the following information:

1° the place of broadcast;

2° the place of establishment;

3° the method by which the programme signal is transmitted;

4° the articles of association.

The Flemish Government shall determine the details to be provided in the notification and which subsequent changes to those details must be communicated to the Flemish Regulator for the Media.

The notification referred to in the first paragraph is not required for licensed radio broadcasters who transmit or make available their broadcast programmes, for which they have been granted a accreditation, via electronic communications networks other than radio broadcasting networks.]²⁸⁴

TITLE IV. Television services

CHAPTER I. Provisions applying to all television services

[Section I. Television broadcasters falling within the competence of the Flemish Community.

Art. 150/1. § 1. Television broadcasters fall within the competence of the Flemish Community if they meet any of the following conditions:

²⁸³ Replaced by the act of 10.07.2026. comes into force on 01.01.2028

²⁸⁴ Replaced by the act of 10.07.2026. comes into force on 01.01.2028

1° they are established in the Dutch-language area;

2° they are established in the bilingual Brussels-Capital area and the activities exclusively fall within the Flemish Community.

§ 2. Television broadcasters are established in the Dutch-language area or in the bilingual Brussels-Capital area if they meet any of the following conditions:

1° their head offices are located in the Dutch-language area or in the bilingual Brussels-Capital area, where the editorial decisions are made;

2° a significant part of the television broadcasters' staff [involved in the pursuit of the program-related television service activity]²⁸⁵ work in the Dutch-language area or in the bilingual Brussels-Capital area, where their head offices are located, while editorial decisions are made in another Member State of the European Union [and of the other states in the European Economic Area]²⁸⁶;

3° a significant part of the television broadcasters' staff [involved in the pursuit of the program-related television service activity]²⁸⁷ work in the Dutch-language area or in the bilingual Brussels-Capital area, where editorial decisions are made, while their head offices are located in another Member State of the European Union [and of the other states in the European Economic Area]²⁸⁸;

4° their head offices are located in the Dutch-language area or in the bilingual Brussels-Capital area, where a significant part of the television broadcasters' staff [involved in the pursuit of the program-related television service activity]²⁸⁹ work, while editorial decisions are made in another Member State of the European Union, where another significant part of the television broadcasters' staff work;

5° no significant part of the television broadcasters' staff [involved in the pursuit of the program-related television service activity]²⁹⁰ work in the Dutch-language area, in the bilingual Brussels-Capital area or in another Member State of the European Union [or of another state of the European Economic Area]²⁹¹ but the television broadcasters were the first to start offering television services in the Dutch-language area or in the bilingual Brussels-Capital area in accordance with Flemish Community law and the television broadcasters have a sustainable and real relationship with the economy of the Flemish Community;

6° a significant part of the television broadcasters' staff [involved in the pursuit of the program-related television service activity]²⁹² work in the Dutch-language area or in the bilingual Brussels-Capital area, where their head offices are located, while editorial decisions are made in another country that is not a Member State of the European Union [and of the other states in the European Economic Area]²⁹³;

²⁸⁵ Inserted by the act of 19.03.2021

²⁸⁶ Added by the act of 19.04.2024

²⁸⁷ Inserted by the act of 19.03.2021

²⁸⁸ Added by the act of 19.04.2024

²⁸⁹ Inserted by the act of 19.03.2021

²⁹⁰ Inserted by the act of 19.03.2021

²⁹¹ Inserted by the act of 19.04.2024

²⁹² Inserted by the act of 19.03.2021

²⁹³ Added by the act of 19.04.2024

7° a significant part of the television broadcasters' staff [involved in the pursuit of the program-related television service activity]²⁹⁴ work in the Dutch-language area or in the bilingual Brussels-Capital area, where editorial decisions are made, while their head offices are located in another country that is not a Member State of the European Union [and of the other states in the European Economic Area]²⁹⁵.

§ 3. Any television broadcasters that meet none of the conditions referred to in paragraph 2 fall within the competence of the Flemish Community if they meet any of the following conditions:

1° they use a satellite up-link located in the Dutch-language area or a satellite up-link located in the bilingual Brussels-Capital area, which belongs exclusively to the Flemish Community;

2° they use satellite capacity falling within the competence of the Flemish Community although they do not use a satellite up-link located as referred to in point 1°.

§ 4. Any television broadcasters that meet none of the conditions mentioned in paragraph 2 or paragraph 3 fall within the competence of the Flemish Community if they are established in the Dutch-language area or in the bilingual Brussels-Capital area in accordance with Articles 49 to 55, inclusive, of the Treaty on the Functioning of the European Union [and the activities belonging exclusively to the Flemish Community]²⁹⁶.

[§4/1. Television broadcasters inform the Flemish Regulator for the Media about any changes that may affect the determination of jurisdiction in accordance with paragraphs 2 to 4. This notification is made in accordance with article 219.

§4/2. The Flemish Regulator for the Media shall establish and maintain an up-to-date list of the television broadcasters under its jurisdiction. This list indicates for each television broadcaster the criteria, mentioned in paragraphs 2 to 4, the jurisdiction of the Flemish Regulator for the Media is based. The Flemish Regulator for the Media shall communicate that list, including any updates thereto, to the European Commission.

§4/3. If the Flemish Regulator for the Media and the national regulatory authority or the national regulatory body of another Member State of the European Union [or of another state of the European Economic Area]²⁹⁷ do not agree on which Member State has jurisdiction over a television broadcaster in connection with procedures, mentioned in articles 40/1, 221 and 222, the Flemish Regulator for the Media shall bring the matter to the European Commission's attention without undue delay.]²⁹⁸

§ 5. This Act does not apply to television services intended exclusively for reception in countries that are not Member States of the European Union[or a state of the European Economic Area]²⁹⁹ and that are not directly or indirectly received with standard consumer

²⁹⁴ Inserted by the act of 19.03.2021

²⁹⁵ Added by the act of 19.04.2024

²⁹⁶ Added by the act of 19.03.2021

²⁹⁷ Inserted by the act of 19.04.2024

²⁹⁸ Inserted by the act of 19.03.2021

²⁹⁹ Inserted by the act of 19.04.2024

equipment by the public in the Dutch-language area or in the bilingual Brussels-Capital area or elsewhere in the European Union [or the European Economic Area]³⁰⁰.]³⁰¹

[SECTION [1/1] ³⁰² Accessibility to television services for persons with disabilities]³⁰³

Article 151. [§1. The public broadcaster of the Flemish Community and private television broadcasters shall make their programs continuously and progressively accessible to persons with disabilities through proportionate measures.

In order to make programs accessible to people with visual or hearing disabilities, subtitling, audio description, sign language and audio subtitling shall be used.

§2. Regional television broadcasters shall make their news programs accessible to people with a hearing disability on weekdays from 8:00 p.m. To this end, use shall be made of subtitling.

Private television broadcasters with an average market share of 2% that broadcast a main news program and have had an average market share of 2% for six consecutive months since the first broadcast must subtitle that news program. The main news program is the news program with the highest average number of viewers.

Private television broadcasters that start broadcasting a main news program but on the day of the first broadcast do not have a 2% market share, must subtitle that main news program within a term of 12 months commencing from the day that the private television broadcasters have had an average market share of 2% for 6 consecutive months.

Private television broadcasters that had a 2% market share on 1 January 2010 and still maintain 2 % market share when the Act of [...] amending the Act of 27 March 2009 on radio and television broadcasting, as regards the partial transposition of Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, takes effect, and that broadcast news programs other than the main news, and current affairs programs, or that commence broadcasting news programs other than the main news and current affairs programs, must subtitle these news programs other than the main news and 90% of current affairs programs no later than 1 January 2013.

Private television broadcasters that commence broadcasting news programs other than the main news and current affairs programs, but on 1 January 2010 do not have an average market share of 2 %, must subtitle these news programs other than the main news and 90 % of current affairs programs within 36 months starting from the day that the private television broadcaster has a market share of 2 % and that during 6 consecutive months. That obligation does not apply to current affairs programs that are dedicated solely to sports coverage. The market share of a private television broadcaster is the share of a private broadcaster in the total audience share of the television broadcasting market within a given period.

³⁰⁰ Inserted by the act of 19.04.2024

³⁰¹ Inserted by the act(1) of 17.01.2014

³⁰² Changed by the act(1) of 17.01.2014

³⁰³ Replaced by the act of 19.03.2021

§ 3. The Flemish Government imposes a time frame and quota for:

- 1° subtitling other than that mentioned in paragraph 2;
- 2° audio description;
- 3° sign language;
- 4° audio subtitling.

§4. The public broadcaster of the Flemish Community and private television broadcasters shall submit a report to the Flemish Regulator for the Media before 31 March of each year on the manner in which paragraphs 1, 2 and 3 were met during the preceding year, stating any action points. The Flemish Regulator for the Media shall publish those reports.

§5. The Flemish Government shall subsidise any technique making television services accessible. The Flemish Government shall lay down criteria for this purpose.

§6. Television broadcasters shall broadcast, as far as reasonably possible, emergency information, including public communications and announcements in natural disaster situations, in a manner which is accessible to persons with disabilities.

§7. The Flemish Regulator for the Media shall maintain an online point of contact for providing information and receiving complaints regarding this article. The online point of contact is easily accessible for persons with disabilities.]³⁰⁴]³⁰⁵

SECTION II. The broadcast of cinematographic works

Article 152. Television service providers may not broadcast cinematographic works outside the periods agreed upon with the holders of rights.

SECTION III. Events arrangement

Article 153. § 1. The Flemish Government draws up a list of events which are deemed to be of significant interest to citizens and which cannot for that reason be broadcast on an exclusive basis in such a way that a significant proportion of the public in the Flemish Community is not able to follow these events directly on television free of charge or in a postponed report [...]³⁰⁶.

[It is deemed that a significant share of the audience in the Flemish Community should be able to follow on television an event considered to be of considerable interest to society if:

1° the event is broadcast by a broadcaster that broadcasts in the Dutch language;

2° it concerns a television broadcaster that can be received by at least 90 % of the public without additional costs above the price of the basic subscription of a service distributor.]³⁰⁷

[Television broadcasters that do not comply with the provisions of paragraph 2, 1° or 2°, and that acquire exclusive broadcasting rights to broadcast events which are deemed to be of significant interest to society in the Dutch-language area or in the bilingual Brussels-Capital

³⁰⁴ Replaced by the act of 13.07.2012

³⁰⁵ Replaced by the act of 19.03.2021

³⁰⁶ Cancelled by the act of 13.07.2012

³⁰⁷ Replaced by the act of 13.07.2012

area, may only exercise such rights if they can guarantee via agreements concluded that a significant part of the public in the Flemish Community will not be prevented from following these events on television, as described in paragraph 2.

Television broadcasters holding exclusive broadcasting rights may grant sub-licences to television broadcasters that meet the conditions specified in paragraph 2, 1° and 2°, at reasonable market prices and within terms that must be agreed by mutual consultation between the television broadcasters. If no television broadcasters who are prepared to take sub-licences under these conditions are found, the television broadcaster in question may yet make use of the broadcasting rights acquired, by way of derogation from the provisions in paragraph 2.]³⁰⁸

[§ 1/1. An event can be considered an event of considerable interest to society if at least two of the following conditions are satisfied:

1° the event has considerable general news value and elicits a broad interest from the general public;

2° the event takes place in the framework of an important international competition or is a competition in which the national team, a Belgian club team or one or more Belgian athletes take part;

3° the event is part of an important sports discipline and is of considerable cultural value in the Flemish Community;

4° the event generates high ratings in its category.

The Government of Flanders determines whether these events must be available in complete or partial direct reports, or whether they should be available in completely or partially postponed reports.]³⁰⁹

§ 2. [The television broadcasters]³¹⁰ may not exercise the exclusive rights they have been granted in such a way that a significant part of the public in another Member State in the European Community is not able to follow the events designated by that other Member State on television free of charge in a complete or partial direct report, or, if necessary or appropriate for objective reasons of public interest, in completely or partially postponed reports , as determined by that other Member State.

[§ 3. In paragraphs 1 and 2, basic package from a service distributor is understood to mean: the general or first package from broadcasting services that is offered by a service distributor. This does not preclude additional costs for obtaining additional but necessary equipment, such as a decoder. An additional package from broadcasting services offering premium content, such as sport or film, which is offered by a service distributor together with the basic package and for which the consumer must pay extra in addition to the price of the basic package, is not included in the basic package of a service distributor.]³¹¹

³⁰⁸ Added by the act(1) of 17.01.2014

³⁰⁹ Inserted by the act of 13.07. 2012

³¹⁰ Replaced by the act(1) of 17.01.2014

³¹¹ Added by the act of 13.07.2012

SECTION IV. The promotion of European productions

Article 154. The television broadcaster of the Flemish Community and the private linear television broadcasters aim to reserve the major share of the time that is not reserved for information, sports, games, advertising, teletext and teleshopping for European productions.

A significant proportion of this must be devoted to Dutch-language European productions.

The Flemish Government can impose quota in implementation of paragraph 1 and paragraph 2.

Article 155. The television broadcaster of the Flemish Community and the private linear television broadcasters aim to reserve at least ten percent of the time that is not reserved for information, sports, games, advertising, teletext and teleshopping for European productions that have been created [by independent producers or by producers who are not independent producers as mentioned in article 2, 49°, but who are independent within the meaning of article 2, 49°, a), of the television broadcaster broadcasting the production].³¹²

A significant proportion of these must be devoted to recent productions. These are productions which were broadcast within a period of five years after they were made.

Sufficient room must be provided for recent European Dutch-language productions.

The Flemish Government can impose quota in implementation of paragraphs 1, 2 and 3.

[Art. 155/1. With a view to ensuring pluralism in the media, freedom of expression and cultural diversity, the Flemish Government can lay down criteria and impose measures on companies to ensure that appropriate attention is paid to, and visibility and traceability is guaranteed for television services of general interest.]³¹³

Article 156. Every year, the television broadcaster of the Flemish Community and the private linear television broadcasters will submit a report to the Flemish Regulator for the Media before 31 March on the manner in which they have complied with the provisions of articles 154 and 155. The Flemish Regulator for the Media will publish these data.

[Art. 157. § 1. The [television broadcasters offering non-linear television services]³¹⁴ offer at least 30% European productions in their program catalog, of which a considerable part are Dutch-speaking European productions. The [television broadcasters offering non-linear television services]³¹⁵ provide a prominent place for these European productions in their program catalog.

[The obligations, set out in the first paragraph, do not apply to television broadcasters providing non-linear television services that meet at least one of the following conditions:

³¹² Replaced by the act of 01.03.2024

³¹³ Inserted by the act of 19.03.2021

³¹⁴ Is replaced by the act of 01.03.2024 Comes into force on 01.01.2025

³¹⁵ Is replaced by the act of 01.03.2024 Comes into force on 01.01.2025

1° they are a micro-enterprise;
2° they reach less than 0.5% of all inhabitants of the Dutch-speaking region with their offer of non-linear television services.]³¹⁶

[The Flemish Government shall determine the further conditions and rules for the exemptions mentioned in the second paragraph.]³¹⁷

The Flemish Government can impose quotas for the determination of a considerable number of Dutch-speaking European productions as referred to in the first paragraph.

[§2....]³¹⁸

§3. Every year [television broadcasters offering non-linear television services]³¹⁹ will submit a report to the Flemish Regulator for the Media before 31 March on the manner the provisions of [paragraph 1]³²⁰ have been complied with. The Flemish Regulator for the Media will publish these data.

[§4...]³²¹

CHAPTER II Private linear television services

SECTION I. General provisions

Article 158. Private linear television broadcasters include:

1° regional television broadcasters;

2° private television broadcasters.

Article 159. Under the conditions, mentioned in this section, private linear television broadcasters are accredited by the Flemish Government or have registered with the Flemish Regulator for the Media. In order to be accredited, they must be established as a legal person under private law [or a natural person engaged in a professional activity]³²² and must fall within the competence of the Flemish Community.

The Flemish Government determines the conditions and the procedure for obtaining accreditation and for the manner of notification.

Article 160. The [object]³²³ of private linear television broadcasters is to provide programs. They can carry out any actions, which contribute directly or indirectly to the accomplishment of [that object]³²⁴.

³¹⁶ Is replaced by the act of 01.03.2024. Comes into force on 01.01.2025

³¹⁷ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

³¹⁸ Lifted by the act of 01.03.2024. Comes into force on 01.01.2025

³¹⁹ Is Replaced by the act of 01.03.2024. Comes into force on 01.01.2025

³²⁰ Is Replaced by the act of 01.03.2024. Comes into force on 01.01.2025

³²¹ Lifted by the act of 01.03.2024. Comes into force on 01.01.2025

³²² Inserted by the act of 19.04.2024

³²³ Replaced by the act of 19.04.2024

³²⁴ Replaced by the act of 19.04.2024

SECTION II. Private television broadcasters

Article 161. Private television broadcasters have to register with the Flemish Regulator for the Media. They should notify the Regulator at least fourteen calendar days prior to the start of their linear television services.

The notification has to be carried out in compliance with Article 219 and has to contain at least the following information: all the information which can serve to determine whether the Flemish Community is competent for the television service concerned, the articles of association, the financial structure, a clear description of the service to be provided. [If the linear television service is wholly or mostly targeting the audience of another Member State of the European Union [or of another state of the European Economic Area]³²⁵, the Flemish Regulator for the Media shall inform the national regulatory authority or the national regulatory body of the other Member State of the European Union[or of that other state of the European Economic Area]³²⁶ of the notification.]³²⁷

After notification, each change to the information, mentioned in section two, has to be notified to the Flemish Regulator for the Media as soon as possible by the private broadcaster.

The Flemish Government sets out the subsequent rules for notification, which private television broadcasters have to comply with.

Article 162. Notification is required for every broadcasting program.

Private broadcasters offering a broadcasting program that is made up exclusively of teleshopping programs and private broadcasters offering a broadcasting program that is made up exclusively of self-promotion, should explicitly mention this in their notification.

Article 163. [Anyone can offer linear television services, under the conditions of this chapter, insofar as the entity offering such services has been established as a private legal person, or is a natural person which carries out a professional activity independently and falls under the competence of the Flemish Community. In the case of a private legal person [the object]³²⁸ is to provide linear television services. The legal person can carry out any activities which could directly or indirectly contribute to achieving [that object]³²⁹.

The linear television broadcasters are independent of political parties.

The broadcasts of linear television broadcasters fall under the editorial responsibility of the staff.

The linear television broadcasters broadcast in Dutch subject to derogations granted by the Flemish Government.]³³⁰

³²⁵ Inserted by the act of 19.04.2024

³²⁶ Inserted by the act of 19.04.2024

³²⁷ Added by the act of 19.03.2021

³²⁸ Replaced by the act of 19.04.2024

³²⁹ Replaced by the act of 19.04.2024

³³⁰ Replaced by the act of 19.03.2021

Article 164. When private television broadcasters broadcast news programs and [current affairs programs]³³¹, these have to be produced by their own editorial staff. The editorial independence is guaranteed and laid down in an editorial statute.

SECTION III. Regional television broadcasters

Article 165. The duty of a regional television broadcaster is to provide regional information with the aim of promoting communication between the population and between the authorities and the population on the one hand, and to contribute to the region's general social and cultural development on the other hand within the service area allocated to regional television broadcasters by the Flemish Government according to Article 168.

[In addition to the task mentioned in the first paragraph, the regional television broadcaster fulfils the following tasks:

1° to reach as large an audience as possible within the service area with programs that offer regional information related to the service area;

2° to ensure a high degree of involvement among the viewers of the programs by offering interactive applications;

3° to pursue an active diversity policy in the organisation and in the program offer.]³³².

Regional information includes news bulletins, background information, debates, election broadcasts and service programs, amongst other things.

Within the framework of the description of the duties of regional broadcasters referred to in the first paragraph, the regional broadcasters can make broadcasting time available to regional actors, but they do remain responsible for the broadcasts itself.

Article 166. [§1.]³³³ Regional television broadcasters can only start producing programs once they have been accredited by the Flemish Government.

The Flemish Government determines the procedure for obtaining accreditation [and extension of accreditation]³³⁴, as well as potential other measures for determining the service area.

[[§2. The Flemish Government concludes a cooperation agreement with the accredited regional television broadcasters for a period of five years. The cooperation agreement enters into force when the accreditation takes effect and expires after five years.

After the cooperation agreement referred to in the first paragraph, has expired, the Flemish Government will conclude a new cooperation agreement with the accredited regional television

³³¹ Replaced by the act of 19.04.2024

³³² Inserted by the act of 21.02.2014

³³³ Inserted by the act of 21.02.2014

³³⁴ Inserted by the act of 09.02.2024

broadcasters for a further period of five years. The cooperation agreement enters into force after the first cooperation agreement, referred to in the first paragraph, has expired and expires when the accreditation expires.

If the cooperation agreement referred to in the first paragraph, has expired and no new cooperation agreement has entered into force, the cooperation agreement will be extended de jure until a new cooperation agreement has entered into force for the remaining duration of the period of the second cooperation agreement and at the latest until the moment the accreditation expires.

The cooperation agreement referred to in the first and second paragraph, will in any case end de jure at the time that the accreditation of the regional television broadcaster expires prematurely. In that case, the Flemish Government will conclude a cooperation agreement with the regional television broadcaster that has been accredited in accordance with article 170, §4, for the remaining duration of the initial cooperation agreement and, if the accreditation expires in the first period of five years, consecutively a second cooperation agreement for the duration of five years. The cooperation agreement that is concluded for the remaining duration of the initial cooperation agreement can be extended de jure under the conditions stated in the third paragraph.

The cooperation agreement, referred to in the first and second paragraph, relates to the subtitling assignment and the implementation of the assignments, referred to in articles 151 and 165, and determines the criteria and modalities for obtaining and using subsidies.]³³⁵³³⁶

[§3. If a current cooperation agreement is terminated before 1 January 2029 due to premature lapse of accreditation, the Flemish Government will conclude a cooperation agreement with the regional television broadcaster that is accredited in accordance with article 170, §4, for the remaining duration of the initial cooperation agreement.]³³⁷

[Article 166/1. § 1. For the commercial operation of its programming, [or the provision of the broadcasting program by the operator, without prejudice to the editorial responsibility of the regional television broadcaster]³³⁸ the regional television broadcaster may enter into an agreement with an operator. Commercial operation shall mean: the whole of commercial activities that contribute to the financing of the programming of the regional television broadcaster.

An operator takes care of the commercial operation of the programming [or without prejudice to the editorial responsibility of the regional television broadcaster, the broadcasting program]³³⁹ of one or more regional television broadcasters.[[...] ³⁴⁰]³⁴¹

The Government of Flanders shall determine the further conditions to be fulfilled by operators and the minimum requirements to be included in the operating agreement between the regional television broadcaster and the operator. [Those minimum requirements include at least the

³³⁵ Added by the act of 23.12.2016

³³⁶ Replaced by the act of 09.02.2026

³³⁷ Added by the act of 09.02.2024

³³⁸ Inserted by the act of 29.06.2018

³³⁹ Inserted by the act of 29.06.2018

³⁴⁰ Replaced by the act of 29.06.2018

³⁴¹ Lifted by the act of 09.02.2024

obligation, when the transmission of the broadcasting program is transferred to the operating company, to include in the operating agreement a regulation on editorial independence, compliance with the editorial statute and the responsibility of the regional television broadcaster for the content of the programs.]³⁴²

[The production of the news and the appointment of the editor-in-chief and of the editors, notwithstanding the first paragraph, cannot be entrusted to the operator via the operating agreement.]³⁴³

§ 2. From 1 January 2015 onwards, regional television broadcasters shall be paid a fee by service distributors who collect payments for third parties and who transmit the programs of the regional television broadcasters based on the coverage measurement of their programs.

[The regional television broadcasting organizations whose broadcasting area comprises fewer than 750,000 inhabitants and of which, on the basis of one or more indicators to be determined by the Flemish Government, it can be assumed that the home language of a relatively high proportion of residents is French, receive starting from 1 January 2018 from the service distributors who collect money for third parties and who transmit the broadcasting program of the regional television broadcasters, a compensation of 100,000 euros for this. This amount is withdrawn in advance from the annual total remuneration stated in the fourth paragraph. The Flemish Government determines the further limits of the relatively high share.]³⁴⁴

The coverage measurement mentioned in the first paragraph is the result of the average daily coverage of a regional television broadcaster in terms of percentage calculated by the Flemish Regulator for the Media. The average daily coverage in terms of percentage is calculated based on the coverage data made available to the Flemish Regulator for the Media by the service distributors who collect payments for third parties and who transmit the programs of the regional television broadcasters.

The total annual coverage fee to be paid by the service distributors who collect payments for third parties and who transmit the programs of the regional television broadcasters [for the compensation mentioned in the second paragraph and]³⁴⁵ for the coverage fee of the regional broadcasters is set at 2.3 euros x the total number of subscribers of these service distributors, calculated on the basis of the data provided in application of Article 182 and accepted by the Flemish Regulator for the Media.

The Government of Flanders shall determine the moment at which the total number of subscribers will be determined in application of the [fourth]³⁴⁶ paragraph.

[The compensation referred to in the second paragraph will be indexed annually from 1 January 2019 on the basis of the price index, as stipulated in article 2 of the royal decree of 24 December 1993 pursuant to the act of 6 January 1989 to safeguard the country's competitiveness. The compensation is indexed by multiplying it by the aforementioned price index, determined for

³⁴² Added by the act of 29.06.2018

³⁴³ Added by the act of 29.06.2018

³⁴⁴ Inserted by the act of 29.06.2018

³⁴⁵ Inserted by the act of 29.06.2018

³⁴⁶ Replaced by the act of 29.06.2018

the month of January of the current year and divided by the aforementioned price index, determined for the month of January 2018.]]³⁴⁷

The [coverage fees]³⁴⁸ mentioned in the first paragraph, calculated by the Flemish Regulator for the Media based on the coverage measurement as mentioned in the [third]³⁴⁹ paragraph, shall be paid to the regional television broadcasters by the service distributors who collect payments for third parties and who transmit the programs of the regional television broadcasters.

The Government of Flanders shall determine the detailed conditions and modalities according to which the coverage data must be made available to the Flemish Regulator for the Media by the service distributors who collect payments for third parties and who transmit the programs of the regional television broadcasters for the calculation of the average daily coverage of the regional television broadcasters by the Flemish Regulator for the Media, for the calculation of the individual coverage fees by the Flemish Regulator for the Media, and for the payment of the coverage fees to each of the regional television broadcasters by these service distributors.

[The [fees]³⁵⁰ mentioned in the [fourth]³⁵¹ paragraph, [are]³⁵² indexed annually from 1 January 2016 based on the price index as defined in Article 2 of the Royal Decree of 24 December 1993 pursuant to the Act of 6 January 1989 to safeguard the country's competitiveness. This is done by multiplying the [fees]³⁵³ mentioned in the [fourth]³⁵⁴ paragraph by the price index mentioned above determined for January of the current year and by dividing by the price index mentioned above determined for the month of January 2015.]]³⁵⁵

The total amount of the [fees]³⁵⁶ mentioned in the first paragraph is calculated on a quarterly basis after the end of each quarter. The amount must be paid, at the latest, on the last day of the following quarter and shall be equal to the sum of the amounts determined based on the coverage measured in accordance with the [3]³⁵⁷ paragraph.

The Flemish Regulator for the Media shall calculate for each regional television broadcaster the average daily coverage in terms of percentage in the last quarter of 2014 based on the coverage data made available to the Flemish Regulator for the Media by the service distributors who collect payments for third parties and who transmit the programs of the regional television broadcasters.

As of 1 January 2016, regional television broadcasters whose average daily coverage in the last quarter of each year from 2015 onwards has dropped by more than 20% compared to the average daily coverage of the last quarter of 2014, in order to be entitled to the fee in accordance with this subsection, must enter into an agreement with an operator in accordance with the first

³⁴⁷ Inserted by the act of 29.06.2018

³⁴⁸ Replaced by the act of 29.06.2018

³⁴⁹ Replaced by the act of 29.06.2018

³⁵⁰ Replaced by the act of 29.06.2018

³⁵¹ Replaced by the act of 29.06.2018

³⁵² Replaced by the act of 29.06.2018

³⁵³ Replaced by the act of 29.06.2018

³⁵⁴ Replaced by the act of 29.06.2018

³⁵⁵ Replaced by the act(2) of 04.0.12.2015

³⁵⁶ Replaced by the act of 29.06.2018

³⁵⁷ Replaced by the act of 29.06.2018

subsection. The Government of Flanders shall determine the further conditions for the application of this paragraph.

[§ 3...] ³⁵⁸

§ 4. The bodies of regional television broadcasters that have entered into an operating agreement as mentioned in subsection 1 must, in addition, fulfil the following conditions:

1° the General Meeting and [the governing body] ³⁵⁹ must be composed, in a representative way, of people who live in the service area in question of the regional television broadcaster;

2° no more than two thirds of the members of the General Meeting and of [the governing body] ³⁶⁰ may be of the same sex, and at least one of the members of these bodies must have a different ethnic-cultural background. In their composition, the General Meeting and the Board of Directors must reflect a balanced and proportional age diversity in line with the demographic reality of our adult population;

3° one [...] ³⁶¹ member of the General Meeting shall be appointed by the operator with whom the regional television broadcaster has entered into an operating agreement;

4° the offices on [the governing body] ³⁶² shall have a duration of four years. [...] ³⁶³ Individual Directors can never hold office for longer than twelve years.

§ 5. Without prejudice to the application of Articles 169 and 170, the bodies of regional television broadcasters that have entered into an operating agreement as mentioned in subsection 1 and fulfil the other conditions of this Article shall receive a new accreditation [for the remainder of the initial accreditation period] ³⁶⁴ from the Government of Flanders in which it is mentioned that the operating agreement has been entered into.

§ 6. This Article shall not apply in the bilingual Brussels Capital Region.] ³⁶⁵

Article 167. [The regional television broadcasters shall provide all necessary and useful information for the accreditation or extension of the accreditation to the Flemish Government.

The Flemish Government shall determine the content and modalities of the aforementioned information. Applications for accreditation or for extension of accreditation shall be submitted in Dutch.] ³⁶⁶

Following accreditation, each fundamental change to the information provided in the first paragraph has to be notified as soon as possible to the Flemish Government by the broadcaster concerned.

³⁵⁸ Lifted by the act of 09.02.2024

³⁵⁹ Replaced by the act of 19.04.2024

³⁶⁰ Replaced by the act of 19.04.2024

³⁶¹ Lifted by the act of 19.04.2024

³⁶² Replaced by the act of 19.04.2024

³⁶³ Lifted by the act of 09.02.2024

³⁶⁴ Inserted by the act of 09.02.2024

³⁶⁵ Inserted by the act of 21.02.2014

³⁶⁶ Replaced by the act of 09.02.2024

Article 168. The Flemish Government will demarcate [the service areas of the regional television broadcasters]³⁶⁷, including the bilingual area known as Brussels-Capital. The Flemish Government can only grant a licence to one regional television broadcaster within a service area.

[The Government of Flanders shall determine where the programs of the regional television broadcasters can be distributed, and under what conditions. The news bulletins of the regional television broadcasters can be distributed throughout the Flemish Community.]³⁶⁸

[Regional broadcasters may offer uncoupled news programs in the same broadcasting program.]³⁶⁹

Article 169. In order to receive a licence and to continue to be a licensed broadcaster, regional television broadcasters need to comply with the following conditions:

1° take the form of a non-profit organisation, of which the [directors]³⁷⁰ may not serve as the [director]³⁷¹ of another association, which [operates]³⁷² a regional television broadcaster;

2° the [statutory]³⁷³ office and the operating office are situated in the Dutch-language region or in the bilingual Brussels-Capital Region, more specifically in their service area;

3° the [object]³⁷⁴ of the association is exclusively restricted to producing regional programs;

4° one association does not [provide]³⁷⁵ more than one [regional broadcasting program]³⁷⁶;

5° the regional television broadcasters are not associated with a political party, professional federation or organisation with a commercial object;

6° the regional television broadcaster broadcasts in Dutch subject to derogations granted by the Flemish Government;

7° the regional television broadcasters broadcast their own programs. In their own programs, the regional broadcasters aim to develop the potential for expression of the local population, and encourage its participation. Own programs should be interpreted as programs or program components which were developed and produced by the broadcaster's own staff or at the request of and under the end responsibility of the regional television broadcaster's staff [or developed and produced to implement the operating agreement stated in article 166/1, § 1, without prejudice to the editorial responsibility of the regional television broadcasting organizations]³⁷⁷

³⁶⁷ Replaced by the act of 21.02.2014

³⁶⁸ Changed by the act of 21.02.2014

³⁶⁹ Added by the act of 09.02.2024

³⁷⁰ Replaced by the act of 19.04.2024

³⁷¹ Replaced by the act of 19.04.2024

³⁷² Replaced by the act of 19.04.2024

³⁷³ Replaced by the act of 19.04.2024

³⁷⁴ Replaced by the act of 19.04.2024

³⁷⁵ Replaced by the act of 21.02.2014

³⁷⁶ Replaced by the act of 21.02.2014

³⁷⁷ Added by the act of 29.06.2018

8° at least eighty percent of the broadcasting program of the regional television broadcaster is related to one's own regional service area;

9° an editor-in-chief is responsible for the news programs. The editorial independence is guaranteed and determined in an editorial statute. The regional television broadcaster can make use of cooperative ventures for its news programs. [...]³⁷⁸

[10° the regional television broadcasters shall annually provide an operating report and a financial report for the past calendar year to the Flemish Regulator for the Media by 30 June;]³⁷⁹

[11° for accreditations entering into effect from 1 January 2029:

- a) regional television broadcasters follow a cross-media strategy and respond to differentiated media consumption. Digital opportunities are being utilized;
- b) regional television broadcasters shall organize their operation and activities according to the following principles:
 - 1) pursue sound and efficient financial policies;
 - 2) organize management bodies in a sound manner.]³⁸⁰

[The officials of the Flemish Regulator for the Media appointed for this purpose may request all the necessary documents and examine on the spot whether the conditions of accreditation are met.

The Flemish Government may specify the conditions of accreditation as referred to in the first paragraph, 9° and 11°.]³⁸¹

[The provision of section 1, 3°, does not apply to the regional television broadcaster having as its service area the bilingual Brussels-Capital region. This regional television broadcaster can, after fulfilling its contract as stipulated in Article [165]³⁸², also operate a local radio broadcast organization with Brussels as its locality.]³⁸³

[Contrary to paragraph 1, 4°, the Government of Flanders may, in individual cases, give permission to an organisation that has entered into an operating agreement to perform more than one programming contract.

Without prejudice to the application of paragraph 1, 5°, a regional television broadcaster may enter into an operating agreement as referred to in Article 166/1, § 1 [and be a shareholder in an operator]³⁸⁴]³⁸⁵

³⁷⁸ Lifted by the act of 09.02.2024

³⁷⁹ Replaced by the act of 09.02.2024

³⁸⁰ Added by the act of 09.02.2024

³⁸¹ Inserted by the act of 09.02.2024

³⁸² Replaced by the act of 14.10.2016

³⁸³ Added by the act of 13.07.2012

³⁸⁴ Added by the act of 21.02. 2014

³⁸⁵ Added by the act of 09.02.2024

Article 170. [§1. Accreditations as a regional television broadcaster that expire before 31 December 2028 shall be extended de jure until 31 December 2028, while maintaining the option of applying paragraphs 2 to 4.

Accreditations that expire after 31 December 2028 shall expire de jure on 31 December 2028 while retaining the option of applying paragraphs 2 to 4.

From 1 January 2029 the duration of accreditation as a regional television broadcaster will be ten years.

Accreditations expiring on 31 December 2028 and those issued after that date may be extended for periods of ten years at the request of the applicant. Such request shall be made no later than one and a half year before the expiration of the current accreditation period. Only if the request for extension of the accreditation does not satisfy the accreditation conditions as referred to in article 169, the Flemish Government shall refuse the extension of the accreditation no later than one year before the expiration of the accreditation.

The Flemish Government may determine further conditions.]³⁸⁶

§ 2 The Flemish Regulator for the Media can suspend or [cancel]³⁸⁷ the licence of a regional television broadcaster for a maximum of three months at any time if the provisions of this section or the operational provisions are not observed.

§ 3 If the regional broadcaster requests so, the Flemish Government can suspend the execution of the suspension or [cancelling]³⁸⁸ of the accreditation for a maximum of three months in order to give the broadcaster concerned the opportunity to comply with all the regulations. After this period, the dossier is placed on the agenda once again if the grounds for it are still present.

[§4. If the accreditation expires or is prematurely terminated pursuant to paragraphs 2 and 3, an accreditation may be granted in accordance with the provisions of this section.

In the case referred to in the first paragraph, the accreditation shall be granted only for the remaining duration of the initial accreditation period, without prejudice to the possibility of extending the accreditation in accordance with paragraph 1.]³⁸⁹

Article 171. The general meeting of the regional television broadcaster is composed in a representative way. This takes into account political, social, cultural, philosophical and regional criteria.

Every administrative authority situated in the broadcasting area which contributes financially to the annual operating costs can form part of the general meeting of the regional television broadcaster.

³⁸⁶ Replaced by the act of 09.02.2024

³⁸⁷ Replaced by the act of 03.06.2022

³⁸⁸ Replaced by the act of 03.06.2022

³⁸⁹ Added by the act of 09.02.2024

Article 172. [The governing body]³⁹⁰ of the regional television broadcaster must be composed in a representative way and may not consist for more than one fifth of members who:

1° hold a political mandate;

2° hold a managerial position or the position of director in a professional employers or employee federation;

3° hold a managerial position or the position of director in a media, promotional or advertising company or with the Flemish Community's public broadcaster, or with a [private television broadcaster]³⁹¹;

4° hold a managerial position or the position of director with a cable broadcasting network.

The members of [the governing body]³⁹² may in no case be a mayor or alderman, member of a permanent executive, of the Flemish Government, of the government of the Brussels Capital Region or of the federal government.

Article 173. The Flemish Regulator for the Media must be notified of any change in [the governing body]³⁹³ and the general meeting of the regional television broadcaster.

CHAPTER III. Private non-linear television services

Article 174. [Anyone can offer non-linear television services, under the conditions of this chapter, insofar as the entity offering such services has been established as a private legal person, or is a natural person which carries out a professional activity independently and falls under the competence of the Flemish Community. In the case of a private legal person [the object]³⁹⁴ is to provide non-linear television services, especially in a digital manner. The legal person can carry out any activities which could directly or indirectly contribute to achieving [its purpose.]³⁹⁵³⁹⁶

Non-linear television broadcasters can encrypt their broadcasts, in whole or in part, in return for payment and are not associated with a political party.

Non-linear television broadcasters will at least broadcast in Dutch, excluding exceptions to this rule as granted by the Flemish Government.

Article 175. The Flemish Regulator for the Media has to be notified at least fourteen calendar days prior to the start of service of the fact that a non-linear television service is being offered.

The notification has to be carried out in compliance with Article 219 and has to contain at least the following information: all the information which can serve to determine whether the

³⁹⁰ Replaced by the act of 19.04.2024

³⁹¹ Replaced by the act of 13.07.2012

³⁹² Replaced by the act of 19.04.2024

³⁹³ Replaced by the act of 19.04.2024

³⁹⁴ Replaced by the act of 19.04.2024

³⁹⁵ Replaced by the act of 19.04.2024

³⁹⁶ Replaced by the act of 19.03.2021

Flemish Community is competent for the television service concerned, the articles of association, the financial structure and a clear description of the service to be provided. [If the non-linear television service is wholly or mostly targeting the audience of another Member State of the European Union, [or another state of the European Economic Area]³⁹⁷ the Flemish Regulator for the Media informs the national regulatory authority or national regulatory body of the other Member State of the European Union [or of that other state of the European Economic Area]³⁹⁸ about this notification.]³⁹⁹

The Flemish Government will determine which other data has to be subsequently supplied in the notification and which later changes have to be notified to the Flemish Regulator for the Media.

If the non-linear television broadcasters extend their provision with a new sort of service they must carry out a separate notification.

After notification, each change to the information, mentioned in paragraph one, has to be notified to the Flemish Regulator for the Media as soon as possible by the non-linear television broadcaster.

Article 176 [...]⁴⁰⁰

[Section III/1. Video-sharing platform services]⁴⁰¹

[Art. 176/1. Anyone can offer video-sharing platform services, under the conditions mentioned of this part, insofar as the entity offering such services has been established as a private legal person, or is a natural person which carries out a professional activity independently and falls under the competence of the Flemish Community. In the case of a private legal person [the object]⁴⁰² is to provide video-sharing platform services. The legal person can carry out any activities which could directly or indirectly contribute to achieving [that object]⁴⁰³.]⁴⁰⁴

[Art.176/2. The video-sharing platform service provider informs the Flemish Regulator for the Media at least fourteen calendar days prior to the start of service of the fact that video-sharing platform services are being offered.

The notification has to be carried out in compliance with article 219 and has to contain at least the following information:

- 1° all the information which can serve to determine whether the Flemish Community is competent for the video-sharing platform service concerned,
- 2° the articles of association,
- 3° a clear description of the service to be provided.

³⁹⁷ Inserted by the act of 19.04.2024

³⁹⁸ Inserted by the act of 19.04.2024

³⁹⁹ Added by the act of 19.03.2021

⁴⁰⁰ Lifted by the act of 19.03.2021

⁴⁰¹ Inserted by the act of 19.03.2021

⁴⁰² Replaced by the act of 19.04.2024

⁴⁰³ Replaced by the act of 19.04.2024

⁴⁰⁴ Inserted by the act of 19.03.2021

The Flemish Government will determine which other data has to be subsequently supplied in the notification and which later changes have to be notified to the Flemish Regulator for the Media.

Providers already offering video-sharing platform services on [9 May 2021]⁴⁰⁵ shall make the notification referred to in the second paragraph no later than six months after the Flemish Government has determined the other data to be provided and the subsequent changes to those data that are to be communicated to the Flemish Regulator for the Media.

If video-sharing platform service providers expand their offer with a new type of service, they inform the Flemish Regulator for the Media by a separate notification.

After the notification the video-sharing platform service providers notify as soon as possible each change in the information, mentioned in the second paragraph, to the Flemish Regulator for the Media.]⁴⁰⁶

[Art. 176/3. §1. For the purposes of this article:

1° subsidiary undertaking: an undertaking controlled by a parent undertaking, including any subsidiary undertaking of an ultimate parent undertaking;

2° group: a parent undertaking, all its subsidiary undertakings and all other undertakings having economic and legal organisational links to them;

3° parent undertaking: an undertaking which controls one or more subsidiary undertakings.

§2. For the purposes of this Act, a video-sharing platform service provider falls under the competence of the Flemish Community if, in accordance with article I.18, 4°, of the Economic Code, he is established in the Dutch-language area, or in the bilingual Brussels-Capital Region, and its activities belong exclusively to the Flemish Community.

§3. A video-sharing platform service provider that is not established in a Member State of the European Union [or a state in the European Economic Area]⁴⁰⁷ in accordance with article I.18, 4°, of the Economic Code shall fall under the competence of the Flemish Community for the purposes of this Act:

1° if it has a parent undertaking or a subsidiary undertaking that is established in the Dutch-language area, or in the bilingual Brussels-Capital Region, and its activities belong exclusively to the Flemish Community; or

2° if it belongs to a group and another undertaking of the group established in the Dutch-language area, or in the bilingual Brussels-Capital Region, and its activities belong exclusively to the Flemish Community; or

§4. If the parent undertaking and the subsidiary undertaking or the other undertakings of the group, mentioned in paragraph 3, are all established in different Member States of the European Union [or in different states of the European Economic Area]⁴⁰⁸, the video-sharing platform service provider falls under the competence of the Flemish Community:

1° if the parent undertaking is established in the Dutch-language area, or in the bilingual Brussels-Capital Region, and its activities belong exclusively to the Flemish Community; or in the absence of such an establishment

⁴⁰⁵ Replaced by the act of 03.06.2022

⁴⁰⁶ Inserted by the act of 19.03.2021

⁴⁰⁷ Inserted by the act of 19.04.2024

⁴⁰⁸ Inserted by the act of 19.04.2024

2° if the subsidiary undertaking is established in the Dutch-language area, or in the bilingual Brussels-Capital Region, and its activities belong exclusively to the Flemish Community; or in the absence of such an establishment

3° if another undertaking of the group, mentioned in paragraph 3, is established in the Dutch-language area, or in the bilingual Brussels-Capital Region, and its activities belong exclusively to the Flemish Community.

§5. If the parent undertaking, mentioned in paragraph 3, is not established in a Member State of the European Union [or in a state of the European Economic Area]⁴⁰⁹ and if different subsidiary undertakings, as mentioned in paragraph 3, are established in different Member States of the European Union [or in different states of the European Economic Area]⁴¹⁰, the video-sharing platform service provider falls under the competence of the Flemish Community if a subsidiary undertaking started its activities first in the Dutch-language area, or in the bilingual Brussels-Capital Region, and its activities belong exclusively to the Flemish Community, provided that the video-sharing platform service provider has a durable and real link with the economy of the Flemish Community.

If the parent undertaking and the subsidiary undertaking, mentioned in paragraph 3, are not established in a Member State of the European Union [or in a state of the European Economic Area]⁴¹¹ and if different other undertakings of the group as mentioned in paragraph 3, are established in different Member States of the European Union [or in different states of the European Economic Area]⁴¹², the video-sharing platform service provider falls under the competence of the Flemish Community if another undertaking of the group started its activities first in the Dutch-language area, or in the bilingual Brussels-Capital Region, and its activities belong exclusively to the Flemish Community, provided that the video-sharing platform service provider has a durable and real link with the economy of the Flemish Community.

§6. The articles XII.3, XII.4, XII.6, XII.17, XII.18, XII.19 and XII.20 of the Economic Code apply to video-sharing platform service providers that fall under the jurisdiction of the Flemish Community.

§7. The Flemish Regulator for the Media establishes and maintains an up-to-date list of the video-sharing platform service providers under its competence.

The list mentions for each video-sharing platform service provider the criteria, mentioned in paragraph 2 to 5, where the competence of the Flemish Regulator for the Media is based on. The Flemish Regulator for the Media notifies that list, including any updates thereto, to the European Commission.

§8. If the Flemish Regulator for the Media and the national regulatory authority or national regulatory body of another Member State of the European Union [or of another state of the European Economic Area]⁴¹³ do not agree on who is competent for a video-sharing platform service provider, the Flemish Regulator for the Media shall bring the matter to the European Commission's attention without undue delay.⁴¹⁴

⁴⁰⁹ Inserted by the act of 19.04.2024

⁴¹⁰ Inserted by the act of 19.04.2024

⁴¹¹ Inserted by the act of 19.04.2024

⁴¹² Inserted by the act of 19.04.2024

⁴¹³ Inserted by the act of 19.04.2024

⁴¹⁴ Inserted by the act of 19.03.2021

[Art. 176/4. §1. Without prejudice to the application of articles XII.17, XII.18, XII.19 and XII.20 of the Economic Code, video-sharing platform service providers shall take the necessary appropriate measures in order to:

1° protect minors from programs, user-generated content and commercial communication which may impair their physical, mental or moral development as mentioned in article 42 of this Act;

2° protect the general public from programs, user-generated content and commercial communication containing incitement to violence or hatred directed against a group of persons or a member of a group based on grounds of:

- a) gender;
- b) race;
- c) colour;
- d) ethnic or social origin;
- e) genetic characteristics;
- f) language;
- g) religion or belief;
- h) political or other opinion;
- i) membership of a national minority;
- j) wealth;
- k) birth;
- l) a disability;
- m) age;
- n) sexual orientation;

3° protect the general public from programs, user-generated content and commercial communication containing content the dissemination of which constitutes an activity which is a criminal offence, namely:

- a) public provocation to commit a terrorist offence as mentioned in the articles 137 and 140bis of the Penal Code;
- b) offences concerning child pornography as mentioned in the article 383bis of the Penal Code;
- c) offences concerning racism and xenophobia as mentioned in the articles 20 and 21 of the law of 30 July 1981 punishing certain acts inspired by racism or xenophobia.

§2. The following measures are appropriate measures, as mentioned in paragraph 1:

1° including and applying the requirements, mentioned in paragraph 1, in the terms and conditions of the video-sharing platform services;

2° offer programs, user-generated content and commercial communication containing pornographic images or images of unnecessary violence in encrypted form or subject them to effective parental control;

3° establishing and operating transparent and user-friendly mechanisms by which users of video-sharing platform services can report or flag to the concerned video-sharing platform service provider programs, user-generated content and commercial communication offered by the video-sharing platform service provider;

4° establishing and operating systems through which video-sharing platform service providers can explain to users of that video-sharing platform service what effect has been given to the reporting and flagging, mentioned in point 3°;

5° establishing and operating age verification systems for users of video-sharing platform services with respect to programs, user-generated content and commercial communication which may impair the physical, mental or moral development of minors;

6° establishing and operating easy-to-use systems allowing users of video-sharing platform services to rate programs, user-generated content and commercial communication offered by video-sharing platform service providers;

7° providing for parental control systems that are under the control of the end-user of the video-sharing platform service for programs, user-generated content and commercial communication which may impair the physical, mental or moral development of minors;

8° establishing and operating transparent, easy-to-use and effective procedures for the handling and resolution of the video sharing platform service users' complaints to the video-sharing platform service provider in relation to the implementation of the measures, mentioned in point 3° to 7°;

9° providing for effective media literacy measures and tools and raising users' awareness of those measures and tools.

Personal data of minors collected by video-sharing platform service providers pursuant to the first subparagraph, 5° and 7°, shall not be processed for commercial purposes.

§3. When taking the appropriate measures, mentioned in paragraph 2, video-sharing platform service providers shall take into account all of the following elements:

1° the nature of the content in question;

2° the harm the content may cause;

3° the characteristics of the category of persons to be protected;

4° the rights at stake and legitimate interests, as well as the general public interest.

The appropriate measures, mentioned in paragraph 2, shall be practicable and proportionate, taking into account the size of the video-sharing platform service and the nature of the service that is provided and do not lead to any ex-ante control measures or upload-filtering of content which do not comply with the provisions, mentioned in article XII.20, §1, of the Economic Code.

§4. The Flemish Government determines further rules in this regard.]⁴¹⁵

[Art. 176/5. Video-sharing platform service providers are free to market, sell or arrange commercial communication in any way they wish, with the exception of the restrictions and obligations mentioned in this Act.

For commercial communication that is marketed, sold or arranged by video-sharing platform service providers, they must comply with the requirements mentioned in articles 52 to 55, article 62, articles 65 to 69, articles 71 to 77 and articles 90 to 97.]⁴¹⁶

[Art. 176/6. §1. Video-sharing platform service providers shall take for the commercial communication they do not market, sell or arrange the following appropriate measures to comply with the requirements mentioned in articles 52 to 55, article 62, articles 65 to 69, articles 71 to 77 and articles 90 to 101:

1° including and applying the requirements mentioned in in articles 52 to 55, article 62, articles 65 to 69, articles 71 to 77 and articles 90 to 101 in the terms and conditions of the video-sharing platform services;

⁴¹⁵ Inserted by the act of 19.03.2021

⁴¹⁶ Inserted by the act of 19.03.2021

2° having a functionality for users who upload user-generated content to declare whether such content contains commercial communication as far as they know or can be reasonably expected to know;

3° establishing and operating transparent and user-friendly mechanisms for users of a video-sharing platform service to report or flag to the concerned provider commercial communication offered by the video-sharing platform service;

4° establishing and operating systems through which video-sharing platform service providers explain to users of this video-sharing platform service what effect has been given to the reporting and flagging, mentioned in point 3°;

5° establishing and operating age verification systems for users of video-sharing platform services with respect to commercial communication offered by the video-sharing platform service and which may impair the physical, mental or moral development of minors;

6° establishing and operating easy-to-use systems allowing users of video-sharing platform services to rate commercial communication offered by video-sharing platform services;

7° providing for parental control systems that are under the control of the end-user of the video-sharing platform service for programs, user-generated content and commercial communication which may impair the physical, mental or moral development of minors;

8° establishing and operating transparent, easy-to-use and effective procedures for the handling and resolution of video-sharing platform services users' complaints to the video-sharing platform service provider in relation to the implementation of the measures, mentioned in point 3° to 7°;

9° providing for effective media literacy measures and tools and raising users' awareness of those measures and tools.

Personal data of minors collected by video-sharing platform service providers pursuant to the first subparagraph, 5° and 7°, shall not be processed for commercial purposes.

§2. When taking the appropriate measures, mentioned in paragraph 1, video-sharing platform service providers shall take into account all of the following elements:

1° the nature of the content in question;

2° the harm the content may cause;

3° the characteristics of the category of persons to be protected;

4° the rights at stake and legitimate interests, as well as the general public interest.

The appropriate measures, mentioned in paragraph 1, shall be practicable and proportionate, taking into account the size of the video-sharing platform service and the nature of the service that is provided and do not lead to any ex-ante control measures or upload-filtering of content which do not comply with the provisions, mentioned in article XII.20, §1, of the Economic Code.

§3. The Flemish Government determines further rules in this regard.]⁴¹⁷

⁴¹⁷ Inserted by the act of 19.03.2021

[Art. 176/7. Video-sharing platform service providers shall clearly inform users when programs and user-generated content contain commercial communication, provided the provider has knowledge of that fact.]⁴¹⁸

[Art. 176/8. The Flemish Regulator for the Media shall ensure that the video-sharing platform service providers under the jurisdiction of the Flemish Community, take appropriate measures in accordance with articles 176/4 to 176/7 and that they apply these measures.

If the Flemish Regulator for the Media receives complaints or remarks about video-sharing platform service providers that do not fall under the jurisdiction of the Flemish Community, the Flemish Regulator for the Media shall forward those complaints or remarks to the national regulatory authority or the national regulatory body of the competent Member State.]⁴¹⁹

[Part III/2. Intermediary services]⁴²⁰

[Art. 176/9. This title applies to intermediary services related to broadcasting activities if:

1° the main establishment of the provider of intermediary services is established in the Dutch-language area or the main establishment of the provider of intermediary services is established in the bilingual Brussels Capital area and the provider, because of its activities, must be considered to belong exclusively to the Flemish Community;

2° the provider of intermediary services does not have an establishment in the European Union, if its legal representative resides or is established in the Dutch-language area or if its legal representative resides or is established in the bilingual Brussels Capital area and the provider, because of its activities, must be considered to belong exclusively to the Flemish Community;

3° a provider of intermediary services does not designate a legal representative in accordance with article 13 of the digital services act and offers intermediary services to recipients who are established or who reside in the Dutch-language area or the bilingual Brussels Capital area.]⁴²¹

[Art. 176/10. The Flemish Regulator for the Media is the competent authority as mentioned in article 49 of the digital services act for intermediary services, mentioned in article 176/9.]⁴²²

PART IV. Service distributors

TITLE I. General provisions

Article 177. Every service distributor who markets a range of broadcasting services in the Flemish Community has to notify the Flemish Regulator for the Media of this at least fourteen calendar days prior to the launch of this service. This notification is made in accordance with Article 219.

⁴¹⁸ Inserted by the act of 19.03.2021

⁴¹⁹ Inserted by the act of 19.03.2021

⁴²⁰ Inserted by the act of 26.01.2024

⁴²¹ Inserted by the act of 26.01.2024

⁴²² Inserted by the act of 24.01.2024

The notification will comprise at least the following: the identification of the legal entity, the services offered with the contractual conditions for including the services, and the electronic communication network used to broadcast these services.

The Flemish Government will determine which other data has to be subsequently supplied in the notification and which later changes have to be notified to the Flemish Regulator for the Media.

Article 178. The provisions of this part of the Act are not applicable to service distributors who offer their services using a collective aerial as mentioned in Article 197.

Article 179. Service distributors have to make at least the following information available in a user-friendly, direct and permanent manner to their customers:

1° the name of the service distributor;

2° the geographical address where the service distributor is located;

3° further data, which enable easy, direct and permanent access to the service distributor, including its electronic mail address;

4° if a service distributor is registered in a trade registry or similar public registry: the enterprise number, the registration number and where applicable, the VAT number;

5° the nature and content of the services that he or she distributes.

[Article 180. §1. Service distributors shall transmit the linear television broadcasting programs that form part of their range of television services in the Flemish Community in full, unaltered and in their entirety at the moment that they are broadcast.

This applies also to the related services, mentioned in article 185, § 1, second subparagraph, last sentence.

Service distributors shall make available the non-linear television services and the programs contained therein, that form part of their range of television services in the Flemish Community in full, unaltered and in their entirety.

This applies also to the related services mentioned in article 185, § 1, second subparagraph, last sentence.

§ 2. Any function that a service distributor offers to the end users and that makes it possible to view the linear television broadcasting programs intended by the first subparagraph of the first paragraph in a delayed, shortened or modified manner, shall be subject to the prior consent of the relevant television broadcaster. Prior consent is required from every television broadcaster that falls under the scope of article 154, first and second subparagraphs.

Any function that a service distributor offers to the end users and that makes it possible to view the non-linear television services intended by the second subparagraph of the first paragraph in a delayed, shortened or modified manner, shall be subject to the prior consent of the relevant television broadcaster. Prior consent is required from every television broadcaster that falls under the scope of article 157, first and second paragraphs.

The relevant television broadcaster and service distributor shall negotiate in good faith and shall exercise their means of permission in a reasonable and proportional manner. When an agreement about this leads to financial compensation by the service distributors to the television broadcasters, then they must be used for Dutch-language European productions in accordance with articles 154 and 157.

The Flemish Government can impose more specific rules with a view to control and/or enforcement of this rule.]⁴²³

§ 3. Functions that affect the editorial autonomy and accountability of the relevant television broadcasting organizations may always be refused.

§ 4. If no agreement with regard to the permission can be reached within a term of three months starting from the moment that the service distributor has informed the television broadcasting organization in detail by registered letter of its intention to offer a function for which permission is required from the television broadcasting organization as indicated in paragraph 2, the parties shall call upon mediation. The most diligent party shall request by registered post sent to the Chairman of the Board of Directors of the Flemish Regulator for the Media the commencement of a mediation procedure within a term of seven working days after receipt of this request. A Flemish Government Decree shall determine the specific rules of the mediation procedure, which may last no longer than three months.

Should the mediation procedure not lead to an agreement between the parties, the mediator shall formulate an opinion to conclude the mediation task. The most diligent party may submit the case before the competent judicial courts.

§ 5. Service distributors shall make commercial communication that forms part of their service clearly recognizable as such. The provisions from Section II. Basic rules as regards the use of commercial communication, Section III. Commercial communication about specific products and Section IV Commercial communication that is targeted at minors, youth and children, Part III. Radio Broadcasting and Television, Title II. The provisions of Broadcasting services, Chapter IV Commercial communication, are applicable to all commercial communication offered by service distributors in their own services to subscribers.

§ 6. Service distributors shall take all reasonable technical measures in order to ensure that access of minors to their broadcasting services, which would severely impair their physical, spiritual or moral development, is limited, or that their offer does not comprise such services and will notify subscribers to their services of these measures. This obligation is applicable to all the broadcasting services comprised in their offer, and to the electronic program guide or to other audiovisual or text-based information which is an integral part of the services offered.]⁴²⁴

⁴²³ Replaced by the act of 19.03.2021

⁴²⁴ Replaced by the act of 19 July 2013

Article 5 from the same act: 'This Act is without prejudice to rights and obligations arising from agreements that service distributors and broadcasters have concluded before this Act comes into force, nor to the acts performed by the service distributors before the commencement of this Act, in so far they are completely finished before the commencement of this Act.

Article 6 from the same act: 'This Act shall enter into force on the day following its publication in the *Moniteur belge* (Belgian Official Gazette). The service distributors that offer today already one or more functionalities, as referred to in Article 180, § 2, to the end users, have a period of three months after the commencement of this Act to come to an agreement, as referred to in Article 180, § 2, with the concerned television broadcasters. If no

Article 181. A service distributor is allowed to offer an electronic program guide by means of the electronic communication network used.

Service distributors may be required by the Flemish Regulator for the Media, where necessary, to guarantee that end users of specified digital broadcasting services have access to the application program interfaces and to provide electronic program guides subject to fair, reasonable and non-discriminatory conditions.

The Flemish Government may impose conditions on installing, accessing and presenting electronic program guides used in the context of digital programs when required to guarantee the end user's access to a number of clearly specified digital programs available in the Flemish Community.

[Article 182. Service distributors that make available to the public one or more linear or non-linear broadcasting services of one or more television broadcasters falling within the competence of the Flemish Community, annually provide the Flemish Regulator for the Media with an activity report, and refer to the composition of the shareholders, the number of subscribers, the number of subscribers in the Dutch-language area, the programs transmitted and the annual accounts approved by the general meeting of shareholders.]⁴²⁵

[Article 183...] ⁴²⁶

[Art.183/1. Service distributors as referred to in article 177, first subparagraph, shall not process for commercial purposes personal data of minors collected in implementation of age verification devices or other technical measures they take to ensure that minors will not normally hear or see programs which might impair their physical, mental or moral development.] ⁴²⁷

Article 184. The service distributor using a [television broadcasting network]⁴²⁸ or an entity that has control over it cannot exclusively acquire more than one third of the digital capacity of this network that is destined for use with the same technology.

[[...] ⁴²⁹]⁴³⁰

[Article 184/0. Service distributors providing both linear and non-linear television programs are obliged, through their offer, to give access to the non-linear television service, whether it is

agreement can be concluded within three months, the parties may appeal to the conciliation procedure as foreseen in Article 180, § 4. If the conciliation procedure does not lead to an agreement between the parties, then the entitlement to offer the concerned functionality by that service distributor expires.

Article 2, § 4, shall enter into force on the tenth day following the publication of the decision of the Flemish Government referred to in Article 2, § 4.

⁴²⁵ Replaced by the act(2) of 17.01.2014

⁴²⁶ Cancelled by the act of 26.01.2024

⁴²⁷ Inserted by the act of 19.03.2021

⁴²⁸ Replaced by the act of 10.07.2026

⁴²⁹ Added by the act(1) of 17.01.2014

⁴³⁰ Lifted by the act of 10.07.2026

a joint paying service or not, of one or more linear television broadcasters falling within the scope of Article 154, first and second paragraph, and who request such access, so that end-users can have direct access to that non-linear television service, whose offer must contain a significant proportion of Dutch-language European works and must give a prominent place to it. The Flemish Government may impose quotas in order to determine a significant proportion of Dutch-language European works.]⁴³¹

[Title 1/1...] ⁴³²

TITLE II. Transmission possibilities and transmission duties

Article 185. § 1. The service distributors using networks that serve as the most important resource to receive [television broadcasting programs]⁴³³ for a significant number of end users, will offer their services in accordance with the provisions of Article 186.

The linear broadcasting programs, [and associated services]⁴³⁴ as mentioned in article 186, § 1 and § 2, have to be offered unabridged and in their entirety, with a view to ensuring pluralism and cultural diversity in the broadcasting offer. [In this title, associated services is understood to mean: subtitling, audio description, sign language and audio subtitling.]⁴³⁵

[§ 1/1. The provisions of paragraph 1 of this article shall not apply to service distributors who have access to electronic communication networks as a result of measures taken by the Flemish Regulator for the Media imposed in application of article [191]⁴³⁶ of this Act [or as a result of a wholesale agreement between service distributors whereby service facilities from one service distributor to be used by the other so that the latter may define a commercial offer]⁴³⁷ These service distributors can transmit their programs in accordance with article 187]⁴³⁸.

§ 2. Service distributors using networks that do not serve [as the most important resource to receive television broadcasting programs]⁴³⁹ for a significant number of end users, can offer their services in accordance with the provisions of article 187.

§ 3. The networks, as mentioned in § 1, first paragraph, will be laid down at least once every [five]⁴⁴⁰ years by the Flemish Government, on the recommendation of the Flemish Regulator for the Media. The Flemish Government will lay down these networks for the first time in the calendar year following on the date that this Act takes effect and can review this provision after at least one year, and every subsequent year after this date.

⁴³¹ Added by the act of 3.05.2019

⁴³² Lifted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴³³ Replaced by the act of 29.06.2018

⁴³⁴ Inserted by the act of 13.07. 2012

⁴³⁵ Added by the act of 13.07. 2012

⁴³⁶ Replaced by the act of 02.07.2021

⁴³⁷ Inserted by the act of 14.10. 2016

⁴³⁸ Added by the act of 25.04. 2014(1)

⁴³⁹ Replaced by the act of 29.06.2018

⁴⁴⁰ Replaced by the act of 02.07.2021

Article 186. § 1. The service distributors, [using networks that are for a significant number of end users the most important resource to receive television broadcasting programs]⁴⁴¹ have to distribute the following linear broadcasting programs in their basic offer, as soon as they are broadcast:

1° the broadcasting program of the public broadcaster of the Flemish Community;

2° the broadcasting program of the regional television broadcaster. This will be broadcast free of charge, unabridged and simultaneously within the regional television broadcaster's service area. The free aspect applies to the provision and the transmission of the broadcasting program;

3° two radio programs and two television programs of the public broadcaster of the French-speaking community and the radio broadcasting program of the German-speaking Community;

4° two radio broadcasting programs and the television broadcasts of the Dutch public broadcaster;

[5° the associated services of the television programs indicated in point 1° to 4° and in § 2.]⁴⁴²

The Flemish Community shall not be required to pay a fee to a cable network provider for the compulsory transmission of the aforementioned programs [and associated services]⁴⁴³.

§ 2. On the recommendation of the Flemish Regulator for the Media, the Flemish Government may decide to include other broadcasting programs of linear broadcasters in this transmission duty, on condition that these broadcasters meet the following requirements:

1° they broadcast a full news program, produced by an in-house editorial team mainly consisting of accredited professional journalists;

2° they provide a varied, diverse and multicultural offer, which includes information and cultural programs and their programming includes a certain percentage of Dutch-language programs;

3° they subtitle a given percentage of their programs for the deaf and the hearing impaired. The Flemish Government sets the percentages, as mentioned in paragraph 1, 2° and 3°.

§ 3. The service distributors, [using networks that are for a significant number of end users the most important resource to receive television broadcasting programs]⁴⁴⁴ may distribute the following broadcasts in their entirety, as soon as they are broadcast:

1° broadcasts by licensed broadcasters that are not included in paragraph 1, which are accredited by the Flemish Community or registered with the Flemish Regulator for the Media;

2° the non-linear broadcasts of the broadcaster, mentioned in paragraph 1;

⁴⁴¹ Replaced by the act of 29.06.2018

⁴⁴² Added by the act of 13.07. 2012

⁴⁴³ Added by the act of 13.07. 2012

⁴⁴⁴ Replaced by the act of 29.06.2018

3° digital radio broadcasts of the public broadcaster of the Flemish Community and radio broadcasts of the accredited and registered radio broadcasters [...]⁴⁴⁵

[4° without prejudice to the second paragraph of Article 168, the programs of the regional television broadcasters recognised by the Flemish Community;]⁴⁴⁶;

5° broadcasts of the broadcasters of the French-speaking and German-speaking Communities of Belgium, which do not fall under paragraph 1, and which are aimed at the entire Community;

6° broadcasts of broadcasters, which fall under the competence of another member of the [European Union and European Economic Area]⁴⁴⁷;

7° if prior permission is granted by the Flemish Regulator for the Media, which can impose conditions in this regard, the broadcasts of broadcasters that are the competence of a country that is not an [European Union and European Economic Area]⁴⁴⁸.

§ 4. The Flemish Regulator for the Media must be notified in advance about the transmission of new programs. The notification comprises the location of the broadcast, the location of the establishment and the mention of the country that is competent for the broadcaster.

Article 187. [Service distributors who are not service distributors as referred to in article 185, §1, first subparagraph, can transmit the following broadcasting programs:]⁴⁴⁹

1° broadcasts of the public broadcaster of the Flemish Community;

[2° broadcasting programs from the broadcasters indicated by the Flemish Regulator for the Media;]⁴⁵⁰

[2°/1 the broadcasting program from the regional television broadcaster within the service area of that regional television broadcaster;

2° /2 without prejudice to the second paragraph of Article 168, the programs of the regional television broadcasters recognised by the Flemish Community;]⁴⁵¹

3° broadcasts of the public broadcasters of the French-speaking and German-speaking Community of Belgium;

4° broadcasts of the broadcasters of the French-speaking and German-speaking Communities of Belgium, and which are aimed at the entire Community;

5° broadcasts of broadcasters, which fall under the competence of another Member State of the [European Union and European Economic Area]⁴⁵²;

⁴⁴⁵ Lifted by the act of 23.12.2016(2)

⁴⁴⁶ Changed by the act of 13.07.2012 and replaced by the act of 21.02.2014

⁴⁴⁷ Replaced by the act of 02.07.2021

⁴⁴⁸ Replaced by the act of 02.07.2021

⁴⁴⁹ Replaced by the act of 19.03.2021

⁴⁵⁰ Replaced by the act of 13.07. 2012

⁴⁵¹ Inserted by the act of 13.07.2012 and Replaced by the act of 21.02.2014

⁴⁵² Replaced by the act of 02.07.2021

6° if prior permission is granted by the Flemish Regulator for the Media, which can impose conditions in this regard, the broadcasts of broadcasters that are the competence of a country that is not an [European Union and European Economic Area]⁴⁵³.

[7° digital radio broadcasting programs from the public broadcaster of the Flemish Community and radio broadcasting programs from the accredited or notified radio broadcasters.]⁴⁵⁴

The Flemish Regulator for the Media must be notified in advance about the broadcast of new programs. This notification comprises the location of the broadcast, the location of the establishment and the mention of the country that is competent for the broadcaster.

Article 188. Service distributors are prohibited from transmitting other broadcasts than those for which transmission is authorized under this title, except in case of permission by the Flemish Regulator for the Media, who can impose certain conditions.

A service distributor may use one analogue and two digital channels if it mainly uses these to provide information about the broadcasts and services that it transmits or offers and about the difficulties that influence the service's operations.

[Part IV/1. Incentives for the audiovisual sector by taking part in the production of audiovisual works]⁴⁵⁵

[Title I. Scope]⁴⁵⁶

[Article. 188/1. §1. The following investors shall participate annually in the production of audiovisual works in the form of a direct financial contribution to the production of audiovisual works or in the form of an equivalent financial contribution to the Flanders Audiovisual Fund:

1° service distributors making one or more broadcasting services of one or more television broadcasters falling under the competence of the Flemish Community available to the public in a linear or non-linear manner;

2° private broadcasters under the competence of the Flemish Community pursuant to article 150/1 for the non-linear television services they provide in another member state of the European Union or of the European Economic Area, or beyond;

3° private broadcasters, for the non-linear television services they provide in:

a) the Dutch-language region;

b) the bilingual region of Brussels-Capital;

4° video-sharing platform service providers falling under the competence of the Flemish Community pursuant to article 176/3 for the video-sharing platform services offered by them in another member state of the European Union or the European Economic Area, or beyond;

5° video-sharing platform service providers, for the video-sharing platform services they offer in:

a) the Dutch-language region;

b) the bilingual region of Brussels-Capital.

⁴⁵³ Replaced by the act of 02.07.2021

⁴⁵⁴ Inserted by the act of 23.12. 2016(2)

⁴⁵⁵ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁵⁶ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

§2. The compulsory financial contribution to the production of audiovisual works, mentioned in paragraph 1, shall not apply to:

1° private broadcasters offering non-linear television services and meeting at least one of the following conditions:

a) they are a micro-enterprise;

b) they reach less than 0.5% of all inhabitants of the Dutch-speaking region with their offer of non-linear television services;

c) they offer less than ten audiovisual works annually;

d) their offer consists mainly of programs based on 'Broadcaster Video on Demand' rights;

2° service distributors and video-sharing platform service providers that are micro-enterprises. The Flemish Government shall determine the further conditions and rules for exemptions from the contribution.]⁴⁵⁷

[Title II. General provisions]⁴⁵⁸

[Article 188/2. §1. The direct financial contribution to the production of audiovisual works, mentioned in article 188/1, §1, may take the following forms:

1° a contribution to Flemish production projects, which are submitted to the Flemish Regulator for the Media to evaluate their admissibility and accreditation;

2° a contribution to acquire broadcasting rights for the Dutch-language region on a Flemish production project, mentioned in point 1°.

The Flanders Audiovisual Fund spends the equivalent financial contribution to the Flanders Audiovisual Fund, mentioned in article 188/1, §1, in accordance with the management agreements between the Flemish Community and the non-profit organization Flanders Audiovisual Fund on the FAF/Media Fund and FAF/Film Fund.

§2. The Flemish Government shall determine:

1° the criteria on the basis of which a production project can qualify as a Flemish production project;

2° the detailed rules, conditions and procedure for submission of the Flemish production projects, mentioned in § 1, first paragraph, 1°;

3° the conditions and rules for taking into account a contribution to acquire broadcasting rights, mentioned in § 1, first paragraph, 2°;

4° the conditions and rules with respect to the evaluation of the admissibility, accreditation and follow-up of Flemish production projects and contributions to acquire broadcasting rights, mentioned in § 1, first paragraph;

5° the further rules with respect to the procedure for the equivalent financial contribution to the Flanders Audiovisual Fund, mentioned in § 1, second paragraph.

§3. Investors who, in application of paragraph 1, have submitted insufficient financial contributions to Flemish production projects to the Flemish Regulator for the Media, or who are unable to submit sufficient financial contributions to Flemish production projects as a result of the decision of the Flemish Regulator for the Media that one or more Flemish production projects are inadmissible or not accredited, shall be bound to make a financial contribution to

⁴⁵⁷ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁵⁸ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

the Flanders Audiovisual Fund for the full amount, mentioned in Title III, with deduction of the contributions already submitted for Flemish production projects that have already been submitted and accredited.

§4. A financial contribution to a production in fulfilment of another statutory or regulatory obligation or involving another statutory or regulatory advantage cannot be taken into account within the framework of the contribution obligation mentioned in article 188/1, §1.⁴⁵⁹

[Article 188/3. Every investor, mentioned in article 188/1, §1, shall provide the Flemish Regulator for the Media, the Flanders Audiovisual Fund, the Flemish Minister responsible for media and the Flemish Minister responsible for culture with the following information and supporting documents by 15 April each year:

1° the chosen form of participation in the production of audiovisual works, mentioned in article 188/1, §1;

2° the amount of the financial contribution, mentioned in Title III, and, where appropriate, the supporting documents to substantiate the aforementioned amount;

3° where appropriate, the proof of applicability of one of the grounds for exclusion, mentioned in article 188/1, §2. The supporting documents for the conditions, mentioned in article 188/1, §2, first paragraph, 1° and 2°, shall relate to the information of the second year preceding the year of participation in the production of audiovisual works, mentioned in article 188/1, §1.

If the information or the supporting documents, mentioned in the first paragraph under points 2° and 3°, have not been submitted in time, the investor shall be deemed to have opted for participation in the production of audiovisual works by means of an equivalent financial contribution to the Flanders Audiovisual Fund for the fixed amount owed by the investor on the basis of article 188/4, 1°, article 188/5, §1, first paragraph, 1°, or article 188/6, §1, first paragraph, 1°, respectively. The Flemish Regulator for the Media shall inform the investor concerned thereof. An investor shall be exempted from paying the fixed amount if, within ten working days from the notification to the Flemish Regulator for the Media, he can demonstrate that he fulfils one of the grounds for exclusion, mentioned in article 188/1, §2.

Files containing the information and evidence, mentioned in the first paragraph, shall be submitted in Dutch. The investor established in a member state of the European Union or of the European Economic Area, or beyond, or in Belgium but not in the Dutch-speaking region or the bilingual region of Brussels-Capital, may submit its file in English.

The information and supporting documents, mentioned in the first paragraph, shall be submitted electronically in the manner to be determined by the Flemish Government.

The Flemish Government shall determine the further conditions and rules with respect to the reporting by the Flemish Regulator for the Media and the Flanders Audiovisual Fund on taking part in the production of audiovisual works in the form of a direct financial contribution to the production of audiovisual works or in the form of an equivalent financial contribution to the Flanders Audiovisual Fund, mentioned in article 188/1.⁴⁶⁰

[Title III. Contribution.]⁴⁶¹

⁴⁵⁹ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁶⁰ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁶¹ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

[Chapter I. Service distributors]⁴⁶²

[Article. 188/4. Service distributors shall choose one of the following systems for determining the annual contribution to fulfil their obligation to participate in the production of audiovisual works, mentioned in article 188/1, §1:

1° the payment of a fixed amount of 7 million euro. The aforementioned fixed amount shall be indexed annually in accordance with article 188/7;

2° the payment of an amount of 3 euro per subscriber in the Dutch-language region. The aforementioned amount shall be indexed annually in accordance with article 188/7. The number of subscribers shall be determined on the basis of the most recent information communicated in implementation of article 182, prior to the year of participation in the production of audiovisual works, and accepted by the Flemish Regulator for the Media.]⁴⁶³

[Chapter II. Private broadcasters providing non-linear television services]⁴⁶⁴

[Article 188/5.§1. Private broadcasters providing non-linear television services shall choose one of the following systems for determining the annual contribution to fulfil their obligation to participate in the production of audiovisual works, mentioned in article 188/1, §1:

1° the payment of a fixed amount of 7 million euro. The aforementioned fixed amount is indexed annually in accordance with article 188/7;

2° the payment of an amount equal to:

- a) 2% of their turnover if it is between 0 euro and 15 million euro;
- b) 3% of their turnover if it is between 15 and 30 million euro;
- c) 4% of their turnover if it exceeds 30 million euro.

The turnover, mentioned in the first paragraph, 2°, refers to the turnover realised in the second year preceding the year of participation in the production of audiovisual works.

In the first paragraph, 2°, turnover means the following revenues from the supply to the end user of non-linear television services, excluding VAT:

1° revenues from payment by the end user. These do not include the revenues of private broadcasters offering non-linear television services that do not have a distinct legal personality from a service distributor or over which exclusive control is exercised by a service distributor falling within the scope of article 188/1, §1, 1°, for their offer of non-linear television services available on a transactional basis only to subscribers of that service distributor;

2° revenues from agreements with service distributors and providers of terminal equipment with interactive computer functions for access to television services;

3° revenues from data valorisation;

4° revenues from audiovisual commercial communications.

If a private broadcaster offering non-linear television services operated for less than twelve months during the second year preceding the year of participation in the production of

⁴⁶² Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁶³ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁶⁴ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

audiovisual works, the annual turnover shall be calculated by multiplying by twelve the average monthly turnover of the second year preceding the year of participation in the production of audiovisual works.

Private broadcasters offering non-linear television services shall prove their turnover, mentioned in the first paragraph, 2°, by means of documents validated by an auditor. The aforementioned documents shall be attached in their entirety to the information and evidence, mentioned in article 188/3. The Flemish Regulator for the Media shall be authorised to request all relevant information and documents regarding the aforementioned documents from private broadcasters offering non-linear television services.

§2. For private broadcasters as regards their services, mentioned in article 188/1, §1, 2°, for the purpose of calculating the turnover, mentioned in § 1, first paragraph, 2°, account shall be taken of the income in all other member states of the European Union which they target, after deduction, where appropriate, of revenues derived from another member state targeted by the broadcaster in which it is subject to a system of financial contributions to the production of European works pursuant to article 13 of Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in member states concerning the provision of audiovisual media services.

For private broadcasters with regard to their services, mentioned in article 188/1, §1, 3°, only the revenues of the services offered in the Dutch-speaking region or the bilingual region of Brussels-Capital shall be taken into account to calculate the turnover mentioned in § 1, first paragraph, 2°.]⁴⁶⁵

[Chapter III. Video-sharing platform service providers]⁴⁶⁶

[Art. 188/6. §1. Video-sharing platform service providers shall choose one of the following systems for determining the annual contribution to fulfil their obligation to participate in the production of audiovisual works, mentioned in article 188/1, §1:

1° the payment of a fixed amount of 7 million euro. The aforementioned fixed amount is indexed annually in accordance with article 188/7;

2° the payment of an amount equal to:

- a) 2% of their turnover if it is between 0 euro and 15 million euro;
- b) 3% of their turnover if it is between 15 and 30 million euro;
- c) 4% of their turnover if it exceeds 30 million euro.

The turnover, mentioned in the first paragraph, 2°, refers to the turnover realised in the second year preceding the year of participation in the production of audiovisual works.

In the first paragraph, 2°, turnover means the income, excluding VAT, acquired from:

1° payment by the end-user;

2° the agreements with service distributors and providers of terminal equipment with interactive computer functions for access to television services;

3° the valorisation of data;

4° commercial communication.

⁴⁶⁵ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁶⁶ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

§2. Video-sharing platform service providers shall prove their turnover, mentioned in § 1, second paragraph, with documents validated by an auditor. The aforementioned documents shall be attached in their entirety to the information and supporting documents, mentioned in article 188/3. The Flemish Regulator for the Media is authorised to request all relevant information and documents from the video-sharing platform service providers.

§3. For video-sharing platform service providers with regard to their services, mentioned in article 188/1, §1, 4°, the revenues in all other member states of the European Union which they target shall be taken into account for the calculation of the turnover, mentioned in §1, first paragraph, 2°, after deduction, where appropriate, of the revenues coming from another member state which the video-sharing platform service provider targets and in which it is also subject to a system of financial contributions in order to stimulate the production of European works.

For video-sharing platform service providers as regards their services, mentioned in article 188/1, §1, 5°, only the revenues from the services offered in the Dutch-speaking region or the bilingual region of Brussels-Capital shall be taken into account to calculate the turnover, mentioned in § 1, first paragraph, 2°.]⁴⁶⁷

[Chapter IV. Indexation]⁴⁶⁸

[Art. 188/7. The amounts, mentioned in articles 188/4, 188/5 and 188/6 shall be indexed annually from 1 January 2025 on the basis of the price index as stipulated in article 2 of the Royal Decree of 24 December 1993 implementing the Law of 6 January 1989 safeguarding the country's competitiveness.

The indexation, mentioned in the first paragraph, is done by multiplying the amounts, mentioned in articles 188/4, 188/5 and 188/6, by the aforementioned price index determined for the month of January of the current year, and dividing that result by the aforementioned price index determined for the month of January of the year 2024.]]⁴⁶⁹

[Title IV. Evaluation]⁴⁷⁰

[Art. 188/8. The Flemish Government shall, no later than in the third year after its entry into force, prepare an evaluation of the scheme, mentioned in articles 188/1 up to 188/7.]]⁴⁷¹

PART V. Networks

TITLE I. General provisions

Article 189. [The Flemish Regulator for the Media shall define the relevant markets, in

⁴⁶⁷ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁶⁸ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁶⁹ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁷⁰ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

⁴⁷¹ Inserted by the act of 01.03.2024. Comes into force on 01.01.2025

particular the relevant geographical markets, for products and services in the sector of electronic communications networks and services in the Flemish Community, taking the utmost account of the Recommendation, and the SMP Guidelines.

If the Flemish Regulator for the Media defines a relevant market which differs from the markets defined in the Recommendation of the European Commission, it shall submit its draft in a public consultation as mentioned in article 192/14 and inform the European Commission thereof in accordance with article 192/15.]⁴⁷²

[Article 190. §1. The Flemish Regulator for the Media analyses whether the relevant market, which is determined in accordance with article 189, meets all the following conditions:

- 1° high and non-transitory structural, legal or regulatory barriers to entry are present ;
- 2° there is a market structure which does not tend towards effective competition within the relevant time horizon, having regard to the state of infrastructure-based competition and other sources of competition behind the barriers to entry;
- 3° competition law alone is insufficient to adequately address the identified market failure(s).

The relevant markets listed in the Recommendation of the European Commission shall be deemed to comply with the criteria, mentioned in the first subparagraph, unless the Flemish Regulator for the Media determines that one or more of the criteria, mentioned in the first subparagraph, are not met for the geographical market in question.

§2. In the analysis, mentioned in § 1, the Flemish Regulator for the Media assesses developments from a forward-looking perspective, in the absence of regulation imposed on the basis of this article in that relevant market. In this assessment, the Flemish Regulator for the Media takes the following into account:

- 1° market developments affecting the likelihood of the relevant market tending towards effective competition;
- 2° all relevant competitive constraints, at the wholesale and retail levels, irrespective of whether the sources of such constraints are considered to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user, and irrespective of whether such constraints are part of the relevant market;
- 3° other types of regulation or measures imposed and affecting the relevant market or related retail market or markets throughout the relevant period;
- 4° regulation imposed on other relevant markets.

§3. If the Flemish Regulator for the Media, following the analysis, mentioned in §1, is of the opinion that the conditions, mentioned in § 1, are met, it shall identify the undertaking or undertakings with significant market power on the relevant market.

⁴⁷² Replaced by the act of 02.07.2021

The Flemish Regulator for the Media shall designate an undertaking with significant market power on a specific market as having significant market power on a closely related market if the links between the two markets allow the market power held on the specific market to be leveraged into the closely related market, thereby strengthening the market power of the undertaking. The Flemish Regulator for the Media may apply remedies as mentioned in the articles 192/1, 192/2, 192/3 and 192/6, aiming to prevent such leverage in the closely related market.]⁴⁷³

[Article 191. §1. The Flemish Regulator for the Media imposes one or more of the obligations, mentioned in articles 192/1 to 192/7 and in article 192/11, on undertakings with significant market power on a relevant market.

In accordance with the principle of proportionality, the Flemish Regulator for the Media shall choose the least intrusive way of addressing the problems identified in the market analysis, mentioned in article 190.

The obligations, mentioned in the first subparagraph:

- 1° are based on the nature of the problem identified by the Flemish Regulator for the Media in its market analysis,
- 2° are proportionate, having regard, where possible, to the costs and benefits;
- 3° are justified in light of the objectives, mentioned in article 223/1;
- 4° are imposed following consultation, as mentioned in article 192/14;
- 5° are communicated in accordance with article 192/15.

The Flemish Regulator for the Media shall impose the obligations, mentioned in the first subparagraph, only on undertakings with significant market power, without prejudice to:

- 1° the need to comply with international commitments;
- 2° the measures taken by the Flemish Regulator for the Media to ensure adequate access, interconnection and interoperability of services, mentioned in article 200/2;
- 3° the provisions on privacy in the electronic communications sector imposing obligations on undertakings other than those designated as having significant market power;
- 4° the obligations relating to co-location and sharing of network elements and associated facilities, mentioned in article 200, §1/1;
- 5° the obligation of accounting separation for providers disposing of exclusive or special rights in sectors other than the electronic communications one in accordance with article 198, first subparagraph, 2°, and article 202, first subparagraph, 3°.

⁴⁷³ Changed by the acts of 13.07.2012 and 14.10.2016 and replaced by the act of 02.07.2021

Within the framework of the need to comply with international commitments, mentioned in the fourth subparagraph, 1°, the Flemish Regulator for the Media shall inform the European Commission of decisions to impose, amend or lift obligations on undertakings in accordance with the procedure, mentioned in article 192/15.

§2. If, in exceptional circumstances, the Flemish Regulator for the Media intends to impose on undertakings designated as having significant market power obligations for access or interconnection other than those mentioned in the articles 192/1 to 192/7 and article 192/11, it shall submit a request to the European Commission.

§3. The Flemish Regulator for the Media shall only impose the obligations, mentioned in article 192/13, on undertakings with significant market power on a retail market in accordance with article 190, §3, if all of the following conditions are met:

1° the Flemish Regulator for the Media determines, as a result of a market analysis carried out in accordance with article 190, §1, that a given retail market is not effectively competitive;

2° the Flemish Regulator for the Media concludes that the obligations imposed under articles 192/1 to 192/6, would not result in the achievement of the objectives, mentioned in article 223/1.

§4. If the Flemish Regulator for the Media, following the analysis, mentioned in article 190, §1, is of the opinion that the conditions, mentioned in article 190, §1, are not met, it shall not impose any obligations as mentioned in article 192/1 to 192/7 and article 192/11, and shall withdraw the existing obligations.

[The Flemish Regulator for the Media shall ensure that, for the parties affected by such a withdrawal of obligations, an appropriate notice period is observed, determined by balancing the following aspects:

1° the need to ensure a sustainable transition for the beneficiaries of those obligations and end users;

2° choice for the end users;

3° ensuring that the regulations do not remain in force longer than necessary.]⁴⁷⁴

If the Flemish Regulator for the Media sets a notice period, as mentioned in the second subparagraph, it may determine specific conditions and notice periods in relation to existing access agreements. The Flemish Regulator for the Media shall determine the duration and detailed rules of these notice periods.

§5. The Flemish Regulator for the Media takes the decisions, mentioned in §1 to 4:

1° within five years from the adoption of a previous decision, mentioned in §1;

⁴⁷⁴ Replaced by the act of 19.04.2024

2° within three years from the adoption of a revised Recommendation by the European Commission, for those markets of that Recommendation that have not already been notified to the European Commission in accordance with article 192/15.

No later than four months before the expiry of the period, mentioned in the first subparagraph, 1°, the Flemish Regulator for the Media may submit to the European Commission a reasoned proposal to extend that period by no more than one year.

The terms, mentioned in the first subparagraph, shall be extended by six months if the Flemish Regulator for the Media requests BEREC's assistance in completing the analysis of the market and the obligations to be imposed.

The market analysis and the obligations imposed in accordance with §1 to 4, shall remain in force until the next market analysis comes into force.

§6. The Flemish Regulator for the Media consults the Belgian Competition Authority in connection with the draft decisions, mentioned in article 190, §3, and in §4, first subparagraph, of this article, in order to obtain its opinion on:

1° the definition of the relevant market, mentioned in article 189, from a geographical and product viewpoint;

2° the assessment of the conditions, mentioned in article 190, §1, first subparagraph;

3° the identification of the undertakings with significant market power on the relevant market, mentioned in article 190, §3.

The Flemish Regulator for the Media can consult the Belgian Competition Authority on other issues relating to competition law.

If the opinion of the Belgian Competition Authority, mentioned in the first and second subparagraphs, has not been provided within thirty days of receipt of the question from the Flemish Regulator for the Media, the Flemish Regulator for Media shall continue the procedure.

§7. The Flemish Regulator for the Media shall consider the impact of new market developments, such as in relation to commercial agreements, including co-investment agreements, influencing competitive dynamics. If those developments are not sufficiently important to require a new market analysis as mentioned in article 190, §1, the Flemish Regulator for the Media shall assess without delay whether it is necessary to review the obligations imposed on undertakings designated as having significant market power and amend any previous decision, including by withdrawing obligations or imposing new obligations, in order to ensure that such obligations continue to meet the conditions, mentioned in §1, third subparagraph. Such amendments shall be imposed only after a public consultation and a notification as mentioned in article 192/14 and 192/15.]⁴⁷⁵

[Article 192. In the transnational markets defined by the European Commission, the Flemish Regulator for the Media, jointly with the other national regulatory authorities concerned,

⁴⁷⁵ Changed by the acts of 13.07.2012 and 14.10.2016 and replaced by the act of 02.07.2021

ensures that the market analysis is carried out with maximum respect for the SMP Guidelines. They give their opinion in a concerted fashion on the following elements:

1° whether or not there is significant market power;

2° the imposition, maintenance, amendment or lifting of the obligations, mentioned in article 191, § 1.

The Flemish Regulator for the Media, jointly with the national regulatory authorities concerned, shall notify to the European Commission their draft measures regarding the market analysis and any regulatory obligations pursuant to articles 192/15.

In the absence of transnational markets, the Flemish Regulator for the Media may also jointly notify with one or more national regulatory authorities of other Member States their draft measures regarding the market analysis and any regulatory obligations, where they consider that market conditions in their respective jurisdictions are sufficiently homogeneous.⁴⁷⁶

[Article 192/1. §1. The Flemish Regulator for the Media may, in accordance with article 191, §1, impose obligations for transparency in relation to interconnection or access, requiring operators to make public specified information, such as accounting information, prices, technical specifications, network characteristics and expected developments thereof, as well as terms and conditions for supply and use, including any conditions limiting access to or use of services and applications, in particular with regard to migration of legacy infrastructure, if such conditions are allowed by Member States in conformity with European Union law.

§2. In particular where an operator has obligations of non-discrimination, the Flemish Regulator for the Media may require that operator to publish a reference offer, which shall be sufficiently unbundled to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and the associated terms and conditions including prices.

The Flemish Regulator for the Media shall approve any new reference offer before it is published. The Flemish Regulator for the Media may, among other things, require a reference offer to be amended in order to implement the obligations, mentioned in this Act.

§3. The Flemish Regulator for the Media may specify the precise information to be made available, the level of detail required and the manner of publication.

§4. If an operator has obligations in connection with wholesale access to network infrastructure as mentioned in articles 192/4 and 192/5, the Flemish Regulator for the Media shall ensure that a reference offer is published, taking utmost account of the BEREC guidelines regarding the minimum criteria for a reference offer. The Flemish Regulator for the Media shall ensure that, where appropriate, key performance indicators and the associated service levels are set, and shall monitor compliance with them.

⁴⁷⁶ Changed by the act of 13.07.2012 and replaced by the act of 02.07.2021

In addition, the Flemish Regulator for the Media, if necessary, determines in advance the penalty amounts for non-compliance with the key performance indicators and the corresponding service levels in accordance with European Union law and national law.]⁴⁷⁷

[Article 192/2. In the context of the application of article 190, §3, and article 191, §1, the Flemish Regulator for the Media may impose obligations of non-discrimination, in relation to interconnection or access.]⁴⁷⁸

[Article 192/3. In the context of the application of article 191, §1, the Flemish Regulator for the Media may impose obligations for accounting separation in relation to specified activities related to interconnection or access.

The Flemish Regulator for the Media may require a vertically integrated undertaking to make transparent its wholesale prices and its internal transfer prices, inter alia to ensure compliance where there is an obligation of non-discrimination or, where necessary, to prevent unfair cross-subsidy.

The Flemish Regulator for the Media shall specify the format and accounting methodology to be used by the undertaking, mentioned in the second subparagraph.

The undertaking shall appoint a certified auditor who shall supervise, at the undertaking's expense, compliance with the decisions, mentioned in the first to the third subparagraphs. After this certified auditor has drawn up a report, the Flemish Regulator for the Media shall make public a statement each year on compliance with the obligation to keep separate accounts and to observe the corresponding detailed rules.

§2. The Flemish Regulator for the Media has the power to require all accounting records, including data on revenues received from third parties, to facilitate the verification of compliance with obligations of transparency and non-discrimination. The Flemish Regulator for the Media determines the period in which the documents shall be provided.

The Flemish Regulator for the Media may publish information that would contribute to an open and competitive market, while complying with the rules on commercial confidentiality, mentioned in article 235, §2.]⁴⁷⁹

[Art. 192/4. The Flemish Regulator for the Media may, in accordance with article 191, §1, impose obligations on undertakings to meet reasonable requests for access to, and use of, civil engineering including, but not limited to, buildings or entries to buildings, building cables, including wiring, antennae, towers and other supporting constructions, poles, masts, ducts, conduits, inspection chambers, manholes, and cabinets, in situations where, having considered the market analysis, the Flemish Regulator for the Media concludes that denial of access or access given under unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market and would not be in the end-user's interest.

The Flemish Regulator for the Media may impose obligations on an undertaking to provide access in accordance with this article, irrespective of whether the assets that are affected by the

⁴⁷⁷ Inserted by the act of 13.07.2012 and replaced by the act of 02.07.2021

⁴⁷⁸ Inserted by the act of 13.07.2012 and replaced by the act of 02.07.2021

⁴⁷⁹ Inserted by the act of 13.07.2012 and replaced by the act of 02.07.2021

obligation are part of the relevant market in accordance with the market analysis, provided that the obligation is necessary and proportionate to meet the objectives, mentioned in article 223/1.]⁴⁸⁰

[Art. 192/5. §1. In accordance with article 191, §1, the Flemish Regulator for the Media may impose obligations on undertakings to meet reasonable requests for access to, and use of, specific network elements and associated facilities, inter alia if the Flemish Regulator for the Media considers that denial of access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level, or would not be in the end-user's interest.

The Flemish Regulator for the Media may impose inter alia the following obligations on undertakings:

1° to give third parties access to, and use of, specific physical network elements and associated facilities, as appropriate, including unbundled access to the local loop and sub-loop;

2° to give third parties access to specific active or virtual network elements and services;

3° to negotiate in good faith with undertakings requesting access;

4° not to withdraw access to facilities already granted;

5° to provide specific services on a wholesale basis for resale by third parties;

6° to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services;

7° to provide co-location or other forms of associated facilities sharing;

8° to provide specific services needed to ensure interoperability of end-to-end services to users, or roaming on mobile networks;

9° to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;

10° to interconnect networks or network facilities;

11° to provide access to associated services such as identity, location and presence service.

The Flemish Regulator for the Media may subject the obligations, mentioned in the second subparagraph, to conditions covering fairness, reasonableness and timeliness.

§2. If the Flemish Regulator for the Media considers the appropriateness of imposing any of the possible specific obligations, mentioned in § 1, and in particular if it assesses, in accordance with the principle of proportionality, whether and how such obligations are to be imposed, it shall analyse whether other forms of access to wholesale inputs, either on the same or on a related wholesale market, would be sufficient to address the identified problem in the end-user's

⁴⁸⁰ Inserted by the act of 14.10.2016 and replaced by the act of 02.07.2021

interest. That assessment shall include commercial access offers, regulated access pursuant to article 200/2, or existing or planned regulated access to other wholesale inputs pursuant to this article. The Flemish Regulator for the Media shall take account in particular of the following factors:

1° the technical and economic viability of using or installing competing facilities, in light of the rate of market development, taking into account the nature and type of interconnection or access involved, including the viability of other upstream access products, such as access to ducts;

2° the expected technological evolution affecting network design and management;

3° the need to ensure technology neutrality enabling the parties to design and manage their own networks;

4° the feasibility of providing the access offered, in relation to the capacity available;

5° the initial investment by the facility owner, taking account of any public investment made and the risks involved in making the investment, with particular regard to investments in, and risk levels associated with, very high capacity networks;

6° the need to safeguard competition in the long term, with particular attention to economically efficient infrastructure based competition and innovative business models that support sustainable competition, such as those based on co-investment in networks;

7° where appropriate, any relevant intellectual property rights;

8° the provision of pan-European services.

§3. If the Flemish Regulator for the Media considers, in accordance with article 191, §1, imposing obligations on the basis of article 192/4 or of this article, it shall examine whether the imposition of obligations in accordance with article 192/4 alone would be a proportionate means by which to promote competition and the end-user's interest.

§4. When imposing obligations on an undertaking to provide access in accordance with this article, the Flemish Regulator for the Media may lay down technical or operational conditions to be met by the provider or the beneficiaries of such access, where necessary to ensure normal operation of the network. Obligations to follow specific technical standards or specifications shall comply with the standards and specifications determined by the European Commission.⁴⁸¹

[Art. 192/6. §1. The Flemish Regulator for the Media may, in accordance with article 191, §1, impose obligations relating to cost recovery and price control, including obligations for cost orientation of prices and obligations concerning cost-accounting systems, for the provision of specific types of interconnection or access, in situations where a market analysis indicates that a lack of effective competition means that the undertaking concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users.

⁴⁸¹ Inserted by the act of 02.07.2021

In determining whether price control obligations would be appropriate, the Flemish Regulator for the Media shall take into account the need to promote competition and long-term end-user interests related to the deployment and take-up of nextgeneration networks, and in particular of very high capacity networks. In particular, to encourage investments by the undertaking, including in next-generation networks, the Flemish Regulator for the Media shall take into account the investment made by the undertaking. Where the Flemish Regulator for the Media considers price control obligations to be appropriate, they shall allow the undertaking a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.

The Flemish Regulator for the Media may consider not imposing or maintaining obligations pursuant to this article, where it establishes that a demonstrable retail price constraint is present and that any obligations imposed in accordance with articles 192/1 to 192/5, including, in particular, any economic replicability test imposed in accordance with article 192/2, ensures effective and non-discriminatory access.

If the Flemish Regulator for the Media considers it appropriate to impose price control obligations on access to existing network elements, it shall also take account of the benefits of predictable and stable wholesale prices in ensuring efficient market entry and sufficient incentives for all undertakings to deploy new and enhanced networks.

§2. The Flemish Regulator for the Media shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote the deployment of new and enhanced networks, efficiency and sustainable competition and maximises sustainable end-user benefits. In this regard, the Flemish Regulator for the Media may also take account of prices available in comparable competitive markets.

§3. Where an undertaking has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs, including a reasonable rate of return on investment, shall lie with the undertaking concerned. For the purpose of calculating the cost of efficient provision of services, the Flemish Regulator for the Media may use cost accounting methods independent of those used by the undertaking.

The Flemish Regulator for the Media may require an undertaking to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.

§4. The Flemish Regulator for the Media shall ensure that, where implementation of a cost-accounting system is mandated in order to support price control, a description of the cost-accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. A certified auditor shall verify, at the undertaking's expense, compliance with the cost-accounting system and shall draw up annually a statement concerning compliance, which the Flemish Regulator for the Media will publish.]⁴⁸²

[Art. 192/7. §1. Undertakings which have been designated in accordance with article 190 as having significant market power in one or several relevant markets may offer commitments, in accordance with the procedure, mentioned in article 192/10, and subject to conditions, mentioned in the second subparagraph, to open the deployment of a new very high capacity

⁴⁸² Inserted by the act of 02.07.2021

network that consists of optical fibre elements up to the end-user premises or base station to co-investment by other providers of electronic communications networks or services.

If the Flemish Regulator for the Media assesses those commitments, mentioned in the first subparagraph, it shall determine, in particular, whether the offer to co-invest complies with all of the following conditions:

1° it is open at any moment during the lifetime of the network to any provider of electronic communications networks or services;

2° it would allow other co-investors which are providers of electronic communications networks or services to compete effectively and sustainably in the long term in downstream markets in which the undertaking designated as having significant market power is active, on terms which include:

a) fair, reasonable and non-discriminatory terms allowing access to the full capacity of the network to the extent that it is subject to co-investment;

b) flexibility in terms of the value and timing of the participation of each co-investor;

c) the possibility to increase such participation in the future;

d) reciprocal rights awarded by the co-investors after the deployment of the co-invested infrastructure;

3° it is made public by the undertaking in a timely manner and, if the undertaking does not have the characteristics, mentioned in article 192/11, first subparagraph, at least six months before the start of the deployment of the new network. That period may be prolonged based on national circumstances;

4° access seekers not participating in the co-investment can benefit from the outset from the same quality, speed, conditions and end-user reach as were available before the deployment, accompanied by a mechanism of adaptation over time confirmed by the Flemish Regulator for the Media in light of developments on the related retail markets, that maintains the incentives to participate in the co-investment. Such mechanism shall ensure that access seekers have access to the very high capacity elements of the network at a time, and on the basis of transparent and non-discriminatory terms, which reflect appropriately the degrees of risk incurred by the respective co-investors at different stages of the deployment and take into account the competitive situation in retail markets;

5° it complies at a minimum with the criteria, mentioned in §5, and is made in good faith.

§2. If the Flemish Regulator for the Media concludes, taking into account the results of the market test conducted in accordance with article 192/10, §2, that the co-investment commitment offered complies with the conditions, mentioned in §1, it shall make that commitment binding pursuant to article 192/10, §3, and shall not impose any additional obligations pursuant to article 191, §1, as regards the elements of the new very high capacity network that are subject to the commitments, if at least one potential co-investor has entered into a co-investment agreement with the undertaking designated as having significant market power.

The first subparagraph shall be without prejudice to the regulatory treatment of circumstances that do not comply with the conditions set out in § 1, taking into account the results of any market test conducted in accordance with article 192/10, §2, but that have an impact on competition and are taken into account for the purposes of articles 190 and 191.

By way of derogation from the first subparagraph, the Flemish Regulator for the Media may, in duly justified circumstances, impose, maintain or adapt remedies in accordance with articles 191 to 192/6 as regards new very high capacity networks in order to address significant competition problems on specific markets, where the Flemish Regulator for the Media establishes that, given the specific characteristics of these markets, those competition problems would not otherwise be addressed.

§3. The Flemish Regulator for the Media shall, on an ongoing basis, monitor compliance with the conditions, mentioned in § 1, and may require the undertaking designated as having significant market power to provide it with annual compliance statements. This article shall be without prejudice to the power of the Flemish Regulator for the Media to take decisions pursuant to article 220/1 in the event of a dispute arising between undertakings in connection with a co-investment agreement considered by it to comply with the conditions, mentioned in §1.

§4. When applying this article, the Flemish Regulator for the Media shall take into account the BEREC guidelines to promote the consistent application by the national regulatory authorities of the conditions, mentioned in §1, and the criteria, mentioned in §5.

§5. When assessing a co-investment offer pursuant to §1, the Flemish Regulator for the Media shall verify whether the following criteria have at a minimum been met:

1° the co-investment offer shall be open to any undertaking over the lifetime of the network built under a co-investment offer on a non-discriminatory basis. The undertaking designated as having significant market power may include in the offer reasonable conditions regarding the financial capacity of any undertaking;

2° the co-investment offer shall be transparent, in particular:

a) the offer shall be available and easily identified on the website of the undertaking designated as having significant market power;

b) full detailed terms shall be made available to any potential bidder that has expressed an interest in the offer, including the legal form of the co-investment agreement and, when relevant, the heads of term of the governance rules of the co-investment vehicle;

c) the process, like the road map for the establishment and development of the co-investment project, shall be set in advance, shall be clearly explained in writing to any potential co-investor, and all significant milestones shall be clearly communicated to all undertakings without any discrimination;

3° the co-investment offer shall include terms to potential co-investors which favour sustainable competition in the long term, in particular:

a) all undertakings shall be offered fair, reasonable and non-discriminatory terms and conditions for participation in the co-investment agreement relative to the time they join, including in terms of financial consideration required for the acquisition of specific rights, in terms of the protection awarded to the co-investors by those rights both during the building phase and during the exploitation phase, and in terms of the conditions for joining and potentially terminating the co-investment agreement. Non-discriminatory terms in this context do not entail that all potential co-investors shall be offered exactly the same terms, including financial terms, but that all variations of the terms offered shall be justified on the basis of the same objective, transparent, non-discriminatory and predictable criteria such as the number of end-user lines committed for;

b) the offer shall allow flexibility in terms of the value and timing of the commitment provided by each co-investor. The determination of the financial consideration to be provided by each co-investor needs to reflect the fact that early investors accept greater risks and engage capital sooner;

c) a premium increasing over time shall be considered to be justified for commitments made at later stages and for new co-investors entering the co-investment after the commencement of the project, to reflect diminishing risks and to counteract any incentive to withhold capital in the earlier stages;

d) the co-investment agreement shall allow the assignment of acquired rights by co-investors to other co-investors, or to third parties willing to enter into the co-investment agreement subject to the transferee undertaking being obliged to fulfil all original obligations of the transferor under the co-investment agreement;

e) co-investors shall grant each other reciprocal rights on fair and reasonable terms and conditions to access the coinvested infrastructure for the purposes of providing services downstream, including to end-users, in accordance with transparent conditions which are to be made transparent in the co-investment offer and subsequent agreement, in particular where co-investors are individually and separately responsible for the deployment of specific parts of the network. If a co-investment vehicle is created, it shall provide access to the network to all co-investors, whether directly or indirectly, on an equivalence of inputs basis and in accordance with fair and reasonable terms and conditions, including financial conditions that reflect the different levels of risk accepted by the individual co-investors;

4° the co-investment offer shall ensure a sustainable investment likely to meet future needs, by deploying new network elements that contribute significantly to the deployment of very high capacity networks.

The Flemish Regulator for the Media may lay down additional criteria, in addition to those mentioned in the first subparagraph, if they are necessary to ensure accessibility for potential investors to the co-investment, in the light of specific local conditions and of the market structure.]⁴⁸³

[Art. 192/8. §1. Where the Flemish Regulator for the Media concludes that the appropriate obligations imposed under articles 192/1 to 192/6 have failed to achieve effective competition and that there are important and persisting competition problems or market failures identified

⁴⁸³ Inserted by the act of 02.07.2021

in relation to the wholesale provision of certain access product markets, it may, on an exceptional basis, impose an obligation on a vertically integrated undertaking to place activities related to the wholesale provision of relevant access products in a business entity operating independently.

The operating independently business entity, mentioned in the first subparagraph, shall supply access products and services to all undertakings, including to other business entities within the parent company, on the same timescales, terms and conditions, including those relating to price and service levels, and by means of the same systems and processes.

§2. When the Flemish Regulator for the Media intends to impose an obligation of functional separation, it shall submit a request to the European Commission. That request includes:

1° evidence justifying the decision of the Flemish Regulator for the Media, mentioned in §1;

2° a reasoned assessment concluding that there is no or little prospect of effective and sustainable infrastructure-based competition within a reasonable time-frame;

3° an analysis of the expected impact on the following actors and aspects:

a) the Flemish Regulator for the Media;

b) the undertaking, in particular on the workforce of the separated undertaking;

c) the electronic communications sector as a whole;

d) the incentives to invest in the electronic communications sector, mentioned in c), in particular with regard to the need to ensure social and territorial cohesion;

e) other stakeholders, in particular, the expected impact on infrastructure competition and any resulting impact on consumers;

4° an analysis of the reasons justifying that this obligation would be the most efficient means to enforce remedies aimed at addressing the competition problems or the markets failures identified.

§3. The draft measure, mentioned in §2, shall include the following elements:

1° the precise nature and level of separation, specifying in particular the legal status of the separate business entity;

2° the identification of the assets of the separate business entity and the products or services to be supplied by that entity;

3° the governance arrangements to ensure the independence of the staff employed by the separate business entity, and the corresponding incentive structure;

4° rules for ensuring compliance with the obligations;

5° rules for ensuring transparency of operational procedures, towards the stakeholders;

6° a monitoring program to ensure compliance, including the publication of an annual report.

Following the European Commission's decision taken in accordance with article 191, §2, on that draft measure, mentioned in the first subparagraph, the Flemish Regulator for the Media shall conduct a coordinated analysis of the different markets related to the access network in accordance with the procedure mentioned in article 190. On the basis of that analysis, the Flemish Regulator for the Media shall impose, maintain, amend or withdraw obligations in accordance with article 192/14 and 192/15.

§4. An undertaking on which functional separation has been imposed, may be subject to any of the obligations referred to in articles 192/1 to 192/6 in any specific market where it has been designated as having significant market power in accordance with article 190, or any other obligations authorised by the European Commission.]⁴⁸⁴

[Art. 192/9. §1. Undertakings which have been designated as having significant market power in one or several relevant markets in accordance with article 190 shall inform the Flemish Regulator for the Media at least three months before any intended transfer of their local access network assets or a substantial part thereof to a separate legal entity under different ownership, or establishment of a separate business entity in order to provide all retail providers, including its own retail divisions, with fully equivalent access products.

The undertakings, mentioned in the first subparagraph, shall also inform the Flemish Regulator for the Media of any change of that intent, mentioned in the first subparagraph, as well as the final outcome of the process of separation.

The undertakings, mentioned in the first subparagraph, may also offer commitments regarding access conditions that are to apply to their network during an implementation period after the proposed form of separation is implemented, with a view to ensuring effective and non-discriminatory access by third parties. The offer of commitments shall include sufficient details, including in terms of timing of implementation and duration, in order to allow the Flemish Regulator for the Media to conduct its tasks in accordance with § 2.

Such commitments may extend beyond the maximum period for market reviews, mentioned in article 191, §5.

§2. The Flemish Regulator for the Media shall assess the effect of the intended transaction, together with the commitments offered, where applicable, on existing regulatory obligations, mentioned in this Act.

For that purpose, the Flemish Regulator for the Media shall conduct an analysis of the different markets related to the access network in accordance with the procedure mentioned in article 190. The Flemish Regulator for the Media shall take into account any commitments offered by the undertaking, having regard in particular to the objectives, mentioned in article 223/1. In so doing, the Flemish Regulator for the Media shall consult third parties in accordance with article 192/14, and shall address, in particular, those third parties which are directly affected by the intended transaction.

⁴⁸⁴ Inserted by the act of 02.07.2021

On the basis of its analysis, mentioned in the second subparagraph, the Flemish Regulator for the Media shall impose, maintain, amend or withdraw obligations in accordance with articles 192/14 and 192/15. If appropriate, the procedure, mentioned in article 192/11, will be applied.

In its decision, the Flemish Regulator for the Media may make the commitments binding, wholly or in part. By way of derogation from article 191, §5, the Flemish Regulator for the Media may make the commitments binding, wholly or in part, for the entire period for which they are offered.

§3. Without prejudice to article 192/11, the legally or operationally separate business entity that has been designated as having significant market power in any specific market in accordance with article 190, may be subject, as appropriate, to any of the obligations mentioned in articles 192/1 to 192/6 or any other obligations authorised by the European Commission pursuant to article 191, §2, where any commitments offered are insufficient to meet the objectives, mentioned in article 223/1.

§4. The Flemish Regulator for the Media shall monitor the implementation of the commitments offered by the undertakings that it has made binding in accordance with § 2 and shall consider their extension when the period for which they are initially offered has expired.]⁴⁸⁵

[Art. 192/10. §1. Undertakings designated as having significant market power may offer to the Flemish Regulator for the Media commitments regarding conditions for access, co-investment, or both, applicable to their networks in relation, inter alia, to:

1° cooperative arrangements relevant to the assessment of appropriate and proportionate obligations pursuant to article 191;

2° co-investment in very high capacity networks pursuant to article 192/7;

3° effective and non-discriminatory access by third parties pursuant to article 192/9, during an implementation period of voluntary separation by a vertically integrated undertaking or after the proposed form of separation is implemented.

The offer for commitments shall be sufficiently detailed including as to the timing and scope of their implementation and their duration, to allow the Flemish Regulator for the Media to undertake its assessment pursuant to § 2. Such commitments may extend beyond the periods for carrying out market analysis, mentioned in article 191, §5.

§2. In order to assess any commitments offered by an undertaking pursuant to § 1, the Flemish Regulator for the Media shall, except where such commitments clearly do not fulfil one or more relevant conditions or criteria, perform a market test, in particular on the offered terms, by conducting a public consultation of interested parties, in particular third parties which are directly affected. Potential co-investors or access seekers may provide views on the compliance of the commitments offered with the conditions provided, as applicable, mentioned in articles 191, 192/7 or 192/9, and may propose changes.

⁴⁸⁵ Inserted by the act of 02.07.2021

As regards the commitments offered under this article, the Flemish Regulator for the Media shall, when assessing obligations pursuant to article 191, §1, third subparagraph, have particular regard to:

- 1° evidence regarding the fair and reasonable character of the commitments offered;
- 2° the openness of the commitments to all market participants;
- 3° the timely availability of access under fair, reasonable and non-discriminatory conditions, including to very high capacity networks, before the launch of related retail services;
- 4° the overall adequacy of the commitments offered to enable sustainable competition on downstream markets and to facilitate cooperative deployment and take-up of very high capacity networks in the interest of end-users.

The Flemish Regulator for the Media, taking into account all the views expressed in the consultation, and the extent to which such views are representative of different stakeholders, shall communicate to the undertaking designated as having significant market power its preliminary conclusions whether the commitments offered comply with the objectives, criteria and procedures, mentioned in this article and article 191, 192/7 or 192/9. The Flemish Regulator for the Media also announces under which conditions it may consider making the commitments binding. The undertaking may revise its initial offer to take account of the preliminary conclusions of the Flemish Regulator for the Media and with a view to satisfying the criteria, mentioned in this article and the criteria, as applicable, mentioned in article 191, 192/7 or 192/9.

§3. Without prejudice to article 192/7, §2, first subparagraph, the Flemish Regulator for the Media may issue a decision to make the commitments binding, wholly or in part.

By way of derogation from article 191, §5, the Flemish Regulator for the Media may make some or all commitments binding for one of the following periods:

- 1° for the entire period for which they are offered;
- 2° for a period of minimum seven years in the case of co-investment commitments made binding pursuant to article 192/7, §2, first subparagraph.

Subject to article 192/7, this article is without prejudice to the application of the market analysis procedure pursuant to article 190 and the imposition of obligations pursuant to article 191, §1.

When the Flemish Regulator for the Media makes commitments binding pursuant to this article, it shall assess the following aspects:

- 1° with application of article 191, §7, the consequences of that decision for market development;
- 2° the appropriateness of any obligation that it has imposed or would, absent those commitments, have considered imposing pursuant to article 191, §7, or article 192/1 to 192/6.

When notifying, in accordance with article 192/15, the draft measure as mentioned in article 191 to the European Commission, BEREC and the national regulatory authorities of other Member States, the Flemish Regulator for the Media shall also notify the European Commission, BEREC and the national regulatory authorities of other Member States of the commitment decision.

§4. The Flemish Regulator for the Media shall monitor, supervise and ensure compliance with the commitments that it has made binding in accordance with § 3 in the same way in which it monitors, supervises and ensures compliance with obligations imposed under article 191, §1.

The Flemish Regulator for the Media shall consider the extension of the period for which they have been made binding when the initial period expires.

If the Flemish Regulator for the Media concludes that an undertaking has not complied with the commitments that have been made binding in accordance with § 3, it may impose penalties on such undertaking in accordance with article 228. Without prejudice to the procedure, mentioned in article 220, §4, the Flemish Regulator for the Media may reassess the obligations imposed in accordance with article 191, §7.⁴⁸⁶

[Art. 192/11. When the Flemish Regulator for the Media designates an undertaking which is absent from any retail markets for electronic communications services as having significant market power in one or several wholesale markets in accordance with article 190, §3, it shall consider whether that undertaking has the following characteristics:

1° all companies and business units within the undertaking, all companies that are controlled but not necessarily wholly owned by the same ultimate owner, and any shareholder capable of exercising control over the undertaking, only have activities in wholesale markets for electronic communications services and have the intention to do so in future, and therefore do not have activities in any retail market for electronic communications services provided to end-users in the European Union or in the European Economic Space;

2° the undertaking is not bound to deal with a single and separate undertaking operating downstream that is active in any retail market for electronic communications services provided to end-users, because of an exclusive agreement, or an agreement which de facto amounts to an exclusive agreement.

If the Flemish Regulator for the Media concludes that the conditions, mentioned in subparagraph 1, are fulfilled, it may impose on that undertaking only obligations pursuant to articles 192/2 and 192/5, or obligations relative to fair and reasonable pricing if justified on the basis of a market analysis including a prospective assessment of the likely behaviour of the undertaking designated as having significant market power.

The Flemish Regulator for the Media may review obligations imposed on the undertaking in accordance with this article at any time if it concludes that the conditions laid down in subparagraph 1 are no longer met and it shall, as appropriate, apply articles 190 to 192/6. The undertakings shall, without undue delay, inform the Flemish Regulator for the Media of any change of circumstance relevant to the conditions, mentioned in subparagraph 1, 1° and 2°.

⁴⁸⁶ Inserted by the act of 02.07.2021

The Flemish Regulator for the Media shall also review obligations imposed on the undertaking in accordance with this article if on the basis of evidence of terms and conditions offered by the undertaking to its downstream customers, it concludes that competition problems have arisen or are likely to arise to the detriment of end-users which require the imposition of one or more obligations, mentioned in artikel 192/1, 192/3, 192/4 or 192/6 or the amendment of the obligations imposed in accordance with subparagraph 2.

The imposition of obligations and their review shall be implemented in accordance with articles 192/14 and 192/15.]⁴⁸⁷

[Art. 192/12. §1. Undertakings which have been designated as having significant market power in one or several relevant markets in accordance with article 190 shall notify the Flemish Regulator for the Media in advance and in a timely manner when they plan to decommission or replace with a new infrastructure parts of the network, including legacy infrastructure necessary to operate a copper network, which are subject to obligations pursuant to articles 191 to 192/11.

§2. The Flemish Regulator for the Media shall ensure that the decommissioning or replacement process includes a transparent timetable and conditions, including an appropriate notice period for transition, and establishes the availability of alternative products of at least comparable quality providing access to the upgraded network infrastructure substituting the replaced elements if necessary to safeguard competition and the rights of end-users.

With regard to assets which are proposed for decommissioning or replacement, the Flemish Regulator for the Media may withdraw the obligations after having ascertained that the access provider:

1° has established the appropriate conditions for migration, including making available an alternative access product of at least comparable quality as was available using the legacy infrastructure enabling the access seekers to reach the same end-users;

2° has complied with the conditions and process notified to the Flemish Regulator for the Media in accordance with this article.

Such withdrawal shall be implemented in accordance with articles 192/14 and 192/15.]⁴⁸⁸

[Art. 192/13. §1. Pursuant to article 191, §3, the Flemish Regulator for the Media shall impose appropriate regulatory obligations, as mentioned in §2, on undertakings identified as having significant market power on a given retail market in accordance with article 190, §3.

§2. Obligations imposed in application of § 1 shall be based on the nature of the problem identified and shall be proportionate and justified in light of the objectives, mentioned in article 223/1.

In order to protect end-user interests whilst promoting effective competition, the Flemish Regulator for the Media may impose the following obligations to undertakings, as mentioned in §1:

1° appropriate retail price cap measures;

2° measures to control individual tariffs;

⁴⁸⁷ Inserted by the act of 02.07.2021

⁴⁸⁸ Inserted by the act of 02.07.2021

3° measures to orient tariffs towards costs or prices on comparable markets.

§3. The Flemish Regulator for the Media shall ensure that, where an undertaking is subject to retail tariff regulation or other relevant retail controls, the necessary and appropriate cost-accounting systems are implemented.

The Flemish Regulator for the Media may specify the format and accounting methodology to be used. Compliance with the cost-accounting system shall be verified, at the undertaking's expense, by a certified auditor who shall draw up annually a statement concerning compliance, which the Flemish Regulator for the Media will publish.]⁴⁸⁹

[Art. 192/14. The Flemish Regulator for the Media shall organise a prior public consultation of at least 30 days if it:

1° intends to take measures pursuant to this title;

2° intends to impose restrictions pursuant to Title II which have a significant impact on the relevant market.

The public consultation, mentioned in the first subparagraph, shall be organised with due observance of the rules on the confidentiality of business information, mentioned in article 235, §2, and with due observance of the rules on the protection of personal data.

In exceptional circumstances, the period of public consultation, mentioned in subparagraph 1, may be less than 30 days.

The Flemish Regulator for the Media publishes its consultation procedure on its website.

The Flemish Regulator for the Media shall establish a central online information point where all current consultation procedures relating to measures planned by the Flemish Regulator for the Media which have a significant impact on electronic communications markets can be accessed.

The Flemish Regulator for the Media shall publish the results of a public consultation in accordance with the rules on confidentiality of business information and the protection of personal data. The Flemish Regulator for the Media shall publish its draft decision, as possibly amended following the public consultation, mentioned in this article.

The Flemish Government shall lay down the detailed rules for public consultation and publication of the results thereof. Such rules shall at least cover the publication of the consultation, the conditions for participation in the consultation, the duration of the consultation, and the reporting on the consultation.]⁴⁹⁰

[Art. 192/15. § 1. The Flemish Regulator for the Media shall announce any draft measure it intends to take and shall notify it, with an accompanying statement of reasons, to the European Commission, to BEREC, and to the national regulatory authorities of other Member States, insofar as this measure affects trade between Member States and is intended to do so:

⁴⁸⁹ Inserted by the act of 02.07.2021

⁴⁹⁰ Inserted by the act of 02.07.2021

1° impose appropriate access and interconnection, or interoperability of services in accordance with article 200/2;

2° to define a relevant market which differs from the markets defined in the Recommendation of the European Commission referred to in article 189, second subparagraph;

3° in accordance with article 190, §1, second subparagraph, establish that one of the conditions, mentioned in article 190, §1, first subparagraph is not fulfilled;

4° to determine whether the characteristics of a market defined as relevant pursuant to article 190, §3, first subparagraph, and article 191, §3, are such that the imposition of regulatory obligations is justified or not;

5° following a decision as mentioned in point 4° to identify the undertaking or undertakings with significant market power on that market, in accordance with article 190, §3, first subparagraph;

6° to impose, modify or withdraw regulatory obligations on the undertaking or undertakings with significant market power in accordance with article 191, §§1 to 4.

§2. The Flemish Regulator for the Media shall take the utmost account of the comments submitted to it by the European Commission, BEREC, and the national regulatory authorities of the other Member States within one month of the notification of the draft decision.

§3. If the draft decision is amended in accordance with paragraph 6 or 10, the Flemish Regulator for the Media may initiate a public consultation in accordance with article 192/14 and shall again inform the European Commission of the amended draft in accordance with § 1

§4. The Flemish Regulator for the Media shall inform the European Commission and BEREC of the final adoption of the draft measure mentioned in § 1.

§5. The Flemish Regulator for the Media shall postpone the final adoption of the draft measure by two months if all the following conditions are met:

1° The draft decision, mentioned in § 1, aims to:

a) define a relevant market which is different from the markets defined by the European Commission;

b) designate an undertaking which, either individually or jointly with other undertakings, has significant market power on a relevant market;

2° the draft decision would affect trade between Member States;

3° the European Commission has indicated to the Vlaamse Regulator voor de Media within one month of the notification, mentioned in §1, that the draft decision would create a barrier to the internal market or if it has serious doubts as to compatibility of the draft decision with European Union law.

§6. If the European Commission takes a decision requiring the withdrawal of the draft decision within the two-month period, mentioned in §5, the Flemish Regulator for the Media shall amend

its draft decision or withdraw it within six months of the date of the European Commission's decision.

§7. If, within one month from the notification of the draft decision by the Flemish Regulator for the Media in accordance with article 192/5, the European Commission informs the Flemish Regulator for Media that the draft decision, which aims to impose, modify, or withdraw an obligation on an undertaking with significant market power, would create a barrier to the internal market or has serious doubts as to its compatibility with European Union law, the Flemish Regulator for the Media shall postpone its decision by three additional months.

§8. Within the period of three months, mentioned in § 7, the European Commission, BEREC and the Flemish Regulator for the Media shall cooperate closely in order to identify the most appropriate and effective measure, taking into account the objectives mentioned in article 223/1, and shall take into account the views of market participants and the need to ensure the development of a consistent regulatory practice.

§9. If, within six weeks from the start of the three-month period, mentioned in §7, BEREC issues an opinion on the notification from the European Commission, mentioned in §7, in which BEREC states that it shares the serious doubts of the European Commission, the Flemish Regulator for the Media may, before the end of the three months, mentioned in §7, take the following actions:

1° amend or withdraw its draft decision, taking utmost account of the notification from the European Commission, mentioned in §7, and the aforementioned opinion from BEREC;

2° maintain its draft decision.

§10. If BEREC does not share the serious doubts of the European Commission or does not issue an opinion, or if the Flemish Regulator for the Media amends or maintains its draft decision in accordance with § 9, the European Commission may, within one month of the three-month period, mentioned in § 7:

1° issue a reasoned recommendation asking the Flemish Regulator for the Media to amend or withdraw the draft decision;

2° take a decision to lift its reservations pursuant to §7.

For the draft decisions that fall under article 192/7, §2, first subparagraph, the European Commission may, if BEREC shares its serious doubts, within the same period as that referred to in the first subparagraph, take a decision requesting the Flemish Regulator for the Media to withdraw its draft.

Within one month from the issuance of the recommendation by the European Commission, mentioned in the first subparagraph, 1°, or the lifting of the reservation, mentioned in the first subparagraph, 2°, the Flemish Regulator for the Media shall communicate the final adopted decision to the European Commission and BEREC. The aforementioned period may be extended to allow the Flemish Regulator for the Media to conduct a public consultation on the amended draft decision, in accordance with article 192/14.

If the Flemish Regulator for the Media decides not to amend or withdraw the draft decision pursuant to the recommendation, mentioned in the first subparagraph, 1°, it shall provide a reasoned justification for doing so.

§11. In exceptional circumstances, if the Flemish Regulator for the Media considers that there is an urgent need to act, in order to safeguard competition and protect the interests of users, by way of derogation from the procedure set out in §§1 and 5, it may immediately adopt proportionate and provisional measures. The Flemish Regulator for the Media shall, without delay, communicate those measures, with full reasons, to the European Commission, to BEREC and to the other national regulatory authorities of the other Member States.

A decision of the Flemish Regulator for the Media to render such measures permanent or extend the period for which they are applicable shall be subject to §§ 1 and 5.

§12. The Flemish Regulator for the Media may withdraw the draft measure at any time.]⁴⁹¹

TITLE II. Provisions regarding broadcasting licences for the use of frequencies

Article 193. § 1. Nobody can use broadcasting equipment without a written broadcasting licence issued by the Flemish Regulator for the Media.

[....]⁴⁹²

§ 2. [Without prejudice to the application of the provisions of paragraph 4, the Flemish Regulator for the Media may grant a broadcasting licence only to accredited radio broadcasters, partnerships and television broadcasting networks.]⁴⁹³ In addition, in relation to events and for experiments which test new technologies, the Flemish Regulator for the Media can issue a temporary licence for the duration of the event.

§ 3. The Flemish Government determines the modalities and the procedure for the application, the amendment, the suspension or the [cancelling]⁴⁹⁴ of the broadcasting licences.

[The broadcasting licence is valid for the duration of the radio broadcaster's accreditation or for the duration of the television network provider's licence. In the case of DAB+ broadcasts, the broadcasting licences are valid for the duration of the partnership.]⁴⁹⁵ Suspending or [cancelling]⁴⁹⁶ the accreditation [or the licence]⁴⁹⁷ results in a suspension or [cancelling]⁴⁹⁸ of the broadcasting licence.[The Flemish Government may set an application fee for applying for a broadcasting licence or for amending it.]⁴⁹⁹

⁴⁹¹ Inserted by the act of 02.07.2021

⁴⁹² Lifted by the act of 10.07.2026

⁴⁹³ Replaced by the act of 10.07.2026

⁴⁹⁴ Replaced by the act of 03.06.2022

⁴⁹⁵ Replaced by the act of 10.07.2026

⁴⁹⁶ Replaced by the act of 03.06.2022

⁴⁹⁷ Inserted by the act of 10.07.2026

⁴⁹⁸ Replaced by the act of 03.06.2022

⁴⁹⁹ Added by the act of 10.06.2026

§ 4. The [broadcasting licences]⁵⁰⁰ referred to in § 1 are not required for the public broadcaster of the Flemish Community. The Flemish Government makes the frequencies which it needs available to that broadcaster.

[Art. 193/1. The relocation of transmission installations is only permitted once the Flemish Regulator for the Media has approved the amendment to the broadcasting licence. To this end, the Flemish Regulator for the Media shall seek a binding opinion from the administration.]⁵⁰¹

Article 194. The Flemish Government can lay down specific police ordinances, which impact [radio broadcasters]⁵⁰² and the providers of a [television broadcasting network]⁵⁰³.

Article 195. The Flemish Government determines the specific technical regulations of the [broadcasting licences]⁵⁰⁴, mentioned in Article 193.

Article 196. The Flemish Government determines the amount that must be paid by the holders of the licences to cover the costs of issuing, amending and supervising the licences, as mentioned in Article 193. It determines the payment conditions for these rights.

TITLE III. Offering cable broadcasting networks

Article 197. The provisions in this title shall not apply to the installation and operation of a collective aerial that is solely intended for holders of receiver terminals located in:

1° rooms or apartment of the same building or grouped residences of institutions that are part of the public health or welfare sector;

2° the same building with maximum fifty rooms or apartment;

3° [Regarding companies]⁵⁰⁵ dwellings that have been grouped into a collective entity, at the initiative of an association or an institution that promotes social housing construction; no more than fifty dwellings [or, as far as public law legal persons are concerned, submit annually before 30 June to the Flemish Regulator for the Media an operating report, the number of subscribers and broadcasting programs transmitted, and the balance sheet and annual accounts]⁵⁰⁶;

4° grouped dwellings, of which the number is not higher than fifty;

5° caravans or parcels of the same camping site.

Article 198. Anyone can offer a cable broadcasting network, under the conditions of this chapter, if he meets the following requirements:

⁵⁰⁰ Replaced by the act of 10.07.2026

⁵⁰¹ Inserted by the act of 10.07.2026

⁵⁰² Replaced by the act of 10.07.2026

⁵⁰³ Replaced by the act of 10.07.2026

⁵⁰⁴ Replaced by the act of 10.07.2026

⁵⁰⁵ Inserted by the act of 19.04.2024

⁵⁰⁶ Added by the act of 19.04.2024

1° take the form of a company or a statutory legal person [whose object]⁵⁰⁷ is the installation and operation of a cable network in the Flemish Region. The providers of cable networks can carry out all activities that tie in directly or indirectly with the accomplishment of [that object]⁵⁰⁸;

2° differentiate between the activities within the framework of the construction and the operation of the cable network on the one hand, and offering other networks or services for which it has been granted exclusive or specific rights, on the other hand, in the accounts;

3° submit an annual activities report, mentioning the shareholder structure, the number of subscribers and broadcasts, as well as the balance sheet and annual accounts, as approved by the general shareholders meeting;

4° have the necessary technical infrastructure or a technical investment plan and submit a financial plan to this effect.

[The Flemish Regulator for the Media must be notified in advance, in accordance with article 219, of the provision of a cable broadcasting network or its transfer to a third party. The Flemish Government shall determine what information this notification must contain and what subsequent changes to it must be communicated to the Flemish Regulator for the Media.]⁵⁰⁹

[The Flemish Government may impose additional obligations in addition to those, mentioned in the first subparagraph. Such obligations shall comply with the following requirements:

1° they are objectively justified in relation to the network concerned;

2° they are non-discriminatory;

3° they are proportionate;

4° they are transparent.

Within one week of the notification mentioned in the first subparagraph, the Flemish Regulator for the Media shall issue a standard declaration confirming that the undertaking has made a notification in accordance with this article and article 219. This statement shall stipulate the conditions under which the undertaking may submit an application for the right:

1° to install facilities in accordance with article 200;

2° to negotiate interconnection and access;

3° to obtain interconnection.

The Flemish Regulator for the Media shall immediately send BEREC, by electronic means, all notifications that it has received. It shall send to BEREC, all the notifications that it has received before 21 December 2020, at the latest by 21 December 2021.]⁵¹⁰

⁵⁰⁷ Replaced by the act of 19.04.2024

⁵⁰⁸ Replaced by the act of 19.04.2024

⁵⁰⁹ Replaced by the act of 02.07.2021

⁵¹⁰ Added by the act of 02.07.2021

Article 199. The Flemish Government may determine the general management rules and police ordinances concerning the installation and operation of the cable networks and may set forth the minimum technical requirements the cable networks have to meet. In specific cases, the Flemish Government may impose special conditions to improve the quality of a network whose operations are defective.

Article 200. §1. Providers of cable networks shall be entitled to install and maintain cables and the related equipment, at their own cost, on or under public squares, roads, streets, paths, bodies of water and canals, provided they act according to the public laws and decisions and they respect the purpose thereof.

Before exercising this right, the relevant provider of a cable network shall submit the plan of the location and the special features concerning the installation of the pipes for the approval of the authorities in charge of the public domain. These authorities will decide within a period of two months, starting from the date on which the plan was submitted. They will notify the provider concerned of their decision. When this period has expired, the authority's silence shall be deemed to signal approval. In the event of a continuing disagreement a decision shall be taken via a resolution of the Flemish Government.

The public authorities shall invariably be entitled, each in their fields of competence, to have changes made to the organisation or the planning scheme, as well as the related activities. The costs for these works are to be borne by the provider of the cable network if the changes have been imposed due to one of the following reasons:

1° with a view to maintaining public security;

2° with a view to preserving nature and city heritage;

3° in the interest of roads, rivers, canals or a public service;

4° as a consequence of a change which the owners of land alongside the roads used made to the entrance of their properties.

In other cases, they will be borne by the government imposing the changes. The authority may require a prior estimate of the costs and in the event of a disagreement may have the work carried out itself.

[§ 1/1. The Flemish Regulator for the Media can disregard the provisions that govern the use of the public domain, in accordance with the principle of proportionality, in order to protect the environment, public health and public safety, or for reasons of town planning, and impose shared use on providers of radio broadcasting networks for the construction of their network elements and their associated facilities [...]⁵¹¹ This shared use applies to facilities or property, inclusive of buildings, access to buildings, building cabling, masts, antennas, towers and other support buildings, ducts, conduits, manholes and street cabinets.

[...]⁵¹²

⁵¹¹ Lifted by the act of 02.07.2021

⁵¹² Lifted by the act of 02.07.2021

The Flemish Regulator for the Media can impose the obligations indicated in the first section after an appropriate period of public consultation in which all interested parties are enabled the opportunity to present their position.

After an appropriate period of public consultation in which all interested parties are enabled the opportunity to present their position, the Flemish Regulator for the Media can impose obligations on the radio broadcasting networks for the shared use of building cabling or up to the initial point of connection or distribution should this be located outside the building if duplication of such infrastructure is economically inefficient or physically impracticable.

The obligations mentioned in the first and [third]⁵¹³ sections can include an allocation regulation for the costs of the shared use of facilities or property which is adjusted to the risks.]⁵¹⁴[The obligations, mentioned in subparagraphs first and fourth, shall be objective, transparent, non-discriminatory and proportionate.]⁵¹⁵

§ 2. Cable network providers shall also be entitled to place support and anchors, for the installation of cables and the related equipment of their cable network, on walls and facades facing the public highway. They shall also be entitled to install their cables in open and vacant land or have it pass without any fastening or securing over private property.

The activities may start only after duly established written notification is provided to the owners, according to the information in the land register, to the tenants and inhabitants.

If the provider of a cable network has the intention of installing cables, overground wiring and associated equipment, to remove them or work on them, then the cable network provider will try to arrive at an agreement with the person on whose property support is required or whose property will be spanned or crossed, as regards the location and the manner in which the works are carried out.

The implementation of the activities shall not result in the removal of ownership. Supports and anchors placed in walls or facades may not restrict the owner's rights to demolish or repair the property.

Underground cables and supports placed in open or vacant land must be removed at the request of the owner, when the latter exercises the right to carry out conversions or install fencing. The removal costs shall be charged to the provider of the cable network.

The owner has to notify the cable network provider of this at least two months before the start of the works, mentioned in the fourth and fifth paragraphs.

§ 3. The installation and execution of all other works to the cables, overground wiring and associated equipment, against and on buildings and on the land associated with it, for connections to the infrastructure in these buildings, have to be tolerated by the owner and the party entitled, unless they are prepared to bear the supplementary costs of a counterproposal.

§ 4. If branches or roots constitute a reasonable obstacle for the installation, maintenance or operation of cables, overground wiring and associated equipment, then the owner or the party

⁵¹³ Replaced by the act of 19.04.2024

⁵¹⁴ Inserted by the act of 13.07. 2012

⁵¹⁵ Added by the act of 02.07.2021

entitled have to cut them back at the request of a cable network provider.

If the owner or the party entitled have not complied with a request for the term of a month, then the cable network provider can cut back the roots or branches itself.

The costs of this will be borne by:

1° the owner or the party entitled, if the trees and plantings are situated on his private property and their branches and cables constitute an obstacle for the cables, overground wiring and associated equipment:

a) they are situated in or above the public domain;

b) they are situated in or above his private property and serve to provide his connection;

2° the provider of the cable network in all other cases.

§ 5. If the provider of a cable network carries out works, the provider is obliged to restore the property to its original state within a reasonable term, depending on the case, of his own means or by relying on the services of a third party. It is possible to deviate from the provisions of this first paragraph subject to an agreement between a cable network provider and the owner or the party entitled to the property.

The provisions of the first paragraph do not apply to the damages that are irremediably caused to a property if the cable network provider carries out works that are required for the connections of the owner or the party entitled to the property.

§ 6. Compensation for damage caused by installing or operating a cable network shall be chargeable to the cable network provider, who shall continue to be liable for any resulting damage for third parties.

§ 7. The cable network provider shall be required to respond immediately to any action by the Flemish Regulator for the Media, the Belgian Postal Services and Telecommunications Institution or any electricity supplier service or company so as to put an immediate stop to a breakdown or any harmful impact on telephone or telegraph installations or electricity supply installations.

Otherwise, the relevant services or companies shall take the measures that are thought necessary, including relocating the cables and related installations, at the expense of the broadcasting network provider.

§ 8. The cables, overground wiring and associated equipment installed will remain the property of the cable network provider.

[Article 200/1. If the Flemish Regulator for the Media, taking into account, where appropriate, the obligations resulting from a relevant market analysis, concludes that the obligations imposed in accordance with article 200, §1/1, do not sufficiently address the high and non-transitory economic or physical barriers to replication that underlie an existing or emerging market situation which significantly limits the competitive outcome for end-users, it may, on fair and reasonable terms, extend access obligations beyond the first point of convergence or

distribution to reach a point which it considers to be closest to end-users, capable of reaching a sufficient number of end-user connections to be commercially viable for efficient access seekers. In determining how far beyond the first point of convergence or distribution such an extension should go, the Flemish Regulator for the Media shall take the utmost account of the relevant BEREC Guidelines. If justified from a technical or economic point of view, the Flemish Regulator for the Media may impose active or virtual access obligations.

The Flemish Regulator for the Media shall not impose any obligations on providers of electronic communication networks pursuant to the first subparagraph if it finds that one of the following applies:

1° the provider meets the conditions, mentioned in article 192/11, and he provides a feasible and comparable alternative means of reaching end-users by offering access to a very high capacity network to undertakings under fair, non-discriminatory and reasonable conditions. The Flemish Regulator for the Media may extend this exemption to other undertakings offering access to a very high capacity network on fair, non-discriminatory and reasonable terms;

2° the imposition of obligations jeopardises the economic or financial viability of rolling out a new network, in particular by small local projects.

By way of derogation to the second subparagraph, 1°, the Flemish Regulator for the Media may impose obligations on providers of electronic communication networks that meet the criteria mentioned in the second subparagraph, 1°, if the network concerned is financed from public funds.

The obligations imposed in application of this article shall be objective, transparent, proportionate and non-discriminatory. These obligations shall be imposed in accordance with the consultation procedures, mentioned in articles 192/14 and 192/15.]⁵¹⁶

[Article 200/2. The Flemish Regulator for the Media may intervene, on its own initiative if justified, in order to promote and, where necessary, guarantee adequate access and interconnection or interoperability of services in accordance with this Title and Section VI, and in order to guarantee the basic objectives, mentioned in article 223/1.

Without prejudice to measures with respect to undertakings with significant market power pursuant to article 191, the Flemish Regulator for the Media may impose obligations on undertakings that control access to end-users, if this is necessary to ensure end-to-end connections, which in cases where this is justified also includes the obligation to interconnect their networks where this has not already been done.

Undertakings that control access to end-users can be required by the Flemish Regulator for the Media to make their services interoperable, if this is justified and necessary.

Providers of electronic communication networks may be required by the Flemish Regulator for the Media, if this is necessary to ensure end-user access to specified digital broadcasting services, to offer access to application programme interfaces and electronic programme guides on fair, reasonable and non-discriminatory terms.

⁵¹⁶ Inserted by the act of 02.07.2021

The consultation procedures, mentioned in articles 192/14 and 192/15, shall apply. Obligations and conditions imposed in accordance with the first subparagraph shall be objective, transparent, proportionate and non-discriminatory.

The Flemish Regulator for the Media provides guidelines and makes the procedures for obtaining access and interconnection available to the public in order to ensure that small and medium-sized undertakings and operators with a limited geographical reach can benefit from the obligations imposed.]⁵¹⁷

[TITLE IV. Television broadcasting networks]⁵¹⁸

Article 201. § 1. No one can offer a [television broadcasting network]⁵¹⁹ without a written licence from the Flemish Regulator for the Media. This licence is personal and may only be transferred to a third party subject to the Flemish Regulator for the Media's consent in writing.

The Flemish Government shall determine the duration of the licences referred to in the first paragraph, the conditions for obtaining them and the arrangements and procedures for seeking, changing, suspending or [cancelling]⁵²⁰ them. [The licences, mentioned in the first subparagraph, shall be granted on the basis of objective, transparent, procompetitive, non-discriminatory and proportionate criteria.]⁵²¹ [The Flemish Government may set a registration fee payable by the licence holder when applying for a licence, as referred to in the first paragraph, and a fee for the renewal of the licence, as referred to in the first paragraph.]⁵²²

[The Flemish Government shall announce amendments to the duration of the licences, the conditions under which they can be obtained, the modalities and procedure for applying, amending, suspending or [cancelling]⁵²³ them, and the digital frequency plan, mentioned in § 2, in an appropriate manner. Interested parties, [...] ⁵²⁴, may, prior to the decision on the aforementioned amendment, make their views known during a consultation procedure lasting a minimum of four weeks and organised in the manner and by the competent service designated by the Flemish Government.]⁵²⁵

§ 2. The Flemish Government shall draw up and approve a digital frequency plan. It shall determine the number of [...] ⁵²⁶ frequency channels, including the related technical procedures that shall be granted in part or full to the providers of [television broadcasting networks]⁵²⁷.

[The [...] ⁵²⁸ frequency channels mentioned in the first paragraph, including the associated technical conditions granted in whole or in part to the provider of a [television broadcasting

⁵¹⁷ Inserted by the act of 02.07.2021

⁵¹⁸ Replaced by the act of 10.07.2026

⁵¹⁹ Replaced by the act of 10.07.2026

⁵²⁰ Replaced by the act of 03.06.2022

⁵²¹ Added by the act of 02.07.2021

⁵²² Added by the act of 10.07.2026

⁵²³ Replaced by the act of 03.06.2022

⁵²⁴ Lifted by the act of 10.07.2026

⁵²⁵ Added by the act of 02.07.2021

⁵²⁶ Lifted by the act of 10.07.2026

⁵²⁷ Replaced by the act of 10.07.2026

⁵²⁸ Lifted by the act of 10.07.2026

network]⁵²⁹, may be withdrawn, replaced or modified as a result of international or European regulations and duties.]⁵³⁰

[The television broadcasting network provider accepts the impact of programmes broadcast by other television broadcasting network providers who broadcast in accordance with their broadcasting licence.]⁵³¹

§ 3. The Flemish Government shall provide the public broadcaster with the [...] ⁵³²frequency channels the public broadcaster requires [in order to achieve the objectives of general interest in accordance with the management agreement, mentioned in article 17, §1, 1°.]⁵³³

[[§4...] ⁵³⁴]⁵³⁵

[§ 5. Broadcasts must comply with the applicable standards of the International Telecommunication Union (ITU) and the European Telecommunications Standards Institute (ETSI).]⁵³⁶

Article 202. In order to obtain a licence as referred to in Article 201 the provider has to comply with the following conditions. It has to:

1° take the form of a company or a statutory legal person [whose object]⁵³⁷ is to install and operate a [television broadcasting network]⁵³⁸ in the Flemish Community. The providers of a [television broadcasting network]⁵³⁹ can carry out all activities that tie in directly or indirectly with the accomplishment of [that object]⁵⁴⁰;

2° fall under the competence of the Flemish Community;

3° differentiate in their accounts between the activities within the framework of offering a [television broadcasting network]⁵⁴¹ on the one hand and offering other networks or services for which exclusive or specific rights have been granted, on the other hand;

4° every year, submit an activities report to the Flemish Regulator for the Media before 30 June, mentioning, where applicable, the number of subscribers and broadcasts, the balance sheet and the annual accounts, as approved by the general shareholders meeting;

5° pay annual compensation for using the required [frequency channels]⁵⁴²; [Such compensation shall be objectively justified, transparent and non-discriminatory.]⁵⁴³

⁵²⁹ Replaced by the act of 10.07.2026

⁵³⁰ Added by the act of 14.10. 2016

⁵³¹ Added by the act of 10.07.2026

⁵³² Lifted by the act of 10.07.2026

⁵³³ Replaced by the act of 02.07.2021

⁵³⁴ Added by the act of 21.03. 2025

⁵³⁵ Lifted by the act of 10.07.2026

⁵³⁶ Added by the act of 10.07.2026

⁵³⁷ Replaced by the act of 19.04.2024

⁵³⁸ Replaced by the act of 10.07.2026

⁵³⁹ Replaced by the act of 10.07.2026

⁵⁴⁰ Replaced by the act of 19.04.2024

⁵⁴¹ Replaced by the act of 10.07.2026

⁵⁴² Replaced by the act of 10.07.2026

⁵⁴³ Added by the act of 02.07.2021

6° have the required technical infrastructure or technical investment plan and also submit a financial plan to this effect;

7° not provide electronic communication networks which offer broadcasting or electronic communication services, in return for payment, to end users in Flanders;

8° not be a company in which the companies mentioned in item 7 have control. Control includes the rights, agreements or other means that facilitate the individual or joint determining control on the company's activities, taking into account all factual and legal circumstances, in particular:

- a) property or user rights on all or part of a company's capital components;
- b) rights or agreements, which provide for determining control on the composition, voting behaviour or decisions of the company's bodies.

The Flemish Government shall determine the amount and the payment conditions for the annual fee referred to in the first paragraph, 5°, for the use of the required [frequency channels]⁵⁴⁴.

[The Flemish Government may attach the following additional obligations to the licences:

1° technical and operational conditions necessary for the prevention of harmful interference and for the protection of public health against electromagnetic fields, taking the utmost account of Council Recommendation 1999/519/EC of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz);

2° maximum duration, subject to changes in the national frequency allocation plan;

3° conditions relating to the transfer or lease of rights of use of spectrum subject to the authorisation at the initiative of the holder of the authorisation;]⁵⁴⁵

[The obligations, mentioned in the third subparagraph shall be objectively justified in relation to the network concerned, non-discriminatory, proportionate and transparent.]⁵⁴⁶

[Article 202/1. § 1. Providers of [television broadcasting networks]⁵⁴⁷ shall be entitled to install and maintain cables and the equipment associated with their [television broadcasting network]⁵⁴⁸, at their own cost, on or under public squares, roads, streets, paths, waterways and canals, provided they act according to the public laws and decisions and they respect the purpose thereof.

Before exercising this right, the relevant provider of a [television broadcasting network]⁵⁴⁹ shall submit the plan of the location and the special features concerning the installation of the cables for the approval of the authority competent for the public domain. This authority will decide within a period of two months starting from the date on which the plan is submitted. It shall

⁵⁴⁴ Replaced by the act of 10.07.2026

⁵⁴⁵ Replaced by the act of 02.07.2021

⁵⁴⁶ Added by the act of 02.07.2021

⁵⁴⁷ Replaced by the act of 10.07.2026

⁵⁴⁸ Replaced by the act of 10.07.2026

⁵⁴⁹ Replaced by the act of 10.07.2026

inform the relevant provider of a [television broadcasting network]⁵⁵⁰ of its decision. When this period has expired, the authority's silence shall be deemed to signal approval. In the event of a continuing disagreement a decision shall be taken via a Decree of the Government of Flanders.

The authorities have the right to later alter the layout or the planning scheme and the works arising therefrom on their domain. The costs for these works are to be borne by the provider of the [television broadcasting network]⁵⁵¹ if the changes have been imposed due to one of the following reasons:

1° with a view to public safety;

2° to preserve the natural and urban beauty;

3° in the interest of roads, waterways, canals or a public service;

4° as a consequence of a change which the owners of land alongside the roads used made to the entrance of their properties.

In cases other than the cases indicated in the second section, they are at the expense of the authorities that imposed the changes. The authority may require a prior estimate of the costs and in the event of a disagreement may have the work carried out itself.

§ 2. The Flemish Regulator for the Media can disregard the provisions that govern the use of the public domain, in accordance with the principle of proportionality, in order to protect the environment, public health and public safety, or for reasons of town planning, and impose shared use on providers of [television broadcasting network]⁵⁵² for the construction of their network elements and their associated facilities only after an appropriate period of public consultation. This shared use applies to facilities or property, inclusive of buildings, access to buildings, building cabling, masts, antennas, towers and other support buildings, ducts, conduits, manholes and street cabinets.

Associated facilities is understood to mean services that belong to an electronic communications network or an electronic communications service, physical infrastructures and other elements that enable or support the provision of services via that network or that enable or support that service or that possess the potential to do so, such as buildings or access to buildings, building cabling, antennas, towers and other support constructions, ducts, conduits, masts, manholes and street cabinets.

The Flemish Regulator for the Media can impose the obligations indicated in the first section after an appropriate period of public consultation in which all interested parties are enabled the opportunity to present their position.

After an appropriate period of public consultation in which all interested parties are enabled the opportunity to present their position, the Flemish Regulator for the Media can impose obligations on the [television broadcasting network]⁵⁵³ for the shared use of building cabling or

⁵⁵⁰ Replaced by the act of 10.07.2026

⁵⁵¹ Replaced by the act of 10.07.2026

⁵⁵² Replaced by the act of 10.07.2026

⁵⁵³ Replaced by the act of 10.07.2026

up to the initial point of connection or distribution should this be located outside the building if duplication of such infrastructure is economically inefficient or physically impracticable.

The obligations mentioned in the first and fourth sections can include an allocation regulation for the costs of the shared use of facilities or property which can be adjusted to the risks.

§ 3. For laying the cables and associated equipment, providers of [television broadcasting network]⁵⁵⁴ permanently install supports and anchors for their [television broadcasting network]⁵⁵⁵ on walls and façades that face public roads and can lay their cables in open and undeveloped land or let them run above private properties without attachment or contact.

The works may start only after duly established written notification is provided to the owners, according to the information in the land register, and to the tenants and inhabitants.

If the provider of a [television broadcasting network]⁵⁵⁶ wishes to lay, clean up or conduct works on cables, surface lines and associated equipment, it will pursue agreement concerning the location and the method of conducting the works with the person from whose property support is received or from the person whose property is spanned or crossed.

The implementation of the activities shall not result in the removal of ownership. The placement of supports and anchors on walls or façades may not interfere with the owner's right to tear down or repair his property.

Underground cables and supports placed in open or undeveloped land must be removed upon request of the owner if he exercises his right to build or to fence. The removal costs shall be charged to the provider of the [television broadcasting network]⁵⁵⁷.

The owner has to notify the [television broadcasting network]⁵⁵⁸ provider of this at least two months before the start of the works, mentioned in the fourth and fifth sections.

§ 4. The installation and execution of all other works to the cables, overground lines and associated equipment, against and on buildings and on the land associated with it, for connections to the infrastructure in these buildings, must be allowed by the owner and the party entitled, unless they are prepared to bear the supplementary costs of a counterproposal.

§ 5. If branches or roots constitute a reasonable obstacle for the installation, maintenance or operation of cables, overground wiring and associated equipment, then the owner or the party entitled must cut them back at the request of a [television broadcasting network]⁵⁵⁹ provider.

If the owner or the party entitled has not complied with a request during the term of one month, then the [television broadcasting network]⁵⁶⁰ provider can cut back the roots or branches itself. The cost of cutting them back are at the expense of:

⁵⁵⁴ Replaced by the act of 10.07.2026

⁵⁵⁵ Replaced by the act of 10.07.2026

⁵⁵⁶ Replaced by the act of 10.07.2026

⁵⁵⁷ Replaced by the act of 10.07.2026

⁵⁵⁸ Replaced by the act of 10.07.2026

⁵⁵⁹ Replaced by the act of 10.07.2026

⁵⁶⁰ Replaced by the act of 10.07.2026

1° the owner or the party entitled, if the trees and plantings are situated on his private property and their branches or roots constitute an obstacle for the cables, overground lines and associated equipment which:

a) are located in or above the public domain;

b) are located on or above his private property and are necessary for his connection;

2° the provider of the [television broadcasting network]⁵⁶¹ in all other cases.

§ 6. If the provider of a [television broadcasting network]⁵⁶² conducts works, it must repair the property to its original condition within a reasonable amount of time according to the case, of its own accord or by enlisting the services of a third party.

The obligation, mentioned in the first section, does not apply to damages that were unavoidably caused by the provider of a [television broadcasting network]⁵⁶³ to a property if the provider of a [television broadcasting network]⁵⁶⁴ is conducting works that are necessary for the connection of the owner or the party entitled of that property.

The provider of a [television broadcasting network]⁵⁶⁵ and the owner or party entitled of the property can deviate from the obligations indicated in the first section.

§ 7. Compensation for damage caused by installing or operating a [television broadcasting network]⁵⁶⁶ shall be at the expense of the [television broadcasting network]⁵⁶⁷ provider, who shall continue to be liable for any resulting damage to third parties.

§ 8. The [television broadcasting network]⁵⁶⁸ provider shall be required to respond immediately to any action by the Flemish Regulator for the Media, the Belgian Postal Services and Telecommunications Institution or any electricity supplier service or company so as to put an immediate stop to a disturbance or any harmful impact on telephone or [telegraph installations]⁵⁶⁹ or electricity supply installations.

Otherwise, the relevant services or companies shall take the measures that are thought necessary, including relocating the cables and related installations, at the expense of the broadcasting network provider.

§ 9. The cables, overground lines and associated equipment installed will remain the property of the radio broadcasting network provider.]⁵⁷⁰⁵⁷¹

⁵⁶¹ Replaced by the act of 10.07.2026

⁵⁶² Replaced by the act of 10.07.2026

⁵⁶³ Replaced by the act of 10.07.2026

⁵⁶⁴ Replaced by the act of 10.07.2026

⁵⁶⁵ Replaced by the act of 10.07.2026

⁵⁶⁶ Replaced by the act of 10.07.2026

⁵⁶⁷ Replaced by the act of 10.07.2026

⁵⁶⁸ Replaced by the act of 10.07.2026

⁵⁶⁹ Replaced by the act of 19.04.2024

⁵⁷⁰ Inserted by the act of 13.07.2012

⁵⁷¹ Replaced by the act of 10.07.2026

Article 203. The provider of a [television broadcasting network]⁵⁷² will use its network's digital capacity to transmit broadcasts.

Article 204. The Flemish Government may determine the general management rules and police ordinances concerning the installation and operation of the [television broadcasting network]⁵⁷³ and may set forth the minimum technical requirements the [television broadcasting network]⁵⁷⁴ have to meet. In specific cases, the Flemish Government may impose special conditions to improve the quality of a network whose operations are defective.

Article 205. The Flemish Regulator for the Media shall be authorised to check at any time to see if the [television broadcasting network]⁵⁷⁵ and its operations are consistent with the provisions in this chapter and the implementing orders.

[PART VI. - The use of standards to transmit television and radio signals]⁵⁷⁶

Article 206[...]⁵⁷⁷

Article 207. Electronic communication networks that are set up to distribute digital television programs have to be able to broadcast wide-screen television programs. Providers [of electronic communications networks receiving wide-screen television programmes]⁵⁷⁸ have to broadcast these programs in the same wide-screen format as the one in which it is delivered.

Article 208. Any analogue television set with an integral screen where the visible diagonal is more than 42 cm and is available to buy or lease on the market has to be provided with at least one connection socket, standardised by an accredited European standardisation body, with an open interface enabling peripheral equipment to be connected, such as other decoders and digital receivers.

[Any digital television set with an integral screen of visible diagonal greater than 30 cm which is put on the market for sale or rent in the European Union or the European Economic Area shall be fitted with at least one open interface socket, either standardised or conforming to a standard adopted by a recognised European standards organisation, or conforming to an industry-wide specification, permitting simple connection of peripherals, and able to pass all the relevant elements of a digital television signal, including information relating to interactive and conditionally accessed services.]⁵⁷⁹

Article 209. Any equipment intended for the reception of digital television signals sold, leased or otherwise made available in Flanders and enabling digital television signals to be decoded has to be suitable for:

⁵⁷² Replaced by the act of 10.07.2026

⁵⁷³ Replaced by the act of 10.07.2026

⁵⁷⁴ Replaced by the act of 10.07.2026

⁵⁷⁵ Replaced by the act of 10.07.2026

⁵⁷⁶ Replaced by the act of 12.02.2021

⁵⁷⁷ Lifted by the act of 19.04.2024

⁵⁷⁸ Replaced by the act of 02.07.2021

⁵⁷⁹ Replaced by the act of 02.07.2021

1° facilitating the decoding of such signals in accordance with the European encryption algorithm that is managed by an accredited European standardization body;

2° to represent signals that are transmitted without encryption, if the lessee complies with the lease agreement in the case of leased equipment.

[Art. 209/1. All equipment intended for the reception of FM radio signals from a radio broadcasting organisation and sold in Flanders must be capable of receiving digital radio signals. The obligation referred to in the first sentence of this paragraph does not apply to radio equipment used by radio amateurs, smartphones and tablets.]⁵⁸⁰

[A car radio receiver fitted in a new vehicle of category M vehicles offered for sale or lease shall include a receiver which is capable of receiving and reproducing at least radio services transmitted via digital terrestrial radio broadcasts. Vehicle of category M refers to vehicles as defined in the Royal Decree of 15 March 1968 containing general regulations on the technical requirements to which the cars, their trailers, their components and their safety accessories must satisfy.]⁵⁸¹

[The Flemish Government may also exempt other types of FM receivers with a specific functionality, of a specific type, below a specific price threshold or of which the radio reception is only incidental, from the obligation referred to in the first paragraph, first sentence, when they are marketed.]⁵⁸²

Article 210. The providers of broadcasting services and service distributors using conditional access systems should make exclusive use of conditional access systems, which offer the required technical possibilities for a cheap control transfer. This entails that service distributors or the providers of broadcasting networks are offered the facility to have complete control of their services by means of such conditional access systems.

[Article 211. All service distributors offering conditional access services, irrespective of the means of transmission, which provide access services to digital television and digital radio services and on which broadcasters depend to reach potential viewers or listeners, shall comply with all of the following conditions:

1° they shall offer to all broadcasters, on fair, reasonable and non-discriminatory terms compatible with the competition rules of the European Union, technical services enabling the services of the broadcaster transmitted in digital mode to be received by authorised viewers or listeners by means of decoders operated by the service distributor and complying with the competition rules of the European Union;

2° they keep separate accounts for their activities as conditional access providers.]⁵⁸³

Article 212. Broadcasting companies that use a decoder or other conditional access systems for their digital transmissions have to publish a price list for viewers taking account of any provision of corresponding equipment.

⁵⁸⁰ Inserted by the act of 12.02.2021. Comes into force on 01.01.2023

⁵⁸¹ Added by the act of 12.02.2021

⁵⁸² Added by the act of 12.02.2021. Comes into force on 01.01.2023

⁵⁸³ Replaced by the act of 02.07.2021

Article 213. When holders of industrial property rights for conditional access systems and products grant authorisations to manufacturers of consumer equipment, they must do so in a fair, reasonable and non-discriminatory way.

Holders of certain rights may not make the granting of authorisations, where account is taken of technical and commercial factors, dependent upon conditions where it is forbidden, discouraged or made unappealing to do the following to the product in question:

1° to integrate a common interface which enables connection with various access systems; 2° integrate other resources belonging to another access system, when the licence holder meets the reasonable and suitable conditions for protecting the transactions of the operators and conditional access systems.

Article 214. The Flemish Regulator for the Media may impose conditions on suppliers of digital interactive programs on digital interactive platforms and suppliers of advanced digital terminal equipment governing the use of an open API pursuant to the minimum requirements of the relevant standards or specifications.

The Flemish Regulator for the Media may impose conditions on API owners so that all the necessary information is made available to enable suppliers of digital interactive programs to provide all services supported by the API in a fully functional form.

[Article 214/1. The Government of Flanders can impose conditions on broadcasters and service distributors with regard to offering interoperable television services to [persons with disabilities]⁵⁸⁴.]⁵⁸⁵

[Art. 214/2. §1. Terminal equipment with interactive computing capability used for access to television services placed on the market as from 28 June 2025 shall comply with the accessibility requirements set out in sections 1 and 2 of Annex 1, which is attached to this Act.

§2. Services providing access to television services provided to consumers from 28 June 2025 onwards shall comply with the accessibility requirements set out in sections 3 and 4 of Annex 1, which is attached to this Act.

Providers of services providing access to television services shall draw up the necessary information in accordance with annex 2 which is attached to this Act, and shall explain how the services meet the applicable accessibility requirements. The information shall be made available to the public in written and oral format, including in a manner which is accessible to persons with disabilities. Service distributors shall keep that information for as long as the service is in operation.

Microenterprises offering the services mentioned in subparagraph 1 shall be exempt from complying with the accessibility requirements mentioned in subparagraph 1 and from any obligations relating to compliance with those requirements.

§3. The accessibility requirements mentioned in paragraphs 1 and 2 shall apply only to the extent that compliance:

⁵⁸⁴ Replaced by the act of 03.06.2022. Goes into force on 28.06.2025

⁵⁸⁵ Inserted by the act of 13 July 2012

1° does not require a significant change in a product or service that results in the fundamental alteration of its basic nature;

2° does not result in the imposition of a disproportionate burden on the providers of terminal equipment with interacting computer capability used for access to television services and providers of services providing access to television services.

Providers of terminal equipment with interactive computing capability used for access to television services and providers of services providing access to television services shall carry out an assessment of whether compliance with the accessibility requirements, mentioned in paragraphs 1 and 2, would introduce a fundamental alteration or, based on the relevant criteria set out in Annex 3, attached to this Act, impose a disproportionate burden, as mentioned in the first subparagraph, 2°.

The Flemish Government may publish more detailed rules for the assessment of the fundamental alteration, mentioned in the first subparagraph, 1°, and may elaborate on the criteria for the assessment of the disproportionate burden, mentioned in the first subparagraph, 2°, set out in Annex 3

The providers, mentioned in the second subparagraph, shall document their assessment. They shall keep all relevant results for a period of five years to be calculated from the last making available of a product on the market or after a service was last provided, as applicable. They shall provide the Flemish Regulator for the Media with a copy of this assessment upon request.

The providers of services providing access to television services relying on the first subparagraph, 2°, not to apply the accessibility requirements, mentioned in paragraphs 1 and 2, renew their assessment of whether the burden is disproportionate in all the following cases with regard to each category or type of service:

1° when the service offered is altered; or

2° when requested to do so by the Flemish Regulator for the Media; and

3° in any event, at least every five years.

Microenterprises dealing with terminal equipment shall be exempted from the requirement to document their assessment. However, if the Flemish Regulator for the Media so requests, microenterprises which have chosen to rely on the first subparagraph not to apply the accessibility requirements, mentioned in paragraphs 1 and 2, shall provide the Flemish Regulator for the Media with the facts relevant to the assessment mentioned in the second subparagraph.

Providers of terminal equipment with interactive computing capability used for access to television services and providers of services providing access to television services, with the exception of microenterprises, which rely on the first subparagraph for a specific terminal equipment or specific service not to apply the accessibility requirements, mentioned in paragraphs 1 and 2, shall notify the Flemish Media Authority accordingly.

§4. If providers of terminal equipment with interactive computing capability used for access to television services and providers of services providing access to television services receive funding from other sources than their own resources, whether public or private, that is provided for the purpose of improving accessibility, they shall not be entitled to rely on paragraph 3 , first subparagraph, 2°, not to apply the accessibility requirements, mentioned in paragraphs 1 and 2.

§5. By way of derogation from paragraphs 1 and 2, providers of services providing access to television services may, for a transitional period expiring on 28 June 2030, continue to provide their services using terminal equipment which was lawfully used by them to provide similar services before that date.

Service contracts concluded by the providers, mentioned in the first subparagraph, before 28 June 2025 may continue without alteration until they expire, but no longer than five years from that date.]⁵⁸⁶

PART VII. The Flemish Regulator for the Media

TITLE I. Establishment and composition

Article 215. The Flemish Regulator for the Media is an external independent agency with a legal personality under public law as referred to in [Article III.7 of the Administrative Act]⁵⁸⁷.

The Flemish Government determines to which uniform policy area the Flemish Regulator for the Media belongs.

The head office of the Flemish Regulator for the Media is located in Brussels.

[The provisions of the Administrative Act apply to the Agency, with the exception of Article III.9, § 2. Article III.13 of the Administrative Act does not apply to the general chamber and the chamber for impartiality and protection of minors of the VRM.]⁵⁸⁸

§ 2. In the Flemish Regulator for the Media there are two chambers:

1° a general chamber;

2° a chamber overseeing impartiality and the protection of minors.

Article 216. § 1. The general chamber consists of five members: two magistrates, among which the president, and three media experts.

Persons can be appointed as members of the general chamber if they meet the following requirements:

1° for the magistrates : the magistrates must have held the office of magistrate in the courts and courts of appeal or in the Council of State for at least five years;

⁵⁸⁶ Added by the act of 03.06.2022. Goes into force on 28.06.2025

⁵⁸⁷ Replaced by the act of 7.12.2018

⁵⁸⁸ Replaced by the act of 7.12. 2018

2° for the media experts: the media experts must have held a scientific post or teaching post at a Flemish university or at a Flemish institute of higher education leading to higher degrees for at least five years, or must have at least five years' professional experience in the media.

In order to be appointed president to the general chamber, it is necessary to have held the position of magistrate in the courts or courts of appeal or in the Council of State for at least five years.

Without prejudice to the irreconcilable situations referred to in [Article III. 12, § 1, of the Administrative Act]⁵⁸⁹, which apply to all the members of the Flemish Regulator for the Media, a member of the general chamber may not have any link with a media, advertising or promotional company or organization, or with a distributor of broadcasting signals, nor have economic interests in such companies or bodies.

§ 2. The chamber overseeing impartiality and the protection of minors is composed of nine members, including the president, of whom four are professional journalists. In order to be as a member of the chamber overseeing impartiality and the protection of minors, it is necessary to comply with the following conditions:

1° have held the office of magistrate in the courts and courts of appeal or in the Council of State for at least five years;

2° have held a scientific post or teaching post at a Flemish university or at a Flemish institute of higher education leading to higher degrees for at least five years,

3° have at least five years' professional experience in the media.

§ 3. The chamber overseeing impartiality and the protection of minors is extended with the following members to deal with complaints relating to the application of [Article 42, [...]⁵⁹⁰ 72, 5°, and [176/4, §1, 1°, 176/4, §1, 2°]⁵⁹¹, [Article 180, §6]⁵⁹²]⁵⁹³

1° two experts with at least five years of professional experience in the fields of child psychology, child psychiatry or education;

2° two experts who are involved in the interests of families and children.

Without prejudice to the irreconcilable situations referred in [Article III. 12, § 1, of the Administrative Act]⁵⁹⁴, which apply to all the members of the Flemish Regulator for the Media, a member of the chamber overseeing impartiality and the protection of minors, with the exception of the professional journalists, may not have any link with a media, advertising or promotional company or organization. Professional journalists who are members of the chamber overseeing impartiality and the protection of minors may not exercise a management position or mandate in a broadcaster, or exercise a management mandate in a media, advertising or promotional company or institution.

⁵⁸⁹ Replaced by the act of 7.12. 2018

⁵⁹⁰ Lifted by the act of 19.04.2024

⁵⁹¹ Inserted by the act of 19.04.2024

⁵⁹² Replaced by the act of 13.07. 2012

⁵⁹³ Replaced by the act of 19.07.2013

⁵⁹⁴ Replaced by the act of 7.12. 2018

§ 4. The members of the chambers of the Flemish Regulator for the Media are appointed by a decision of the Flemish Government for a renewable period of five years. The Flemish Government proceeds to replace a member of the chamber when this member:

1° is physically or mentally incapacitated;

2° resigns or is forced to resign due to incompatibility;

3° requests that his mandate be terminated in application of § 5, first paragraph;

4° is officially dismissed in application of § 5, second paragraph;

5° is dismissed in application of Article 217.

[The decision referred to in the second subparagraph [...] ⁵⁹⁵ shall be duly justified, subject to prior notification and made available to the public.] ⁵⁹⁶

The president and deputy president of the two chambers are appointed by Decree of the Flemish Government.

The Flemish Government determines the amount of the payments which must be made to the members of the chambers of the Flemish Regulator for the Media. It determines the reimbursement of travel and accommodation expenses.

§ 5. If the president, deputy president or a member of the chamber asks to terminate that person's appointment, provided the Flemish Government agrees, a six-month period of notice is required. Subject to a mutual agreement the period may be shortened.

The president of a chamber will conclude the official dismissal of a member, if this member has been absent nine successive times.

[§6. The members of the chambers of the Flemish Regulator for the Media shall continue to hold office until they are replaced, with a maximum duration of six months of exercise.] ⁵⁹⁷

Article 217. § 1. The general chamber and the chamber overseeing impartiality and the protection of minors draw up the rules of procedure.

The rules of procedure cover various items such as the arrangements, the procedure for the general meeting of the Flemish Regulator for the Media, as well as the professional code the members of each chamber have to observe.

§ 2. Should a member of a chamber violate the rules of procedure the board of Directors acts as a disciplinary chamber.

The board of presidents may subject the members of the chambers to a reprimand, a suspension of up to six months or a reduction in the attendance fees and/or fixed compensation as a disciplinary measure, providing justification for this.

⁵⁹⁵ Opgeheven by the act of 03.06.2022

⁵⁹⁶ Inserted by the act of 19.03.2021

⁵⁹⁷ Added by the act of 19.04.2024

Pursuant to a substantiated opinion issued to the Flemish Government, the board of presidents may recommend the dismissal of a member who violates the ethical rules.

§ 3. Should the rules of procedure be violated by the president or deputy president of the general chamber or the chamber overseeing impartiality and protection of minors, a general meeting of the Flemish Regulator for the Media is convened.

The general meeting of the Flemish Regulator for the Media includes all the members of the general chamber and the chamber overseeing impartiality and protection of minors, excluding the respective presidents.

Should the rules of procedure be violated by the president or deputy president of the general chamber or the chamber overseeing impartiality and protection of minors, the general meeting of the Flemish Regulator for the Media may impose a reprimand, a suspension of up to six months or a reduction in the attendance fees and/or fixed compensation as a disciplinary measure, providing justification for this.

Pursuant to a substantiated opinion issued to the Flemish Government, the general meeting of the Flemish Regulator for the Media may recommend the dismissal of the president or deputy president from any one of the two chambers who violate the ethical rules.

§ 4. The Flemish Government decides on the circumstances where the dismissal, referred to in 4 and 2 may be recommended.

In any event a dismissal results from the reason ensuing from the application of Article 404 of the Judicial Code.

[Art. 217/1. The Flemish Regulator for the Media is responsible for, or cooperates in, the enforcement, the implementation and the monitoring of the compliance of:

1° the digital services act;

2° regulation (EU) 2022/1925 on contestable and fair markets in the digital sector.]⁵⁹⁸

TITLE II. Mission, tasks and competences

Article 218. § 1. The mission of the Flemish Regulator for the Media is to enforce the media regulations within the Flemish Community, settle disputes related to the media regulations and issue media accreditation and licences in accordance with the regulations.

§ 2. The general chamber has the following tasks:

1° in application of paragraph 3 and of articles 13 and 30, the supervision of compliance with and restriction of violations on the provisions of this Act [and its implementing decisions]⁵⁹⁹, including the supervision on compliance by the public broadcaster and restriction of violations by the public broadcaster;

⁵⁹⁸ Inserted by the act of 26.01.2024

⁵⁹⁹ Inserted by the act of 13.07.2012

- 2° issuing, changing, suspending and [cancelling]⁶⁰⁰ broadcasting licences;
- 3° granting, suspending or [cancelling]⁶⁰¹ licences for offering a radio broadcasting network;
- 4° granting and [cancelling]⁶⁰² permission to service distributors to transmit broadcasts;
- 5° receiving different types of notifications aimed at the Flemish Regulator for the Media, mentioned in this Act;
- 6° determining the relevant markets and their geographical scope for products and services in the electronic communication networks sector, and analysing these markets in order to determine whether they are effectively competitive;
- 7° identifying enterprises with considerable market power in the markets analysed in accordance with item 6° and enforcing, where applicable, one or more of the obligations mentioned in [Article 191]⁶⁰³;
- 8° mapping concentrations in the Flemish media sector [including the state of the market for electronic communications]⁶⁰⁴;
- 9° supervision of compliance by the public broadcasters of the Flemish Community's management agreement and annual reporting on this subject to the Flemish Government;
- [9° /0 monitoring compliance by the public broadcasting organisation of the Flemish Community with the further rules on commercial communications that are included in the management agreement pursuant to article 17, § 2, and curbing infringements of those rules;]⁶⁰⁵
- [9°/1 the providing of recommendations to the Government of Flanders should the Flemish Public Broadcasting Company wish to conduct new services or activities that are not covered by the management agreement as stipulated in Article 18;]⁶⁰⁶
- 10° carrying out special assignments, which can be entrusted to the General Chamber, if necessary, by the Flemish Government, insofar as they pertain to the duties mentioned in items 1° to [9°/1;]⁶⁰⁷
- [11° taking measures pursuant to [articles 192/12, 200, §1/1, 200/1 and 200/2.]⁶⁰⁸]⁶⁰⁹

⁶⁰⁰ Replaced by the act of 03.06.2022

⁶⁰¹ Replaced by the act of 03.06.2022

⁶⁰² Replaced by the act of 03.06.2022

⁶⁰³ Replaced by the act of 02.07.2021

⁶⁰⁴ Added by the act of 02.07.2021

⁶⁰⁵ Inserted by the act of 19.12.2025

⁶⁰⁶ Inserted by the act of 13.07. 2012

⁶⁰⁷ Replaced by the act of 13.07.2012

⁶⁰⁸ Added by the act of 13.07. 2012

⁶⁰⁹ Replaced by the act of 02.07.2021

[12° performance of the contracts outlined in and/or arising from [articles 188/1 up to 188/6]⁶¹⁰ and the Flemish Government Decree implementing [articles 188/1 up to 188/6.]⁶¹¹]⁶¹²

[13° the supervision of the correctness of the coverage data made available by the service distributors, the calculation of the average daily coverage of the regional television broadcasters, and the calculation of the individual coverage fees, as mentioned in Article 166/1, § 2, paragraph 6, to be paid to the regional television broadcasters by the service distributors.]⁶¹³

[14° without prejudice to the application of paragraph 3, first paragraph, 2°, drawing up non-binding interpretative guidelines that clarify the provisions of this act or its implementing decrees;

15° without prejudice to the application of paragraph 3, first paragraph, 3°, the providing of recommendations if these are foreseen in this act and its implementing decrees or at the request of the Flemish Government.]⁶¹⁴

[16° ...]⁶¹⁵

[17° establishing and maintaining an up-to-date list, mentioned in article 150/1, §4/2;

18° informing the European Commission as mentioned in article 150/1, §4/3;

19° making public the reports, mentioned in article 151, §4;

20° maintaining the point of contact as mentioned in article 151, §7;

21° informing the national regulatory authority or national regulatory body of the other Member State of the European Union [or of the other state of the European Economic Area]⁶¹⁶ of the notification, mentioned in article 161, second subparagraph, and in article 175, second subparagraph;

22° informing the national regulatory authority or national regulatory body of the other Member State about the complaints or remarks, mentioned in article 176/8;

23° informing the national regulatory authority or national regulatory body of the other Member State of the European Union, [or of the other state of the European Economic Area]⁶¹⁷ mentioned in article 220/1.]⁶¹⁸

[24° the supervision as a competent authority, mentioned in article 176/10.]⁶¹⁹

⁶¹⁰ Changed by the act of 01.03.2024. Comes into force on 01.01.2025

⁶¹¹ Changed by the act of 01.03.2024. Comes into force on 01.01.2025

⁶¹² Added by the act(2) of 17.01.2014

⁶¹³ Added by the act of 21.02. 2014

⁶¹⁴ Added by the act of 29.06.2018

⁶¹⁵ Lifted by the act of 01.01.2024. Comes into force on 01.01.2025

⁶¹⁶ Inserted by the act of 19.04.2024

⁶¹⁷ Inserted by the act of 19.04.2024

⁶¹⁸ Added by the act of 19 March 2021

⁶¹⁹ Added by the act of 24.01.2024

[25° the drawing up of an annual overview of producers indicating whether or not these producers are independent on the basis of article 2, 49°, a) and b); the publication of this overview on the website of the Flemish Regulator for the Media annually before 1 November; the implementation of changes to this overview providing that producers request this and submit documents that justify such changes and that have been validated by an auditor. This overview contains at least the producers who have applied for production support from the Flanders Audiovisual Fund in the three previous years;]⁶²⁰

[26° the drawing up of an annual overview of producers indicating whether or not these producers fulfil the conditions imposed on producers by the Flemish Government in application of article 188/2, §2, 4°, within the framework of the admissibility of Flemish production projects; the publication of this overview on the website of the Flemish Regulator for the Media annually before 1 November; the implementation of changes to this overview providing that producers request this and submit documents that justify such changes and that are validated by a company auditor. This overview contains at least the producers who, in the three previous years, were involved in a Flemish production project submitted in the context of a direct financial contribution to the production of audiovisual works pursuant to article 188/2, §1, first paragraph;]⁶²¹

[27° the preparation of an annual report with the aggregate figures relating to the investments made pursuant to article 188/2, §1, first paragraph, and the investments made pursuant to article 188/2, §1, second paragraph, provided that no business-sensitive information can be derived from these reports in any way. The Flemish Government shall determine the details of this report. The Flemish Regulator for the Media shall publish this report on its website.]⁶²²

The general chamber acts completely autonomously in exercising its competences, referred to in § 2. [However, when performing the tasks, mentioned in the first subparagraph, 1° to 7° and 11°, the General Chamber shall take very careful account of guidelines, opinions, recommendations, common positions, best practices and methodologies adopted by BEREC; and for the tasks, mentioned in the first subparagraph, 1° to 7°, also of the recommendations and decisions of the European Commission adopted to ensure the harmonised application of Directive 2018/1972.]⁶²³ In the case of disputes, the general chamber is represented in law by its president.

§ 3. [The chamber overseeing impartiality and the protection of minors has the following tasks:

1° pronouncing on disputes which have arisen in connection with the application of articles 38, 39, [40/1, 42, 72, 5°, 176/4, §1, 1°, [176/4, §1, 2°, and artikel 180, §6]⁶²⁴]⁶²⁵]⁶²⁶]⁶²⁷

2° drawing up non-binding interpretative guidelines on articles 38, 39[40/1, 42, 72, 5°, 176/4, §1, 1°, [176/4, §1, 2°, and artikel 180, §6]⁶²⁸];⁶²⁹

⁶²⁰ Added by the act of 01.03.2024

⁶²¹ Added by the act of 01.03.2024. Comes into force on 01.01.2025

⁶²² Added by the act of 01.03.2024. Comes into force on 01.01.2025

⁶²³ Inserted by the act of 02.07.2021

⁶²⁴ Replaced by the act of 19.04.2024

⁶²⁵ Replaced by the act of 13.07.2012

⁶²⁶ Replaced by the act of 19.07.2013

⁶²⁷ Replaced by the act of 19.03.2021

⁶²⁸ Replaced by the act of 19.04.2024

⁶²⁹ Replaced by the act of 19.03.2021

3° formulating recommendations on articles 38, 39, [40/1, 42, 72, 5°, 176/4, §1, 1°, [176/4, §1, 2°, and artikel 180, §6]⁶³⁰]⁶³¹, if foreseen by this act and its implementing decrees, or at the request of the Flemish Government.]⁶³²

The chamber overseeing impartiality and the protection of minors pronounces completely autonomously in this respect. In the case of disputes, the chamber overseeing impartiality and the protection of minors is represented in law by its president.

§ 4. The minister is presented with a copy of every decision of the Flemish Regulator for the Media.

§ 5. [...] ⁶³³ the Flemish Regulator for the Media submits an annual activity report to the Flemish Government and the Flemish parliament, which is presented before 31 March of the following calendar year.

[§ 6. If necessary, the Flemish Media Regulator shall cooperate with the following actors in the context of the application of Sections IV and V:

1° the competent regulatory [authorities for radio and television]⁶³⁴ broadcasting and telecommunications of the French and German-speaking Community, the Federal Government and the other Member States of the European Union and the European Economic Area;

2° the Belgian competition authorities;

3° the regulatory and supervisory bodies in the other economic sectors in Belgium;

4° the European Commission;

5° BEREC.

Upon a reasoned request from the European Commission, the Flemish Regulator for the Media shall provide the European Commission with the information necessary to perform its tasks pursuant to the Treaty on the Functioning of the European Union. If the information provided by the Flemish Regulator for the Media relates to information previously provided by undertakings at the request of the Flemish Regulator for the Media, those undertakings shall be informed thereof. If the European Commission requests information from the Flemish Regulator for the Media in accordance with this article, which the Flemish Regulator for the Media has obtained from undertakings, and if those undertakings so request, the Flemish Regulator for the Media shall request the European Commission, giving its reasons, not to make the information provided available to regulatory authorities of other Member States.]⁶³⁵

[§ 6/1. If necessary, the Flemish Regulator for the Media cooperates in the enforcement of the digital services act with the following actors:

⁶³⁰ Replaced by the act of 19.04.2024

⁶³¹ Replaced by the act of 19.03. 2021

⁶³² Replaced by the act of 29.06.2018

⁶³³ Canceled by the act of 7.12.2018

⁶³⁴ Replaced by the act of 19.04.2024

⁶³⁵ Replaced by the act of 02.07.2021

1° the competent authorities, mentioned in article 49 of the digital services act, designated by the Flemish, French and German-speaking Community, the federal state and the other member states of the European Union;

2° the digital services coordinators, mentioned in article 49 of the digital services act, designated for Belgium and for the other member states of the European Union;

3° the European Board for Digital Services;

4° the European Commission.]⁶³⁶

[§7. When drawing up non-binding interpretative guidelines, stated in paragraph 2, first paragraph, 14 °, and paragraph 3, first paragraph, 2 °, the Flemish Regulator for the Media organizes a public consultation.]⁶³⁷

Article 219. Notifications, applications for accreditation or a broadcasting licence and complaints are submitted to the Flemish Regulator for the Media by registered letter or by electronic mail or any other means of telecommunication which results in a written document on the part of the addressee and for which an electronic signature is placed which complies with the requirements of Article 1322 of the Civil Code.

For complaints, notifications and applications which are submitted by electronic mail or by any other means of communication, the Flemish Regulator for the Media immediately sends the applicant a confirmation of receipt.

Article 220. § 1. The general chamber pronounces its decision either officially, or at the request of the Flemish Government, or following a complaint in writing, signed and stating reasons, which can be presented to it by any interested party, and in the case of a complaint regarding the provisions on advertising, teleshopping, sponsorship and public service announcements, by any natural or legal person.

The general chamber can only pronounce itself on a complaint as regards the content of advertising subject to a written and signed and duly substantiated complaint. In order to be admissible, the complaint must be submitted at the latest fifteen days after the event which gave rise to the complaint.

§ 2. The chamber overseeing impartiality and the protection of minors pronounces its decision, officially as regards supervision on [Articles [40/1, 42, 72, 5°, 176/4, §1, 1°, and article 176/4, §1, 2°] ⁶³⁸]⁶³⁹ either at the request of the Flemish Government or following a complaint which was submitted on penalty of inadmissibility, at the latest fifteen days after the date on which the program was broadcast, by anyone who can demonstrate an interest or a disadvantage.

§ 3. In the case of a dispute regarding which chamber is competent to deal with a complaint, the board of presidents of the Flemish Regulator for the Media designates the chamber which is competent to deal with the complaint. The board of presidents consists of the presidents of

⁶³⁶ Inserted by the act of 26.01.2024

⁶³⁷ Added by the act of 29.06.2018

⁶³⁸ Replaced by the act of 13.07.2012

⁶³⁹ Replaced by the act of 19.03.2021

the general chamber and of the chamber overseeing impartiality and the protection of minors. If the president of the general chamber or the president of the chamber overseeing impartiality and the protection of minors is unable to deal with the complaint, he is replaced in the board of presidents by the deputy president of the respective chamber.

§ 4. The Flemish Government determines the procedures and the periods for submitting, examining and dealing with the requests and complaints and to impose sanctions. In this respect, the right to defend an action, the obligation to state reasons and the principles of open administration must be guaranteed.

[Article 220/1. If a Member State of the European Union [or a state in the European Economic Area]⁶⁴⁰ has a request concerning the activities of a television broadcaster falling under the jurisdiction of the Flemish Community but offering a television service targeting that Member State of the European Union, [or that state in the European Economic Area]⁶⁴¹ the Flemish Regulator for the Media shall provide the regulatory authority or the regulatory body of the competent Member State all information that may be useful for the purpose of considering the request. The Flemish Regulator for the Media shall do its utmost to address the request within two months.]⁶⁴²

[Article 220/2. §1. In the event of a dispute arising in connection with the obligations imposed pursuant to Section V between providers of electronic communications networks or services, or between such undertakings and other undertakings benefiting from the obligations of access or interconnection, the Flemish Regulator for the Media shall, at the request of either party, take a binding decision to resolve the dispute within four months, save in exceptional circumstances. All parties involved shall cooperate fully with the Flemish Regulator for the Media.

When settling a dispute, the Flemish Regulator for the Media shall take into account the objectives, mentioned in article 223/1.

The decision of the Flemish Regulator for the Media, mentioned in the first subparagraph, shall be made public, with due observance of the regulations governing the confidentiality of commercial information. The Flemish Regulator for the Media shall provide the parties involved with a full report of the reasons for its decision.

§2. If a dispute arises between undertakings in different Member States in connection with obligations imposed pursuant to Section V, either party may submit the dispute to the Flemish Regulator for the Media or to the competent national regulatory authorities of the other Member States. If the dispute affects trade between Member States, it will be brought to the attention of BEREC by the Flemish Regulator for the Media.

The Flemish Regulator for the Media shall take the utmost account of the recommendation by BEREC, in which BEREC requests the national regulatory authorities concerned to take specific measures to settle the dispute or not to take any measures. The Flemish Regulator for the Media and/or the other national regulatory authorities concerned shall, except in exceptional circumstances, take measures to settle the dispute as soon as possible and in any event within one month after the recommendation has been issued.

⁶⁴⁰ Inserted by the act of 19.04.2024

⁶⁴¹ Inserted by the act of 19.04.2024

⁶⁴² Inserted by the act of 19.03.2021

In exceptional circumstances, if there is an urgent need to act in order to protect competition or the interests of end-users, the Flemish Regulator for the Media may, at the request of the parties or on its own initiative, adopt provisional measures without awaiting BEREC's opinion.

This Section shall not apply to disputes regarding the coordination of the frequency spectrum.

§3. The procedure, mentioned in § 1 and 2, shall not affect the right of either party to bring an action before the court.]⁶⁴³

Article 221.[§1. If the Flemish Regulator for the Media is of the opinion that a television broadcaster falling under the jurisdiction of a Member State of the European Union [or a state in the European Economic Area]⁶⁴⁴ is offering a television service that is wholly or mostly targeting the Flemish Community, it may contact the competent Member State of the European Union [or the competent state in the European Economic Area]⁶⁴⁵ with a view to achieving a mutually satisfactory solution.

The Flemish Regulator for the Media may invite the Contact Committee to examine the case.

§2. The Flemish Regulator for the Media can take appropriate measures against the television broadcaster, mentioned in paragraph 1, subject to the following conditions:

1° it is of the opinion that the results achieved through the application of paragraph 1 are not satisfactory;

2° it has adduced evidence showing that the television broadcaster, mentioned in paragraph 1, has established itself in a Member State of the European Union [or in a state in the European Economic Area]⁶⁴⁶ in order to circumvent the stricter rules, in the fields coordinated by directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (audiovisual media services directive), which would be applicable to the television broadcaster if this broadcaster were established in the Flemish Community, without the need to prove the television broadcaster, mentioned in paragraph 1, has the intention to circumvent those stricter rules.

The appropriate measures, mentioned in the first subparagraph, are subject to the following conditions:

1° they are objectively necessary;

2° they are taken in a non-discriminatory manner;

3° they are suitable to achieve the objectives which they pursue;

4° they are proportionate to the objectives which they pursue.

The Flemish Regulator for the Media can, to this end, impose sanctions as mentioned in Title IV, and oblige the service distributors or network operators to suspend the transmission of the television service.

⁶⁴³ Inserted by the act of 02.07.2021

⁶⁴⁴ Inserted by the act of 19.04.2024

⁶⁴⁵ Inserted by the act of 19.04.2024

⁶⁴⁶ Inserted by the act of 19.04.2024

§3. The Flemish Regulator for the Media takes the appropriate measures, mentioned in paragraph 2, subject to the following conditions:

1° it has notified the European Commission and the Member State of the European Union [or the state in the European Economic Area]⁶⁴⁷ in which the television broadcaster is established of its intention to take such measures while substantiating the grounds on which it bases its assessment;

2° it has respected the rights of defence of the concerned television broadcaster and has given that television broadcaster the opportunity to express its views on the alleged circumvention and the measures it intends to take;

3° the European Commission has decided that the measures are compatible with Union law, in particular that the assessment made by the Flemish Regulator for the Media is correctly founded.]⁶⁴⁸

Article 222. [The Flemish Regulator for the Media will request the television broadcaster, whose television services are mainly or mostly targeting the territory of a Member State of the European Union [or a state in the European Economic Area]⁶⁴⁹, to observe the rules of general public interest if it receives a substantiated request from this Member State of the European Union [or that state in the European Economic Area]⁶⁵⁰ regarding problems encountered as a result of these television services.

The Flemish Regulator for the Media shall regularly inform the requesting Member State of the European Union of the steps taken to address the problems identified, mentioned in the first subparagraph. Within two months of the receipt of the substantiated request, mentioned in the first subparagraph, the Flemish Regulator for the Media shall inform the requesting Member State and the European Commission of the results obtained and explain, when applicable, the reasons why a solution could not be found.

The Flemish Regulator for the Media may invite the Contact Committee to examine the case.]⁶⁵¹

Article 223. The Flemish Regulator for the Media cannot act against violations of this Act based on facts that took place more than six months ago. This term of limitation is applied in case of a complaint or an official investigation and is suspended during holiday periods. The Flemish Government will determine the terms of limitation during holiday periods.

[Article 223/1. With the allocation of radio spectrum and the application of Sections IV and V, the Flemish Government and the Flemish Regulator for the Media, respectively, shall pursue the following general objectives, presented in random order, insofar as they are applicable:

1° to promote connectivity to, and access to, and use of very high capacity networks, including fixed, mobile and wireless networks, for all citizens and enterprises of the European Union and the European Economic Area;

⁶⁴⁷ Inserted by the act of 19.04.2024

⁶⁴⁸ Replaced by the act of 19.03.2021

⁶⁴⁹ Inserted by the act of 19.04.2024

⁶⁵⁰ Inserted by the act of 19.04.2024

⁶⁵¹ Replaced by the act of 19.03.2021

2° to promote competition in the provision of electronic communications networks and associated facilities, including efficient infrastructure-based competition, and in the provision of electronic communications services and associated services;

3° contributing to the development of the internal market by removing remaining obstacles and promoting convergent conditions for investment in and the provision of electronic communications networks, electronic communications services, associated facilities and associated services throughout the European Union and the European Economic Area, by developing common rules and predictable regulatory approaches, and by promoting the effective, efficient and coordinated use of radio spectrum, open innovation, the establishment and development of trans-European networks, the provision, availability and interoperability of pan-European services, and end-to-end connectivity;

4° promote the interests of the citizens of the European Union and of the European Economic Area in the following manner:

a) by ensuring connectivity to, and the widespread availability and use of, very high capacity networks, including fixed, mobile and wireless networks, and electronic communication services;

b) by ensuring optimal benefits in terms of choice, price and quality on the basis of effective competition;

c) by maintaining the security of networks and services;

d) by ensuring a high common level of protection for end-users through appropriate sector-specific rules;

e) by paying attention to the needs, such as affordable prices, of specific social groups, in particular disabled end-users, elderly end-users and end-users with special social needs, as well as freedom of choice and equal access for disabled end-users.

The Flemish Regulator for the Media shall act impartially, objectively, transparently and in a non-discriminatory and proportionate manner when carrying out the tasks, mentioned in the first subparagraph.]⁶⁵²

TITLE III. Management and operation

Article 224. The management bodies of the Flemish Regulator for the Media are:

1° the Board of Directors;

2° the Managing Director.

Article 225. The Board of Directors and President are appointed by the Flemish Government. An appointment as director is incompatible with an appointment as a member to one of the Flemish Regulator for the Media's two chambers.

⁶⁵² Inserted by the act of 02.07.2021

Article 226. [The Board of Directors is competent]⁶⁵³ to carry out any actions which are necessary or useful to achieve the agency's object. The Board of Directors, however, does not have any competence with regard to the decisions which are taken concerning the execution of Article 217, § 2 and § 3 and Article 218, § 2 and § 3.

In particular, the Board of Directors has the following tasks and competences:

- 1° conclude [the business plan]⁶⁵⁴ with the competent Minister;
- 2° approve reports concerning the implementation of [the business plan]⁶⁵⁵;
- 3° establish a [yearly]⁶⁵⁶ budget;
- 4° redistribute the budgetary funds;
- 5° draw up the accounts;
- 6° report on budget implementation;
- 7° draw up the annual activity report [...]⁶⁵⁷.

[The annual budget, mentioned in the second paragraph, shall be made public.]⁶⁵⁸

Article 227. The Managing Director is responsible for the day-to-day management and represents the Flemish Regulator for the Media in law, as regards the competences of the Board of Directors.

The Managing Director attends the meetings of the Flemish Media Regulator's chambers as an observer.

[Art. 227/1. The Flemish Regulator for the Media participates in Flemish, interfederal and national cooperative ventures or disputes committees in which it has a seat. For this purpose, the competent chamber can delegate a member of the competent chamber or a staff member of the Flemish Regulator for the Media.]⁶⁵⁹

[The Flemish Regulator for the Media shall contribute to the work of the European Regulators Group for Audiovisual Media Services (ERGA), mentioned in article 30ter of directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (audiovisual media services directive).]⁶⁶⁰

⁶⁵³ Replaced by the act of 7.12.2018

⁶⁵⁴ Replaced by the act of 19.04.2024

⁶⁵⁵ Replaced by the act of 19.04.2024

⁶⁵⁶ Inserted by the act of 19.03.2021

⁶⁵⁷ Canceled by the act of 7.12.2018

⁶⁵⁸ Added by the act of 19.03.2021

⁶⁵⁹ Inserted by the act of 29.06.2018

⁶⁶⁰ Added by the act of 19.03.2021

[The Flemish Regulator for the Media participates in the meetings of the European Board for Digital Services if the discussed topics are within its competence.]⁶⁶¹

TITLE IV. Sanctions

Article 228. If the general chamber establishes a violation of the provisions of this Act, that falls within the limits of its competences, as mentioned in Article 220, § 1, it may impose the following sanctions on [any natural or legal person to whom this Act applies]⁶⁶²:

1° warning with the order to put an end to the violation;

2° the order to broadcast the decision at the time and in the way that was instructed by the general chamber, at the expense of the party which committed the violation. If the decision is not broadcast at the time and in the way that was instructed, an administrative penalty, as mentioned in item 4°, can be imposed;

3° the mandatory publication of the decision in dailies and weeklies, at the expense of the party which committed the violation. If the decision is not published in the way that was instructed, an administrative penalty, as mentioned in item 4, can be imposed;

4° an administrative penalty up to 125,000 euros;

5° the suspension or [cancelling]⁶⁶³ of the broadcasting licence;

6° the suspension or [cancelling]⁶⁶⁴ of the accreditation of the broadcaster;

7° the suspension of transmission [, mentioned in article 40/1]⁶⁶⁵.

[7°/1 the order to suspend or cease operations as a video-sharing platform service provider if the video-sharing platform service provider fails to comply with the obligations listed in Part IV/1.]⁶⁶⁶

[8° effective remedial action to ensure compliance with article 214/2.]⁶⁶⁷

In the case that the allocated broadcasting possibilities are not used, or are wrongly used, the general chamber can suspend or withdraw the accreditation of a [accredited]⁶⁶⁸ radio broadcaster or suspend or [cancel]⁶⁶⁹ the [licence]⁶⁷⁰ for a [television broadcasting network]⁶⁷¹.

[If the accredited radio broadcaster has not yet commenced broadcasting one year after the date on which the accreditation came into effect, the Flemish Regulator for the Media may revoke the accreditation.

⁶⁶¹ Added by the act of 26.01.2024

⁶⁶² Replaced by the act of 19.03.2021

⁶⁶³ Replaced by the act of 03.06.2022

⁶⁶⁴ Replaced by the act of 03.06.2022

⁶⁶⁵ Replaced by the act of 19.03.2021

⁶⁶⁶ Added by the act of 01.03.2024. Comes into force on 01.01.2025

⁶⁶⁷ Added by the act of 03.06.2022. Comes into force on 25.06.2025

⁶⁶⁸ Replaced by the act of 10.07.2026

⁶⁶⁹ Replaced by the act of 03.06.2022

⁶⁷⁰ Replaced by the act of 10.07.2026

⁶⁷¹ Replaced by the act of 10.07.2026

Should an accredited radio broadcaster cease its activities, the Flemish Regulator for the Media shall revoke that broadcaster's accreditation.]⁶⁷²

[Art. 228/1. The sanctions, mentioned in article 228, 1°, 2°, 3°, 5°, 6°, 7° and 8°, are also applicable for infringements of the digital services act.

In case of non-compliance with an obligation laid down in the digital services act, the general chamber may impose an administrative fine of up to 6 % of the annual worldwide turnover of the provider of intermediary services concerned in the preceding financial year.

The maximum amount of the fine that may be imposed for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and failure to submit to an inspection as mentioned in article 52, §3, of the digital services act shall be 1 % of the income or worldwide turnover of the provider of intermediary services or person concerned in the preceding financial year. The maximum amount of a periodic penalty payment shall be 5 % of the average daily worldwide turnover or income of the provider of intermediary services concerned in the preceding financial year per day, calculated from the date specified in the decision concerned.]⁶⁷³

Article 229. If the chamber overseeing impartiality and the protection of minors establishes a violation of the provisions of this Act, that falls within the limits of its competences, as mentioned in Article 220, § 2, it can impose the following sanctions to [any natural or legal person to whom this Act applies]⁶⁷⁴]⁶⁷⁵:

1° warning with the order to put an end to the violation;

2° the order to broadcast the decision at the time and in the way that was instructed by it. In case of a violation of [the provisions, mentioned in article 40/1, 42 and 72, 5°,]⁶⁷⁶] ⁶⁷⁷ an administrative penalty, as mentioned in item 4°, can be imposed if the decision is not broadcast at the time and in the way that was instructed;

3° in case of a violation of [the provisions, mentioned in article 40/1, 42 and 72, 5°,]⁶⁷⁸] ⁶⁷⁹ the mandatory publication of the decision in dailies and weeklies, at the expense of the party which committed the violation; If the decision is not published in the way that was instructed, an administrative penalty, as mentioned in item 4, can be imposed;

4° in case of a violation of [the provisions, mentioned in article 40/1, 42 and 72, 5°,]⁶⁸⁰] ⁶⁸¹ an administrative penalty up to 125,000 euros;

⁶⁷² Added by the act of 10.07.2026

⁶⁷³ Inserted by the act of 26.01.2024

⁶⁷⁴ Added by the act of 13.07. 2012

⁶⁷⁵ Replaced by the act of 19.03.2021

⁶⁷⁶ Replaced by the act of 13 July 2012

⁶⁷⁷ Replaced by the act of 19.03.2021

⁶⁷⁸ Replaced by the act of 13.07.2012

⁶⁷⁹ Replaced by the act of 19.03.2021

⁶⁸⁰ Replaced by the act of 13.07.2012

⁶⁸¹ Replaced by the act of 19.03.2021

5° the suspension of transmission [in accordance with article 40/1]⁶⁸².

If the chamber overseeing impartiality and the protection of minors established a clear, important and serious violation of the provisions of Articles 38, 39 [, 42 and 72, 5°]⁶⁸³, the chamber overseeing impartiality and the protection of minors can propose to the Flemish Government the suspension of the transmission of a program [in accordance with article 40/1]⁶⁸⁴, with regard to all the broadcasting companies.

Article 230. In case of non-payment of the administrative fine [or the annual fee for the use of the frequencies, frequency blocks or channels]⁶⁸⁵, the entity that was charged by the Flemish Government with collecting it at the request of the general chamber or the chamber overseeing impartiality and the protection of minors, issues a writ of execution. The writ of execution is served by a bailiff's writ of summons ordering the broadcaster to pay.

Within a period of 30 days after serving the writ, the party concerned can submit a defence, stating reasons, served in a bailiff's writ to the entity that was charged with the collection by the Flemish Government. This defence suspends the execution of the writ.

The service and enforcement of a writ of execution takes place, taking into account the provisions of part 5 of the Judicial Code with regard to attachment and means of enforcement.

TITLE V. [Business plan]⁶⁸⁶

Article 231. A [business plan]⁶⁸⁷ is concluded between the Flemish Government and the Flemish Regulator for the Media, [...]⁶⁸⁸

[The business plan]⁶⁸⁹ regulates the cooperation with other entities in the Flemish administration and with other governments.

TITLE VI. Financial provisions and personnel

CHAPTER I. Financial provisions

Article 232. The income of the Flemish Regulator for the Media consists of the following:

1° allocations;

2° the registration fees of candidates requesting accreditation and the compensation for maintaining such accreditation, as mentioned in Article 136;

⁶⁸² Replaced by the act of 19.03. 2021

⁶⁸³ Replaced by the act of 13.07 2012

⁶⁸⁴ Replaced by the act of 19.03.2021

⁶⁸⁵ Inserted by the act of 19.04.2024

⁶⁸⁶ Replaced by the act of 19.04.2024

⁶⁸⁷ Replaced by the act of 19.04.2024

⁶⁸⁸ Canceled by the act of 7.12.2018

⁶⁸⁹ Replaced by the act of 19.04.2024

3° tax levies if these are allocated under an Act to the Flemish Regulator for the Media;
4° retributions if these are allocated under an Act to the Flemish Regulator for the Media.
[5° revenues arising from acts of management or disposal with respect to own properties;
6° claims for refunds of wrongly made expenditure.]⁶⁹⁰

Unless determined otherwise under any Act, the income referred to in paragraph 1 is deemed to be income intended for joint expenditure.

[The income from the administrative penalties, mentioned in Articles 228 and 229, will be collected by the Flemish Regulator for the Media.

The Flemish Regulator for the Media will transfer the administrative penalties received to the general resource budget of the Flemish Community or, in case the decision by which the penalty is imposed would be cancelled by the Council of State, repay it to the broadcaster, service distributor or network.]⁶⁹¹

CHAPTER II. Personnel

Article 233. The Managing Director manages personnel and attends the meeting of the chambers as an observer in accordance with Article 227.

TITLE VII. Information and cooperation

Article 234. [The Flemish Regulator for the Media is authorised to request information and documents, including financial information, from any natural or legal person to whom this Act applies, if this is necessary for the fulfilment of its task or if it is requested by the European Commission. Any request for information shall be proportionate to the performance of the task in question and shall state the reasons on which it is based.]⁶⁹²

[Any natural or legal person to whom this Act applies]⁶⁹³ is required to cooperate with the Flemish Regulator for Media and the personnel designated by the Flemish Government with the Flemish authorities in the exercise of their competences.

Any broadcaster of or accredited by the Flemish Community or which has registered with the Flemish Regulator for the Media is required to maintain a copy of all its broadcasting signals, as broadcast, for the term of one month, starting from the broadcast date [...]⁶⁹⁴.

⁶⁹⁰ Added by the act of 13.07.2012

⁶⁹¹ Amended by the act (2) of 18.12.2009

⁶⁹² Changed by the act of 13.07.2021 en replaced by the act of 02.07.2021

⁶⁹³ Replaced by the act of 02.07.2021

⁶⁹⁴ Cancelled by the act of 13.07. 2012

[If the Flemish Regulator for the Media requests a copy of the broadcast signals as indicated in the third section from a broadcaster from or recognized by the Flemish Community, or registered with the Flemish Regulator for the Media, the broadcaster shall provide the copy to the Flemish Regulator for the Media within fifteen days after it received the request. The Flemish Regulator for the Media determines the conditions that the copy must satisfy.]⁶⁹⁵

[The Flemish Regulator for the Media shall indicate the time limit within which the information and documents, mentioned in the first subparagraph, must be provided, as well as the level of specification, and shall inform the undertakings of the purpose for which the information will be used.

If the information and documents, mentioned in the first subparagraph, are insufficient for the Flemish Regulator for the Media to perform its tasks, it may request information from other relevant undertakings operating in the electronic communications sector, the media sector, or in sectors closely related thereto.]⁶⁹⁶

Art. 235. § 1. The members of the Flemish Regulator for the Media may not disclose any confidential information which they acquired in the context of carrying out their duties, to third parties, except for exceptions laid down by law.

The requirement stated in paragraph 1 continues to apply after the expiry of the mandate of every member or the termination of the employment of any employee of the Flemish Regulator for the Media.

§ 2. The Flemish Regulator for the Media is responsible for maintaining confidentiality with regard to the information which was provided by companies and which the company considers to be confidential business and manufacturing information.

PART VIII. Penalties

Article 236. The following persons are punished with a prison sentence from eight days to five years and with a fine of 25 to 2,500 euros or with one of these penalties on its own:

Anyone who:

1° manufactures, sells or leases, offers for sale or lease, imports, distributes, promotes, installs, maintains or replaces equipment or software including chip cards, which are intended, without the permission of the service distributor:

- a) to receive programs broadcast by means of an electronic communication network;
- b) to provide access in an understandable form to radio or television programs or services, which are only offered to the general public in return for payment of a supplement and based on conditional access;

2° sells, leases or owns equipment or software with a view to using it for commercial purposes, including chip cards;

⁶⁹⁵ Added by the act of 13.07. 2012

⁶⁹⁶ Added by the act of 02.07.2021

3° encrypts or uses, in whole or in part, encrypted radio or television programs or services, in any manner whatsoever, without permission of the owner of the encryption technology or of a third party, who was designated to grant this permission by the aforementioned owner;

4° uses commercial communication in order to publicize this illegal equipment or software.

Article 237. All the provisions of the first book of the Penal Code, including Chapter VII and Article 85, apply to the offences described in Article 236.

[Part VIII/1. Provisions on data processing]⁶⁹⁷

[Title I. Administration]⁶⁹⁸

[Article 237/1. The administration shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for organizing public consultations as mentioned in articles 133, [first paragraph]⁶⁹⁹, and 201.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° natural persons wishing to participate in the public consultation;

2° contact persons of legal entities wishing to participate in the public consultation.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of personal data:

1° identification data;

2° contact information;

3° mandate data;

4° category of respondent.

The personal data processed by the administration in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁰⁰

Article 237/2. The administration shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for processing applications for accreditation as mentioned in [article 127]⁷⁰¹.

⁶⁹⁷ Inserted by the act of 19.04.2024

⁶⁹⁸ Inserted by the act of 19.04.2024

⁶⁹⁹ Replaced by the act of 10.07.2026

⁷⁰⁰ Inserted by the act of 19.04.2024

⁷⁰¹ Replaced by the act of 10.07.2026

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° contact persons of [accredited]⁷⁰² radio broadcasting organisations;
- 2° directors of [accredited]⁷⁰³ radio broadcasting organisations;
- 3° shareholders of [accredited]⁷⁰⁴ radio broadcasting organisations;
- 4° staff members of [accredited]⁷⁰⁵ radio broadcasting organisations.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of personal data:

- 1° identification data;
- 2° contact information;
- 3° mandate data;
- 4° state registration number or social security identification number;
- 5° data on technical, commercial, administrative and radio proprietary competitions;
- 6° data on employment.

The administration may exchange personal data, processed within the framework of the processing purpose mentioned in the first paragraph, with the Flemish Regulator for the Media to monitor compliance with the accreditation conditions.

The personal data processed by the administration in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁰⁶

[Article 237/3. The administration shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for processing grant applications as mentioned in article 151, §5.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° contact persons of television broadcasting organisations;

⁷⁰² Replaced by the act of 10.07.2026

⁷⁰³ Replaced by the act of 10.07.2026

⁷⁰⁴ Replaced by the act of 10.07.2026

⁷⁰⁵ Replaced by the act of 10.07.2026

⁷⁰⁶ Inserted by the act of 19.04.2024

2° staff members of television broadcasting organisations;

3° external experts.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of personal data:

1° identification data;

2° contact information;

3° mandate data;

4° state registration number or social security identification number;

5° financial data;

6° details of the position within the legal entity;

7° data on expertise.

The personal data processed by the administration in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the monitoring of the grant. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination]⁷⁰⁷.

[Article 237/4. The administration shall act as data controller as stated in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° handling applications for accreditation as mentioned in article 166;

2° handling notifications of fundamental changes relevant to accreditation as mentioned in article 167;

3° handling applications for renewal of accreditation as mentioned in article 170.

The processing of personal data for the processing purposes, mentioned in the first paragraph, 1° to 3°, shall cover the following categories of data subjects:

1° contact persons of regional television broadcasting organisations;

2° directors of regional television broadcasting organisations;

3° shareholders of regional television broadcasting organisations;

4° founders of regional television broadcasting organisations;

⁷⁰⁷ Inserted by the act of 19.04.2024

5° staff members of regional television broadcasting organisations.

The processing of personal data for the processing purposes, mentioned in the first paragraph, 1° to 3°, shall cover the following categories of personal data:

1° identification data;

2° contact data;

3° mandate data;

4° state registration number or social security identification number;

5° data concerning the function within the legal entity;

6° data on technical, commercial, administrative and radio skills;

7° data on employment;

8° data on the composition of the general meeting;

9° personal statement of directors on:

a) the exercise of a political office;

b) the exercise of a managerial or executive function in a professional association of employers or employees, in a press, advertising or publicity company, in the public broadcasting organisation of the Flemish Community, in a private television broadcasting organisation or in a provider of a cable broadcasting network;

10° personal statement that one is not a director of another regional broadcasting organisation.

The administration may exchange personal data, processed for the processing purposes, mentioned in the first paragraph, 1° to 3°, with the Flemish Regulator for the Media to monitor compliance with the accreditation conditions.

The personal data processed by the administration in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁰⁸

[Title II. Flemish Regulator for the Media]⁷⁰⁹

[Article 237/5. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for organizing public questioning as mentioned in articles 18, §2, 192/14, 200, §1/1, 202/1, §2, and 218, §7.

⁷⁰⁸ Inserted by the act of 19.04.2024

⁷⁰⁹ Inserted by the act of 19.04.2024

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° natural persons who wish to participate in the open public survey;
- 2° contact persons of legal persons who wish to participate in the open public survey.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of personal data:

- 1° identification data;
- 2° contact data;
- 3° mandate data;
- 4° category of respondent.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷¹⁰

[Article 237/6. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data in the context of monitoring compliance with the accreditation conditions in response to applications for accreditation as mentioned in [article 127]⁷¹¹.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° contact persons of [accredited]⁷¹² radio broadcasting organisations;
- 2° directors of [accredited]⁷¹³ radio broadcasting organisations;
- 3° shareholders of [accredited]⁷¹⁴ radio broadcasting organisations;
- 4° staff members of [accredited]⁷¹⁵ radio broadcasting organisations.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of personal data:

- 1° identification data;

⁷¹⁰ Inserted by the act of 19.04.2024

⁷¹¹ Replaced by the act 10.07.2026

⁷¹² Replaced by the act of 10.07.2026

⁷¹³ Replaced by the act of 10.07.2026

⁷¹⁴ Replaced by the act of 10.07.2026

⁷¹⁵ Replaced by the act of 10.07.2026

- 2° contact data;
- 3° mandate data;
- 4° state registration number or social security identification number;
- 5° data on technical, commercial, administrative and radio skills;
- 6° employment data.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷¹⁶

[Article 237/7. §1. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

- 1° handling notifications from national, network and [accredited]⁷¹⁷ organisations, mentioned in articles 139, 143/3 and [146, 146/3 and 146/6]⁷¹⁸;
- 2° monitoring compliance with the accreditation conditions of national, network and [accredited]⁷¹⁹ organisations, mentioned in articles 139, 143/3 and [146, 146/3 and 146/6]⁷²⁰;
- 3° processing applications with a view to obtaining an FM broadcasting license, mentioned in article [193, §2]⁷²¹, second paragraph.

§2. The processing of personal data for the processing purposes, mentioned in paragraph 1, 1° and 2°, shall cover the following categories of data subjects:

- 1° contact persons of [accredited]⁷²² radio broadcasting organisations;
- 2° directors of [accredited]⁷²³ radio broadcasting organisations;
- 3° shareholders of [accredited]⁷²⁴ radio broadcasting organisations;
- 4° staff members of [accredited]⁷²⁵ radio broadcasting organisations.

⁷¹⁶ Inserted by the act of 19.04.2024

⁷¹⁷ Replaced by the act of 10.07.2026

⁷¹⁸ Replaced by the act of 10.07.2026

⁷¹⁹ Replaced by the act of 10.07.2026

⁷²⁰ Replaced by the act of 10.07.2026

⁷²¹ Replaced by the act of 10.07.2026

⁷²² Replaced by the act of 10.07.2026

⁷²³ Replaced by the act of 10.07.2026

⁷²⁴ Replaced by the act of 10.07.2026

⁷²⁵ Replaced by the act of 10.07.2026

The processing of personal data for the processing purpose, mentioned in paragraph 1, 3°, shall cover the following categories of data subjects:

- 1° natural persons applying for an FM broadcasting license;
- 2° contact persons of legal persons applying for an FM broadcast license.

§3. The processing of personal data in the context of the processing purpose mentioned in paragraph 1, 1°, shall cover the following categories of personal data:

- 1° identification data;
- 2° contact data;
- 3° mandate data;
- 4° state registration number or social security identification number;
- 5° data concerning the position within the legal entity;
- 6° data concerning the shareholder structure of the legal entity;
- 7° personal statement that directors do not exercise a political mandate;
- 8° personal statement that directors are not managers or directors of VRT.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 2°, shall cover the following categories of personal data:

- 1° identification data;
- 2° contact data;
- 3° mandate data;
- 4° state registration number or social security identification number;
- 5° data on technical, commercial, administrative and radio skills;
- 6° employment data.

The processing of personal data for the purpose of processing, mentioned in paragraph 1, 3°, shall cover the following categories of personal data:

- 1° identification data;
- 2° contact data;
- 3° mandate data;

4° state registration number or social security identification number;

5° company number;

6° location of the antenna;

7° call sign and name of the initiative.

§4. The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in paragraph 1. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷²⁶

[Art. 237/7/1. The Flemish Regulator for the Media acts as the data controller, as referred to in article 4, 7) of the General Data Protection Regulation, for the processing of personal data in connection with the handling of notifications of partnerships as referred to in article 147.

The processing of personal data in connection with the purposes of processing referred to in the first paragraph relates to the following categories of data subjects:

1° the contact persons of accredited radio broadcasters and their partnerships;

2° the directors of accredited radio broadcasters and their partnerships;

3° the shareholders of accredited radio broadcasters and their partnerships;

4° the staff members of accredited radio broadcasters and their partnerships.

The processing of personal data for the purposes set out in the first paragraph relates to the following categories of personal data:

1° identification data;

2° contact details;

3° mandate details;

4° the national registration number or social security identification number;

5° details of the role within the unincorporated association or legal entity;

6° details of the shareholding structure of the unincorporated association or legal entity.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may, on the basis of this article, be retained for a maximum of ten years after the processing referred to in the first paragraph has ceased. At the end of those ten years, in accordance with article III.87, § 1, first paragraph, 3°, of the Administrative Decree, a final disposition shall be assigned to that personal data.]⁷²⁷

[Article 237/8. §1. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

⁷²⁶ Inserted by the act of 19.04.2024

⁷²⁷ Inserted by the act of 10.07.2026

1° handling notifications from other radio broadcasting organisations as mentioned in [article 150/]⁷²⁸;

2° monitoring the conditions for providing radio services via [other radio broadcasting networks]⁷²⁹ as mentioned in [article 150]⁷³⁰, §1.

§2. The processing of personal data in the context of the processing purposes mentioned in paragraph 1, 1° and 2°, shall cover the following categories of data subjects:

1° natural persons making a notification;

2° contact persons of legal entities making a notification;

3° directors of legal entities making a notification;

4° shareholders of legal entities that make a notification;

5° founders of legal entities that make a notification;

6° employees of natural persons or legal entities making a notification.

§3. The processing of personal data in the context of the processing purpose mentioned in paragraph 1, 1°, shall cover the following categories of personal data:

1° identification data;

2° contact data;

3° mandate data;

4° state registration number or social security identification number;

5° company number;

6° place of broadcasting;

7° place of establishment;

8° place where programming decisions are made;

9° place where the staff works;

10° data on the position within the legal entity;

11° data on the shareholder structure of the legal entity;

12° data on the financial structure of the legal entity.

⁷²⁸ Replaced by the act of 10.07.2026

⁷²⁹ Replaced by the act of 10.07.2026

⁷³⁰ Replaced by the act of 10.07.2026

The processing of personal data for the processing purpose, mentioned in paragraph 1, 2°, shall cover the following categories of personal data:

- 1° identification data;
- 2° contact data;
- 3° mandate data;
- 4° company number;
- 5° place of broadcast;
- 6° place of establishment;
- 7° place where programming decisions are made;
- 8° place where the staff works;
- 9° data on the position within the legal entity.

§4. The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in paragraph 1. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷³¹

[Article 237/9. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

- 1° dealing with notifications of changes that may affect the competence of the Flemish Community as mentioned in article 150/1, §4/1;
- 2° keeping an up-to-date list of television broadcasting organisations for which the Flemish Regulator for the Media is competent as mentioned in article 150/1, §4/2.

The processing of personal data for the processing purposes, mentioned in the first paragraph, 1° and 2°, shall cover the following categories of data subjects:

- 1° contact persons of television broadcasting organisations;
- 2° directors of television broadcasting organisations;
- 3° shareholders of television broadcasting organisations;
- 4° founders of television broadcasting organisations;

⁷³¹ Inserted by the act of 19.04.2024

5° staff members of television broadcasting organisations.

The processing of personal data for the processing purposes, mentioned in the first paragraph, 1° and 2°, shall cover the following categories of personal data:

1° identification data;

2° contact data;

3° mandate data;

4° state registration number or social security identification number;

5° data concerning the position within the legal entity;

6° data on the shareholder structure of the legal entity;

7° data on the financial structure of the legal entity.

The Flemish Regulator for the Media may exchange personal data processed for the processing purposes, mentioned in the first paragraph, 1° and 2°, with regulatory authorities or regulatory bodies of other member states of the European Union.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷³²

[Article 237/10. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° receiving reports as mentioned in article 156;

2° receiving reports as mentioned in article 157, §3.

The processing of personal data for the processing purposes, mentioned in the first paragraph, 1° and 2°, shall cover the following categories of data subjects:

1° contact persons of the VRT;

2° contact persons of private linear television broadcasting organisations;

3° contact persons of non-linear television broadcasting organisations.

The processing of personal data for the processing purposes, mentioned in the first paragraph, 1° and 2°, shall cover the following categories of personal data:

⁷³² Inserted by the act of 19.04.2024

1° identification data;

2° contact data.

The Flemish Regulator for the Media may exchange personal data processed for the processing purposes, mentioned in the first paragraph, 1° and 2°, with regulatory authorities or regulatory bodies of other member states of the European Union.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷³³

[Article 237/11. §1. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° the registration of the form of participation, the submission, the assessment of admissibility, the accreditation and the follow-up with respect to the stimulation of the audiovisual sector, mentioned in article 188/2, §2, 2° and 4°;

2° the publication of the participation in the production of Flemish production projects, mentioned in article 188/3, last paragraph.

§2. The processing of personal data in the context of the processing purposes mentioned in paragraph 1 shall cover the following categories of data subjects:

1° the scriptwriter, director and producers;

2° members of the assessment committee;

3° all persons collaborating on a Flemish production project;

4° representatives and contact persons with the investors;

5° persons mentioned in the applications and their annexes.

§3. The processing of personal data in the context of the processing purposes mentioned in paragraph 1 shall cover the following categories of personal data:

1° identification data, including national register number;

2° gender;

3° age;

⁷³³ Inserted by the act of 19.04.2024

4° financial data;

5° educational data;

6° wage and employment data;

7° data on expertise.

§4. The Flemish Regulator for the Media may exchange personal data processed for the processing purposes, mentioned in paragraph 1, 1° and 2°, with regulatory authorities or regulatory bodies of other member states of the European Union.

§5. The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in paragraph 1. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.

§6. The Flemish Regulator for the Media may publish the details of investors whose Flemish production projects have been accredited. The said publication shall include the following information:

- a) the full official name as registered in the Crossroads Bank for Enterprises, for investors who are legal persons;
- b) the full name of the entrepreneur as registered or otherwise officially accredited, for investors who are associations of natural or legal persons without their own legal personality;
- c) the municipality where the investor resides or is registered, and, if available, the zip code or part thereof that identifies the municipality;
- d) the production project.

The Flemish Regulator for the Media may publish the details of members of the assessment commission. Such publication shall include the following information:

- a) the first name and surname;
- b) the postal code of the principal place of residence.]⁷³⁴

[Article 237/12. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data in the context of monitoring compliance with the accreditation conditions in response to applications for accreditation as mentioned in article 166.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° contact persons of regional television broadcasting organisations;

⁷³⁴ Replaced by the act of 19.04.2024. Enters into force on 01.01.2025

2° directors of regional television broadcasting organisations;

3° shareholders of regional television broadcasting organisations;

4° founders of regional television broadcasting organisations;

5° staff members of regional television broadcasting organisations.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of personal data:

1° identification data;

2° contact data;

3° mandate data;

4° state registration number or social security identification number;

5° position data within the legal entity;

6° gender;

7° ethnic-cultural background;

8° data on technical, commercial, administrative and radio skills;

9° data on employment;

10° data on the composition of the general meeting;

11° personal statement of directors on:

a) exercising a political mandate;

b) exercising an executive function or the function of director in a professional association of employers or employees, in a press, advertising or publicity company, in the public broadcasting organisation of the Flemish Community, in a private television broadcasting organisation or in a provider of a cable broadcasting network;

12° personal statement that one is not a director of another regional broadcasting organisation.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷³⁵

⁷³⁵ Inserted by the act of 19.04.2024

[Article 237/13. §1. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° handling notifications from private television broadcasting organisations as mentioned in article 161;

2° receiving range figures from service providers with a view to calculating a daily average percentage as mentioned in article 166/1, §2, third paragraph;

3° verifying that regional television broadcasting organisations comply with the accreditation conditions as mentioned in article 169, first paragraph, 10°, and 170, §2.

§2. The processing of personal data for the processing purpose, mentioned in paragraph 1, 1°, shall cover the following categories of data subjects:

1° contact persons of private television broadcasting organisations;

2° directors of private television broadcasting organisations;

3° shareholders of private television broadcasting organisations;

4° founders of private television broadcasting organisations;

5° staff members of private television broadcasting organisations.

The processing of personal data in the context of the processing purpose, mentioned in paragraph 1, 2°, shall cover contact persons of service distributors.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 3°, shall cover the following categories of data subjects:

1° contact persons of regional television broadcasting organisations;

2° directors of regional television broadcasting organisations;

3° members of the general assembly of regional television broadcasting organisations;

4° members of the editorial board of regional television broadcasting organisations;

5° staff members of regional television broadcasting organisations.

§3. The processing of personal data for the processing purpose, mentioned in paragraph 1, 1°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data;

4° state registration number or social security identification number;

5° data concerning the position within the legal entity;

6° data on the shareholder structure of the legal entity;

7° data on the financial structure of the legal entity.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 2°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 3°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data;

4° function data within the legal entity;

5° data concerning the shareholder structure of the legal entity;

6° data on the financial structure of the legal entity;

7° data on the composition of the general meeting;

8° data on the composition of the governing body;

9° personal statement of directors concerning:

a) exercising a political mandate;

b) exercising an executive function or the function of director in a professional association of employers or employees, in a press, advertising or advertising company, in the public broadcasting organisation of the Flemish Community, in a private television broadcasting organisation or in a provider of a cable broadcasting network.

§4. The Flemish Regulator for the Media may exchange personal data, processed for the processing purposes, mentioned in paragraph 1, 1° and 2°, with regulatory authorities or regulatory bodies of other member states of the European Union.

§5. The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the

processing, mentioned in paragraph 1. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]]⁷³⁶

[Article 237/14. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection, for the processing of personal data for handling notifications on the provision of non-linear television services as mentioned in article 175.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° natural persons offering a non-linear television service;
- 2° contact persons of legal persons offering a non-linear television service;
- 3° directors of legal persons offering a non-linear television service;
- 4° shareholders of legal persons offering a non-linear television service;
- 5° founders of legal persons offering a non-linear television service;
- 6° staff members of natural or legal persons offering a non-linear television service.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° identification data;
- 2° contact data;
- 3° mandate data;
- 4° state registration number or social security identification number;
- 5° company number;
- 6° place of broadcast;
- 7° place of establishment;
- 8° place where programming decisions are made;
- 9° place where the staff works;
- 10° data on the position within the legal entity;
- 11° data on the shareholder structure of the legal entity;

⁷³⁶ Inserted by the act of 19.04.2024

12° data on the financial structure of the legal entity.

The Flemish Regulator for the Media may exchange personal data processed for the processing purpose, mentioned in the first paragraph, with regulatory authorities or regulatory bodies of other member states of the European Union.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.⁷³⁷

[Article 237/15. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° handling notifications about offering video-sharing platform services as mentioned in article 176/2;

2° drawing up a list of video-sharing platform services providers as mentioned in article 176/3, §7;

3° handling complaints about video-sharing platform services as mentioned in article 176/8, §2.

§2. The processing of personal data for the processing purpose, mentioned in the first paragraph, 1°, shall cover the following categories of data subjects:

1° natural persons offering video-sharing platform services;

2° contact persons of legal entities offering video-sharing platform services;

3° directors of legal persons offering video-sharing platform services;

4° shareholders of legal entities offering video-sharing platform services;

5° founders of legal entities offering video-sharing platform services;

6° employees of legal entities offering video-sharing platform services.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 2°, shall cover the following categories of data subjects:

1° natural persons offering video-sharing platform services;

2° contact persons of legal entities offering video-sharing platform services;

3° directors of legal persons offering video-sharing platform services;

⁷³⁷ Inserted by the act of 19.04.2024

4° shareholders of legal entities offering video-sharing platform services;

5° founders of legal entities offering video-sharing platform services;

6° employees of legal entities offering video-sharing platform services.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 3°, shall cover the following categories of data subjects:

1° natural persons offering video-sharing platform services;

2° contact persons of legal entities offering video-sharing platform services;

3° directors of legal persons offering video-sharing platform services;

4° shareholders of legal entities offering video-sharing platform services;

5° founders of legal entities offering video-sharing platform services;

6° employees of legal entities offering video-sharing platform services.

§3. The processing of personal data for the processing purpose, mentioned in the first paragraph, 1°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data;

4° state registration number or social security identification number;

5° data that allow determining whether the Flemish Community has jurisdiction over the video-sharing platform services provider.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 2°, shall cover the following categories of data subjects:

1° identification data;

2° contact data.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 3°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° data included in the complaint.

§4. The Flemish Regulator for the Media may exchange personal data processed for the processing purpose, mentioned in the first paragraph, 2°, with the European Commission.

§5. The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in paragraph 1. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.⁷³⁸

[Article 237/16. §1. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° handling notifications regarding the provision of a broadcasting services offer as mentioned in article 177;

2° accommodating the mediation procedure, mentioned in article 180, §4, first paragraph;

3° receiving an operating report as mentioned in article 182.

§2. The processing of personal data for the processing purpose, mentioned in the first paragraph, 1°, shall cover contact persons of service distributors.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 2°, shall cover the following categories of data subjects:

1° contact persons of service distributors;

2° directors of service distributors;

3° shareholders of service distributors;

4° employees of service distributors;

5° intermediaries.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 3°, shall cover the following categories of data subjects:

1° contact persons of service distributors;

2° shareholders of service distributors.

§3. The processing of personal data for the processing purpose, mentioned in the first paragraph, 1°, shall cover the following categories of data subjects:

1° identification data;

⁷³⁸ Inserted by the act of 19.04.2024

2° contact data;

3° mandate data;

4° state registration number or social security identification number.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 2°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data;

4° data included in the request for mediation and the supporting documents produced.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 3°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data;

4° data on shareholder structure.

§4. The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in paragraph 1. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.⁷³⁹

Article 237/17. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° handling notifications about the transmission of new broadcasting programs as mentioned in article 186, §4, and 187, last paragraph;

2° handling notifications about the transmission of new broadcasting programs as mentioned in article 187, last paragraph.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 1° and 2°, shall cover the following categories of data subjects:

1° contact persons of service distributors;

⁷³⁹ Inserted by the act of 19.04.2024

2° contact persons of television broadcasting organisations.

The processing of personal data for the processing purposes, mentioned in the first paragraph, 1° and 2°, shall cover the following categories of personal data:

1° identification data;

2° contact data;

3° mandate data;

4° state registration number or social security identification number.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁴⁰

[Article 237/18. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data in the context of the duties incumbent upon him listed in title I of part V of this Act.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° contact persons of relevant enterprises;

2° directors of relevant enterprises;

3° shareholders of relevant enterprises;

4° founders of relevant enterprises;

5° employees of relevant enterprises.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data.

The Flemish Regulator for the Media may exchange personal data processed for the processing purposes, mentioned in the first paragraph, with the European Commission, Berec, the other

⁷⁴⁰ Inserted by the act of 19.04.2024

members of the Conference of Electronic Communications Regulators, the Competition Authority and the Brussels Court of Appeal.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁴¹

[Article 237/19. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data in the context of processing applications with a view to obtaining a (temporary) broadcasting license for the use of broadcasting equipment, mentioned in article 193, §1 and §2.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° contact persons of linear broadcasting organisations;
- 2° contact persons of radio broadcasting networks;
- 3° contact persons of event organizers;
- 4° contact persons of organizers of experiments.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° identification data;
- 2° contact data;
- 3° mandate data;
- 4° state registration number or social security identification number;
- 5° company number;
- 6° location of the antenna;
- 7° call sign and name of the initiative.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, these personal data shall be assigned a final destination.]⁷⁴²

⁷⁴¹ Inserted by the act of 19.04.2024

⁷⁴² Inserted by the act of 19.04.2024

[Article 237/20. §1. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° receiving an operating report as mentioned in article 198, first paragraph, 3°;

2° handling notifications regarding the provision of a cable broadcasting network or its transfer as mentioned in article 198, second paragraph.

§2. The processing of personal data for the processing purpose, mentioned in paragraph 1, 1°, shall cover the following categories of data subjects:

1° contact persons of the cable broadcasting network operators;

2° shareholders of the cable broadcasting network operators.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 2°, shall cover contact persons of the cable broadcasting network operators.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 1°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data;

4° data on shareholder structure.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 2°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data;

4° state registration number or social security identification number;

5° function data within the legal entity.

§4. The Flemish Regulator for the Media may exchange personal data processed for the processing purpose, mentioned in paragraph 1, 2°, with Berec.

§5. The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing mentioned in paragraph 1. At the end of those ten years, in accordance with article

III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁴³

Article 237/21. §1. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° processing applications to obtain a written license to provide [television broadcasting networks]⁷⁴⁴ as mentioned in article 201, §1;

2° performing inspections as mentioned in article 205.

§2. The processing of personal data for the processing purpose, mentioned in paragraph 1, 1°, shall cover the following categories of data subjects:

1° contact persons of the providers of a [television broadcasting networks]⁷⁴⁵;

2° shareholders of the providers of a [television broadcasting networks]⁷⁴⁶;

3° directors of the providers of a [television broadcasting networks]⁷⁴⁷;

4° contractors of the providers of a [television broadcasting networks]⁷⁴⁸.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 2°, shall cover the following categories of data subjects:

1° contact persons of the providers of a [television broadcasting networks]⁷⁴⁹;

2° shareholders of the providers of a [television broadcasting networks]⁷⁵⁰;

3° directors of the providers of a [television broadcasting networks]⁷⁵¹;

4° staff members of the providers of a [television broadcasting networks]⁷⁵².

§3. The processing of personal data for the processing purpose, mentioned in paragraph 1, 1°, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

⁷⁴³ Inserted by the act of 19.04.2024

⁷⁴⁴ Replaced by the act of 10.07.2026

⁷⁴⁵ Replaced by the act of 10.07.2026

⁷⁴⁶ Replaced by the act of 10.07.2026

⁷⁴⁷ Replaced by the act of 10.07.2026

⁷⁴⁸ Replaced by the act of 10.07.2026

⁷⁴⁹ Replaced by the act of 10.07.2026

⁷⁵⁰ Replaced by the act of 10.07.2026

⁷⁵¹ Replaced by the act of 10.07.2026

⁷⁵² Replaced by the act of 10.07.2026

3° mandate data;

4° state registration number or social security identification number;

5° data concerning the shareholder structure.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 2°, shall cover the following categories of data subjects:

1° identification data;

2° contact data.

§4. The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in paragraph 1. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.⁷⁵³

[Article 237/22. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data in the context of verifying compliance with the accessibility requirements, mentioned in article 214/2.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° contact persons of the providers of terminal equipment with interactive computer functions for access to television services;

2° shareholders of providers of terminal equipment with interactive computer functions for access to television services;

3° directors of the providers of terminal equipment with interactive computer functions for access to television services;

4° staff members of the providers of terminal equipment with interactive computer functions for access to television services;

5° contact persons of the providers of access to television services;

6° shareholders of providers of services providing access to television services;

7° directors of the providers of services providing access to television services;

8° staff members of the providers of services providing access to television services.

⁷⁵³ Inserted by the act of 19.04.2024

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.⁷⁵⁴

[Article 237/23. §1. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° handling complaints regarding access to television services for persons with disabilities as mentioned in article 151, §7;

2° handling complaints as mentioned in article 220;

3° settling disputes as mentioned in article 220/2.

§2. The processing of personal data for the processing purpose, mentioned in paragraph 1, 1°, shall cover natural persons wishing to file a complaint.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 2°, shall cover the following categories of data subjects:

1° natural persons wishing to file a complaint;

2° contact persons of legal entities wishing to file a complaint.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 3°, shall cover the following categories of data subjects:

1° contact persons of providers of electronic communications networks or services;

2° contact persons of enterprises that are beneficiaries of the obligations in the field of access or interconnection.

§3. The processing of personal data for the processing purpose, mentioned in paragraph 1, 1° to 3°, shall cover the following categories of personal data:

1° identification data;

⁷⁵⁴ Inserted by the act of 19.04.2024

2° contact data;

3° mandate data;

4° function data within the legal entity.

§4. The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in paragraph 1. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁵⁵

[Article 237/24. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the performance of its duties, mentioned in article 234.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° natural persons to whom the present act applies;

2° contact persons of legal persons to whom the present act applies;

3° shareholders of legal persons to whom the present act applies;

4° directors of legal entities to which the present act applies;

5° founders of legal entities to which the present act applies;

6° employees of legal entities to which the present act applies.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data;

4° state registration number or social security identification number;

5° financial data;

6° professional data.

⁷⁵⁵ Inserted by the act of 19.04.2024

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁵⁶

[Article 237/25. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the performance of the duties incumbent upon him as a competent authority as mentioned in article 217/1, 1°.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° contact persons of providers of brokering services;
- 2° directors of providers of brokering services;
- 3° shareholders of providers of brokering services;
- 4° founders of providers of brokering services;
- 5° staff members of providers of brokering services;
- 6° legal representatives of providers of brokering services;
- 7° users of brokering services.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° identification data;
- 2° contact data;
- 3° mandate data.

The Flemish Regulator for the Media may exchange personal data processed for the processing purpose, mentioned in the first paragraph, with the competent authorities, the digital services coordinators, the European Digital Services Council and the European Commission as provided for in article 218, §6/1.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁵⁷

⁷⁵⁶ Inserted by the act of 19.04.2024

⁷⁵⁷ Inserted by the act of 19.04.2024

Article 237/25/1. The Flemish Regulator for the Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the preparation of the statements, mentioned in article 218, §2, first paragraph, 25° [and 26°]⁷⁵⁸.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° producers;

2° contact persons of producers who are legal entities.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° whether or not these producers are independent on the basis of article 2, 49°, a) and b);

4° whether or not these producers meet the conditions imposed on producers by the Flemish Government with application of article 188/2, §2, 4°, for the admissibility of Flemish production projects.

The Flemish Regulator for the Media may disclose to the public personal data processed for the processing purpose, mentioned in the first paragraph.

The personal data processed by the Flemish Regulator for the Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.⁷⁵⁹

[Title III The Media Sector Council of the Council for Culture, Youth, Sports and Media.]⁷⁶⁰

[Article 237/26. The Media Sector Council of the Council for Culture, Youth, Sports and Media shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for organizing a public inquiry on the scope of the public broadcasting mission and its fulfillment in the management agreement, mentioned in article 20, §1.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

⁷⁵⁸ This article comes into force on 01.01.2025 with regard to the action of the Flemish Regulator for the Media as controller as stated in Article 4, 7) of the General Data Protection Regulation, for the processing of personal data in the context of the preparation of the overviews, referred to in Article 218, §2, first paragraph, 26°.

⁷⁵⁹ Inserted by the act of 19.04.2024

⁷⁶⁰ Inserted by the act of 19.04.2024

1° natural persons who wish to participate in the public inquiry;

2° contact persons of legal persons who wish to participate in the public survey.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° mandate data;

4° category respondent.

The personal data processed by the Media Sector Council of the Council for Culture, Youth, Sports and Media in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.]⁷⁶¹

[Title IV. Flanders Audiovisual Fund]⁷⁶²

[Article. 237/27. The Flanders Audiovisual Fund shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the performance of the duties, mentioned in article 188/2, §2, 5°, and 188/3, last paragraph.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover investor representatives and contact persons, mentioned in article 188/1, §1.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° identification data, including the state registration number;

2° contact data;

3° mandate data.

The personal data processed by the Flanders Audiovisual Fund in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph. At the end of those ten years, in accordance with article III.87, §1, 3°, of the Administrative Act of 7 December 2018, those personal data will be assigned a final destination.

⁷⁶¹ Inserted by the act of 19.04.2024

⁷⁶² Inserted by the act of 19.04.2024

The Flanders Audiovisual Fund may publish the data of investors who make an equivalent financial contribution to the FAF as mentioned in article 188/1, §1. Said disclosure shall include the following information:

- a) the full official name as registered in the Crossroads Bank for Enterprises, for investors who are legal persons;
- b) the full name of the entrepreneur as registered or otherwise officially accredited, for investors who are associations of natural or legal persons without own legal personality;
- c) the municipality where the investor resides or is registered, and, if available, the zip code or part thereof that identifies the municipality.]⁷⁶³

[Title V. VRT]⁷⁶⁴

[Article 237/28. §1. The VRT shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

- 1° fulfilling its public task, mentioned in article 6, §2, and in the management agreement concluded between the VRT and the Flemish Community;
- 2° fulfilling its innovation task, mentioned in article 17, and in the management agreement concluded between the VRT and the Flemish Community;
- 3° archiving its offer in accordance with article 89 of the general data protection regulation.

§2. The processing of personal data for the processing purpose, mentioned in paragraph 1, 1°, shall cover media users.

The processing of personal data for the processing purpose, mentioned in paragraph 1, 2° and 3°, shall cover natural persons appearing in content or metadata.

§3. The processing of personal data for the processing purpose, mentioned in paragraph 1, 1°, shall cover the following categories of data subjects:

- 1° identification data;
- 2° contact data;
- 3° personal characteristics;
- 4° preferences.

The processing of personal data for the processing purposes, mentioned in paragraph 1, 2° and 3°, shall cover all possible categories of personal data, including special categories of personal data as mentioned in the general data protection regulation.

⁷⁶³ Replaced by decree of 19.04.2024. Comes into force on 01.01.2025

⁷⁶⁴ Inserted by the act of 19.04.2024

§4. The VRT, as data controller, shall determine the retention period of the personal data it processes for the processing purposes, mentioned in paragraph 1, 1° and 2°. The personal data can thereby, on the basis of this act, be kept at the latest until ten years after the expiry of the decretal tasks, mentioned in articles 6 and 17 and the management agreement concluded between the VRT and the Flemish Community.

Personal data processed for the processing purpose, mentioned in paragraph 1, 3°, may be kept permanently for archiving in the public interest in accordance with article 5, first paragraph, e), and article 89 of the general data protection regulation.]⁷⁶⁵

[Title VI. Television broadcasting organisations]⁷⁶⁶

[Article 237/29. The television broadcasting organisations, mentioned in article 42, shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for putting in place age verification instruments or other technical measures as mentioned in article 42.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° minors who use the television services of the relevant television broadcasting organisation;

2° parents of minors who use the television services of the relevant television broadcasting organisation.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

1° identification data;

2° contact data;

3° age.

The personal data processed, mentioned in the third paragraph, shall be kept for as long as necessary for the implementation of age verification instruments or other technical measures.]⁷⁶⁷

[Title VII. Video-sharing platform services providers.]⁷⁶⁸

[Article 237/30. Video-sharing platform services providers, mentioned in article 176/, shall act as data controller as mentioned in article 4, 7) of the general data protection regulation, for the processing of personal data for putting in place age verification tools or other technical measures as mentioned in articles 176/4 and 176/6.

⁷⁶⁵ Inserted by the act of 19.04.2024

⁷⁶⁶ Inserted by the act of 19.04.2024

⁷⁶⁷ Inserted by the act of 19.04.2024

⁷⁶⁸ Inserted by the act of 19.04.2024

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° minors who use the television services of the relevant television broadcasting organisation;
- 2° parents of minors who use the television services of the relevant television broadcasting organisation.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° identification data;
- 2° contact data;
- 3° age.

The personal data processed, mentioned in the third paragraph, shall be kept for as long as necessary for the implementation of age verification instruments or other technical measures.]⁷⁶⁹

[Title VIII. Service distributors]⁷⁷⁰

[Article 237/31. Service distributors as mentioned in article 177 shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for putting in place age verification instruments or other technical measures as mentioned in article 180, §6.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of data subjects:

- 1° minors who use the television services of the relevant television broadcasting organisation;
- 2° parents of minors who use the relevant television services of the television organisation.

The processing of personal data for the processing purpose, mentioned in the first paragraph, shall cover the following categories of personal data:

- 1° identification data;
- 2° contact data;
- 3° age.

⁷⁶⁹ Inserted by the act of 19.04.2024

⁷⁷⁰ Inserted by the act of 19.04.2024

The personal data processed, mentioned in the third paragraph, shall be kept for as long as necessary for the implementation of age verification instruments or other technical measures.]⁷⁷¹

[Title IX. Providers of broadcasting services]⁷⁷²

[Article 237/32. The providers of broadcasting services, mentioned in article 102, shall act as data controller as mentioned in article 4, 7), of the general data protection regulation, for the processing of personal data for the following processing purposes:

1° accommodating the right of reply, mentioned in article 104;

2° accommodating the right of communication, mentioned in article 113.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 1° and 2°, shall cover the following categories of data subjects:

1° natural persons wishing to exercise their right of reply;

2° contact persons of legal persons wishing to exercise their right of reply.

The processing of personal data for the processing purpose, mentioned in the first paragraph, 1° and 2°, shall cover the following categories of personal data:

1° identification data;

2° contact data;

3° mandate data;

4° data included in the complaint in the context of the right of reply;

5° data included in the decision to disqualify from prosecution or acquit in the context of the right to communication.

The personal data processed by the providers of radio and television services in accordance with this article may be kept on the basis of this article at the latest until ten years after the end of the processing, mentioned in the first paragraph.]⁷⁷³

PART IX. Transitional and final provisions

Article 238. The Decree of the Flemish Government of 20 September 1995 on the establishment of a code for advertising and sponsorship on radio or television, amended by the Decree of the Flemish Government of 7 September 2007, is repealed.

⁷⁷¹ Inserted by the act of 19.04.2024

⁷⁷² Inserted by the act of 19.04.2024

⁷⁷³ Inserted by the act of 19.04.2024

Article 239. The Acts on radio and television broadcasting, coordinated on 4 March 2005, last amended by the Act of 18 July 2008, are repealed.

[The provisions of Title IV, Chapter II, Sections I to IV, of the Act on Radio and Television Broadcasting, coordinated on 4 March 2005, remain applicable up to 31 August 2009.]⁷⁷⁴

Article 240. Chapter II of the Act of 23 June 1961 on the right of reply inserted by the Act of 4 March 1977 is repealed.

[Article 241..]⁷⁷⁵

[[Article 242 ...]⁷⁷⁶]⁷⁷⁷

Article 243. [Television broadcasters]⁷⁷⁸ that were accredited under the Acts on radio and television broadcasting, coordinated on 4 March 2005, and to which a notification rule now applies, are deemed to have fulfilled this obligation of notification for the broadcaster concerned.

[[Article 243/1...]⁷⁷⁹]⁷⁸⁰

[Art. 243/2. § 1. Accreditations granted to national radio broadcasters for a period of five years with effect from 1 January 2023 may be renewed for a maximum period of three years. An application for renewal must be submitted to the Flemish Government no later than one year before the current accreditation period expires.

If the Flemish Government decides not to renew the accreditation or to renew it for a period of less than three years, it shall notify the applicant no later than six months before the accreditation period expires, by registered letter addressed to the registered office. The decision as to whether or not to grant the extension and the duration of any such extension shall be justified on the basis of the phasing out of FM broadcasts, as referred to in article 134. If the date of the phasing out of FM broadcasts falls within the period of the possible extension of the accreditation, the accreditation period may be reduced to less than three years in line with the date of the phasing out of FM broadcasts.

§ 2. The decision of the Flemish Government on the renewal of accreditation for national radio broadcasters entitles those broadcasters to reserved capacity for the transmission of their FM broadcast programmes via DAB+ frequency blocks for a maximum of three years.

§ 3. Accreditations granted following the three-year extension shall be valid until 31 December 2036 at the latest.]⁷⁸¹

[Art. 243/3. § 1. Accreditations for network radio broadcasters and local radio broadcasters obtained between 1 January 2018 and 31 December 2019 are granted for a period of nine years, with effect from the date specified in the decisions granting those accreditations.

⁷⁷⁴ Added by the act of 24 July 2009

⁷⁷⁵ Lifted by the act of 23.12. 2016(2)

⁷⁷⁶ Added by the act of 23.12.2016(2)

⁷⁷⁷ Lifted by the act of 12.02.2021

⁷⁷⁸ Replaced by the act of 23.12. 2016(2)

⁷⁷⁹ Inserted by the act of 05.06.2026

⁷⁸⁰ Lifted by the act of 10.07.2026

⁷⁸¹ Inserted by the act of 10.07.2026

Notwithstanding the first paragraph, accreditations for network radio broadcasters and local radio broadcasters that expire before 31 December 2027 shall be extended until 31 December 2027 inclusive.

§ 2. Network radio broadcasters whose accreditations do not expire on 31 December 2027 are entitled to reserved capacity for the transmission of their FM broadcast programmes via DAB+ frequency blocks for the remainder of the term of their initial accreditations.

Local radio broadcasters whose accreditations do not expire on 31 December 2027 may, subject to certain conditions to be determined by the Flemish Government, be eligible to broadcast their FM programmes via DAB+ with effect from 1 January 2028.

§ 3. Accreditations granted for a frequency package where the accreditations period, at the time of publication in the Belgian Official Gazette of the Decree of 10 July 2026 amending the Decree of 27 March 2009 on radio broadcasting and television, with regard to radio broadcasters, shall be granted until 31 December 2036 at the latest.]⁷⁸²

[Art. 243/4. If a licence holder, who, prior to the date of publication of the Decree of 10 July 2026 amending the Decree of 27 March 2009 on radio and television broadcasting, with regard to radio broadcasters in the Belgian Official Gazette, renounces their licence to operate a terrestrial broadcasting network and to obtain the associated broadcasting licences intended for the provision of free-to-air radio broadcast programmes, and if, as a result, broadcasts on a frequency block are abruptly discontinued, the Flemish Regulator for the Media may issue a temporary licence with temporary broadcasting authorisations to a consortium of broadcasters that is using that terrestrial broadcasting network at the time of the discontinuation. The broadcasters within that consortium shall exercise the rights of use granted to them jointly. If one of the broadcasters ceases to be part of the consortium, it shall be continued by the remaining broadcasters.

If the frequency block referred to in the first paragraph is under-utilised and there is still capacity available for broadcast programmes, the partnership to which the licence is granted shall offer access to that under-utilised capacity to linear radio broadcasters on fair, reasonable and non-discriminatory terms. Radio broadcasters that meet the requirements set out in articles 134/3 and 134/5 may utilise that under-utilised capacity following approval by the Flemish Government.

The licences and broadcasting authorisations referred to in the first paragraph shall be granted until 31 December 2027 inclusive.]⁷⁸³

[Article 243/5. The accreditations of national radio broadcasters granted pursuant to article 243/2 which are due to expire or be revoked before 31 December 2027 may be re-granted up to and including 31 December 2027 pursuant to articles 127, 129, 130, 131, 132, second paragraph, article 133, and articles 137 to 139, as in force on the date of publication in the Belgian Official Gazette of the Decree of 10 July 2026 amending the Decree of 27 March 2009 on radio broadcasting and television, with regard to radio broadcasters.

⁷⁸² Inserted by the act of 10.07.2026

⁷⁸³ Inserted by the act of 10.07.2026

The accreditations of network radio broadcasters and local radio broadcasters granted pursuant to article 243/3, § 1, which are due to expire or be revoked before 31 December 2027, may be renewed until 31 December 2027 inclusive pursuant to articles 127, 129, 130, 131, 132, second paragraph, article 133, articles 143/1 to 143/3 inclusive and articles 144 to 146 inclusive, as in force on the date of publication of the Decree of 10 July 2026 amending the Decree of 27 March 2009 on radio broadcasting and television, with regard to radio broadcasters.]⁷⁸⁴

[Article 243/6. Articles 127, 129, 130, 131, 132, second paragraph, article 133, and articles 137 to 139 inclusive, as in force on the day before the date of entry into force of articles 5, 6, 7, 8, 9, 12, 13, 28, 29 and 30 of the Decree of 10 July 2026 amending the Decree of 27 March 2009 on radio broadcasting and television, in respect of radio broadcasters, shall continue to apply to national radio broadcasters until their accreditations expire on 31 December 2027, or, in the event of an extension, on 31 December 2030.

Articles 127, 129, 130, 131, 132, second paragraph, article 133, and articles 143/1 to 143/3, as in force on the day before the date of entry into force of articles 5, 6, 7, 8, 9, 12, 13, 32, 33 and 34 of the Decree of 10 July 2026 amending the Decree of 27 March 2009 on radio broadcasting and television, in respect of radio broadcasters, shall continue to apply to network radio broadcasters until their accreditations have expired.

Articles 127, 129, 130, 131, 132, second paragraph, article 133, and articles 144 to 146 inclusive, as in force on the day before the date of entry into force of articles 5, 6, 7, 8, 9, 12, 13, 36, 37 and 38 of the Decree of 10 July 2026 amending the Decree of 27 March 2009 on radio broadcasting and television, in respect of radio broadcasters, shall continue to apply to local radio broadcasters until their accreditations have expired.]⁷⁸⁵

Article 244. The provisions of part III, title II, chapter IV, will take effect from 1 September 2009.

⁷⁸⁴ Inserted by the act of 10.07.2026

⁷⁸⁵ Inserted by the act of 10.07.2026

[ANNEX 1
to the Act of 27 March 2009 on radio and television broadcasting:
Accessibility requirements for terminal equipment and services
as mentioned in article 214/2

Annex 1 to the Act modifying the Act of 27 March 2009 on radio and television broadcasting, partially transposing Directive (EU) 2019/882 of the European Parliament and the Council of 17 April 2019 on accessibility requirements for products and services

Annex 1 to the Act of 27 March 2009 on radio and television broadcasting

Annex 1. Accessibility requirements for terminal equipment and services as mentioned in article 214/2

Section 1. General accessibility requirements for terminal equipment

Terminal equipment with interactive computing capability used for access to television services shall be designed and manufactured in such a way as to maximise the likely use by persons with disabilities and shall be accompanied, where possible in or on the terminal, by accessible information about its mode of operation and accessibility features.

1. Requirements on the provision of information:

a) the information on the use of the product provided on the product itself (labelling, instructions and warning) shall be:

- 1) made available via more than one sensory channel;
- 2) presented in an understandable way;
- 3) presented to users in ways they can perceive;
- 4) presented in fonts of adequate size and suitable shape, taking into account foreseeable conditions of use, and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs;

b) the instructions for use of a product, where not provided on the product itself but made available through the use of the product or through other means such as a website, including the accessibility functions of the product, how to activate them and their interoperability with assistive solutions shall be publicly available when the product is placed on the market and shall:

- 1) be made available via more than one sensory channel;
- 2) be presented in an understandable way;
- 3) be presented to users in ways they can perceive;
- 4) be presented in fonts of adequate size and suitable shape, taking into account foreseeable conditions of use and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs;
- 5) with regard to content, be made available in text formats that can be used for generating alternative assistive formats to be presented in different ways and via more than one sensory channel;
- 6) be accompanied by an alternative presentation of any non-textual content;
- 7) include a description of the user interface of the product (handling, control and feedback, input and output) which is provided in accordance with point 2; the description shall indicate for each of the points in point 2 whether the product provides those features;
- 8) include a description of the functionality of the product needs of persons with disabilities in accordance with point 2; the description shall indicate for each of the points in point 2 whether the product provides those features;

9) include a description of the software and hardware interfacing of the product with assistive devices; the description shall include a list of those assistive devices which have been tested together with the product.

2. User interface and functionality design:

The product, including its user interface, shall contain features, elements and functions, that allow persons with disabilities to access, perceive, operate, understand and control the product by ensuring that:

a) when the product provides for communication, including interpersonal communication, operation, information, control and orientation, it shall do so via more than one sensory channel; this shall include providing alternatives to vision, auditory, speech and tactile elements;

b) when the product uses speech it shall provide alternatives to speech and vocal input for communication, operation control and orientation;

c) when the product uses visual elements it shall provide for flexible magnification, brightness and contrast for communication, information and operation, as well as ensure interoperability with programmes and assistive devices to navigate the interface;

d) when the product uses colour to convey information, indicate an action, require a response or identify elements, it shall provide an alternative to colour;

e) when the product uses audible signals to convey information, indicate an action, require a response or identify elements, it shall provide an alternative to audible signals;

f) when the product uses visual elements it shall provide for flexible ways of improving vision clarity;

g) when the product uses audio it shall provide for user control of volume and speed, and enhanced audio features including the reduction of interfering audio signals from surrounding products and audio clarity;

h) when the product requires manual operation and control, it shall provide for sequential control and alternatives to fine motor control, avoiding the need for simultaneous controls for manipulation, and shall use tactile discernible parts;

i) the product shall avoid modes of operation requiring extensive reach and great strength;

j) the product shall avoid triggering photosensitive seizures;

k) the product shall protect the user's privacy when he or she uses the accessibility features;

l) the product shall provide an alternative to biometrics identification and control;

m) the product shall ensure the consistency of the functionality and shall provide enough, and flexible amounts of, time for interaction;

n) the product shall provide software and hardware for interfacing with the assistive technologies;

o) the product shall comply with the following sector-specific requirements: consumer terminal equipment with interactive computing capability used for access to television services shall make available to persons with disabilities the accessibility components provided by the television service provider, for user access, selection, control, and personalisation and for transmission to assistive devices.

3. Support services:

Where available, support services (help desks, call centres, technical support, relay services and training services) shall provide information on the accessibility of the product and its compatibility with assistive technologies, in accessible modes of communication.

Section 2 Accessibility requirements related to terminal equipment with interactive computing capability used for access to television services

In addition to the requirements of Section 1, the packaging and instructions of products covered by this section shall be made accessible, in order to maximise their foreseeable use by persons with disabilities. This means that:

a) the packaging of the product including the information provided in it (e.g. about opening, closing, use, disposal), including, when provided, information about the accessibility characteristics of the product, shall be made accessible; and, when feasible, that accessible information shall be provided on the package;

b) the instructions for the installation and maintenance, storage and disposal of the product not provided on the product itself but made available through other means, such as a website, shall be publicly available when the product is placed on the market and shall comply with the following requirements:

- 1) be available via more than one sensory channel;
- 2) be presented in an understandable way;
- 3) be presented to users in ways they can perceive;
- 4) be presented in fonts of adequate size and suitable shape, taking into account foreseeable conditions of use, and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs;
- 5) content of instructions shall be made available in text formats that can be used for generating alternative assistive formats to be presented in different ways and via more than one sensory channel; and
- 6) instructions containing any non-textual content shall be accompanied by an alternative presentation of that content.

Section 3 General accessibility requirements related to services

The provision of services in order to maximise their foreseeable use by persons with disabilities, shall be achieved by:

a) ensuring the accessibility of the products used in the provision of the service, in accordance with Section 1 of this Annex;

b) providing information about the functioning of the service, and where products are used in the provision of the service, its link to these products as well as information about their accessibility characteristics and interoperability with assistive devices and facilities:

- 1) making the information available via more than one sensory channel;
- 2) presenting the information in an understandable way;
- 3) presenting the information to users in ways they can perceive;
- 4) making the information content available in text formats that can be used to generate alternative assistive formats to be presented in different ways by the users and via more than one sensory channel;
- 5) presenting in fonts of adequate size and suitable shape, taking into account foreseeable conditions of use and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs;
- 6) supplementing any non-textual content with an alternative presentation of that content; and
- 7) providing electronic information needed in the provision of the service in a consistent and adequate way by making it perceivable, operable, understandable and robust;

c) making websites, including the related online applications, and mobile device-based services, including mobile applications, accessible in a consistent and adequate way by making them perceivable, operable, understandable and robust;

d) where available, support services (help desks, call centres, technical support, relay services and training services) providing information on the accessibility of the service and its compatibility with assistive technologies, in accessible modes of communication.

Section 4 Additional accessibility requirements related to specific services

Services providing access to television services shall:

a) provide electronic programme guides (EPGs) which are perceivable, operable, understandable and robust and provide information about the availability of accessibility;

b) ensure that the accessibility components (access services) of the audiovisual media services such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation are fully transmitted with adequate quality for accurate display, and synchronised with sound and video, while allowing for user control of their display and use.

ANNEX 2
to the Act of 27 March 2009 on radio and television broadcasting:
Information on services mentioned in article 214/2, §2, second subparagraph,
which meet accessibility requirements

Annex 2 to the Act of 27 March 2009 on radio and television broadcasting, partially transposing Directive (EU) 2019/882 of the European Parliament and the Council of 17 April 2019 on accessibility requirements for products and services

Annex 2 to the Act of 27 March 2009 on radio and television broadcasting

Annex 2. Information on services mentioned in article 214/2, §2, second subparagraph, that meet accessibility requirements

1. The service provider shall include the information assessing how the service meets the accessibility requirements mentioned in article 4 in the general terms and conditions, or equivalent document. The information shall describe the applicable requirements and cover, as far as relevant for the assessment the design and the operation of the service.

The information shall, where applicable, contain the following elements:

- a) a general description of the service in accessible formats;
- b) descriptions and explanations necessary for the understanding of the operation of the service;
- c) a description of how the relevant accessibility requirements set out in Annex 1 are met by the service.

2. To comply with point 1 of this Annex the service provider may apply in full or in part the harmonised standards and technical specifications, for which references have been published in the Official Journal of the European Union.

3. The service provider shall provide information demonstrating that the service delivery process and its monitoring ensure compliance of the service with point 1 of this Annex and with the applicable requirements of this Directive, mentioned in article 214, §2, of this Act.

ANNEX 3
to the Act of 27 March 2009 on radio and television broadcasting:
Criteria for assessing the disproportionate burden
mentioned in article 214/2, § 3

Annex 3 to the Act of 27 March 2009 on radio and television broadcasting, partially transposing Directive (EU) 2019/882 of the European Parliament and the Council of 17 April 2019 on accessibility requirements for products and services

Annex 3 to the Act of 27 March 2009 on radio and television broadcasting

Annex 3. Criteria for assessing the disproportionate burden mentioned in Article 214/2, §3

Criteria to carry out and document the assessment

1. Ratio of the net costs of compliance with accessibility requirements to the overall costs (operating and capital expenditures) of manufacturing, distributing or importing the product or providing the service for the economic operators.

Elements to use to assess the net costs of compliance with accessibility requirements:

a) criteria related to one-off organisational costs to take into account in the assessment:

- 1) costs related to additional human resources with accessibility expertise;
- 2) costs related to training human resources and acquiring competences on accessibility;
- 3) costs of development of a new process for including accessibility in the product development or service provision;
- 4) costs related to development of guidance material on accessibility;
- 5) one-off costs of understanding the legislation on accessibility;

b) criteria related to on-going production and development costs to take into account in the assessment:

- 1) costs related to the design of the accessibility features of the product or service;
- 2) costs incurred in the manufacturing processes;
- 3) costs related to testing the product or service for accessibility;
- 4) costs related to establishing documentation.

2. The estimated costs and benefits for the economic operators, including production processes and investments, in relation to the estimated benefit for persons with disabilities, taking into account the amount and frequency of use of the specific product or service.

3. Ratio of the net costs of compliance with accessibility requirements to the net turnover of the economic operator.

Elements to use to assess the net costs of compliance with accessibility requirements:

a) criteria related to one-off organisational costs to take into account in the assessment:

- 1) costs related to additional human resources with accessibility expertise;
- 2) costs related to training human resources and acquiring competences on accessibility;
- 3) costs of development of a new process for including accessibility in the product development or service provision;
- 4) costs related to development of guidance material on accessibility;
- 5) one off costs of understanding the legislation on accessibility;

b) criteria related to on-going production and development costs to take into account in the assessment:

- 1) costs related to the design of the accessibility features of the product or service;

- 2) costs incurred in the manufacturing processes;
- 3) costs related to testing the product or service for accessibility;
- 4) costs related to establishing documentation.]⁷⁸⁶

⁷⁸⁶ Added by the act of 03.06.2022. Comes into force on 25.06.2025