[BE] CSA opinion on “must-carry” rules in French-speaking Belgium

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In accordance with Article 31(1) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (the Universal Service Directive), the Belgian audiovisual regulatory authority (the Conseil supérieur de l’audiovisuel - CSA) recently issued an opinion on the review of “must-carry” obligations in the French-speaking part of Belgium.

Under the directive, these obligations must be reviewed periodically. The CSA’s most recent consolidated review had been conducted in 2014. As part of the latest review, the regulatory body began by summarising the current situation (in part 2 of the opinion). It then conducted an impact analysis in order to revisit the reasons for establishing a “must-carry” system (part 3), before looking at different ways in which it might evolve in the future (part 4). In conclusion, the CSA made a number of practical proposals, addressed to the Belgian public authorities, regarding the future legislative amendments that will be necessary in order to transpose both the new AVMS Directive and the European Electronic Communications Code.

In French-speaking Belgium (apart from the Brussels Capital region), “must-carry” obligations are currently imposed on the cable network operators (coaxial and bifilar) Brutélé, Nethys, Telenet and Proximus. In theory, they also apply to operators of satellite networks and electronic communications networks other than ether-based television and electronic communications networks; in practice, however, no operators currently meet this definition.

Those audiovisual media services that currently benefit from “must-carry” status are, in practice, the linear television services of the Belgian public broadcasters (RTBF, two Dutch-language VRT channels, one German-language BRF channel, and local channels broadcasting in their respective areas), as well as the French-language TV5 Monde channel for France, Belgium and Switzerland. A number of linear public radio stations also have “must-carry” status. Plans to extend the system to include non-linear Belgian public services (radio and television) have also been set out in legislation but are yet to be implemented. On the other hand, even though the directive allows it, the legislator has not broadened the “must-carry” rules to include complementary services designed to make programmes

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more accessible to people with sensory impairments, preferring to promote accessibility in other ways.

The CSA stressed that the “must-carry” system continues to achieve several general interest objectives and plays an important role for various disadvantaged groups.

However, according to the regulator, there is still room for improvement. The CSA suggested several possible areas for consideration. For example, the reciprocal “must-offer” obligation for audiovisual service providers that benefit from “must-carry”, should be better defined. In addition, since a large number of users in French-speaking Belgium still receive their television and radio programmes in analogue form via cable, the CSA recommended that the legislator devise a separate scheme for this method of broadcasting (in line with recital 310 of the new European Electronic Communications Code). It could be a case of limiting “must carry” obligations for analogue services to areas where they remain indispensable due to the absence of a modernised cable network and/or competition. However, if the legislator was thinking of removing “must-carry” obligations for analogue services, the CSA recommended that users be given a free analogue converter. The regulator thought these recommendations suitably took into account the interests of both operators and users.

The CSA submitted its opinion to the Government of the French-speaking Community of Belgium and published it on its website on 30 October 2018.

CSA, Collège d’autorisation et de contrôle, Avis n°90-2018, réexamen du régime de distribution obligatoire « must-carry »

http://www.csa.be/documents/2920

CSA review of the “must-carry” system

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