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TELEVISION WITHOUT FRONTIERS

GREEN PAPER ON THE ESTABLISHMENT OF THE COMMON MARKET FOR BROADCASTING, ESPECIALLY BY SATELLITE AND CABLE

(Communication from the Commission to the Council)

Part Four

Pages 63-104

PART FOUR:

LEGAL ASPECTS

The national regulations relevant to the applicability and the application of the EEC Treaty are summarized below; the emphasis is on television. An attempt has been made to make each legal system transparent, in order to obtain an overall picture of the Community's ten broadcasting systems and to enable the laws to be compared, which must be done before they can be brought closer together (the subject of Part Six). The Commission has already published an introductory outline in its Interim Report.[1]

A. Luxembourg

In Luxembourg, the broadcasting authority is a proft-making public limited company - Compagnie Luxembourgeoise de Télédiffusion (CLT) - which is incorporated in accordance with Luxembourg law and carries on business under the name of Radio-Télé-Luxembourg (RTL). The LFR 1 200 million ordinary capital is held chiefly by French private and public interests and Belgian private interests, and to a lesser extent by small shareholders.

RTL's activity is based on a licence which is required by private individuals under an Act of 19 December 1929.[2] Pursuant to this Act RTL has since 1930 concluded nine licence contracts with the Government (each time it has extended its activity). The conditions on which the licences were granted are in each case stipulated in a memorandum (Section 2, second subparagraph), which forms part of each contract. Inter alia, the contract guarantees the licensee company a broadcasting monopoly throughout the Grand Duchy. RTL also owns the necessary technical apparatus. A government auditor ('commissaire') is responsible for ensuring observance of the memorandum of conditions and protecting the State's interests.

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[1] Interim Report, loc. cit., pp. 161-191.

[2] Section 1, first subparagraph of the Gesetz betreffend die im Grossherzogtum bestehenden oder zu errichtenden Rundfunksendestationen (Act concerning broadcasting stations existing or to be established in the Grand Duchy), Memorial (Official Gazette) No 66 of 24 December 1929, p. 1110 (1111).

Under the memorandum, advertising is allowed within the limits determined by the Government. So far the Government has not determined limits. Some 95% of RTL's revenue comes from selling broadcasting time to advertisers through specialized subsidiary companies. The rest comes from investment and other income. The fees which listeners and viewers used to have to pay the Government (which were not passed on to RTL) were abolished in 1973. RTL pays the State two parafiscal levies for its licences and its monopoly.

RTL transmits radio programmes in French, German, Dutch and English, and a daily radio programme in Luxembourgish (letzebuergesch) on UHF channel 18. Television programmes, including news bulletins, are broadcast in Luxembourgish only for about 75 minutes in the early afternoon. RTL transmits a full programme in French and, under the title of RTL-Plus, has been transmitting a programme in German since 2 January 1984. The German media group Bertelsmann AG has signed a declaration of intent to finance RTL-Plus to the extent of 40%.

On 2 May 1984 the responsible Luxembourg and French ministers concluded an outline agreement which would allow RTL to broadcast two television programmes using the projected TDF1 and 2 satellites. The price is thought to be in the region of FF 75 to 100 million per channel per year. Details of the concession and of a memorandum of conditions for RTL have to be worked out before a treaty between the two states can be ratified by their parliaments. From 1986 on RTL is to broadcast a French-language programme and a German-language programme. The German language programme would be run jointly with Bertelsmann. A French partner is to be found for the French language service. That programme would comply with the rules on advertising and the protection of film rights which apply to French broadcasters.

The Government is contemplating concluding a concession agreement with the Societe Luxembourgeoise des Satellites (SLS). The company would thereby be granted the exclusive right to use sixteen frequencies on Luxembourg telecommunications satellites (thus not a satellite intended for direct reception by the public) for the purposes of television.

There are no special provisions for receiving broadcasts from the air and retransmitting them by cable ("passive" cable broadcasting), nor for the direct transmission of RTL's own programmes by cable ("active" cable broadcasting). The latter does not so far exist in Luxembourg. In 1958 the local authorities started to grant licences for passive cable broadcasting to private national and foreign profit-making undertakings (e.g. the Belgian company Coditel). The memorandum of conditions stipulates inter alia that RTL programmes must be relayed. Belgian, German and French programmes are also fed into the system. Licence fees are as a rule not payable.

B. Italy

In Italy the law has reserved a dual monopoly for the State: first, the installation and operation of apparatus for the wireless or cable transmission of radio and television, and second, the transmission of programmes of every kind by means of such apparatus.[1]

The law has, however, excluded two areas from this State monopoly and has made them subject to a licensing system (autorizzazione) which is also open to private individuals (Sections 2 and 45 of the Act whose title is given below): the first is the installation and operation of private apparatus for the wireless reception and retransmission of foreign and national radio and television programmes; the second is the installation and operation of local apparatus for the cable distribution of the operator's own sound and television programmes. Two Constitutional Court judgments removed a third area from the State monopoly and made it subject to the licensing system: the installation and operation of local apparatus for the wireless transmission of the operator's own sound and television programmes.[2]

The law justifies this limited State monopoly by the fact that at national level the activities described above are "an essential public service of pre-eminent general interest" within the meaning of Section 43 of the Constitution (first sentence of the first paragraph of Section 1 of the Act mentioned). Section 3 empowers the government "to provide for the public service of radio and television by any technical means by a grant of licence (atto di concessione) to a limited company in which all the shares are owned by official bodies". The grant also entitles the licensee company to call itself "a company of national interest" within the meaning of Section 2461 of the Civil Code (Section 3, second paragraph).

Under the 1975 Act the public limited company Radiotelevisione Italiana (RAI) was again licensed in the same year: since 1924 that company had been granted a series of licences on the basis of earlier Acts. The Istituto per la Ricostruzione Industriale (IRI), a State holding company, holds 99.55% of the 20 million RAI shares, of more than LIT 2 000 each (Section 47). RAI is therefore a public undertaking. 0.45% of the shares are owned by the Società Italiana degli Autori e Editori.

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[1] Section 1, first paragraph, second sentence, Sections 2 and 45 of Act No 103 of 14 April 1975 on new rules concerning radio and television broadcasting (Nuove norme in materia di diffusione radiofonica e televisiva)

[2] Official Gazette of the Italian Republic No 102 of 17 April 1975, page 2539

[2] Constitutional Court (Corte costituzionale) Judgment No 202 of 28 July 1976, Raccolta ufficiale 1976 p. 1267, and Judgment No 148 of 21 July 1981, Raccolta ufficiale 1981, page 1379.

The licence is granted for six years and is renewable for up to six years (Section 14, first paragraph, first sentence). The most recent licence contract of 10 August 1981 again grants RAI the installation and transmission monopoly for broadcasting and for cable transmissions at national level and for the larger regions - except, as stated, for the relaying by wireless of its own and foreign programmes (Section 12, first paragraph, first sentence in conjunction with Section 2). The Act does not, however, recognize a monopoly for access to broadcasting and for programme production: RAI must reserve at least 5% of total television broadcasting time and 3% of radio time in its regional and national transmissions for each of the important political, social, cultural, religious and ethnic groups (Section 6).

The Act contains detailed rules on the organization of the licensee public limited company and its tasks (Sections 8 to 13). It also describes the economic objectives and activities which under the licence RAI is entitled and bound to carry out. Priority must be given to "the production of programmes and news broadcasts and a balanced development of the organization's production capacities" (Section 13, first paragraph). Efficiency and good management are to be achieved by reorganization and decentralization (Section 13, second paragraph to thirteenth paragraph). The licensee company directly, or associated companies which it controls or wholly owns, must also effect the distribution of its own production and that of its associated companies (by means of specific publishing and bookselling activities, records, audio-visual material, etc.,) and commercial activities in general - in particular radio and television advertising (Section 13, fourteenth paragraph).

RAI has the right to engage in numerous and extensive business activities itself, to establish subsidiary companies and to transfer gainful activities to them. Earlier licence contracts between the Minister for Posts and Telecommunications and RAI had already stated that advertising must be produced either by RAI itself or through the interposition of another company. Accordingly, television advertising has since 1972 been contracted out to the profit-making public limited company Società Pubblicità Radiofonica e Televisiva (SIPRA), which is completely controlled by RAI. Certain technical activities associated with advertising are contracted out to a profit-making public limited company, the Società Anonima Commerciale Iniziative Spettacoli (SACIS), which is also controlled by RAI. Advertising may not exceed 5% of transmission time on either radio or television (Section 21, second paragraph).

The public broadcasting authority - RAI - is financed from radio and television "subscription fees", from the income from radio and television advertising and from other income permitted by the law (Sections 15, first paragraph and 21, first paragraph). The subscription fee is also payable by owners of equipment capable of receiving cable or foreign transmissions (Section 15, second paragraph). The subscription can be terminated (Section 17). RAI collects the subscription fees itself (Section 18). Advertising revenue accounted for 21% of RAI's income in 1981. RAI has no profit-making objective in the sense of trying to make a profit, but it does operate against payment.

A Parliamentary Committee is responsible for the general guidance and supervision of broadcasting services (Section 1, third paragraph). It comprises 40 Members of Parliament from the two Chambers and forms subcommittees such as the one which examines and decides on applications for transmission time (Section 1, fifth and sixth paragraphs). Its tasks and powers are important, namely with regard to access to broadcasting, programmes (guidance, planning, distribution of transmission time, supervision), advertising (guidelines and fixing of annual revenue ceiling), with regard to the managing bodies within the licensee company and its budget (Sections 4, 8 first and seventh paragraphs, 10, second phrase, 12, third paragraph and 21, third and fourth paragraphs).

In principle, under the 1975 Act, any national or company of a Member State may have access to local cable broadcasting (Section 26, second and third paragraphs), or more precisely to the installation and operation of networks and apparatus for the transmission of sound and television via cable and the distribution of programmes through such networks and apparatus to a single commune or to geographical areas comprising several communes with a maximum of 150'000 inhabitants (Section 24, first paragraph). Anyone wishing to engage in these activities requires two permits which must be issued subject to compliance with the conditions laid down in the Act: a licence from the Ministry for Posts and Telecommunications for the network and apparatus (Sections 25 and 26) and a programme distribution licence from the regional authority (Sections 25 and 30). In granting the licence the regional authority must ensure that three rules are observed: first, advertising, which must be reserved for local publicity, must not exceed 5% of total transmission time; second, local networks may not link up with other networks, including foreign ones, for simultaneous transmission, and lastly, the proportion of programmes purchased, hired or exchanged may not exceed the proportion of programmes produced by the operators themselves (Section 30, fifth paragraph).

The Interministerial Committee for Prices sets the level of the fees payable by users of the local cable network (Section 29). The licensee pays the Ministry for Posts and Telecommunications an annual tax for the grant of the licence (Section 33). It is also permitted to operate with a view to making a profit.

According to information from the Minister of Posts and Telecommunications, in May 1981 there were 972 private local wireless transmitters, of which 562 also broadcast television programmes. At the end of 1983, 158 of these private television companies belonged to four networks, each of which took the form of a group or an "interest grouping": CANALE 5 - RETE 10 - ITALIA 1 (31 transmitters), RETE QUATTRO (21 transmitters), EURO TV - TV PORT (59 transmitters), STP/RV (47 transmitters).[1] The transmitters of each network are not linked by a ring system, but simply transmit the same programmes (chiefly by using the same video cassette), though sometimes at different times, as the law permits. In this way the networks have attained considerable regional and national importance.

[1] The above information is taken from: Rauen, Platz für zwei Networks: Medienkonzentration in Italien, Media Perspektiven 1984, 161 (162-165).

In principle, any national or company of a Member State, whose main place of activity is in Italy, may retransmit foreign radio and television programmes: they are entitled and obliged first to apply to the Ministry for Posts and Telecommunications for a licence (Sections 38 and 39(1). More precisely, the licence entitles them to install and operate apparatus to receive and retransmit simultaneously and in full, in the national territory, radio and television programmes broadcast by the public broadcasting services of another State or by private organizations authorized by the law of that State (Section 38, first paragraph). A licence "obliges the licensee to remove from foreign programmes everything in the nature of advertising, in whatever form" (Section 40, first paragraph). Licences are granted for five years and are renewable; a tax for the grant of the licence is payable to the State (Section 41, second to fourth paragraphs).

Lastly, private individuals may also apply to the Minister for Posts and Telecommunications for a licence to install and operate apparatus to receive RAI television programmes and retransmit them simultaneously and in full (Section 43).

C. Netherlands

Broadcasting in the Netherlands requires government authorization, which is granted by way of the distribution and allocation of broadcasting time pursuant to the Broadcasting Act[1] (Section 62(1)). Under that Act, the Minister for Cultural Affairs, Recreation and Social Welfare is obliged to allocate broadcasting time to the broadcasting organizations (omroeporganisaties, Section 13(1)) and to the "candidate" organizations (aspirant-omroeporganisaties, Section 14(1)) that satisfy the conditions of the law, to the Dutch Broadcasting Foundation (Nederlandse Omroep Stichting - NOS, Section 15(2)(i), Section 39(1)), to political parties and groupings which in the most recent elections have gained at least one seat in the Upper Chamber of Parliament (Section 18), and to the Foundation for Broadcast Advertising (Section 20).

In addition the Minister may allocate broadcasting time to church associations (kerkgenootschappen) for religious broadcasts (Section 16), to associations (genootschappen) with an ideological basis for broadcasts of a spiritual (geestelijke) nature (Section 17), to institutions other than those previously specified (instellingen, the general term used in the Act), which satisfy the conditions of the Act - particularly where they satisfy a cultural requirement in the general interest previously not adequately catered for - (Section 19), and regional broadcasting institutions (omroepinstellingen), which satisfy the conditions of the Act (Section 47).

The last two and first two types of broadcasting institutions must be legal persons with unlimited legal capacity (Section 13(2)(1)(e), Section 14(2)(19)(1)(e), Section 47(3)(1)(e)). They must prove that their object is not to make a profit "in so far as this is not necessary to fulfilment of the broadcasting function", or to contribute to profit-making by third parties (Section 13(2)(5)(e), Section 14(2), Section 19(2)(e), Section 47(3)(5)(e)). The first two types of broadcasting institutions must produce and offer a complete programme (Section 13(2)(3)(e), Section 14(2), Section 35(2)). They must be representative of a certain social, cultural, denominational or ideological trend in the population and satisfy such requirements to such an extent that their broadcasts may be regarded as in the general interest (Section 13(2)(4)(e)). These broadcasting organizations and "candidate" organizations must raise contributions from their members, a term which includes, by virtue of a legal fiction, the subscribers to their respective programme magazines; the minimum contributions are fixed by the government (Section 13(2)(7)(e), section 14(2)). The broadcasting organizations must have a membership of at least 150 000 (Section 13(2)(8)(e), the "candidate" organizations at least 60 000 (Section 14(2)).

The division of broadcasting time between the organizations depends on their membership. Broadcasting time is shared between categories A (at least 450 000 members), category B (between 300 000 and 449 999 members) and category C (150 000 to 299 999 members) in the ratio 5 : 3 : 1 (Section 27(2) and (3)).

[1] Omroepwet of 1 March 1967, Staatsblad 1967, No 176, p. 591, as since amended.

The broadcasting times allocated to the remaining institutions are then subtracted therefrom (Section 27(1)): "candidate" organizations one hour on television per week, NOS at least 15 hours on television, a maximum of 40% of the entire broadcasting time fixed by the Minister, the Foundation for Broadcast Advertising at least seven hours on the radio and three hours on television per week, parties and other institutions together at least 10% of the entire broadcasting time established by the Minister (Sections 28 to 32).

There are now eight broadcasting organizations in the Netherlands: five category A (AVRO, TROS, KRO, NCRV, VARA), one category B (VOO) and two category C (VPRO, EO). The majority of them are societies, the remainder private-law foundations. In addition there are some 30 institutions (groupings) entitled to broadcast particular programmes, whose broadcasting time is strictly limited.

The organizations' broadcasts on television appear on both Dutch channels: Netherlands 1 and Netherlands 2. The creation of a third channel is under discussion. The societies and foundations have some set evenings for broadcasting and others that vary. The A societies alternate on channel 1. Each A society has a set evening on channel 2 which changes every year. The B and C societies broadcast on one of the two channels at specific times. The limited company NV Nederlandse Omroepzender Maatschappij (NOZEMA) is responsible for setting up and running transmitting stations. The State (posts and telecommunications administration) holds 60% of its shares and the NOS 40%.

The latter produces a ninth television programme (particularly news), which is broadcast daily on both channels and on certain evenings and/or days. The NOS is a public-law foundation, set up by the Broadcasting Act (Section 39(1)). Half the members of the Board of Governors (bestuur), responsible for running the Foundation, are appointed by the private broadcasting organizations, one quarter by representatives of cultural and social organizations and one quarter by the Minister for Cultural Affairs (Section 41). In addition, there is a management board (raad van beheer) which deals with the Foundation's day-to-day activities and implements the decisions of the Board of Governors (Section 43), a television programme board (one third of the members are appointed by the broadcasting organizations, one third by representatives of cultural organizations, one third by the Minister for Cultural Affairs, Section 44), and a television programme coordinating committee (Section 45). The Minister for Cultural Affairs is required to approve the Foundation's rules (Section 40(1)).

NOS deals primarily with cooperation between the broadcasting organizations (Section 39(1)). In addition, it is responsible for safeguarding the common interests of all the institutions and for programme coordination (Section 39(2)(a), (c)). It is entrusted with the production and broadcasting of a programme common to all the institutions (Section 36, Section 39(2)(b)) and also has to establish and maintain studios, facilities (e.g. orchestras), services and equipment for programme production by all the institutions (Section 39(2)(e),(f)). The broadcasting organizations are obliged to make use of these facilities (Section 25). Furthermore, NOS has to make programmes available for foreign countries (Section 39(2)(j)).

The Foundation for Broadcast Advertising (Stichting Ether Reclame - STER) is exclusively responsible for the production and broadcasting of the advertising of third parties. It is a public-law foundation, set up by the Broadcasting Act (Section 50(1)).

The responsibility for appointing and dismissing the six-member Board of Governors (bestuur) lies with the Minister for Cultural Affairs (Section 50(5), (6)). Both he and the Minister for Economic Affairs may delegate observers to the management board (Section 50(7)). The Minister for Cultural Affairs lays down the Foundation's rules (Section 50(8)). An advertising council (Reclameraad) set up under the Act lays down rules on the content of the Foundation's advertising broadcasts, supervises implementation of these rules and advises on other matters connected with broadcast advertising (Section 49(1)), particularly rates. These are set by the Foundation's Board of Governors on a yearly basis, at least six months in advance (Section 50a(1), (2)). The Minister for Cultural Affairs may set aside this decision wholly or in part and set the rates himself (Section 50a(4)).

Some 25% of financing for the Dutch radio and television broadcasting system comes from advertising revenue and approximately 75% comes from licensing fees levied directly by the State and contributions from the members of the private associations and foundations and from subscriptions to their programme magazines.

There is a legal connection between membership of a broadcasting organization and the obligation to pay a contribution (Section 13(1)(7)(e)). Anyone subscribing to a programme magazine is automatically regarded as being a member of the broadcasting organization which publishes it and holds copyright therein (Section 22), unless he expressly declares the contrary. This explains the large membership of a number of the organizations.

The services of these private societies and foundations are therefore rendered against payment. This also applies to the broadcasts by NOS, STER and the other institutions which are allocated broadcasting time, which together with these organizations receive a share of the fees and the advertising revenue. The Minister for Cultural Affairs is responsible for the distribution of these revenues (Sections 58 to 60a). Furthermore, the private-law societies and foundations may make a profit, provided that they are concerned with fulfilment of their broadcasting functions. They take an active part in economic life also by the production and distribution of programmes and programme magazines. With its studios, orchestras and so on, which it maintains for itself and the other institutions, NOS is an important service undertaking.

The Broadcasting Act also covers cable radio and television. It regulates firstly the transmission (doorgifte) of national programme broadcasts by cable rediffusion systems. This must be performed in full, simultaneously and without interruption (Section 48(1)).The cable rediffusion systems covered by the law include the reception facilities and cable networks that cover more than the area of a municipality.[1] The numerous central and community aerials do not therefore, fall within the scope of the Broadcasting Act. They merely

[1] Section 2(1)(k) of the Broadcasting Act in conjunction with the provision of the Telegraph and Telephone Act 1904 cited therein, Staatsblad No 7; Section 3(2) of the Order of the Minister for Transport and Inland Waterways 27 July 1970, Staatscourant No 144, version of the Order of 6 March 1974, Staatscourant No 48.

require a licence (machtiging) from the Director-General of PTT,[1] whereas the former require a licence from the Minister for Posts under the Telegraph and Telephone Act. Similarly, the over 200 large internal cable broadcasting systems (huisomroepen, above all in hospitals) do not fall within the scope of the Broadcasting Act.

Secondly, the Act regulates the transmission (doorgifte) via the designated reception stations and cable networks of the programmes broadcast by foreign stations. In agreement with the Minister for PTT the Minister for Cultural Affairs may designate the foreign broadcasting stations whose broadcasts are to be transmitted in full or in part by one or more cable networks (Section 48(2)(a)).

Thirdly, the Act authorizes the Minister for Cultural Affairs to provide opportunities for the institutions entitled to broadcast (the national, small and regional institutions within the meaning of Sections 13, 19 and 47) to transmit (overbrengen) their programmes via cable (Section 48(2)(b)).

This provision does not cover local institutions. Fourthly, however, paragraph 5 of this Section empowers the Minister for Cultural Affairs to draw up rules with regard to the use of cable networks for purposes other than the transmission of the programmes designated in paragraphs 1 and 2. Paragraph 5 has been interpreted by the Minister as entitling him to control the initial cable transmission (overbrengen) by local institutions of their own programmes. He has therefore issued an Order,[2] which authorizes such "active" cable broadcasting purely as an experiment and reserves it for certain institutions which he alone designates. They must have legal personality, be of a cultural nature and representative of their area, and may neither seek to make profit nor accept advertising.

On the basis of Article 48(5) the Minister for Cultural Affairs has recently made an order[3] whereby the relaying (overbrengen) by cable within the country of television programmes transmitted from abroad by means of a telecommunications satellite (and thus not a satellite intended for direct reception by the public) is permitted only if (i) the programmes contain no advertisements especially directed at the Dutch public, (ii) the transmission by satellite is made by or on behalf of an institution which distributes the programmes by means of a radio transmitter or a cable system in the country where it is established and (iii) the relay occurs at the same time as the original broadcast, without interruption and so far as possible without abridgement.

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[1] Section 4 of the Order.

[2] Order of 24 December 1971, Staatscourant No 251.

[3] Order of 15 September 1983, Staatscourant No 190 of 30.9.1983, p. 8, which entered into force on 2.10.1983, Article II.

The relay within the country of foreign programmes broadcast by means of direct satellites is and remains free[1] even if they contain advertisements especially directed at the Dutch public.

Whether they are so directed is considered to depend primarily on the following criteria:[2] whether the advertisement is in the Dutch language although it emanates from a distributor established abroad; whether the prices are expressed in Dutch currency; whether addresses of points of sale in the Netherlands are mentioned; whether the advertising is for products obtainable only in the Netherlands.

[1] Explanatory note to the Order, loc. cit.

[2] Explanatory note to the Order, loc. cit.

D. Belgium

The Flemish, French and German cultural communities are responsible for radio and television broadcasting in Belgium. However, the broadcasting of government communications and advertising have remained national concerns.[1] Advertising is prohibited,[2] but the authorities do not enforce this ban in regard to the advertising broadcast from other Member States and transmitted via cable.

Broadcasting in Belgium is organized as a public service (service public, openbare dienst), although the constitution does not rule out private ventures. Three institutions set up by law are responsible for this service: Radio Télévision belge de la Communauté culturelle française (RTBF),[3] Belgische Radio en Televisie, Nederlandse Uitzendingen (BRT)[4] and Belgische Rundfunk - und Fernsehzentrum für deutschsprachige Sendungen (BRF).[5]

However, the law does not grant a monopoly to the three institutions. BRT and (when the relevant rules are issued) RTBF and BRF are obliged to grant broadcasting time and to provide staff and technical support for the programmes of those societies and foundations which fulfil the conditions of the law, and are hence approved by the King subject to a legal limitation on their number.[6] They must be private-law, non-profitmaking societies or foundations in the public interest, whose exclusive object is to broadcast programmes with commentaries and points of view based on representative social, economic, cultural, ideological or philosophical trends.

Four television programmes in all are broadcast by RTBF and BRT on two channels: RTBF 1 and 2 (Télé 2) and BRT 1 and 2. BRF broadcasts a radio programme.

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[1] Sections 59 bis and 59 ter of the Constitution; Section 4(6) of the Special Act on Institutional Reforms of 8 August 1980, Moniteur belge, 15.8.1980, p. 9434.

[2] Section 28(3) of the Organic Law on the Institutions of Belgian Radio and Television Broadcasting of 18 May 1960, Moniteur belge, 21.5.1960, p. 3836.

[3] Decree having the force of law of the Council of the French Cultural Community of 12 December 1977, Moniteur belge, 14.1.1978, p. 365, Section 1(1), Section 2(1).

[4] Decree having the force of law of the Cultural Council of the Dutch Cultural Community of 28 December 1979, Belgisch Staatsblad, 25.1.1980, p. 1171, Section 1(1), Section 2(1).

[5] Section 7(1) of the Act of 18 February 1977 laying down certain provisions on the public service of radio and television broadcasting, Moniteur belge, 2.3.1977, p. 2491.

[6] Sections 24 to 30 of the abovementioned Flemish Decree; Section 26 of the abovementioned Walloon Decree; Section 9 of the abovementioned Act of 18 February 1977 (regarding BRF).

BRT, RTBF and BRF are public corporations (openbare instellingen, établissements publics) with legal personality.[1] Each institution draws up its own programmes.[2] These three public-law corporations are each governed by a Board of Directors appointed for a certain period by the appropriate cultural community, a Standing Committee and a General Manager or Director. The appropriate Minister for Cultural Affairs is responsible for supervising the BRF.[3] BRT comes under the Minister for Dutch Cultural Affairs.[4] The appropriate Minister for Cultural Affairs may attend the meeting of the Board of Directors as an observer.[5] The General Manager is appointed by the King or the Minister on a proposal from the Board of Directors.[6] The finances of BRT, RTBF and BRF are supervised by the State.[7]

The corporations' income comes from funds made available to it by the appropriate Cultural Council, loans which the corporation may raise upon authorization by Order, proceeds from the sale of publications and their own sound and film recordings, proceeds from the sale and hire of productions and fees for all types of services.[8] In financing their tasks as public undertakings the corporations may therefore take part in business life and seek to make a profit. Both BRT and RTBF may maintain a reserve fund of up to BF 500 million, while RTBF may also maintain a renewals and amortization fund.[9] The first-mentioned source of funds, from the budget of the respective Cultural Council, is financed from the licences (a form of tax), which the State imposes every year through the telephone and telegraph service on the owners of radio and television sets. The corporations therefore operate against payment. In 1981 RTBF's share of budget income amounted to 89.1%.

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[1] Section 1(1) of the Decrees; Section 7(1) of the 1977 Act.

[2] Section 2(2) of the Decree and Section 1(2) of the Order having force of a Decree by the German Cultural Council of 4 July 1977, Moniteur belge, 17.11.1977, p. 13630.

[3] Section 7(4) of the abovementioned Act of 18 February 1977.

[4] Section 1(1) of the abovementioned Flemish Decree.

[5] Section 12 of the abovementioned Flemish Decree; Section 11 of the abovementioned Walloon Decree; Section 13 of the abovementioned German Order.

[6] Section 13(2) of the abovementioned Flemish Decree; Section 17(1) of the abovementioned Walloon Decree.

[7] Section 18 of the Flemish Decree, Section 21 of the Walloon Decree and Section 7(5) of the Act of 18 February 1977, which refer to the Act of 16 March 1954 on the supervision of certain corporations of public interest, in the version of the Royal Decree of 18 December 1957, Moniteur belge, 25.12.1957.

[8] Section 22 of the Flemish Decree; Section 20 of the Walloon Decree; Section 41 of the German Order; Section 10(1) of the Act of 18 February 1977.

[9] Section 22 of the Walloon Decree; Section 22 of the Flemish Decree.