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BROADCASTING: Regulatory Issues

Country: BELGIUM - FRENCH COMMUNITY

Date completed: 15 June 1998

The attached questionnaire was undertaken in preparation for the biennial OECD Communications Outlook. The responses provided by Member countries on broadcasting regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on telecommunication regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

Broadcasting market status (Questions 1- 3)

1. Please provide details of the broadcasting and cable television infrastructure provision in your country.

Infrastructure provision for following service	Number of licensed operators (1998)	Number of privately owned companies ¹	Number of public service organisations ²
Terrestrial TV (National coverage ³)	1 (in the French Community (FC))	–	1 (FC)
Terrestrial TV (Local coverage ⁴ only)	–	–	–
Terrestrial radio (National coverage)	1 (FC)	–	1 (FC)
Terrestrial radio (Local coverage only)	235 (FC)	235 (FC)	–
Cable television service ⁵	31 (in Belgium)	3 (B)	11 (B)
Analogue direct broadcast satellite (DBS) service	N/A	N/A	N/A
Digital DBS service	N/A	N/A	N/A

[Mixed enterprises: Cable television service 17 (B)]

¹ Defined as private sector companies holding one or more licences for service provision.

² Including state-owned corporations or institutions holding one or more licences for service provision.

³ A service with national coverage is defined as a service by a group of television or radio stations distributing a majority of the same programming, that are licensed on a national or regional basis but collectively provide nation-wide coverage. Affiliating companies of the nation-wide broadcast network are included in this category. If new operators have been licensed to provide national coverage in the last three years but are at the stage of rolling out networks please include these operators in the total.

⁴ A service with local coverage is defined as a service by a group of television or radio stations that are licensed on a national or regional basis but distribute the programming in the local area only. If new operators have been licensed to provide local coverage in the last three years but are at the stage of rolling out networks please include these operators in the total.

⁵ Please indicate if more than one organisation is permitted to own and operate cable television infrastructure in the same area.

2. Please provide details for the major public / private terrestrial TV broadcasting companies in your country. They include state and privately owned organisations providing broadcasting services with national coverage.

Name of public terrestrial TV broadcasting companies (FC)	Ownership Status (1998) (e.g. state-run / state owned / privately owned)	Do they own transmissions infrastructures? If not, please indicate the name of company which provide transmission infrastructures.
Radio-Télévision Belge de la Communauté Française	Independent public cultural enterprise	Yes
RTBF		

3. What was the price of cable television service for a subscriber in the largest city of your country on 1st January 1998? Basic service corresponds to the least expensive option to a customer and premium service the most expensive option. (Local currency, current prices)

Cable Television services	Basic service			Premium service	
	Connection	Yearly subscription fees	Number of cable channels included in the basic option (excluding free services)	Monthly subscription fees	Number of cable channels included in the premium option (excluding free services)
(Please indicate the name of operator)	WOLV TV (Brussels) BF 974	BF 4 834	33	BF 540	12
(National average, if available)	Not available	Not available	Not available	Not available	Not available

Broadcasting Regulatory Framework (Questions 4 - 9)

4. Which organisation(s) administer the following services (carriage and content) in your country and what are their main responsibilities? Please mention agencies dealing with spectrum allocation and management, and providing licences.

Please provide details:

a. Terrestrial broadcasting service

b. Cable Television service

c. Direct broadcast satellite (DBS) service

In the French Community of Belgium, the distinction between terrestrial, cable and satellite broadcasting is not strictly relevant from the standpoint of the organisations administering these services.

Broadcasting in the broad sense falls under the jurisdiction of the Communities. In the French Community, the Government issues orders in application of the Audio-visual Decree and provides the necessary authorisations (for television, radio, other services and CATV network operators), subject to prior, reasoned approval by the Conseil Supérieur de l'audiovisuel (CSA).

The powers of the Government of the French Community cover the following areas:

- supervision of the public broadcasting organisation (RTBF);
- authorisation to create and operate broadcasting organisations (private television, pay television, local and community television, private radio stations) on the basis of conditions set by decree or by order; these conditions govern both the nature of the authorised organisations (private companies, nonprofit organisations, and so on) and the content of the services they provide (own production, quotas of European programming, etc.);
- authorisation to insert commercial advertising into the programmes of broadcasting organisations, including those of the RTBF;
- authorisation to operate cable television networks and regulation of broadcasters' access to network capacities;
- authorisation to utilise cable television networks for types of services other than radio or television programming.

In respect of spectrum allocation and management, the Government of the French Community assigns terrestrial and satellite frequencies to broadcasters; in so doing, the Government is required to adhere to the general technical standards set by the federal government; it can however set specific technical standards within the confines of federal standards.

The federal government therefore sets general standards common to all radio-communications. In addition, the Institut belge des services postaux et des télécommunications (IBPT), a semi-state institution supervised by the Federal Telecommunications Ministry, is responsible for:

- co-ordinating applications by the Communities for frequency plan modifications, at the Belgian and international levels;
- policing the airwaves.

The CSA's powers of sanction and regulatory enforcement were expanded on 24 July 1997. In particular, it is responsible for noting any infringement of laws, decrees or regulations relating to audio-visual matters, as well as any violation of contractual obligations.

The Council may impose a variety of sanctions on recognised or authorised operators: fines; suspension of broadcasting of the incriminated programme or of authorisation; and revocation of the authorisation itself.

5. Please provide a description of significant recent policy changes affecting the provision of broadcasting services, as well as any draft laws, or regulatory proposals to be implemented in 1998.

Please provide details:

On 24 July 1997, the Council of the French Community adopted a decree that reorganised the CSA, in order to enhance its guarantees of independence and give it wider powers (see response to Question 4), and that set up a new regulatory framework for private radio broadcasting services, including digital radio.

A draft decree amending the basic Audio-visual Decree of 17 July 1987 is currently under study and should be adopted in July 1998. This draft decree transposes two European directives: Directive 97/36/EC of the European Parliament and of the Council on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (the so-called "Television Without Borders Directive") and Directive 95/47/EC of the European Parliament and of the Council on the use of standards for the transmission of television signals.

In this way, the French Community of Belgium will acquire provisions regulating conditional access and digital broadcasting.

6. How is broadcasting defined in your country's regulatory framework? In addition, please specify public service obligations stipulated in broadcasting regulations.

Definition of broadcasting:

In the French Community's Audio-visual Decree, broadcasting is defined as follows:

Broadcasting: A radio-communications service whose programmes are intended to be received directly by the public in general or by a portion thereof. This service may comprise radio programmes, television programmes or other sorts of programmes.

In respect of satellite broadcasting, the expression "intended to be received directly by the public in general or by a portion thereof" applies to reception via a radio or television distribution network as well as to reception via a collective or an individual antenna (Audio-visual Decree of 17 July 1987).

The above is a general definition of broadcasting services.

In addition, in a decree of 25 November 1995 of the Government of the French Community on the implementation of other cable services, this definition was expanded to encompass a stipulation of what was meant by “other broadcasting services”: services, other than radio and television programmes intended for the public in general or for a portion thereof, that are transmitted by RTBF or by another broadcasting organisation and that are intended to provide—concurrently with such programmes or not—signs, signals, text, images, sounds or messages of any kind, intended indiscriminately for the public in general, a portion thereof or for certain categories of the public, if the contents of the message does not constitute private correspondence.

Inter alia, this decree cites:

- thematic programme services and programming for specific audiences;
- value-added services such as teleshopping;
- videotext services;
- distribution services and interactive on-demand services such as:
 - * pay-per-view television;
 - * quasi video-on-demand;
 - * video-on-demand;
 - * remote training programmes.

This supplementary definition mirrors the interpretation of the notion of broadcasting proposed by the French Community CSA in conjunction with the development of new technologies. According to that interpretation, broadcasting combines three criteria:

- transmission by some technical means in the realm of telecommunications;
- transmission intended for a virtually undefined audience;
- absence of confidentiality of the messages transmitted.

What is most important in this interpretation is the public nature of the messages being transmitted, whatever the medium.

Public service obligations:

a) Infrastructure operators

- By virtue of a decree of 24 December 1966, authorised cable TV networks are required to respond to any request for connection by residents of the territory served by the network who shall have paid the applicable connection fees.
- By virtue of the aforementioned decree, cable TV operators may not cease operating their networks until such time as their licences have expired.
- The Audio-visual Decree requires cable TV network operators to distribute a certain number of programmes.

b) Public broadcasting organisation (RTBF)

On 14 July 1997, the status of RTBF was changed to that of an independent public cultural enterprise.

As the public broadcasting organisation of the French Community of Belgium, RTBF is structured like an organic public service, and its public service assignments are stipulated in a management contract.

7. Are there must-carry rules? For example, are cable television or satellite operators required by regulation to provide capacity for certain services? If yes, please elaborate on the reasons.

Please provide details:

The French Community of Belgium imposes must-carry rules on cable distributors only.

Cable TV's massive introduction in Belgium in the 1960s made it the main vehicle for televised programming.

Cable's very high penetration rate was also instrumental in the growth of cross-border television and therefore made it a preferred means of distributing Belgian and foreign networks.

The current Audio-visual Decree requires cable operators to carry the following:

- RTBF programmes;
- programmes of private television stations of the French Community;
- programmes of pay TV stations of the French Community;
- programmes of local and community television stations;
- programmes of international broadcasters designated by the Government and in which RTBF is a participant.

In addition, there are reciprocal distribution obligations for public broadcasting services of Belgium's other Communities.

The French Community considers that it is in the public interest that all television viewers (about 97 per cent of whom are hooked up to cable and some 95 per cent are cable subscribers) have access to the programming of the broadcasting organisations operating under its authority and by virtue of regulations governing the promotion of cultural production.

8. Are there any local content requirements for broadcasters and cable television operators in your country in terms of the level of domestically produced content which must be broadcast, the amount of turn-over which must be allocated to domestic production or other criteria? Yes/No

Yes.

Introductory remark: In the French Community of Belgium, such requirements apply to broadcasters only. Moreover, the regulation of broadcasting organisations currently in force is independent of the type of transmission (terrestrial, satellite or cable). It is organised as follows: public broadcasting service (radio and TV), private television, pay television, local and community television and private radio.

	If Yes, please provide local content specification and where applies.
Public broadcasting service	The decree of 17 July 1997 on the status of the RTBF stipulates that the enterprise's programming must include the work of authors, producers, distributors, composers and artists of the French Community.

	<p>The enterprise endeavours to make significant creative efforts, fostering original productions and highlighting the heritage of Belgium's French Community and regional particularities. Programming is done by priorities on the basis of own production.</p> <p>The management contract stipulates obligations in certain areas, e.g.:</p> <ul style="list-style-type: none"> – Over a calendar year, the enterprise must broadcast (at least on television) an average of seven hours per day of programming produced or co-produced by itself. – At least 30 per cent of radio programming must consist of music with French-language text, and at least 15 per cent of that percentage must be musical works of composers, performing artists and producers from the French Community. – A minimum of 33 per cent of television programming must be devoted to works filmed, directed or produced by French-speaking professionals.
Private Television	Private television stations must produce at least 20 per cent of their own programming. They must also feature programmes that highlight the cultural heritage of the French Community and its various regional aspects in particular.
Pay Television	Pay television stations must produce at least 5 per cent of their own programming. They must also feature programmes that highlight the cultural heritage of the French Community and its various regional aspects in particular.
Local and Community Television	Local and community television stations must produce at least 33 per cent of their own programming. Their programmes must feature information and ongoing activities, cultural development and further education.
Private Radio	Private radio stations of the French Community must produce at least 70 per cent of their own programming. In addition, at least 30 per cent of their programming must consist of music with French-language text, of which 15 per cent must be musical works of composers, performing artists and producers from the French Community.

9. Are there any limitations on share ratio, number of stations, or other ownership restrictions on entities investing in service providers of terrestrial broadcasting, cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.

If yes, please provide details:

- **Private radio stations** may not be controlled directly or indirectly by another radio station of the French Community, nor by an advertising firm. They must be independent of governments, political parties and organisations representing labour or employers.
- **Private television stations** may not have government agencies or public-interest bodies among their shareholders or on their managing boards, except for the RTBF, whose equity interest may not exceed 24 per cent.
- **A natural person** or legal entity holding more than 24 per cent of the shares in a private television station, either directly or indirectly, may not hold more than 24 per cent of the shares in another private television station of the French Community, either directly or indirectly.
- **Pay television stations** of the French Community must reserve at least 26 per cent of their share capital for the RTBF, either alone or in combination with one of its majority-owned subsidiaries, or their statutes must guarantee RTBF veto power.

Note: There are no restrictions on foreign ownership.

Cross-ownership and cross sector provision (Questions 10 - 14)

10. Are there any restrictions on terrestrial broadcasting companies from directly providing the cable television infrastructures and services in your country? On the other hand, are there any restrictions on cable television operators from directly providing the terrestrial broadcasting companies in your country?

If yes, please provide details:

a. Restrictions on terrestrial broadcasting companies providing the cable television infrastructures

No.

b. Restrictions on terrestrial broadcasting companies providing the cable television services

No.

c. Restrictions on cable television operators providing the terrestrial broadcasting

There is a structural separation between broadcaster and teledistributor. French Community regulations restrict the role of teledistributors to the carriage of broadcasting services. In addition, firms providing services other than radio and television programmes by cable must be distinct from teledistributors.

11. Please specify any restrictions on cable television operators and terrestrial broadcasting companies investing (including merging and acquiring shares) in companies that provide other infrastructures or services.

Please provide details:

a. Restrictions on cable television operators investing in telecommunications operators

None

b. Restrictions on cable television operators investing in terrestrial broadcasting companies

Teledistributors and their managing entities may not together own more than 24 per cent of a private television station or of a local or community television station, nor may they manage or have more than a one-third share in the management body of such television stations.

c. Restrictions on terrestrial broadcasting companies investing in telecommunications operators

None.

d. Restrictions on terrestrial broadcasting companies investing in cable television operators

None.

12. Are there any restrictions or limitations on foreign investment regarding services of terrestrial broadcasting, cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.

Yes/No

If yes, please provide details:

No.

13. Are there any regulations restricting cross media ownership (e.g. broadcast television, radio, newspapers) for infrastructure and services in the same geographical market. Yes/No

If yes please provide details:

No.

14. What kind of methods are adopted by regulatory authorities in order to measure market shares in broadcasting market? If the measure used is “audience rates”, please describe the methodology used.

Description of market share measurement

The French Community of Belgium uses no particular method to measure market shares. When the Community wishes to obtain such figures it contacts the Media Information Centre (CIM).

Please provide methodology for measuring audience rates.

Convergence (Questions 15 - 18)

15. Under the communication regulation existing in your country how would services provided over the Internet, which some have likened to broadcasting services (e.g. audio and video services transmitted over the Internet) be defined and treated?

Please provide details:

The regulations currently in force in the French Community do not cover provision of audio or video services on switched networks, such as the Internet. Nonetheless, proposals are being formulated to make the necessary adjustments to current regulations.

16. Would a video on demand service be treated differently in terms of regulations, by the transmission methods (for example, PSTN, cable or satellite)?

Please provide details:

Theoretically, no. However, regulations currently in force in the French Community must be adapted. See response to Question 15.

17. Under the communication regulation existing in your country how would conditional access services, such as in digital DBS services, be treated?

Please provide details:

The regulation applicable in the French Community to conditional access services is the transposition of Directive 95/47/EC of the European Parliament and of the Council on the use of standards for the transmission of television signals.

18. Please detail plans for digital broadcasting and cable television services.

	Number of Licences to be granted	Expected Number of New Channel Capacity	Expected Date of Service Commencement
Terrestrial TV service			
Terrestrial Radio service			
Direct Broadcast Satellite service			
Cable Television service			
Additional information and comments			
<p>In the French Community there is currently one digital cable television service—a “mini”-bouquet of pay TV programmes from the French Community’s pay television network “Canal Plus Belgique”. However, the programmes comprising this bouquet are simply a variation on basic Canal Plus programming (Canal Plus “Blue”, Canal Plus “Yellow” etc.). Under the circumstances, no additional licence was granted to Canal Plus Belgique. Plans to extend the bouquet to other programmes are currently under study.</p>			