[BE] Amendments of the Flemish Broadcasting Decree

IRIS 1998-5:1/14

Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

On 31 March the Flemish Parliament voted some important amendments to the 1995 Decree on radio and television. The revision of this Decree was necessary considering the case law of the Court of Justice of the European Communities (CJEC) on the application of the Television without Frontiers Directive (Case C11/95, CJEC 10 September 1996 and Case C-56/96, CJEC 5 June 1997, see IRIS 1996-10: 3 and IRIS 1997-7: 5) and because of the decision of 26 June 1997 by the European Commission (see IRIS 1997-9: 4) that considered the monopoly of the Flemish commercial broadcasting organisation (VTM) to be an infringement of Art. 90 (1) juncto Art. 52 of the EC-Treaty.

Flemish Broadcasting law no longer organises a second control on TV broadcasters established in other EC Member States and no longer an authorisation of the Flemish government is required for the retransmission of the programmes of EC-broadcasters by the cable networks (in the US referred to as "cable systems") in the Flemish Community. The VTM-monopoly has come to an end, while at the same time it is no longer required that the editors of (Flemish/Netherlands) newspapers and journals have a majority participation in the financial structure of VTM.

The amended Decree also contains some other new provisions, such as a clear ban on political advertising on radio and television (Art. 80, par. 3); rules and restrictions on tele-shopping (Art. 82bis); the deregulation of some sponsoring rules (Art. 87) and of some advertising restrictions for local radio and regional TV broadcasters (Art. 80, par. 1). Some rules on the programming of regional TV and pay-TV have also been changed (art. 19 and 67). Art. 76 of the Decree implements art. 3a of the Television without Frontiers Directive as revised in June 1997 (restrictions on exclusivity rights on the reporting of major events). The so called "5-minutes rule" which forbids advertising 5 minutes before and after children's programmes, is confirmed and the notion "children's programmes" is specified (Art. 2, 11 bis and Art. 82, par. 6). The 5-minutes rule is also applicable to sponsoring (Art. 87, par. 1), while tele-shopping blocks should not be programmed in a 15 minute period of time before or after children's programmes.

The new Decree will enter into force on 31 December 1998 at the latest. The Decree has not yet been published in the official journal (Moniteur belge/Belgisch Staastblad). Meanwhile the Decree of 17 December 1997 on the Flemish media authority (Commissariaat voor de Media) and the Media Council (see IRIS 1998-1:

© European Audiovisual Observatory (Council of Europe) 2026

12 and IRIS 1998-2: 9) is published in the Moniteur of 13 March 1998. The Flemish Commissariaat voor de Media will play an important role in the application of the existing and the new rules on broadcasting in the Flemish Community.

Décret du 31 mars 1998 modifiant le décret de 1995 sur la radio et la télévision

Decree of 31 March 1998 amending the decree on radio and television

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026