



## EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Single Market Enforcement

Notification of Regulatory Barriers

Notification Number : 2023/0136/B (Belgium)

# Decree amending the Decree of 27 March 2009 on radio broadcasting and television, as regards to the promotion of the audiovisual sector with financial contributions to the production of audiovisual works

Date received : 27/03/2023

End of Standstill : 28/06/2023

## Message

Message 002

Communication from the Commission - TRIS/(2023) 00793

Directive (EU) 2015/1535

Translation of the message 001

Notification: 2023/0136/B

No abre el plazo - Nezahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħx il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 202300793.EN)

1. MSG 002 IND 2023 0136 B EN 27-03-2023 B NOTIF

2. B

3A. FOD Economie, KMO, Middenstand en Energie

Algemene Directie Kwaliteit en Veiligheid - Dienst Normalisatie en Competitiviteit - BELNotif

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3B. Vlaamse overheid

Departement Cultuur, Jeugd, Sport en Media

Afdeling Media en Film

Arenbergstraat 9, 1000 Brussel

4. 2023/0136/B - SERV30

5. Decree amending the Decree of 27 March 2009 on radio broadcasting and television, as regards to the promotion of the audiovisual sector with financial contributions to the production of audiovisual works

6. The draft shall cover both service distributors making one or more broadcasting services available to the public in a linear or non-linear manner, as well as to private broadcasters providing non-linear television services and to video platform service providers.



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7. -

8. The present decree concerns a new unified regulation to stimulate the production of audiovisual works and regulates the scope, the form, the exclusion thresholds, the tax bases and the specific contributions to be paid.

The new decree replaces the current incentive scheme and extends it in two respects. On the one hand, the scope of application is extended by also making video platform service providers included in the suggested Article 8 - inserting Article 188/1, §1, 3° - subject to the incentive scheme. On the other hand, the form is extended. In the current incentive scheme, there is an option of choice in principle between paying a direct financial contribution to the co-production of audiovisual works or paying an equivalent financial contribution to the Flemish Audiovisual Fund. This option of choice also exists in the new incentive scheme, but a direct financial contribution will now also include contributions paid by investors for the acquisition of broadcasting rights to the works of which investors contribute to finance the production (as set out in the proposed Article 8 — inserting Article 188/1 §2, 3°).

The current exclusion thresholds are replaced by the items included under the proposed Article 8 — inserting Article 188/1 §5. They firstly pertain to thresholds applicable to private broadcasters providing non-linear television services and meeting at least one of the following conditions: a) being a micro-enterprise; b) having a reach of less than 0.5 % of all inhabitants in the Dutch language area; c) provide fewer than ten audiovisual works per year; d) their range consists mainly of programs based on Broadcaster Video-On-Demand rights. When introducing these exceptions, the guidelines published on 7 July 2020 by the European Commission retaining the definitions of the concepts of 'small public' and 'low turnover' were taken into account to the largest possible extent. Secondly, service distributors and video platform service providers that represent a micro-enterprise are also excluded from the investment obligation.

The current lump sum or the amount to be paid per subscriber by the service distributors shall be increased to a lump sum of EUR 6 million and EUR 3 per subscriber respectively. The lump sum or percentage of turnover to pay by private broadcasters providing non-linear television services or providers of video platform services in order to comply with the incentive scheme shall be set at a flat-rate amount of EUR 6 million and an amount equal to 2 % of the turnover if its amount is between EUR 0 and EUR 15 million, 3 % of the turnover if its amount is between EUR 15 and 30 million and 4 % of the turnover if its amount exceeds EUR 30 million.

As included under the Article 8, §3, the further modalities and conditions for the operationalisation of the incentive scheme are included in a decree of the Flemish Government (separate notification).

9. The way audiovisual content is distributed to, and consumed by, the public at large has undergone major transformations in the recent years, including the emergence of services of Subscription Video on Demand and Advertising funded Video on Demand. These current trends put the Flemish production sector under pressure. Therefore, the existing investment obligation for private broadcasters providing non-linear television services and the incentive scheme for service distributors is updated, aligned and complemented by an obligation to participate in the production of audiovisual works for video platform service providers. In this way, the viability of the broadcasting system and of the audiovisual production houses in Flanders can be increased, the quality, the diversity and the pluralism of the media are guaranteed and this measure shall prevent Flanders from being flooded by foreign and often cheaper television programmes. The social, democratic and cultural value and the positive spill-over effects of audiovisual services should therefore be permanently guaranteed.

10. Numbers or titles of basic texts: Decrees on Radio and Television Broadcasting of 27 March 2009

Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative provisions in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

11. No



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12. -

13. No

14. No

15. -

16. TBT aspect

No, the draft is neither a technical regulation nor a conformity assessment procedure.

SPS aspect

No, the draft is neither a sanitary nor a phytosanitary measure.

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European Commission

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