

The EU Audiovisual Media Services Directive and its transposition into national law – a comparative study of the 27 Member States

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Member State: Belgium

Decree amending the Decree on Radio Broadcasting and Cinema Presentations

Important Notice

This text is an unofficial translation conducted at the University of Luxembourg in the framework of a research project on the transposition of the “**Audiovisual Media Services Directive**” in the Member States of the European Union.

The original legal acts which Member States notified to the European Commission as national execution measures were retrieved from official national databases. In order to focus on the core of the research project, several national legal acts have been shortened to include only those provisions of relevance for the study. Subsequently, the modified acts were translated by a translation agency external to the university.

The translations only serve the purpose of being an information source; there is no guarantee whatsoever that the translations correctly correspond to the original versions of the laws. Therefore, evidently, the texts have no legal value. The original, as well as the translated version of the legal acts, are available at: www.medialaw.lu, where additional information on the comparative study may be found.

Member State: Belgium

German Speaking Community

Decree of 3 December 2009 amending the Decree of 27 June 2005 on Radio Broadcasting and Cinema Presentations

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Art. 1 - In the heading of the decree of 27 June 2005 on radio broadcasting and cinema presentations, the phrase «radio broadcasting» is replaced by the phrase «the audiovisual media services».

Art. 2 - In Article 1 of the same decree, the word «radio broadcast» is replaced by «audiovisual media services».

Art. 3 - In Article 3 of the same decree the following amendments have been undertaken:

1. Point 2.1 with the following wording is inserted:

«2.1. **Audiovisual commercial communications:** televisual commercial communication or audiovisual commercial communication;».

2. Point 2.2 with the following wording is inserted:

«2.2. **Audiovisual commercial communication:** sound, directly or indirectly promoting the promoting of goods and services or the image of natural or legal personalities, who pursue an economic activity. This sound is included in a programme in return for payment, a similar consideration or as self-promoting advertising or contained therein. Under audiovisual commercial communication is to be understood radio advertising, sponsorship and product placement, to mention a few;».

3. Point 2.3 with the following wording is inserted:

«2.3. **Audiovisual media service:** a service within the context of Articles 49 and 50 of the EC Treaty, for which an audiovisual media provider carries the editorial responsibility and whose main objective is the provision of televisual or audiovisual programmes for the purpose of information, entertainment or education of the general public by way of electronic communication networks. These audiovisual media services operate either as linear or non-linear televisual or audiovisual media services and/or audiovisual commercial communication;»

4. Point 2.4 with the following wording is inserted:

«2.4. **Audiovisual media service**: a service within the context of Articles 49 and 50 of the EC Treaty, for which an audiovisual media provider accepts the editorial responsibility and whose main objective is the provision of programmes for the purpose of information, entertainment or education of the general public by way of electronic communication networks. These audiovisual media services are either linear audiovisual media services or non-linear audiovisual media services and/or audiovisual commercial communication;».

5. Point 2.5 with the following wording is inserted:

«2.5. **Audiovisual media service provider**: the natural or legal personality who accepts the editorial responsibility for the selection of audiovisual content of the audiovisual media services and determines how they will feature;».

6. Point 8, the words "radio signals" are replaced by the word "signals" and the wording

"including satellite networks, fixed and mobile terrestrial networks, electricity cable systems in as far that they are used in signal transmission networks used for radio and television broadcasting, as well as cable networks» by the wording "to the extent that they carry the transmission of signals, the audiovisual media services shall be used;».

7. Point 12 is replaced by the following wording:

«12. **European works**:

a) Works from Member States of the European Union;

b) Works originating from European third countries that constitute the partner countries of the European Convention on Transfrontier Television of the Council of Europe, on condition that in the mentioned third countries no discriminatory measures against works from Member States of the European Union exist;

c) Works, which are co-produced in the audiovisual field under the Convention between the Community and third countries and that reflect the prerequisites, which comply with the particular agreements, if in the relevant third countries no discriminating measures against works from Member States of the European Union exist.

Works from Member States of the European Union or works from European third countries that are partner countries of the European Convention on Transfrontier Television of the European Council are works that are essentially created in cooperation with one or more authors and employees, who are resident in these countries and that meet one of the three following prerequisites:

- They have been created by one or more producer(s) from one or more of these countries, or

- the production of the works by one or more producers resident in one or more of those countries are supervised and actually controlled, or

- the contribution of the co-producers from these countries make out more than half the total production costs, and the co-production is not controlled by one or more producers who are established outside these countries. Works that are not European works in the strict sense of a), b) and c) are, however in the frame of bilateral co-production treaties concluded between Member States of the European Union and third countries, regarded as European works, if the co-producers of the European Union holds the majority of the share of the total production costs and the production was not controlled by one or more producer(s) outside the jurisdiction of the sovereign territory of the EU;».

8. Point 13 is deleted.

9. Point 14 is deleted.

10. Point 15 is replaced by the following wording:

«15. TV broadcasters: a linear media service provider, who makes linear televisual media services available;».

11. Point 15.1 with the following wording is inserted:

«15.1. **Television advertising**: any reference in the execution of a trade, business, craft or free profession that is allowed to feature in television by a public or private broadcasters or person either in return for payment or a similar return of service or for self-promotion with the aim of promoting goods or the performance of services, including immovable property, rights and obligations in return for payment;».

12. Point 20 is deleted.

13. Point 21 is replaced by the following wording:

«21. Radio broadcasting: a media service provider that provides linear audiovisual media services;».

14. Point 21.1 with the following wording is inserted:

"21.1 **radio advertising**: every reference in the execution of a trade, business, craft or free profession that is allowed to feature in radio broadcasting by a public or private broadcasters or a natural person either in return for payment or similar return of service or for self-promotion with the aim of promoting goods or the performance of services, including immovable property, rights and obligations, in return for payment;».

15. In number 24 the word «radio service» is replaced by the word «media service»;

16. Point 25.1 with the following wording is inserted:

«25.1. **Linear audiovisual media services**: an audiovisual media service provided by a media service provider for the simultaneous viewing of programmes based on a chronological transmission schedule;».

17. Point 26 is replaced by the following wording:

«26. **Local station**: an audiovisual media service, that focuses on the local population in a municipal section or in a municipal community of the German speaking area pursuant to Article 30 § (1) point 4;».

18. Point 27.1 with the following wording is inserted:

«27.1 «member state»: a member state of the European Union;»

19. Point 27.2 with the following wording is inserted:

«27.2. **Non-linear audiovisual media service**: an audiovisual media service provided by a media service provider for the reception at a point in time selected by the user and on whose individual on-demand request from a catalogue of programmes prepared by the media service provider (on-demand service);».

20. Point 31.1 with the following wording is inserted:

«31.1. **Product placement:** the inclusion in a programme in any form of audiovisual commercial communication, in return for payment or a similar return of service, of a product, a service or the attaching of its corresponding brand with a reference so that it could feature in a programme;».

21. Point 33.1 with the following wording is inserted:

«33.1. **Editorial responsibility:** the exercise of effective control, as well as the compilation of the programmes and their allocation either by using a chronological schedule, in the case of linear audiovisual media services, or by means of a catalogue in the case of non-linear audiovisual media services;».

22. Point 35 is replaced by the following wording:

«35. **Regional transmitter:** an audiovisual media service that is directed at a regional audience in the German-speaking area and that meet the obligations of Article 30 § (1) point 4 for at least four adjacent to one another situated communities either in the canton Eupen or in the canton Saint Vith;».

23. Point 36 is deleted.

24. In point 37 after the words «surreptitious advertising» the wording «in the audio-visual communication » is inserted, the word «trademark» is replaced by the word «brand», the wording «television programmes or radio programmes» by the word «programmes» and the word sequence «TV organizer or radio organizer » by the word sequence «audiovisual media service provider.»

25. Point 37.1 with the following wording is inserted:

«37.1. **School radio: a radio broadcaster at a school, which transmits the contributions of one or more schools** in a community;».

26. Point 37.2 is inserted with the following wording:

«37.2. **Transmitter network:** an audiovisual medium service that reaches out to the entire population in the German-speaking area and that meets the obligations required by Article 30 § (1) point 4 for all the communities of the German-speaking area;».

27. Point 37.3 with the following wording is inserted:

«37.3. **Programme:** a sequence of moving images with or without sound and/or of sounds that makes out the single component of a chronological schedule by an audiovisual media service provider or of a catalogue, whose form and content is comparable with the form and content of TV and radio programmes. Examples of programmes are for example, radio dramas, concerts, feature films, sport, TV comedies, documentaries, children's programmes and original TV plays;».

28. Point 38 is replaced by the following wording:

«38. **Sponsorship:** any contribution from sources not involved in the provision of audiovisual medium services or from producers who are actively engaged in public or private undertakings of audiovisual media service manufacturing for the funding of audio-visual media services or programmes with the objective to promote their name, their brand, their image, their business activities or their services;».

29. Point 39.1 with the following wording is inserted:

«39.1. **Televisual commercial communication:** images with or without sound, which, directly or indirectly promote the sale of goods and services or the image of natural or legal personalities, who are actively engaged in an economic undertaking.

These images may be inserted in programmes in return for payment or a similar consideration or as self-promotion, or be contained therein. As televisual commercial communications are considered, for example, television advertising, sponsorship, teleshopping and product placement; ».

30. Point 39.2 with the following wording is inserted:

«39.2. **Televisual media service:** a service in the meaning of Articles 49 and 50 of the EC Treaty, for which televisual media service providers accept the editorial responsibility and its main purpose, namely the provision of programmes of information, entertainment or education for the general public by way of electronic communication networks. These televisual media services are either linear televisual media services or non-linear televisual media services and/or televisual commercial communication;».».

31. Point 40.1 with the following wording is inserted:

«40.1. **Event Radio:** a temporary audiovisual media service that covers the area where the event is being staged;».

32. Point 43 is deleted.

Art. 4 - The following amendments been made to Article 3 of the same decree:

1. The word consequence «TV and radio programmes» is replaced by the word sequence «audiovisual media services».

2. The word sequence «concerning private TV broadcasters, the open channel, private radio events and broadcasters from other broadcasting services than TV programmes and radio programmes» is replaced by the word sequence «the programmes in accordance with Article 16 § 1 and from private audiovisual media service providers subject to the jurisdiction of the German-speaking community».

Art. 5 - In Article 4 from the same decree the following amendments take effect:

1. In the heading, the word «programmes» is replaced by the word «media services»;

2. In the introductory sentence, the word sequence «the TV broadcasters, the open channel, the radio broadcasters and the suppliers of other radio services than TV broadcasts and radio broadcasts» is replaced by the word sequence «the audiovisual media service providers» and the word sequence «to distribute programmes» by the word sequence «the provision of media services».

3. In point 2 sentence 2, the first part of the sentence, the word «programmes» is replaced by the word «media services»;

4. In point 2, the word sequence «unless, it is determined by the choice of the programme time or by other technical measures to prevent minors from hearing or viewing these programmes. The broadcasting of these programmes, for so far that they are transmitted in an unencrypted form, are furthermore identified and announced with the addition of acoustic

characters throughout the entire programme» is replaced by the following word sequence:
«unless:

a) in the case of linear media services: the choice of the transmission time or by way of other technical measures it is ensured that these programmes are under normal circumstances not heard or viewed by minors within the broadcasting range. The transmission of such programmes, for so far that they are transmitted in unencrypted form, are furthermore identified and announced with the addition of acoustic characters throughout the entire programme;

b) in the case of non-linear media services: it is ensured by way of technical measures taken, that these programmes are under normal circumstances not viewed or heard by minors within the broadcasting. The broadcasting of these programmes, for so far that they are transmitted in unencrypted form, are furthermore identified and announced with the addition of acoustic characters throughout the entire programme;».

5. In point 3, between the word «to» and «hate», the word sequence «discrimination» and between the words «hate» and «on the basis» is inserted the word sequence «or violence», also the word sequence «or incite against nationality»

is replaced by the word sequence «or faith, ethnic origin or nationality, disability, age or sexual orientation to incite against or to incline towards the denial, the downplaying, justification or approval of the genocide committed by the Nazi Regime during World War II;».

6. Point 4 with the following wording is inserted:

«4. Those that support a philosophical view, a belief or opinion, which turns out to be in conflict with the fundamental rights and freedoms and with the constitution or the European Convention on Human Rights or those who intend to exploit the credulity of the general public»

Art. 6 - Article 5 of the same decree is replaced by the following wording:

«Art. 5 - News broadcasting

News broadcasting must be objective and factual.

The origin and truth of the news content must be verified.

Commentaries must clearly be distinguished from the news report and their authors must be given.

The news must be compiled in cooperation with professional journalists or with persons, who work under terms and conditions that enable them to become professional journalists in accordance with the Act of 30 December 1963 on the recognition and protection of the occupation of professional journalists.»

Art. 7 - In the same decree an Article 5.1 with the following wording has been inserted:

«Art. 5.1 - Diversity of opinion

Audiovisual media services must clearly express diversity of opinions.

The important, political, philosophical and social forces and groups must have the opportunity to voice their opinion, and the views of minorities must be respected. The possibility to present special interest programmes is not to be affected hereby. A special interest programme is an audiovisual media service with essentially homogeneous content.

A single audiovisual media service should not greatly impact the shaping of public opinion by causing an imbalance of opinion.»

Art. 8 - Article 6 of the same decree is replaced by the following wording:

«Art. 6 - General provisions concerning audiovisual commercial communication

§ 1 - Audiovisual commercial communication may not:

1. violate human dignity,
2. contain or promote discrimination based on gender, race or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
3. promote behaviour that jeopardizes health or safety;
4. promote behaviour that grossly jeopardizes the protection of the environment;
5. impair the religious, philosophical or political opinion.

§ 2 - Audiovisual media service providers shall develop codes of conduct regarding the development of inappropriate audiovisual commercial communication concerning the excessive intake of food and beverages, nutrients or substances with a nutritional or physiological effect, especially not to be recommended are those like fats, trans fatty acids, salt/sodium and sugar in the diet.»

Art. 9 - In the same decree an article 6.1 with the following wording is inserted:

«Art. 6.1 – Regulating audiovisual commercial communication

§ 1 - Audiovisual commercial communication must be easily recognizable as such. Surreptitious advertising in the audiovisual commercial communication is prohibited.

§ 2 - In audiovisual commercial communication, no technologies of the subliminal influencing may be involved.

§ 3 - Audiovisual commercial communication for alcoholic drinks may not specially focus on minors and may not promote the excessive enjoyment of such drinks.»

Art. 10 - In the same decree an article 6.2 with the following wording is inserted:

«Art. 6.2 - The protection of minors in audiovisual commercial communication

Audiovisual commercial communications shall not cause physical or moral detriment to minors.

Therefore they shall not directly exhort minors to buy or hire goods or direct services to minors in order to take advantage of their inexperience or credulity, minors may not directly be encouraged to persuade their parents or a third party to purchase the advertised goods or services.

They may not exploit the special trust minors place in parents, teachers or other confidants.
It may not show minors in dangerous situations without justified reason.»

Art. 11 - § 1 - In Title 2 of the same decree is inserted a new chapter 2 with the following heading: «CHAPTER 2 - Special provisions for televisual media services»

§ 2 - In Title 2 of the same decree, a new Section 1 is inserted after the new chapter 2 heading, with the following heading: «Section 1 - General Provisions»

Art. 12 - In the new inserted Section 1 of the new chapter 2 of title 2 of the same decree, an Article 6.3 with the following wording is inserted:

«*Art. 6.3 - Minimum Information*

Televisual media service providers must make it possible for the recipients of the service to make the following information easily, directly and permanently accessible:

1. The name of the media service provider;
2. The geographic address at which the media service provider is established;
3. Information, which makes it possible to take up speedy contact with the media service provider in order to communicate with him directly and to communicate effectively with him, including his e-mail address or his website;
4. The information that the service is under the supervision of the Media Council of the German-Speaking Community.»

Art. 13 - In Article 7 of the same decree, the following amendments take effect:

1. The heading is replaced by the heading «Television advertising and teleshopping».
2. § 1 section 1 is replaced by the following wording:
«§ 1 - Television advertising and teleshopping must as such be easily recognizable and be distinguishable from the editorial content. Notwithstanding the use of new advertising techniques, television advertising and teleshopping must through optical and/or acoustic and/or spatial means be unambiguously distinguishable from the other programme parts.»
3. In § 1 sec. 2 the wording «advertising and teleshopping spots must» is replaced by «advertising spots and teleshopping spots, except for the transmission of sporting events.»
4. In § 1 the sections 3 and 4 are to be deleted.
5. In § 2 sec. 1 the word sequence «magazine on current affairs, documentaries» is to be deleted.
6. In §, 2 a new section is to be inserted between the first and the second sections with the following wording: «the transmission of films made for television, with the exception of series, serials and documentaries, cinematographic works and news programmes may, may for each scheduled period of at least thirty minutes be interrupted once for television advertising and/or teleshopping.»
7. § 3 is replaced by the following wording:

«§ 3 - The insertion of television advertising and teleshopping spots during a live programme may not impair the integrity of the programmes and must take into account the natural breaks of the programme, as well as the duration and nature of the programme and not impair the rights of the copyright holders.»

8. §§ 4 and 5 are deleted.

Art. 14 - Article 8 of the same decree is deleted.

Art. 15 - Article 9 of the same decree is deleted.

Art. 16 - Article 10 of the same decree is replaced by the following wording:

«Art. 10 - Sponsorship

§ 1 - Sponsored audiovisual media services or programmes must meet the following requirements:

1. Their content and - with television programmes - their programme place may not be affected in such a way that the editorial responsibility and independence of the media service provider are affected.
2. They may not directly encourage the purchase, rental or leasing of the goods or services, particularly not by making special promotional references to those goods or services.
3. The viewers must be clearly informed about the existence of a sponsorship agreement.

Sponsored programmes are clearly to be identified as such - for example, through name, logo and/or any other symbol of the sponsor, such as a reference to his products or services or, correspondingly, by way of unambiguously distinct signs - in an appropriate way at the beginning, during and/or end of the programme.

§ 2 - The sponsorship of audiovisual media services or programmes by companies, whose active business comprises the production or sale of medicines and medical treatment, may include the name or the image of the company in the advertising, however, not specific medicines or medical treatments, especially when these are only available on prescription in the Member State, under whose sovereignty the media service provider resides and operates.

§ 3 - News programmes and current affairs programmes for political informative purposes may not be sponsored. The showing of sponsorship logos in children's programmes, documentaries and religious programmes are forbidden.»

Art. 17 - In the same Section 1 an Article 10.1, with the following wording, is inserted:

«Art. 10.1 - Product placement

§ 1 - Product placement is prohibited.

§ 2 - In deviation from § 1, product placement is allowed under the following provisions:

1. in cinematographic works, films and series made for audiovisual media services, sports programmes and light entertainment programmes, or
2. if no payment is involved, but only specific goods or services, such as production props and prizes towards their inclusion in a programme, the allocation is free of charge.

The deviation, in accordance with Section 1 (1), does not apply to children's programmes.

Programmes that contain product placements must meet at least all of the following requirements:

1. Their content and - in television programmes - their programme place may not be affected in such a way that the editorial responsibility and independence of the media service provider are affected.
2. They may not directly encourage the purchase, rental or leasing of the goods or services, especially not by making special promotional references to those goods or services.
3. They may not expose the relevant product too strongly.
4. The viewers must be clearly informed about the existence of a product placement. Programmes with product placement are to be appropriately marked at the beginning of the programme, as well as when the programme resumes after an advertising break, in order to avoid any possible viewer confusion.

This requirement applies only to programmes, produced by the media service provider himself or produced by a company affiliated to the media service provider or produced on commission.

§ 3 - The §§ 1 and 2 apply only to programmes, which were produced after 19 December 2009.»

Art. 18 - In the same Section 1, an Article 10.2 with the following wording is inserted:

«*Art. 10.2 - Hearing and visually impaired*

The audiovisual media service providers apply the adopted provisions of the government on the accessibility of services regarding the hearing and visually impaired.»

Art. 19 - In the same Section 1 an Article 10.3 with the following wording is inserted:

«*Art. 10.3 - Cinematographic works*

The audiovisual media service providers only show cinematographic works during those times agreed to with the rights holders and not during other times.»

Art. 20 - In title 2 of the same decree the heading of the previous chapter 2 is replaced by the following heading: «Section 2 - Special provisions for linear televisual media services».

Art. 21 - In Article 11 of the same decree the word sequence «this chapter» is replaced by the word sequence «this section», and the words «TV broadcaster», by the phrase «linear televisual media services».

Art. 22 - In the same decree, Article 11.1 with the following wording is inserted:

«*Art. 11.1 - Right of reply*

Chapter II and III of the law of 23 June 1961, relating to the right of reply and inserted by the Act of 4 March

1977, apply to the linear televisual media services of the TV broadcaster.»

Art. 23 - In Article 12 of the same decree, the following amendments have effect:

1. The heading is replaced by the following heading: «European works and other requirements».

2. Before section 1 the § 1 is inserted to read as follows:

«§ 1 - Towards the representation of the variety in the German-speaking and European areas and towards the promotion of the European area and the promotion of European film and television productions, the TV broadcasters must reserve the main part of their transmission time, which does not consist of news programmes, games, advertising and video text services, like teleshopping, for programmes consisting of European works in line with European law.

This proportion must be achieved gradually, by taking into account the responsibility of the TV broadcasters to their viewers in the fields of information, education, culture and entertainment using appropriate criteria. The detailed arrangements shall be determined by the government.»

3. In section 1, which becomes § 2, the word sequence in section 1, namely «the broadcasting time of a TV programme that» is replaced by the word sequence «their broadcasting time», as well as the words «teletext services» by the words «video text services».

4. A § 3 with the following wording is inserted:

«§ 3 - A linear televisual medium service must guarantee the following:

1. The protection and visualisation of the German language, in that a certain number of programmes in the German language is transmitted;

2. The visualisation of the German-speaking community, in that a part of the programmes and reports on the German-speaking community is transmitted. More detailed arrangements shall be determined by the government.»

Art. 24 - Article 13 of the same decree is deleted.

Art. 25 - In Article 14 of the same decree, the following amendments have been made:

1. In § 1 sec.1 between the word sequence «can a list of» and the word «events» the word sequence «national and non-national» is inserted, as well as the word «programme» that is replaced by the word «TV broadcast»;

2. § 1 section 2 is expanded with the following wording:

«The Government notifies the European Commission without delay on any action it, in accordance with these sections, undertakes or will take in the future.»

3. § 2 is replaced by the following wording:

«§ 2 - The television broadcasters may not exercise the exclusive rights, which they have acquired, in such a way that a substantial proportion of the public in another Member State is

denied the opportunity to view the designated events, which this other Member State, in accordance with Article 3j sections 1 and 2 of the Directive 89/552/EEC, as direct complete or partial reporting or, to the extent that the public interest from an objective point of view, necessary or appropriate, as deferred complete or partially deferred report for viewing in a freely accessible television programme, as has been determined by the other Member State in accordance with Article 3j sec. 1 the same Directive.»

Art. 26 - In the same decree an article 6.1 with the following wording is inserted:

«Art. 14.1 - Short reporting

Every television broadcaster, whose company is based in the European Union or in a country, who is a partner of the Agreement on the

European Economic Area, has for the purpose of short reporting, a fair, reasonable and non-discriminatory access to those events that are of major public interest and that is exclusively covered by a television broadcaster, who is subject to the jurisdiction of the Member States.

If another television broadcaster, who resides in the same Member State as the access-requesting television broadcaster, to acquire exclusive rights on the event of major interest to the public, then the access must be acquired by application from this broadcaster.

It is permitted for the television broadcasters to freely choose short extracts from the transmitting broadcaster's signal, whereby the television broadcasters must at least specify the source unless this is not possible for practical reasons.

Short extracts are exclusively used for general news broadcasts and may only be used in non-linear audiovisual media services if the same programme from the same media service provider is offered on a deferred basis.

Free of charge short reporting is restricted to a short report in the event of a corresponding news-like occurrence.

The permitted duration of the short report is calculated by the length in time, which is necessary to convey the news-like content of the informative event or occurrence. In short-termed and regularly recurrent events of similar nature, the upper limit of the duration normally amounts to one and a half minutes. When short reports on events of similar nature are summarized, then also in this summary, the news-like character must be maintained. Besides, the government can define the scope of compensation and reimbursement of expenses.»

Art. 27 - In Article 15 of the same decree the following amendments took place:

1. The heading is replaced by the heading «Televsual commercial communications and teleshopping».

2. § 1 is replaced by the following wording:

«§ 1 - The share of TV advertising and teleshopping spots may not exceed 20% within a full hour of broadcasting time.

Not to be considered as advertising for the purpose of the preceding section:

1. References by the television broadcaster to own programmes and ancillary products, derived directly from these programmes, are;

2. Sponsorship references and the product placement.»

3. In § 2 the sections 1 and 2 have been deleted. In Section 3, the phrase «the window» is replaced by the word «teleshopping window» and the words «teleshopping window» are replaced by the word «such». In Section 3 between the word «its» and the full stop, the word sequence «and a duration of at least fifteen minutes without a break» is inserted.

4. The § 3 with the following wording is inserted:

«§ 3 - The provisions of this decree apply to pure advertising and teleshopping television channels, as well as to television channels that exclusively serve the purpose of self-promoting advertising. The Articles 7 § 3, 12 and 15 § 1 of this decree do not apply to such channels.»

Art. 28 - In the new chapter 2 of title 2 of the same decree, in accordance with Article 15, a new Section 3 with the following heading is inserted:

«Section 3 - Special provisions for non-linear televisual media services»

Art. 29 - In the new inserted Section 3 of the new chapter 2 of title 2 of the same decree, Article

15.1 with the following wording is inserted:

«*Art. 15.1 - Right of reply*

Any natural or legal person, whose legitimate interests - particularly but not exclusively, his honour and reputation - have been impaired due to an assertion of facts in a publication or in a transmission of non-linear televisual media services, which fall under the jurisdiction of the German-speaking community, have a right of reply. The request of reply is to be placed within thirty days of the mentioned publication or of the broadcast.

The right of reply must be submitted within thirty days subsequent to the request being substantiated at a time and in a way that is appropriate to the publication or broadcast to which it relates.

A request to reply may be declined if the applicant has no legitimate interest in the publication of such a reply, or, if the reply would involve a criminal offence, if the content provider risks civil proceedings or risks violating public decency.»

Art. 30 - In Title 2 of the same decree the heading of Chapter 3 is replaced by the following heading:

«Section 4 - Special provisions for programmes of the open channel and for the transmission of public Parliamentary sessions»

Art. 31 - In Article 16 of the same decree the following amendments take effect:

1. In § 1, Section 1, the word sequence «open channel» is replaced by the word «channel» and after the word «a» the following word is inserted: «, the following programmes are distributed:

1. Broadcasts of the open channel;

2. Public transmission of the public Parliamentary sessions of the German-speaking community, in accordance with Article 16.1.»

2. After § 1 sec. 1, a new § 2 is inserted; the previous sections 2 and 3 of § 1 become the sections 1 and two of the new § 2.

3. In the previous § 1 sec. 2 that became § 2 sec. 1, between the word «the» and the word sequence «technical and organizational» the word sequence «editorial responsibility as well as» is inserted.

4. The previous § 2 becomes § 3.

5. In the previous § 2 sec. 1 that became § 3 sec. 1, the word «television contributions» is replaced by the word «contributions» and the word «distribute» is replaced by «provide».

6. In the previous § 2 sec. 4 (1) that became § 3 sec. 4 (1), the word «advertisement» is replaced by the word «television advertising».

7. In the previous § 2 sec. 4 (2) that became § 3 sec. 4 (2), between the word sequence «sponsored contributions» and the word «are» the word sequence «and product placement» is inserted.

8. After the previous § 2 sec. 4 that became § 3 sec. 4, the sec. 5 with following words are inserted: «The contributions can also be provided as non-linear media services.»

9. The previous § 3 becomes § 4.

10. The previous § 4 becomes § 5.

11. The previous § 5 becomes § 6, in the new § 6, the reference «§ 1 sec.2» is replaced by the reference «§ 2 sec 1».

Art. 32 - In the new section 4 of the new chapter 2 of title 2 of the same decree, Article 16.1 with following wording is inserted:

«Art. 16.1 - Sessions of parliament

Transmissions of public sessions of the Parliament of the German-speaking community may not contain any television advertising. Sponsored programmes and product placements are not allowed. The broadcasts are not subject to government supervision.»

Art. 33 - § 1 - The heading of the previous chapter 4 of the title 2 of the same decree is replaced by the following heading: «Chapter 3 – Special provisions for audiovisual media services»

§ 2 - In the new chapter 3 of title 2 of the same decree, the heading of section 1 is replaced by the following: «Section 1 - Special provisions for linear audiovisual media services»

Art. 34 - Article 17 of the same decree is replaced by the following wording:

«Art. 17 - Minimum Information

Linear audiovisual media service providers must make it possible for the recipients of the service to at least make the following presented information accessible:

1. Designation of the audiovisual media services;
2. Location of the transmitter;
3. Information on the used frequencies;
4. Radio Data System, whereby the notified RDS-PI code by the ruling chamber is to be used. The information mentioned in Section 1 points 1-3 is to be given at the beginning and the end of the programme. Moreover, they are to be repeated during the programme at regular intervals.»

Art. 35 - Article 18 of the same decree is replaced by the following wording:

«Art. 18 - Right of reply

Chapter II and III of the Act of 23 June 1961 on the right of reply, inserted by the Act of 4 March 1977, apply to the linear audiovisual media services of the radio broadcasters.»

Art. 36 - Before Article 19 the heading «Section 2 - BRF» is deleted.

Art. 37 - In Article 19 of the same decree, the following amendments have been made:

1. The headline is replaced by the headline: «Advertising in linear audiovisual media services of the BRF».
- 2- Section 1 is deleted.
3. In section 2, between the word «advertising» and the word «may» the word sequence «in the linear audiovisual media services of the BRF» is inserted.

Art. 38 - § 1 - In the new chapter 3 of title 2 of the same decree, in accordance with Article 19, a new Section 3 with the following heading is inserted:

«Section 2 - Special provisions for non-linear audiovisual media services»

§ 2 - In the new section 2 of the new chapter 3 of the title 2 of the same decree an Article 19.1 with the following wording is inserted:

«Art. 19.1 - Minimum Information

Non-linear audiovisual media service providers must make it possible for the recipients of a service to at least make the following designation of the audiovisual media services accessible.»

§ 3 - In the same section 2 and Article 19.2 with the following wording is inserted:

«Art. 19.2 - Right of reply

Any natural or legal person, whose legitimate interests - particularly but not exclusively, his honour and reputation - have been impaired due to an assertion of facts in a publication or in a transmission of non-linear audiovisual media services, which fall under the jurisdiction of the German-speaking community, have a right of reply. The request of reply is to be placed within thirty days of the mentioned publication or of the broadcast.

The right of reply must be submitted within thirty days subsequent to the request being substantiated at a time and in a way to take place appropriate to the publication or broadcast to which it relates.

A request to reply may be declined if the applicant has no legitimate interest in the publication of such a reply, or, if the reply would involve a criminal offence, or if the content provider risks civil proceedings or risks violating public decency.»

Art. 39 - Die heading of title 3 of the same decree is replaced by the following heading: «Title 3 – Private audiovisual media providers»

Art. 40 - In title 3 of the same decree the heading of Chapter 1 is replaced by the following heading: «Chapter 1 – General provisions»

Art. 41 - Article 20 of the same decree is replaced by the following wording:

«Art. 20 - Scope of application

This title is applied notwithstanding the Decree of 27 June 1986 on the Belgian radio and television centre of the German-speaking community.»

Art. 42 - In title 3 of the same decree is inserted a new chapter 2 in accordance with Article 20 with the following heading: «Chapter 2 – Private broadcasting»

Art. 43 - In the new inserted chapter 2 of title 3 of the same decree an Article 20.1 with the following wording is inserted:

«Art. 20.1 - Obligation to report

§ 1 - Private television broadcasters have, for each linear televisual media service that they intend to offer to meet the reporting requirements of the decision-making chamber. The programme may at the earliest be recorded fifteen days after receiving confirmation of notice from the decision-making chamber.

§ 2 - The notice mentioned in § 1 contains:

1. The designation of the private broadcaster and the media services operator;
2. The address of the company and operational headquarters of the private broadcaster;
3. The Articles of Association of the private broadcaster, if this is a legal person;
4. Information about the shareholders of the private broadcaster, if this is a general partnerships/trading company;
5. A drawn-up budget for a period of three years;

6. Type and description of the televisual media service, including the description of the possibly planned information system, as well as if necessary, the proof of the employment of journalists;
7. Details of the time-restraints within which the televisual media service must be ready;
8. The statement of the transmission paths and their operator to the users;
9. If necessary, the marketing modalities of the televisual media service, if the private TV broadcaster operates the media service himself.

Planned changes, which affect the provisions mentioned under Section 1, must be made known in writing to the decision-making chamber before their implementation.»

Art. 44 - In the same chapter 2 is inserted an Article 20.2 with the following wording:

«Art. 20.2 - Obligation of acknowledgement

Notwithstanding Article 20.1, the private broadcaster must, when radio spectrum usage is intended for the purposes of one or several services by way of digital or analog terrestrial transmission paths obtain approval/acknowledgement from the decision-making chamber. Every linear televisual media service of a private TV broadcaster requires this approval (official acknowledgement).»

Art. 45 - In Article 21 of the same decree the following amendments have taken place:

1. § 1 is replaced by the following wording:

«§ 1 - The recognition is issued by way of a written order by the decision-making chamber for the type of programme and the programme category. The first recognition is issued for at least two and a maximum of nine years. The recognition is not transferable.

The decision-making chamber withdraws recognition, if the broadcaster has not made use of it within two years after issuance.»

2. In § 2, the word «operator» is replaced by the word sequence «private television broadcasters» and the word

"Government" by the word «decision-making chamber»).

Art. 46 - Article 23 of the same decree is replaced by the following wording:

«Art. 23 - Territorial scope of application

§ 1 - Private television broadcasters are subject to the jurisdiction of the German-speaking community, if he has settled in the German-speaking community.

A private television broadcaster is settled in the German language area, when:

1. he has his headquarters in the German language area and the editorial decisions on the televisual media services are taken in the German language area;
2. when a significant part of the workforce entrusted with televisual media services are operational in the German language area:

a) when his headquarters is located in the German language area and the editorial decisions on the televisual media services are taken in another Member State of the European Union or in a country that falls under the Agreement on the European Economic Area, or

b) when the place, where the editorial decisions on the televisual media services is taken, is in the German language area and its headquarters is located in a Member State of the European Union or in a country, that falls under the Agreement on the European Economic Area;

3. When he has his headquarters in the German language area and the place where the editorial decisions on the televisual media services are taken is located in a Member State of the European Union or in a country, that falls under the Agreement on the European Economic Area, and a substantial part of the personnel, entrusted with the provision of the televisual media service, on the one hand, is working in the German language area and, on the other hand, another part is working in a member country of the European Union or in a country that falls under the Agreement on the European Economic Area;

4. When he first began his activity in accordance with the law of the German language area and point 2 does not apply in the sense that a substantial part of his personnel does not work in the German language area or in a Member State of the European Union or in a country, that falls under the Agreement on the European Economic Area, but a lasting and real link with the economy of the German language area continues to exist;

5. When a significant part of the personnel entrusted with televisual media service are operational in the German-speaking area:

a) when his headquarters is located in the German-speaking area and the location, where the editorial decisions on the televisual media services are taken, is in a country that is not member the European Union or party to the Agreement on the European Economic Area, or

b) when the place, where the editorial decisions on the televisual media services is taken, is in the German language area, but its headquarters is located in a country which is not Member of the the European Union or party to the Agreement on the European Economic Area.

§ 2 - A private television broadcaster is also subject to the jurisdiction of the German-speaking community, when he is not a member of the European Union or has not settled in a country, that is part of the Agreement on the

European Economic Area and:

1. who uses a satellite up-link situated within the German-speaking community, or

2. who actually does not use a satellite up-link situated within the German-speaking community, but in an area that forms part of the German-speaking community and that uses such a transmission capacity.

§ 3 - A private television broadcaster is also subject to the jurisdiction of the German language area, although he is not covered by § § 1 and 2, but when he, in accordance with Articles 43-48 of the EC Treaty is considered as if he is resident in the German language area.»

Art. 47 - In Article 24 of the same decree the following amendments have taken place:

1. In the opening sentence is inserted between the word «recognition» and the word «contains», the word sequence «in accordance with Article 20.2».

2. In section 1 point 6 the words « of the television programme» is replaced by the word sequence «of the linear televisual media service».

3. In section 1 point 8 the word «television programme» is replaced by the word sequence «linear televisual media services».

Section 1 point 9 is replaced by the following wording:

«9. the types of transmission of the services to the users,».

5. In section 2 sentence 1, between the phrase «per registered mail» and the word «handed in» the word sequence «with the decision-making chamber» is inserted.

6. In section 2 sentence 2 the word «government» is replaced by the words «decision-making chamber».

Art. 48 - Article 25 of the same decree is deleted.

Art. 49 - In Article 26 of the same decree, the following amendments took place:

1. In section 1 sentence 1 the word «government» is replaced by the words «decision-making chamber».

2. In section 1 sentence 2 point 2 the word «agreement» is replaced by the word sequence «provisions as in Article 12».

3. In section 2 the following wording is inserted: «the decision-making chamber determines the date on which the report must be submitted to them.»

Art. 50 - In the heading of chapter 2 in the title 3 the number «2» is replaced by the number «3».

Art. 51 - Article 27 of the same decree is replaced by the following wording:

«*Art. 27 - Basic principle*

Linear audiovisual media services are subdivided in:

1. Transmitter networks;

2. Regional transmitter;

3. Local transmitter;

4. School radio stations;

5. Event radios.»

Art. 52 - In the same decree, Article 27.1 with the following wording is inserted:

«*Art. 27.1 - Reporting obligation*

§ 1 - Private radio broadcasters are obliged to submit a reporting requirement at the decision-making chamber for every linear-audiovisual media service that they intend to present. The broadcasting activity may at the earliest start fifteen days after having obtained the approval on the application from the decision-making chamber.

§ 2 - The reporting requirement mentioned in § 1 contains:

1. The designation of the private radio broadcaster and the media services operator;
2. The address of the company and operational headquarters of the radio broadcaster;
3. The Articles of Association of the private broadcaster, if this is a legal person;
4. Information on the shareholders of the private broadcaster, if this is a general partnerships/trading company;
5. A drawn-up budget for a period of three years;
6. Type and description of the televisual media service, including the description of the intended planned information system, as well as if necessary, the proof of the journalists employed;
7. The appropriate time frame within which the audiovisual media services must launch;
8. The statement of the transmission paths and their operator to the users;
9. If necessary, the marketing modalities of the audiovisual media service, if the private radio broadcaster operates the media service himself. Planned changes, which affect the provisions mentioned under Section 1, must before their implementation made known in writing to the decision-making chamber.»

Art. 53 - In the same decree an article 27.2 with the following wording is inserted:

«Art. 27.2 - Obligation of acknowledgement

Notwithstanding Article 20.1, the private broadcaster must when radio spectrum usage is intended for the purposes of one or several services by way of digital or analog terrestrial transmission paths, obtain approval/acknowledgement from the decision-making chamber. Every linear audiovisual media service of a private TV broadcaster requires this approval (official recognition)»

Art. 54 - In Article 28 of the same decree, the following amendments have taken place:

1. § 1 is replaced by the following wording:

«§ 1 - The approval/recognition is issued by way of a written order by the decision-making chamber for the type of programme and the programme category.

The approval/recognition is not transferable.

The decision-making chamber withdraws approval, if the broadcaster has not within two years after issuance not made use of it.»

2. In § 2, the word «government» is replaced every time by the word «decision-making chamber» as well as in article number «34» which becomes «35».

Art. 55 - In Article 30 of the same decree, the following amendments have taken place:

1. Section 1 becomes § 1, in whose introductory sentence between the word «as» and the word «regional» the word «transmitter network,» is inserted.

2. In the new § 1 point 2 is deleted.

3. In the new § 1 point 4 the word sequence «and in accordance with Article 35, the provisions determined by the government» is deleted.

4. The previous sections 2 and 3, replaced by the decree of 25 June 2007, are replaced by §§ 2 and 3 with the following wording:

«§ 2 - Transmitter networks, regional transmitters and local transmitters can reach agreements with each other and with third parties on the distribution of advertising.

§ 3 - Transmitter networks, regional transmitters and local transmitters can reach agreements on the supply of programme sections. However, it is not permitted that several providers distribute programme sections from one and the same third party. In such a case, the decision-making chamber will take the decision after consulting with the parties concerned. The intended take-over of supplied programme sections is dependent on official approval.

Modifications and integration of these take-overs must be made announced to the decision-making chamber before the modification or integration takes effect.»

Art. 56 - In the same decree an Article 30.1 with the following wording is inserted:

«Art. 30.1 - Special provisions for transmitter networks and regional transmitters

Notwithstanding Article 30, the application for approval of a transmitter network or regional broadcaster must meet the following additional requirements:

1. They must serve the events happening in the German-speaking community and its neighbouring regions, taking the diversity of opinion and the balance of facts into account;

2. The programme scheduling between 6:00 and 22:00 must consist at least of 50% of programme material produced by the staff of the transmitter networks and/or the regional transmitters, with unmodified music programmes not to be considered as own programmes.»

Art. 57 - In the same decree an article 30.2 with the following wording is inserted:

«Art. 30.2 - Special requirements for transmitter networks

In addition to the requirements of Articles 30 and 30.1, transmitter networks have to transmit at least eight news programmes daily. The duration of these programmes must last at least three minutes, weather and traffic reports not included. They are to be compiled in cooperation with professional journalists or persons, who work under terms and conditions, enabling them to become a professional journalist in accordance with the Act of 30 December 1963 on the recognition and protection of the professional title of journalists.»

Art. 58 - Article 31 of the same decree is replaced by the following wording:

«Art. 31 - Special Terms and Conditions for regional transmitters

«In addition to the requirements of Articles 30 and 30.1, regional transmitters must transmit at least four news programmes daily. The duration of these programmes must last at least three minutes, weather and traffic reports not included. They are to be compiled in cooperation with professional journalists or persons, who work under terms and conditions, enabling them to become a professional journalist in accordance with the Act of 30 December 1963 on the recognition and protection of the professional title of journalists.»

Art. 59 - Article 32 of the same decree is replaced by the following wording:

«Art. 32 - Special Terms and Conditions for local transmitters

Notwithstanding Article 30 the applicant, for recognition as a local transmitter, must present additionally between 6:00 and 22:00 an additional programme schedule containing at least 25% programme material produced by the staff of the local transmitter, with unmodified music programmes not considered as being own programmes programmes.»

Art. 60 - Article 33 of the same decree is inserted again with the following wording:

«Art. 33 - School and Event Radios

§ 1 - The decision-making chamber decides on the approval of school radios and event radios by means of a simplified procedure defined by the government based on a proposal by the Media Council.

§ 2 - Broadcasters are the people distributing the programmes. Anyone, on the basis of other provisions, who might be in possession of an approval for the presentation of media services, is not admitted as presenter of School and Event Radios.

§ 3 - School radio stations can be awarded admission for a period up to two years.

§ 4 - Event radio stations must cover a public event in the local area and be operational in the simultaneous period of time that the event is taking place in order to present their transmission. The approval is restricted to an event for a specific location, where the event is taking place, and only for the duration of the event, for not longer than two weeks.

§ 5 - Product placement is prohibited for School radio stations and Event radio stations. Article 57 applies for distribution via terrestrial transmission capacities.»

Art. 61 - In Article 34 of the same decree the following amendments have taken place:

1. In the opening sentence of section 1 is inserted between the word «approval» and the word «contains», the word sequence «in accordance with Article 27.2»
2. In section 1 point 6 the words «radio programmes» are replaced by the word sequence «linear audiovisual media service».
3. In section 1 point 9 the words «radio programmes» are replaced by the word sequence «linear audiovisual media services».
4. In section 1 point 10, the word «programmes» is replaced by the words «media services» and the word «listeners» by the word «users».

5. In section 1 point 11 the word sequence «the names of the professional journalists or persons, who who work under the terms and conditions, enabling them to become a professional journalist in accordance with the Act of 30 December 1963 on the recognition and protection of the occupation of professional journalists and who at the time of application, plot the transmitted news programmes in writing» are replaced by the word sequence «in accordance with the Act of 30 December 1963 on the recognition and protection of the occupation of professional journalists or with individuals who meet the conditions to become a professional journalist and to work as one».

6. Section 1 point 12 is deleted.

7. In section 2 sentence 1, between the phrase «per registered mail» and the word «handed in» is inserted the word sequence «to the address of the decision-making chamber».

8. In section 3, the word «government» is replaced by the words «decision-making chamber».

Art. 62 - Article 35 of the same decree is deleted.

Art. 63 - In Article 36 of the same decree, the following amendments took place:

1. In the opening sentence is inserted between the word «broadcaster» and the word «to last» the word sequence «of a transmitter network of a regional or local transmitter».

2. In point 1 is inserted between the word «the» and «programme scheduling», the word «weekly» as well as after the word «programme scheduling» the word sequence «together with the programme repetitions, also the supplied and unmodified programme sections».

3. In point 2, the word «agreement» is replaced by the word sequence «obligation, in accordance with Art. 30 § 1 point 4».

Art. 64 - The heading of the previous chapter 3 of the title 3 of the same decree is replaced by the following heading: «CHAPTER 4 - PRIVATE PROVIDERS OF NON-LINEAR AUDIOVISUAL MEDIA SERVICES»

Art. 65 - In Article 37 of the same decree, as amended by the Programme Decree of 20 February 2006, the following amendments have taken place:

1. In the introductory sentence of section 1, the phrase «other broadcasts than television and radio programmes» is replaced by the word sequence «non-linear audiovisual media services».

2. Section 1, point 1 is deleted.

Art. 66 - Article 38 of the same decree is replaced by the following wording:

«Art. 38 - Reporting obligation

§ 1 - Suppliers of non-linear audiovisual media services must for every linear audiovisual media service that they intend to offer, submit a reporting requirement to the decision-making

chamber. The production activity may be launched at the earliest fifteen days after having obtained the approval on the application from the decision-making chamber.

§ 2 - The reporting requirement mentioned in § 1 contains:

1. The designation of the provider and the media services;
2. The address of the company and operational headquarters of the provider;
3. The Articles of Association of the provider, if this is a legal person;
4. Information on the shareholders of the private broadcaster, if this is a general partnerships/trading company;
5. Type and description of the media service, including the description of the intended planned information system, as well as if necessary, the proof of the journalists employed;
6. Specifying the time frame within which the media services must be provided;
7. The statement of the transmission paths and their operator to the users;
8. If necessary, the marketing modalities of the audiovisual media service, including the rate and fees if the private radio broadcaster runs the media service himself;
9. A written obligation to the effect that the decree, its implementing regulations and laws in general will be observed.

Planned changes, which affect the provisions mentioned under Section 1 must before their implementation made known in writing to the decision-making chamber.»

Art. 67 - Article 39 of the same decree is replaced by the following wording:

«*Art. 39 - Territorial scope of application*

§ 1 - Providers of non-linear audio-visual media services are subject to the jurisdiction of the German-speaking Community if they are established in the German language area.

A provider of non-linear audiovisual media services is considered in the following cases to be resident in the German language area:

1. if he has his headquarters in the German language area and the editorial decisions on the non-linear audiovisual media service are taken in the German language area;
2. if a substantial part of the personnel involved with the making available of non-linear audiovisual media services is working in the German language area:
 - a) when his headquarters is in the German language area and the editorial decisions on the non-linear audiovisual media services take place in another Member State of the European Union or in a country, that falls under the Agreement on the European Economic Area, or
 - b) when the place, where the editorial decisions on the non-linear audiovisual media services are taken is in a location in the German language area, and its head office is in a Member State of the European Union or in a country that is part of the Agreement on the European Economic Area;
3. When he has his headquarters in the German language area and the place where the editorial decisions on the non-linear audiovisual media services are taken is in a Member

State of the European Union or in a country that is part of the Agreement on the European Economic Area, and if a substantial part of the personnel involved with the making available of non-linear audiovisual media services on the one hand works in the German language area and, on the other hand, is in a member of the European Union or in a country, that falls under the Agreement on the European Economic Area;

4. When he first began his present career in accordance with the law of the German language area and point 2 does not apply, if a substantial part of his personnel does not work in the German language area or in a Member State of the European Union or a country, that falls under the Agreement on the European Economic Area, but a lasting and real link with the economy of the German-speaking community continues to exist;

5. When a significant part of the personnel entrusted with the making available of televisual media services work in the German language area:

a) when he has his headquarters in the German language area and the location, where the editorial decisions on the non-linear audiovisual media services are taken, is in a country, which is not a member of the European Union or part of the Agreement on the European Economic Area or

b) when the place, where the editorial decisions on the televisual media services is taken, is in the German language area and its headquarters is located in a country which is not Member of the the European Union or party to the Agreement on the European Economic Area.

§ 2 - A provider of non-linear audiovisual media services are also subject to the jurisdiction of the

German-speaking community when he is not in a Member State of the European Union or is resident in a country, that is part of the Agreement on the European Economic Area, and;

1. who uses a satellite up-link situated within the German language area, or

2. who actually does not use a satellite up-link situated within the German language area, but he uses such a transmission capacity in an area that forms part of the German-speaking community.

§ 3 - A provider of non-linear audiovisual media services is also subject to the jurisdiction of the German-speaking community, even though §§ 1 and 2 do not apply to him, when he, in compliance with Articles 43-48 of the EU, is considered to be resident in the German language area.»

Art. 68 - Article 40 of the same decree is inserted again with the following wording:

«*Art. 40 - European works*

Non-linear audiovisual media services, which are provided by registered providers, promote the production and access to European works. This support relates to the financial contribution of such services to the production of European works and to the acquisition of rights to European works or to the proportion and/or of the adequate identification of European works in the programme catalogue, wherein these non-linear audiovisual media services are on offer. The government defines further arrangements. It can define other appropriate forms of promotion.»

Art. 69 - In Article 41 of the same decree the following amendments have taken place:

1. The word «broadcaster» is replaced by the word sequence «registered providers of non-linear audiovisual media services».
2. The word «government» is replaced by the word «decision-making chamber».
3. A new point 3 with the following wording is inserted:
«3. Information on the promotion of European works in accordance with Article 40.»

Art. 70 - In Article 53, section 1 of the same decree in point 6, the word «and» is replaced with a comma and in point 7 the full stop by the word «and» and a point 8 with the following wording is inserted:

«8. the maximum output power of the transmitter.»

Art. 71 - Article 61 of the same decree is deleted.

Art. 72 - In Article 79 of the same decree, the following amendments have been made:

1. In § 1, the introductory sentence is replaced by the following wording: «The cable network operators may:».
2. In § 1 point 1, the word sequence «programmes by the television broadcasters, from a Member State of the European Community or» is replaced by the phrase «televsual media services from other Member States of the European Union or from».
3. In § 1 point 2 sentence 1, the word sequence « approved programmes of the TV broadcasters from a non Member State of the European Community» is replaced by the word sequence «from a country that is not member of the European Union, televsual media services».
4. In § 1 point 2 (2) the word «programmes» is replaced by the word sequence «televsual media services».
5. In § 2 the word sequence «radio programmes distribute, as well as other services that are not radio services and TV programmes» by the word sequence «audiovisual media services distribute».
6. A § 3 with the following wording is inserted:
«§ 3 The Act of 30 June 1994 on the copyright and the related rights remain unaffected hereby.»

Art. 73 - In Article 80 of the same decree the following amendments have been made:

1. The word «government» is in every instance to be replaced by the word «decision-making chamber».
2. In the introductory sentence of § 1 section1, the word «television» is replaced by the word sequence "linear televsual media services».
3. § 1 section 1 point 1 is replaced by the following wording:

«1. the media service violates in an obvious, serious and grave manner Article 4 points 2 and 3;».

4. In § 1 Sec. 1 the word «television broadcaster» is replaced by the word «media service provider».

5. In § 1 Sec. 1 the word «television broadcaster» is replaced by the word «media service provider» and the word «alleged» is replaced by the wording «to blame».

6. In § 2 the wording «television programmes» is replaced by the word sequence «linear televisual media services».

7. In § 3 the word sequence «radio programmes and the provision of other services than radio services and television programmes» is replaced by the word sequence «linear audiovisual media services».

Art. 74 - In the same decree, an article 80.1 with the following wording is inserted:

"Article 80.1 - Measures against certain non-linear audiovisual media services

The decision-making chamber can take measures against anybody who deviates from the basic principle of free proliferation of non-linear audiovisual media services, on the basis of the following conditions.

The measures:

1. are necessary for one of the following reasons:

a) The protection of public order, in particular, the prevention, investigation, solving and prosecution of crimes, including the protection of minors and combating agitation on grounds of race, gender, sexual orientation, religion or nationality, as well as the violation of the human dignity of individuals;

b) The protection of public well being;

c) The protection of public security, including the safeguarding of national security and defence interests;

d) The protection of the consumer, including the protection of the investor;

2. concerning a specific non-linear audiovisual media service, who impairs the mentioned protection goals under point 1 or who poses a serious and grave danger of threatening these objectives;

3. to stand in an appropriate relation to these protective goals.

Without prejudice to any judicial proceedings, including indictment and steps in the context of a criminal investigation, the decision-making chamber has, before taking the necessary actions:

1. to call on the country, whose jurisdiction applies to the media service provider to take necessary action and when it fails to do so, or the actions taken are inadequate;

2. to inform the European Commission and the Member State, under whose jurisdiction the media service provider falls, to inform them of the intended action to be taken.

In urgent cases, the decision-making chamber can deviate from those provisions given in the preceding section.

In such an instance, the steps are to be made known immediately to the European Commission and the Member State, under whose jurisdiction the media service provider falls, providing detailed reasons as to why the decision-making chamber came to the conclusion that it is dealing with an urgent case.»

Art. 75 - In Article 81 of the same decree the following amendments have taken place:

1. In the introductory sentence of § 1, the words «radio programmes» are replaced by the word sequence «linear audiovisual media services» and the word «programmes» by the word sequence «linear audiovisual media services».

2. In § 1 point 1, the word «programmes» is replaced by the word sequence «linear audiovisual media services».

3. § 1 point 2 is replaced by the following wording:

«2. the linear televisual media services approved by the decision-making chamber;».

4. § 1 point 3 is replaced by the following wording:

«3. two linear audiovisual and two linear televisual media services of the public radio broadcaster of the French-speaking community;».

5. § 1 point 4 is replaced by the following wording:

«4. two linear audiovisual and two linear televisual media services of the public radio broadcaster of the Flemish-speaking community;».

6. In § 1, a point 5 is inserted to read as follows:

«5. the programmes mentioned in Article 16 § 1.»

7. In § 2, section 1, the word sequence «to transmit further radio and television programmes, as well as to present other services like radio and television programmes» is replaced by the word sequence «to present further audiovisual media services.

The Government defines the relevant criteria.»

Art. 76 - In Article 82 of the same decree, the word «government» is replaced by the words «decision-making chamber».

Art. 77 - In Article 86 § 3 of the same decree, the phrase «taken care of by a member of the Ministry of the German-speaking community under supervision of the Media Council.» is replaced by the phrase «taken care of by the Media Council.»

Art. 78 - In Article 97 of the same decree, a section 2 with the following wording is inserted:

«The decision-making chamber draws up a report on the promotion of the production of European works and the access to them in the non-linear audiovisual media services every four years, beginning on 1 July 2001.»

Art. 79 - In the same decree, an article 107.1 with the following wording is inserted:

«Art. 107.1 - Cooperation

The decision-making chamber, i.e. the Government, communicates to the European Commission and the responsible authorities of the other Member States the information required for the application of Directive 89/552/EEC of the European Parliament and the Council of 3 October 1989 towards the coordination of certain laws and administrative regulations of the Member States on the making available of audiovisual media services (Directive on Audiovisual Media Services).

These are in particular:

1. Information on the application of Article 23, 39 and 79-80.1;
2. Information on the legal requirements, that where appropriate, might be more detailed or stricter than the requirements of the mentioned Directive 89/552/EEC;
3. Information that is required to satisfactorily solve any mutual problems in resolving a case where the jurisdiction of another Member State or a country, which is a partner of the Agreement on the European Economic Area, is involved in the instance of a television broadcaster from a neighbouring jurisdiction who provides television programmes that are completely or predominantly oriented towards the German language area.»

Art. 80 - In title 5, chapter 2 of the same decree, the word in the heading of the previous Section 3 «section» is replaced by the word «chapter».

Art. 81 - In Article 111 of the same decree, as amended by the Programme Decree of 20 February 2006, and the Decree of 25 June 2007, the following amendments take effect:

1. In the introductory sentence of § 1 section 2, the word «media provider» is replaced by the wording "media service provider».
2. § 1 section 2 point 2 is replaced by the following wording:
«2. one member per recognized private provider of a televisual media service on the recommendation of the respective provider».
3. In § 1 section 2, a point 4.1 with the following wording is inserted:
«4.1. one member per recognized transmitter network, on the recommendation of the respective provider».
4. § 1 Section 2 point 7 is deleted.
5. In § 1, section 3, point 6 the word sequence «council for the elderly and seniors» is replaced by the word sequence «advisory council for family and intergeneration issues».
6. § 1 Section 3 point 7 is deleted without substitution.

Article 82 - In Article 114 of the same decree, as amended by the Programme Decree of 20 February 2006, the following amendments have taken place:

1. § 1 point 1 letters *a)*, *b)*, *e)*, *f)* and *g)* are deleted.
2. In § 1 point 1 letter *h)* the reference «§ 4» is replaced by the reference «§ 5».
3. In § 1 is inserted between points 1 and 2, a point 1.1 with the following wording:

«1.1. the submission of a preceding expert opinion on decisions by the decision-making chamber:

a) concerning the official approval application of a private television broadcaster;

b) concerning the official approval application of a private radio broadcaster;

4. In § 1 point 2 letter *b*) the word «government» is replaced by the word «decision-making chamber».

5. In § 1 point 3, the word sequence «concerning advertising. These model designs will be passed on to the various media service providers» is replaced by the word sequence «as far as it concerns commercial communication, as well as the development of codes of conduct as in Article 6 § 2. These model designs and codes of conduct will be passed on to the various media service providers.»

6. In § 1 point 4 letter *b*) between the wording «the government» and the word sequence «the Committee of Experts» is inserted the word sequence »decision-making chamber».

7. § 1 point 5 section 2 is deleted.

8. In § 1, a point 7 is inserted to read as follows:

«7. the preparation of proposals, which are to regulate the accessibility of services for hearing impaired and visually impaired.»

Art. 83 - In the heading of title 6 of the same decree, after the word «cinema provider» the word sequence «and short film price» is inserted.

Art. 84 - In the same decree an article 117.1 with the following wording is inserted:

«Art. 117.1 - Film promotion

Under the available budgetary means, the government cannot vouchsafe repayable grants for the post-production of games, animation films and documentaries of all genres and lengths. The amount of the grant and modalities will be determined in an agreement between the beneficiary and the Government. Films that are fully or partially eligible are those by professional producers or authors who are based in the German language-speaking area or films, which covered a theme of historical, cultural or architectural relevance to the German speaking community, in that:

1. the corresponding script is complete;

2. the film is intended for public screening;

3. the film does not predominantly have an advertising character or serve an advertising purpose;

4. the quality of the film in terms of artistic and economic quality is undisputed;

5. cast and crew are suitable.

The government determines the content and form of the application form. They can modify the list of criteria that determines whether a film will impact the German-speaking community, or not.»

Art. 85 - In title 6 of the same decree, an Article 119.1 with the following wording is inserted:

«Art. 119.1 - Short Film Award

With the short film award of the German-speaking community can, on an annual basis, outstanding achievements in the production of games, animation films and documentaries be crowned. Proposals for awards for the Short Film Award of the German-speaking community can be submitted to the decision-making chamber and to members of the Jury of the Short Film Award, appointed by the government. Particular details are determined by the government.»

Art. 86 - In Article 120 of the same decree, the following amendments have taken place:

1. In the introductory sentence to section 1, the word «government» is replaced by the words «decision-making chamber».
2. In section 1 point 4, the word sequence «of 2,500» is deleted.

Art. 87 - In Article 122 sentence 1 of the same decree, is inserted between the word «the» and the word sequence «with the exaction» the word sequence «on the request of the decision-making chamber».

Art. 88 - In Article 128 of the same decree, the introductory sentence as well as the point 1 is replaced by the following the wording: «This decree is intended to implement the following directives, provided they fall within the jurisdiction of the German-speaking community:

1. Directive 89/552/EEC of the European Parliament and the Council of 3 October 1989 towards the coordinating of specific laws and regulations of the Member States on the provision of audiovisual media services, previously modified by Directive 2007/65/EC of the European Parliament and the Council of 11 December 2007 for the amendment of Directive 89/552/ EEC of the Council on the coordination of certain legal and administrative regulations of the Member States concerning television broadcasting (Directive on audiovisual media services);».

Art. 89 - Article 131 of the same decree is replaced by the following clause:

«Art. 131 - Authorization

The government coordinates the provisions of the Decree of 27 June 2005 on the audiovisual media services and the cinema presentations. To this end, it may modify the regulations to be coordinated with the aim to coordinate and unify the terminology, without changing the principles contained in the regulations. Besides amending the headings for purposes of coordination, it can also amend the numbering of the titles, chapters, sections and individual articles, including the layout of the text of the decree. The coordinated version has the title "Coordinated decree on the Audiovisual Media Services and Cinema Presentations».