



***Independent Study on
Indicators for Media Pluralism
in the Member States – Towards
a Risk-based Approach***

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by

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Final Report - Annex III

COUNTRY REPORTS

Belgium

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Legal Notice

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Important Notice

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The country reports are not in any way intended to be an implementation of the Media Pluralism Monitor in the Member States. They were drafted during the initial stages of the study, with the intention of obtaining a better view of regulatory measures in the broad sense – including co- and self-regulatory measures – adopted in the Member States to promote or safeguard, directly or indirectly, pluralism in the media. The intention was to obtain a high-level snapshot of possible implementation problems and not to express any value judgements on existing rules. The resulting overview facilitated the development of methods for assessing the effective implementation of regulatory safeguards, which had to be, according to the Terms of Reference for the study, an intrinsic element of the legal indicators. We strongly recommend that you also download the file containing our Introduction as it sets out our approach to the initial stages of the project in detail and includes a short manual on how to read the country reports. We draw your attention to the Overview file as well.

Please note that the country reports were finalized in the middle of 2008 and do not therefore reflect progress made with the transposition of the Audiovisual Media Services Directive or any subsequent initiative by Member States. They are made available not as final deliverables of the study, but as interim deliverables, intended to illuminate part of the route taken by the study team and thereby to contribute towards the full transparency of the MPM project.

2. Overview of legal and policy measures promoting/supporting media pluralism

[BELGIUM]

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(*) The inventory is – as far as the broadcasting sector is concerned – limited to the two largest Communities in Belgium, *i.e.* the Flemish and French Community. Hence, it does not cover the broadcasting legislations applicable in the German-speaking Community and in the Bilingual Region of Brussels-Capital (which are however similar to those in the Flemish and French Community).

National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*

- **Broadcasting Acts:**

- FLRTA: Flemish Radio and Television Broadcasting Act of 2005 (Decreten betreffende de Radio-Omroep en de Televisie, gecoördineerd bij besluit van de Vlaamse Regering van 4 maart 2005, *Official Gazette**, 8 April 2005, *erratum Official Gazette*, 24 November 2005), amended several times (consolidated version available at: http://www.vlaamseregulatormedia.be/regelgeving/Mediadecreet_080214.pdf)
- FRBA: French Community Broadcasting Act of 2003 (Décret sur la radiodiffusion du 27 février 2003, *Official Gazette*, 17 April 2003), amended several times (consolidated version available at: http://www.csa.be/system/document/nom/502/PARL_20030227_decret_radiodiffusion_consolide.pdf)
- GBCA: German-speaking Community Broadcasting and Cinema Act of 2005 (Dekret vom 27. Juni 2005 über den Rundfunk und die Kinovorstellungen, *Official Gazette*, 6 September 2005)
- Act on Broadcasting Activities in the bilingual region of Brussels-Capital of 1996 (Wet 30 maart 1995 betreffende de elektronischecommunicatienetwerken en -diensten en de uitoefening van omroepactiviteiten in het tweetalig gebied Brussel-Hoofdstad (*Official Gazette*, 22 February 1996, *erratum Official Gazette*, 30 March 1996), amended by Act of 16 March 2007 (*Official Gazette* 5 April 2007)
- Act regulating the public service broadcaster of the French Community, RTBF, of 1997 (Décret du 14 juillet 1997 portant statut de la Radio-Télévision belge de la Communauté française (RTBF), *Official Gazette*, 28 August 1997), amended several times)
- Act regulating the public service broadcaster of the German-speaking Community, BRF, of 1986 (Dekret Rat der Deutschsprachigen Gemeinschaft. 27. Juni 1986 über das Belgische Rundfunk- und Fernsehzentrum der Deutschsprachigen Gemeinschaft, *Official Gazette*, 5 August 1986); amended several times

- **Other:**

- Act on the Protection of Journalistic Sources of 2005 (Wet 7 april 2005 tot bescherming van de journalistieke bronnen, *Official Gazette*, 27 April 2005), amended by Act of 9 May 2006 (*Official Gazette*, 7 March 2007) and partly annulled by Constitutional Court (decision n° 2006/091 of 7 June 2006, www.arbitrage.be)

- Act of the French Community of 31 March 2004 relating to subsidies granted to the French-speaking press et for the development of newspaper reading initiatives at schools (Décret du 31 mars 2004 relatif aux aides attribuées à la presse quotidienne écrite francophone et au développement d'initiatives de la presse quotidienne écrite francophone en milieu scolaire), *Official Gazette*, 13 May 2004
- Act of the Flemish Community of 26 March 2004 (Decreet 26 maart 2004 betreffende de openbaarheid van bestuur), *Official Gazette*, 1 July 2004, err. 18 August 2008
- Act of the Flemish Community of 13 April 1999 on the Flemish Audiovisual Fund ‘VAF’ (Decreet houdende machtiging van de Vlaamse regering om toe treden tot en om mee te werken aan de oprichting van de vereniging zonder winstgevend doel Vlaams Audiovisueel Fonds, *Official Gazette*, 23 September 1999)
- Act of 12 November 1997 regulating access to public information at the level of provinces and the municipalities (Wet 12 november 1997 betreffende de openbaarheid van bestuur in de provincies en gemeenten), *Official Gazette*, 19 December 1997 (modified by Act of 26 June 2000, *Official Gazette*, 15 July 2007)
- Act of the French Community of 22 December 1994 regulating access to public information (Décret du 22 décembre 1994 relatif à la publicité de l'administration), *Official Gazette*, 31 December 1994, err. 21 March 1995 (modified by the Act of 30 March 2007, *Official Gazette*, 29 June 2007)
- Act of the French Community of 22 December 1994 containing several provisions relating to the audiovisual sector and education, *Official Gazette*, 14 March 1995 (as amended by Act of 20 December 1995, *Official Gazette*, 17 April 1996)
- Act of 11 April 1994 regulating access to public information (Wet 11 april 1994 betreffende de openbaarheid van bestuur), *Official Gazette*, 30 June 1994(modified by Act of 26 June 2000, *Official Gazette*, 15 July 2007)
- Act of 30 December 1963 on the recognition and protection of the title of professional journalist (Wet betreffende de erkenning en de bescherming van de titel van beroepsjournalist), *Official Gazette*, 14 January 1964
- Act of 23 June 1961 on the Right of Reply (Wet van 23 juni 1961 betreffende het recht tot antwoord), *Official Gazette*, 8 July 1961), amended by Act of 4 March 1977 (*Official Gazette* 15 March 1977)
- *Implementation Decrees*
- Decree Flemish Government of 30 March 2007 on the procedure and criteria for the authorisation of communitywide, regional and local FM radio stations, *Official Gazette* 4 May 2007
- Decree of the Media Minister of 13 April 2007 concerning the grant of 250.000 EUR to the Fund Pascal Decroos (Ministerieel Besluit houdende toekenning van een subsidie van 250.000 Euro aan het Fonds Pascal Decroos voor Bijzondere Journalistiek - Begrotingsjaar 2007)
- Decree of the Flemish Government of 19 July 2007 establishing an appeal body for access to public information (Besluit Vlaamse Regering 4 juni 2004 tot oprichting van de beroepsinstantie inzake de openbaarheid van bestuur), *Official Gazette*, 5 November 2007, replacing the older Decree of 4 June 2004, *Official Gazette*, 1 July 2004
- Decree of the French Community Government of 8 July 2005 « reconnaissant une association représentative à laquelle peuvent être confiées des émissions de radio et de télévision à la RTBF », *Official Gazette* 16 September 2005
- Decree of the French Community Government of 22 March 2001 « reconnaissant les associations représentatives auxquelles peuvent être confiées des émissions de Radio et de Télévision a la R.T.B.F. », *Official Gazette*, 29 June 2001
- Decree of the Flemish Government of 21 April 1998 “betreffende het uitzenden door de VRT van mededelingen van het Vlaams Parlement, van de Vlaamse regering en van de ministers en staatssecretarissen van het Brusselse Hoofdstedelijke Gewest”, *Official Gazette*, 12 June 1998
- Royal Decrees of 12 April 1965 regulating accreditations and identification documents for the press (Koninklijk besluit tot instelling van identificatiedocumenten en -kentekens ten behoeve van de leden van de periodieke pers voor gespecialiseerde informatie and Koninklijk besluit tot instelling van identificatiedocumenten en -kentekens ten behoeve van beroepsjournalisten en persbedrijven), *Official Gazette*, 21 May 1965

- **General legislation**
 - Belgian Constitution of 1831, http://www.senate.be/doc/const_nl.html (Dutch), http://www.senate.be/doc/const_fr.html (French), http://www.senate.be/deutsch/const_de.html#const (German)
 - Culture Pact Act of 16 July 1973 (Wet 16 juli 1973 waarbij de bescherming van de ideologische en filosofische strekkingen gewaarborgd wordt, *Official Gazette*, 16 October 1973)
 - Belgian Competition Act of 2006 (Gecoördineerde Wet 15 september 2006 tot bescherming van de economische mededinging (*Official Gazette*, 29 September 2006)
 - Flemish Act on Regulatory Governance of 2003 (Vlaams Kaderdecreet Bestuurlijk Beleid, 18 juli 2003, *Official Gazette*, 22 August 2003)
 - Flemish Act on Strategic Advisory Bodies of 2003 (Vlaams Decreet 18 juli 2003 tot regeling van strategische adviesraden, *Official Gazette*, 22 August 2003)
 - French Community Act on the Depoliticization of Cultural Organisations of 1993 (Décret relatif à la dépolitisation des structures des organismes culturels du 5 avril 1993, *Official Gazette*, 5 June 1993)
 - Code of Income Tax (Art. 194ter: Tax Shelter)
- **Codes of conduct**
 - Belgian ‘Code of Journalistic Principles’ of 1982 (http://www.rvdj.be/ethiek_code.php)¹
- **Other**
 - Charter VRT – Flemish government 2007-2011 (http://www.vrt.be/extra/beheersovereenkomst_2007-2011.pdf)
 - Charter RTBF - Government of the French Community (2007-2011), *Official Gazette*, 4 December 2006 (http://www.csa.be/system/document/nom/562/GVT_20061013_RTBF_contratgestion.pdf)
 - Monitoring of media concentration in Flanders; documents of Flemish Media Regulator:
 - <http://www.vlaamseregulatormedia.be/documentatie/concentratiesub1.html> (report on delineation of the Flemish media landscape in 2006, 20.3.2008)
 - <http://www.vlaamseregulatormedia.be/documentatie/Mediagroepen%20in%20Vlaanderen.pdf> (overview of media groups in Flanders; 25.1.2008)
 - http://www.vlaamseregulatormedia.be/documentatie/Media%20aanbod%20Vlaanderen%2019_11_2007.pdf (overview of media services and products; 2007))

(*) Please note that the official name of the Belgian Official Gazette is “Belgisch Staatsblad / Moniteur belge” (www.staatsblad.be or www.moniteur.be).

¹ The Belgian code of journalistic principles was agreed between the Belgian Association of Newspaper Publishers (Belgische Vereniging van de Dagbladuitgevers, BVDU), the General Association of Professional Journalists of Belgium (Association Générale des Journalistes Professionnels, AGJPB) and the Federation of Belgian Magazine Editors (Fédération Belge des Magazines, FEBELMA) in 1982. In 2006 the Flemish broadcasters joined the “Council of Journalism”.

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Art. 19. Belgian Constitution: <i>“Freedom of worship, public practice of the latter, as well as freedom to demonstrate one’s opinions on all matters, are guaranteed, except for the punishment for offences committed when using this freedom.”</i>	PM+AAVM	General provision applicable to all forms of expression
	Art. 25 Belgian Constitution: <i>“The press is free; censorship can never be established; no security can be demanded from authors, publishers or printers. When the author is known and resident in Belgium, neither the publisher, nor the printer, nor the distributor can be prosecuted.”</i>	PM	Prohibition of prior censorship, specific to press freedom (only print media, according to the case law of the Court of Cassation, <i>Hof van Cassatie – Cour de Cassation</i>)
<p><i>Note:</i> Resulting from the special status attributed to print press in Art. 25 Belgian Constitution, there is no legal registration or notification obligation for publishing a newspaper in Belgium. Consequently, publishing newspapers, magazines and books is free in Belgium. However, there exists an old (1867) penal code (Art. 299) stipulating that publishing a printed matter without the name and the place of residence of the writer or the printer is punishable (the so-called responsible editor principle), which is however not considered a major obstacle to free publishing.</p> <p>There are also no legal registration or notification obligations to work as a journalist in Belgium. Journalism is an open profession, there is even no specific education required. The Act of 30 December 1963 on the recognition and protection of the title of professional journalist attaches the following conditions to the use of the title “beroepsjournalist” (“professional journalist”), but - as mentioned - this title is not necessary in order to exercise the profession (it mainly offers the journalist some practical advantages): 1) being 21 years or older, 2) not being deprived of political and civil rights, 3) taking part in the editing of newspapers, magazines, radio or television etc. as main occupation and against salary for general reporting, 4) having exercised this activity at least two years, 5) not being involved in any form of trade. One of the Royal Decrees of 12 April 1965, regulating accreditations and identification documents for journalists, describes a similar regime for the “journalists of profession”, i.e. journalists working for the specialised periodical press (magazines). These Royal Decrees impose transparent and objective conditions for obtaining journalists’ accreditations.</p>			
	Art. 150 Belgian Constitution: <i>“The jury is established for all criminal matters and for political and press offences, with the exception of press offences inspired by racism or xenophobia.”</i>	PM	Installs special judicial protection for authors, journalists, editors, etc., granting exclusive powers to the people’s jury (<i>Hof van Assisen – Cour d’Assises</i>) to judge in the case of press offences (except if they relate to racism of xenophobia, in which case they are tried by the regular professional criminal judges).
1.2. Freedom of information	Art. 32 Belgian Constitution: <i>“Everyone has the right to consult any administrative document and to have a copy made, except in the cases and conditions stipulated by the laws, decrees, or rulings referred to in Article 134.”</i>		
<p><i>Note:</i> Such conditions have been laid out in legislation applicable both at the federal level (Act of 11 April 1994) and at the level of the provinces and the municipalities (Act of 12 November 1997). At the federal level, documents may be withheld from public scrutiny if their special character necessitates confidential treatment of the information contained therein, e.g. in order to protect sensitive individual information or public security against becoming public, or if the request for information itself is either abusive or excessively vague. Citizens retain the right to challenge denials of information requests before the responsible administrative agency as a first step, and secondly before the Council of State (Raad van State/Conseil d’État). At the regional level, similar provisions apply. The Flemish Act of 26 March 2004, for instance, also states that requests for information may be denied where releasing the document is likely to result in it being misinterpreted (e.g. due to its unfinished or incomplete character) or where the information contained therein has been made available to the authority on confidential terms only; additionally, the requests must not be manifestly abusive or excessively vague. There is also a two-stage complaints procedure open to citizens whose requests for information have not been met with a special appeal body called “beroepsinstantie inzake de openbaarheid van bestuur”; more info: http://www3.vlaanderen.be/openbaarheid/index.php.</p>			

1.3. Explicit recognition of media pluralism	Culture Pact Act of 16 July 1973		Although not formally part of the Belgian Constitution, this Act belongs to the core provisions underpinning the Belgian federal state – the principle of pluralism being inextricably linked to the structure of the Belgian state.
<p><i>Note:</i> No provision in the Belgian Constitution refers explicitly to media pluralism. The principle of pluralism is however inextricably linked to the structure of the Belgian state (being a federal state composed of Communities and Regions, with – at the time of the first state reforms – a religious-political-ideological majority of Christen democrats in the Dutch-speaking North part of the country and a religious-political-ideological majority of atheist socialists in the French-speaking South part of Belgium). This implies that several safeguards have been installed to ensure cultural and ideological pluralism at institutional level as well as in the media, in particular via the so-called “Cultuurpactwet” of 16 July 1973 (<i>Official Gazette</i> 16 October 1973). This “Culture Pact Act” was enacted at the occasion of the first state reform in 1970, resulting in the establishment of three cultural “communities” (Flemish, French and German-speaking Community) and three economic “regions” (Flemish, Walloon and Brussels-Capital Region). It applies to all government decisions and actions relating to culture, which should be interpreted in a broad sense, including art, drama, film, radio and television, libraries, musea, youth, sports, leisure and entertainment, research and education, language, tourism, etc. The Act serves to protect all ideological and philosophical groupings in a Community and prevent discrimination of one of these groupings in the preparation, development, implementation, etc. of cultural policies, in participating in cultural institutions, in obtaining representative cultural functions, in gaining access to cultural infrastructures, etc. Art. 18 and 19 contain explicit safeguards relating to “the use of communication means”:</p> <p><i>“Art. 18. All ideological or philosophical views represented in a [Community parliament] should have access to the means for expressing opinions resorting under the public authorities of the respective Community.”</i></p> <p><i>“Art. 19. The radio and television organizations have to respect the proportional representation of the political groupings in [the respective Community parliament] in the composition of their management bodies. These management bodies should be assisted by a permanent advisory committee in which all accredited users’ organizations and all ideological and philosophical groupings are represented. This advisory committee is entitled to full information on the actions of the management bodies.”</i></p> <p>These articles should be taken into account by the Community governments when organizing their public service broadcaster (each Community has its own public broadcasting organization²). Art. 18 has resulted in special rules guaranteeing access to air time for all ideological and philosophical groupings in the emissions of the public broadcaster (the so-called “third party emissions”; <i>infra</i>); Art. 19 means that the management bodies of the public broadcaster have to reflect the various political groupings in a <i>proportionate</i> manner.</p> <p>Art. 7 prescribes that all advisory bodies participating in the preparation and implementation of cultural policies (<i>please note that Art. 6 obliges all governments to involve such advisory bodies in the development of their cultural policies</i>) should be composed of representatives of all ideological and philosophical groupings (as well as users’ organizations), in such a way that an unjustified dominance of one of these groupings is excluded.</p> <p>This implies that the ministers of media affairs in the three Communities have to request the advice of a Media Council before taking a legislative or policy action in the domain of media, and that the various ideological and philosophical groupings have to be represented in these Media Councils (as well as the users’ organizations).</p> <p>The Culture Pact Act of 16 July 1973 has a Flemish counterpart with the Decree of 28 January 1974, containing identical provisions (<i>Official Gazette</i> 31 May 1974).</p>			
	Belgian ‘Code of Journalistic Principles’		Mentions the “respect for diversity of opinions”: <i>“The press recognizes and respects the diversity of opinions; she defends the freedom of publication of diverse viewpoints. She will oppose any form of discrimination on the basis of gender, race, nationality, language, religion, ideology, ethnics, culture, social status or beliefs, to the extent that the expressed viewpoints are not in conflict with the respect for the fundamental rights of every individual.”</i>
1.4. Protection of journalistic sources	Act on the Protection of Journalistic Sources of 7 April 2005	PM+AAVM	Grants journalists the right not to disclose their sources and prohibits investigative measures (e.g. interception of communication, surveillance and judicial search and seizure) vis-à-vis journalists if this could lead to breach of secrecy of sources.
<p><i>Note:</i> The protection was originally reserved for “journalists” and editorial collaborators such as the telephonist, documentalist, etc. The notion of “journalist” was defined as all persons engaged in the collection and dissemination of information to the public via any means of mass communication in a professional manner (i.e. as an independent agent or employee, hence no volunteers) and on a regular basis. The Belgian Constitutional Court decided on 7 June 2006 that this contravenes the principle of equality. The protection of journalistic sources, being the cornerstone of the freedom of the press in a democratic society, should therefore extend to everyone who exercises a journalistic activity. The Court consequently deleted the phrases referring to the professional and regular character of the journalist’s activities, and even the word “journalist” itself in the definition. Since then the rules relating to the protection of journalistic sources are also considered applicable to bloggers etc.</p>			
1.5. Right of reply	Act on the Right of Reply 1961 (amended in 1977)	PN+AAVM	The Act of 23 June 1961 installs a very broad right of reply in the area of print media (which entitles everybody who is – explicitly or implicitly –

² VRT (Vlaamse Radio- en Televisieomroep) in Flanders, RTBF (Radio-Télévision belge de la Communauté française) in the French Community and BRF (Belgisches Rundfunk- und Fernsehzentrum der Deutschsprachigen Gemeinschaft) in the German-speaking Community.

			mentioned in a newspaper article the right to react both to correct errors, defend one’s reputation or oppose the viewpoint that was expressed) and a more limited right of reply (rectification right and defence of reputation and honour) in the area of audiovisual media. Illegitimate refusal of the right of reply by newspapers or broadcast organisations leads to penal sanctions.
	Self-regulation	EN	The Act on the right of reply of 1961 does not apply to electronic versions of newspapers. Various legislative proposals aiming at harmonising the rules for print and audiovisual and at stipulating similar rules for the internet have been introduced in the federal parliament in previous years, but none of them has been adopted so far. However, there exists self-regulation in the field of the right of reply in an online environment. When someone asks for a right of reply, e.g. someone is sentenced to imprisonment but cleared of charge in appeal, the newspaper will put a note under the article in the online archive, saying this person is cleared of charge in appeal.
	Art. 177-191 FLRTA	AAVM	The Flemish Community has installed its own regime for right of reply on radio and television broadcasting. This regime is very similar to the one of the Federal Act of 1961 in the area of audiovisual media. Besides a right of reply, the Flemish rules also install a “right of announcement” for suspected or accused persons that have been discharged or acquitted. N.B. In the French and German-speaking Community, the right of reply for audiovisual media contained in the Federal Act of 1961 applies.
	Art. 176septies FLRTA; Art. 36 FRBA	AAVM	In this context, it is relevant to mention that in the Flemish Community, all public and private broadcasters must keep a copy of their broadcast signals during 2 months. In the French Community, private broadcasters and RTBF must keep a copy of full programme during 3 months (only 2 months for independent radios).

Note: There are no severe conflicts regarding the right of reply. From time to time courts have to decide on a case regarding the right of reply. For instance, in the eighties a politician (Van den Boeynants) misused the right of reply several times against a magazine, leading the magazine to refuse further replies. However, the court condemned the magazine saying the formal conditions of the right of reply were fulfilled. The media criticised this court decision sharply, but the courts continue to enforce the right of reply if the conditions are fulfilled. In 2003, the Court of Appeal of Antwerp condemned the CEO of a newspaper to pay a fine for illegitimate refusal of right of reply.

TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Belgian Ethical Code for Journalists of 1982	All	“Newspapers and journalists should resist pressure of any kind.”
<p><i>Note:</i> In contrast to radio and television organisations (<i>infra</i>), there are no legal obligations for newspapers to have an editorial statute. However, in Belgium there exists a tradition of foundations within the (Flemish) newspapers. These foundations are established in order to take care of the editorial principles and values (in relation to editorial texts and advertisements) of the newspapers and the statutes of the foundations contain explicit safeguards with regard to the editorial staff’s independence (e.g. guaranteeing the autonomy of the editorial staff). For example: in case of change in the editorial cooperation with other newspapers, the preliminary approval of the foundation is required, and in case of change in ownership (to a shareholder or to a third), the vendor or liquidator has to impose the stakeholder or the third party the obligation to respect the editorial principles and values as described in the statute. If the buyer acquires the titles without respecting the editorial line, he has to pay a damage. The statutes also confer special powers on the editorial staff e.g. a preliminary advice of the foundation in case of appointment or dismissal of a chief editor; a preliminary approval of the foundation in case of appointment or dismissal of a journalist, trainee journalist and chief editor. A substantial change in the task of a journalist (e.g. he would be no longer linked to the editorial staff), is equated with a dismissal and therefore a preliminary approval of the foundation may be required. Nevertheless, the Flemish association of professional journalists has called for a formalisation of safeguards for editorial independence by introducing editorial statutes in all news media; they are of the opinion that the Flemish government has an essential role to play in that regard, for instance, by making press subsidies dependent on the presence of an editorial statute (see, for instance, “De Journalist” of 23 March 2006, magazine of the VVJ, the Flemish association of professional journalists).</p>			
2.2. News / information programmes	FLRTA: - Art. 23 (public broadcaster) - Art. 36; 45, § 1, 3°; 49, 3° (radio stations) - Art. 70 (generalist TV channels) - Art. 73, 3° (regional TV) FRBA : -art. 35 § 1, 4° & 6 (private broadcasters) -art. 66 §1,8° (local TV) Art. 3 & 7§2 RTBF decree + charter RTBF/ government (art. 18)	AAVM	Obligation to ensure editorial independence in news and information programmes (as enshrined in an editorial statute)
	Art. 101, §6 and 109, al. 2 FLRTA; Art. 14 Code of advertising and sponsoring	AAVM	News and other informative programmes cannot contain advertising + cannot be sponsored.
2.3. Other media content	Art. 98, 7° FLRTA	AAVM	Prohibition to rely on persons who are known by the public for their participation to information programmes and whose performance can be misleading for the viewer or listener (e.g., a news presenter cannot promote a product or service in an advertising spot, as this might be misleading for the public and might jeopardize his reputation of impartial and objective news presenter).
	Art. 109 FLRTA Art. 24,1 FRBA	AAVM	No influence of editorial content by sponsor
	Art. 103 FLRTA Art. 15 (advertising and teleshopping)	AAVM	Prohibition to limit advertising to the products or services of one commercial or financial group, or to grant exclusivity to a certain product or

	+ art. 24,11° (sponsorship) FRBA		service
2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)	Protocol between Flemish Government and Press sector (2005-2007)	PM	Flemish Government grants annual subsidies (1.000.000 EUR) to the print press; two of the four selection criteria refer explicitly to independence and pluralism of the press: “the extent to which the project contributes to the preservation and promotion of the editorial independence” and “the extent to which the project supports the preservation of a pluralist, independent press and guarantees diversity”. (See call for tenders: http://www2.vlaanderen.be/media/Media/steun/GP2007_oproep.doc) More info: http://www2.vlaanderen.be/media/Media/steun/geschrevenpers.htm
	Ministerial Decree of 13 April 2007	Press (both print and audiovisual)	The Fund Pascal Decroos for investigative journalism aims to support high quality and investigative journalism in and outside Flanders, both in the print and audiovisual press. It grants subsidies to individual journalists who would like to work on a project of special or investigative journalism the costs of which exceed the normal budgetary capacities of the newspaper, editor or broadcaster. The Fund receives an annual grant from the Flemish Government (in 2007: 250.000 EUR), fees for membership (9.000 EUR) and gifts. More info: http://www.fondspascal.decroos.org/
	Art. 30-31 FRBA and Act of 31 March 2004 relating to press subsidies		The Press Fund of the French Community (<i>Centre de l'aide à la presse écrite</i>) grants three types of subsidies: <ul style="list-style-type: none"> - supporting the creation of new titles - supporting long-term employment of journalists, use of new technologies - preserve the largest possible diversity in newspapers (giving priority to less profitable titles). The fund is financed through contributions by the public service broadcaster RTBF and by editors of TV broadcasting services whose annual turnover exceeds 15 mio. EUR (Art. 30). Overview of subsidies granted in 2007: http://www2.cfwb.be/av/db/aig/gallery/Autres_secteurs/PresseEcritreTitresSoutenus07.pdf More info: http://www2.cfwb.be/av/default.asp?V_ITEM_ID=538
<i>Note:</i> (1) The French community government has never adopted implementation measures, but broadcasters contribute in practice: RTBF implemented this article (in 2005, 3.1 Mio. Euros paid for the fund of the written press development); TVi contributes (freely) since 2006 (but any control by CSA).			
<i>Note:</i> (2) Initially, the federal state was in charge of granting subsidies to the press. Since 1978, such a system of direct support to the written press had existed with the aim of ensuring pluralism in the press (which would reflect all opinions in society) and guaranteeing the viability of the newspapers (legal basis: Law of 19 July 1979 and Royal Decree of 20 July 1979). During the state reform of 1988, powers over press subsidies were transferred to the Communities, which have since then established their own systems and developed their own policies (for instance, in the Flemish Community a first agreement relating to safeguarding a pluralist and independent opinion press was reached in 1993; in 1998 the Flemish government restructured the system of direct support and replaced it by a program for the support of digital diversification (today: educational programs), concentrating on the preservation of good, quality based and autonomous editorial staff teams).			
2.5. Consultative programming structure for participation of the public/citizens to media (i.e. a mechanism to allow citizens to participate in editorial decisions, under the form of e.g. an ombudsman, ethics or liaison committee, "Société des rédacteurs" ...)			

TABLE 3. Cultural pluralism

Measure	Source	Scope of application	Key features
3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)			
3.1.1. Special representation requirements in media company structures			
	Art. 76, § 1 FLRTA	Regional TV	The general assembly of the regional TV stations has to be “representative” of the region according to “political, social, <i>cultural</i> , ideological and regional criteria”.
	Art. 70, §1 and 5 FRBA	Local TV	(At least) Half of the members of the board of governors of local television stations should consist of representatives of the <i>cultural</i> sector.
3.1.2. Special representation requirements in media advisory bodies	Art. 19. Culture Pact	PSM	Management bodies of public broadcasters in Belgium should be assisted by a <i>permanent advisory committee</i> in which all accredited users’ organizations and all ideological and philosophical groupings are represented.
<i>Implementation problem:</i> Only explicitly implemented in French Community (Art. 20 of the RTBF-Decree and the Government Decision of 12 December 2000, <i>Official Gazette</i> 30 March 2001)			
	Art. 7 of the Culture Pact Act		Composition of media advisory bodies should reflect all ideological and philosophical groupings (as well as users’ organizations), in such a way that an unjustified dominance of one of these groupings is excluded.
<i>Implementation problem:</i> Only explicitly mentioned in French Community for advisory body within CSA (Art. 135, § 1 Décret du 27 février 2003 sur la radiodiffusion), but Art. 7 directly applies in the other Communities as well for all media advisory bodies participating in the preparation and implementation of culture policies in those communities.			
	Art. 79 FLRTA	Regional TV (Advisory Council)	Each regional TV station has the obligation to create an Advisory Council, whose task it is to safeguard the pluralistic and independent character of the TV station; the members of this Advisory Council have to be “representative” of the region according to “political, social, <i>cultural</i> , ideological, ethnic and regional criteria”.
3.1.3. General policies promoting equal opportunities (ethnic minorities, gender, age, disabled...)	Various policy measures at federal and Community level (at Community level “equal chances” is a dedicated policy domain appointed to a minister).		Examples include: legislation on the representation of women in public bodies (including for instance, regulatory and advisory bodies in the media domain).
	Art. 31 Charter VRT-Flemish Government, VRT Charter on Diversity	PSM (Flemish Community)	VRT has to respect a diversity and equal chances policy in general, and in relation to HR management in particular. It has issued a “Charter on Diversity” and created a “Diversity Cell” that advises programme producers, directors and managers, script writers, journalists, etc. They pay attention to various aspects of diversity: gender issues, age issues, ethnic minority issues, people of foreign origin, and people with handicaps...
3.2. Representation of the various cultural groupings in the media			
3.2.1. Access to airtime for cultural groupings	Art. 28 and 30 FLRTA	PSM (Flemish Community)	Representative associations are entitled to broadcast radio and television programmes on the radio and TV channels of VRT. Accreditation is done by the government who also determines on an annual basis the division of airtime and subsidy. There are currently five accredited ideological associations that are entitled

			<p>to bring radio and television programmes:</p> <ol style="list-style-type: none"> 1. VZW Katholieke Televisie- en Radio-omroep 2. VZW Het Vrije Woord 3. VZW Pro-Erts 4. VZW Israëlitische Godsdienstige Uitzendingen 5. Orthodoxe Kerk in België <p>The following social-economic associations are entitled to bring radio programmes :</p> <ol style="list-style-type: none"> 1. Algemeen Christelijk Vakverbond (ACV) 2. Algemeen Belgisch Vakverbond (ABVV) 3. Algemene Centrale der Liberale Vakverbonden van België (ACLVB) 4. VZW Voka 5. VZW Unizo 6. VZW Agrarische Televisie- en Radio-omroep 7. VZW Gezinsbond
	Art. 7, § 3-4 RTBF-Act (+ implementation decrees)	PSM (French Community)	<p>“Representative” associations are entitled to broadcast radio and television programmes on the radio and TV channels of RTBF. Accreditation is done by the government; the division of airtime is determined by the board of administrators of the RTBF (according to the criteria put forward in the Charter between the RTBF and the French Government).</p> <p>There are currently five accredited philosophical / religious associations:</p> <ol style="list-style-type: none"> 1. Radio Télévision catholique belge a.s.b.l. 2. La Pensée et les Hommes a.s.b.l. 3. Association protestante pour la Radio et la Télévision a.s.b.l. 4. Les Emissions religieuses du Consistoire central israélite de Belgique a.s.b.l. 5. Eglise orthodoxe en Belgique
3.2.2. Content obligations			
<i>3.2.2.1. Promotion of European works</i>	- Art. 115 FLRTA - Art. 43, § 1 FRBA	AVM (except local/regional TV stations)	Obligation to reserve for European works a majority proportion of transmission time (excluding time appointed to news, sports events, games, advertising teletext services and teleshopping); cf. Art. 4 and 6 TVWF
<i>3.2.2.2. Promotion of European independent works</i>	- Art. 116 FLRTA - Art. 43, § 2 FRBA	AVM (except local/regional TV stations)	Obligation to reserve for European independent works 10% of transmission time (excluding time appointed to news, sports events, games, advertising teletext services and teleshopping); cf. Art. 5 TVWF
<i>3.2.2.3. Promotion of national/regional works</i>			
	Art.16 Charter VRT-Flemish Government	PSM (Flemish Community)	<p>Obligation for VRT to strive at a percentage of 50% of Flemish (co-) productions on its linear TV channels between 6 and 11 pm.</p> <p>Obligation for VRT to reserve at least 20% of the time for music on its radio channels for Flemish music productions.</p> <p>At least one radio channel of VRT should be recognised by the public as a channel with Dutch music profile.</p>
	Art. 41 FRBA	AVM	General obligation for all editors of television broadcasting services to invest a certain percentage of the annual turnover (increasing as the turnover increases) in audiovisual production under the form of co-production, pre-ordering, or contribution to the “Centre de cinéma et de l’audiovisuel” (for instance, annual turnover between 0 and 5 mio EUR: 1,4%; AT between 5 and 10 mio. EUR: 1,6%, AT between 10 and 15 mio. EUR: 1,8%, etc.).
	Art. 79 FRBA	AVM	General obligation for aggregators of services to contribute for audiovisual production (co-production or paid 2 euros/user/year)

	Art. 42 FRBA	AVM	All editors of television broadcasting services: Quota for music written/produced/composed/ performed by persons residing in the French language region or bilingual region of Brussels-Capital: - at least 4,5% of musical programming
	Art. 43 FRBA	AVM (except for local television)	The European and independent works should include works originating from domestic authors or producers.
	Art. 54, § 1 and 60 FRBA	AMS	All editors of radio broadcasting services: Quota for music in the French language region or in the bilingual region of Brussels-Capital: - at least 4,5%
	Art. 48-50 FRBA		An “editor of broadcasting services” in the French Community can obtain a must carry-status if it concludes an agreement with the Government, stating that it will “promote the (cultural) patrimony of the French Community, broadcast a minimum amount of original programmes, offer a news service, contribute to the audiovisual production of the French Community (via internal production, co-production or external orders of programmes, up to a minimum of 24% of its annual turnover) and create employment in the French Community (with a minimum of 60 FTE).
3.2.2.4. Language requirements	Art. 34 FLRTA	AMS	Obligation for all private radio stations to broadcast in Dutch (Flemish government can grant exception).
	Art. 41, § 1 FLRTA	R	Obligation for communitywide private radio in Flanders to offer music in the Dutch language
	Art. 73, 6° FLRTA	TV (Regional)	Obligation for regional television to broadcast in Dutch (Flemish government can grant exception).
	Art. 90, § 1, 7° FLRTA	Non-traditional AVM (‘television services’)	Obligation for television services to broadcast in Dutch (Flemish government can grant exception).
	Art. 42 FRBA	AVM	Quota for audiovisual works in the French language: - 10% of transmission time for audiovisual works in the French language - 50+% of all programmes (except for music programmes)
	Art. 54, § 1 and 60 FRBA	AMS	Quota for music in the French language: - at least 30% on annual basis. (CSA can grant to guarantee the linguistic and cultural diversity) General obligation for all editors of radio services to broadcast in the French language.
3.2.2.5. Other	Art. 54, § 1, 1°, a) FRBA	AMS	Obligation for all editors of radio services in the French Community to “promote cultural development, notably by presenting for free the principal (socio-) cultural activities in its broadcasting area”.
3.2.3. Representation of minorities on the screen (e.g. presenting the news, in drama, movies...; can be engagement in an internal charter or can be imposed statutory)	Art. 31 Charter VRT-Flemish Government, VRT Charter on Diversity	PSM (Flemish Community)	The public service broadcaster of the Flemish Community (VRT) has adopted an internal “Charter on Diversity”, containing engagements with regard to non-discrimination, equal chances, representation of all groups in society in its staff and in its programmes. There is a specific engagement towards the representation of “members of all ethnic-cultural minorities, persons with a handicap and elderly people as citizen, expert, guest, participant or public in the programmes”. <u>More info: http://www.vrt.be/vrt_master/over/vrt_overvrt_diversiteit_engagement_bis/index.shtml</u>
<i>Note:</i> VRT takes this seriously and puts serious efforts in promoting diversity on the screen (both in drama, in news, in cultural programmes people from different origin, race, gender, etc. are shown...).			
	Art. 5 to 7 (content) & 49 (staff) charter		The fundamental principles of RTBF explain an engagement to promote the

	RTBF/French government		social and cultural diversity, equality men/women in its programmes ; no discrimination and equality men/women in its staff
3.2.4. Subsidies (apart from general PSB funding)	Flemish Act of 13 April 1999 on the Flemish Audiovisual Fund ‘VAF’	Film & TV	<p>Flanders Audiovisual Fund (“Vlaams Audiovisueel Fonds”, VAF) supports audiovisual production in, as well as international co-productions with Flanders. The Fund was set up by the Flanders government in 2002. It annually receives a €12.5 million grant <i>of the Flanders government</i>. The aims of the Flanders Audiovisual Fund are threefold: to develop a sustainable audiovisual industry, to encourage and support upcoming audiovisual talent and to promote a vibrant audiovisual culture in Flanders. It has 4 tasks:</p> <p>(1) production support: it provides financial support for audiovisual productions (min. 78% of the annual budget); filmmakers can apply for support to fiction, documentary, animation and experimental media production. All funding applications are examined by reading committees the members of which have critical skills and a thorough knowledge of the audiovisual field. These committees given their recommendations to the Board of Directors, which has the final decision.</p> <p>(2) promotion: it promotes these productions in Flanders as well as abroad.</p> <p>(3) training support: it grants scholarships, finances professional training and supports/organises workshops.</p> <p>(4) research: it carries out surveys on the audiovisual field.</p> <p>More info: http://www.vaf.be/taal/en/</p>
	Act of the French Community of 22 December 1994 containing several provisions relating to the audiovisual sector and education; Royal Decree of 22 June 1967, modified several times (most recently by the Decree of the Government of the French Community of 18 December 2001)	Film & TV	<p>Centre du Cinéma et de l’audiovisuel has as its primary aim the support and promotion of audiovisual productions. It is financed through an <i>annual grant from the French Community</i>, as well as <i>contributions by broadcasting distributors (in particular the cable TV companies) and by TV broadcasting editors*</i>.</p> <p>It has the following tasks:</p> <ul style="list-style-type: none"> - support and promotion of audiovisual works of the French Community; - support the distribution of these works and grant quality bonuses; - support organisational structures for audiovisual production and training (“ateliers d’accueil, de production, d’écoles”); - stimulate co-productions between independent producers and TV broadcasters in the French Community. <p>In 2007, the sum of granted aids amounted to nearly 20 mio. EUR (figures: http://www2.cfwb.be/av/default.asp?V_ITEM_ID=558, ‘synthèse de ce bilan’.)</p> <p>More info: http://www.cfwb.be/av/ http://www.qmonsite.be/default.asp?V_DOC_ID=1307</p> <p>(* Editors of TV services are obliged to contribute to the production of audiovisual works, either through co-productions or under the form of a contribution to the Centre du Cinéma et de l’audiovisuel - contribution which is calculated on the basis of their annual turnover; the modalities of this obligation are elaborated in an agreement between the editor and the Government of the French Community (Art. 41 FRBA).</p>
	Art. 1, 15° and 161-162 FRBA; implementation decree of 21 June 2004	Radio	<p>Fund for radio productions (“Fonds d’aide à la création radiophonique”, FACR) supports the development of radio productions in the French Community. It can spend an average annual amount of 150.000 EUR (varies every year; see http://www2.cfwb.be/av/db/aig/gallery/Radio/</p>

			<p>bilanFACR0405.pdf for an overview of 1994-2005). It is financed through <u>contributions by the sector</u> (mainly contributions by the public service broadcaster RTBF, and to a smaller extent by commercial radio stations, calculated on the basis of their annual turnover; see Art. 161 FRBA)</p> <p>A selection committee decides 2 times/year which projects (in different genres: information, fiction, music, culture) are eligible for subsidies on the basis of originality, quality, creativity, promotion of cultural heritage of French Community...</p> <p>The subsidies cover the costs for the production of the radio project.</p> <p>More info: http://www.cfwb.be/av/ http://www2.cfwb.be/av/default.asp?V_ITEM_ID=535</p>
	Art. 194ter Code of Income Tax (as amended by the federal act of 2 August 2002)	Film & TV	Tax Shelter (special exemption regime from taxes on profits for companies investing in the production of ‘accredited’ audiovisual works in Belgium).
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	Art. 9, §7 Charter VRT-Flemish Government	PSM Flanders	<p>The Charter between the Flemish Government and the public service broadcaster of the Flemish Community (VRT) prescribes that VRT should do maximum efforts to ensure accessibility of its programmes by people with difficulties seeing and hearing:</p> <p>1° by 2010 at least 95% of the TV programmes have to be subtitled; 2° it will conform its websites to the “Blindsurfer label” 3° it will experiment with audio description and similar techniques.</p> <p>The number of programmes (not only in foreign language but also Dutch-spoken TV programmes) subtitled by the VRT has increased as follows:</p> <ul style="list-style-type: none"> – 1998-2003: 35% – End 2004: 40% – End 2005: 45% – End 2006: 50% <p>More info: http://jsp.vlaamsparlement.be/website/htm-vrq/511308.html; http://jsp.vlaamsparlement.be/website/htm-vrq/502075.html</p>
	Art. 29 charter RTBF/French government		RTBF must broadcast or/and offer via video on demand: content subtitled, priority for news and message of general interest (at least 600 hours in 2007, 800 hours in 2009...), guarantee an access to news in language of the signs.
	<p>Decrees of the Flemish Government of 12 May 2006 and 29 May 2007 granting subsidies to regional TV stations;</p> <p>Decree of the Flemish Government of 19 July 2007 granting subsidies to VMMA</p>	Regional and commercial TV	<p>The Flemish Government grants since 2006, reps. 2007, subsidies to the regional TV stations (50.000 EUR each for equipment and 50.000 EUR on annual basis for personnel costs) and the largest Flemish commercial TV station VTM (500.000 EUR) for the subtitling of their news.</p> <p>More info: http://www.fevlado.be/nieuws/nieuwsDetail.aspx?item=427</p>

TABLE 4. Political pluralism

Measure	Source	Scope of application	Key features
4.1. Structural rules (relating to the organization and structures of media companies / advisory bodies)			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)	Art. 11, § 2 FLRTA	PSM Flemish Community (VRT)	The position of governor on the board of the public broadcaster is incompatible with a political mandate (including a position in a minister's or secretary of state's cabinet).
<i>Note:</i> Art. 19 of the Culture Pact Act applies, implying that candidate governors are nominated by the various political parties in the Flemish Parliament. No similar provisions for CEO and directors...?			
	Art. 12 RTBF-Act		Being member of the board of governors of RTBF is incompatible with a political mandate in a government (or a minister's office) or in a parliamentary assembly (at European, federal, community, regional or local level).
	Art. 41, § 1, 1°; 45, § 1, 1°; 53, al. 2; 54, § 1, 3° FLRTA	AMS	Members of the board of governors of radio stations (both terrestrial, cable, internet) cannot have a political mandate. The only exception (where such rule is not explicitly imposed) applies to local FM radio stations. The justification is that local politicians are often member of the board of governors of a local radio station and that it is hard to find other people from the local community interested to take up membership of the board.
	Art. 77, 1° and 90, § 1, 3° FLRTA	Regional TV and non-traditional "TV services"	Max. 1/5 of the members of the board of governors of regional TV stations can have a political mandate. The same provision applies to "television services" (non-traditional TV services, e.g. on demand or via the Internet, on the condition that they perform an economic activity the primary goal of which is to offer TV programmes).
	Art. 70, §1 and 5 FRBA, <i>juncto</i> Art. 1 French Community Act on the Depoliticization of Cultural Organisations	Local TV	Maximum half of the members of the board of governors of local television stations may consist of political representatives (i.e. persons with a political mandate).
4.1.2. General requirement of independence from political parties / politicians	Art. 35 FLRTA	(private) AMS	All private radio stations (both traditional FM and AM radios, cable radios and internet radios) have to be independent of a political party.
	Art. 73, 5° FLRTA	Regional TV	Regional TV-stations have to be independent of a political party (as well as of professional associations and commercial organizations).
	Art. 90, §1, 5° FLRTA	Non-traditional TV	Non-traditional TV services (e.g. on demand or via Internet) have to be independent of a political party.
	Art. 35, § 1, 7° FRBA	AAVM	Being independent of government, political parties (as well as labour associations) is a prerequisite for all "editors of broadcasting services" (both radio and television services) in order to obtain a broadcasting licence.
4.1.3. Representation requirements in media companies' bodies (board of directors...)	Art. 11, §1 FLRTA and Art. 19 Culture Pact Act	PSM (Flemish Community)	The members of the board of governors are appointed by the Flemish government taking into account the representation requirements of Art. 19 Culture Pact Act. (all political parties represented in the Flemish Parliament propose candidates for the board, from which the Flemish government has to choose).

	Art. 11, § 1 RTBF-Act and Art. 19 Culture Pact Act	PSM (French Community)	The board of governors of RTBF should be composed of representatives of the various recognized political groupings in a <i>proportionate</i> manner.
	Art. 8, § 1 BRF-Act and Art. 19 Culture Pact Act	PSM (German-speaking Community)	The board of governors of BRF should be composed of representatives of the various political parties in the Parliament of the German-speaking Community in a <i>proportionate</i> manner.
	Art. 76, § 1 and 77 FLRTA	Regional TV	The general assembly of the regional TV stations has to be “representative” of the region according to “political, social, cultural, ideological and regional criteria”. The board of governors of regional TV stations should be composed in a “representative manner” and max. 1/5 of its members can have: <ul style="list-style-type: none"> - a political mandate (except for a position in the government at local, provincial, regional or federal level), or - a executive or administrative function in a professional association, or - a executive or administrative function in a media, broadcasting, press or advertising company, or - a executive or administrative function in a cable operator.
	Art. 70, § 1 and 5 FRBA	Local TV	The members of the board of governors of local television stations who have a political mandate (max. half of the board; <i>supra</i>) should represent in a <i>proportionate</i> manner the political parties in the councils of the municipalities located within the emission region of the local television (in Brussels-Capital: proportionate representation of the political parties in the Parliament of the French Community).
4.1.4. Incompatibility of political mandate with membership in media advisory or regulatory bodies	Art. 8 Flemish Act on Strategic Advisory Bodies	Advisory Body – Flemish Community	Members of the Flemish Strategic Advisory Body for Sports, Media, Youth and Culture (SMYC) cannot have a political mandate, nor belong to the Flemish administration department of SMYC.
	Art. 168 FLRTA <i>juncto</i> Art. 21, § 1 Flemish Act on Regulatory Governance of 2003	Regulatory Body – Flemish Community	Members of the Flemish Media Regulator VRM cannot have a political mandate nor have a position in a minister’s or secretary of state’s cabinet.
	Art. 135, § 4 FRBA	Advisory Body – French Community	Membership of the Advisory Committee (<i>Collège d’avis</i>) in the <i>Conseil Supérieur de l’Audiovisuel (CSA)</i> of the French Community is incompatible with membership of the executive or legislative power at European, federal, community or regional level, as well as with a position in a minister’s cabinet (at European, federal, community or regional level).
	Art. 136, § 2 FRBA	Regulatory Body – French Community	Membership of the Regulatory Committee (<i>Collège d’autorisation et de contrôle</i>) in the <i>Conseil Supérieur de l’Audiovisuel (CSA)</i> of the French Community is incompatible with membership of the executive or legislative power at European, federal, community, regional, <i>provincial and local level</i> (N.B. broader than the advisory committee), as well as with a position in a minister’s cabinet (at European, federal, community or regional level).
4.1.5. Representation requirements in media advisory bodies and/or regulators	Art. 79 FLRTA	Regional TV (Advisory Council)	Each regional TV station has the obligation to create an Advisory Council, whose task it is to safeguard the pluralistic and independent character of the TV station; the members of this Advisory Council have to be “representative” of the region according to “ <i>political, social, cultural, ideological, ethnic and regional criteria</i> ”.
	Art. 7 Culture Pact Act (explicitly referred to in Art. 135, § 1 FRBA; implicitly applicable in the other communities)		The members of the media advisory bodies (i.e. the <i>Conseil d’Avis</i> of the <i>Conseil Supérieur de l’Audiovisuel</i> of the French Community and the Strategic Advisory Council for Culture, Youth, Sports and Media of the Flemish Community) should reflect all ideological and philosophical groupings (as well as users’ organizations), in such a way that an

			unjustified dominance of one of these groupings is excluded.
	Art. 136 FRBA, <i>juncto</i> Art. 9 Culture Pact Act 1973		The members of the Regulatory Committee (<i>Conseil d'autorisation et de contrôle</i>) of the <i>Conseil Supérieur de l'Audiovisuel</i> of the French Community should be appointed with respect to the proportional representation of all political groupings
<i>Note: Implicitly applicable to Flemish Media Regulator?</i>			
4.2. Content rules (relating to media programmes, press articles, other content)			
4.2.1. Equal/proportionate access to airtime for political groupings	Art. 29 and 30, §6 FLRTA	PSM (Flemish Community)	Political parties having elected representatives in the Flemish Parliament are entitled to windows on the TV and radio channels of VRT in “pre-election periods” (<i>i.e.</i> a period of 2 months preceding local, provincial, regional, federal and European elections): - 50% of the airtime is divided in a proportionate manner, - 50% is divided equally over the various political parties.
	Art. 7, § 3-4 RTBF-Act (+ implementation decrees)	PSM (French Community)	“Representative” associations are entitled to broadcast radio and television programmes on the radio and TV channels of RTBF. Accreditation is done by the government; the division of airtime is determined by the board of administrators of the RTBF (according to the criteria put forward in the Charter between the RTBF and the French Government). There are currently four accredited ideological/political associations: 1. Centre d'Etudes et de Formation en Ecologie a.s.b.l 2. Action solidaire a.s.b.l 3. Institut Emile Vandervelde a.s.b.l 4. La Pensée libérale a.s.b.l.
4.2.2. Government announcements	Art. 27 FLRTA (+ implementation decree)		VRT is obliged to broadcast government* announcements free of charge, up to a maximum of 15 minutes per month, and following a primetime newscast. (*) Flemish government, as well as announcements from the Flemish Parliament, the Flemish ministers and the secretaries of state of the Region Brussels-Capital. These announcements are suspended – except in urgent cases – in pre-electoral periods (<i>i.e.</i> 2 months preceding elections at local, regional, federal or European level).
	Art. 7, § 5 FRBA	PSM	Private broadcasters and RTBF are obliged to broadcast government* announcements free of charge and up to a maximum of 3 hours per month. (*) Governments of the French Community, of the Walloon Region, of the Region Brussels-Capital, and of the bodies in Brussels-Capital representing the interests of the French speaking population.
4.2.3. Impartiality obligations	Art. 111bis FLRTA	AAVM	A non-discrimination obligation applies to all radio and TV broadcasters for all their programmes and services; the programme schedule cannot give rise to discrimination between the various ideological or philosophical groupings. Informative programmes should be produced with political and ideological impartiality. This provision is monitored by the ‘Chamber for Impartiality and Protection of Minors’ within the Flemish Media Regulator.
	Art. 35, § 1, 5° FRBA; Art. 66, §1, 8° FRBA	AAVM	The licensing conditions for editors of radio or TV programmes contain the obligation to adopt internal rules of procedure on the impartial treatment of information. This obligation is reiterated in the provisions for local TV stations.
	Art. 15 Charter VRT – Flemish Government	PSM (Flemish Community)	The public service broadcaster of the Flemish Community (VRT) has the obligation to respect impartiality and truthfulness in all news, information, and informative programmes.

	Art. 18 Charter RTBF - Government of the French Community (2007-2011)	PSM (French Community)	The public service broadcaster of the French Community (RTBF) has the general obligation to bring news and information which is objective, honest, independent, in-depth, pluralist, complete, analytical, apprehensive and stimulating reflection and debate on issues relevant to a democratic society.
4.2.4. Fair representation of political viewpoints; special rules in election periods	Art. 111bis	AAVM	The impartiality obligation implies that broadcasters have to present the various political viewpoints fairly in news, talk shows, etc. This provision is monitored by the ‘Chamber for Impartiality and Protection of Minors’ within the Flemish Media Regulator.
	Art. 29 and 30, §6 FLRTA		In pre-electoral periods (<i>i.e.</i> 2 months preceding elections at local, regional, federal or European level), the public service broadcaster of the Flemish Community (VRT) allocates windows on its radio and TV channels to political parties represented in parliament. 50% of these windows are allocated in a proportionate manner; 50% are divided equally.
	Art. 18-19 Charter RTBF - Government of the French Community (2007-2011)		The public service broadcaster of the French Community (RTBF) has specific obligations to cover elections and bring news, talk shows, interviews, etc. both on radio and TV with the aim of informing the citizens about the discussion items, the various viewpoints, etc. RTBF has the general obligation to bring news and information which is objective, honest, independent, in-depth, pluralist, complete, analytical, apprehensive and stimulating reflection and debate on issues relevant to a democratic society.
Note: Before electoral periods (tree months) the CSA publish recommendation bound TV & radio broadcasters.			
4.2.5. Political advertising	Art. 97, §3 and 98, §1 FLRTA	AAVM	Ban on political advertising (“it is prohibited to broadcast any form of announcement from politicians, political candidates or political parties in return for payment”.); Advertising should not promote political, religious, ideological or philosophical views.
	Art. 12 FRBA	AAVM	Ban on political advertising (“commercial communication cannot have as its object political parties, labour organisations or employers’ associations; it cannot promote religious or philosophical beliefs”).

TABLE 5. Geographical pluralism

Measure	Source	Scope of application	Key features
5.1. Licensing policy fostering local/regional types of media	Art. 31-33, 44-47, 48-50 FLRTA	R (terrestrial)	Local FM radio and regional FM radio are recognised as separate categories of radio broadcasting providers, with separate authorisation procedures and criteria. They should take the form of a “legal person” (without specification of the type of legal person: commercial or non-profit). They have special obligations relating to covering local news and events, promoting communication in the local or regional territory. Part of the broadcasting frequencies are reserved for those categories.
	Art. 71 ff. FLRTA	Regional TV	A special category of regional TV is recognised in the Flemish broadcasting legislation; in order to be authorised, these regional TV stations should take the form of non-profit associations. They have to fulfil a (public) mission to bring information and news from the region, to promote communication within the regional community and to contribute to the cultural and social development of the region. The administrators of the regional TV station have their residence in the region of coverage. The programmes are only distributed via cable (which is the traditional and predominant means of distribution for TV programmes in Belgium – only the public broadcasters distribute their TV programmes via terrestrial networks) but have must carry status (art. 128, §1).
	Art. 53 FRBA		Special category of “independent radios” (local radios) versus “network radios”.
	Art. 63 ff. FRBA		Local TV stations (‘télévisions locales’) are a separate category of editors of broadcasting services with a specific authorisation regime, a special public mission. They have to take the form of non-profit associations.
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)	Art. 18 RTBF-Act		The public service broadcaster RTBF is obliged to install 5 regional production centres (of which at least one in Brussels). The board of governors safeguards the effective decentralisation of services of RTBF by allocating sufficient resources to these regional production centres and by ordering the production of a sufficient amount of programs from all of them.
	- Art. 76, § 1 and 77 FLRTA - Art. 79 FLRTA	Regional TV	* The general assembly of the regional TV stations has to be “representative” of the region according to “political, social, cultural, ideological and regional criteria”. Governors / administrators of regional TV stations should <i>have their residence in the broadcasting area of the TV station</i> . * Each regional TV station has the obligation to create an Advisory Council, whose task it is to safeguard the pluralistic and independent character of the TV station; the members of this Advisory Council have to be “representative” of the region according to “political, social, cultural, ideological, ethnic and <i>regional</i> criteria”.
	Art. 70 FRBA	Local TV	* Governors / administrators represent the cultural and community sector, on the one hand, and the political/ ideological groups at local level, on the other hand.

5.3. Content obligations: requirements to cover local events, etc.			
	Art. 76, § 1 FLRTA	Regional TV	Regional TV stations have the (public) mission to bring information and news from the region, to promote communication within the regional community and to contribute to the cultural and social development of the region.
	Art. 64 FRBA	Local TV	Local TV stations have the public mission to produce and bring information, entertainment, cultural development, permanent education, promote the active participation of the community (each local TV has to conclude a charter with the government specifying this mission).

TABLE 6. Pluralism of ownership/control

Measure	Source	Scope of application	Key features
6.1. Sector specific rules limiting media ownership			
6.1.1. Moment of intervention			
6.1.1.1. <i>At moment of market entry (licensing procedure)</i>	Art. 41, § 1; 45, § 1; 49FLRTA	R (terrestrial - FM)	<p>Requirements <i>to obtain</i> and keep broadcasting licence:</p> <ul style="list-style-type: none"> - one legal person cannot operate more than 2 communitywide (i.e. Flemish) FM radio stations. <i>Direct or indirect links cannot lead to the same undertaking or legal person controlling more than 2 communitywide FM radio stations</i> (*). - one legal person cannot operate more than 2 regional FM radio stations. <i>Direct or indirect links cannot lead to the same undertaking or legal person controlling more than 2 regional or communitywide FM radio stations.</i>(*) - the legal person operating a local radio station cannot operate another radio station (neither another local radio nor another radio of a different type, including cable radios).
<i>Note:</i> (*) The phrase in <i>italic</i> has been added in 2007 (Act of 2.2.2007) to respond to the critic about the ineffectiveness of this provision (e.g. by the Flemish regulator itself, who pointed out that the initial rule could not prohibit mergers or cooperation agreements giving one operator control over another licensee as long as the latter retained a distinct legal personality).			
	Art. 73, 4° FLRTA	TV (regional)	<p>Requirements <i>to obtain</i> and keep broadcasting licence:</p> <ul style="list-style-type: none"> - one legal person cannot operate more than 1 regional TV station
6.1.1.2. <i>At the moment of mergers & acquisitions</i>	Art. 56bis FRBA		<p>The French Community regulator (CSA) can approve the merger of:</p> <ul style="list-style-type: none"> - “radios associatives et al” - “radio associatives” with independent radio stations - independent radio stations - independent radio stations with network radios - network radios <p>on the condition that the radios concerned use frequencies in different areas and that – in case a “radio associative” is concerned – the merger does not change the nature of that radio. The merger can only be allowed for reasons of economic feasibility of the radio(s) and is without prejudice to Art. 7 (control of “significant position threatening media pluralism”; <i>infra</i>).</p>
6.1.1.3. <i>Other (constant monitoring/supervision)</i>	Art. 41, § 1; 45, § 1; 49FLRTA		Cf. supra (requirements to obtain <i>and keep</i> broadcasting licence).
	Art. 169, § 2, 9° FLRTA and Charter VRM – Flemish Government		<p>The Flemish Media Regulator has the task to ‘map’ (monitor) concentrations in the Flemish media sector and to report annually. In 2007 it developed a “media database”, which can be used for the annual reports and for ad hoc reports in response to specific questions. The aim is to enhance transparency; the regulator cannot take any action in case of increases in concentration which may endanger pluralism.</p> <p><u>More info:</u></p>

			http://www.vlaamse-regulatormedia.be/documentatie.html
	Art. 7 FRBA	AAVM	Monitoring system in the French Community: regulator (CSA) monitors whether editors or distributors having a “significant position” in the audiovisual sector are not threatening the access of the public to a pluralistic offer of broadcasting services (i.e. a media offer produced by a plurality of independent and autonomous media companies and representing the largest possible diversity of opinions and ideas). A presumption of significant position exists in the following situations: 1. a natural or legal person holds more than 24% of the capital of 2 editors of TV services (directly or indirectly). 2. idem for radio 3. several editors of TV services, directly or indirectly controlled by the same natural or legal person, have an audience share of 20% [...]
<p><u>Note:</u> For the first time, the French speaking Community has launched a frequencies plan. For the 22nd of June, the CSA will decide which radio broadcaster will be licensed. At this occasion, we have launched a internal procedure of pluralism analysis in order to have a situation in which the public has access to a pluralistic offer of radio services.</p> <p>- The first step was to indicate which editor was in “significant position”.</p> <p>- The second step was the analysis of the offer’s pluralism. (problems with local televisions) see infra point 8.2. This report was divided in 4 parts. 1) A plurality of media (number of media available in French Community); 2) independence and autonomy of media (ownership structure of private radio broadcaster and HHI for television, radio and press sectors) ; [...]</p>			
			[...] 4. idem for radio. In this case, an assessment will have to be made regarding possible repercussions that this position has for the diversity of broadcasting services being offered in the relevant market. If the CSA concludes that the concentration of ownership interests implies a threat to pluralism, it then has a period of six months to reach an agreement with the person concerned with a view to restoring pluralism to the market. Failing to consent to such an agreement, or to effectively implement it, the owner would be faced with a range of possible sanctions, spanning from the imposition of a fine to the revocation of one or more of the operator’s licences, or fines.
<p><u>Note:</u> [...] 3) plurality of opinion (analysis of the news offer in radio sector); 4) plurality of ideas (analysis of other programs in radio sector).</p> <p>The final decision of the procedure is not yet taken by the “CAC”.</p> <p>The same procedure was launched for the distributors.</p>			
6.1.2. Scope (i.e. trying to prevent one of the following forms of concentrated ownership and/or control)			
6.1.2.1. Monomedia	Art. 41, § 1; 45, § 1; 49 FLRTA	R (terrestrial – FM)	Cf. supra - max. 2 communitywide radio stations - max. 2 regional radio stations - max. 1 local radio station
	Art. 73, 4° FLRTA	TV (regional)	Cf. supra

			- max. 1 regional TV station
	Art. 7 FRBA	AVM	Cf. supra - max. 24% of capital of max. 2 editors of TV services - max. 20% TV audience share
	Art. 7 FRBA	AMS	- max. 24% of capital of max. 2 editors of radio services - max. 20% radio audience share
	Art. 56bis FRBA	Radio (terrestrial)	Cf. supra
6.1.2.2. Crossmedia			
<i>Note:</i> In Belgium, there are no rules on the limitation of cross-media ownership between e.g. press and television. This is mainly a result of the division of powers in Belgium between the federal state (press, film...) and communities (radio and television), limiting each legislator’s scope for action to one of these media types.			
6.1.2.3. Vertical integration with networks			
6.1.2.4. Integration with advertising sector			
6.1.2.5. Integration with other (e.g. energy) sectors			
6.1.2.6. Control over both commercial and public media	Art. 11, §2 FLRTA		<i>Excluded:</i> The position of governor on the board of the public broadcaster is incompatible with a position in another media company or in an advertising company.
<i>Note:</i> No similar provisions for CEO and directors...?			
6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
6.1.3.1. Number of licences	Art. 41, § 1; 45, § 1; 49FLRTA	R (terrestrial – FM)	Cf. supra; is similar to: - max. 2 licences for communitywide FM radio - max. 2 licences for regional FM radio - max. 1 licence for local FM radio
	Art. 73, 4° FLRTA	TV (regional)	Cf. supra; is similar to: - max. 1 licence for regional TV
	Art. 66 §2 FRBA	Local TV	1 non-profit-making association (‘ASBL’) for 1 local TV
6.1.3.2. Market shares			
6.1.3.3. Circulation and audience shares			
	Art. 7 FRBA	AVM/ AMS	Cf. supra - max. 20% TV audience share - max. 20% radio audience share
6.1.3.4. Capital shares			
	Art. 7 FRBA	AVM/AMS	Cf. supra - max. 24% of capital of max. 2 editors of TV services - max. 24% of capital of max. 2 editors of radio services
6.1.3.5. Voting shares			
6.1.3.6. Advertising revenues			
6.1.3.7. Involvement in number of media sectors			
6.2. Sector specific rules preventing cooperation between media companies	Art. 40 and 48 FLRTA	R (terrestrial - FM)	Cooperation between the terrestrial radio stations (and with the public broadcaster of the Flemish Community) cannot lead to “structural uniformity” in the programming policy.
	Art. 63 and 72, § 3 FLRTA	AVM	Cooperation between private televisions (both traditional and on-demand/online television services) cannot lead to “structural uniformity” in the programming policy. For regional TV stations an additional restriction is imposed, saying that cooperation cannot lead to uniformity of advertising or financing (except for regional TV stations in the same province).
	Art. 44 FLRTA	Regional radio/TV	Regional radio stations can only cooperate with regional TV stations in programme production, information gathering and advertising sales.
6.2.bis Sector specific rules restricting accumulation of	41, § 1, 1°; 45, § 1, 1°; 53; 54, § 1,	AMS and regional	It is typical for the Flemish broadcasting legislation to limit control over

positions on executive boards of media companies	3°; 73, 1° FLRTA	TV	media companies, not via an ownership share model, but through limiting the number of executive boards of which a single person can be member: - one cannot be a member of the board of governors of more than one communitywide radio in Flanders, nor can a member of the board of governors of a communitywide radio also be a member of the executive board of the public service broadcaster (Art. 41, §1, 1°); - one cannot be a member of the board of governors of more than one regional radio station in Flanders, nor can a member of the board of governors of a regional radio station also be a member of the executive board of a communitywide radio or of the public service broadcaster (Art. 45, §1, 1°); - one cannot be a member of the board of governors of more than one network radio station (Art. 53); - one cannot be a member of the board of governors of more than one radio service (Art. 54, §1, 3°) - one cannot be a member of the board of governors of more than one regional TV station (Art. 73, 1°).
	Art. 72 FRBA	Local TV	There is only one similar restriction to combining positions in various executive boards of radio or TV broadcasters in the French Community: - one cannot combine membership of the board of governors of a local TV station with holding a position at or being member of the executive board of other editors of broadcasting services or of press companies.
6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership			The legal framework does not contain any prohibitions against cross media or foreign ownership.
6.4. General competition rules			
6.4.1. Antitrust			
6.4.1.1. <i>Specific provisions for media sectors (e.g. public interest test...)</i>			
6.4.1.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>	Decision of the Belgian Competition Council of 20.3.2003		The president of the Competition Council found a <i>prima facie</i> abuse of dominance in the behaviour of the largest Flemish media group VMMA (owning both a commercial TV station, radio stations, newspapers, magazines) towards its competitors, the second largest newspaper group in Flanders (VUM) when trading advertising space or time ('barter agreements'). It imposed preliminary measures in order to prevent damage to the general economic interest, <i>notably the pluriformity of the Dutch-speaking press in Belgium.</i>
<i>Note:</i> Sources: eCompetitions (http://www.concurrences.com); website of the Belgian Competition Council (http://economie.fgov.be/organization_market/competition/jurisprudence/jurisprudence_2003_01.pdf)			
6.4.2. Merger control			
6.4.2.1. <i>Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)</i>	Art. 8; §6 <i>juncto</i> Art. 60 Belgian Competition Act 2006	all	General clause (not limited to the media sector) granting the council of ministers the power to declare a concentration admissible for general interest reasons that override the risk of impeding effective competition on the Belgian market (or part of it); in its assessment the council of ministers should take into account “the general interest, national security, competitiveness of the sectors concerned at the international level, consumer interests and employment”; the council of ministers acts upon its own initiative or at the request of the notifying parties.
6.4.2.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>	Telenet-Canal+, Belgian NCA decision of 12.11.2003 (n° 2003-C/C-89)	CATV; Pay-TV	Takeover of pay-TV distributor Canal+ by Telenet (Flemish cable operator) approved under conditions, including obligation for Telenet to grant access to their networks and CAS to non-affiliated pay-TV operators on FRND

			terms, and to allow resale of the Canal+ channels via alternative platforms. In its decision of 25 March 2008, the Competition Council limited the scope of Telenet’s obligation to grant competitors access to its premium content, especially with regard to football rights. Belgacom has lodged an appeal against this decision before the Brussels Court of Appeal.
<i>Note:</i> Source: eCompetitions (www.concurrences.com)			
6.5. Transparency obligations	Art. 6 FRBA	AAVM	Towards the public: All editors of broadcasting services have to make available ‘basic information’ to the public in order to allow it to form its opinion about the value of information and ideas distributed in the programs of that editor.
	Art. 6 FRBA	AAVM	Towards the regulator: “in order to ensure transparency of ownership and control structures, as well as their level of independence, editors, distributors and network operators are obliged to send the regulator (CSA) the following information: - identification of shareholders (and percentage of shareholding) - interest of these shareholders in other broadcasting or media companies - identification of natural or legal persons active in program supporting businesses, contributing to a substantial level to the production of programs.
<i>Note:</i> There are no special obligations for newspapers to identify their owners/shareholders (e.g. in their newspapers or on their website, or to a monitoring body) or provide transparency with regard to ownership/capital structure. But newspapers are subject to the competition rules in the same way as they apply to other sectors.			

TABLE 7. Pluralism of media types and genres

Measure	Source	Scope of application	Key features
7.1. Minimum service in a number of program strands for commercial / community / public service media			
	Art. 40-41, 44, 48-49 FLRTA	R (terrestrial - FM)	Analogue terrestrial (communitywide, regional and local) FM radio stations have the task to offer a diversity of programs, in particular relating to information and entertainment. They have to bring at least 4 newscasts/day (3 for local radio stations) that cover a variety of topics and that are produced by own editorial staff (for communitywide radio stations: consisting of accredited professional journalists), and under the editorial responsibility of a chief editor. Local radio stations have to provide at least 21hours of original programming (produced by internal staff) on a weekly basis (of which minimum 2 hours on a daily basis, between 6 a.m. and 12 a.m.).
	Art. 40 and 48 FLRTA	R (terrestrial - FM)	Cooperation between the terrestrial radio stations (and with the public broadcaster of the Flemish Community) cannot lead to “structural uniformity” in the programs.
7.1bis. Special framework for community media (“medias associatifs”): Is there a special legal framework granting protection to community media (including rules determining the criteria - e.g. being independent of political parties, non-profit, respecting the law, etc. - in order to qualify as community media; granting certain privileges to that type of media, like guaranteed access to spectrum or networks, etc.).	French Community Act of 29.2.2008 modifying the FRBA		French Community inserted several provisions in its broadcasting legislation dealing with “radios associatives et d’expression à vocation culturelle ou d’éducation permanente” (hereinafter “radios associatives et al”: - definition (art. 1, 33°bis): independent radio mainly staffed by volunteers and focusing in its programming either on information, education, cultural development and citizen’s participation, or on musical genres that do not belong to the most popular ones; - authorisation procedure (art. 33 ff.); they can apply for a frequency (in which case they are exempted from remuneration (art. 108, § 2); the regulator (CSA) can approve voluntary exchange of frequencies amongst “radios associatives et al” or between those and other categories of radios (art. 56ter) - subsidies: government can grant subsidies to “radios associatives et al”; the amount can vary on the basis of whether or not these radio stations rely on commercial communication and on the basis of the distribution mode; the total amount of subsidies cannot exceed 100.000 EUR (art. 162bis).
<i>Note:</i> Regarding associative radios, there are several protection mechanisms in art. 56bis regarding the merging process. First, an associative radio cannot merge with any category of radio, but only with another independent radio - no merging between an associative radio and a network. Second, a merging with such an associative radio must not have as a consequence to have an associative radio to disappear. And thus, any service that would result of a merging with an associative radio should still respond to the criteria of an associative radio service.			
	(Art. 48 ff. FLRTA: local FM radio stations; Art. 71 ff. FLRTA: regional TV stations; Art. 31, § 4 <i>juncto</i> 54 FLRTA and Art. 60		The Flemish Community has no specific framework for community media, but in practice, media complying with the criteria put forward in the Resetarits report on alternative media exist and fall under one of the following categories:

	<i>juncto</i> 90 FLRTA: other radio and TV services)		<p>local FM radio stations: have to be independent (art. 35), are authorised on the basis of following criteria: 1) coverage of local news, of local sports, cultural, political events and 2) close link to and being embedded in the local community (art. 50 <i>juncto</i> Decree Flemish Government of 30 March 2007 on the procedure and criteria for the authorisation of communitywide, regional and local FM radio stations). Example: local FM radio station “Scorpio” in Leuven is a non-profit student’s radio, working with volunteers only, accountable to and open for participation by its student’s public, etc. www.radioscorpio.com)</p> <p>regional TV stations: have to take the form of a non-profit association, have the (public) mission to bring information and news from the region, to promote the communication within the regional community and to contribute to the cultural and social development of the region (art. 71)</p> <p>other radio and television services: small scale, non-economic citizen’s or association’s radio and TV initiatives, e.g. via the Internet, are (since May 2007) exempted from the notification obligation in Art. 31, § 4 (radio) and 60 (TV); the only obligations applying to them are the protection of minors and of human dignity provisions copied from the TWF Directive, and the right to reply. Example: http://www.supotv.be/v1/supotv/supotv2.asp, internetTV made by students in journalism at the Catholic College in Mechelen.</p>
7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Art. 166 FLRTA; Art. 4 FRBA		<p>Cf. art. 3a TWF (currently art. 3j AVMS)</p> <p>The Belgian list contains mainly sports events + Queen Elisabeth music contest; FIFA lodged complaint before CFJ.</p>
7.3. Short news reporting	Art. 157-165 FLRTA		<p>All broadcasters (domestic and EU-based) are entitled to the “right of information gathering”, encompassing:</p> <ul style="list-style-type: none"> - free access to the event - right to make recordings - right to short news reporting in journals and regular news programs. Either the secondary broadcaster makes its own reports, or it is entitled to freely choose short extracts (max. 3 min.; in some cases 6 min.) from the transmitting broadcaster’s signal (with identification of the source), in return for fair compensation.
	Art. 3 FRBA		<p>All “editors of broadcasting services” (domestic and EU-based) are entitled to short extracts from editors of broadcasting services under the jurisdiction of the French Community (in return for fair, reasonable and non-discriminatory compensation) for use in journals and regular news programs.</p>
<i>Note:</i> The CAV (‘collège d’avis’) of the CSA published a consultative status relative to short extracts http://www.csa.be/system/document/nom/743/CAV_20071211_courts_extraits.pdf			
7.4. Fixed book price	N.A.		
<i>Note:</i> Notwithstanding several attempts to introduce legislation on fixed book prices, there is currently no act or decision regulating book prices. In 2006, the Competition Council rendered a (negative) advice to the minister of economic affairs (at his request), in which it expressed its doubts regarding the appropriateness and efficiency of a fixed book price to ensure a wide offer of books and the preservation of small book shops. The advice is available at: http://economie.fgov.be/organization_market/competition/competition_council/advice/Advies_vaste_boekenprijs_nl.pdf .			
7.5. Public service media			
7.5.1. Structural rules - organization			
7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)			
	Art. 11, §2 FLRTA		<i>Political independence:</i> The position of governor on the board of the public broadcaster is incompatible with a political mandate (including a position in a minister’s cabinet).
<i>Note:</i> No similar requirements for the CEO and directors...?			
	Art. 11, §2 FLRTA		<i>Commercial independence:</i> The position of governor on the board of the

			public broadcaster VRT is incompatible with a position in another media company or in an advertising company.
<i>Note: No similar requirements for the CEO and directors...?</i>			
	Art. 7 FLRTA		Explicit recognition of VRT's autonomy to arrange its program offer and schedule.
	Art. 13, § 2 FLRTA		The CEO of VRT has exclusive competence over the management, HR, infrastructure, product development and PR of VRT.
	Art. 12 RTBF-Act		<i>Political independence:</i> Being member of the board of governors of RTBF is incompatible with a political mandate in a government (or a minister's office) or in a parliamentary assembly (at European, federal, community, regional or local level).
	Art. 12 RTBF-Act		<i>Commercial independence:</i> The position of governor on the board of the public broadcaster RTBF is incompatible with a position in / with having (financial) interest in another company or organisation performing activities competing with those of RTBF.
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)	Art. 11, §1 FLRTA		The board of governors of VRT is appointed by the Flemish government, taking into account the representation requirements of Art. 19 Culture Pact Act (<i>supra</i> and <i>infra</i>).
	Art. 13, § 1 FLRTA		The CEO of VRT is elected (and dismissed) by the General Assembly, <i>i.e.</i> the Flemish Community, represented by its government.
	Art. 11 RTBF-Act		The administrators of the RTBF are elected by the Parliament.
7.5.1.3. Specific representation requirements for board of directors, other bodies	Art. 11, §1 FLRTA <i>juncto</i> Art. 19 Culture Pact Act.		The members of the board of governors are appointed by the Flemish government taking into account the representation requirements of Art. 19 Culture Pact Act (all political parties represented in the Flemish Parliament propose candidates for the board, from which the Flemish government has to choose).
	Art. 11 RTBF-Act, <i>juncto</i> Art. 19 Culture Pact Act		The administrators of the RTBF are elected by the Parliament in accordance with the principle of proportional representation of the various political groupings.
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings	Art. 19. Culture Pact	PSM	Management bodies of public broadcasters in Belgium should be assisted by a <i>permanent advisory committee</i> in which all accredited users' organizations and all ideological and philosophical groupings are represented.
<i>Note: Only explicitly implemented in French Community (Art. 20 of the RTBF-Decree and the Government Decision of 12 December 2000, Official Gazette 30 March 2001)</i>			
7.5.1.5. Employment: ensured broad representation of cultural, political and geographic groupings	Art. 31 Charter VRT-Flemish Government		VRT has to respect a diversity and equal chances policy in general, and in relation to HR management in particular.
7.5.2. Structural rules - funding			
7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)			
	Art. 8 FLRTA and Charter VRT-Flemish Government (renewed every 5 years)	VRT (PSM Flemish Community)	Dual funding: annual grant from the state (tax money) (65%) + commercial communications (35%) (sponsoring on TV, advertising and sponsoring on radio, merchandising)
	Art. 8 RTBF-Act and Title IX (Art. 50 ff.) Charter RTBF – Government French Community	RTBF (PSM French Community)	Dual funding: annual grant from the state (tax money) (73 % in 2007, 72 % in 2008, 71 % in 2009 and 70 % in 2010) + commercial communications (art. 55 charter RTBF : at the most 27% in 2007, 28 % in 2008, 29 % in 2009 and 30 % in 2010) (sponsoring on TV, advertising and sponsoring on radio, merchandising)
7.5.2.2. Sufficiency of resources			
7.5.3. Definition of public service remit			
7.5.3.1. Obligation to provide a varied and pluralistic offer	Art. 6 FLRTA, Charter VRT-	VRT (PSM Flemish)	Obligation to bring a varied offer of high quality programs relating to

	Flemish government	Community)	information and culture (have priority), education and entertainment (including sports, original fiction). There is an explicit mission to bring children’s programs. The programs should contribute to the development of the identity and diversity of the Flemish culture and of a democratic and tolerable society. Via its programs VRT has to contribute to an independent, objective and pluralistic public opinion in Flanders.
	Art. 3 RTBF-Act and Art. 4-5 Charter RTBF – Government French Community		Obligation to provide a varied offer, in different genres (information, entertainment, education, culture...), attractive for the widest possible audience, catering for both wide and narrow interests, reflecting the different ideological, philosophical, religious, cultural...opinions and ideas in society, contributing to a democratic and tolerant society, stimulate communication and public debate, etc.
7.5.3.2. <i>Obligation to engage in new media activities</i>	Art. 6, § 2 FLRTA, Charter VRT-Flemish government		VRT has to follow closely technological developments, in order to be able to offer its programs to the public via new media applications (such as Web2.0, games, 3D worlds, location based services, etc.), whenever appropriate.
	Chapter II (Art. 33 ff.) Charter RTBF – Government French Community		RTBF has to act as accelerator of promoting the cultural identity of the French Community in the domain of new media and has a major role to play in the digital switchover.
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)			
7.5.5. Universal coverage obligations	Art. 6 FLRTA, Charter VRT-Flemish government		VRT has the obligation to reach as many viewers and listeners with a diversity of high quality programs (Art. 16 Charter contains detailed population % that VRT should reach on a monthly basis with various types of programs, i.e. the so-called ‘performance indicators’). VRT has to ensure maximum presence of its programs on all relevant platforms via all relevant networks in Flanders (Art. 25 Charter).
	Art. 32 and 33 Charter RTBF – Government French Community		RTBF is subject to a universal service/ coverage obligation, implying the equal and free to air access to all its wide interest channels via terrestrial and cable networks. It should distribute its linear and non-linear services on all appropriate platforms and networks (taking into account its technical, human and budgetary constraints) with the aim of ensuring accessibility by as many users as possible on as many networks as possible.
7.6. Subsidies to support less popular/profitable media products	Art. 30-31 FRBA and Act of 31 March 2004 relating to press subsidies	PN About implementation Decree of Art. 30: See supra (point 2.4)	The Press Fund of the French Community (<i>Centre de l’aide à la presse écrite</i>) grants three types of subsidies: <ul style="list-style-type: none"> - supporting the creation of new titles - supporting long-term employment of journalists, use of new technologies - preserve the largest possible diversity in newspapers (giving priority to less profitable titles). The fund is financed through contributions by the public service broadcaster RTBF and by editors of TV broadcasting services whose annual turnover exceeds 15 mio. EUR (Art. 30). Overview of subsidies granted in 2007: http://www2.cfwb.be/av/db/aig/gallery/Autres_secteurs/PresseEcritreTitresSoutenus07.pdf More info: http://www2.cfwb.be/av/default.asp?V_ITEM_ID=538
	Protocol between the Flemish Government and the Press		The Flemish Government grants annual subsidies (1.000.000 EUR) to the print press; one of the selection criteria is the extent to which the project

	Sector (2005-2007)	"supports the preservation of a pluralist, independent press and guarantees diversity". (See call for tenders: http://www2.vlaanderen.be/media/Media/steun/GP2007_oproep.doc) <u>More info:</u> http://www2.vlaanderen.be/media/Media/steun/geschrevenpers.htm
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TABLE 8. Distribution (networks/network facilities/print distribution)

Measure	Source	Scope of application	Key features
8.1. Guarantees for 'public contents' to be distributed (must carry or other)	Art. 128 FLRTA		Must carry obligations imposed on operators of electronic communications networks based on wire that are used by a significant number of end-users as primary means to receive broadcasting programs (in casu, CATV networks) for reasons of pluralism and cultural diversity: - radio and TV channels of the public broadcasters of the 3 Communities in Belgium (all channels of VRT, 2 channels of RTBF and the channel of BRF) - TV channels of Flemish regional TV stations - radio and TV channels of the PSM of the Netherlands
	Art. 48-51, 82 FRBA		Cable distributors are obliged to distribute the services of following editors: - RTBF - Local TV - International broadcasters, appointed by government, in which RTBF participates - 2 TV channels of VRT - BRF - Editors entitled to “mandatory distribution” on the basis of Art. 48-51 (editors can conclude an agreement with government in which they take up engagement to promote audiovisual production in the French Community, create employment, etc., in return for which they are entitled to mandatory distribution). - the services specified by government of editors based in the EU that have concluded an agreement to promote the cultural production in the French Community and the EU
<i>Note:</i> The European commission has opened (2006) and closed (2007) an infringement procedure for incorrect implementation of must carry rules (IP/06/948 MEMO/06/271 IP/08/142 MEMO/08/67). Not effective			
8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)	Art. 51 FRBA		Editors entitled to “mandatory distribution” on the basis of an agreement with government are obliged to distribute their service within 6 months. No must offer obligation for other must carry broadcasters.
<i>Note:</i> Several local TV refuse to be distributed in xDSL network (Belgacom SA).			
8.3. Ex ante regulation: SMP market analysis for broadcasting transmission			
8.3.1. Implementation of market analysis procedure in ECNS Directives	Art. 122-125 FLRTA; Art. 90-96 FRBA		VRM (Flemish Media Regulator), resp. CSA (broadcasting regulator in the French Community) is competent to conduct market analyses. The implementation is in line with the ECNS Directives.
8.3.2. Result of (first) round of market analysis of market 18	Art. 122-125 FLRTA; Art. 90-96 FRBA		- Market 18 (from the Recommendation 2003) has never been analysed in Flanders. - CSA conducted analysis of market 18, but withdrew notification of 3 draft measures on April 18, 2007 (after serious doubts letter and opening of Phase II by Commission). CSA could not continue due to cancellation of the relevant legislation by the Belgian constitutional court.
8.4. Ex ante regulation for so-called 'bottleneck'			

facilities'			
8.4.1. Conditional access	Art. 145 and 150-153 FLRTA; Art. 124-126 FRBA		Cf. Art. 6 Access Directive 2002/19/EC, <i>juncto</i> Annex I: - cost-effective transcontrol and full control by cable and/or DTT network operators - FRND-obligations with regard to broadcasters' access to CAS - accounting separation - FRND-obligations with regard to licensing of consumer equipment manufacturers.
8.4.2. EPG (or other search tools)	Art. 145 and 155 FLRTA; Art. 127 FRBA		Government can impose obligations with regard to the installation of, access to and presentation of EPGs, when necessary to guarantee access to specified digital broadcasting programs available in the Flemish, resp. French Community.
<i>Note: No yet implemented.</i>			
8.4.3. API	Art. 145 and 154, al. 1 FLRTA; Art. 128 FRBA		Cf. Art. 5, al. 1, b) Access Directive 2002/19/EC: Government can impose obligations on providers of digital interactive programs and/or end-user equipment (in Flanders specified as: with regard to the use of an open API – in the French Community specified as: to the extent that is necessary to ensure accessibility for end-users to digital radio and television broadcasting services available in the French Community).
<i>Note: No yet implemented.</i>			
8.4.4. Other			
8.5. Interoperability requirements	Art. 146 FLRTA		16:9 PAL-compatible
<i>API</i>	Art. 145 and 154, al. 2 FLRTA		Flemish government can impose obligations on providers of API's to ensure interoperability and full functionality.
<i>Note: No yet implemented.</i>			
<i>Wide-screen TV</i>	Art. 147 FLRTA		Cf. Art. 4, al. 2 Access Directive 2002/19/EC: electronic communications networks established for the distribution of digital television services shall be capable of distributing wide-screen television services and programmes. Network operators that receive and redistribute wide-screen television services or programmes shall maintain that wide-screen format.
<i>Interoperability for analogue and digital television sets</i>	Art. 148 FLRTA; Art. 129 FRBA		Cf. Annex VI, 1° USO-Directive 2002/22/EC: Any analogue television set with an integral screen of visible diagonal greater than 42 cm which is put on the market for sale or rent is to be fitted with at least one open interface socket, as standardised by a recognised European standards organisation, permitting simple connection of peripherals, especially additional decoders and digital receivers. Any digital television set with an integral screen of visible diagonal greater than 30 cm which is put on the market for sale or rent is to be fitted with at least one open interface socket standardised by a recognised European standards organisation, permitting simple connection of peripherals, and able to pass all the elements of a digital television signal, including information relating to interactive and conditionally accessed services.
<i>The common scrambling algorithm and free-to-air reception</i>	Art. 149 FLRTA; Art. 123 FRBA		Cf. Annex VI, 2° USO-Directive 2002/22/EC: All consumer equipment intended for the reception of digital television signals, for sale or rent or otherwise made available, capable of descrambling digital television signals, is to possess the capability to: - allow the descrambling of such signals according to the common

			European scrambling algorithm as administered by a recognised European standards organisation (currently ETSI); - display signals that have been transmitted in clear provided that, in the event that such equipment is rented, the rentee is in compliance with the relevant rental agreement.
8.6. Specific rules for distribution systems in print media			
	Art. 106, §5 Electronic Communications Act		Reduced telephone tariffs apply to newspapers and informative magazines, as well as press agencies.
8.7. General competition law			Cf. supra: Telenet/Canal+ case.
8.8. Policies fostering distribution systems (libraries, broadband networks...)			- Lower VAT-tariff for distribution of newspapers - The Flemish government promotes readership in Flanders with a media-education project called 'Kranten in de Klas'. Free newspaper packages are during two weeks set at the disposal of schools with the support of the Flemish minister of Media and the Flemish minister of Education. The government contributes partly to the costs (50% of the sales price of newspapers distributed). <u>More info:</u> http://www2.vlaanderen.be/media/Media/steun/krantenindeklas.htm ; http://www.krantenindeklas.be/
8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria: - Regional - Linguistic/ minority - National)			

TABLE 9. Supervision

Measure	Source	Scope of application	Key features
9.1. National Regulatory Authority			- Conseil Supérieur de l'Audiovisuel de la Communauté Française (www.csa.be) - Vlaamse Regulator voor de Media (www.vlaamseregulatormedia.be)
9.1.1. Structure/ organisation			
9.1.1.1. Guarantees for independence	Art. 168 FLRTA <i>juncto</i> Art. 21, § 1 Flemish Act on Regulatory Governance of 2003	Regulatory Body – Flemish Community	Members of the Flemish Media Regulator (VRM) cannot have a political mandate nor have a position in a minister's or secretary of state's cabinet. Members of the Flemish Media Regulator (VRM) cannot have a position in (nor a “link” with) a media or advertising company.
	Art. 136, § 2 FRBA	Regulatory Body – French Community	Membership of the Regulatory Committee (<i>Collège d'autorisation et de contrôle</i>) in the <i>Conseil Supérieur de l'Audiovisuel</i> (CSA) of the French Community is incompatible with membership of the executive or legislative power at European, federal, community, regional, <i>provincial and local</i> level (N.B. broader than the advisory committee), as well as with a position in a minister's cabinet (at European, federal, community or regional level). It is also incompatible with any function or position in another media company which would create a conflict of interest.
9.1.1.2. Representation requirements	Art. 136 FRBA, <i>juncto</i> Art. 9 Culture Pact Act 1973		The members of the Regulatory Committee (<i>Conseil d'autorisation et de contrôle</i>) of the <i>Conseil Supérieur de l'Audiovisuel</i> of the French Community should be appointed with respect to the proportional representation of all political groupings
<i>Note: Art. 9 Culture Pact Act 1973 implicitly applicable to Flemish Media Regulator.</i>			
9.1.2. Credibility and efficiency	OK		
9.1.2.1. Sufficient resources	Yes		
9.1.2.2. Tasks and duties	Art. 169 FLRTA		- grant licences - compliance monitoring - sanctioning
	Art. 132-133 FRBA		- grant licences - compliance monitoring - sanctioning
9.1.2.3. Effective sanctioning powers	Art. 176-176ter FLRTA		Yes (limited to administrative sanctions, ranging from warning, fine to suspension or revocation of licence).
	Art. 151-160 FRBA		Yes (civil and administrative sanctions: ranging from warning, fine to suspension or revocation of licence – and even penal sanctions, including imprisonment).
9.1.3. Cooperation with other regulators	Art. 7, § 5 FRBA		During the pluralism procedure, the CSA can decide to consult the competition authorities.
	Art. 156 FLRTA		In the framework of the market analysis procedure in the electronic communications sector, the Flemish Media Regulator (VRM) cooperates, where necessary, with the other Belgian and regional media and telecommunications regulators, the competition authorities, the national regulatory authorities from other Member States, and the Belgian regulators in other sectors.

9.2. Press Council			From 1988 until 2001 a Council of Deontology, founded by the journalists, existed in Belgium. Since 2002, the Flemish speaking part of Belgium has a Press Council founded by the journalists (both of print and audiovisual press) and publishers together. The French speaking part of Belgium is still trying to set up a Press Council.
9.2.1. Broad representation of sector			The Press Council is a fully independent self-regulatory body without any statutory framework. Composition: 18 members (6 journalists, 6 publishers and 6 external people). The members are nominated by the sector without any governmental interference. It represents both the print and audiovisual press.
9.2.2. Sufficient resources			The Press Council is funded by the journalists union (50%) and by the publishers (50%). The Press Council does not receive direct public funding, but the union of journalists receives a governmental subsidy, part of which must be used for the financing of the Press Council.
9.2.3. Credibility			Yes, the Press Council is considered both by the sector, the audience and the legislator as the body dealing with ethical conflicts (before 2006, the (old) Flemish media regulator could also judge on conflicts in the area of journalists’ ethics; this duplication of competences was the reason why the public broadcaster for a long time did <i>not</i> join the Press Council; however, to avoid confusion, the legislator decided to delete these powers when establishing the new media regulator in 2005/2006, thereby acknowledging that deontology is the sole competence of the Press Council). The Ombudsman within the Press Council mediates in cases of conflicts and acts as an advisor. If case mediation does not succeed, the Press Council deals with the complaint. The Press Council deals with all complaints, also complaints addressed against bloggers/weblogs (e.g. Decision Pyis a/Ernst of 13.03.2008).
9.3. Competition Authority			= Competition Service (investigation) and Competition Council (administrative court), including a body of Rapporteurs (http://mineco.fgov.be/organization_market/competition/home_nl.htm)
9.3.1. Structure/ organisation			
9.3.1.1. Guarantees for independence			The body of Rapporteurs used to be part of the Competition Service (resorting under the minister of economic affairs), but has been transferred to the Competition Council in 2006 in order to strengthen its independence. Both the Rapporteurs and the members of the Competition Council are appointed by the government after a transparent and objective exam procedure.
9.3.1.2. Representation requirements			Parity Dutch – French language (at least one German-speaking member)
9.3.2. Credibility and efficiency			
9.3.2.1. Sufficient resources			In recent years, both the Competition Service and Competition Council have been given additional staff and resources. The Rapporteurs currently face a considerable workload, but enlargement of staff is envisaged for the near future.
9.3.2.2. Tasks and duties			Notwithstanding some ‘growing pains’ in the early days of the Competition Council (mid nineties), the Competition Council is now considered a well-performing authority which is taken seriously by the sector.
9.3.2.3. Effective sanctioning powers			Yes
9.3.2. Cooperation with other regulators			Cooperation between Competition authorities and sector regulator to be regulated via Royal Decree



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			Federal telecommunications legislation requires a (binding) advice from the Competition Council on draft decisions of the Belgian Institute for Postal Services and Telecommunications analysing markets and imposing obligations on operators with significant market power.
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