[BE] Flemish Public Broadcaster Infringes the Right to Short News Reporting Provisions

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On 12 August 2011, the commercial broadcaster VTM filed a complaint with *Vlaamse Regulator voor de Media* (Flemish Media Regulator - VRM), because the public broadcaster VRT offered the sports part of its news programme, including summaries of Jupiler Pro League (the Belgian national football league) on its website, Sporza.be. VRM ruled that this practice infringes Art. 124 para 4 *Mediadecreet* (Flemish Broadcasting Act).

In June 2011, VTM bought the broadcasting rights of the Jupiler Pro League highlights for the 2011-2014 seasons. In order to guarantee the public's right to information, the Flemish Broadcasting Act grants every broadcaster the right to short news reporting. The right to short news reporting ensures that any broadcaster in the EU can broadcast a short news report about events of high interest to the public which are transmitted on an exclusive basis by another broadcaster. This right only applies to providers of linear audiovisual media services and such short news reports can only be included in news programmes and in frequently scheduled current affairs programmes (Art. 120). Such extracts may only be used in on-demand audiovisual media services if the same linear programme is offered on a deferred basis by the same media service provider that previously offered the programme on its linear channel (Art. 124, §4). The *Memorie van Toelichting* (Explanatory Memorandum) clarifies that this restriction is intended to prevent these broadcasters from creating new on-demand business models based on short extracts.

The VRT put forth the argument that it does not violate Art. 124 para 4, as it was not merely offering the short extracts, but news reports that were created under the editorial control of the newsroom. However, in its decision of 24 October 2011, VRM stressed that VRT has violated this Article. On its website, VRT only offers the sports part of its news programme under the (new) name/title 'Jupiler Pro League'. According to the VRM, this is not the identical programme offered by VRT in its linear schedule. As a result, VRT is creating a new business model. Given that it is the broadcaster's first infringement of this Article, the VRM decided not to impose a fine. Instead, the VRM issued a warning.

VMMa t. VRT, Beslissing 2011/030, 24 oktober 2011

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http://www.vlaamseregulatormedia.be/media/17332/beslissing%202011-030.pdf

VMMa v. VRT, Decision 2011/030, 24 October 2011

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