



Benchmark of audiovisual regulation in Brussels and selected European cities



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Brussels has adopted a flexible approach to licensing and regulating the audiovisual sector compared to selected European cities

- The choice of city in which to establish itself is a key decision for audiovisual service providers (AVSPs)¹
- AVSPs will consider a range of criteria when selecting a new location, including the local licensing and regulatory regime
- A less restrictive licensing and regulatory regime is likely to make a city an attractive candidate to AVSPs, as it:
 - minimises the set-up time and cost needed to begin providing audiovisual services
 - minimises the ongoing regulatory burden
 - provides a more flexible environment to develop services.

Key findings

- Any AVSP that chooses Brussels and offers a mix of content would register with the general telecoms regulator, the BIPT²
- The audiovisual licensing regime in Brussels is comparatively simple: it has no licensing fees and an unlimited licence duration (providing the establishment criteria are met)
- The audiovisual regulatory regime in Brussels is a light-touch implementation of the EU’s audiovisual media services directive (AVMSD), with minimal additional obligations imposed
- Brussels is promoting a vibrant media sector with incentives to promote development of a skilled content production workforce

Overview of licensing and regulatory approach in selected cities

	Brussels	Paris	Amsterdam	Dublin
Regulatory body	BIPT	CSA	CvdM	BAI
Approach to licensing	Light touch	Involved	Light touch	Involved
licensing system used	Notification	Licence/ Notification/ Open	Licence/ Notification	Licence/ Notification
Licence fees	None	Variable	Low	Variable
Implementation of 2010 AVMSD	Light touch	Additional obligations	Light touch	Additional obligations
Complexity of regulatory regime	Low	High	Low	Moderate

Additional obligations beyond the 2010 AVMSD

	European works			
	Product placement			
Content retention	Sponsorship	European works		
Product placement	Advertising frequency	Product placement	Product placement	
Sponsorship	Advertising content	Advertising frequency	Advertising content	
Brussels	Paris	Amsterdam	Dublin	

Additional product placement and sponsorship obligations in Brussels relate only to children’s programmes

¹ AVSPs include TV broadcasters, catch-up TV services and video-sharing platforms

² An AVSP would have to register with one of Belgium’s language-specific regulators rather than the BIPT if it plans to offer content targeted at a specific region of Belgium and/or chooses to locate outside of Brussels

Audiovisual regulation in the EU includes the ‘country of origin’ principle, which makes the location of headquarters a key decision for audiovisual service providers

- Audiovisual regulation in the European Union (EU) covers all types of AVSPs, including:
 - linear broadcasters (e.g. TV broadcasters)
 - non-linear broadcasters (e.g. Netflix)
 - video-sharing platforms (e.g. YouTube)¹
- The EU has established strict rules to avoid ‘forum shopping’² – AVSPs need to demonstrate that they have a clear presence in a member state to be able to establish themselves there
 - assessment criteria include the location of the head office, or the presence of a significant number of staff and editorial decision-making processes within a country
- EU audiovisual regulations set a minimum regulatory standard which must be met across the EU, with the potential for stricter regulation on a country-by-country basis
 - under the country of origin principle, once an AVSP is licensed in one EU country, it is able to distribute its content across the EU while only complying with regulations in the country of origin
 - ‘country of destination’ style provisions may also apply, but are less likely to affect the choice of headquarters
- **The country in which an AVSP chooses to establish itself determines the only regulatory regime with which it must comply**

What is the purpose of this report?





- This report provides an analysis of audiovisual regulation in selected European cities
- It provides an overview based on public information and stakeholder interviews, and is not an in-depth review

Who is this report for?

- This report is for AVSPs considering relocating within the EU, or establishing themselves in the EU for the first time
- It is also for video-sharing platforms that will be required to establish themselves within the EU to meet new regulations

What does this report cover?

- This report compares the regulatory environment in four cities:

Brussels		Amsterdam	
Paris		Dublin	

- The rest of this report considers:
 - the regulatory situation in Belgium
 - an introduction to EU audiovisual regulation
 - licensing and regulation in the four cities of interest, and other incentives in these four cities
 - sources of further information for AVSPs

¹ Video-sharing platforms will be regulated under the AVMSD by September 2020

² Forum shopping is when organisations pick and choose the most friendly regulatory regime without considering other factors

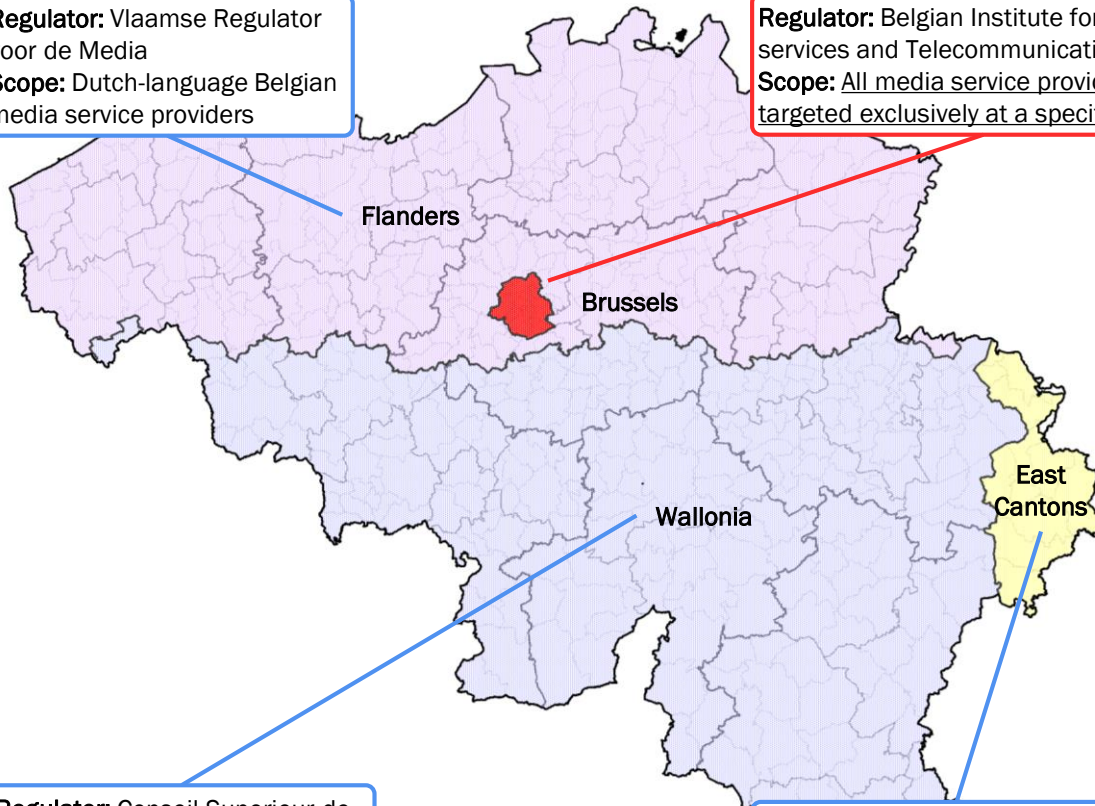
Source: Analysys Mason, MAVISE

An AVSP establishing itself in Brussels and offering content not targeted exclusively at one region would register with the BIPT, which adopts a light-touch approach

Regulatory approach in Belgium

Regulator: Vlaamse Regulator voor de Media
Scope: Dutch-language Belgian media service providers

Regulator: Belgian Institute for Postal services and Telecommunications
Scope: All media service providers not targeted exclusively at a specific region



Regulator: Conseil Supérieur de l'AudioVisuel
Scope: French-language Belgian media service providers

Regulator: Medienrat der Deutschsprachigen Gemeinschaft
Scope: German-language Belgian media service providers

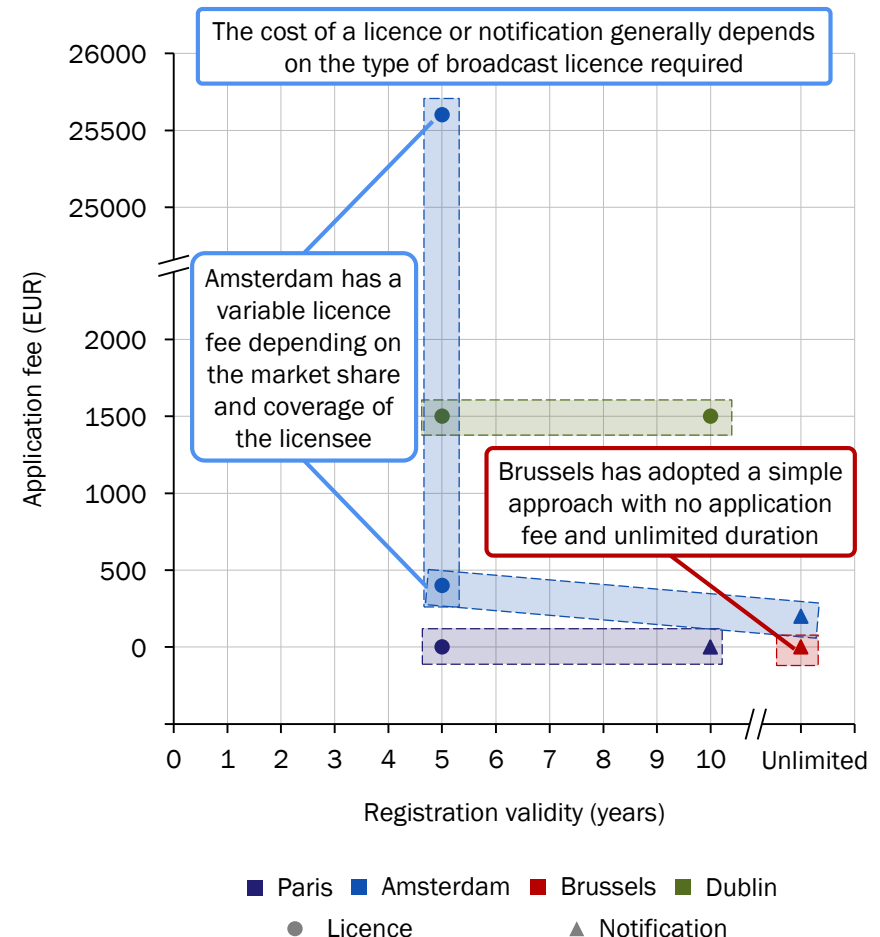
- Regulation of AVSPs in Belgium is conducted at a regional level rather than at a federal level
 - the French, Dutch and German regions of Belgium each have their own media regulator covering AVSPs exclusively targeting these regions
- In 2015, the Belgium Government passed a federal act empowering the BIPT as the regulator for AVSPs that are
 - based in Brussels, and
 - not exclusively targeting the French, Dutch or German communities in Belgium
- The federal government and the BIPT have adopted a light-touch approach to both licensing and regulation of AVSPs

An AVSP targeting multiple EU countries can establish itself in Brussels and get a licence from the BIPT rather than one of the regional regulators

Brussels has adopted a simple approach to licensing AVSPs, with no fees and unlimited duration, provided that the establishment criteria are met

- There are three broad approaches to licensing AVSPs within a EU member state
 - licence – an AVSP must apply for a licence from the regulator, which has the freedom to grant the licence or refuse an AVSP’s application
 - a ‘formal’ licence approach is a variant of the first approach where the regulator cannot refuse an application providing qualifying criteria are met
 - notification – an AVSP must notify the regulator that it is providing services, but does not have to meet any criteria other than establishment criteria
 - open – an AVSP does not have to notify the regulator of its intent to provide services
 - open systems are not expected to be compliant with the revised Audiovisual Media Services Directive (AVMSD)
- The BIPT has adopted a simple approach to licensing, requiring only a notification, with no application fee and with unlimited validity
- In Paris, Amsterdam and Dublin, the complexity of licensing depends on the type of service to be provided and the type of licence required

Summary of licensing costs and validity



In comparison to selected benchmark countries, Brussels has adopted a light-touch approach to licensing AVSPs

Topic	Brussels	Paris	Amsterdam	Dublin
Responsible organisation	Belgian Institute for Postal services and Telecommunications (BIPT)	Conseil supérieur de l'audiovisuel (CSA)	Commissariaat voor de Media (CvdM)	Broadcasting Authority of Ireland (BAI)
Approach adopted	Light touch	Involved	Light touch	Involved
Application process	<ul style="list-style-type: none"> ▪ Notification for all AVSPs, with application form to be completed and sent to the BIPT 	<ul style="list-style-type: none"> ▪ Licence (or legal agreement) required if using licensed frequencies or turnover >EUR150 000 ▪ Notification required if not using licensed frequencies or turnover <EUR150 000 ▪ No application if reach is <100 premises 	<ul style="list-style-type: none"> ▪ Formal licence required for linear AVSPs (a service will receive a licence providing minimum criteria are met) ▪ Notification (within two weeks of commencing service) for non-linear AVSPs 	<ul style="list-style-type: none"> ▪ Licence awarded in competitive process for radio AVSPs ▪ Licence awarded in three-stage process for linear AVSPs other than radio AVSPs ▪ Notification for all other AVSPs
Taxes and levies	<ul style="list-style-type: none"> ▪ <i>Not applicable</i> 	<ul style="list-style-type: none"> ▪ Taxes and levies are applied under the AVMSD rather than via the licensing process 	<ul style="list-style-type: none"> ▪ <i>Not applicable</i> 	<ul style="list-style-type: none"> ▪ Some AVSPs are required to pay either a fixed levy of EUR750 or a variable levy between 0.31% and 2.06%, depending on turnover
Other licence considerations	<ul style="list-style-type: none"> ▪ <i>Not applicable</i> 	<ul style="list-style-type: none"> ▪ Media ownership considered as part of licensing process 	<ul style="list-style-type: none"> ▪ <i>Not applicable</i> 	<ul style="list-style-type: none"> ▪ Media ownership considered as part of licensing process
Overall complexity	Low	High	Low	Moderate

The 2010 AVMSD established harmonised minimum regulatory standards for the audiovisual sector, with different countries free to adopt additional provisions

- There are two key pieces of legislation covering the broadcast sector in the EU, part of the broader Digital Single Market initiative:
 - The **AVMSD** regulates broadcast content
 - the AVMSD establishes a standardised regulatory ‘floor’ across the EU – countries are free to include additional regulations as required, creating different regulatory regimes across the EU
 - The **Satellite and Cable Directive** regulates rights related to retransmission of content
 - implementation of the Satellite and Cable Directive has been broadly harmonised across the EU with few differences between countries – therefore we do not discuss the Satellite and Cable Directive in this report
- The AVMSD was passed in 2010 to regulate linear media service providers and non-linear media service providers
- The 2010 AVMSD introduced different regulatory regimes for linear and non-linear media service providers
 - non-linear media services were recognised as being different from linear services due to level of control available to the end user, and lighter regulations were imposed

Baseline provisions of the 2010 AVMSD

Topic	Linear AVSPs	Non-linear AVSPs
Registration	<ul style="list-style-type: none"> ▪ AVSPs are required to establish themselves in an EU member state 	
Advertising content	<ul style="list-style-type: none"> ▪ Ban on tobacco advertising ▪ Restrictions on advertising alcohol and medicines 	
Advertising frequency and duration	<ul style="list-style-type: none"> ▪ Restrictions on amount of advertising allowed 	<ul style="list-style-type: none"> ▪ No restrictions
Sponsorship	<ul style="list-style-type: none"> ▪ Sponsorship must be clearly identified, and is not allowed to affect editorial independence of AVSPs ▪ Ban on tobacco sponsorship, and on sponsorship by prescription-only medicinal products or treatments 	
Product placement	<ul style="list-style-type: none"> ▪ Product placement restricted to certain types of content ▪ Payments to content producers for product placement banned 	
Protection of minors	<ul style="list-style-type: none"> ▪ Requirement to ensure protection from harmful content ▪ Requirement to display warning before or during harmful content 	<ul style="list-style-type: none"> ▪ Requirement to ensure protection from harmful content
European works	<ul style="list-style-type: none"> ▪ Requirement to reserve majority of time (where practical) for European works 	<ul style="list-style-type: none"> ▪ Requirement to promote European works

Note: See Directive 2010/13/EU for the original AVMSD and Directive (EU) 2018/1808 for the revised AVMSD

Source: EUR-Lex, Analysys Mason

Brussels has implemented the 2010 AVMSD with few additional obligations imposed beyond the minimum required regulations

Topic	Brussels	Paris	Amsterdam	Dublin	
Obligations under the 2010 AVMSD	Content retention	Requirement to keep copy of programme for 3 months following broadcast date			
	European works		TV broadcasters must broadcast at least 60% European works, and at least 40% French language during peak time Revenue contributions of up to 15% from linear AVSPs and up to 26% from non-linear AVSPs to support French / European works ¹	50% European works required in all cases, not only “ <i>where practicable and by appropriate means</i> ”	
	Product placement	No product placement in children’s programmes	Ban on product placement for baby food and weapons	Ban on product placement for medical devices/services, and cosmetic treatments/services	No product placement for alcohol near 21:00 (the watershed in Ireland)
	Sponsorship	No sponsorship of children’s programmes	Limits on types of sponsorship and mentions of sponsor contribution		
	Advertising frequency		Additional restrictions on advertising frequency and duration	Additional restrictions on advertising frequency and duration	
	Advertising content		Additional restrictions on tobacco and alcohol advertising		Additional restrictions on content that may be unsuitable for children, and on alcohol advertising
	Baseline requirements	Implemented in full	Implemented in full	Implemented in full	Implemented in full

Note: Brussels has also implemented a clause on the protection of fundamental rights in its transposition of the AVMSD, whereas Analysys Mason understands that other countries have implemented this in criminal law rather than in the AVMSD

¹ These provisions are expected to move to country of destination rather than country of origin under the revised AVMSD

Source: Analysys Mason, national regulators, European Audiovisual Observatory

The revised AVMSD presents an opportunity for AVSPs to engage with national legislators and regulators to help shape implementation of the new regulations

- The EU passed a revised AVMSD in 2018, aiming to:
 - harmonise the regulatory environment for linear and non-linear AVSPs
 - expand the scope of the AVMSD to include video-sharing platforms (previously not in the scope of the AVMSD)
- Once transposed by national legislators, the revised AVMSD will require video-sharing platforms to establish themselves within an EU member state and comply with strict regulations on advertising content, protection of minors and the prevention of incitement to hatred
- The choice of establishment location will be key for video-sharing platforms as it will dictate the regulatory regime with which it must comply
- **EU governments are required to transpose the revised AVMSD into national legislation by September 2020**
 - Ireland consulted on its approach to the revised AVMSD in 2019 and is currently developing its draft law
 - Belgium, France and the Netherlands are all developing draft laws to transpose the AVMSD
- National authorities are expected to continue their current approaches to media regulation when transposing the revised AVMSD into national law

Changes in the revised AVMSD

Topic	2010 AVMSD	Revised AVMSD
Scope	<ul style="list-style-type: none"> ■ Linear AVSPs ■ Non-linear AVSPs 	<ul style="list-style-type: none"> ■ Scope expanded to cover video-sharing platforms
Advertising content	<ul style="list-style-type: none"> ■ Ban on tobacco advertising ■ Restrictions on advertising alcohol and medicines 	<ul style="list-style-type: none"> ■ Ban extended to electronic cigarettes ■ Further restrictions on alcohol advertising
TV advertising frequency and duration	<ul style="list-style-type: none"> ■ Restrictions on amount of advertising allowed 	<ul style="list-style-type: none"> ■ Restrictions on peak-time advertising introduced
Sponsorship	<ul style="list-style-type: none"> ■ Sponsorship must be clearly identified ■ Ban on tobacco sponsorship ■ Restrictions on sponsorship by medical companies 	<ul style="list-style-type: none"> ■ Ban extended to electronic cigarettes
Product placement	<ul style="list-style-type: none"> ■ Product placement restricted 	<ul style="list-style-type: none"> ■ Restrictions loosened providing certain conditions met
European works	<ul style="list-style-type: none"> ■ Requirement to promote European works 	<ul style="list-style-type: none"> ■ On-demand services must have at least 30% European works

Brussels is promoting a vibrant media sector with incentives in place to develop a skilled media and content production workforce

Topic	Brussels	Paris	Amsterdam	Dublin
Target sector for development?	Yes	No	Yes	No
Estimated value of creative industry to economy	<ul style="list-style-type: none"> EUR1.7 billion for Brussels, 39% of Belgium's total sectoral value of EUR4.4 billion in 2018 	<ul style="list-style-type: none"> No information publicly available 	<ul style="list-style-type: none"> EUR4.3 billion for Amsterdam, 37% of the Netherlands' total sectoral value of EUR11.6 billion in 2019 	<ul style="list-style-type: none"> No information publicly available
Dedicated facilities available	<ul style="list-style-type: none"> Brussels Media Park – a 380 000m² district aiming to promote the development of broadcasting and creative industries 	<ul style="list-style-type: none"> No information publicly available 	<ul style="list-style-type: none"> Media Park (Hilversum) – a media park located just outside Amsterdam hosting a large number of broadcasters 	<ul style="list-style-type: none"> No information publicly available
Tax and funding incentives	<ul style="list-style-type: none"> The Belgian Tax Shelter offers a tax exemption for broadcasters (capped at EUR750 000 per year) to encourage the production of works in Belgium The Brussels Region 2025 Strategy provides funding of up to EUR500 000 per production 	<ul style="list-style-type: none"> The Tax Rebate for International Production offers a 20% tax rebate of up to EUR20 million per project on eligible spending in France ACM Distribution provides up to EUR60 000 per project to promote the distribution of films co-produced between an EU and non-EU country 	<ul style="list-style-type: none"> The Dutch Film Fund Growing Incentive Scheme provides a 30–35% cash rebate on eligible production costs spent on parties subject to Dutch taxation The Dutch Film Fund Growing Incentive Scheme also supports the production and distribution of minority Dutch co-productions 	<ul style="list-style-type: none"> Section 481 is a tax credit, offering a 32–37% tax credit for productions in Ireland, limited to EUR70 million per production Sound & Vision 3 is a funding scheme providing funding for up to 95% of the total budget to support Irish language and Irish cultural programming

Brussels has also established screen.brussels, bringing together regional support services including financing, logistics and funding to grow the creative industry in Brussels

¹ Estimated value of personal, cultural and recreational service exports

Source: Analysys Mason, public reports, screen.brussels, CNC, Invest in Holland, BAI, UNCTAD

AVSPs can obtain further information and support from a range of sources

thisisyour.brussels	https://thisisyour.brussels/audiovisual
hub.brussels	https://hub.brussels/en/
screen.brussels	https://screen.brussels/en
BIPT	https://www.bipt.be/en/operators/media/media-regulator

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