

4.2. BE – Belgium (French speaking Community) – National legal summary⁵

4.2.1. Summary

Table 30. Belgium (FR) - Summary of the existing obligations – by type and player

Obligation	Player	Main feature
Financial investment obligations	Linear AVMS providers	<p>The public service media RTBF must invest a yearly amount of at least EUR 7 200 000 in contracts with independent producers from the French Community.</p> <p>The amount of the yearly contribution by private broadcasters depends on their turnover for the previous year. The turnover is defined as the amount of gross receipts, commissions and overpayments not deducted, linked to the insertion of advertising and sponsorship in the services, and all other gross revenues, without deduction, resulting from the provision of television services for remuneration, including gross revenues from any distributor of services or third parties for obtaining the television services and those generated by the content of the programmes. For 2018, the different levels of contribution are as follows:</p> <ul style="list-style-type: none"> ▪ 0% if the turnover is below EUR 394 989 86; ▪ 1.4% if between EUR 394 989.87 and EUR 6 583 164.30; ▪ 1.6% if between EUR 6 583 164.31 and EUR 13 166 328.60; ▪ 1.8% if between EUR 13 166 328.61 and EUR 19 749 492.90; ▪ 2% if between EUR 19 749 492.91 and EUR 26 332 657.20; ▪ 2.2% if above EUR 26 332 657.21. <p>This obligation is optional: private broadcasters have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.</p>

⁵ The factsheet on Belgium (French speaking Community) incorporates the feedback received from Jeanne Brunfaut (Centre du Cinéma et de l'Audiovisuel) during the checking round with the national film funds.



	Non-linear AVMS providers	Same as for linear AVMS providers.
	Distributors	<p>Either EUR 2.57 (amount for 2018) per subscriber in the previous year or 2.5% of the gross receipts for the previous year (without VAT and copyright fees) related to the users' payment for the AVMS offered by the distributor.</p> <p>This obligation is optional: distributors have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.</p>
Levies	Linear AVMS providers	<p>Private broadcasters have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.2.3.1 and a levy (indirect contribution).</p> <p>The management contract of the public broadcaster RTBF can fix a higher quota. Under the current management contract, the quota is 55%.</p>
	Non-linear AVMS providers	Same as for linear AVMS providers.
	Distributors	Distributors have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.2.3.3 and a levy (indirect contribution).
	Theatres	No obligation.
	Video industry	No obligation.
	Other	No obligation.
Promotion	Quotas European works linear AVMS providers	Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works.
	Quotas independent works linear AVMS providers	Broadcasters shall reserve 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works created by producers who are independent from broadcasters.
	Quotas non-linear AVMS providers	No obligation.
	Prominence non-linear AVMS providers	VOD services shall promote the European works included in their catalogue, including original works by authors from the French Community, by highlighting, by way of an attractive presentation, the list of available European works.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey



4.2.2. Definitions

Article 1, paragraph 26, of the Coordinated Act on Audiovisual Media Services (no official English translation) defines a European work as follows:

“A European work is:

- (a) works originating in Member States of the European Union which are carried out essentially with the assistance of authors and workers residing in one or more of these States and which meet one of the following three conditions: they are carried out by one or more producers established in one or more of these States; the production of the work is supervised and actually controlled by one or more producers established in one or more of these States; the contribution of the co-producers of these States to the total cost of the co-production is preponderant, and this co-production is not controlled by one or more producers established outside those States;*
- (b) works originating in European third States party to the Council of Europe Convention on Transfrontier Television which are carried out essentially with the assistance of authors and workers residing in one or more of those States and which meet one of the following three conditions: they are carried out by one or more producers established in one or more of these States; the production of this work is supervised and actually controlled by one or more producers established in one or more of these States; the contribution of the co-producers of these States to the total cost of the co-production is preponderant and the co-production is not controlled by one or more producers established outside these States. Works originating in European third States party to the Council of Europe's European Convention on Transfrontier Television are, however, only deemed European works if the works originating from the member States of the European Union are not the subject of discriminatory measures in the third States concerned.*
- (c) works co-produced in the framework of agreements concerning the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions laid down in each of those agreements, provided that works originating in the member States of the Union are not the subject of discriminatory measures in the third country concerned;*
- (d) works produced in the framework of bilateral co-production agreements concluded between Member States and third countries, provided that the co-producers from the Member States supply a majority share of the total cost of production and that production is not controlled by one or more producers established outside the territory of the Member States.”*

Article 1, paragraph 34, of the Coordinated Act on Audiovisual Media Services (no official English translation) defines an independent producer as follows:

“An independent producer:

- has a separate legal personality from that of an AVMS provider;*
- does not have a direct or indirect share of more than 15% of the capital of an AVMS provider;*



- *does not make more than 90% of its turnover during a period of three years from the sale of its productions to the same AVMS provider;*
- *does not have more than 15% of its capital held directly or indirectly by an AVMS provider,*
- *does not have more than 15% of its capital held by a company which directly or indirectly owns more than 15% of the capital of an AVMS provider.*

An independent producer from the French Community is one which is established in the French-language region or in the bilingual region of Brussels-Capital and that meets the criteria of the previous paragraph.”

Table 31. Belgium (FR) - Definition of the main concepts in terms of the promotion of EU works

Concept	Definition
European works	Yes.
Independent producer	Yes.
Prominence	No.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.3. Financial investment obligations

4.2.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

The public service media RTBF must invest a yearly amount of at least EUR 7 200 000 in contracts with independent producers from the French Community (Article 12.3 of the management contract).

Pursuant to its management contract, the RTBF shall invest 70% of its yearly obligation in scripted programmes (fiction, documentaries, etc.), with a specific sub-quota (25% of its yearly obligation) in TV series.

The amount of the yearly contribution by private broadcasters depends on their turnover for the previous year. The turnover is defined as the amount of gross receipts, commissions and overpayments not deducted, linked to the insertion of advertising and sponsorship in the services, and all other gross revenues, without deduction, resulting from the provision of television services for remuneration, including gross revenues from any distributor of services or third parties for obtaining the television services and those generated by the content of the programmes (Article 41 of the Coordinated Act on Audiovisual Media Services). For 2018, the different levels of contribution are as follows:

- 0% if the turnover is below EUR 394 989.86;
- 1,4% if between EUR 394 989.87 and EUR 6 583 164.30;
- 1,6% if between EUR 6 583 164.31 and EUR 13 166 328.60;



- 1,8% if between EUR 13 166 328.61 and EUR 19 749 492.90;
- 2% if between EUR 19 749 492.91 and EUR 26 332 657.20;
- 2.2% if above EUR 26 332 657.21.

This obligation is optional: private broadcasters have the possibility of choosing between financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.

Table 32. Belgium (FR) - Main features of the financial investment scheme for broadcasters

Feature	Description
Legal basis for the investment	Coordinated Act on Audiovisual Media Services. Government order approving the method for the AVMS providers' indirect contribution to the CCA film fund. Government order approving the method for the AVMS providers' direct contribution to film funding. Government order approving the public service media RTBF's management contract.
Level of investment	The public service media RTBF must invest a yearly amount of at least EUR 7 200 000 in contracts with independent producers. The amount of the yearly contribution by private broadcasters depends on their turnover for the previous year (between 0% and 2.2% of the turnover).
Mandatory, optional or voluntary investment	Mandatory for the RTBF. Optional for private broadcasters. Local public broadcasters are exempt, as well as private broadcasters under a certain threshold in terms of turnover.
Nature of the investment	Pre-acquisition or co-production (or also production order for RTBF).
Distinction between genres in which to invest	Yes, for RTBF.
Distinction between public or private broadcasters	Yes.
Level of investment in European works	Yes
Level of investment in independent works	Yes.
Level of investment in works in a national language	No.
Investment scheme applicable to foreign broadcasters	No.
Other type of investment	No.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey



4.2.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

The scheme does not differ between broadcasters and VOD providers.

4.2.3.3. Financial investment obligations by distributors

Distributors shall invest either EUR 2.57 (amount for 2018) per subscriber in the previous year or 2.5% of the gross receipts for the previous year (without VAT and copyright fees) related to the users' payment for the AVMS offered by the distributor.

This obligation is optional: distributors have the possibility of choosing between financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.

Table 33. Belgium (FR) - Main features of the investment scheme for distributors

Feature	Description
Legal basis for the investment	Coordinated Act on Audiovisual Media Services. Government order approving the method for the distributors' direct contribution to film funding.
Level of the investment	Either EUR 2.57 (amount for 2018) per subscriber in the previous year or 2.5% of the gross receipts for the previous year (without VAT and copyright fees) related to the users' payment for the AVMS offered by the distributor.
Mandatory, optional or voluntary investment	Optional.
Nature of the investment	Pre-acquisition or co-production
Distinction between genres in which to invest	No.
Level of investment in European works	Yes.
Level of investment in independent works	Yes
Level of investment in works in a national language	No.
Other type of investment	No.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4. Levies

4.2.4.1. Levies on linear AVMS providers (broadcasters)

Private broadcasters have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.2.3.1 and a levy (indirect contribution).



There is no levy on the public service media RTBF (which has only financial investment obligations).

Table 34. Belgium (FR) - Main features of the levies on broadcasters

Feature	Description
Legal basis of the levy	Coordinated Act on Audiovisual Media Services. Government order approving the method for the AVMS providers' indirect contribution to the CCA film fund.
Criteria used to determine the levy	The amount of the private broadcasters' yearly contribution depends on their turnover for the previous year (between 0% and 2.2% of the turnover).
Mandatory or optional obligation	Optional. Local public broadcasters are exempt, as well as private broadcasters under a certain threshold in terms of turnover.
Ceiling to the levy imposed	No.
Distinction between genres on which to spend the levy	No.
Distinction between public and private broadcasters	Yes.
Authority gathering and controlling the amount due	Authority gathering: film fund (CCA – Centre du cinéma et de l'audiovisuel). Authorities controlling: both film fund (CCA – Centre du cinéma et de l'audiovisuel) and regulatory authority (CSA – Conseil supérieur de l'audiovisuel).
Authority benefiting from the amount due	CCA – Centre du cinéma et de l'audiovisuel.
Levy applicable to foreign broadcasters	No.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4.2. Levies on non-linear AVMS providers (VOD services)

The scheme does not differ between broadcasters and VOD providers.

Table 35. Belgium (FR) - Main features of the levies on VOD services

Feature	Description
Legal basis of the levy	Coordinated Act on Audiovisual Media Services. Government order approving the method for the AVMS providers' indirect contribution to the CCA film fund.
Criteria used to determine the levy	The amount of the private broadcasters' yearly contribution depends on their turnover for the previous year (between 0% and 2.2% of the turnover).



Mandatory or optional obligation	Optional.
Ceiling to the levy imposed	No.
Distinction between genres on which to spend the levy	No.
Distinction between public and private VOD services	Yes.
Authority gathering and controlling the amount due	Authority gathering: film fund (CCA – Centre du cinéma et de l’audiovisuel). Authorities controlling: both film fund (CCA – Centre du cinéma et de l’audiovisuel) and regulatory authority (CSA – Conseil supérieur de l’audiovisuel).
Authority benefiting from the amount due	CCA – Centre du cinéma et de l’audiovisuel.
Levy applicable to foreign VOD services	No.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4.3. Levies on distributors

Distributors have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.2.3.3 and a levy (indirect contribution).

Table 36. Belgium (FR) - Main features of the levies on distributors

Feature	Description
Legal basis of the levy	Coordinated Act on Audiovisual Media Services.
Criteria used to determine the levy	Either EUR 2.57 (amount for 2018) per subscriber in the previous year or 2.5% of the gross receipts for the previous year (without VAT and copyright fees) related to the users’ payment for the AVMS offered by the distributor.
Mandatory or optional obligation	Optional.
Ceiling to the levy imposed	No.
Distinction between genres on which to spend the levy	No.
Authority gathering and controlling the amount due	Authority gathering: film fund (CCA – Centre du cinéma et de l’audiovisuel). Authorities controlling: both film fund (CCA – Centre du cinéma et de l’audiovisuel) and regulatory authority (CSA – Conseil supérieur de l’audiovisuel).
Authority benefiting from the amount due	CCA – Centre du cinéma et de l’audiovisuel.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey



4.2.4.4. Levies on theatres (cinema tickets)

Table 37. Belgium (FR) - Main features of the levies on theatres (cinema tickets)

Feature	Description
Legal basis of the levy	N/A.
Criteria used to determine the levy	N/A.
Distinction between genres on which to spend the levy	N/A.
Authority gathering and controlling the amount due	N/A.
Authority benefiting from the amount due	N/A.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4.5. Levies on the video industry

Table 38. Belgium (FR) - Main features of the levies on the video industry

Feature	Description
Legal basis of the levy	N/A.
Criteria used to determine the levy	N/A.
Distinction between genres on which to spend the levy	N/A.
Authority gathering and controlling the amount due	N/A.
Authority benefiting from the amount due	N/A.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4.6. Other levies

N/A.

4.2.5. Quota obligations

4.2.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works (Article 44 of the Coordinated Act on Audiovisual Media Services).



The following broadcasters are exempt:

- local broadcasters;
- broadcasters that by nature do not air European works (at least 80% of their airtime is not dedicated to European works).
- broadcasters that use languages other than those used in EU member states and which are not intended for the public of EU member states.

The RTBF management contract can fix a higher quota. Under the current management contract, the quota is 55% (Article 19 of the management contract).

Specific quotas also apply to works in the French language: 35% of transmission time for the RTBF and 20% for private broadcasters.

Table 39. Belgium (FR) - Main features of the quota for broadcasters – EU works

Feature	Description
Legal basis of the obligation	Coordinated Act on Audiovisual Media Services. Government order approving the public service media RTBF's management contract.
Level of the quota	50% of the transmission time.
Flexibility in achieving the quota ("where appropriate...")	No.
Distinction between public or private broadcasters	Yes.
Derogations available for certain types of broadcasters	Yes.
Quotas for specific genres	No.
Quotas for national works or works in a national language	Yes.
Quotas for non-national EU works	No.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works created by producers who are independent from broadcasters. This proportion shall include independent works from producers from the French Community (Article 44 of the Coordinated Act on Audiovisual Media Services).

The following broadcasters are exempt:

- local broadcasters;



- broadcasters that by nature do not air European works (at least 80% of their airtime is not dedicated to European works).
- broadcasters that use languages other than those used in the EU member states and which are not intended for the public of EU member states.
- broadcasters whose transmission time consists of at least 80% of their own production.

Table 40. Belgium (FR) - Main features of the quota for broadcasters – independent works

Feature	Description
Legal basis of the obligation	Coordinated Act on Audiovisual Media Services.
Level of the quota	10% of the transmission time.
Flexibility in achieving the quota (“where practicable...”)	No.
Distinction between public or private broadcasters	No.
Derogations available for certain types of broadcasters	Yes.
Quotas for specific genres	No.
Quotas for national works or works in a national language	No.
Quotas for non-national EU works	No.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.5.3. Quotas for non-linear AVMS providers (VOD services)

Table 41. Belgium (FR) - Main features of the quota for VOD services – EU works

Feature	Description
Legal basis of the obligation	N/A.
Level of the quota	N/A.
Flexibility in achieving the quota (“where practicable...”)	N/A.
Distinction between public or private VOD services	N/A.
Derogations available for certain types of VOD services	N/A.
Quotas for specific genres	N/A.
Quotas for national works or works in a national language	N/A.



Quotas for non-national EU works	N/A.
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Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.6. Prominence obligations

VOD services shall promote the European works included in their catalogue, including original works by authors from the French Community, by highlighting, by way of an attractive presentation, the list of available European works.

Table 42. Belgium (FR) - Main features of the prominence obligation for VOD services

Feature	Description
Legal basis of the obligation	Coordinated Act on Audiovisual Media Services (Article 44).
Means of giving prominence imposed	Attractive presentation.
Distinction between public or private VOD services	No.
Derogations available for certain types of VOD services	No.
Prominence to give to specific genres	No.
Prominence to give to national works or works in a national language	No.
Prominence to give to non-national EU works	No.

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.7. Envisaged amendments to the regulatory framework

The possibility, created by the new AVMS Directive, of imposing obligations on foreign AVMS targeting the public of the French Community is expected and could perhaps be implemented in the French Community before the complete transposition of the revised AVMS Directive.

4.2.8. Studies, reports and researches

The yearly reports of the film fund (CCA) provide useful date on issues related to the present mapping (the last yearly report is available at http://www.audiovisuel.cfwb.be/index.php?id=avm_detail&no_cache=1&tx_ttnews%5Btt_news%5D=2648&tx_ttnews%5BbackPid%5D=6746&cHash=c84f32d9358ec4891981ec77447e7536)



The regulatory authority has produced several recommendations and evaluations on the issue of the promotion of European works on VOD (available at <http://csa.be/breves/622>), as well as a contribution to a publication of the European Audiovisual Observatory (Iris special “*Video on Demand and the Promotion of European Works*”, available at <https://rm.coe.int/1680783dc7>).

4.2.9. Applicable regulatory framework

- Primary legislation:
 - In French – Décret coordonné sur les services de médias audiovisuels (Coordinated Act on Audiovisual Media Services): http://www.galilex.cfwb.be/document/pdf/34341_017.pdf (coordinated)
 - In French – Décret du 14 juillet 1997 portant statut de la Radio-Télévision belge de la Communauté française – RTBF (Act on the RTBF): http://www.galilex.cfwb.be/document/pdf/20355_004.pdf (coordinated)
- Secondary legislation:
 - In French – Arrêté du Gouvernement de la Communauté française portant approbation du quatrième contrat de gestion de la Radio-Télévision belge de la Communauté française pour les années 2013 à 2017 incluses (Government order approving the management contract of the public service media RTBF): http://www.galilex.cfwb.be/document/pdf/38527_002.pdf (coordinated)
 - In French – Arrêté du Gouvernement de la Communauté française fixant les modalités de versement de la contribution des éditeurs de services de radiodiffusion télévisuelle au Centre du cinéma et de l'audiovisuel (Government order approving the method for the direct contribution of AVMS providers to the CCA film fund): http://www.galilex.cfwb.be/document/pdf/29309_000.pdf
 - In French – Arrêté du Gouvernement de la Communauté française fixant les modalités de la contribution des éditeurs de services de radiodiffusion télévisuelle à la production d'œuvres audiovisuelles sous forme de coproduction ou de pré-achat (Government order approving the method for the indirect contribution of AVMS providers to film funding): http://www.galilex.cfwb.be/document/pdf/33617_000.pdf
 - In French – Arrêté du Gouvernement de la Communauté française fixant les modalités de la contribution des distributeurs de services de radiodiffusion télévisuelle à la production d'œuvres audiovisuelles sous forme de coproduction ou de pré-achat (Government order approving the method for the indirect contribution of distributors to film funding): http://www.galilex.cfwb.be/document/pdf/33616_000.pdf



4.2.10. Data compilation

This factsheet was produced based on data compiled by Thibaut Mulatin, Directeur de la direction des Médias et de l'Aide à la presse, Service général de l'Audiovisuel et des Médias, Administration générale de la Culture du Ministère de la Fédération Wallonie-Bruxelles (Communauté française de Belgique).

4.3. BE – Belgium (Flemish speaking Community) – National legal summary⁶

4.3.1. Summary

Table 43. Belgium (NL) - Summary of the existing obligations – by type and player

Obligation	Player	Main feature
Financial investment obligations	Linear AVMS providers	The public service media VRT shall invest a minimum of 15% of its total income (excluding exchange deals, the Brussels Philharmonic and restructuring costs) in external production. This percentage shall evolve from 15% in 2016 to a minimum of 18.25% by 2020.
	Non-linear AVMS providers	An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD providers will have the possibility of choosing between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund. The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy
	Distributors	Distributors shall invest either EUR 1.30 per subscriber (indexed every year since 2015) or a lump sum of EUR 3 000 000 yearly in co-production. This obligation takes the form of co-production projects which are presented to the regulatory authority (VRM) for the purposes of evaluating admissibility and accreditation. The obligation is optional: distributors have the possibility of choosing between the financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund.
Levies	Linear AVMS providers	No obligation.
	Non-linear AVMS providers	An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD services will have the possibility of choosing

⁶ The factsheet on Belgium (Flemish speaking Community) incorporates the feedback received from Koen Salmon (Flanders Audiovisual Fund) during the checking round with the national film funds.



		between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund. The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy
	Distributors	Distributors have the possibility of choosing between the financial investment (direct contribution) described under section 4.3.3.3 and a levy (indirect contribution).
	Theatres	No obligation.
	Video industry	No obligation.
	Other	No obligation.
Promotion	Quotas European works linear AVMS providers	Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works.
	Quotas independent works linear AVMS providers	Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works created by producers who are independent from broadcasters.
	Quotas non-linear AVMS providers	An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an obligation to reserve 30% of the catalogue for European works.
	Prominence non-linear AVMS providers	VOD services, where practicable and by appropriate means, shall promote the production of and access to European works. Such promotion could relate, <i>inter alia</i> , to the financial contribution made by VOD providers to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.2. Definitions

Article 2, paragraph 11, of the Radio and Television Broadcasting Act defines European works as follows:

“Paragraph 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;
- 2) their creation came about under the supervision and actual 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.”

Article 2, paragraph 11, of the Radio and Television Broadcasting Act defines an independent producer as follows:

“Independent producer: the producer:

- a) of whom the legal personality is separate from that of a broadcaster;
- b) who does not own (directly or indirectly) more than 15% of the capital of a Flemish broadcaster;
- c) whose capital is not owned (directly or indirectly) for more than 15% by a company that owns (directly or indirectly) more than 15% of the capital of a Flemish broadcaster.”

**Table 44. Belgium (NL) - Definition of the main concepts in terms of the promotion of EU works**

Concept	Definition
European works	Yes.
Independent producer	Yes.
Prominence	No.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.3. Financial investment obligations

4.3.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

The public service media VRT shall invest a minimum of 15% of its total income (excluding exchange deals, the Brussels Philharmonic and restructuring costs) in external production (defined broadly and includes both AV/radio/digital production, as well as the facilitary sector). This percentage shall evolve from 15% in 2016 to a minimum of 18.25% by 2020, according to the management contract for 2016-2020 (“Beheersovereenkomst”) concluded between the Government and the VRT.

The investment obligation only applies to television production (TV fiction and non-fiction), not to cinema films.

Table 45. Belgium (NL) - Main features of the financial investment scheme for broadcasters

Feature	Description
Legal basis for the investment	Radio and Television Broadcasting Act. VRT management contract for 2016-2020.
Level of investment	15% of the total income (public broadcaster only).
Mandatory, optional or voluntary investment	Mandatory.
Nature of the investment	Pre-acquisition, co-production or production.
Distinction between genres in which to invest	Yes.
Distinction between public or private broadcasters	Yes.
Level of investment in European works	No.
Level of investment in independent works	Yes.
Level of investment in works in a national language	No.
Investment scheme applicable to foreign broadcasters	No.



Other type of investment	No.
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Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD providers will have the possibility of choosing between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund (Article 157 of the Radio and Television Broadcasting Act).

The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy

The obligation will apply to VOD services under the jurisdiction of an EU member state who target the public of the Flemish Community.

Table 46. Belgium (NL) - Main features of the investment scheme for VOD providers

Feature	Description
Legal basis for the investment	Radio and Television Broadcasting Act.
Level of the investment	To be determined.
Mandatory, optional or voluntary investment	Optional.
Nature of the investment	To be determined.
Distinction between genres in which to invest	To be determined.
Distinction between public or private services	Yes.
Level of investment in European works	To be determined.
Level of investment in independent works	To be determined.
Level of investment in works in a national language	To be determined.
Investment scheme applicable to foreign VOD providers	Yes.
Other type of investment	No.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.3.3. Financial investment obligations by distributors

Distributors shall invest either EUR 1.30 per subscriber (indexed every year since 2015) or a yearly lump sum of EUR 3 000 000 in co-production.



This obligation takes the form of co-production projects which are presented to the regulatory authority (VRM) for the purposes of evaluating admissibility and accreditation. The obligation is optional: distributors have the possibility of choosing between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund (Article 184/1 of the Radio and Television Broadcasting Act).

Table 47. Belgium (NL) - Main features of the investment scheme for distributors

Feature	Description
Legal basis for the investment	Radio and Television Broadcasting Act. Decision of the Flemish Government regarding the stimulation regulation for the audiovisual sector.
Level of the investment	Either EUR 1.30 per subscriber or a lump sum of EUR 3 000 000.
Mandatory, optional or voluntary investment	Optional.
Nature of the investment	Co-production.
Distinction between genres in which to invest	No.
Level of investment in European works	No.
Level of investment in independent works	No.
Level of investment in works in a national language	No.
Other type of investment	No.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4. Levies

4.3.4.1. Levies on linear AVMS providers (broadcasters)

Table 48. Belgium (NL) - Main features of the levies on broadcasters

Feature	Description
Legal basis of the levy	N/A.
Criteria used to determine the levy	N/A.
Mandatory or optional obligation	N/A.
Ceiling to the levy imposed	N/A.
Distinction between genres on which to spend the levy	N/A.
Distinction between public and private	N/A.



broadcasters	
Authority gathering and controlling the amount due	N/A.
Authority benefiting from the amount due	N/A.
Levy applicable to foreign broadcasters	N/A.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.2. Levies on non-linear AVMS providers (VOD services)

An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD services will have the possibility of choosing between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund (Article 157 of the Radio and Television Broadcasting Act).

The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy

The obligation will apply to VOD providers under the jurisdiction of an EU member State who target the public of the Flemish Community.

Table 49. Belgium (NL) - Main features of the levies on VOD services

Feature	Description
Legal basis of the levy	Radio and Television Broadcasting Act.
Criteria used to determine the levy	To be determined.
Mandatory or optional obligation	Optional.
Ceiling to the levy imposed	To be determined.
Distinction between genres on which to spend the levy	To be determined.
Distinction between public and private VOD services	Yes.
Authority gathering and controlling the amount due	To be determined.
Authority benefiting from the amount due	Flanders Audiovisual Fund.
Levy applicable to foreign VOD services	Yes.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.3. Levies on distributors

Distributors have the possibility of choosing between the financial investment (direct contribution) described under section 4.3.3.3 and a levy (indirect contribution). (Article 184/1 of the Radio and Television Broadcasting Act).

**Table 50. Belgium (NL) - Main features of the levies on distributors**

Feature	Description
Legal basis of the levy	Radio and Television Broadcasting Act.
Criteria used to determine the levy	Either EUR 1.30 per subscriber or a lump sum of EUR 3 000 000.
Mandatory or optional obligation	Optional.
Ceiling to the levy imposed	No.
Distinction between genres on which to spend the levy	No.
Authority gathering and controlling the amount due	Flemish Regulator for the Media (VRM)
Authority benefiting from the amount due	Flanders Audiovisual Fund.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.4. Levies on theatres (cinema tickets)

Table 51. Belgium (NL) - Main features of the levies on theatres (cinema tickets)

Feature	Description
Legal basis of the levy	N/A.
Criteria used to determine the levy	N/A.
Distinction between genres on which to spend the levy	N/A.
Authority gathering and controlling the amount due	N/A.
Authority benefiting from the amount due	N/A.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.5. Levies on the video industry

Table 52. Belgium (NL) - Main features of the levies on the video industry

Feature	Description
Legal basis of the levy	N/A.
Criteria used to determine the levy	N/A.
Distinction between genres on which to spend the levy	N/A.
Authority gathering and controlling the amount due	N/A.



Authority benefiting from the amount due	N/A.
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Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.6. Other levies

N/A.

4.3.5. Quota obligations

4.3.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works (Article 154 of the Radio and Television Broadcasting Act).

A significant proportion of this majority must be devoted to Dutch-language European productions, but the percentage is not further defined.

Specific additional obligations are imposed on the public service media VRT by its management contract: it shall invest in a minimum of 15 episode documentaries (of which at least 50% shall be author documentaries) and the share of Flemish works shall be of at least 65% of the transmission time during prime time (between 6 p.m. and 11 p.m. on the first channel and 7 p.m. and 11 p.m. on the second channel).

Table 53. Belgium (NL) - Main features of the quota for broadcasters – EU works

Feature	Description
Legal basis of the obligation	Radio and Television Broadcasting Act.
Level of the quota	Larger part of the transmission time.
Flexibility in achieving the quota (“where practicable...”)	No.
Distinction between public or private broadcasters	Yes.
Derogations available for certain types of broadcasters	No.
Quotas for specific genres	Yes.
Quotas for national works or works in a national language	Yes.
Quotas for non-national EU works	No.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey



4.3.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works created by producers who are independent from broadcasters (Article 155 of the Radio and Television Broadcasting Act).

A significant proportion of this majority must be devoted to Dutch-language European productions, but the percentage is not further defined.

Table 54. Belgium (NL) - Main features of the quota for broadcasters – independent works

Feature	Description
Legal basis of the obligation	Radio and Television Broadcasting Act.
Level of the quota	10% of the transmission time.
Flexibility in achieving the quota (“where practicable...”)	No.
Distinction between public or private broadcasters	No.
Derogations available for certain types of broadcasters	No.
Quotas for specific genres	No.
Quotas for national works or works in a national language	Yes.
Quotas for non-national EU works	No.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.5.3. Quotas for non-linear AVMS providers (VOD services)

An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an obligation to reserve 30% of the catalogue for European works (Article 157 of the Radio and Television Broadcasting Act).

VOD services with a low turnover or a small audience and small and micro enterprises are exempt.

Table 55. Belgium (NL) - Main features of the quota for VOD services – EU works

Feature	Description
Legal basis of the obligation	Radio and Television Broadcasting Act.
Level of the quota	30% of the catalogue.
Flexibility in achieving the quota (“where appropriate...”)	No.



Distinction between public or private VOD services	No.
Derogations available for certain types of VOD services	Yes.
Quotas for specific genres	No.
Quotas for national works or works in a national language	No.
Quotas for non-national EU works	No.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.6. Prominence obligations

VOD services shall ensure a prominent place for European works in the programme catalogue (Article 157 of the Radio and Television Broadcasting Act).

A significant part of the means of promotion shall be dedicated to works in the Dutch language.

Table 56. VOD services with a low turnover or a small audience and small and micro enterprises are exempt. Belgium (NL) - Main features of the prominence obligation for VOD services

Feature	Description
Legal basis of the obligation	Radio and Television Broadcasting Act.
Means of giving prominence imposed	No.
Distinction between public or private VOD services	No.
Derogations available for certain types of VOD services	Yes.
Prominence to give to specific genres	No.
Prominence to give to national works or works in a national language	Yes.
Prominence to give to non-national EU works	No.

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.7. Envisaged amendments to the regulatory framework

In order to execute the amendment made to the Radio and Television Act concerning a new obligation and quota for VOD-providers (Article 157), there will be an Implementing



Decision to set out the precise regulatory framework and conditions of this obligation. The Decision is to be expected in the next 6 to 12 months.

4.3.8. Studies, reports and researches

N/A.

4.3.9. Applicable regulatory framework

- Primary legislation:
 - In Dutch – Decreet betreffende Radio-omroep en Televisie van 27 maart 2009 (Radio and Television Broadcasting Act): http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2009032749 and https://www.vlaamseregulatormedia.be/sites/default/files/mediadecreet_27_maart_2009_11.pdf
 - In Dutch – recent amendment to the Radio and Television Broadcasting Act: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2018062913&table_name=wet
 - In English – Radio and Television Broadcasting Act: http://www.vlaamseregulatormedia.be/sites/default/files/act_on_radio_and_television_broadcasting.pdf
- Secondary legislation:
 - In Dutch – Besluit van de Vlaamse Regering van 21 maart 2014 betreffende de stimuleringsregeling voor de audiovisuele sector (Decision of the Flemish Government regarding the stimulation regulation for the audiovisual sector): <http://reflex.raadvst-consetat.be/reflex/pdf/Mbbs/2014/04/03/127185.pdf>
 - In Dutch – Beheersovereenkomst 2016–2020 tussen de Vlaamse Gemeenschap & VRT (VRT Management contract 2016–2020): <https://www.vrt.be/content/dam/vrtbe/over-de-vrt/opdrachten/opdrachten/Beheersovereenkomst%202016-2020.pdf>

4.3.10. Data compilation

This factsheet was produced based on data compiled by An Jacobs, Attorney at Law and Managing Director of the Association of Flemish Independent Film & Television Producers.