[BE] Investment obligation for streaming and video-sharing platforms

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At the end of February, the Flemish Parliament approved a proposal for a decree by Flemish Minister of Media Benjamin Dalle. This decree aims to revise Flemish regulations on radio broadcasting and television, to strengthen and reinforce the Flemish audiovisual sector. It achieves this goal by requiring financial contributions from streaming and video-sharing platforms to produce Flemish audiovisual content. A key focus is updating and aligning the existing investment obligations applicable to service distributors and private broadcasters offering non-linear television services. Moreover, the decree extends these obligations to providers of video sharing platform services. The regulation thereby targets media players falling under the competence of the Flemish community or offering services in the Dutch-speaking region or the bilingual Brussels-Capital region.

The idea is that all media players generating revenues in Flanders based on the exploitation and distribution of audiovisual content should also contribute to the financing of local productions. By fostering the growth of the local audiovisual sector, the aim is to ensure the quality, diversity, and pluralism of the media landscape. This would allow high-quality local content to thrive amid the influx of foreign programs. As such, additional financial support to the Flemish audiovisual sector is introduced, providing much-needed relief after a trend of declining budgets, more difficult financing, smaller profit margins and consequently, a possible decline in the quality of Flemish content, all due to various factors.

As previously noted, the decree primarily builds upon existing obligations within the Flemish territory for service distributors such as Telenet and Proximus and providers of non-linear services such as Netflix and Streamz. Notably, there is a significant increase in their contribution rate. Firstly, a service distributor (*dienstenverdeler*) which provides one or more broadcasting services (and thus not limited to their own) to the public can now opt for a fixed amount of EUR seven million or the payment of EUR 3 per subscriber in the Dutch language area. Secondly, when it concerns a private broadcaster offering non-linear television services (*particuliere omroeporganisaties die niet-lineaire televisiediensten aanbieden*), they can opt for a payment of a fixed amount of EUR seven million , or the payment of an amount equal to between two and four percent of their turnover, depending on the size of this turnover. The choice is between directly contributing financially to the production of audiovisual works or making an

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equivalent financial contribution to the Flemish Audiovisual Fund (VAF).

Moreover, the obligation has now been extended to video sharing platforms such as TikTok and YouTube. Thus, providers of video sharing platform services (*aanbieders van videoplatformdiensten*) are now subject to an annual fee of either a fixed amount of EUR seven million, or the payment of an amount equal to between two and four percent of their turnover, depending on the size of this turnover.

The decree also contains several additional changes and clarifications, particularly regarding penalties for noncompliance, the determination of turnover relevant to determining financial contributions, reporting requirements to VAF and the exclusion thresholds applicable to investment obligations. The decree will take effect on 1 January 2025.

Flemish minister Dalle also expressed his intention to put this initiative on the European agenda, possibly encouraging other EU member states to consider similar obligations.

Memorie van Toelichting, Parl. St., Vl. Parl., 1933 (2023-2024) – Nr. 1

https://docs.vlaamsparlement.be/pfile?id=2022919

Explanatory Memorandum, Parl. St., Vl. Parl., 1933 (2023-2024) - No. 1

Tekst aangenomen door de plenaire vergadering van het ontwerp van decreet tot wijziging van het decreet van 27 maart 2009 betreffende radio-omroep en televisie, wat betreft het stimuleren van de audiovisuele sector door financiële bijdragen aan de productie van audiovisuele werken, Parl. St., Vl. Parl., 1933 (2023-2024) – Nr. 7

https://docs.vlaamsparlement.be/pfile?id=2039979

Text adopted by the plenary of the draft decree amending the Decree of 27 March 2009 on radio broadcasting and television, as regards stimulating the audiovisual sector through financial contributions to the production of audiovisual works, Parl. St., Vl. Parl., 1933 (2023-2024) - No. 7

Recours en annulation totale ou partielle du décret de la Communauté flamande du 1er mars 2024 « modifiant le décret du 27 mars 2009 relatif à la radiodiffusion et à la télévision, en ce qui concerne la promotion du secteur audiovisuel par le biais de contributions financières à la production d'oeuvres audiovisuelles »

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https://www.ejustice.just.fgov.be/cgi/article.pl?language=fr&sum_date=2024-10-30&lg_txt=f&pd_search=2024-10-30&s_editie=&numac_search=2024009836&caller=&2024009836=&view_numac=2024009836n

Actions for total or partial annulment of the decree of the Flemish Community of 1 March 2024 "amending the decree of 27 March 2009 on radio and television broadcasting, with regard to the promotion of the audiovisual sector through financial contributions to the production of audiovisual works"

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