[BE] VT4 Finally Established in the Flemish Community

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By its decision of 15 February 2002, the Vlaams Commissariaat voor de Media (Flemish Media Authority) has decided to recognise the SBS-broadcasting station VT4 as a Flemish broadcasting organisation. From 1 March 2002, VT4 will operate under the Flemish Broadcasting Act 1995. VT4's licence from the Independent Television Commission (ITC) in the United Kingdom also ceased to be valid on 1 March 2002.

Until recently, VT4, as a British broadcaster with its programmes targeting the Flemish Community, was operating with an ITC licence in accordance with the UK Broadcasting Act. Since February 1995, the programmes of VT4 have been retransmitted by the Flemish cable networks in compliance with EU law and Directive 89/552/ EEC of 3 October 1989 guaranteeing the freedom of reception and retransmission of television broadcasts from other Member States. The attempt in 1995 by the Flemish Government to prevent the distribution of VT4 failed after judgments by the Raad van State/Conseil d'État (State Council) and the Court of Justice recognising the principles of Directive 89/552/EEC. Under pressure from a decision by the European Commission of 26 June 1997, the Flemish Parliament also abrogated in 1998 the exclusive character of the licence of the only Flemish commercial broadcasting organisation (VMM/VTM). As a result, since 1998 other private broadcasting organisations have also become eligible to obtain a licence issued by the Flemish Media Authority. In the same period, both the Flemish Parliament and the Flemish Media Authority developed the argument that VT4 was in reality to be considered a broadcasting organisation established in the Flemish Community and that VT4 with its British ITC licence was circumventing Flemish broadcasting regulations. VT4 was ordered to seek a Flemish broadcasting licence. Again, however, the State Council and the European Commission overruled this approach and emphasised that the Flemish authorities had no jurisdiction over a broadcaster established in another EU Member State.

It now seems that VT4 has voluntarily opted to change its place of establishment and to organise its head office and editorial decisions within the Flemish Community. The licence SBS5, obtained by virtue of a decision of 19 January 2001, has recently been altered by a new decision of the Flemish Media Authority, changing the SBS5-licence into a licence for VT4 Limited. As a consequence, VT4 now has to operate according to the provisions of the Flemish Broadcasting Act. This means, inter alia, that VT4 has to fulfil the obligation to broadcast at least two news programmes a day and that it may no longer broadcast TV-commercials

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in a period of five minutes before or after children's programmes.

Decision of the Vlaams Commissariaat voor de Media (Flemish Media Authority) of 15 February 2002 (nr. 2002/15), licensing VT4 for a period of nine years as a Flemish broadcasting organisation under article 41, 1° of the Broadcasting Act 1995

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