



4.2. BE – Belgium (French Community) – National Summary⁴²

4.2.1. Summary

In the French Community of Belgium, access to the market is granted either by the French Community Government or by the regulatory authority (Conseil Supérieur de l'Audiovisuel, hereinafter CSA).⁴³

Three systems are used:

- Licensing, which is applicable only to regional non-profit AVMS, under the competence of the French Community Government. They benefit from a de facto monopoly in terms of local broadcasting in their coverage area: the territory is divided into 12 coverage areas and only one licence is granted in each coverage area. Indeed, the licensing regime is now liberalised for private broadcasters so that any provider could, in theory, declare itself to the CSA in order to create a local AVMS seeking any kind of local audience. However, given the small size of the market, this possibility is theoretical.
- Notification, which is applicable to all other AVMS, under the competence of the CSA.
- Public service, which is applicable to the public service media Radio-télévision belge de la Communauté française (hereinafter RTBF). The missions of the RTBF are prescribed in a specific law, and a management contract between the RTBF and the French Community Government details the scope of its offer and the obligations of both parties. The DTT frequencies necessary to make its services available to the public are granted by the French Community Government.

The compliance of all AVMS providers with the regulatory framework is ensured by the CSA.

It should be highlighted that if a licensing system exists for linear AVMS distributed via DTT, this framework is purely theoretical and has never been implemented.

Table 20. Applicable systems

System	Category
Licensing	Formal licence
Notification	N/A

⁴² The factsheet on the French speaking community of Belgium incorporates the feedback received from members of the *Conseil Supérieur de l'Audiovisuel (CSA)* during the checking round with media regulators. No further remarks were received from the members of the Contact Committee set up by the AVMSD.

⁴³ <http://csa.be/>



Public service

Law & contract

Source: Belgian (French Community) response to European Audiovisual Observatory standardised questionnaire

4.2.2. Functioning of the applicable systems

Pursuant to the Coordinated Act on Audiovisual Media Service,⁴⁴ local AVMS have to be licensed by the French Community Government, upon the advice of the CSA. Although they conduct commercial activities like a “traditional” private AVMS provider, they have to be non-profit organisations. Pursuant to Article 66 of the Act, within a coverage area,⁴⁵ only one licence can be granted by the government, although the reception area can be broader than the coverage area. Also, these non-profit organisations cannot be granted more than one licence. Although, in theory, this procedure could be considered as a beauty contest, in practice, and for the purpose of this mapping, it should be considered as a formal licence: the government has adapted itself to a reality which has been shaped over the years and has always renewed the licence of the existing AVMS in each coverage area, always upon positive (and collective) advice from the CSA.

Licences are granted for nine years. If the licence is not granted, the applicant has the opportunity to lodge an appeal with the Administrative Court⁴⁶ within sixty days following receipt of the decision. It is not a full jurisdiction review: the Administrative Court only deals with the legality of administrative decisions, but not with arguments of opportunity.

All the other AVMS have to be notified to the CSA prior to their launch; the CSA acknowledges receipt of the notification within a month.

The public service media RTBF⁴⁷ is out of the scope of the licensing and notification systems. The RTBF was created by the Act on the RTBF⁴⁸ and a contract with the government details the scope of its offer and the obligations of both parties.⁴⁹ The DTT frequencies necessary to make its services available to the public are granted by the French Community Government. In practice, the RTBF is the only AVMS provider to be distributed via DTT and has therefore a de facto monopoly on this platform (operated also by the RTBF), which represents less than 1% of the various reception modes and is consequently not attractive and affordable for other AVMS providers.

⁴⁴ <http://www.csa.be/documents/1440> (in French).

⁴⁵ The Act defines the coverage area as “*the geographical space in which the local television fulfils its mission*” (Article 66). The coverage differs from the reception area, since some programmes of these AVMS are available worldwide via the Internet, and some of them are also distributed beyond their coverage area via cable.

⁴⁶ <http://www.raadvst-consetat.be/?page=index&lang=fr>.

⁴⁷ <https://www.rtf.be/>.

⁴⁸ <http://www.csa.be/documents/2474>.

⁴⁹ The current management contract, covering the years 2013-2017, is available (in French) at <http://www.csa.be/documents/1703> It has exceptionally been extended for one more year.

**Table 21. Functioning of the applicable systems**

System	Category	Authority	Description of the procedure
Licensing	Formal licence	Government	Application to send to the Government, who decides based on formal criteria mentioned in Article 72 of the Act and upon the advice of the CSA
Notification	N/A	CSA	Notification to send prior to the launch of the service to the CSA, who acknowledges its receipt within a month
Public service	Law & contract	Parliament & Government	The public service media RTBF was created by law and a contract with the Government details the scope of its offer and the obligations of both parties

Source: Belgian (French Community) response to European Audiovisual Observatory standardised questionnaire

4.2.3. Application to public audiovisual media service providers

The missions of the RTBF are prescribed in the Act on the RTBF. The public service media already existed before 1997, having been previously created by a federal law in 1930 (under the name Institut National de Radiodiffusion – INR) and then by another federal law in 1960 (under the name Radio Télévision Belge - RTBF) before being split between the Communities in 1997.

There is no limited term to the activities of the RTBF.

In application of this law, a management contract of three to six years between the RTBF and the government details the scope of its offer, its obligations in terms of programming and management, and fixes the amount of the yearly subvention it receives. The DTT frequencies necessary to make its services available to the public are granted by the government. The latest contract covers the years 2013-2017.



Table 22. Access to market by public service providers

Service	Category	Authority
<i>Linear</i>		
<i>Via DTT</i>	Law & contract	Parliament & Government
<i>Via cable</i>	Law & contract	Parliament & Government
<i>Via IPTV</i>	Law & contract	Parliament & Government
<i>Via satellite</i>	Law & contract	Parliament & Government
<i>Via OTT</i>	Law & contract	Parliament & Government
<i>Non-linear</i>		
<i>Via DTT</i>	Law & contract	Parliament & Government
<i>Via cable</i>	Law & contract	Parliament & Government
<i>Via IPTV</i>	Law & contract	Parliament & Government
<i>Via satellite</i>	Law & contract	Parliament & Government
<i>Via OTT</i>	Law & contract	Parliament & Government

Source: Belgian (French Community) response to European Audiovisual Observatory standardised questionnaire

4.2.4. Application to private (commercial) audiovisual media service providers

All AVMS have to be notified to the CSA prior to their launch. The notification shall include various information such as the name of the AVMS and of the AVMS provider; the statutes; the addresses of the head office and of the operational office; data about the shareholders if relevant; a financial plan for the next three years, including information about copyright agreements; a description of the service, including provisions for information programmes if relevant; the date of the launch of the service; and information about the AVMS distributors supposed to distribute the service or any other form of commercialisation of the service if the AVMS provider is its own distributor.

Proof of receipt is delivered by the CSA within a month. Copies of the notification and of the proof of receipt are sent by the CSA to the government and the Secretary General of the Ministry within eight days.

There is no deadline imposed on an AVMS provider for the effective provision of its service.

Table 23. Access to market by private service providers

Service	Category	Authority
<i>Linear</i>		
<i>Via DTT</i>	Notification	CSA



<i>Via cable</i>	Notification	CSA
<i>Via IPTV</i>	Notification	CSA
<i>Via satellite</i>	Notification	CSA
<i>Via OTT</i>	Notification	CSA
Non-linear		
<i>Via DTT</i>	Notification	CSA
<i>Via cable</i>	Notification	CSA
<i>Via IPTV</i>	Notification	CSA
<i>Via satellite</i>	Notification	CSA
<i>Via OTT</i>	Notification	CSA

Source: Belgian (French Community) response to European Audiovisual Observatory standardised questionnaire

4.2.5. Application to regional/local audiovisual media service providers

Pursuant to Article 72 of the Coordinated Act on Audiovisual Media Services and to the decree adopted by the government in application of this article on the ways and means of licensing of local televisions,⁵⁰ applicants have to submit to the French Community Government and to the Secretary General of the Ministry an application containing all the relevant data such as the name of the service; the statutes; the address; the composition of the board and other organs of the AVMS provider; a financial plan for the next three years; a description of the service; an employment plan; the technical transmission conditions; the service zone; and a commitment to respect the regulations adopted by the Advisory College of the CSA.

Local AVMS providers have to be non-profit organisations, that is, be registered either as an association without lucrative purpose (*association sans but lucratif*) or as a company with a social goal (*société à finalité sociale*). They may not be controlled by another AVMS provider, nor by an advertising company, a holding company or an AVMS distributor.

The criteria on which the government decides to grant a licence to one applicant or another are not explicitly mentioned in the law, but it is understood that the government will always grant the licence providing that the legal conditions are fulfilled and, most of all, that no other local AVMS is already licensed for the same coverage zone, as there can be only one local AVMS by coverage zone.

The licence covers all the services distributed by the local AVMS provider, be they linear or non-linear.

⁵⁰ <http://www.csa.be/documents/518>.



The deadline obliging the government to respond to an application is five months after it has requested the opinion of the CSA on the application. There is no deadline imposed on an AVMS provider for the effective provision of its service.

In practice, these services have existed for decades and are considered as “functional public services”, rooted in the local cultural and institutional environment, and the licensing procedure is purely formal: no new non-profit organisation would reasonably consider applying for a licence in order to replace an existing local broadcaster.

Table 24. Access to market by regional/local service providers

Service	Category	Authority
<i>Linear</i>		
<i>Via DTT</i>	Formal licence	Government
<i>Via cable</i>	Formal licence	Government
<i>Via IPTV</i>	Formal licence	Government
<i>Via satellite</i>	Formal licence	Government
<i>Via OTT</i>	Formal licence	Government
<i>Non-linear</i>		
<i>Via DTT</i>	Formal licence	Government
<i>Via cable</i>	Formal licence	Government
<i>Via IPTV</i>	Formal licence	Government
<i>Via satellite</i>	Formal licence	Government
<i>Via OTT</i>	Formal licence	Government

Source: Belgian (French Community) response to European Audiovisual Observatory standardised questionnaire

4.2.6. Application to community (non-profit) audiovisual media service providers

The same procedure as the one described in section 4.2.4 above is applicable.

4.2.7. Licence fee

No licence fee is required.



4.2.8. Media ownership and concentration

The transparency of ownership of all AVMS providers is ensured via the obligation to provide the relevant data when applying for a licence or notifying.

Media concentration cannot be taken into consideration in the licensing process since only local televisions are licensed and are granted a monopoly in their coverage zone. In terms of licensing, the rules on media concentration can, in practice, only apply to the radio sector. Pursuant to Article 7 of the Coordinated Act on Audiovisual Media Service, it is the CSA's mission to ensure that a service provider (or a group of service providers directly or indirectly controlled by a common shareholder) holding a significant position does not harm the freedom of the public to access a pluralist AVMS offer. A pluralistic offer should be understood to mean a supply of media through a plurality of independent and autonomous media reflecting the broadest possible diversity of opinions and ideas. A significant position is considered as reached when a physical or moral person, holding more than 24% of the capital of a television service provider, holds, directly or indirectly, more than 24% of the capital of another television service provider or when the cumulative audience of several television service providers reaches 20% of the total audience of television services and that these television service providers are held directly or indirectly, mostly or in a minority, by the same person or entity. When the CSA notes the exercise of a significant position, it engages a procedure to evaluate the pluralism of the offer; if, at the end of its assessment, the CSA finds an infringement of the freedom of the public to access a pluralistic offer, it engages in a process of conciliation with the legal person(s) concerned in order to agree on measures which would allow the pluralism of the offer to be respected. If the conciliation does not lead to the conclusion of a protocol of agreement within a period of six months or if this protocol is not respected, the CSA can take any of the administrative sanctions mentioned in the next section.

Table 25. Main issues regarding media ownership and concentration

Issue	Description
Transparency of ownership issues considered during the licensing or notification process	Relevant data has to be provided when applying for a licence or notifying
Media concentration issues considered during the licensing process	No

Source: Belgian (French Community) response to European Audiovisual Observatory standardised questionnaire

4.2.9. Management of the licence and notification

Licences are granted for nine years and notifications have no limited term.

In 2011, considering that all previous licences granted to the 12 local public AVMS had not been explicitly renewed since they were originally granted (from the 1970s to the 1990s), the government asked all local AVMS providers to apply for a new licence, it



asked the CSA for a collective opinion, and eventually granted 12 new licences, valid from 1 January 2013 (and therefore retroactive) and for nine years.

The suspension and revocation of a licence are among the administrative sanctions that can be decided by the CSA. The essence of the administrative sanction system is its gradual character, depending on the gravity of the infringement. The possible sanctions are the following:

- warning;
- publication on the AVMS and/or in the written press and at the expense of the AVMS provider of a statement by the CSA explaining the infringement;
- suspension of the programme;
- withdrawal of the programme;
- suspension of the licence for a maximum of six months;
- suspension of the distribution of the service;
- an administrative fine of at least EUR 250 and of a maximum of 3% of the AVMS annual turnover; provider (a maximum of 5 % in case of recidivism of the infringement within 5 years);
- revocation of the licence.

Except for the suspension and revocation of a licence, all the other sanctions are also applicable to non-linear AVMS.

Notified AVMS providers shall notify to the CSA, prior to their occurrence, any changes in the information provided in the notification.

In case of modifications to the service with a view to targeting different audiences, decisions would be made by the CSA on a case-by-case basis, taking into account all relevant circumstances.

Table 26. Main issues regarding the management of the licence

Issue	Description
Duration	9 years
Procedure to renew	Same as licensing
Procedure to suspend	Same as for other sanctions
Procedure to revoke	Same as for other sanctions
Procedure in case of termination of the provision of the service	No
Procedure in case of modifications in the licence conditions	Prior notification to the CSA (for notifications)
Procedure in case of modifications to the service with a view to targeting different audiences	No (decisions taken on a case-by-case basis)

Source: Belgian (French Community) response to European Audiovisual Observatory standardised questionnaire



4.2.10. Future amendments to the regulatory framework

N/A.

4.2.11. Video-sharing platforms

N/A.

4.2.12. Applicable regulatory framework

- Primary legislation:
 - In French - Décret coordonné sur les services de médias audiovisuels (Coordinated Act on Audiovisual Media Services): <http://www.csa.be/documents/1440>
 - 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.csa.be/documents/2474>
- Secondary legislation:
 - In French - Arrêté du Gouvernement de la Communauté française fixant les modalités d’octroi des autorisations aux télévisions locales (Government Decree on the ways and means of licensing of local televisions): <http://www.csa.be/documents/518>

4.2.13. Data compilation

This factsheet was produced based on data compiled by François Jongen, Professor, Faculty of Law, Université Catholique de Louvain.



4.3. BE – Belgium (Flemish Community) – National Summary⁵¹

4.3.1. Summary

In the Flemish Community of Belgium, access to the market is granted either by the Flemish Government or by the regulatory authority (Flemish Regulatory Authority for the Media - Vlaamse Regulator voor de Media, hereinafter VRM).⁵² In certain instances, access to the market is not subject to any requirements.

Four systems are used:

- Licensing, which is applicable only to regional AVMS providers, under the competence of the Flemish Government and under the form of a formal licence. They benefit from a monopoly in terms of local broadcasting in their coverage area: the territory is divided into 11 service areas by the Flemish Government and only one licence is granted in each service area.
- Notification, which is applicable to private (commercial) AVMS providers, under the competence of the VRM.
- Open system, which is applicable to community (non-profit) AVMS providers.
- Public service, which is applicable to the public service media Vlaamse Radio-en Televisieomroeporganisatie (hereinafter VRT).⁵³ The missions of the VRT are prescribed in law, and a management contract between the VRT and the Flemish Government details the scope of its offer and the obligations of both parties. The DTT frequencies necessary to make its services available to the public are granted by the Flemish Government.

The compliance of all AVMS providers with the regulatory framework is ensured by the VRM.

Table 27. Applicable systems

System	Category
Licensing	Formal licence
Notification	N/A
Public service	Law & contract
Open system	N/A

⁵¹ The factsheet on the Flemish speaking community of Belgium incorporates the feedback received from members of the *Agentschap Vlaamse Regulator voor de Media* (Flemish Regulatory Authority for the Media - VRM) during the checking round with media regulators. No further remarks were received from the members of the Contact Committee set up by the AVMSD.

⁵² <http://www.vlaamseregulatormedia.be/nl>

⁵³ <https://www.vrt.be/nl/>



Source: Belgian (Flemish Community) response to European Audiovisual Observatory standardised questionnaire

4.3.2. Functioning of the applicable systems

Pursuant to the Radio and Television Broadcasting Act,⁵⁴ regional AVMS have to be licensed by the Flemish Government. Although they conduct commercial activities like a “traditional” private AVMS provider, they have to be non-profit organisations. Within a service area⁵⁵, only one licence can be granted by the government. Also, these organisations cannot be granted more than one licence. Although, in theory, this procedure could be considered as a beauty contest, in practice, and for the purpose of this mapping, it should be considered as a formal licence: the government has never launched a competition and has always renewed the licence of the existing AVMS in each service area.

Licences are granted for nine years. If the licence is not granted, the applicant has the opportunity to lodge an appeal with the Administrative Court⁵⁶ within sixty days following receipt of the decision. It is not a full jurisdiction review: the Administrative Court only deals with the legality of administrative decisions, not with arguments of opportunity.

Commercial AVMS have to be notified to the VRM.

Community AVMS benefit from fully open access to the market, with no obligation of any kind to signal their existence to the competent authority. No procedure exists in order to establish an inventory of existing services.

The public service media VRT is out of the scope of the licensing and notification systems. The VRT was created by the Radio and Television Broadcasting Act, and a five-year management contract with the government details the scope of its offer and the obligations of both parties.⁵⁷ The DTT frequencies necessary to make its services available to the public are granted by the Flemish Government. In practice, as in the French Community, DTT represents less than 1% of the various reception modes (according to the latest data of the European Audiovisual Observatory) and is consequently not attractive and affordable for other AVMS providers. Only public AVMS are distributed on this platform by the network operator Norkring.

⁵⁴http://www.vlaamseregulatormedia.be/sites/default/files/geconsolideerde_tekst_van_het_mediadecreet_van_27_maart_2009_-_bijgewerkt_tot_3_februari_2017.pdf (in Dutch)

http://www.vlaamseregulatormedia.be/sites/default/files/act_on_radio_and_television_broadcasting.pdf (in English).

⁵⁵ The Act does not provide a definition of a service area. The service area should not be understood as being the reception area (some of these AVMS programmes are available worldwide via the Internet), but as the area in which they fulfil their mission. The Act states that « *at least eighty percent of the broadcasting programme of the regional television broadcaster is related to one's own regional service area* » (Article 168 section 8).

⁵⁶ <http://www.raadvst-consetat.be/?page=index&lang=nl>

⁵⁷ The current management contract, covering the years 2016-2020, is available (in Dutch) at <https://www.vrt.be/content/dam/vrtbe/over-de-vrt/opdrachten/opdrachten/Beheersovereenkomst%202016-2020.pdf>.



Table 28. Functioning of the applicable systems

System	Category	Authority	Description of the procedure
Licensing	Formal licence	Government	Application to send to the Government, who decides based on criteria mentioned in Article 169 of the Act
Notification	N/A	VRM	Notification to send prior to the launch of the service to the VRM, who acknowledges its receipt
Public service	Law & contract	Parliament & Government	The public service media VRT was created by the Act and a contract with the Government details the scope of its offer and the obligations of both parties
Open system	N/A	None	None

Source: Belgian (Flemish Community) response to European Audiovisual Observatory standardised questionnaire

4.3.3. Application to public audiovisual media service providers

The missions of the VRT are prescribed in the Radio and Television Broadcasting Act.

There is no limited term to the activities of the VRT.

In application of this Act, a five-year management contract between the VRT and the government details the scope of its offer, its obligations in terms of programming and management, and fixes the amount of the yearly subvention it receives. The DTT frequencies necessary to make its services available to the public are granted by the Flemish Government. The latest contract covers the years 2016-2020.

Table 29. Access to market by public service providers

Service	Category	Authority
<i>Linear</i>		
<i>Via DTT</i>	Law & contract	Parliament & Government
<i>Via cable</i>	Law & contract	Parliament & Government
<i>Via IPTV</i>	Law & contract	Parliament & Government
<i>Via satellite</i>	Law & contract	Parliament & Government
<i>Via OTT</i>	Law & contract	Parliament & Government



<i>Non-linear</i>		
<i>Via DTT</i>	Law & contract	Parliament & Government
<i>Via cable</i>	Law & contract	Parliament & Government
<i>Via IPTV</i>	Law & contract	Parliament & Government
<i>Via satellite</i>	Law & contract	Parliament & Government
<i>Via OTT</i>	Law & contract	Parliament & Government

Source: Belgian (Flemish Community) response to European Audiovisual Observatory standardised questionnaire

4.3.4. Application to private (commercial) audiovisual media service providers

Private AVMS have to be notified to the VRM at least 14 days before they start to be distributed. The notification shall 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*” (Article 161 of the Radio and Television Broadcasting Act).

Pursuant to Article 163 of the Act, anyone can offer private linear AVMS insofar as:

- 1° the provider of linear television services has been established as a legal entity under private law and falls under the competence of the Flemish Community;*
- 2° the purpose of the legal entity under private law consists in offering linear television services, excluding the offer of linear broadcasting services as referred to in Article 165.*
- 3° the private broadcaster is not linked to a political party;*
- 4° the broadcasts are the editorial responsibility of the editorial staff;*
- 5° the private broadcaster broadcasts in Dutch, except in case of derogations to this rule, to be granted by the Flemish Government.”*

Pursuant to Article 174 of the Act, anyone can offer private non-linear AVMS insofar as:

- 1° the entity offering such services has been established as a legal entity under private law and falls under the competence of the Flemish Community;*
- 2° the object of the legal entity under private law is to provide non-linear television services in a digital manner.”*

Non-linear AVMS providers shall broadcast (at least) in Dutch, except in case of derogation granted by the Flemish Government.

There is no deadline obliging the VRM to acknowledge receipt of a notification and no deadline imposed on an AVMS provider for the effective provision of its service.

**Table 30. Access to market by private service providers**

Service	Category	Authority
<i>Linear</i>		
<i>Via DTT</i>	Notification	VRM
<i>Via cable</i>	Notification	VRM
<i>Via IPTV</i>	Notification	VRM
<i>Via satellite</i>	Notification	VRM
<i>Via OTT</i>	Notification	VRM
<i>Non-linear</i>		
<i>Via DTT</i>	Notification	VRM
<i>Via cable</i>	Notification	VRM
<i>Via IPTV</i>	Notification	VRM
<i>Via satellite</i>	Notification	VRM
<i>Via OTT</i>	Notification	VRM

Source: Belgian (Flemish Community) response to European Audiovisual Observatory standardised questionnaire

4.3.5. Application to regional/local audiovisual media service providers

Regional AVMS have to be licensed by the Flemish Government prior to the launch of the activity. The application shall contain at least the following information: “*all the data which can serve to determine whether the Flemish Community is competent for the broadcaster concerned, the articles of association, the financial structure, the programmes provided and the broadcasting schedule*” (Article 167 of the Radio and TV Broadcasting Act).

Pursuant to 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 may not serve as the director of another association, which owns or manages a regional television broadcaster;*
- 2° the registered 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 of the association is exclusively restricted to producing regional programmes;*
- 4° one association does not provide more than one regional broadcasting programme;*
- 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 programmes. In their own programmes, the regional broadcasters aim to develop the potential for expression of the local population, and encourage its participation. Own programmes should be interpreted as programmes or programme 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;

8° at least eighty percent of the broadcasting programme of the regional television broadcaster is related to one's own regional service area;

9° an editor-in-chief is responsible for the news programmes. The editorial independence is guaranteed and determined in an editorial statute. The regional television broadcaster can make use of cooperative ventures for its news programmes. The conditions for this are determined by the Flemish Government;

10° every year, the regional television broadcasters will submit an operational report and a financial report.”

Most of these criteria are formal and it is understood that the government will always grant the licence providing that legal conditions are fulfilled and, most of all, that no other local AVMS is already licensed for the same coverage zone, as there can be only one local AVMS by service area.

The licence covers all the services distributed by the local AVMS provider (linear or non-linear).

There is no deadline obliging the Flemish Government to respond to an application and no deadline imposed on an AVMS provider for the effective provision of its service.

In practice, existing licences have always been extended, and no other applicants have ever submitted a request for a licence as a local television broadcaster at the time that a licence had expired. Moreover, Article 34 of the Decision of the Flemish Government on the Procedure before the VRM⁵⁸ states that requests for a licence can only be submitted for service areas that are not serviced and following a call for submissions published by the government. If there is no call, it is not possible to request a licence. In the hypothetical case whereby several requests are submitted for a non-serviced area, the Flemish Government would need to evaluate which request fulfils the requirements in the best way, but this has never happened in practice.

Table 31. Access to market by regional/local service providers

Service	Category	Authority
<i>Linear</i>		
<i>Via DTT</i>	Formal licence	Government
<i>Via cable</i>	Formal licence	Government

⁵⁸ <http://www.vlaamseregulatormedia.be/sites/default/files/procedurebesluit.pdf>.



<i>Via IPTV</i>	Formal licence	Government
<i>Via satellite</i>	Formal licence	Government
<i>Via OTT</i>	Formal licence	Government
Non-linear		
<i>Via DTT</i>	Formal licence	Government
<i>Via cable</i>	Formal licence	Government
<i>Via IPTV</i>	Formal licence	Government
<i>Via satellite</i>	Formal licence	Government
<i>Via OTT</i>	Formal licence	Government

Source: Belgian (Flemish Community) response to European Audiovisual Observatory standardised questionnaire

4.3.6. Application to community (non-profit) audiovisual media service providers

Pursuant to Article 2 25° and 26° of the Radio and Television Broadcasting Act:

- “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 service means a) a service as mentioned in Articles 49 and 50 of the Treaty establishing the European Community, which falls under the editorial responsibility of the service provider, its main object being to supply audiovisual or audio programmes to the general public, with the aim of providing information, entertainment, education or of a cultural nature, by means of electronic communication networks; and/or b) commercial communication.”

It is therefore considered in the Flemish Community of Belgium that non-commercial broadcasting activities cannot be classified as broadcasting services and therefore are not subject to a licensing or a notification system. The provisions of the Act that are applicable to broadcasting activities in general are Articles 37 and 38 of the Act according to which:

- “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.
- “Broadcasting activities may not incite hate and violence.”

Table 32. Access to market by community service providers

Service	Category	Authority
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Linear		
<i>Via DTT</i>	Open system	None
<i>Via cable</i>	Open system	None
<i>Via IPTV</i>	Open system	None
<i>Via satellite</i>	Open system	None
<i>Via OTT</i>	Open system	None
Non-linear		
<i>Via DTT</i>	Open system	None
<i>Via cable</i>	Open system	None
<i>Via IPTV</i>	Open system	None
<i>Via satellite</i>	Open system	None
<i>Via OTT</i>	Open system	None

Source: Belgian (Flemish Community) response to European Audiovisual Observatory standardised questionnaire

4.3.7. Licence fee

No licence fee is required.

4.3.8. Media ownership and concentration

The transparency of ownership of all AVMS providers is ensured via the obligation to provide the relevant data when applying for a licence or notifying.

Table 33. Main issues regarding media ownership and concentration

Issue	Description
Transparency of ownership issues considered during the licensing or notification process	Relevant data has to be provided when applying for a licence or notifying
Media concentration issues considered during the licensing process	No

Source: Belgian (Flemish Community) response to European Audiovisual Observatory standardised questionnaire

4.3.9. Management of the licence and notification

Licences are granted for nine years and notifications have no limited term.

A request for the renewal of the licence must be submitted at the latest six months before the end of the licence term.



If the government does not want to renew the licence, it has to notify its decision at least one year before the end of the licence term.

The suspension and revocation of a licence are among the administrative sanctions that can be decided by the VRM. The VRM has to follow a gradual approach, depending on the gravity of the infringement. The possible sanctions for infringements of the provisions of the Radio and Television Broadcasting Act are the following:

- warning with the order to put an end to the violation;
- order to broadcast the decision at the time and in the way that was instructed by the VRM, at the expense of the AVMS provider;
- mandatory publication of the decision in dailies and weeklies, at the expense of the AVMS provider;
- administrative fine of up to EUR 125 000;
- suspension of the licence;
- revocation of the licence;
- suspension of transmission.

The procedure to follow by the VRM is the same as for other sanctions, except that Article 170 section 2 of the Act adds that, for a regional AVMS, the VRM can suspend or revoke the licence for a maximum of three months any time its obligations are not observed. If the local AVMS provider so requests, the Flemish Government can suspend the execution of the decision for a maximum of three months in order to give the AVMS provider concerned the opportunity to comply with its obligations. After this period, the case is placed on the VRM's agenda once again if the grounds for it are still present.

Table 34. Main issues regarding the management of the licence

Issue	Description
Duration	9 years
Procedure to renew	At the request of the licensee
Procedure to suspend	Same as for other sanctions, except for the appeal possibility of Article 170 section 2
Procedure to revoke	Same as for other sanctions, except for the appeal possibility of Article 170 section 2
Procedure in case of termination of the provision of the service	Notification to the VRM
Procedure in case of modifications in the licence conditions	Notification to the relevant authority (Flemish Government for licensed service providers and VRM for notified service providers)
Procedure in case of modifications to the service with a view to targeting different audiences	No

Source: Belgian (Flemish Community) response to European Audiovisual Observatory standardised questionnaire



4.3.10. Future amendments to the regulatory framework

N/A.

4.3.11. Video-sharing platforms

N/A.

4.3.12. Applicable regulatory framework

- Primary legislation:
 - In Dutch - Decreet betreffende Radio-omroep en Televisie van 27 maart 2009 (Radio and Television Broadcasting Act): http://www.vlaamseregulatormedia.be/sites/default/files/geconsolideerde_tekst_van_het_mediadecreet_van_27_maart_2009_-_bijgewerkt_tot_3_februari_2017.pdf
 - In English - Radio and Television Broadcasting Act (non-official translation): http://www.vlaamseregulatormedia.be/sites/default/files/act_on_radio_and_television_broadcasting.pdf
- Secondary legislation:

In Dutch - Besluit van de Vlaamse Regering van 30 juni 2006 betreffende de procedure voor de Vlaamse Regulator voor de Media: <http://www.vlaamseregulatormedia.be/sites/default/files/procedurebesluit.pdf>, amended by :

- Besluit van de Vlaamse Regering van 8 juni 2007: http://www.vlaamseregulatormedia.be/sites/default/files/besluit_vlaamse_regering_8_juni_2007.pdf
- Besluit van de Vlaamse Regering van 29 januari 2010: http://www.vlaamseregulatormedia.be/sites/default/files/29_januari_2010_zendvergunningen.pdf
- Besluit van de Vlaamse Regering van 21 april 2017: http://www.vlaamseregulatormedia.be/sites/default/files/bs_21-04-2017-bvr_houdende_diverse_uitvoeringsbepalingen_over_radio-omroep_en_houdende_wijziging_van_dirverse_besluiten_over_radio-omroep_.pdf



4.3.13. Data compilation

This factsheet was produced based on data compiled by Eva Lievens, Assistant Professor of Law & Technology, Faculty of Law, Ghent University.