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## Media Act 2008

### Applicable from 01/07/2021

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#### Chapter 1. Definitions and scope

##### Article 1.1

1. In this act and the corresponding provisions, the following definitions have the meanings stated:

*broadcasting network provider*: a natural person or legal entity who makes transmission capacity available by means of a broadcasting network;

*broadcasting transmitter provider*: a natural person or legal entity who makes transmission capacity available by means of a broadcasting transmitter;

*content channel*: an ordered set of media content, offered under a recognizable name via an electronic communications network referred to in Article 1.1 of the Telecommunications Act;

*alcoholic drink*: alcoholic drink referred to in Article 1 of the Alcohol Act;

*audiovisual media content*: media content of a media service that relates to products with moving video content, whether or not including audio content;

*Netherlands Authority for Consumers & Markets*: the Netherlands Authority for Consumers & Markets referred to in Article 2, paragraph 1, of the Act establishing the Netherlands Authority for Consumers & Markets;

*catch-up*: purchase as a media service on demand of media content for a limited period, starting during or shortly after the distribution of those media content on a programme channel;

*commercial media service*: a media service provided pursuant to Chapter 3;

*commercial media institution*: a natural person or legal entity who provides a commercial media service and who falls under the jurisdiction of the Netherlands for the purpose of this Act;

*Media Authority*: the Dutch Media Authority, referred to in Article 7.1;

*concession policy plan*: the concession policy plan referred to in Article 2.20;

*RPO concession policy plan*: the RPO concession policy plan referred to in Article 2.60l;

*newspaper market*: the average paid circulation in a calendar year, determined by the Journalism Promotion Fund referred to in Article 8.1, of newspapers that are intended for the public in the Netherlands and that appear at least six times a week;

*recognition period*: the period referred to in Article 2.29, paragraph 1;

*European Directive*: Directive 2010/13/EU of 10 March 2010 of the European Parliament and of the Council on the coordination of certain statutory and administrative-law provisions in the Member States relating to the provision of audiovisual media services (Audiovisual Media Services Directive);

*event*: an organized event in the field of sport or culture open to the public;

*national public media institution*: an institution that provides media services for the national public media service pursuant to Title 2.2;

*local public media institution*: an institution appointed pursuant to Title 2.3 to provide a local public media service;

*media content*: one or more electronic products with video or audio content that are intended for purchase by the general public or a part thereof;

*media service*: a service consisting of providing media content by means of public electronic communication networks referred to in Article 1.1 of the Telecommunications Act, for which the provider bears editorial responsibility;

*media service on demand*: a media service consisting of providing media content that can be purchased on individual request and at a time of your choosing;

*NOS*: the Netherlands Broadcasting Foundation, referred to in Article 2.34a;

*NPO*: the Netherlands Public Broadcasting Foundation, referred to in Article 2.2;

*NTR*: the NTR Foundation, referred to in Article 2.35;

*broadcasting service*: a media service relating to the provision of media content, distributed

on the basis of a chronological schedule established by the institution responsible for the media content, whether or not coded by means of a broadcasting transmitter or a broadcasting network for simultaneous reception by the general public or part thereof;

*broadcasting network*: a public electronic communications network as referred to in Article 1.1 of the Telecommunications Act, which is used or is also used to distribute programmes, mainly using cables;

*broadcasting organization*: a broadcasting organization as referred to in Article 2.23;

*broadcasting transmitter*: a radio transmitter as referred to in Article 1.1 of the Telecommunications Act that is used or is also used for the distribution of programmes;

*Our Minister*: our Minister of Education, Culture and Science;

*open television programme channel*: a television programme channel that can be received by at least seventy-five percent of all households in the Netherlands, for which no other costs are due than:

1°. the rate charged by a package provider as referred to in Article 6.9a to its subscribers for the reception of the programme content from a number of programme channels to be determined by that provider with due observance of Articles 6.13 to 6.14b; or

2°. the cost of purchasing or using technical facilities that enable the reception of television programmes;

*overlay*: an addition to the audiovisual media content that does not originate from the media institution that provides the media service;

*political party*: an association whose designation is entered in the register of designations for the election of members of the House of Representatives, the Senate or the European Parliament pursuant to Article G 1, Q 6 or Y 10 of the Elections Act;

*product placement*: the inclusion of or reference to a product, service or (figurative) mark within the framework of a programme, or part of the media content corresponding to a programme, for payment or a similar fee;

*programme*: an electronic product with video or audio content that is clearly defined and that is recognizable as such distributed via a broadcasting service under a separate title;

*programme content*: all media content that is distributed via a broadcasting service;

*programme channel*: the orderly set of programme content that is distributed under a recognizable name via a broadcasting transmitter or broadcasting network;

*public media service*: a media service provided pursuant to Chapter 2;

*public media institution*: an institution that provides media content pursuant to Chapter 2;

*public media remit*: the public media remit referred to in Article 2.1, paragraph 1;

*executive board*: the NPO executive board;

*radio broadcasting*: a broadcasting service relating to radio programme content;

*radio programme*: a programme with audio content only;

*advertising message*: an expression in any form whatsoever, not being a home shopping message, with the unmistakable aim of inducing the public to buy a certain product or use a certain service, or to vote favourably with regard to a certain company, an industry or a particular institution in order to promote the sale of products or the purchase of services;

*editorial responsibility*: exercising effective control over:

- a. the choice of media content; and
- b. the arrangement of the media content in a chronological schedule with regard to programmes, or in a catalogue with regard to the media content of media services on demand;

*regional public media institution*: an institution appointed pursuant to Title 2.3 to provide a regional public media service;

*RPO*: Regional Public Broadcasting Foundation;

*surreptitious advertising*: mentioning or showing names, (figurative) marks, products, services or activities of persons, companies or institutions other than pursuant to this Act, when it can reasonably be assumed that this is intended or is also intended to advertise, on the understanding that the intent is in any case present if the display or mention is made against payment or a similar fee;

*sponsoring*: the provision of financial or other contributions by a company or a natural person not normally engaged in the provision of media services or media content, for the purpose of creating or purchasing media content, with a view to distributing it to the general public or to promote or enable part thereof;

*sporting competition*: a competition or the preparation for a competition, organized by or under the auspices of the national sports organizations and their sections recognized by the

NOC\*NSF, or by comparable international (umbrella) sports organizations, or another competition or the preparation for a competition of a sport that has been designated as a sport by the NOC\*NSF;

*Ster*: the Radio and Television Advertising Foundation, referred to in Article 2.99;

*teletext*: a television programme consisting exclusively of still text images that can be consulted by the viewer in an order and at a time determined by the viewer, and which is distributed over the same transmission space of a broadcasting transmitter or broadcasting network as that used for the distribution of other television programmes;

*television broadcasting*: a broadcasting service relating to television programme content;

*television programme*: a programme with video content, whether or not including audio content;

*home shopping message*: an expression in television programme content consisting of a direct offer to the public with a view to the supply of products or services against payment;

*newspaper publisher*: a legal entity that publishes a newspaper.

2. An advertising message as referred to in paragraph 1 does not constitute calling for support for or endorsing organizations with a scientific, cultural, religious, philosophical, political or charitable character, insofar as this does not relate to the purchase of a particular product or use a particular service that is commercially available.

## **Article 1.2**

1. Public or commercial media institutions that fall under the jurisdiction of the Netherlands pursuant to Article 2 of the European Directive fall under that Dutch jurisdiction.
2. Paragraph 1 applies by analogy to an institution that provides radio programmes, on the understanding that an institution that provides radio programmes that are distributed in the Netherlands by means of a broadcasting transmitter, not including satellite, falls under the jurisdiction of the Netherlands in any case.

## **Chapter 2. Public media services**

### **Title 2.1. Public media remit**

#### **Article 2.1**

1. A public media remit is in place, consisting of:
  - a. the provision of public media services at national, regional and local levels by providing media content that aims to provide a broad and diverse audience with information, including journalistic content, culture and education, through all available content channels;
  - a1. the ability to use entertainment as a means to achieve an informative, cultural or educational goal or to attract and bind a broad and diverse audience so these goals are brought to the attention;
  - b. providing public media services whose media content is intended for Dutch nationals residing outside the country's borders; and
  - c. stimulating innovation in media content, monitoring and stimulating technological developments and exploiting the possibilities of providing media content to the public through new media and distribution techniques.
2. Public media services are in line with public values, meeting the democratic, social and cultural needs of Dutch society. To this end, they provide media content that:
  - a. is balanced, multiform, varied and of high quality and is also characterized by a great diversity in form and content;
  - b. gives a balanced picture of society and reflects the multiformity of beliefs, opinions and interests in the social, cultural and philosophical fields among the population;
  - c. is aimed at and has a relevant reach among a broad and general audience, as well as population and age groups of different sizes and compositions, with particular attention to small target groups;

- d. is independent of commercial influences and, subject to the provisions of or pursuant to the law, of government influences;
  - e. meets the high journalistic and professional quality requirements that are applied within this sector; and
  - f. is accessible to everyone.
3. The programme content of the general programme channels of the national, regional and local public media services is distributed via broadcasting transmitters to all households in the catchment area for which the programmes are intended, without having to pay any costs for reception other than the costs of purchasing and using the technical facilities that enable reception.

## **Title 2.2. National public media service**

### **Part 2.2.1. Netherlands Public Broadcasting Foundation (NPO)**

#### **Section 2.2.1.1. Duties**

##### **Article 2.2**

1. The Netherlands Public Broadcasting Foundation (NPO) is the control and cooperative body for the implementation of the public media remit at national level, as referred to in Article 2.1.
2. In addition to the NPO's other duties pursuant to this Act, it is charged with:
  - a. providing control and promoting cooperation with a view to the implementation of the public media remit at national level;
  - b. the coordination and organization on and between the content channels of the media content of the national public media service;
  - b1. ensuring public involvement in the specifics of the media content of the national public media service;
  - c. representing national public media institutions in international media organizations in the field of media and cooperation in the establishment of such organizations;
  - d. collaborating with foreign broadcasting organizations to contribute to European media content that is also aimed at the Dutch public;
  - e. making media content from the national public media service available abroad;
  - f. looking after matters of common interest to the national public media service and the national public media institutions, including the coordination of the acquisition, management and use of rights to media content and associated names and brands;
  - g. concluding collective agreements and establishing standards for the remuneration of freelancers, also on behalf of national public media institutions;
  - h. funding the national public media institutions, on the basis of the funds made available by Our Minister;
  - i. ensuring the efficient use of the funds intended for the provision and distribution of the media content and ensuring integrated financial reporting and accountability;
  - j. establishing, maintaining, managing, operating and regulating the use of bodies, services and facilities, including studios and distribution infrastructures, necessary for the proper execution of the public media remit at national level;
  - k. distributing media content for Dutch speakers abroad; and
  - l. promoting talent development in collaboration with public media institutions.
3. In the fulfilment of its duties, the NPO directs and promotes cooperation based on the quantitative and qualitative objectives for the media content and audience reach of the national public media service, contained in the concession policy plan, the performance agreement, referred to in Article 2.22, the profiles of the content channels, the agreements referred to in Article 2.55, the regulations referred to in Article 2.57, and the budget referred to in Article 2.147, and it observes Article 2.88 in the provision of the media content by the national public media institutions.

##### **Article 2.3**

1. Within the framework of its duty as referred to in Article 2.2, paragraph 2, under f, the NPO may enter into agreements with third parties on behalf of the joint national public media institutions.
2. Within the framework of its duty as referred to in Article 2.2, paragraph 2, under f, the NPO draws up a code of conduct to promote good governance and integrity at the NPO, the national public media institutions and the Ster.
3. The code of conduct does, any case, include:
  - a. recommendations for the administrative organization, including administrative supervision;
  - b. a remuneration framework;
  - c. rules of conduct for ethical conduct of directors and employees;
  - d. rules of conduct for public and transparent accountability and reporting; and
  - e. procedures for handling reports and suspicions about possible wrongdoing.
4. The remuneration framework referred to in paragraph 3, under b, insofar as it relates to employees who receive remuneration outside the applicable collective agreement, requires the approval of Our Minister. Insofar as Our Minister withholds approval or if the NPO remains negligent in establishing a remuneration framework, he shall determine the content of the remuneration framework. The NPO then determines the remuneration framework in accordance with the content referred to in the previous sentence.
5. The code of conduct is observed by the NPO and the national public media institutions.

#### **Section 2.2.1.2. Organization**

##### **Article 2.4**

The bodies of the NPO are a supervisory board, an executive board and a board of broadcasters.

##### **Article 2.5**

1. The supervisory board consists of a chairman and a maximum of six other members who are appointed, suspended and dismissed by Royal Decree on the recommendation of Our Minister.
2. In the event of a vacancy, the supervisory board draws up profiles for the vacancy and for the board as a whole, with regard to which it shall in any case allow the executive board, the board of broadcasters, the representative social advisory council referred to in Article 2.10, paragraph 2, under i, and the joint works councils of the NPO, NOS, NTR and the broadcasting organizations that have been granted recognized status as referred to in Article 2.23, paragraph 1, to express their views within a reasonable period.
3. After considering the views, the supervisory board adopts the profiles and publishes them.
4. For the selection of candidates, the supervisory board appoints an independent appointment advisory committee. The appointment advisory committee advises the supervisory board.
5. The supervisory board shall give Our Minister weighty advice for the nomination referred to in paragraph 1.
6. The advice referred to in paragraph 5 must be motivated, in which case the suitability, profiles, position of the candidate in the rotation schedule and the procedure that led to the advice are described.
7. Our Minister adopts the advice, unless it conflicts with:
  - a. this act;
  - b. requirements of due care; or
  - c. other compelling interests.

8. If Our Minister does not adopt the advice, he shall ask the supervisory board, stating a written motivation, to ensure a new advice is drawn up and he shall inform the House of Representatives that an advice has not been adopted and why.
9. The supervisory board engages a recruitment consultancy to assist in drawing up the profiles by the supervisory board and the selection of candidates by the appointment advisory committee.
10. For one of the other members referred to in paragraph 1, the joint works councils of the NPO, NOS, NTR and the broadcasting organizations that have granted recognized status as referred to in Article 2.23, paragraph 1, may recommend persons for appointment to the appointment advisory committee.
11. Appointments are for five years and reappointment for a consecutive period is possible once.

#### **Article 2.6**

1. Membership of the supervisory board is incompatible with:
  - a. membership of the board of broadcasters;
  - b. membership of the executive board;
  - c. membership of a body of or employment with a public media institution;
  - d. membership of a body of or employment with a commercial media institution;
  - e. membership of one of the two Houses of the Parliament, a provincial council or a municipal council;
  - f. employment with a ministry or with a department, institution or company that falls under the responsibility of a minister;
  - g. having financial or other interests in companies or institutions and performing ancillary positions that could jeopardize the proper performance of the position or the maintenance of the independence of the member concerned or of confidence therein; and
  - h. membership of a body of or employment with a broadcasting association that is represented in a cooperative broadcasting organization.
2. Suspension and dismissal are possible on account of:
  - a. unsuitability;
  - b. unsatisfactory performance; and
  - c. incompatibility as referred to in paragraph 5.
3. Dismissal is also possible at a member's own request.
4. The NPO pays the members of the supervisory board a fee to be determined by Our Minister.

#### **Article 2.7**

1. The supervisory board is charged with supervising:
  - a. the implementation of the public media remit at national level;
  - b. the activities of the executive board; and
  - c. the general state of affairs in the organization of the NPO.
2. The supervisory board supports the executive board with advice.
3. The supervisory board is also charged with:
  - a. adopting the financial statements of the NPO; and
  - b. amending the articles of association of the NPO, on the proposal of the executive board;
4. In fulfilling its duties, the supervisory board takes into account the common interest of the national public media service, it works with a feeling for the forces in which the national public media

service functions and takes into account the interests of the national public media institutions.

5. The executive board provides the supervisory board in a timely manner with the information needed by the supervisory board for the fulfilment of its duty.
6. The supervisory board draws up a rotation schedule for its members to prevent members from simultaneously retiring.

#### **Article 2.8**

1. The executive board consists of a chairperson and a maximum of two other members who are appointed, suspended and dismissed by the supervisory board.
2. Appointments are for five years and reappointment for a consecutive period is possible once.

#### **Article 2.9**

1. Article 2.6, paragraph 1, preamble and under a and c to h, shall apply by analogy to membership of the executive board, on the understanding that Article 2.6, paragraph 1, under c, does not apply by analogy to membership of a body of the Ster.
2. The members of the executive board are employed by the NPO. The supervisory board determines their terms and conditions of employment.
3. Section 668a, subsections 1 to 4, of Book 7 of the Dutch Civil Code does not apply.
4. A member of the executive board may not be appointed as a member of the supervisory board for a consecutive period after termination of that membership.

#### **Article 2.10**

1. The executive board manages the NPO.
2. In addition to the executive board's other duties and powers pursuant to this Act, it is charged with:
  - a. the day-to-day management of the activities of the NPO;
  - b. the day-to-day coordination and coherent organization of the media content on and between the various content channels of the national public media service;
  - c. establishing regulations that are necessary for the fulfilment of the duties of the NPO, including, in any case, an arrangement for the coordination and organization of the media content on the content channels of the national public media service;
  - d. determining the profiles of the content channels of the national public media service, containing the principles for recognizable media content on those channels;
  - e. determining the concession policy plan;
  - f. concluding the performance agreement referred to in Article 2.22;
  - g. setting the budget referred to in Article 2.147;
  - h. adopting the board report referred to in Article 2.17; and
  - i. organizing representative public representation, including a representative social advisory council, to promote public involvement in the specifics of the media content of the national public media service.
3. The executive board is also charged with anything that does not expressly fall within the duties or powers of the supervisory board.

#### **Article 2.11**

1. The following decisions of the executive board require the approval of the supervisory board:
  - a. the decisions referred to in Article 2.10, paragraph 2, under e to h;

- b. making investments that exceed an amount specified in the NPO's articles of association;
  - c. the NPO entering into or breaking off long-term cooperation with another legal person or company if that cooperation is of major significance for the NPO or the national public media institutions;
  - d. collective redundancy of a significant number of employees; and
  - e. adopting radical changes to the employment conditions of a considerable number of employees.
2. The further working methods of the supervisory board and the executive board are regulated in the articles of association and regulations of the NPO.

#### **Article 2.11a**

The supervisory board and the board of broadcasters hold consultations at least twice a year.

#### **Article 2.12**

1. The board of broadcasters advises the supervisory board and the executive board on request or on its own initiative about the policy regarding the media content of the national public media service.
2. The board of broadcasters is composed in such a way that the broadcasting organizations that have been granted recognized status as referred to in Article 2.23, paragraph 1, the broadcasting associations that been granted provisional recognized status as referred to in Article 2.23, paragraph 2, the NOS and the NTR each appoint one member.

#### **Article 2.13**

1. Membership of the board of broadcasters is incompatible with membership of an editorial board as referred to in Article 2.56.
2. The board appoints the chairperson from among its members and regulates its own working method.

#### **Article 2.14**

1. The executive board asks the board of broadcasters for advice before it:
  - a. concludes an agreement as referred to in Article 2.3, paragraph 1, or 2.10, paragraph 2, under f;
  - b. makes a decision on a duty as referred to in Article 2.10, paragraph 2, under d, e, or g;
  - c. makes a decision on the way in which the budget, referred to in Article 2.149, paragraph 1, under f, shall be used; or
  - d. makes a decision on the adoption of the annual plans with the programming strategy within the framework of the regulation for the coordination and organization of the media content, referred to in Article 2.10, paragraph 2, under c.
2. The executive board gives the board of broadcasters a reasonable term to give advice. The absence of advice from the board of broadcasters does not preclude the executive board concluding an agreement or making a decision.
3. If it appears from the advice that the board of broadcasters does not agree with a proposed agreement or a proposed decision or important parts thereof and the executive board wishes to maintain its intention unchanged, the executive board may give the board of broadcasters the opportunity to be heard about this within a reasonable period to be determined by the executive board. The executive board shall do so in any event if it concerns an intended decision or an intended agreement as referred to in Article 2.10, paragraph 2, under e and f, respectively.
4. If the executive board has maintained its intention unchanged after the application of paragraph 3, it shall submit the intended agreement or the adopted decision to the supervisory board for

approval. In doing so, the executive board shall explain why it wishes to maintain the intended agreement unchanged or has adopted the intended decision unchanged.

5. Before the supervisory board decides on approval of an intended agreement or adopted decision, it may give the board of broadcasters the opportunity to be heard about this within a reasonable period to be determined by the supervisory board. The supervisory board shall do so in any event if it concerns an adopted decision or an intended agreement as referred to in Article 2.10, paragraph 2, under e and f, respectively.

#### **Article 2.14a**

1. The executive board appoints an ombudsman for the public service broadcaster for a period of three years on the recommendation of the board of broadcasters. Reappointment is possible.
2. The executive board may prematurely dismiss the ombudsman if, despite a prior warning from the board of broadcasters, the ombudsman is in structural default in the opinion of this board.
3. The executive board may provide for a temporary replacement of the ombudsman if the latter is unable to fulfil his function for a long time due to illness or leave.
4. The ombudsman does not have financial or other interests in companies or institutions and does not fulfil ancillary positions that could jeopardize the proper fulfilment of the function or the maintenance of the independence of the ombudsman or of confidence therein.
5. Following a complaint or on his own initiative, the ombudsman assesses the journalistic actions of the national public media institutions in the provision of media content in the fields of news, information and education. This assessment is not binding and the ombudsman cannot demand rectification.

#### **Section 2.2.1.3. Provision of information, neglect of duties, management report and articles of association**

##### **Article 2.15**

1. On request, the NPO shall provide Our Minister with all information relating to the activities of the NPO.
2. Our Minister may demand access to business data and documents of the NPO insofar as this is necessary for the fulfilment of his duties.

##### **Article 2.16**

1. If in the opinion of Our Minister, the NPO seriously neglects its duties, Our Minister may, after consultation with the NPO, take the necessary measures.
2. Our Minister shall immediately inform the House of Representatives of the Parliament of the measures taken by him.

##### **Article 2.17**

1. The NPO draws up a management report for the past calendar year before 1 June each year.
2. The management report pays attention to the activities of the NPO, the policy pursued in general and the efficiency and effectiveness of the working method in particular.
3. The NPO sends the report to Our Minister and publishes it.

##### **Article 2.18**

1. Amendments to the articles of association of the NPO require the approval of Our Minister.
2. The supervisory board and the executive board cannot decide to dissolve the NPO.

#### **Section 2.2.1.4. Concession, policy plan and performance agreement**

##### **Article 2.19**

1. A concession is granted to the NPO by Royal Decree for the realization of the public media remit at national level.
2. The concession is valid for ten years and takes effect from a date to be determined in the Royal Decree.
3. For the application of Articles 2.20 and 2.29, the concession period consists of two periods of five years.

##### **Article 2.20**

1. Before the concession is granted and before the start of the second five-year period of the concession period, the NPO shall submit a concession policy plan for the coming five years to Our Minister.
2. The concession policy plan does, in any case, contain:
  - a. a description of how the public media contract shall be carried out at national level in the next five years, also elaborated in quantitative and qualitative objectives for the media content, audience involvement and audience reach of the national public media service;
  - b. the nature and number of the programme channels and the frequency range required for them;
  - c. the nature and number of the other content channels, as well as for the content channels intended or partly intended for the provision of a media service on demand, the technical quality of image or audio and the period in which media content is available for purchase;
  - d. a substantiated overview of the expected organizational, human, material and financial resources required; and
  - e. a description of the cooperation with regional and local public media institutions and others.
3. Rules may be laid down by ministerial regulation regarding the structure of the concession policy plan and the time of submission.
4. The executive board determines the concession policy plan after consultation with, in any case, the national public media institutions and, insofar as the cooperation is concerned, the regional and local public media institutions involved.

##### **Article 2.21**

1. The NPO publishes the concession policy plan.
2. Our Minister asks the Media Authority and the Council for Culture for advice about the concession policy plan. When applying paragraph 4, the advice is requested after the expiry of the term referred to in that paragraph, under a. In any case, the advice relates to how the concession policy plan shapes the multiformity of the media content.
3. The concession policy plan requires the approval of Our Minister insofar as it concerns the subjects referred to in Article 2.20, paragraph 2, under b and c, whereby the approval is given in accordance with the provisions of the Telecommunications Act.
4. Insofar as the consent referred to in paragraph 3 relates to a new or significantly changed content channel:

- a. interested parties may submit their views verbally or in writing to Our Minister for four weeks after the publication of the concession policy plan; and
  - b. Our Minister requests the Netherlands Authority for Consumers & Markets to issue a report after the term referred to under a has expired, with an analysis of the possible effects of the content channel on the relevant markets.
5. When applying paragraph 4, the Media Authority, the Council for Culture and the Netherlands Authority for Consumers & Markets shall use the views referred to in that paragraph, under a, for their advice or reports. Our Minister shall forward those views to them.
  6. The Media Authority may provide the Netherlands Authority for Consumers & Markets with the data necessary for the analysis referred to in paragraph 4, preamble and under b.
  7. The preparation of a decision about consent as referred to in paragraph 4 is subject to Part 3.4 of the General Administrative Law Act.
  8. If the NPO wishes to make changes to the part of the concession policy plan that has been approved by Our Minister, it shall include these in the budget. Paragraphs 1 to 7 apply by analogy.

#### **Article 2.21a**

1. Article 2.21, paragraph 3, does not apply if, by way of an experiment with limited scope or duration, media content is offered through channels other than those referred to in Article 2.20, paragraph 2, under b and c. An experiment serves to investigate whether these content channels can contribute to the realization of the public media contract at national level.
2. An order in council determines when the scope or duration is limited and further rules can be laid down about carrying out experiments.

#### **Article 2.22**

1. Partly on the basis of the concession policy plan, Our Minister and the NPO shall conclude a performance agreement for the term of the concession policy plan.
2. The performance agreement contains agreements about:
  - a. qualitative and quantitative objectives for the media content, audience involvement and audience reach of the national public media service;
  - b. measures in the event of non-compliance, insofar as possible within the provisions of or pursuant to this Act; and
  - c. interim changes in connection with changing insights or circumstances.
3. The performance agreement does not relate to the specifics of the media content of the national public media service.

#### **Part 2.2.2. Broadcasting organizations**

##### **Article 2.23**

1. Once every five years, Our Minister may grant recognized status to a maximum of six broadcasting organizations for the provision of media content for the national public media service in accordance with the provisions of this part. A broadcasting organization is a broadcasting association as referred to in Article 2.24 or a cooperative broadcasting organization as referred to in Article 2.24a.
2. Once every five years, Our Minister may grant provisional recognized status to broadcasting associations for the provision of media content for the national public media service in accordance with the provisions of this part.

##### **Article 2.24**

1. A broadcasting association is an association which:
  - a. is a legal entity under Dutch law, with full legal capacity;
  - b. according to the articles of association, exclusively or mainly aims to provide media content at national level for the performance of the public media contract and to perform all activities necessary to fulfil a public duty of general benefit;
  - c. according to the articles of association, aims to represent in the media content a particular social, cultural, religious or spiritual movement indicated in the articles of association and to focus in the media content on the satisfaction of social, cultural or religious or spiritual needs;
  - d. allows its members to influence policy in a democratically acceptable manner; and
  - e. levies an annual contribution of at least € 5.72, which does not include the provision of a radio/TV guide.
2. The amount referred to in paragraph 1, under e, may be adjusted by order in council in response to the consumer price index determined by Statistics Netherlands.

#### **Article 2.24a**

1. A cooperative broadcasting organization is an association or foundation in which two or more broadcasting associations are represented, which is aimed at running a national public media institution and which:
  - a. is a legal entity under Dutch law, with full legal capacity;
  - b. according to the articles of association, exclusively or mainly aims to provide media content at national level for the performance of the public media contract and to perform all activities necessary to fulfil a public duty of general benefit;
  - c. according to the articles of association, aims to represent in the media content particular social, cultural, religious or spiritual movements indicated in the articles of association, in accordance with the articles of association of the broadcasting associations it represents and to focus in the media content on the satisfaction of social, cultural or religious or spiritual needs;
  - d. if the cooperative broadcasting organization is an association, allows its members to influence policy in a democratically acceptable manner; and
  - e. ensures that the broadcasting associations it represents levy an annual contribution of at least € 5.72, which does not include the provision of a radio/TV guide.
2. The amount referred to in paragraph 1, under e, may be adjusted by order in council in response to the consumer price index determined by Statistics Netherlands.

#### **Article 2.25**

1. Recognized status is granted only to a broadcasting organization:
  - a.
    - 1°. which was granted recognized status in the previous recognition period;
    - 2°. which is formed from broadcasting associations that had been granted recognized status in the previous period;
    - 3°. which is formed from all broadcasting associations that were represented in a cooperative broadcasting organization that had been granted recognized status in the previous period;
    - or
    - 4°. which is formed from broadcasting associations as referred to under 2° and 3°;
  - b.
    - 1°. which, insofar as it concerns a broadcasting association, has at least 100,000 members; or
    - 2°. of which, insofar as it concerns a cooperative broadcasting organization, the broadcasting associations it represents have together at least 100,000 members and individually no less than 50,000 members;
  - c. which, on 31 December of the year prior to that in which that recognized status takes effect, has a reserve as referred to in Article 2.174a, paragraph 1, the balance of which is nil or positive and, insofar as it concerns a cooperative broadcasting organization, also any broadcasting association that it represents, which on that date has a reserve as referred to in

- Article 2.174a, paragraph 2, of which the balance is nil or positive; and
- d. which has secured the availability of the media content on the channels referred to in Article 2.55, paragraph 3, and complies with Articles 2.142a and 2.178, paragraphs 1, 2 and 3.
2. The extent of the balance referred to in paragraph 1 is demonstrated by submitting the financial statements, as referred to in Article 2.171, paragraph 2, which are accompanied by a certificate from an auditor as referred to in Section 393, subsection 1, of Book 2 of the Dutch Civil Code.
  3. In derogation from paragraph 1, under a, a cooperative broadcasting organization in which the following are represented may also qualify for recognized status:
    - a. one or more broadcasting associations as referred to in paragraph 1, under a; and
    - b. one or more broadcasting associations that had been granted provisional recognized status in the previous recognition period, whereby the following applies to each of these broadcasting associations:
      - 1°. that broadcasting association has at least 50,000 members; and
      - 2°. of that broadcasting association, during the period of the provisional recognized status, not sufficiently has been revealed that the media content doesn't meet the requirements referred to in Article 2.26, paragraph 1, under d.

### **Article 2.26**

1. Provisional recognized status is granted only to a broadcasting association which:
  - a. had no recognized status or provisional recognized status in the previous recognition period and was not represented in a cooperative broadcasting organization that had recognized status during that period;
  - b. has at least 50,000 members;
  - c. on 31 December of the year prior to that in which that recognized status starts, has a reserve as referred to in Article 2.174a, paragraph 1, of which the balance is nil or positive;
  - d. according to the movement as referred to in Article 2.24, paragraph 1, under c, and the intended media content, with regard to genre, content and target groups, differs from the broadcasting organizations referred to in Article 2.25 in such a way that the diversity of the media content of the national public media service is increased and an innovative contribution is made to the implementation of the public media contract at national level;
  - e. has observed the regulations with regard to recruiting members as referred to in Article 2.137;
  - f. entrusts the provision of its media content to the NTR or a broadcasting organization that has been granted recognized status as referred to in Article 2.23, paragraph 1, and with which it has reached an agreement; and
  - g. complies with Articles 2.142a, paragraphs 1 and 2, and 2.178, paragraphs 1 and 2.
2. Article 2.25, paragraph 2, applies.

### **Article 2.27**

1. The Media Authority determines the number of members per broadcasting organization that has submitted an application for recognized status or provisional recognized status on a reference date to be determined by Our Minister. In the case of a cooperative broadcasting organization, the number of members is determined by the total number of members of the broadcasting associations it represents.
2. Counting as members are persons:
  - a. aged 16 and older;
  - b. who reside in the Netherlands; and
  - c. who have paid the annual minimum contribution referred to in Article 2.24, paragraph 1, under e, or 2.24a, paragraph 1, under e.
3. The Media Authority determines the way in which the number of members is determined and the applicant provides the Media Authority with all information it deems necessary for this purpose.

## **Article 2.28**

[Repealed with effect from 01/01/2014]

## **Article 2.29**

1. Recognized status or provisional recognized status is granted on application and is valid for a period of five years that coincides with a five-year period of the concession as referred to in Article 2.19, paragraph 3, and lapses by operation of law after the end of the recognition period.
2. Recognized status can be transferred only with the permission of Our Minister at the request of the broadcasting organization to which it has been granted, and only to a broadcasting organization formed by a merger in accordance with Article 2.25, paragraph 1, preamble and under a, under 2°, 3° or 4°. Conditions may be attached to this permission. Article 2.32, paragraph 1, with regard to Articles 2.24 and 2.24a, and paragraph 2, under a and c, shall apply by analogy.
3. Recognized status or provisional recognized status gives right to a financial contribution for the provision of media content in accordance with the provisions of or pursuant to this Act.
4. By transferring recognized status, the acquiring broadcaster assumes all rights and obligations arising from the law of its predecessor in title.

## **Article 2.30**

1. An application for recognized status or provisional recognized status contains the applicant's articles of association and a policy plan.
2. The policy plan is aligned with the concession policy plan for the same period and contains at least:
  - a. the intended policy with regard to the media content, with due observance of the obligations laid down by or pursuant to this Act for the media content of the national public media service, indicating the connection in society with the mission and identity of the broadcasting organization other than from the number of members;
  - b. the intentions and agreements about cooperation for the benefit of the national public media service with other applicants for recognized status or provisional recognized status, the NPO, the NOS or the NTR; and
  - c. insofar as it concerns the policy plan of an applicant for provisional recognized status, the intentions and agreements about the way in which its responsibility, referred to in Article 2.88, paragraph 1, in the cooperation with the NTR or a broadcasting organization, referred to in Article 2.26, paragraph 1, under f, is guaranteed.
3. The part of the policy plan that relates to cooperation can be submitted jointly by the applicants concerned.
4. Further rules can be set by ministerial regulation about:
  - a. the time and method of submitting an application;
  - b. the specifics of an application and the policy plan; and
  - c. the term and way in which a decision is made on an application.
5. Only one application can be granted for the same broadcasting association.

## **Article 2.31**

1. Before Our Minister decides on granting recognized status or provisional recognized status, he shall request the Council for Culture, the Media Authority and the NPO to advise on an application within a period to be determined by him.

2. The absence of advice does not preclude a decision on granting recognized status or provisional recognized status.
3. If an application has been submitted by a broadcasting association as referred to in Article 2.25, paragraph 3, under b, the advice shall contain a specific proposal for the merger of this applicant with one or more other applicants, aimed at the establishment of a cooperative broadcasting organization. The extent to which applicants can contribute to the implementation of the public media contract at national level, taking into account their identities to be reflected in the media content, determines the content of the proposal.
4. If the advice contains a proposal as referred to in paragraph 3, Our Minister, after considering the advice, shall give the applicants concerned the opportunity to jointly submit a new application as a cooperative broadcasting organization. Article 2.30 and paragraph 1 apply.

#### **Article 2.32**

1. Our Minister shall reject an application for recognized status or provisional recognized status if the applicant does not comply with Articles 2.24, 2.24a, 2.25, paragraph 1, under a, b and d, and paragraph 3, or 2.26, paragraph 1, under a, b, and d to g.
2. Our Minister may reject an application if:
  - a. according to the second evaluation, as referred to in Article 2.184, paragraph 3, the applicant has made an insufficient contribution to the implementation of the public media contract at national level due to the way in which it has fulfilled its public duty, as referred to in Article 2.24, paragraph 1, under b, or 2.24a, paragraph 1, under b;
  - b. the applicant does not comply with Article 2.30, paragraphs 1 to 3 and paragraph 5, or the requirements laid down pursuant to Article 2.30, paragraph 4;
  - c. it is plausible that the applicant shall not comply with the provisions of or pursuant to this Act, partly in view of his conduct in a previous period in which he had recognized status; or
  - d. in the opinion of Our Minister, the application does not sufficiently show that:
    - 1°. the identity and mission of the applicant are expressed in the media content to be provided by the applicant;
    - 2°. the media content to be provided by the applicant complies with the requirements laid down in or pursuant to this Act; or
    - 3°. the applicant is willing to cooperate for the benefit of the national public media service and his responsibility is guaranteed as referred to in Article 2.30, paragraph 2, under c.
3. Our Minister may also reject an application if the application is not based on a proposal as referred to in Article 2.31, paragraph 3.

#### **Article 2.33**

1. Our Minister shall withdraw recognized status or provisional recognized status if an institution no longer complies with Articles 2.24, 2.24a, 2.25, paragraph 1, under d, or 2.26, paragraph 1, under f and g, or does not comply with Article 2.25, paragraph 1, under c, or 2.26, paragraph 1, under c.
2. Our Minister may withdraw recognized status or provisional recognized status if the Media Authority has imposed an administrative sanction as referred to in Title 7.2 on the institution at least twice within a year for violation of the provisions of or pursuant to this Act or Article 5:20, paragraph 1 of the General Administrative Law Act.
3. Our Minister may also withdraw recognized status or provisional recognized status if during the second evaluation, as referred to in Article 2.184, paragraph 3, it has been established that the institution has made an insufficient contribution to the implementation of the public media contract at national level due to the way in which it has fulfilled the public duty, as referred to in Article 2.24, paragraph 1, under b, or 2.24a, paragraph 1, under b. Article 2.31, paragraphs 1 and 2, apply by analogy. A decision as referred to in the first sentence provides for the date from which the recognized status or provisional recognized status is withdrawn. This date is no later than one year after the publication of the decision referred to in the first sentence.

4. At the request of the executive board, Our Minister may withdraw recognized status or provisional recognized status if:
  - a. the executive board has imposed a sanction as referred to in Article 2.154 on the institution twice within the recognition period; or
  - b. the executive board believes that the institution does not adequately implement the willingness to cooperate for the benefit of the national public media service.

#### **Article 2.34**

1. The broadcasting organizations are obliged to provide media services during the recognition period, including in any case radio and television programmes.
2. The media content of a broadcasting organization reflects that organization's identity and mission as defined in its articles of association.

#### **Part 2.2.2a. Netherlands Broadcasting Foundation**

##### **Article 2.34a**

1. The duty of the Netherlands Broadcasting Foundation (NOS) is to arrange media content for the national public media service in the fields of news, sports and events that is eminently suited to joint arrangement, including media content that:
  - a. requires a high frequency and regularity of distribution;
  - b. has a general service character; or
  - c. can be achieved more effectively together with a more efficient use of resources.
2. The NOS provides teletext for the national public media service.
3. It can be determined by order in council which media content as referred to in paragraph 1 is in any case provided by the NOS.

##### **Article 2.34b**

The NOS bodies are a supervisory board and a management board.

##### **Article 2.34c**

1. The NOS supervisory board consists of five or seven members who are appointed by Our Minister on the weighty recommendation of the supervisory board and who can be suspended and dismissed by Our Minister.
2. The supervisory board appoints a chairperson from its midst.
3. Appointments are for four years and reappointment for a consecutive period is possible once.
4. The supervisory board is composed in such a way that management experience and expertise in the fields that are relevant to the media content provided by the NOS are available.
5. In the event of a vacancy, the supervisory board is responsible for the procedure leading to the recommendation, as referred to in paragraph 1. In any case, the preparation and publication of profiles for the vacancy and for the board as a whole are part of that procedure.
6. The recommendation of the supervisory board to Our Minister must be motivated, in which case the suitability, profile, position of the candidate in the rotation schedule and the procedure that led to the recommendation are discussed.
7. Our Minister adopts the recommendation, unless it conflicts with:

- a. this act;
- b. requirements of due care; or
- c. other compelling interests.

#### **Article 2.34d**

1. Membership of the NOS supervisory board is incompatible with:
  - a. the position of member of the NOS management board;
  - b. membership of a body of or employment with the NPO or a national public media institution;
  - c. membership of a body of or employment with a commercial media institution;
  - d. membership of one of the two Houses of the Parliament, a provincial council or a municipal council;
  - e. employment with a ministry or with a service, institution or company that falls directly under the responsibility of a minister;
  - f. having financial or other interests in companies or institutions and occupying ancillary positions that could jeopardize the proper fulfilment of the position or the maintenance of the independence of the member concerned or of confidence therein; and
  - g. membership of a body of or employment with a broadcasting association that is represented in a cooperative broadcasting organization.
2. Suspension and dismissal are possible on account of:
  - a. unsuitability;
  - b. unsatisfactory performance; and
  - c. incompatibility as referred to in paragraph 5.
3. Dismissal is also possible at a member's own request.
4. The members of the supervisory board may be dismissed jointly if during the second evaluation, as referred to in Article 2.184, paragraphs 3 and 4, it has been established that the NOS has made an insufficient contribution to the implementation of the public media contract at national level due to the way in which it has fulfilled the public duty, as referred to in Article 2.34a. In the event of a dismissal as referred to in the first sentence, Our Minister shall appoint the members of the new supervisory board.
5. The NOS pays the members of the supervisory board a fee to be determined by Our Minister.

#### **Article 2.34e**

1. The supervisory board supervises the policy of the management board and the general course of affairs within the NOS and the multiformity of the media content of the NOS and provides the management board with advice.
2. During the fulfilment of its duties, the members of the supervisory board focus on the general interests of the NOS.

#### **Article 2.34f**

1. The NOS management board consists of a maximum of three members who are appointed, suspended and dismissed by the supervisory board.
2. Article 2.34d, paragraph 1, preamble and under b to g, shall apply by analogy to the members of the management board.
3. The board members are employed by the NOS. The supervisory board determines their terms and conditions of employment.

#### **Article 2.34g**

1. The management board manages the NOS.
2. The management board is charged with the day-to-day and financial management of the NOS.
3. The management board is also charged with anything that does not expressly fall within the duties or powers of the supervisory board.

#### **Article 2.34h**

1. On request, the NOS shall provide Our Minister with all information relating to the activities of the NOS.
2. Our Minister may demand access to business data and documents of the NOS insofar as this is necessary for the fulfilment of his duties.

#### **Article 2.34i**

1. The NOS draws up a management report for the past calendar year before 1 May each year.
2. The management report pays attention to the activities of the NOS, the policy pursued in general and the efficiency and effectiveness of the activities in particular.
3. The NOS sends the management report to Our Minister and publishes it.

#### **Article 2.34j**

1. Amendments to the articles of association of the NOS require the approval of Our Minister.
2. The supervisory board and the management board cannot decide to dissolve the NOS.

### **Part 2.2.3. NTR Foundation**

#### **Article 2.35**

1. The duty of the NTR Foundation is to provide media content for the national public media service that provide for the satisfaction of social, cultural, religious or spiritual needs in society, in such a way that this media content, together with the media content of the other national public media institutions provides a balanced picture of the social, cultural, religious and spiritual diversity in the Netherlands.
2. It can be determined by order in council which media content as referred to in paragraph 1 is in any case provided by the NTR.
3. The NTR also has the duty to provide the national public media service with a broad and coherent educational media content in the fields of education, schooling and training.
4. The executive board may charge the NTR with providing media content as referred to in Article 2.54, paragraph 2.

#### **Article 2.35a**

The NTR bodies are a supervisory board, a managing director and an advisory council.

#### **Article 2.36**

1. The NTR supervisory board consists of five or seven members who are appointed by Our Minister on the weighty recommendation of the supervisory board and who can be suspended and dismissed by Our Minister.

2. The supervisory board appoints a chairman from its midst.
3. Appointments are for four years and reappointment for a consecutive period is possible once.
4. The supervisory board is composed in such a way that management experience and expertise in the fields that are relevant to the media content provided by the NTR are available.
5. In the event of a vacancy, the supervisory board is responsible for the procedure leading to the recommendation, as referred to in paragraph 1. In any event, the preparation and publication of profiles for the vacancy and for the board as a whole are part of that procedure.
6. The recommendation of the supervisory board to Our Minister must be motivated, in which case the suitability, profile, position of the candidate in the rotation schedule and the procedure that led to the recommendation are discussed.
7. Our Minister adopts the recommendation, unless it conflicts with:
  - a. this act;
  - b. requirements of due care; or
  - c. other compelling interests.

#### **Article 2.37**

1. Membership of the NTR supervisory board is incompatible with:
  - a. the position of managing director of the NTR;
  - b. membership of a body of or employment with the NPO or a national public media institution;
  - c. membership of a body of or employment with a commercial media institution;
  - d. membership of one of the two Houses of the Parliament;
  - e. employment with a ministry or with a department, institution or company that falls under the responsibility of a minister;
  - f. having financial or other interests in companies or institutions and occupying ancillary positions that could jeopardize the proper fulfilment of the position or the maintenance of the independence of the member concerned or of confidence therein; and
  - g. membership of a body of or employment with a broadcasting association that is represented in a cooperative broadcasting organization.
2. Suspension and dismissal are possible on account of:
  - a. unsuitability;
  - b. unsatisfactory performance; and
  - c. incompatibility as referred to in paragraph 5.
3. Dismissal is also possible at a member's own request.
4. The members of the supervisory board may be dismissed jointly if during the second evaluation, as referred to in Article 2.184, paragraphs 3 and 4, it has been established that the NTR has made an insufficient contribution to the implementation of the public media contract at national level due to the way in which it has fulfilled the public duty, as referred to in Article 2.35. In the event of a dismissal as referred to in the first sentence, Our Minister shall appoint the members of the new supervisory board.
5. The NTR pays the members of the supervisory board a fee to be determined by Our Minister.

#### **Article 2.37a**

1. The supervisory board supervises the policy of the managing director and the general course of affairs within the NTR and the multiformity of the media content of the NTR and provides the managing director with advice.

2. During the fulfilment of its duties, the members of the supervisory board focus on the general interests of the NTR.

#### **Article 2.37b**

1. The managing director of the NTR is appointed, suspended and dismissed by the supervisory board.
2. Article 2.37, paragraph 1, preamble and under b to g, shall apply by analogy to the managing director.
3. The managing director is employed by the NTR. The supervisory board determines his terms and conditions of employment.

#### **Article 2.37c**

1. The managing director manages the NTR.
2. The managing director is charged with the day-to-day and financial management of the NTR.
3. The managing director is also charged with anything that does not expressly fall within the duties or powers of the supervisory board.

#### **Article 2.38**

The articles of association of the NTR regulate the establishment of an advisory council that advises the managing director about the media content of the NTR.

#### **Article 2.39**

1. On request, the NTR shall provide Our Minister with all information relating to the activities of the NTR.
2. Our Minister may demand access to business data and documents of the NTR insofar as this is necessary for the fulfilment of his duties.

#### **Article 2.40**

1. The NTR draws up a management report for the past calendar year before 1 June each year.
2. The management report pays attention to the activities of the NTR, the policy pursued in general and the efficiency and effectiveness of the activities in particular.
3. The NTR sends the management report to Our Minister and publishes it.

#### **Article 2.41**

1. Amendments to the articles of association of the NTR require the approval of Our Minister.
2. The supervisory board and the managing director cannot resolve to dissolve the NTR.

### **Part 2.2.4. Churches and spiritual organizations**

#### **Article 2.42**

[Repealed with effect from 01/01/2014]

#### **Article 2.43**

[Repealed with effect from 01/01/2014]

#### **Article 2.44**

[Repealed with effect from 01/01/2014]

#### **Article 2.45**

[Repealed with effect from 01/01/2014]

#### **Article 2.46**

[Repealed with effect from 01/01/2014]

#### **Article 2.47**

[Repealed with effect from 01/01/2014]

#### **Article 2.48**

[Repealed with effect from 01/01/2014]

#### **Article 2.49**

[Repealed with effect from 01/01/2014]

### **Part 2.2.5. Coordination and organization of content channels**

#### **Article 2.50**

During the concession period referred to in Article 2.19:

- a. at least two general television programme channels and at least five general radio programme channels of the national public media service offer programme content; and
- b. at least one content channel offers a free media service on demand intended for the catch-up of the programmes on the general programme channels.

#### **Article 2.51**

1. The media content of the national public media institutions and the Ster is exclusively distributed via a content channel as referred to in Article 2.20, paragraph 2, under b and c, for which Our Minister has given approval as referred to in Article 2.21, paragraph 3.
2. Paragraph 1 does not apply to media content as referred to in Article 2.21a.

#### **Article 2.52**

During the coordination and classification on and between the content channels, the executive board can check proposals for programmes against the quantitative and qualitative objectives for the media content and audience reach of the national public media service, contained in the concession policy plan, the performance agreement, referred to in Article 2.22, the profiles of the content channels, the agreements referred to in Article 2.55, the regulations referred to in Article 2.57, and the budget referred to in Article 2.147, and it observes Article 2.88.

#### **Article 2.53**

1. The executive board is responsible for the placement of the media content from the national public media institutions and the Ster on the content channels.

2. The executive board can review the placement on the content channels:
  - a. if recognized status or provisional recognized status is withdrawn;
  - b. in the interest of coordination and classification on and between the various content channels;  
or
  - c. on the basis of circumstances that were not foreseen at the time of the placement.

#### **Article 2.54**

1. Within the framework of coordination, the executive board ensures that the media content on the content channels of the national public media service fits within the frameworks of Article 2.1, the concession policy plan and the profiles of the content channels and complies with Articles 2.115, 2.116 and 2.119 to 2.123, as well as that the national public media institutions have space on the content channels that is necessary to be able to place media content that has been produced with the budgets referred to in Article 2.149, paragraph 1, under a to d.
2. The executive board can take the initiative to provide media content by a national public media institution on the basis of a proposal that does not come from the NPO or a national public media institution.
3. When providing media content as referred to in paragraph 2, the national public media institution shall observe the agreements made by the executive board regarding the media content with the party from which the proposal originates.

#### **Article 2.55**

1. The executive board promotes agreements between the NPO and the national public media institutions about the quantitative and qualitative objectives for the media content, audience involvement and audience reach on the content channels and about the mutual efforts to achieve this.
2. The institutions:
  - a. make the media content that they provide in the fulfilment of their public duty available for distribution on the content channels;
  - b. ensure sufficient rights of use to that media content for distribution, reuse and disclosure on the content channels; and
  - c. cooperate within the framework of the duty of the NPO to coordinate the acquisition, management and use of rights to media content and the associated names and brands for the national public media service.
3. Paragraph 2 also applies to the media content provided by broadcasting associations that are represented in a cooperative broadcasting organization in previous recognition periods.

#### **Article 2.56**

1. For the coordination and classification on and between the content channels of the media content of the national public media service, the executive board is assisted by an editorial board with the following composition:
  - a. the broadcasting organizations that have been granted recognized status as referred to in Article 2.23, paragraph 1, the NOS and the NTR each appoint a member; and
  - b. the broadcasting associations that have obtained provisional recognized status as referred to in Article 2.23, paragraph 2, are represented by the member appointed for the NTR or the member appointed for the broadcasting organization, as referred to in Article 2.26, paragraph 1, under f.
2. Membership of an editorial board is incompatible with membership of a body of the NPO, a national public media institution or a broadcasting association that is represented in a cooperative broadcasting organization.

## **Article 2.57**

A regulation for the coordination and organization of the media content as referred to in Article 2.10, paragraph 2, under c, shall in any case regulate:

- a. the way in which the coordination and organization of the media content on and between the various content channels takes place;
- b. the way in which the executive board uses its power to change the intended moment of distribution of media content or not to distribute media content;
- c. the way in which the executive board uses the power referred to in Article 2.54, paragraph 2; and
- d. the way in which the executive board promotes the establishment of agreements as referred to in Article 2.55, paragraph 1.

## **Article 2.58**

1. Before 1 June each year, the NPO sends the Media Authority and Our Minister a report on the past calendar year, including at least:
  - a. a description of the way in which the NPO and the national public media institutions have implemented the public media contract on the various content channels;
  - b. the composition of the media content of the public media service on the programme channels and, insofar as possible, on the other content channels, including the hours spent on media content in the areas referred to in Article 2.1, paragraph 1;
  - c. a report on the achievement of the objectives of the performance agreement, as referred to in Article 2.22, and a justification for the efficiency and effectiveness of that achievement;
  - d. observance of Articles 2.115 to 2.123;
  - e. observance of the code of conduct referred to in Article 2.3, paragraph 2; and
  - f. the measures taken by the NPO to further develop the accessibility of the audiovisual media content for disabled persons.
2. The Media Authority reports to the European Commission on the implementation of paragraph 1, under f, no later than 19 December 2022 and every three years thereafter.

## **Article 2.59**

1. The national public media institutions and the Ster shall, upon request, provide the NPO supervisory board, the executive board and the employees of the NPO appointed by it with all information insofar as this is reasonably necessary for the fulfilment of the duties of the supervisory board and the executive board. The first sentence applies by analogy to the broadcasting associations that are represented in a cooperative broadcasting organization.
2. The executive board and the employees of the NPO appointed by it may request access to business data and documents of the national public media institutions, the Ster and the broadcasting associations that are represented in a cooperative broadcasting organization.

## **Article 2.60**

1. Without prejudice to Article 2.88, paragraph 1, the regulations referred to in Article 2.10, paragraph 2, under c, and the other decisions made by the executive board or those mandated by it in the fulfilment of their duties, are binding on the national public media institutions and the Ster, insofar as those regulations and decisions concern them.
2. The executive board ensures that the regulations and decisions are complied with.

## **Title 2.3. Regional and local public media services**

### **Section 2.3.1. Dutch Foundation for Regional Broadcasting**

#### **Article 2.60a**

1. Our Minister appoints a foundation as the cooperative and coordination body for the implementation of the public media remit at regional level, as referred to in Article 2.1.
2. The foundation referred to in paragraph 1 is referred to as the RPO for the purpose of this Act.
3. The RPO is charged with the following duties:
  - a. promoting cooperation and coordination with a view to the implementation of the public media contract at regional level;
  - b. looking after matters of common interest to the regional public media service and the regional public media institutions;
  - c. concluding collective agreements and establishing standards for the remuneration of freelancers, also on behalf of regional public media institutions;
  - d. promoting the efficient use of the funds intended for the provision and distribution of the media content and promoting integrated financial reporting and accountability;
  - e. establishing, maintaining, managing, operating and regulating the use of bodies, services and facilities, including studios and distribution infrastructures, necessary for the proper execution of the public media contract at regional level; and
  - f. other duties entrusted to it by law.
4. The Dutch Non-Departmental Public Bodies Framework Act does not apply to the RPO.

#### **Article 2.60b**

The RPO bodies are a supervisory board and a executive board.

#### **Article 2.60c**

1. The RPO supervisory board consists of a chairperson and a maximum of four other members who are appointed, suspended and dismissed by Royal Decree on the recommendation of Our Minister.
2. In the event of a vacancy, the supervisory board draws up profiles for the vacancy and for the board as a whole. It shall in any case give the RPO executive board and the joint works councils of the regional public media institutions the opportunity to express their views on this within a reasonable period of time.
3. After considering the views, the supervisory board adopts the profiles and publishes them.
4. For the selection of candidates, the supervisory board appoints an independent appointment advisory committee. The appointment advisory committee advises the supervisory board.
5. The supervisory board shall give Our Minister weighty advice for the recommendation referred to in paragraph 1.
6. The advice referred to in paragraph 5 must be motivated, in which case the suitability, profiles, position of the candidate in the retirement schedule and the procedure that led to the advice are discussed.
7. Our Minister adopts the advice, unless it conflicts with:
  - a. this act;
  - b. requirements of due care; or
  - c. other compelling interests.
8. If Our Minister does not adopt the advice, he shall ask the supervisory board, stating a written motivation, to ensure a new advice is drawn up and he shall inform the House of Representatives that an advice has not been adopted and why.
9. The supervisory board engages a recruitment consultancy to assist in drawing up the profiles by

the supervisory board and the selection of candidates by the appointment advisory committee.

10. The joint works councils of the regional public media institutions may recommend persons to the appointment advisory committee for the appointment of one of the other members as referred to in paragraph 1.

11. Appointments are for five years and reappointment for a consecutive period is possible once.

#### **Article 2.60d**

1. Membership of the RPO supervisory board is incompatible with:

- a. membership of the RPO executive board;
- b. membership of a body of or employment with a public media institution;
- c. membership of a body of or employment with a commercial media institution;
- d. membership of one of the two Houses of the Parliament, a provincial council or a municipal council;
- e. employment with a ministry or with a department, institution or company that falls under the responsibility of a Minister; and
- f. having financial or other interests in companies or institutions and occupying ancillary positions that could jeopardize the proper fulfilment of the position or the maintenance of the independence of the member concerned or of confidence therein.

2. Suspension and dismissal are possible on account of:

- a. unsuitability;
- b. unsatisfactory performance; and
- c. incompatibility as referred to in paragraph 5.

3. Dismissal is also possible at a member's own request.

4. The RPO pays the members of the RPO supervisory board a fee to be determined by Our Minister.

#### **Article 2.60e**

1. The RPO supervisory board supervises the policy of the RPO executive board, the general state of affairs at the RPO and the implementation of the public media contract at regional level and advises the RPO management board.

2. The RPO supervisory board is also charged with:

- a. adopting the financial statements of the RPO; and
- b. amending the articles of association of the RPO, on the proposal of the RPO executive board.

3. During the fulfilment of its duties, the members of the RPO supervisory board focus on the common interests of the regional public media service.

4. The supervisory board draws up a rotation schedule for its members to prevent members from simultaneously retiring.

#### **Article 2.60f**

1. The RPO executive board consists of a maximum of six members who are appointed, suspended and dismissed by the RPO supervisory board.

2. Appointments are for five years and reappointment for a consecutive period is possible once.

#### **Article 2.60g**

1. Article 2.60d, paragraph 1, under c to f, applies by analogy to the RPO executive board.
2. Membership of the RPO executive board is incompatible with membership of a body of or employment with a public media institution, with the exception of regional public media institutions.
3. The members of the RPO executive board are employed by the RPO. The RPO supervisory board determines their terms and conditions of employment.
4. Section 668a, subsections 1 to 4, of Book 7 of the Dutch Civil Code does not apply to the members of the RPO executive board.
5. A member of the RPO executive board may not be appointed as a member of the RPO supervisory board for a consecutive period after termination of that membership.

#### **Article 2.60h**

1. The RPO executive board is charged with the fulfilment of the duties of the RPO.
2. In addition to the RPO executive board's other duties and powers pursuant to this Act, it is charged with:
  - a. the day-to-day management of the activities of the RPO;
  - b. determining the regulations required for the fulfilment of the duties of the RPO;
  - c. determining the RPO concession policy plan;
  - d. concluding the performance agreement referred to in Article 2.60n;
  - e. setting the budget referred to in Article 2.169a; and
  - f. adopting the management report, as referred to in Article 2.17, in conjunction with Article 2.60j, paragraph 1.

#### **Article 2.60i**

1. The following decisions of the RPO executive board require the approval of the RPO supervisory board:
  - a. the decisions referred to in Article 2.60h, paragraph 2, under c to f;
  - b. making investments that exceed an amount specified in the RPO's articles of association;
  - c. the RPO entering into or breaking off long-term cooperation with another legal person or company if that cooperation is of major significance for the RPO or the regional public media institutions;
  - d. collective redundancy of a significant number of employees; and
  - e. adopting radical changes to the employment conditions of a considerable number of employees.
2. The further working methods of the RPO supervisory board and the RPO executive board are regulated in the articles of association and regulations of the RPO.
3. In any case, the articles of association regulate how the regional public media institutions are involved in the decision-making process of the RPO executive board.

#### **Article 2.60j**

1. Articles 2.15 to 2.18, paragraph 1, apply by analogy to the RPO.
2. The RPO supervisory board and the RPO executive board cannot decide to dissolve the RPO.

#### **Article 2.60k**

For the realization of the public media contract at regional level, a concession is granted to the RPO by Royal Decree that is valid for ten years and takes effect from a date to be determined in the Royal

Decree.

#### **Article 2.60l**

1. Before the concession is granted and before the start of the second five-year period of the concession period, the RPO shall submit an RPO concession policy plan for the coming five years to Our Minister.
2. The RPO concession policy plan does, in any case, contain:
  - a. a description of how the public media contract shall be carried out at regional level in the next five years, also elaborated in quantitative and qualitative objectives for the media content and audience reach of the regional public media service;
  - b. the nature and number of the programme channels and the frequency range required for them;
  - c. the nature and number of the other content channels;
  - d. a substantiated overview of the expected organizational, human, material and financial resources required; and
  - e. a description of the cooperation with national and local public media institutions and others.
3. Rules may be laid down by ministerial regulation regarding the structure of the RPO concession policy plan and the time of submission.
4. The RPO management board adopts the RPO concession policy plan after consultation with, in any event, the regional public media institutions and, insofar as the cooperation is concerned, the national and local public media institutions involved.

#### **Article 2.60m**

1. The RPO publishes the RPO concession policy plan.
2. Our Minister asks the Media Authority and the Council for Culture for advice about the RPO concession policy plan. When applying paragraph 4, the advice is requested after the expiry of the term referred to in that paragraph, under a.
3. The RPO concession policy plan requires the approval of Our Minister insofar as it concerns the subjects referred to in Article 2.60l, paragraph 2, under b and c, whereby the approval is given in accordance with the provisions of the Telecommunications Act.
4. Insofar as the consent referred to in paragraph 3 relates to a new or significantly changed content channel:
  - a. interested parties may submit their views verbally or in writing to Our Minister for four weeks after the publication of the concession policy plan; and
  - b. Our Minister can ask the Netherlands Authority for Consumers & Markets to issue a report after the term referred to under a has expired, with an analysis of the possible effects of the content channel on the relevant markets.
5. When applying paragraph 4, the Media Authority, the Council for Culture and the Netherlands Authority for Consumers & Markets shall use the views referred to in that paragraph, under a, for their advice or reports. Our Minister shall forward those views to them.
6. The Media Authority may provide the Netherlands Authority for Consumers & Markets with the data necessary for the analysis referred to in paragraph 4, preamble and under b.
7. The preparation of a decision about consent as referred to in paragraph 4 is subject to Part 3.4 of the General Administrative Law Act.
8. If the RPO wishes to make changes to the part of the RPO concession policy plan that has been approved by Our Minister, it shall include these in the budget. Paragraphs 1 to 7 apply by analogy.

### **Article 2.60m1**

1. Article 2.60m, paragraph 3, does not apply if, by way of an experiment with limited scope or duration, media content is offered through channels other than those referred to in Article 2.60l, paragraph 2, under b and c. An experiment serves to investigate whether these content channels can contribute to the realization of the public media contract at regional level.
2. An order in council determines when the scope or duration is limited and further rules can be laid down about carrying out experiments.

### **Article 2.60n**

1. Partly on the basis of the RPO concession policy plan, Our Minister and the RPO shall conclude a performance agreement for the term of the RPO concession policy plan.
2. The performance agreement contains agreements about:
  - a. qualitative and quantitative objectives for the media content and audience reach of the regional public media service;
  - b. measures in the event of non-compliance, insofar as possible within the provisions of or pursuant to this Act; and
  - c. interim changes in connection with changing insights or circumstances.
3. The performance agreement does not relate to the specifics of the media content of the regional public media service.

### **Article 2.60o**

The regional public media institutions shall, upon request, provide the RPO supervisory board, the RPO executive board and the employees of the RPO appointed by it with all information insofar as this is reasonably necessary for the fulfilment of the duties of the RPO supervisory board and the RPO executive board.

### **Section 2.3.1a. Appointment of regional or local public media institution**

#### **Article 2.61**

1. For the provision of public media services at regional and local level, the Media Authority may appoint regional or local institutions as public media institutions in accordance with the provisions of this section.
2. The only institutions eligible for appointment are those that:
  - a. are a legal entity under Dutch law, with full legal capacity;
  - b. according to the articles of association, exclusively or mainly aim to perform the public media contract at regional or local level by providing media services aimed at satisfying social needs that arise in a province, a municipality or part of the province on which the institution focuses and to perform all activities necessary to fulfil a public duty; and
  - c. according to the articles of association, have a body that determines the policy for the media content and that is representative of the main social, cultural, religious and spiritual movements arising in the province or municipality concerned.
3. Appointment takes place after the provincial council or the municipal council has advised on whether the institution meets the requirements referred to in paragraph 2.

#### **Article 2.62**

1. One regional public media institution can be appointed per province, whereby the Media Authority takes into account all factors that may be important for the functioning of the institution.

2. In derogation from paragraph 1, two regional public media institutions may be appointed in the province of South Holland.

#### **Article 2.63**

1. If more than one local institution in a municipality meets the requirements referred to in Article 2.61, paragraph 2, the Municipal Executive shall, insofar as this is reasonably possible, promote the amalgamation of those institutions.
2. Only one local public media institution can be appointed per municipality, whereby the Media Authority takes into account all factors that may be important for the functioning of the institution.

#### **Article 2.64**

1. An institution that wishes to perform the public media contract for more than one province or municipality shall only be appointed for that area if the provincial councils or the municipal councils of the relevant provinces or municipalities have jointly issued the advice referred to in Article 2.61, paragraph 3.
2. The Media Authority informs the provincial councils and the municipal councils of the relevant provinces or municipalities of an application from an institution as referred to in paragraph 1.

#### **Article 2.65**

1. An appointment shall be made on application, shall be valid for a period of five years, which shall commence with effect from the concession referred to in Article 2.60k, or with effect from the sixth year of that concession, and thereafter shall lapse by operation of law.
2. If necessary, the Media Authority shall indicate the days on which and the hours during which programmes from regional and local media services are broadcast to the space available on a broadcasting transmitter for the regional or local public media services.

#### **Article 2.66**

1. During the appointment period, the provincial council or the municipal council shall advise the Media Authority at least once on the question whether, in their or its opinion, an appointed regional or local public media institution still meets the requirements of Article 2.61, paragraph 2.
2. If during the appointment period, the Media Authority has serious doubts as to whether the regional or local public media institution still meets the requirements of Article 2.61, paragraph 2, it may ask for interim advice.

#### **Article 2.67**

1. The Media Authority shall revoke an appointment if the relevant regional or local public media institution no longer meets the requirements of Article 2.61, paragraph 2.
2. The Media Authority shall only revoke the appointment of a regional or local public media institution that no longer complies with Article 2.61, paragraph 2, under b or c, after the relevant media institution has been given the opportunity to meet this requirement again during four months, counting from the day on which the relevant fact is established, and it has failed to do so.

#### **Article 2.68**

1. An appointment can be revoked by the Media Authority if:
  - a. the regional or local public media institution has not provided media content that meets the requirements of this Act in a period of one year and that content has been distributed for an uninterrupted period of at least two months; or

- b. the Media Authority has imposed an administrative sanction as referred to in Title 7.2 on the regional or local public media institution at least twice within a year for violation of the provisions of or pursuant to this Act or Article 5:20, paragraph 1 of the General Administrative Law Act.
2. The Media Authority shall only decide on a revocation on the basis of paragraph 1, under a, after it has given the Provincial Executive or the Municipal Executive of the relevant province or municipality the opportunity to express their views within a reasonable period to be set by the Media Authority.
3. The absence of an opinion within the prescribed period does not preclude the Media Authority from making a decision.

#### **Article 2.69**

Further rules can be set by ministerial regulation about:

- a. the way in which and the period within which applications for appointment are submitted;
- b. the period within which decisions on applications shall be made;
- c. the period within which advice as referred to in Article 2.61, paragraph 3, is issued; and
- d. the period within which decisions on appointment or the revocation of appointment take effect.

#### **Section 2.3.2. Media content of regional or local public media service**

#### **Article 2.70**

Per programme channel, the programme content of the regional and local public media service consists:

- a. for at least fifty percent of the duration of information, cultural and educational content that relates in particular to the province or municipality for which the content is intended; and
- b. for at least a percentage of content as referred to under a, to be determined by order in council, that is produced by the regional or local public media institution itself or exclusively on its behalf.

#### **Article 2.71**

1. A local public media institution can conclude a cooperation agreement with the regional public media institution in whose service area it operates.
2. The agreement is submitted to the Media Authority.
3. In derogation from Article 2.70, in the case of a cooperation agreement for the provision of programme content, the programme content of the local public media service may:
  - a. for at least fifty percent of the duration consist of content that relates in particular to the municipality for which the programme content is intended, or to the province in which that municipality is located; and
  - b. for at least the percentage referred to in Article 2.70, under b, consist of content that:
    - 1°. is produced by the local public media institution itself;
    - 2°. is produced by the regional public media institution with which it has entered into the cooperation agreement; or
    - 3°. has been produced solely by order of one or both of them.
4. It may be determined by order in council:
  - a. that part of the content, referred to in paragraph 3, under a, relates in particular to the municipality for which the programme content is intended; and
  - b. that part of the content, referred to in paragraph 3, under b, has been produced by the local public media institution itself or exclusively on its behalf.

## **Article 2.72**

The media content of the regional public media institutions is exclusively distributed via a content channel as referred to in Article 2.60l, paragraph 2, under b and c, for which Our Minister has given approval as referred to in Article 2.60m, paragraph 3.

## **Title 2.4. World service**

### **Section 2.4.1. Duties**

#### **Article 2.72**

[Repealed with effect from 01/01/2013]

### **Section 2.4.2. Organization**

#### **Article 2.73**

[Repealed with effect from 01/01/2013]

#### **Article 2.74**

[Repealed with effect from 01/01/2013]

#### **Article 2.75**

[Repealed with effect from 01/01/2013]

#### **Article 2.76**

[Repealed with effect from 01/01/2013]

#### **Article 2.77**

[Repealed with effect from 01/01/2013]

#### **Article 2.78**

[Repealed with effect from 01/01/2013]

#### **Article 2.79**

[Repealed with effect from 01/01/2013]

#### **Article 2.80**

[Repealed with effect from 01/01/2013]

### **Section 2.4.3. Information, annual report and articles of association**

#### **Article 2.81**

[Repealed with effect from 01/01/2013]

#### **Article 2.82**

[Repealed with effect from 01/01/2013]

### **Article 2.83**

[Repealed with effect from 01/01/2013]

### **Section 2.4.4. Policy plan and performance agreement**

#### **Article 2.84**

[Repealed with effect from 01/01/2013]

#### **Article 2.85**

[Repealed with effect from 01/01/2013]

#### **Article 2.86**

[Repealed with effect from 01/01/2013]

### **Section 2.4.5. Media content**

#### **Article 2.87**

[Repealed with effect from 01/01/2013]

## **Title 2.5. Further regulations media content public media services**

### **Part 2.5.1. Responsibility and obligations**

#### **Article 2.88**

1. The public media institutions determine, without prejudice to the provisions of or pursuant to this Act, the form and content of the media content they provide and are responsible for this.
2. The public media institutions establish an editorial statute in agreement with their employees who are responsible for the organization and composition of the media content.
3. The editorial statute contains the journalistic rights and obligations of the employees, including in any case:
  - a. guarantees that standards of journalistic deontology and quality are applied; and
  - b. guarantees for editorial independence from advertisers, sponsors and others who have contributed to the creation of media content.
4. The NTR and broadcasting organizations to which broadcasting associations that have been granted provisional recognized status as referred to in Article 2.23, paragraph 2, have entrusted the provision of their media content, shall ensure that the responsibility of those broadcasting associations in the cooperation is safeguarded.
5. A public media institution shall take appropriate measures to prevent the content of its media services from inciting violence or hatred against a group of persons or a member of a group, on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union, or provoking the commission of a terrorist offence.

#### **Article 2.88a**

Public media institutions shall make at least the following information of the media institution readily, directly and permanently available to the public:

- a. name;

- b. registered office;
- c. contact details, including e-mail address or Internet address; and
- d. the name of the Media Authority as the body charged with monitoring compliance under Title 7.2.

#### **Article 2.88b**

1. Advertising and home shopping messages and sponsored media content are recognizable as such.
2. No subliminal techniques are used in advertising and home shopping messages and sponsored media content.
3. The media content does not include:
  - a. surreptitious advertising; or
  - b. product placement.

### **Part 2.5.2. Advertising and home shopping**

#### **Section 2.5.2.1. General provisions**

##### **Article 2.89**

1. Unless permitted by or pursuant to this Act, the media content of the public media services does not include:
  - a. advertising or home shopping messages; and
  - b. avoidable other expressions that unmistakably have the effect of promoting the purchase of products or services.
2. It can be determined by or pursuant to order in council in which cases avoidable expressions are permitted and when expressions are unavoidable.

##### **Article 2.90**

Subject to the permission of the Media Authority, the media content of the public media services does not contain calls in the context of membership recruitment, other association activities or ancillary activities as referred to in Part 2.5.6.

##### **Article 2.91**

1. The media content of the public media services may include advertising and home shopping messages offered by third parties.
2. Advertising and home shopping messages, including the accompaniment thereof, in the media content of the national public media service are provided exclusively by the Ster.
3. At the request of regional and local public media institutions, the Ster can provide advertising and home shopping messages, including the accompaniment thereof, that are included in the media content of those institutions.

##### **Article 2.92**

1. The Ster and the regional and local public media institutions that include advertising or home shopping messages in the media content are affiliated with the Dutch Advertising Code or a comparable regulation established by the Dutch Advertising Code Authority and are subject to the supervision of the Dutch Advertising Code Authority.

2. Affiliation is demonstrated by submitting a written statement from the Dutch Advertising Code Authority to the Media Authority.

#### **Article 2.93**

Rules may be laid down by or pursuant to order in council regarding the way in which insight is provided into the finances relating to the provision of advertising and home shopping messages in the media content of the regional and local public media services.

#### **Section 2.5.2.2. Specific regulations**

#### **Article 2.94**

1. Advertising and home shopping message are clearly distinguished from the rest of the programme content by acoustic or visual means.
2. The programme content does not contain advertising and home shopping messages for:
  - a. medical treatment; and
  - b. alcoholic drinks between 06:00 and 21:00.
3. Furthermore, the television programme content does not contain advertising and home shopping messages for:
  - a. games of chance for which a licence as referred to in Articles 14a, 15, 23, 27g and 31 of the Betting and Gaming Act is required, or which are played on a machine in a slot machine hall for the presence of which a licence is required, between 06:00 and 21:00;
  - b. other games of chance for which a licence is required pursuant to the Betting and Gaming Act, between 06:00 and 19:00.
4. Paragraph 3, under a, applies by analogy to radio programme content.

#### **Article 2.95**

1. The percentage of advertising and home shopping messages in the programme content is:
  - a. per programme channel, no more than a percentage, to be determined by order in council, of the total duration of the programme content on the programme channel per year, which percentage does not exceed ten and may differ for radio and television programme content;
  - b. per programme channel, no more than fifteen percent of the total duration of the programme content on the programme channel per day; and
  - c. no more than twenty percent during the time slots between 06:00 and 18:00 and between 18:00 and 00:00.
2. A maximum of one-third of the time used for advertising or home shopping in the programme content is used for accompaniment.

#### **Article 2.96**

1. Advertising and home shopping messages in the programme content are placed in such a way that:
  - a. they are included in blocks, which blocks for television programme content including accompaniment last at least one minute;
  - b. on Sundays, they do not immediately precede or immediately follow programmes of an ecclesiastical or spiritual nature, unless the institution responsible for the content of such a programme has not objected to this; and
  - c. they are not included in programmes, subject to the provisions of Article 2.97.
2. Home shopping messages in the programme content each last no more than one minute and a

block as referred to in paragraph 1, under a, consists of home shopping messages for a maximum of two-thirds of the duration.

3. Rules may be laid down by order in council regarding the placement of advertising and home shopping messages in and around programme content that is particularly intended for children under the age of twelve.

#### **Article 2.97**

1. Programmes shall only include advertising or home shopping messages if:
  - a. the programme in question lasts longer than one and a half hours for television, or 45 minutes for radio;
  - b. the programme in question consists of the full report or full representation of an event;
  - c. they are placed during the usual breaks occurring in the event or between the independent parts occurring in the event in blocks lasting at least one minute;
  - d. the institution responsible for the content of the programme in question has not objected to it on the grounds that the integrity, character or coherence of the programme is undermined; and
  - e. this does not affect the rights of titleholders.
2. No advertising or home shopping messages shall be included in programmes of an ecclesiastical or spiritual nature and in programmes specifically intended for children under the age of twelve.

#### **Article 2.98**

Articles 2.94 to 2.97 apply by analogy to the other media content of the public media services as much as possible. With regard to the application of Article 2.96, paragraph 1, under a, the previous sentence applies exclusively to other media content with video content, whether or not including audio content.

### **Section 2.5.2.3. Radio and Television Advertising Foundation**

#### **Article 2.99**

The Radio and Television Advertising Foundation is charged with providing media content for the national public media service and, on request, for the regional and local public media services, which consists of advertising and home shopping messages offered by third parties, including the accompaniment thereof.

#### **Article 2.99a**

The Ster bodies are a supervisory board and an executive board.

#### **Article 2.99b**

1. The Ster supervisory board consists of five members who are appointed by Our Minister on the recommendation of the supervisory board and who can be suspended and dismissed by Our Minister.
2. The supervisory board appoints a chairperson from its midst.
3. Members are appointed for a period of four years. Reappointment is possible once, for a consecutive period.

#### **Article 2.99c**

1. In the event of a vacancy, the Ster supervisory board is responsible for the procedure leading to the recommendation, as referred to in Article 2.99b, paragraph 1.

2. The supervisory board prepares profiles for the vacancy and for the board as a whole.
3. The NPO and, insofar as Ster provides media services for the regional or local public media services, the RPO and the consultative body referred to in Article 2.146, preamble and under I, are given the opportunity to express their views on the profiles within a reasonable period of time.
4. The profiles require the approval of Our Minister.
5. The supervisory board shall publish the profiles after approval.
6. For the selection of candidates, the supervisory board appoints an independent appointment advisory committee to advise the supervisory board.
7. The recommendation of the supervisory board to Our Minister must be motivated, in which case the suitability, profile, position of the candidate in the retirement schedule and the procedure that led to the nomination are discussed.
8. Our Minister adopts the recommendation, unless it conflicts with:
  - a. this act;
  - b. requirements of due care;
  - c. other compelling interests; or
  - d. a reasonable expectation that the recommended candidate shall be suitable for the fulfilment of the duties of a member of the supervisory board and that the supervisory board shall be properly composed when appointed in accordance with the recommendation.

#### **Article 2.99d**

1. Membership of the Ster supervisory board is incompatible with:
  - a. the position of member of the Ster executive board;
  - b. membership of a body of or employment with the NPO, the RPO, the consultative body referred to in Article 2.146, preamble and under I, or a public media institution;
  - c. membership of a body of or employment with a commercial media institution;
  - d. membership of one of the two Houses of the Parliament, a provincial council or a municipal council;
  - e. employment with a ministry or with a service, institution or company that falls directly under the responsibility of a minister;
  - f. having financial or other interests in companies or institutions and occupying ancillary positions that could jeopardize the proper fulfilment of the position or the maintenance of the independence of the member concerned or of confidence therein; and
  - g. membership of a body of or employment with a broadcasting association that is represented in a cooperative broadcasting organization.
2. Suspension and dismissal are possible on account of:
  - a. unsuitability;
  - b. unsatisfactory performance; and
  - c. incompatibility as referred to in paragraph 5.
3. Dismissal is also possible at a member's own request.
4. The Ster pays the members of the supervisory board a fee to be determined by Our Minister.

#### **Article 2.99e**

1. The Ster supervisory Board supervises the policy of the Ster executive board and the general course of affairs within Ster and provides the management board with advice.
2. During the fulfilment of its duties, the members of the supervisory board focus on the general

interests of the Ster and its duty as part of the public media system.

#### **Article 2.100**

1. The Ster executive board consists of a maximum of three members, who are appointed, suspended and dismissed by the Ster supervisory board.
2. Article 2.99d, paragraph 1, preamble and under b to g, shall apply by analogy to membership of the Ster executive board.
3. The executive board is employed by the Ster. The supervisory board determines its terms and conditions of employment.

#### **Article 2.101**

1. Appointments for the members of the Ster executive board are for five years and reappointment for a consecutive period is possible once.
2. Suspension and dismissal are possible on account of:
  - a. unsuitability;
  - b. unsatisfactory performance; and
  - c. incompatibility as referred to in Article 2.99d, paragraph 1, preamble and under b to g, in conjunction with Article 2.100, paragraph 2.
3. Dismissal is also possible at a member's own request.

#### **Article 2.101a**

1. The Ster executive board manages the Ster.
2. The executive board is charged with the day-to-day and financial management of the Ster.
3. The executive board is also charged with anything that does not expressly fall within the duties of the Ster supervisory board.

#### **Article 2.102**

1. On request, the Ster shall provide Our Minister with all information relating to the activities of the Ster.
2. Our Minister may demand access to business data and documents of the Ster insofar as this is necessary for the fulfilment of his duties.

#### **Article 2.102a**

1. If in the opinion of Our Minister, the Ster seriously neglects its duties, Our Minister may, after consultation with the Ster, take the necessary measures.
2. Our Minister shall immediately inform the House of Representatives of the Parliament of the measures taken by him.

#### **Article 2.103**

1. The Ster draws up a management report for the past calendar year before 1 June each year.
2. The management report pays attention to the activities of the Ster, the policy pursued in general and the efficiency and effectiveness of the working method in particular.

3. The Ster sends the report to Our Minister and publishes it.

#### **Article 2.104**

1. Amendments to the articles of association of the Ster require the approval of Our Minister.
2. The Ster supervisory board or management board cannot resolve to dissolve the Ster.

#### **Section 2.5.2.4. Income from advertising and home shopping**

##### **Article 2.104a**

The executive board promotes agreements between the NPO and the Ster about the policy regarding the income from advertising and home shopping messages on the content channels of the national public media service and the mutual efforts to achieve this.

##### **Article 2.105**

1. Before 15 September each year, the Ster shall notify Our Minister of the expected income from advertising and home shopping messages from the national public media service in the current and the following calendar year.
2. The Ster sends copies of these notifications to the Media Authority and the NPO for information.
3. The income acquired by Ster from the provision of advertising and home shopping messages for the national public media service is made available to Our Minister after deduction of the expenditure approved by Our Minister.

#### **Part 2.5.3. Sponsoring**

##### **Article 2.106**

1. Media content of the public media services is not sponsored.
2. Paragraph 1 does not apply to media content:
  - a. of a cultural nature;
  - b. of an educational nature;
  - c. consisting of the reporting or presentation of one or more sporting events or sporting competitions; and
  - d. consisting of the reporting or presentation of events for charitable purposes.
3. Media content as referred to in paragraph 2 is not sponsored if it:
  - a. consists in whole or in part of news, current affairs or political information; or
  - b. is intended mainly for children under the age of twelve.

##### **Article 2.107**

1. In the case of sponsored media content, it is clearly stated for the public's information that the media content is sponsored and by whom.
2. The statement is made by neutrally mentioning or displaying the name, (figurative) mark or another distinctive sign of the sponsor.
3. In the case of a sponsored programme, the statement shall be made at the beginning or end of the programme and may additionally be made at the beginning or end of a commercial break included in the programme.

4. Such a statement:
  - a. lasts no more than five seconds;
  - b. insofar as it is not made on the start or end credits, consists exclusively of still images; and
  - c. does not fill the entire screen.
5. Paragraphs 3 and 4 apply by analogy to the other media content of the public media services as much as possible.

#### **Article 2.108**

1. Sponsored media content can mention or show products or services of a sponsor, unless the sponsor has made a contribution in money and without prejudice to Article 2.88b, paragraph 3, preamble and under b.
2. The Media Authority may grant permission for mentioning or showing the name, (figurative) mark, products or services of sponsors in the title of sponsored media content, provided the public is not directly encouraged by means of specific promotions to buy or rent products or purchase services from sponsors.
3. The Media Authority may attach certain conditions to granting its permission.

#### **Article 2.109**

Sponsor contributions are negotiated or accepted directly from the sponsors by written agreement.

#### **Article 2.110**

The national public media institutions send a copy of a sponsorship agreement to the executive board:

- a. within one week of the conclusion of the agreement; or
- b. if the media content is distributed to the public earlier, before the latter moment.

#### **Article 2.111**

1. If within two weeks of receipt of the copy of the sponsorship agreement, or in the case of Article 2.110, under b, prior to the intended distribution date, the executive board has given written notice that the sponsorship agreement is contrary to the common interest of the national public media service, the media content to which the agreement relates shall not be distributed unless the agreement is dissolved or amended.
2. If the executive board requires additional information, for the purpose of paragraph 1, written notice must be given within two weeks of the additional information being received.

#### **Article 2.112**

Articles 2.110 and 2.111 apply by analogy to changes to a sponsorship agreement.

#### **Article 2.113**

Each year, the public media institutions use the financial statements to report on the income from sponsorship contributions, the sponsored media content and the capacity of the sponsors, specified per component of the media content.

#### **Article 2.114**

Articles 2.107 to 2.113 inclusive shall apply by analogy if an institution other than that referred to in the definition of sponsorship in Article 1.1 has provided a contribution for the production or purchase

of media content to promote or enable its distribution.

#### **Part 2.5.4. European productions, independent productions, Dutch and Frisian-language productions and films**

##### **Section 2.5.4.1. European and independent productions**

###### **Article 2.115**

1. On each television programme channel of the national and regional public media service, programme content consists of European productions within the meaning of Article 1 of the European Directive for at least fifty percent of the programme's duration.
2. The audiovisual media content on demand consists of at least thirty percent of European productions as referred to in Article 1 of the European Directive per content channel.
3. The European productions of a content channel as referred to in paragraph 2 are brought to the attention of the public by the provider of the content channel.
4. Paragraphs 2 and 3 do not apply to a media service on demand of a public media institution with a low turnover or a small audience.
5. The Media Authority may grant an exemption from paragraphs 2 and 3 to a public media institution or the NPO if the application of these paragraphs would be practically infeasible or unjustified in view of the nature or subject of this media service on demand.

###### **Article 2.116**

1. It shall be determined by order in council what percentage of the total of the budgets referred to in Article 2.149, paragraph 1, with the exception of e, is spent on European productions as referred to in Article 1 of the European Directive that can be regarded as independent productions. The percentage referred to in the previous sentence is set at a minimum of ten and a maximum of twenty percent.
2. On each of the television programme channels of the national public media service, the programme content consists of at least ten percent of the duration of productions as referred to in Article 2.115 that can be regarded as independent productions.

###### **Article 2.117**

On each of the television programme channels of the regional public media service, the programme content consists of at least ten percent of the duration of productions as referred to in Article 2.115 that can be regarded as independent productions.

###### **Article 2.118**

[Repealed with effect from 01/01/2013]

###### **Article 2.119**

At least one-third of the programmes referred to in Articles 2.116 and 2.117 are not older than five years.

###### **Article 2.120**

1. Independent production is taken to mean media content that is not produced by:
  - a. a public media institution;
  - b. a commercial media institution;

- c. a foreign broadcasting organization;
- d. a legal entity in which an institution as referred to under a to c, whether or not through one or more subsidiaries, has an interest of more than twenty-five percent;
- e. a legal entity in which two or more institutions as referred to under a to c, whether or not through one or more of their respective subsidiaries, jointly hold an interest of more than fifty percent; or
- f. a company in which an institution as referred to under a to c, or one or more of its subsidiaries, is as a partner fully liable towards creditors for the debts.

**2. By order in council:**

- a. further rules may be laid down regarding the application of paragraph 1 and Articles 2.116 to 2.119; and
- b. it may be determined that in cases other than those referred to in paragraph 1, media content is regarded as an independent production.

**Article 2.121**

For the application of Articles 2.116 to 2.120, the law disregards media content:

- a. that consists of news;
- b. that relates to sports;
- c. that has the character of a game, with the exception of media content of a cultural or educational nature that also has the character of a game;
- d. that consists of advertising and home shopping messages, including accompaniment, and self-promotion;
- e. that is of an ecclesiastical or spiritual nature and media content from political parties and the government; and
- f. that consists of teletext.

**Section 2.5.4.2. Dutch and Frisian-language productions**

**Article 2.122**

1. On each television programme channel of the national and regional public media service, the programme content consists of Dutch or Frisian-language production for at least fifty percent of the programme's duration.
2. For the application of paragraph 1, the following shall not be taken into account:
  - a. programme content that consists of advertising and home shopping messages, including accompaniment; and
  - b. programme content that is of an ecclesiastical or spiritual nature and programme content from political parties and the government.
3. In special cases, the Media Authority may grant full or partial exemption from paragraph 1. The Media Authority may attach conditions to an exemption.

**Article 2.123**

1. Rules may be laid down by order in council regarding the subtitling of television programme content, which may determine, among other things, what percentage of the television programme content of the national public media service consists of productions as referred to in Article 2.122, paragraph 1, which have subtitling for people with a hearing impairment.
2. In special cases, the Media Authority may grant full or partial exemption from an obligation regarding the percentage referred to in paragraph 1. The Media Authority may attach conditions to an exemption.

**Section 2.5.4.3. Films**

#### **Article 2.124**

No films are included in the media content of the public media services outside the periods agreed on with the titleholders.

#### **Part 2.5.5. Dutch Cultural Media Fund**

##### **Section 2.5.5.1. Duties**

#### **Article 2.125**

[Repealed with effect from 01/01/2017]

#### **Article 2.126**

[Repealed with effect from 01/01/2017]

##### **Section 2.5.5.2. Organization**

#### **Article 2.127**

[Repealed with effect from 01/01/2017]

##### **Section 2.5.5.3. Budget and financial statements**

#### **Article 2.128**

[Repealed with effect from 01/01/2017]

#### **Article 2.129**

[Repealed with effect from 01/01/2017]

#### **Article 2.130**

[Repealed with effect from 01/01/2017]

##### **Section 2.5.5.4. Articles of association and dissolution**

#### **Article 2.131**

[Repealed with effect from 01/01/2017]

##### **Part 2.5.6. Side activities and other provisions**

#### **Article 2.132**

1. The NPO and the public media institutions are only allowed to carry out side activities with the prior permission of the Media Authority.
2. Side activities are activities, including direct or indirect participations in legal entities, that are not directly related to or serve the performance of the public media contract, with the exception of association activities as referred to in Article 2.136.
3. Permission can only be given if a side activity is related to or serves the realization of the public media contract and is directly related to the media content of the public media institution, is performed in accordance with the market and is at least cost-effective.
4. In derogation from paragraph 1, no prior permission from the Media Authority is required for the

performance of side activities of limited scope and duration by way of experiment that consist of supplying goods or services, including rights and obligations to:

- a. media companies for the purpose of strengthening and improving the news and information provision; or
  - b. cultural institutions.
5. The NPO and the public media institutions report side activities as referred to in paragraph 4 to the Media Authority.
6. Further rules can be set by ministerial regulation about:
- a. the method of reporting;
  - b. the scope and duration of the experiment;
  - c. the nature and content of the side activities; and
  - d. the collaboration with the institutions referred to in paragraph 4, under a and b.

#### **Article 2.133**

Agreements regarding side activities that serve to exploit rights to and the knowledge of media content provided for the national public media service or associated names and brands outside the public media service, are subject to Articles 2.110 to 2.112 by analogy, on the understanding that the term referred to in Article 2.111, paragraphs 1 and 2, is two months.

#### **Article 2.134**

1. Within the framework of side activities, the NPO and the public media institutions can set up or participate in legal entities or partnerships.
2. By order in council, further rules can be stipulated with regard to the performance of side activities.
3. The institutions that wish to perform side activities shall, upon request, demonstrate to the satisfaction of the Media Authority that the side activities comply with the provisions of or pursuant to Article 2.132 and this article.

#### **Article 2.135**

1. Unless otherwise provided by or pursuant to this Act, the NPO, the RPO and the public media institutions use all their income for the performance of the public media contract.
2. The national public media institution that is a cooperative broadcasting organization ensures the broadcasting associations it represents use all their income for the performance of the public media contract, unless otherwise provided by or pursuant to this Act.

#### **Article 2.136**

1. Broadcasting organizations that have been granted recognized status or provisional recognized status as referred to in Article 2.23 may use net income from contributions and association activities and, up to a maximum amount to be determined by order in council and in accordance with further rules to be set by order in council, from radio/TV guides for their own association activities.
2. Association activities are activities that:
  - a. are reasonably necessary for the proper functioning of the association and its bodies;
  - b. are customary in an actively functioning association to strengthen the bond with and between the members; or
  - c. in the form of events, support the propagation of the association's mission.
3. Association activities as referred to in paragraph 1 also include activities of a foundation that is a

cooperative broadcasting organization and that has been granted recognized status as referred to in Article 2.23, paragraph 1, and which activities:

- a. are reasonably necessary for the proper functioning of the foundation and its bodies;
  - b. are customary in an actively functioning foundation to strengthen the bond with and between the contributors; or
  - c. in the form of events, support the propagation of the foundation's mission.
4. The national public media institution that is a cooperative broadcasting organization shall ensure that the broadcasting associations it represents use net income from contributions and association activities for their own association activities as referred to in paragraph 2, insofar as the broadcasting associations make use of that authority.

#### **Article 2.137**

1. Broadcasting associations are not permitted to provide members with monetary benefits within the framework of member recruitment.
2. Without prejudice to paragraph 1, the Media Authority may lay down rules on the provision of benefits that can be valued in money to members and on activities within the framework of member recruitment. The rules require the approval of Our Minister.
3. The national public media institution that is a cooperative broadcasting organization ensures that the broadcasting associations it represents observe the rules.

#### **Article 2.138**

1. If a broadcasting organization intends to provide a commercial broadcasting service or acquire an interest in a commercial media institution after the period for which recognized status or provisional recognized status as referred to in Article 2.23 has been granted, it shall notify the Media Authority of this.
2. After the notification, the broadcasting organization can perform activities in the last year of the recognition period that are necessary to ensure that it or the legal entity in which it acquires an interest can provide a commercial broadcasting service after the recognition period.
3. During the period that a broadcasting organization performs activities as referred to in paragraph 2, Article 2.33, paragraph 1, does not apply and it is regarded as a broadcasting organization.

#### **Article 2.138a**

1. If a broadcasting organization implements the intention referred to in Article 2.138, paragraph 1, it shall ensure that a final statement is drawn up within four months of the end of the period for which recognized status or provisional recognized status as referred to in Article 2.23 has been granted. The final statement is accompanied by a statement from an accountant as referred to in Section 393, subsection 1, of Book 2 of the Dutch Civil Code. Article 2.171, paragraph 1, applies by analogy. The Media Authority may extend the term referred to in the first sentence by a term to be set by it.
2. The Media Authority determines the amount to be repaid, partly on the basis of the final settlement referred to in paragraph 1. The Media Authority shall add reclaimed amounts to the general media reserve referred to in Article 2.166.
3. In the case referred to in paragraph 1:
  - a. the broadcasting organization repays to the Media Authority the funds available at the time, referred to in Article 2.138, paragraph 1, that are intended for the provision of media content for the national public service broadcaster;
  - b. the broadcasting organization shall ensure that programme material that has been distributed on the programme channels of the national public service broadcaster or has been produced

- or purchased for that purpose and the associated programme formats, names and brands, insofar as the copyright or user right thereto rests with the broadcasting organization, during three years after the end of the period for which recognized status or provisional recognized status has been granted, is made available to the executive board free of charge for use on the content channels of the national public service broadcaster;
- c. the broadcasting organization makes the programme material referred to under b available to the institution appointed by Our Minister for maintaining and operating a media archive; and
  - d. for three years after the end of the period for which recognized status or provisional recognized status has been granted, the broadcasting organization shall refrain from using or exploiting the programme material referred to under a, and the associated programme formats, names and brands, insofar as the copyright and right of use accrue to the broadcasting organization, unless an agreement has been concluded with the executive board for a fee in line with the market.
4. For the application of this article, a broadcasting organization also includes its legal successor or successor in title.
  5. Paragraphs 1 to 4 apply by analogy, if:
    - a. no recognized status as referred to in Article 2.23, paragraph 1, is granted to a broadcasting organization;
    - b. recognized status or provisional recognized status is withdrawn in accordance with Article 2.33; and
    - c. in violation of Article 2.34, paragraph 1, a broadcasting organization no longer provides media content for the national public service broadcaster during a recognition period.

#### **Article 2.138b**

[Repealed with effect from 01/01/2014]

#### **Article 2.139**

1. The national public media institutions provide the NPO with the following information about their programme content: the title, a brief description, the name of the national public media institution that provides the programme, the programme channel on which the programme is distributed, the date and time of distribution, and the classification referred to in Article 4.2.
2. The national public media institutions accept that the NPO makes the data for reproduction and disclosure to the public available to the broadcasting organizations via printed or electronic radio/TV guides and for a fee in line with the market to other customers who request it.
3. The national public media institutions shall make the data referred to in paragraph 1 available to the NPO in good time. The NPO makes that data available to the broadcasting organizations and to the other customers referred to in paragraph 2 at least six weeks prior to the distribution of the relevant programme content.
4. The NPO concludes an agreement with the other customers referred to in paragraph 2 regarding the provision of the data. In any case, the agreement stipulates that the data shall not be changed and, moreover, does not contain any terms or conditions that hinder the provision of the data.
5. Insofar as it concerns customers who publish radio/TV guides within the Netherlands, the amount of the fee referred to in paragraph 2 is:
  - a. for printed radio/TV guides: € 0.0195 for each sold copy of a printed radio/TV guide;
  - b. for electronic radio/TV guides that are fed or distributed by means of technical facilities that enable the reception of television programmes in a digital manner: € 0.006 per household per month for each such technical facility; and
  - c. for other electronic radio/TV guides: € 2,500 per electronic radio/TV guide per year.
6. The Media Authority may, by regulation, determine amounts other than the amounts referred to in

paragraph 5, if the results of its biennial study into the market price of the fees give cause to do so. The Media Authority publishes the results of the study and the method of calculating the market price of the fees.

#### **Article 2.140**

[Repealed with effect from 01/01/2013]

#### **Article 2.141**

1. The NPO, the RPO and the public media institutions do not allow third parties to use the formers' activities to make a profit and they can demonstrate this to the satisfaction of the Media Authority upon request.
2. The national public media institution that is a cooperative broadcasting organization ensures that the broadcasting associations it represents do not allow third parties to use the formers' activities to make a profit and they can demonstrate this to the satisfaction of the Media Authority upon request.

#### **Article 2.142**

1. The NPO, the RPO and the public media institutions ensure that members of their bodies, employees and other persons or legal entities with whom an agreement has been concluded for the performance of the public media contract, for themselves or for others, do not demand or accept appreciable advantage from third parties that is directly or indirectly related to the activities of the person concerned for the institution, unless the competent body of the institution has given permission for this.
2. Permission is only given if the person concerned makes it plausible that the advantage is not intended as consideration for favouring third parties in the performance of his activities for the institution.
3. A person or legal entity who has concluded an agreement as referred to in paragraph 1 is not regarded as a third party with regard to those who work in his employ.
4. The national public media institution that is a cooperative broadcasting organization ensures that the broadcasting associations it represents act in accordance with paragraphs 1 to 3.

#### **Article 2.142a**

1. The NPO, the RPO, the national and regional public media institutions and the institutions appointed by Our Minister for the maintenance and operation of radio orchestras and choirs, of a media archive and of a centre of expertise for media education, set up their administrative organization in such a way that in accordance with their articles of association and regulations:
  - a. its set-up is sober, effective and balanced;
  - b. there is a clear distinction between the daily managing committee and the supervisory body;
  - c. proper, independent and expert supervision is exercised; and
  - d. the members of the supervisory body are appointed on the basis of predefined public profiles.
2. In doing so, the NPO and the national public media institutions follow recommendations from the code of conduct referred to in Article 2.3, paragraph 2, as much as possible.
3. The national public media institution that is a cooperative broadcasting organization ensures that the broadcasting associations it represents act in accordance with paragraphs 1 and 2.
4. An order in council may specify in more detail what constitutes a sober, efficient and balanced set-up as referred to in paragraph 1, under a.

## **Title 2.6. Funding of public media services**

### **Part 2.6.1. General right to funding**

#### **Article 2.143**

1. The NPO, the RPO and the public media institutions independently provide for the performance of the public media contract and are therefore entitled to funding from the State Treasury in the manner regulated in this Act, facilitating a high-quality media content and guaranteeing continuity of funding.
2. Funds are made available annually by Our Minister under the name of «government media contribution» to fund the performance of the public media contract and to cover the other costs referred to in Article 2.146.

#### **Article 2.144**

1. The government media contribution consists of at least an amount of € 855.002 million for the year 2019.
2. The extent of the government media contribution is adjusted annually in accordance with:
  - a. the index for the growth of the number of households in the Netherlands estimated by Statistics Netherlands for the year in question; and
  - b. the consumer price index estimated by the Netherlands Bureau for Economic Policy Analysis for the year in question.

#### **Article 2.145**

Further rules may be laid down by or pursuant to an order in council regarding the application of Articles 2.143, paragraph 2, and 2.144.

#### **Article 2.146**

The government media contribution and the income of the Ster serve to cover the costs associated with:

- a. the funding of the performance of the public media contract at national level in accordance with Part 2.6.2;
- b. the funding of the performance of the public media contract at regional level in accordance with Part 2.6.5;
- c. the European media content, as referred to in Article 2.2, paragraph 2, under e;
- d. the Journalism Promotion Fund, referred to in Article 8.1;
- e. the Council for Culture, insofar as related to advice on radio, television, the press and other forms of mass communication, up to an amount to be determined by Our Minister;
- f. the Media Authority;
- g. research funded by Our Minister in the interest of mass communication;
- h. [repealed;]
- i. fees to an institution appointed by Our Minister for the maintenance and operation of radio orchestras and radio choirs;
- j. fees to an institution appointed by Our Minister for the maintenance and operation of a media archive;
- k. [this section has not yet entered into force;]
- l. the consultative body of local public media institutions appointed by Our Minister; and
- m. contributions to the provision of media content of regional and local public media services aimed at minorities.

### **Part 2.6.2. Funding of national public media service**

#### **Section 2.6.2.1. Budget**

### **Article 2.147**

1. The NPO submits a budget for the national public media service to Our Minister and the Media Authority before 15 September each year.
2. The budget does, in any case, contain:
  - a. a description of the way in which the NPO and the national public media institutions implement the intended media content on the various content channels, with due observance of the provisions of or pursuant to this Act;
  - b. an overview of the nature and number of the content channels;
  - c. the financial resources needed for the next calendar year to realize the intentions with regard to the national public media service and an estimate for the following four years;
  - d. an explanation of the various components and budget items; and
  - e. a description of the cooperation with regional and local public media institutions and others.
3. The financial resources are broken down as follows:
  - a. the financial resources for the provision of the media content on the various content channels;
  - b. the income of the broadcasting organizations, the NOS and the NTR, which must be used for the provision of the media content;
  - c. the financial resources for the distribution of the media content on the various content channels; and
  - d. the financial resources for the fulfilment of the duties and activities of the NPO.

### **Article 2.148**

1. Further rules regarding the content and set-up of the budget may be set by ministerial regulation.
2. The Media Authority shall send its comments with regard to the budget to Our Minister before 15 October.
3. The NPO publishes the budget.

### **Section 2.6.2.2. Determining the budgets**

#### **Article 2.148a**

1. Prior to each period of five years, as referred to in Article 2.19, paragraph 3, Our Minister shall determine the minimum amount made available to the national public media service during that period for the fulfilment of its duties.
2. For the first year of the period referred to, the amount referred to in paragraph 1 is equal to the amount made available for the national public media service in the national budget for that year. The percentage of the government media contribution in that amount is adjusted for the following years in accordance with:
  - a. the index for the growth of the number of households in the Netherlands estimated by Statistics Netherlands for the year in question; and
  - b. the consumer price index estimated by the Netherlands Bureau for Economic Policy Analysis for the year in question.
3. If after the commencement of the period of five years referred to in paragraph 1, changed circumstances predominantly oppose the unaltered continuation of the amounts determined with due observance of paragraphs 1 and 2, Our Minister may change the amount to be made available for the remaining years with due observance of a reasonable term. The extent of the amount thus changed is equal to the amount that is made available in the national budget for that year for the relevant year in which the changed amount first applies for the benefit of the national public media service and is adjusted for subsequent years, in accordance with parts a and b of paragraph 2.

4. In the event of a change to the amount as referred to in paragraph 3, Our Minister shall compensate the damage suffered by the national public media service because by relying on the previously determined amount he acted contrary to what he would have done with due observance of the changed amount.

#### **Article 2.149**

1. Before 1 December each year, with due observance of Article 2.148a, Our Minister shall determine the budgets of the national public media service for the coming year for:
  - a. the provision of the media content of the broadcasting organizations that have been granted recognized status as referred to in Article 2.23, paragraph 1, jointly;
  - b. the provision of the media content of the broadcasting associations that have been granted provisions recognized status as referred to in Article 2.23, paragraph 2, jointly;
  - c. the provision of the media content of the NOS;
  - d. the provision of the media content of the NTR;
  - e. the fulfilment of the duties and activities of the NPO; and
  - f. the reinforcement of the media content of the national public media service.
2. Our Minister sets the budgets at eighty percent of the corresponding budgets of the previous year if the NPO has not submitted the budget in accordance with the applicable rules.

#### **Article 2.150**

1. The budget referred to in Article 2.149, paragraph 1, under f, amounts to fifty percent of the total of the budgets, referred to in Article 2.149, paragraph 1, under a and b, and thirty percent of the total of the budgets, referred to in Article 2.149, paragraph 1, under c and d.
2. Reinforcing the media content is understood to mean stimulating the provision of media content and cooperation to promote the multiformity of media content.
3. The budget shall fully accrue to the media content of the broadcasting organizations, the NOS and the NTR.
4. The media content, referred to in Article 2.54, paragraph 2, is charged to the budget, referred to in Article 2.149, paragraph 1, under f.

#### **Article 2.150a**

Our Minister may increase the budgets referred to in Article 2.149, paragraph 1, in the course of the year as a result of an adjustment as referred to in Article 2.148a, paragraph 2. In doing so, he shall apply the division referred to in Article 2.150, paragraph 1.

#### **Article 2.151**

1. Our Minister makes the budgets available to the executive board through the mediation of the Media Authority.
2. The executive board shall spend the budgets referred to in Article 2.149, paragraph 1, under e and f, for the purposes stated therein.

#### **Article 2.152**

1. The executive board shall divide the budget, referred to in Article 2.149, paragraph 1, preamble and under a, among the broadcasting organizations with recognized status, as referred to in Article 2.23, paragraph 1, in such a way that each broadcasting organization receives an amount equal to the sum of the amounts attributed to the organizations of which the broadcasting organization is composed.

2. The organizations of which a broadcasting organization can be composed are:
  - a. a cooperative broadcasting organization as referred to in Article 2.24a;
  - b. a broadcasting association as referred to in Article 2.24;
  - c. a broadcasting association with provisional recognized status as referred to in Article 2.23, paragraph 2.
3. Decisive for the classification referred to in paragraph 2, is the organization that existed at the start of the recognition period with a start date of 1 January 2016, on the understanding that:
  - a. a broadcasting association that was at that time represented in a cooperative broadcasting organization is not taken into account separately for the classification; and
  - b. a broadcasting association that was formed on 1 January 2016 from two or more broadcasting associations that had separate recognized status at the start of the preceding recognition period is equated with a cooperative broadcasting organization.
4. For classification under paragraph 2, under c, provisional recognized status as referred to in Article 2.23, paragraph 2, also applies in a recognition period later than that referred to in paragraph 3, but earlier than the recognition period in the year which the budget allocation relates to.
5. The amounts allocated to the organizations referred to in paragraph 2, under a, b and c respectively, are related to each other as 3: 2: 1.

#### **Article 2.152a**

1. The executive board shall divide the budget, referred to in Article 2.149, paragraph 1, preamble and under b, among the broadcasting associations with provisional recognized status, referred to in Article 2.23, paragraph 2, in such a way that each broadcasting association with provisional recognized status has an amount that is equal to fifteen percent of the amount for a broadcasting organization that, pursuant to Article 2.152, paragraph 3, is classified as a broadcasting association as referred to in Article 2.24.
2. The NTR and the broadcasting organizations referred to in Article 2.26, paragraph 1, under f, receive the amounts referred to in paragraph 1 and Article 2.150, paragraph 3, from each of the broadcasting associations that have been granted provisional recognized status.
3. The national public media institutions referred to in Article 2.149, paragraph 1, under a to d, spend the amounts received and the budgets on the goals stated in the relevant parts.

#### **Article 2.153**

[Repealed with effect from 01/01/2014]

#### **Article 2.154**

1. The executive board may withhold a maximum of fifteen percent of the amount determined for an institution if:
  - a. the institution concerned has infringed binding decisions of the executive board; or
  - b. the executive board believes that a broadcasting organization does not adequately implement the willingness to cooperate for the benefit of the national public media service.
2. Amounts withheld are added to the budget referred to in Article 2.149, paragraph 1, preamble and under f.

#### **Article 2.155**

The executive board decides on the distribution of the budgets before 1 January each year.

#### **Article 2.156**

[Repealed with effect from 11/12/2009]

#### **Article 2.157**

1. The national public media institutions receive advances in accordance with rules to be set by ministerial regulation. The NTR and the broadcasting organizations, as referred to in Article 2.26, paragraph 1, under f, also receive the management amounts involved in the advance funding of the broadcasting associations that have been granted provisional recognized status as referred to in Article 2.23, paragraph 2.
2. If an institution does not submit its financial statements, as referred to in Article 2.171, paragraph 2, on time:
  - a. the Media Authority shall ask the executive board to reduce the advance funding by twenty percent; and
  - b. the Media Authority may ask the executive board to further reduce or stop the advance funding if despite repeated reminders from the Media Authority, the institution fails to submit the financial statements.
3. If an institution spends its funds in violation of the provisions of or pursuant to this Act, the Media Authority may ask the executive board to reduce or stop the advance funding.
4. The executive board shall immediately comply with requests as referred to in paragraphs 2 and 3.

#### **Section 2.6.2.3. Funds for special purposes**

#### **Article 2.158**

[Repealed with effect from 22/09/2012]

#### **Article 2.159**

[Repealed with effect from 22/09/2012]

#### **Part 2.6.3. Funding World Service**

#### **Section 2.6.3.1. Budget**

#### **Article 2.160**

[Repealed with effect from 01/01/2013]

#### **Article 2.161**

[Repealed with effect from 01/01/2013]

#### **Article 2.162**

[Repealed with effect from 01/01/2013]

#### **Section 2.6.3.2. Determining the budgets**

#### **Article 2.163**

[Repealed with effect from 01/01/2013]

#### **Article 2.164**

[Repealed with effect from 01/01/2013]

#### **Article 2.165**

[Repealed with effect from 01/01/2013]

#### **Part 2.6.4. General media reserve**

#### **Article 2.166**

1. Our Minister can form a general media reserve from the government media contribution and the income of the Ster that is intended for:
  - a. absorbing declining income of the Ster;
  - b. contributions to reorganization costs as a result of government decisions; and
  - c. the financing of the current account relationship to be maintained by the Media Authority for payments pursuant to this Act.
2. The Media Authority manages the general media reserve.

#### **Article 2.167**

1. Insofar as this does not jeopardize the financing of the current account relationship, Our Minister may make funds available from the general media reserve for the benefit of:
  - a. the NPO, the RPO and the national and regional public media institutions;
  - b. the consultative body of local public media institutions, as referred to in Article 2.146, under I, the Journalism Promotion Fund, as referred to in Article 8.1, and the institutions appointed by it for the maintenance and operation of radio orchestras and radio choirs, of a media archive and a centre of expertise for media education;
  - c. the Media Authority.
2. Our Minister makes funds available to the executive board for the benefit of the NPO and the national public media institutions through the mediation of the Media Authority. Article 2.152a, paragraph 2, applies by analogy to national public media institutions.
3. Our Minister makes funds available to them for the benefit of the RPO, the regional public media institutions and the institutions referred to in paragraph 1, under b, through the mediation of the Media Authority.

#### **Article 2.168**

1. Interest income from the management of the general media reserve is intended for media purposes in the broad sense, to be determined by Our Minister.
2. Our Minister may make funds available from the interest income to:
  - a. the NPO, the RPO and the national and regional public media institutions;
  - b. the consultative body of local public media institutions, as referred to in Article 2.146, under I, the Journalism Promotion Fund, as referred to in Article 8.1, and the institutions appointed by it for the maintenance and operation of radio orchestras and radio choirs, of a media archive and a centre of expertise for media education;
  - c. the Media Authority.
3. Article 2.167, paragraphs 2 and 3, applies by analogy.

#### **Article 2.169**

1. Our Minister may attach regulations to a decision to make funds available on the basis of Articles

2.167 and 2.168.

2. The regulations do not relate to the specific content of media content.
3. Our Minister may revoke or amend a decision to make funds available if the regulations are not complied with.

#### **Part 2.6.5. Funding regional and local public media services**

##### **Article 2.169a**

1. The RPO submits a budget for the regional public media service to Our Minister and the Media Authority before 15 September each year.
2. The budget does, in any case, contain:
  - a. a description of the way in which the RPO and the regional public media institutions implement the intended media content on the various content channels, with due observance of the provisions of or pursuant to this Act;
  - b. an overview of the nature and number of the content channels;
  - c. the financial resources needed for the next calendar year to realize the intentions with regard to the regional public media service and an estimate for the following four years;
  - d. an explanation of the various components and budget items; and
  - e. a description of the cooperation with national and local public media institutions and others.
3. The financial resources are broken down as follows:
  - a. the income of the regional public media institutions, which must be used for the provision of the media content; and
  - b. the financial resources for the fulfilment of the duties and activities of the RPO.

##### **Article 2.169b**

1. Further rules regarding the content and set-up of the budget may be set by ministerial regulation.
2. The Media Authority shall send its comments with regard to the budget to Our Minister before 15 October.
3. The RPO publishes the budget.

##### **Article 2.169c**

1. Before 1 December each year, Our Minister determines the budget for the fulfilment of the duties and activities of the RPO.
2. Our Minister may attach written conditions to a decision to determine the budget.
3. The budget, referred to in paragraph 1, shall be made available to the RPO through the mediation of the Media Authority.
4. Our Minister sets the budget at eighty percent of the budget of the previous year if the RPO has not submitted the budget in accordance with the applicable rules.
5. The budget, referred to in paragraph 1, shall be spent by the executive board of the RPO on the goals stated there.

##### **Article 2.170**

1. Before 1 December each year, Our Minister determines the total budget that is available for the

following year for the funding of the regional public media services. Our Minister shall make the total budget available to the Media Authority.

2. At the request of regional public media institutions, the Media Authority may provide a contribution from the budget referred to in paragraph 1 to the costs that are directly related to the provision of regional public media services, insofar as those costs are not covered in another way. The Media Authority decides on an application before 1 January each year.
3. No conditions are attached to the provision of the contribution referred to in paragraph 2 that conflict with the provisions of or pursuant to this Act.
4. An application as referred to in paragraph 2 is accompanied by a budget that is aligned with the budget referred to in Article 2.169a, paragraph 1, for the same period.
5. Rules are laid down by or pursuant to order in council regarding:
  - a. the distribution of the total budget among the regional public media institutions;
  - b. the content, structure and time of submission of an application; and
  - c. the content and structure of the budget.
6. The Media Authority shall send its comments with regard to the budgets of the regional public media institutions to Our Minister before 15 October.
7. The regional public media institutions shall spend the amounts received on the provision of public media services at regional level.
8. The regional public media institutions receive advances in accordance with rules to be set by ministerial regulation.
9. If a regional public media institution does not submit its financial statements, as referred to in Article 2.173a, paragraph 2, on time:
  - a. the Media Authority shall reduce the advance funding by twenty percent; and
  - b. the Media Authority may further reduce or stop the advance funding if despite repeated reminders from the Media Authority, the institution fails to submit the financial statements.

If an institution spends advances in violation of the provisions of or pursuant to the Act, the Media Authority can reduce or stop the advance funding.

#### **Article 2.170a**

1. If a regional public media institution intends to provide a commercial broadcasting service or acquire an interest in a commercial media institution after the period for which an appointment as referred to in Article 2.61 has been granted, it shall notify the Media Authority of this.
2. After the notification, the regional public media institution can perform activities in the last year of the period for which an appointment was granted that are necessary to ensure that it or the legal entity in which it acquires an interest can provide a commercial broadcasting service after the end of the period for which that appointment was granted.
3. If a regional public media institution implements the intention referred to in paragraph 1, it shall ensure that a final statement is drawn up within four months of the end of the period for which an appointment has been granted. Article 2.138a, paragraph 1, first, second and third sentences, shall apply by analogy.
4. The Media Authority determines the amount to be repaid, partly on the basis of the final statement referred to in paragraph 3. Article 2.2.138a, paragraph 2, second sentence, applies.
5. In the case referred to in paragraph 3:

- a. the regional public media institution repays to the Media Authority the funds available at the time, referred to in paragraph 1, that are intended for the provision of media content for the regional public media institution;
  - b. the regional public media institution shall make the programme material that has been distributed on the programme channels of the regional public media institution or that has been produced or purchased for that purpose and the associated programme formats, names and brands, insofar as the copyright and right of use accrue to the regional public media institution available to the institution appointed by Our Minister for the maintenance and operation of a media archive for use by other public media institutions; and
  - c. the regional public media institution shall for three years after the end of the period for which the appointment has been granted, refrain from using or exploiting the programme material referred to in part b, and the associated programme formats, names and brands, insofar as the copyright and right of use accrue to the regional public media institution.
6. For the application of paragraphs 3, 4 and 5, regional public media institution also includes its legal successor or successor in title.
  7. If a regional public media institution is not reappointed after the period for which an appointment has been granted, it shall ensure that a final statement is drawn up within four months of the end of the period for which that appointment has been granted, regarding the finances for the provision of media content for the regional public media service. Article 2.138a, paragraph 1, first, second and third sentences, shall apply by analogy. Article 2.138a, paragraph 2, applies.
  8. In the case referred to in paragraph 7, paragraphs 5 and 6 apply by analogy.
  9. Paragraph 7 also applies if an appointment is withdrawn in accordance with Article 2.67 or Article 2.68. Article 2.138a, paragraph 1, first, second and third sentences, shall apply by analogy. Article 2.138a, paragraph 2, applies.
  10. In the case referred to in paragraph 9, paragraphs 5 and 6 apply by analogy.

#### **Article 2.170b**

1. The Municipal Executive provides funding for the functioning of the local public media institution if the municipal council has issued advice as referred to in Article 2.61, paragraph 3, and has issued positive advice on whether the institution complies with the requirement, referred to in Article 2.61, paragraph 2, under c.
2. The funding concerns the reimbursement of costs that are directly related to the provision of the local public media service, insofar as those costs are not covered in any other way, in such a way that an adequate media content can be provided at a local level and continuity of funding is guaranteed.
3. If two or more municipal councils have jointly issued advice as referred to in Article 2.61, paragraph 3, and have issued positive advice about whether the institution meets the requirement referred to in Article 2.61, paragraph 2, under c, the Municipal Executives of the relevant municipalities jointly arrange the funding referred to in paragraph 1.
4. No conditions are attached to the provision of the contribution referred to in paragraph 2 that conflict with the provisions of or pursuant to this Act.
5. Every three years, Our Minister shall send the Parliament a report on the effectiveness and effects of the provisions of this article in practice.

#### **Article 2.170c**

1. The consultative body referred to in Article 2.146, part I, shall submit a budget to Our Minister before 15 September each year.
2. The consultative body shall submit financial statements for the preceding calendar year to Our

Minister before 1 May.

#### **Article 2.170d**

1. Our Minister shall make a contribution towards the costs available to the consultative body referred to in Article 2.146, part I, for which he uses the government media contribution and the income of the Ster.
2. Our Minister may attach regulations to a decision to make contributions available.
3. If the consultative body does not comply with Article 2.170c or if it does not comply with the regulations attached to a decision to make contributions available, Our Minister may:
  - a. withdraw the decision by which the relevant institution has been appointed; or
  - b. withdraw or amend the decision to make contributions available.

### **Part 2.6.6. Financial accountability national and regional public media services**

#### **Section 2.6.6.1. Legitimacy test and financial statements**

##### **Article 2.171**

1. The Media Authority is charged with checking the legitimacy of the expenditure of the NPO, the national public media institutions and the Ster.
2. The national public media institutions and the Ster send the financial statements to the Media Authority before 1 May each year and at the same time send a copy thereof to the executive board. In the management report referred to in Articles 2.17, 2.34i, 2.40 and 2.103, the NPO, the national public media institutions and the Ster include summary financial statements in conjunction with Sections 48 and 300 of Book 2 of the Dutch Civil Code.
3. The executive board shall send the financial statements of the NPO to the Media Authority before 1 July.

##### **Article 2.172**

1. Title 9 of Book 2 of the Dutch Civil Code applies to the financial statements, on the understanding that the income statement is replaced with a profit and loss account. The provisions of the income statement apply to this account by analogy as much as possible. Provisions about profit and loss apply to the operating balance by analogy as much as possible.
2. The financial year coincides with the calendar year.
3. Further rules may be laid down by ministerial regulation regarding the content and structure of the financial statements, including rules regarding the way in which insight is provided into the costs of programming.
4. Rules about the way in which insight is given into the costs of programming or changes to those rules shall not be established until four weeks after a draft has been submitted to both houses of the Parliament.

##### **Article 2.173**

As part of the financial report referred to in Article 7.7, the Media Authority reports on the legitimacy test.

##### **Article 2.173a**

1. The Media Authority is charged with checking the legitimacy of the expenditure of the RPO and

the regional public media institutions.

2. The RPO and the regional public media institutions send the financial statements to the Media Authority before 1 May each year.
3. Articles 2.172 and 2.173 apply.

#### **Section 2.6.6.2. Reservation and reclaiming**

##### **Article 2.174**

1. The national public media institutions may reserve funds for the provision of media content with the approval of the executive board and subject to conditions to be set by it, which may differ per institution or category of institutions. The NPO can reserve funds that are intended for the provision of media content by the national public media institutions. The NPO can also reserve funds that are intended for the fulfilment of its duties and activities.
2. The total of the reserved funds in a calendar year does not exceed ten percent of the expenditure of the NPO and the national public media institutions, with the exception of the expenditure on association activities, as included in the financial statements, referred to in Article 2.171, paragraphs 2 and 3.
3. Funds reserved in violation of paragraph 1 shall be paid back to the executive board.

##### **Article 2.174a**

1. Broadcasting organizations that have been granted recognized status or provisional recognized status as referred to in Article 2.23 may reserve net income from contributions and association activities as referred to in Article 2.136 for those association activities up to an amount to be determined by order in council.
2. The national public media institution that is a cooperative broadcasting organization shall ensure that the broadcasting associations it represents only make a reservation for their own association activities up to an amount to be determined by order in council in accordance with paragraph 1. Each year, at the end of the financial year, referred to in Article 2.172, paragraph 2, the institution shall for that financial year receive from the broadcasting associations that part of their operating balance that remains after deduction of the funds reserved for association activities in accordance with the first sentence.
3. Funds reserved in violation of paragraph 1 or have not been received in violation of paragraph 2, second sentence, shall be repaid to the executive board.

##### **Article 2.175**

1. The regional public media institutions may reserve funds for the provision of media content with the approval of the Media Authority and subject to conditions to be set by it, which may differ per institution. The RPO can reserve funds that are intended for the fulfilment of its duties and activities.
2. The total of the reserved funds in a calendar year does not exceed ten percent of the expenditure of a regional public media institution or the RPO.
3. Funds reserved in violation of paragraph 1 shall be paid back to the Media Authority.

##### **Article 2.176**

1. Funds reserved for the provision of media content are spent in the following calendar year for the purposes for which they were originally intended.

2. At the request of the executive board, Our Minister may grant an exemption from paragraph 1 for national public media institutions. Our Minister may attach conditions to an exemption.
3. At the request of a regional public media institution, the Media Authority may grant an exemption from paragraph 1. The Media Authority may attach conditions to an exemption.

#### **Article 2.177**

1. Funds that have been used in violation of the provisions of or pursuant to this Act or which have been reserved in violation of Articles 2.174, paragraph 2, 2.174a, paragraph 1, and 2.175, paragraph 1, or which have not been received in violation of Article 2.174a, paragraph 2, second sentence, shall be reclaimed by the Media Authority from the NPO, the RPO or the national or regional public media institution.
2. Reclaimed funds shall be added to the general media reserve.

### **Section 2.6.6.3. Other provisions**

#### **Article 2.178**

1. The national and regional public media institutions and the Ster structure their organizations in such a way that a sound design, management and control of the business processes is guaranteed.
2. The national and regional public media institutions and the Ster keep proper records from which Our Minister, the executive board and the Media Authority can each unambiguously obtain the information they need for the fulfilment of their duties.
3. The national public media institution that is a cooperative broadcasting organization ensures that the broadcasting associations it represents act in accordance with paragraphs 1 and 2.
4. The executive board and the Media Authority encourage the national public media institutions and the regional public media institutions respectively to maintain unambiguous financial accounts.

#### **Article 2.179**

[Repealed with effect from 01/01/2014]

### **Part 2.6.7. Radio orchestras, radio choirs, media archive and centre of expertise for media education**

#### **Article 2.180**

1. Once every five years, the institutions appointed by Our Minister for the maintenance and operation of radio orchestras and radio choirs, a media archive and a centre of expertise for media education shall submit a long-term plan to Our Minister for the following five-year period.
2. The long-term plans are aligned with the concession policy plan for the national public media service that applies for the relevant period.

#### **Article 2.181**

1. The institutions submit a budget to Our Minister before 15 September each year.
2. The institutions submit financial statements for the preceding calendar year to Our Minister before 1 May.

#### **Article 2.182**

1. The long-term plans and the financial statements require the approval of Our Minister.
2. Our Minister shall hear from the NPO with regard to the long-term plans.

#### **Article 2.183**

1. Our Minister shall make a contribution towards the costs available to the institutions, for which he uses the government media contribution and the income of the Ster. Our Minister shall, through the mediation of the Media Authority, make the contribution for the institution appointed for the maintenance and operation of radio orchestras and radio choirs available to the executive board, which shall make the contribution available to the institution.
2. Our Minister may attach regulations to a decision to make contributions available.
3. If an institution does not comply with Articles 2.180 and 2.181 or if it does not comply with the regulations attached to a decision to make contributions available, Our Minister may:
  - a. withdraw the decision by which the relevant institution has been appointed; or
  - b. withdraw or amend the decision to make contributions available.

#### **Title 2.7. Evaluation**

#### **Article 2.184**

1. The NPO regularly evaluates the way in which the public media contract is performed.
2. An evaluation is held at least once every five years.
3. If the evaluation committee in its report referred to in Article 2,186, paragraph 1, has established there are good reasons to assume a broadcasting organization has made an insufficient contribution to the performance of the public media contract at national level due to the way in which it has fulfilled the public duty referred to in Article 2.24, paragraph 1, under b, or 2.24a, paragraph 1, under b, a first and second evaluation shall be held into the way in which the relevant broadcasting organization has fulfilled this public duty, which evaluations, in derogation from paragraph 2, shall in any case be held within two years and four years of the date on which this report was issued.
4. Paragraph 3 applies by analogy to the NTR and the NOS and the way in which they have fulfilled their statutory duties.

#### **Article 2.185**

1. The NPO sets up a committee whose duty is to carry out the evaluation for the duration of the evaluation. The committee consists of at least five independent experts and is as representative as possible of the viewing and listening audience.
2. The members of the evaluation committee are appointed by the supervisory board on the nomination of the executive board having heard Our Minister.

#### **Article 2.186**

1. The evaluation committee does, in any case, report on:
  - a. the way in which the NPO and the national public media institutions have jointly performed the public media contract at national level;
  - b. the extent to which the media content of the national public media service meets the interests and insights of the general public and of specific population and age groups;

- c. the way in which the broadcasting associations to which provisional recognized status as referred to in Article 2.23, paragraph 2, has been granted, have contributed to increasing the diversity of the media content of the national public media service and thus have made an innovative contribution to the performance of the public media contract at national level; and
  - d. other subjects included in the decision to set up the evaluation committee or indicated by Our Minister.
2. The evaluation committee reports on the way in which broadcasters, the NTR or the NOS have separately performed the public media contract at national level as referred to in Article 2.184, paragraphs 3 and 4.

#### **Article 2.187**

1. The evaluation committee can make recommendations about the way in which the public media contract shall be performed in the coming years.
2. At a time to be determined by ministerial regulation, the evaluation committee shall submit a report to the supervisory board of the NPO, which shall send it to Our Minister and publish it.

#### **Article 2.188**

1. Criteria are established by or pursuant to order in council on the basis of which individual national public media institutions are evaluated as referred to in Article 2.186, paragraph 2.
2. The nomination for an order in council to be adopted pursuant to paragraph 1 shall not be made until the draft has been published in the Government Gazette and everyone has been given the opportunity to notify Our Minister of any wishes and objections within four weeks of the date on which the announcement was made. Simultaneously with the announcement, the draft shall be submitted to both Houses of the Parliament.

### **Chapter 3. Commercial media services**

#### **Title 3.1. Permission broadcasting services**

##### **Article 3.1**

1. Without prejudice to the provisions of or pursuant to the Telecommunications Act, providing a commercial broadcasting service is only permitted with the permission of the Media Authority.
2. In derogation from paragraph 1, Article 3.29b applies by analogy insofar as the commercial broadcasting service consists of providing radio programmes via the open Internet.
3. If a commercial media institution provides multiple programme channels, separate permission is required for each programme channel.
4. If a commercial media institution changes a programme channel's programme content provided by a third party, that commercial media institution needs permission for the changed programme channel.
5. By ministerial regulation, rules can be laid down about the way in which applications for permission are submitted.

##### **Article 3.2**

1. Permission is granted on request and is valid for five years.
2. A permission is not transferable and expires by operation of law after the permission period has expired.

3. The permission indicates whether it relates to television broadcasting or radio broadcasting.
4. Pursuant to permission for television broadcasting, it is also permitted to provide teletext.

### **Article 3.3**

The Media Authority may reject an application if:

- a. the information provided by the applicant with the application is incorrect or incomplete; or
- b. it can reasonably be expected that the applicant shall not comply with the provisions of or pursuant to this Act.

### **Article 3.4**

1. The Media Authority withdraws permission if the commercial media institution:
  - a. asks for it; or
  - b. fails to pay the regulatory fees due, as referred to in Article 3.30.
2. The Media Authority can withdraw permission if the commercial media institution:
  - a. appears to have provided incorrect or incomplete information with the application; or
  - b. otherwise does not comply with the provisions of or pursuant to this Act or Article 5:20, paragraph 1, of the General Administrative Law Act.

## **Title 3.2. Programme content**

### **Part 3.2.1. Responsibility and obligations**

#### **Article 3.5**

1. A commercial media institution determines, without prejudice to the provisions of or pursuant to this Act, the form and content of the programme content it provides and is responsible for this.
2. A commercial media institution establishes an editorial statute in agreement with the employees who are charged with the care and composition of the programme content, in which the journalistic rights and obligations of these employees are regulated.
3. A commercial media institution shall take appropriate measures to prevent the content of its media services from inciting violence or hatred against a group of persons or a member of a group, on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union, or provoking the commission of a terrorist offence.

#### **Article 3.5a**

1. A commercial media institution shall make at least the following information of the media institution readily, directly and permanently available to the public:
  - a. name;
  - b. registered office;
  - c. contact details, including e-mail address or Internet address; and
  - d. the name of the Media Authority as the body charged with monitoring compliance under Title 7.2.
2. A commercial media institution informs the Media Authority without delay about changes that could affect the jurisdiction of the Netherlands over this commercial media institution.

#### **Article 3.5b**

1. Advertising and home shopping messages, sponsored programme content and product placement are recognizable as such.
2. No subliminal techniques are used in advertising and home shopping messages, sponsored programme content and programme content with product placement.
3. The programme content does not contain surreptitious advertising.

### **Part 3.2.2. Advertising and home shopping**

#### **Article 3.6**

1. A commercial media institution that includes advertising or home shopping messages in the programme content is affiliated with the Dutch Advertising Code or a comparable regulation established by the Dutch Advertising Code Authority and are subject to the supervision of the Dutch Advertising Code Authority.
2. Affiliation is demonstrated by submitting a written statement from the Dutch Advertising Code Authority to the Media Authority.

#### **Article 3.7**

1. Advertising and home shopping message are clearly distinguished from the rest of the programme content by acoustic, visual or spatial means.
2. The programme content does not contain advertising and home shopping messages for:
  - a. medical treatment; and
  - b. alcoholic drinks between 06:00 and 21:00.
3. Names or trademarks or (figurative) marks of persons, companies or institutions may be mentioned or shown in the name of a programme channel in a neutral manner.
4. The Media Authority may lay down further rules for the disclosure or presentation referred to in paragraph 3, which rules require the approval of Our Minister.
5. Furthermore, the television programme content does not contain advertising and home shopping messages for:
  - a. games of chance for which a licence as referred to in Articles 14a, 15, 23, 27g and 31 of the Betting and Gaming Act is required, or which are played on a machine in a slot machine hall for the presence of which a licence is required, between 06:00 and 21:00;
  - b. other games of chance for which a licence is required pursuant to the Betting and Gaming Act, between 06:00 and 19:00.
6. Paragraph 5, under a, applies by analogy to radio programme content.

#### **Article 3.8**

1. In the time slots between 06:00 and 18:00 and between 18:00 and 00:00, no more than twenty percent of the programme content on a programme channel consists of advertising or home shopping messages.
2. With due observance of this part, individual advertising or home shopping messages may be placed in programme content consisting of the reporting or presentation of sporting events and, exceptionally, in other programme content.

#### **Article 3.9**

1. Blocks of home shopping messages in the programme content of a programme channel last at least fifteen minutes without interruption.
2. Throughout their duration, blocks of home shopping messages are clearly recognizable as such by visual and acoustic means.
3. Article 3.8, paragraphs 1 and 2, does not apply to home shopping blocks.

#### **Article 3.10**

1. Advertising or homes are only included in programmes if they do not affect the integrity, character or coherence of the programme concerned or the rights of titleholders.
2. No advertising or home shopping messages shall be included in programmes that show ecclesiastical or spiritual gatherings.
3. No advertising or home shopping messages shall be included in programmes specifically intended for children under the age of twelve.

#### **Article 3.11**

1. The following programmes include advertising or home shopping messages no more than once per programmed thirty-minute timeslot:
  - a. programmes consisting of films;
  - b. programmes consisting of news or commentary on the news.
2. In programmes especially intended for children under the age of twelve, advertising message are included no more than once per programmed timeslot of thirty minutes, provided that the programmed duration of the programme is more than thirty minutes.

#### **Article 3.12**

[Repealed with effect from 19/12/2009]

#### **Article 3.13**

In television programmes consisting of the reporting of an event, advertising or home shopping messages are included only during the usual breaks in the event or between the usual independent parts therein.

#### **Article 3.14**

1. In derogation from Articles 3.8 and 3.11, a television programme channel may be provided that:
  - a. consists exclusively of advertising messages broadcast for the purpose of self-promotion; or
  - b. consists exclusively of home shopping messages.
2. Other advertising messages may be included in the programme content of a television programme channel as referred to in paragraph 1, with due observance of the provisions that apply to the inclusion of advertising messages in television programme content.

### **Part 3.2.3. Sponsoring**

#### **Article 3.15**

1. Programme content is only sponsored if the editorial statute, referred to in Article 3.5, paragraph 2, includes guarantees for the editorial independence of the employees charged with the care and composition of the programme content vis-à-vis the sponsors.

2. Programme content consisting of news, current affairs or political information is not sponsored.

#### **Article 3.16**

1. In the case of sponsored programme content, it is clearly mentioned for the public's information that the programme content is sponsored and by whom.
2. The mention is designed in such a way that:
  - a. between 06:00 and 21:00, the mention of sponsors engaged in the production or sale of alcoholic beverages is made by neutral mention or display of a name or (figurative) mark; and
  - b. in cases other than those referred to under a, the mention is made by mentioning or displaying a name, (figurative) mark or another distinctive sign and the public is not directly encouraged by means of specific promotions to buy or rent products or purchase services of the sponsors.
3. In the case of a sponsored programme, the statement shall be made at the beginning or end of the programme and may additionally be made at the beginning or end of an advertising message or messages included in the programme.

#### **Article 3.17**

1. In sponsored programme content:
  - a. sponsor products or services can be mentioned or shown without prejudice to Part 3.2.3a; and
  - b. the name, (figurative) mark, products or services of sponsors can be mentioned or shown in the title.
2. Mentioning and showing as referred to in paragraph 1 may not encourage the public by means of specific promotions to buy or rent products or services from the sponsors.
3. The Media Authority may lay down further rules for the mention or showing referred to in paragraph 3, which rules require the approval of Our Minister.

#### **Article 3.18**

Article 3.16, paragraphs 1 to 3, shall apply by analogy if an institution other than that referred to in the definition of sponsorship in Article 1.1 has provided a contribution for the production or purchase of programme content to promote or enable its distribution.

#### **Article 3.19**

1. In the case of programme content consisting of the report or presentation of an event that is not primarily intended to be broadcast as a programme, the names or (figurative) marks of those persons, companies or institutions, which have made a financial or other contribution for the realization of the event, are mentioned or shown.
2. Article 3.16, paragraphs 2 and 3, applies by analogy.
3. Paragraphs 1 and 2 do not apply to situations that fall under the ban on sponsorship under Article 5 of the Tobacco and Related Products Act.

### **Part 3.2.3a. Product placement**

#### **Article 3.19a**

1. Product placement in the programme content is permitted with the exception of news and current affairs programmes, consumer affairs programmes, programmes of an ecclesiastical or spiritual nature, and programmes specifically intended for children under the age of twelve.

2. This part does not apply to content produced before 19 December 2009.

#### **Article 3.19b**

1. Product placement can take place only if the editorial statute, referred to in Article 3.5, paragraph 2, includes guarantees for the editorial independence of the employees charged with the care and composition of the programme content in connection with product placement.
2. Product placement in the programme content is designed in such a way that:
  - a. the public is not directly encouraged to buy or rent products or services through specific promotions; and
  - b. the product concerned does not receive undue attention.
3. Product placement is not allowed for:
  - a. medical treatment; and
  - b. alcoholic drinks between 06:00 and 21:00.
4. In the case of programme content that includes product placement, it shall be clearly stated for the information of the public that the programme content includes product placement. The statement shall be made in an appropriate manner and at the beginning or end of the programme and also at the beginning or end of an advertising message or messages included in the programme.
5. The Media Authority may lay down further rules for the application of product placement in programme content, which rules require the approval of Our Minister.

#### **Article 3.19c**

Article 3.19b, paragraph 4, does not apply to programme content with product placement that have not been produced or ordered by or on behalf of the commercial media institution or by or on behalf of a company affiliated with it.

### **Part 3.2.4. European productions, independent productions, Dutch and Frisian-language productions and films**

#### **Section 3.2.4.1. European and independent productions**

##### **Article 3.20**

1. On each television programme channel, programme content consists of European productions within the meaning of Article 1 of the European Directive for at least fifty percent of the programme's duration.
2. In special cases, the Media Authority may grant partial exemption from paragraph 1 with regard to a specific commercial media institution, on the understanding that the percentage cannot be lower than ten. The Media Authority may attach conditions to an exemption.

##### **Article 3.21**

1. On a television programme channel, the programme content consists of at least ten percent of the duration of productions as referred to in Article 3.20, paragraph 1, that can be regarded as independent productions.
2. At least one-third of the productions referred to in paragraph 1 are not older than five years.

##### **Article 3.22**

1. Independent production is taken to mean programme content that is not produced by:

- a. a public media institution;
  - b. a commercial media institution;
  - c. a foreign broadcasting organization;
  - d. a legal entity in which an institution as referred to under a, b or c, whether or not through one or more subsidiaries, has an interest of more than twenty-five percent;
  - e. a legal entity in which two or more institutions as referred to under a, b or c, whether or not through one or more of their respective subsidiaries, jointly hold an interest of more than fifty percent; or
  - f. a company in which an institution as referred to under a, b or c, or one or more of its subsidiaries, is as a partner fully liable towards creditors for the debts.
2. By order in council:
- a. further rules may be laid down regarding the application of this article and Articles 3.20 and 3.21; and
  - b. it may be determined that in cases other than those referred to in paragraph 1, programme content is regarded as an independent production.

### **Article 3.23**

1. For the application of Articles 3.20 to 3.22, the law disregards programme content:
- a. that consists of news;
  - b. that relates to sports;
  - c. that has the character of a game, with the exception of programmes of a cultural or educational nature that also have the character of a game;
  - d. that consists of advertising and home shopping messages, including accompaniment, and self-promotion;
  - e. that consists of still images; and
  - f. that consists of teletext.
2. Articles 3.20 to 3.22 do not apply to:
- a. programme content that can be received in only one municipality or a limited number of neighbouring municipalities;
  - b. programme content as referred to in Article 3.14; and
  - c. programme content exclusively intended for reception in states other than the member states of the European Union and that cannot be received directly or indirectly by the public in one or more Member States of the European Union.

### **Section 3.2.4.2. Dutch and Frisian-language productions**

#### **Article 3.24**

1. On a television programme channel, at least forty percent of the programme content consists of original Dutch or Frisian-language productions.
2. In special cases, the Media Authority may grant full or partial exemption from paragraph 1. The Media Authority may attach conditions to an exemption.

#### **Article 3.25**

1. Rules may be laid down by order in council regarding the subtitling of television programmes, which may determine, among other things, what percentage of the programme content referred to in Article 3.24, paragraph 1, has subtitling for people with a hearing impairment.
2. In special cases, the Media Authority may grant full or partial exemption from an obligation regarding the percentage referred to in paragraph 1. The Media Authority may attach conditions to an exemption.

### **Section 3.2.4.3. Films**

#### **Article 3.26**

No films are included in the programme content outside the periods agreed on with the titleholders.

### **Part 3.2.5. Other provisions**

#### **Article 3.27**

1. A commercial media institution reports annually to the Media Authority on the measures it takes to further develop the accessibility of the audiovisual media content for people with disabilities.
2. The Media Authority reports to the European Commission on the implementation of paragraph 1 no later than 19 December 2022 and every three years thereafter.

#### **Article 3.28**

[Repealed with effect from 01/01/2013]

#### **Article 3.29**

Articles 3.8, 3.9, paragraph 1 and 3, 3.10, paragraph 2, 3.11 to 3.14 and 3.19 to 3.26 do not apply to programme content that cannot be received directly or indirectly outside the Netherlands and that:

- a. as far as the video content is concerned, consists exclusively or almost exclusively of still images; or
- b. mainly consists of information about programme content and other services that are offered via a broadcasting transmitter or broadcasting network.

### **Title 3.2a. Commercial media services on demand**

#### **Article 3.29a**

In this title, commercial media service on demand is understood to mean media service on demand that is provided by a commercial media institution and where the media content relates to products with moving video content, whether or not including audio content. This also includes associated subtitling services and electronic radio/TV guides.

#### **Article 3.29b**

1. A media institution that provides or terminates a commercial media service on demand must notify the Media Authority of the start or termination of the media service on demand within two weeks of that moment. If a media institution changes a commercial media service on demand provided by a third party, this media institution also reports the changed commercial media service on demand. The following data of the media institution is in any case provided:
  - a. name;
  - b. registered office; and
  - c. contact details, including e-mail address or Internet address.
2. A media institution that provides a commercial media service on demand also makes at least the data referred to in the first paragraph readily, directly and permanently available, as well as the name of the Media Authority and the body charged with monitoring compliance with the provisions of or pursuant to this title.
3. A media institution that provides a commercial media services on demand informs the Media Authority without delay about changes that could affect the jurisdiction of the Netherlands over this media institution.

### **Article 3.29c**

1. The audiovisual media content of a commercial media service on demand consists of at least thirty percent of European productions as referred to in Article 1 of the European Directive per content channel.
2. The European works on a commercial media service on demand are brought to the public's attention by the media institution providing the commercial media service on demand.
3. Paragraphs 1 and 2 do not apply to a media institution that provides a commercial media service on demand with a low turnover or a small audience.
4. The Media Authority may grant an exemption from paragraphs 1 and 2 to a media institution that provides a commercial media service on demand if the application of paragraph 3 would be practically infeasible or unjustified in view of the nature or subject of this media service on demand.

### **Article 3.29d**

Articles 3.5, 3.5b, 3.6, 3.7, paragraph 2, preamble and under a, 3.15 to 3.19c, 3.26 and 3.27, apply by analogy to commercial media services on demand, with the exception of Articles 3.16, paragraph 2, preamble and under a, and 3.19b, paragraph 3, under b.

## **Title 3.3. Regulatory fees**

### **Article 3.30**

1. A commercial media institution owes the Media Authority an annual regulatory fee for any permission obtained and for each of its media services on demand.
2. Rules shall be laid down by ministerial regulation regarding the determination of the regulatory fees, referred to in paragraph 1, whereby in any case:
  - a. a distinction can be made between broadcasting services and media services on demand;
  - b. a distinction can be made between permissions for radio broadcasting and for television broadcasting; and
  - c. account can be taken of the average duration of the broadcasts and the number of households in the Netherlands that can receive the programme content.
3. The Media Authority can collect the regulatory fees owed by writ of execution.

### **Article 3.31**

[Repealed with effect from 19/12/2009]

## **Chapter 3a. Video platform services**

### **Article 3a.1**

In this chapter and the corresponding provisions, the following definitions have the meanings stated:

*video platform provider*: the natural person or legal entity that provides a video platform service;

*audiovisual commercial communications*: images, with or without sound, which serve to promote, directly or indirectly, the goods, services or image of a natural person or legal entity carrying out an economic activity and which are part of audiovisual media content or a user-generated video, for payment or similar consideration or for the purpose of self-promotion;

*user-generated video*: a series of moving images, with or without sound, which, regardless of

their duration, constitutes a separate element, created by a user and uploaded to a video platform by that user or another user;

*code of conduct*: a code of conduct for one or more video platforms, aimed at users of a video platform service, which in any case includes rules as referred to in Article 3a.3.

*product placement*: the inclusion of or reference to a product, service or (figurative) mark within the framework of a programme, part of the media content corresponding to a programme, or a user-generated video for payment or a similar fee;

*sponsoring*: the provision of financial or other contributions by a company or a natural person not normally engaged in the provision of media services or video platform services, or in the creation of audiovisual works, for the purpose of creating or purchasing media content or user-generated videos, with a view to distributing it to the general public or to promote or enable part thereof;

*video platform service*: a service or a separate part thereof,

- a. whose main purpose or essential function is to provide audiovisual media content or user-generated videos to the general public for information, entertainment or education;
- b. for which the video platform provider bears no editorial responsibility;
- c. the organization of which is determined by automatic means or algorithms by the video platform provider; and
- d. which is offered by means of public electronic communication networks as referred to in Article 1.1 of the Telecommunications Act.

### **Article 3a.2**

1. A video platform service provider that is established or deemed to be established in the Netherlands pursuant to Article 28a, paragraphs 1 to 4 of the European Directive falls under the jurisdiction of the Netherlands.
2. A video platform provider shall make at least the following information available to the public readily, directly and permanently:
  - a. name;
  - b. registered office;
  - c. contact details, including e-mail address or Internet address; and
  - d. the name of the Media Authority as the body charged with monitoring compliance of the provisions of or pursuant to this chapter.

### **Article 3a.3**

1. A video platform provider has a code of conduct that prescribes measures as referred to in Article 28ter, paragraph 1, and paragraph 2, sub-paragraphs 2 and 4, of the European Directive, and it applies this code of conduct and measures to this video platform.
2. To this end, the code of conduct referred to in paragraph 1 includes, depending on the case, the measures referred to in Article 28b, paragraph 3, of the European Directive.
3. The code of conduct, referred to in paragraph 1, contains clear and unambiguous objectives and provides for:
  - a. regular, transparent and independent monitoring and evaluation measures regarding the achievement of objectives; and
  - b. effective enforcement, including effective and proportionate sanctions.
4. The video platform provider ensures that the code of conduct has sufficient support among the most important stakeholders.

### **Article 3a.4**

1. A video platform provider that markets, sells or organizes audiovisual commercial communications, is affiliated with the Dutch Advertising Code or a comparable regulation established by the Dutch Advertising Code Authority and are subject to the supervision of the

Dutch Advertising Code Authority.

2. Affiliation is demonstrated by submitting a written statement from the Dutch Advertising Code Authority to the Media Authority.

#### **Article 3a.5**

1. Audiovisual commercial communications on a video platform service are recognizable as such.
2. No subliminal techniques are used in audiovisual commercial communications.
3. Audiovisual commercial communications are not offered in the form of surreptitious advertising.
4. If audiovisual media content or user-generated videos contain audiovisual commercial communications and the video platform provider is aware of this, the video platform provider shall inform the video platform service user about this in a manner that is clear to the user.

### **Chapter 4. Protection of young people**

#### **Article 4.1**

1. The audiovisual media content may only contain content that could harm the physical, mental or moral development of persons younger than sixteen years, if the institution responsible for the content is affiliated with the organization recognized by Our Minister, referred to in Article 4.2, paragraph 1, and is bound by the relevant rules and supervision of that organization with regard to the distribution of the content referred to above.
2. The institution that is affiliated with the organization recognized by Our Minister as referred to in Article 4.2, paragraph 1, demonstrates this by submitting a written statement from the recognized organization to the Media Authority.
3. Paragraphs 1 and 2 do not apply insofar as the audiovisual media content is offered in another Member State of the European Union and the provider thereof has demonstrated to the Media Authority that the protection of persons under the age of sixteen against the audiovisual media content in question is at least in accordance with the level of protection referred to in Article 4.2.

#### **Article 4.1a**

1. Audiovisual media content that may harm the physical, mental or moral development of persons under the age of sixteen is made available by the institution responsible for the content in such a way that persons under the age of sixteen cannot normally hear or see this content.
2. The most harmful content such as needless violence and pornography is made inaccessible to persons under the age of sixteen by the institution responsible for the content.
3. Insofar as the television programme content does not qualify as the most harmful content, the measures resulting from the regulations as referred to in Article 4.2, paragraph 2, are regarded as measures as referred to in paragraph 1.
4. The personal data of minors collected or otherwise generated by media institutions pursuant to this article shall not be processed for commercial purposes.

#### **Article 4.2**

1. Our Minister may recognize an organization that provides for regulations regarding the classification and distribution of content as referred to in Article 4.1, paragraph 2, and the supervision thereof.
2. The regulations do, in any case, relate to:

- a. criteria for the classification of content, including at least the extent to which:
  - 1°. fear is aroused;
  - 2°. brutalizing violence is shown or justified;
  - 3°. the use of drugs is presented attractively or condoned;
  - 4°. pornography is involved; and
  - 5°. on other grounds, according to generally accepted views, products are not suitable to be shown to certain categories of persons under the age of sixteen;
- b. the times of distribution of the aforementioned content on a programme channel; and
- c. the way in which the distribution of this content is preceded or accompanied by symbols or warnings.

#### **Article 4.3**

1. An organization is only eligible for recognized status if:
  - a. independent monitoring by the organization of compliance with the regulations referred to in Article 4.2, paragraph 1, is guaranteed;
  - b. it provides adequate involvement of stakeholders, including at least representatives from the consumer domain, public media institutions, audiovisual media experts and audiovisual media producers; and
  - c. the financial position of the organization guarantees an adequate performance of the work.
2. Further rules may be laid down by or pursuant to order in council regarding the requirements referred to in paragraph 1 and other requirements for recognition may be set.
3. Conditions may be attached to recognized status.

#### **Article 4.4**

1. Our Minister shall withdraw recognized status if the recognized organization no longer complies with Articles 4.2 and 4.3, paragraph 1.
2. Our Minister may withdraw recognized status if the recognized organization does not comply with the further rules and other requirements referred to in Article 4.3, paragraph 2, or the regulations, referred to in Article 4.3, paragraph 3.

#### **Article 4.5**

A decision to grant and withdraw recognized status shall be announced in the Government Gazette.

#### **Article 4.6**

[Repealed with effect from 01/11/2020]

### **Chapter 5. Events of major importance to society and events of major importance**

#### **Article 5.1**

1. A list is established by order in council of events which, if they are distributed as a television programme, shall in any case be distributed on an open television programme channel, and it can be determined which of those events are also regarded as events as referred to in Article 14 of the European Directive.
2. An event can be listed if at least two of the following conditions are met:
  - a. the event is of general interest to Dutch society;
  - b. the event is of special cultural significance;
  - c. the event has also been broadcast on an open television programme channel in the past and has enjoyed high viewing ratings; and
  - d. it is a major international sporting event in which a national team takes part.

## **Article 5.2**

Further rules shall be laid down by order in council for the fulfilment of the obligation referred to in Article 5.1, paragraph 1, in which it is in any event determined whether the events mentioned on the list, when they are distributed as a television programme, are in any case distributed on an open television programme channel by means of full or partial live coverage or by means of full or partial deferred coverage.

## **Article 5.3**

1. Public media institutions and commercial media institutions shall exercise acquired distribution rights related to events included on the list of events in accordance with the rules laid down pursuant to Article 5.2.
2. The institutions exercise broadcasting rights acquired after 30 July 1997 in accordance with the rules laid down by other Member States of the European Union in accordance with Article 14 of the European Directive.

## **Article 5.4**

1. Broadcasting service providers that have acquired exclusive rights in respect of events of major importance shall make short fragments thereof available, for a fee, to other broadcasting service providers in the European Community who ask for it. The requesting broadcasting service provider is free to choose and distribute fragments of events of major importance.
2. Short fragments last a maximum of 90 seconds per event and may be repeated indefinitely within 24 hours. If the match-defining sports moments of the event together last longer than 90 seconds and the presentation is limited to those sports moments, short fragments may exceptionally last a maximum of 180 seconds.
3. The following conditions apply to the distribution of the short fragments:
  - a. short fragments are only included in daily scheduled general news programmes;
  - b. short fragments, in the case of match-defining sports moments, shall not be distributed until after the exclusive rights of the event, for fully live and partially deferred coverage, have been exercised for the first time; and
  - c. during the distribution of a short fragment, the source is mentioned, unless this is not possible for practical reasons.
4. Only the media institution that distributes short fragments in accordance with paragraph 3 can offer the programme in question in an identical form as media content of its media service on demand.
5. A match day of a sports competition or sporting event is considered as one event.
6. The fee for a short fragment is no more than the additional costs incurred directly in providing access to the signal.
7. Further rules may be laid down by order in council regarding the provision of short fragments and their use.

## **Chapter 6. Special provisions on political parties, the government, restricted broadcasting services, broadcasting transmitters, broadcasting networks and frequency range**

### **Title 6.1. Political parties and the government**

#### **Part 6.1.1. Political parties**

## **Article 6.1**

1. Each year, the Media Authority allocates a number of hours on the general programme channels of the national public media service to political parties that have won one or more seats during the last election of the members of the House of Representatives or Senate of the Parliament.
2. The Media Authority allocates a number of hours on the general programme channels of the national public media service to:
  - a. political parties that participate in the election of members of the House of Representatives of the Parliament in all constituencies; and
  - b. political parties that participate in the election of members of the European Parliament in the Netherlands.
3. The hours referred to in paragraph 2 are available in a period, to be determined by the Media Authority, immediately preceding the day set in the Netherlands for the election in question.

## **Article 6.2**

1. If a political party has been sentenced to pay an unconditional fine on the basis of Sections 137c, 137d, 137e, 137f, 137g or 429c of the Dutch Penal Code, the Media Authority, in derogation from Article 6.1, paragraphs 1 and 2, shall not allocate hours to this political party during a period commencing on the day on which the sentence has become final. This period is:
  - a. one year in the case of a fine of less than € 1,125;
  - b. two years in the case of a fine of € 1,125 or more, but less than € 2,250;
  - c. three years in the case of a fine of € 2,250 or more, but less than € 3,375; and
  - d. four years in the case of a fine of € 3,375 or more.
2. If a political party has been convicted of a terrorist crime as referred to in Section 83 of the Dutch Penal Code, the Media Authority, in derogation from Article 6.1, paragraphs 1 and 2, shall not allocate hours to this political party during a four-year period commencing on the day on which the sentence has become final.
3. If on the basis of an election held within two years of the day on which the sentence becomes final under the Electoral Act, one or more seats are allocated to the list of a political party to which no seats have been allocated on that day, the period during which no hours as referred to in Article 6.1, paragraph 1, are allocated to this political party, commences on the day on which the election took place.

## **Article 6.3**

1. After a sentence as referred to in Article 6.2, paragraph 1 - if necessary in derogation from Article 6.2, paragraph 1, under a - no hours as referred to in Article 6.1, paragraph 2 shall in any case be allocated to the political party within two years of the day on which the sentence has become final.
2. If no more hours are allocated to a political party pursuant to Article 6.2, paragraph 1, the hours that have already been allocated shall lapse by operation of law from the day on which the sentence has become final.

## **Article 6.4**

A political party uses the hours allocated to it wholly and exclusively for programme content in the political domain.

### **Part 6.1.2. Government**

## **Article 6.5**

1. Each year, at the request of Our Prime Minister, Minister of General Affairs, the Media Authority

allocates a number of hours for government information on the general programme channels of the national public media service.

2. Further rules are set by ministerial regulation about:
  - a. the time at which an application is submitted; and
  - b. the period within which a decision on the application shall be made.

#### **Article 6.6**

1. The allocated hours are available to Our Ministers for use by government agencies or persons designated by them.
2. The allocated hours are used entirely and only for government information.

#### **Part 6.1.3. Other provisions on political parties and the government**

#### **Article 6.7**

1. Each year, on the advice of the Media Authority and the NPO, Our Minister determines the total number of hours that are available for political parties and the government on the general programme channels of the national public media service.
2. In special cases or for special purposes, the Media Authority may set more hours.

#### **Article 6.8**

Articles 2.53, 2.59, 2.60, 2.88, paragraph 1, 2.89, 2.106 to 2.109, 2.114, 2.124, 2.139 and 2.142 and Chapter 4 apply by analogy to political parties and the government and the use of the hours allocated to them. Articles 2.59 and 2.60 only apply by analogy insofar as it concerns the activities related to the use of the allocated hours.

#### **Title 6.2. Permission to provide broadcasting services for special purposes**

#### **Article 6.9**

1. The Media Authority may grant permission to natural persons or legal entities to provide a broadcasting service via a broadcasting transmitter for a special purpose, with a limited range and for a limited duration. The Media Authority may also grant permission to provide a broadcasting service without a limited duration, insofar as this is appropriate in view of the nature of the broadcasting service.
2. The Media Authority may attach conditions to its permission.

#### **Title 6.3. Broadcasting transmitters, broadcasting networks and frequency range**

#### **Part 6.3.1. Use of broadcasting transmitters and broadcasting networks**

#### **Article 6.9a**

In this part, the following terms are defined as stated below:

«*subscriber*»: a natural person or legal entity who is party to an agreement with a package provider regarding the receipt of one or more programme packages;

«*package provider*»: a natural person or legal entity who distributes one or more programme packages for payment or has them distributed by means of a broadcasting network or a broadcasting transmitter;

«*programme package*»: a set of television and radio programme channels composed by a natural person or legal entity, which are mainly produced by third parties;

«*standard programme package*»: a programme package as referred to in Article 6.13 or in Article 6.14.

### **Section 6.3.1.1. Distribution of programme content**

#### **Article 6.10**

The broadcasting transmitter provider or a broadcasting network does not distribute programme content if the institution responsible for the form and content of the relevant programme content is under this Act or under the foreign regulations applicable to that institution not entitled to provide programme content intended for distribution. The first sentence applies by analogy to a package provider.

#### **Article 6.11**

1. The broadcasting transmitter provider or a broadcasting network is, by using the broadcasting transmitter or the broadcasting network, permitted:
  - a. to distribute programme content that consists of an unabridged and direct reproduction of a public meeting of the Senate or House of Representatives of the Parliament, provincial councils or a municipal council; and
  - b. to distribute information about the programme content and services offered via the broadcasting transmitter or the broadcasting network.

The first sentence applies by analogy to a package provider.

2. Chapter 4 applies by analogy.

### **Section 6.3.1.2. Distribution of packages of television and radio programme channels**

#### **Article 6.12**

1. This section applies to package providers who distribute or instruct others to distribute one or more programme packages to at least 100,000 subscribers in the Netherlands.
2. If a package provider distributes or instructs others to distribute programme content by means of two or more broadcasting networks or broadcasting transmitters, the relevant numbers of subscribers are combined for the application of paragraph 1.
3. If a package provider is a legal entity, the number of subscribers of that package provider and the number of subscribers of the subsidiaries maintained by the package provider are combined for the application of this article. If the package provider is a legal entity and a subsidiary that is maintained by another package provider, the number of subscribers of that subsidiary, the number of subscribers of the package provider that maintains this subsidiary, and the number of subscribers of the other subsidiaries maintained by this package provider are combined for the application of this article.

#### **Article 6.13**

1. If a package provider distributes or has distributed one or more digital programme packages, all subscribers who have concluded an agreement with the provider regarding the reception of one or more digital programme packages receive in any case a digital standard programme package.
2. The standard programme package consists of at least thirty television programme channels and a number of radio programme channels to be determined by the package provider with due observance of paragraph 4. Services may be designated by ministerial regulation whose signal must be transmitted as an integrated part of the programme channels and further rules may be laid down for the transmission of these services.
3. As far as television programme channels are concerned, the standard programme package

includes in any case:

- a. the general television programme channels of the national public media service, as referred to in Article 2.50, under a, and a third general television programme channel insofar as this is provided by the national public media service;
  - b. one television programme channel of the regional public media service with a programme content as referred to in Article 2.70, which is intended for the province or part of the province in which the subscribers reside;
  - c. the television programme channels of the regional public media service with a programme content as referred to in Article 2.70, which are intended for the provinces adjacent to the province in which the subscribers reside;
  - d. one television programme channel of the local public media service with a programme content as referred to in Article 2.70, which is intended for the municipality in which the subscribers reside and which is distributed by the package provider from a common and suitable central takeover point in the Netherlands for the supply and distribution of television programme channels;
  - e. no more than two television programme channels of the local public media service with a programme content other than that referred to under d, which a local public media institution provides and which is aimed at specific population and age groups, including minorities, and which is distributed by the package provider from a common and suitable central takeover point in the Netherlands for the supply and distribution of television programme channels; and
  - f. three television programme channels of the Dutch-speaking national Belgian public broadcasting service.
4. As far as radio programme channels are concerned, the standard programme package includes in any case:
- a. five general radio programme channels of the national public media service;
  - b. one radio programme channel of the regional public media service with a programme content as referred to in Article 2.70, which is intended for the province or part of the province in which the subscribers reside;
  - c. one radio programme channel of the local public media service with a programme content as referred to in Article 2.70, which is intended for the municipality in which the subscribers reside and which is distributed by the package provider from a common and suitable central takeover point in the Netherlands for the supply and distribution of radio programme channels;
  - d. no more than five radio programme channels of the local public media service with a programme content other than that referred to under c, which a local public media institution provides and which is aimed at specific population and age groups, including minorities, and which is distributed by the package provider from a common and suitable central takeover point in the Netherlands for the supply and distribution of radio programme channels; and
  - e. five radio programme channels of the Dutch-speaking national Belgian public broadcasting service.
5. In determining whether a package provider has complied with the requirement referred to in the first sentence of paragraph 2, the following rules are observed:
- a. at least thirty unique television programme channels are offered in a broadcast quality to be determined by the package provider;
  - b. if television programme channels are offered in different broadcast quality, programme channels with the same name and arrangement of the programme content are regarded as one programme channel;
  - c. if television programme channels are offered in different broadcast quality, programme channels with the same name but with a different arrangement of the programme content are regarded as separate programme channels; and
  - d. if television programme channels are distributed via broadcasting transmitters without the need to pay for reception costs other than the costs of purchasing and using technical facilities that enable reception, and these programme channels are included in the electronic radio/TV guide that is part of the technical facilities, these programme channels are regarded as television programme channels as referred to under a.

#### **Article 6.14**

1. If a package provider distributes or has distributed one or more analogue programme packages, all subscribers who have concluded an agreement with the provider regarding the reception of one or more analogue programme packages receive in any case an analogue standard programme package.
2. The standard programme package consists of at least fifteen television programme channels and a number of radio programme channels to be determined by the package provider with due observance of paragraph 4. The programme channels are distributed unchanged.
3. Article 6.13, paragraph 3, preamble and under a, b, d and e, applies. Article 6.13, paragraph 3, preamble and under f, applies on the understanding that the number of television programme channels is two.
4. Article 6.13, paragraph 4, preamble and under a, b, c and d, applies. Article 6.13, paragraph 4, preamble and under e, applies on the understanding that the number of radio programme channels is two.

#### **Article 6.14a**

[Repealed with effect from 11/12/2014]

#### **Article 6.14b**

In derogation from Article 6.13, paragraphs 3 and 4, the digital standard programme package that a package provider distributes or instructs another party to distribute by means of a satellite does not contain the programme content on programme channels as referred to under b, c, d and e of Article 6.13, paragraph 3 and under b, c and d of Article 6.13, paragraph 4, respectively.

#### **Article 6.14c**

[Repealed with effect from 01/02/2017]

#### **Article 6.14d**

The Media Authority may grant full or partial exemption from the obligations referred to in Articles 6.13, 6.14 and 6.14b and the regulations based on those articles, if full compliance with them results in disproportionate costs, an impediment to innovation or in otherwise unreasonable outcomes. The Media Authority may attach conditions to an exemption.

#### **Section 6.3.1.3. Disputes committee**

#### **Article 6.15**

Article 6.12 applies.

#### **Article 6.16**

1. It can be determined by ministerial regulation that a package provider provides for the establishment of a disputes committee to deal with complaints from subscribers about the composition of the digital standard programme package.
2. If paragraph 1 has been applied, two or more package providers may decide to jointly set up a disputes committee as referred to in paragraph 1.
3. If paragraph 1 has been applied, regulations shall also be issued by ministerial regulation about how complaints are handled, the composition of the disputes committee and the consequences of the decision of the disputes committee if a complaint is well-founded.

#### **Article 6.17**

[Repealed with effect from 01/01/2014]

#### **Article 6.18**

[Repealed with effect from 01/01/2014]

#### **Article 6.19**

[Repealed with effect from 01/01/2014]

#### **Article 6.20**

[Repealed with effect from 01/01/2014]

#### **Article 6.21**

[Repealed with effect from 01/01/2014]

#### **Article 6.22**

[Repealed with effect from 01/01/2014]

### **Part 6.3.2. Use of frequency range**

#### **Article 6.23**

1. Our Minister, in agreement with Our Minister of Economic Affairs, shall designate the frequency range in the FM broadcast band that is used for the distribution of radio programmes that mainly consist of Dutch-language music. A ministerial regulation shall specify in more detail the cases in which radio programme content meets this requirement.
2. Our Minister, in agreement with Our Minister of Economic Affairs, shall designate another frequency range in the FM broadcast band that may only be used for the distribution of categories of radio programme content to be determined in that designation, which in view of the nature, content or target group, involves relatively low advertising revenue or relatively high costs.
3. If the nature and scope of the frequency range in the FM broadcast band that is available for the distribution of radio programmes give cause to do so, Our Minister, in agreement with Our Minister of Economic Affairs, may waive the designation of frequency range in the FM broadcast band pursuant to paragraphs 1 and 2.

#### **Article 6.24**

[Repealed with effect from 01/03/2020]

#### **Article 6.25**

Article 6.23 does not apply to:

- a. the frequency range used for the distribution of programme content of the public media services; and
- b. frequency range used for distribution via a satellite.

### **Title 6.3a. Unmodified distribution of media content of a public or commercial media institution**

#### **Article 6.25a**

1. The media content of a public or commercial media institution is distributed unmodified, unless the relevant public or commercial media institution has given permission for a modified form of distribution.
2. Modified distribution of audiovisual media content through the addition of an overlay is possible if:
  - a. the recipient of the service has taken the initiative or has given permission for this for private use;
  - b. it involves user interface controls or warnings, public interest information or subtitling;
  - c. in the case of commercial purposes: explicit permission has been given by the public or commercial media institution; or
  - d. it concerns commercial communications offered by the public or commercial media institution of the media service.

#### **Title 6.4. Extraordinary circumstances, crisis communications and broadcasting services for foreign military personnel**

##### **Article 6.26**

1. Rules shall be laid down by order in council, on the recommendation of Our Prime Minister, Minister of General Affairs, after consultation with Our Minister, on the basis of which, in the event of extraordinary circumstances, the use of programme channels of the public media services, studios and other facilities, broadcasting transmitters, broadcasting networks and other resources are made available to the authorities designated by or pursuant to that order in council.
2. [This paragraph has not yet entered into force; if exceptional circumstances make this necessary, this paragraph may come into force by Royal Decree, on the recommendation of Our Prime Minister.]

Our Prime Minister, Minister of General Affairs, is authorized in a general state of emergency, after consultation with Our Minister, to lay down rules with regard to the content of radio and television programmes and the supervision thereof, whereby it is possible to deviate from the provisions of Article 7.11.

3. The power referred to in paragraph 2 shall be terminated without delay as soon as Article 31, paragraph 1, of the War Act is put into effect.

##### **Article 6.27**

In the event of disasters or crises as referred to in Article 1 of the Security Regions Act, media services provide the audiovisual media content consisting of information referred to in Article 46, paragraph 2, of the Security Regions Act, in collaboration with the management of the security regions as much as possible in a manner accessible to persons with a hearing or visual impairment.

##### **Article 6.28**

Rules can be laid down by order in council regarding the provision of broadcasting services that are exclusively intended for military personnel of foreign armed forces and their families who are stationed in the Netherlands.

#### **Chapter 7. Supervision and administrative enforcement**

##### **Title 7.1. Dutch Media Authority**

##### **Article 7.1**

1. A Dutch Media Authority is in place.
2. The Media Authority has legal personality and is located in the municipality of Hilversum.

3. The Media Authority is charged with the fulfilment of duties assigned to it by or pursuant to this Act and other acts.

#### **Article 7.2**

The Non-Departmental Public Bodies Framework Act applies to the Media Authority, with the exception of Article 17 insofar as it concerns the provisions of Article 2.139, paragraph 6, of the Media Act 2008.

#### **Article 7.3**

1. The Media Authority consists of a chairman and two or four other members.
2. Appointments are for five years and reappointment for a consecutive period is possible once.
3. Without prejudice to Article 12 of the Non-Departmental Public Bodies Framework Act, appointments by Our Minister of the members of the Media Authority are made on the consequential nomination of the Media Authority and with due observance of paragraphs 4 to 12.
4. In the event of a vacancy, the Media Authority is responsible for the procedure leading to the nomination, as referred to in paragraph 3.
5. The Media Authority prepares profiles for the vacancy and for the Media Authority as a whole.
6. The profiles require the approval of Our Minister.
7. The Media Authority shall publish the profiles after approval.
8. For the selection of candidates, the Media Authority appoints an independent appointment advisory committee.
9. The appointment advisory committee is composed of an equal number of independent members, members on behalf of the Media Authority and members on behalf of Our Minister.
10. The advice of the appointment advisory committee is based on a unanimous decision-making process.
11. The appointment advisory committee issues a binding advice to the Media Authority.
12. The nomination of the Media Authority to Our Minister must be motivated, in which case the suitability, profile, position of the candidate in the retirement schedule and the procedure that led to the nomination are discussed.
13. Our Minister adopts the nomination, unless it conflicts with:
  - a. this act;
  - b. requirements of due care; or
  - c. other compelling interests.

#### **Article 7.4**

Without prejudice to Article 13 of the Non-Departmental Public Bodies Framework Act, the following are incompatible with membership of the Media Authority:

- a. membership of one of the two Houses of the Parliament, a provincial council or a municipal council;
- b. employment with a ministry, a department, institution or company that falls under the responsibility of a minister; and
- c. membership of a body of or employment with the NPO, the RPO, a public media institution, a

broadcasting association represented in a cooperative broadcasting organization, a commercial media institution or a newspaper publisher.

#### **Article 7.5**

1. The Media Authority makes decisions by a majority of votes.
2. The Media Authority can only mandate and authorize one or more of its members to perform parts of its duties with the consent of all members.
3. The Media Authority adopts management regulations regarding its decision-making process and working methods.

#### **Article 7.6**

The costs of the Media Authority shall be reimbursed by Our Minister on the basis of the budget approved by him.

#### **Article 7.7**

1. Without prejudice to Article 34 of the Non-Departmental Public Bodies Framework Act, the Media Authority shall submit a financial report to Our Minister before 1 September each year on the management of the general media reserve, as referred to in Article 2.166.
2. The financial report shall be accompanied by a statement of fairness and legality, issued by an auditor as referred to in Section 393 of Book 2 of the Dutch Civil Code and requires the approval of Our Minister.
3. The Media Authority shall publish the financial report.

#### **Article 7.8**

Rules may be laid down by ministerial regulation regarding the content and structure of the budget, the financial report and points for attention for the audit.

#### **Article 7.9**

1. The Media Authority shall send decisions to Our Minister as soon as possible after notification.
2. Decisions of the Media Authority may be annulled by Our Minister within eight weeks of receipt thereof or during the time that the decision is suspended.
3. Decisions of the Media Authority may be suspended by Our Minister within eight weeks of receipt thereof.
4. A decision to suspend, lift or extend the suspension shall be announced in the Government Gazette.

#### **Article 7.10**

The Media Authority publishes decisions laying down further rules on the basis of this Act and laying down policy rules regarding the performance of its duties in the Government Gazette.

### **Title 7.2. Supervision and enforcement**

#### **Article 7.11**

1. The Media Authority is charged with the administrative enforcement of the provisions laid down by or pursuant to this Act, with the exception of:

- a. Articles 2.2, paragraphs 1 and 2, under a to h, j to l, 2.3, paragraphs 1 to 4, 2.4 to 2.16, 2.18 to 2.27, 2.29 to 2.33, 2.34a to 2.34j, 2.36 to 2.41, 2.53 to 2.57, 2.59, 2.60, 2.60a to 2.60o, 2.125 to 2.131, 2.143 to 2.145, 2.148a, 2.149, 2.150, paragraph 1, 2.151, paragraph 1, 2.166 to 2.168, 2.169c, paragraphs 1 to 4, 2.170c, 2.170d, 2.180 to 2.187, 4.2 to 4.5 and 6.26; and
  - b. Chapter 8.
2. The members of the Media Authority and the employees of the Media Authority appointed by decision of the Media Authority are charged with monitoring compliance.
  3. A decision as referred to in paragraph 2 shall be announced by publication in the Government Gazette.

#### **Article 7.12**

1. In the event of a violation of the provisions laid down by or pursuant to this Act, with the exception of Articles 2.34, paragraph 1, 2.58, under a to c, and e, 2.170, paragraphs 1 to 6, and paragraphs 8 and 9, and 2.170 b, or of Article 5:20, paragraph 1 of the General Administrative Law Act, the Media Authority may impose an administrative fine on the violator, subject to a maximum of € 225,000 per violation.
2. The administrative fine for violation of the provisions of Article 2.34, paragraph 1, amounts to ten percent of the total amount of funds made available, on average, to the broadcasting organization in the calendar years before the violation during the current recognition period for the provision of media content for the national public media service.
3. In the event of a violation of the provisions of or pursuant to this Act, with the exception of Articles 2.34, paragraph 2, 2.35, 2.58, under d, 2.70, 2.71, paragraphs 3 and 4, 2.88b to 2.92, 2.94 to 2.99, 2.106 to 2.108, 2.111, paragraph 1, 2.115 to 2.124, 2.150, paragraphs 2 and 3, 2.151, paragraph 2, 2.169c, paragraph 5, 2.170, paragraphs 1 to 6, and paragraphs 8 and 9 and 2.170b, 3.5b to 3.14, 3.15, paragraph 2, 3.16, 3.17, 3.19 to 3.19b, 3.20 to 3.26, 3.29, 3.29d, 3a.5, 4.1, 4.6, 5.1 to 5.4, 6.4, 6.6, paragraph 2, and 6.23 to 6.25, the Media Authority may impose an order subject to a penalty on the offender.

#### **Article 7.13**

The sums of administrative fines and periodic penalty payments to be paid shall accrue to Our Minister and are intended for media purposes in the broad sense, to be determined by him, with the exception of the administrative fine referred to in Article 7.12, paragraph 2, which is added to the general media reserve, referred to in Article 2.166.

#### **Article 7.14**

In the event of a violation of the provisions of or pursuant to this Act or Article 5:20, paragraph 1 of the General Administrative Law Act, the Media Authority may, in addition to or instead of imposing an administrative fine and an order subject to a penalty:

- a. reduce or cancel the hours of the institution concerned as referred to in Articles 6.1 and 6.5; and
- b. reduce or cancel the hours the Ster has on the programme channels of the national public media service pursuant to Article 2.95.

#### **Article 7.15**

[Editor: This article is no longer in effect. The article has been withdrawn under Act of Bulletins and Decrees 2013/570.]

1. In the case of a final sentence to pay an unconditional fine under Section 137d of the Dutch Penal Code, the Media Authority does not allow:
  - a. a broadcasting association, the educational media institution and a church or spiritual

- organization to temporarily use a recognized status or appointment as referred to in Chapter 2, Part 2.2.2 or Part 2.2.4, respectively;
- b. a regional or local public media institution to temporarily use an appointment as referred to in Chapter 2, Section 2.3.1; and
  - c. a commercial media institution to temporarily use a permission as referred to in Chapter 3, Title 3.1.

**2. A ban applies for a period of:**

- a. one year in the case of a fine of less than € 1,125;
- b. two years in the case of a fine of € 1,125 or more, but less than € 2,250;
- c. three years in the case of a fine of € 2,250 or more, but less than € 3,375; and
- d. four years in the case of a fine of € 3,375 or more.

**Article 7.16**

[Repealed with effect from 02/11/2016]

**Article 7.16a**

**1. The Media Authority may issue an instruction to a national or regional public media institution:**

- a. in the event of mismanagement by one or more members of the management board or of the supervisory body; or
- b. if proper organization, management and control of business processes or proper administration are insufficiently guaranteed.

An instruction comprises one or more measures and is proportionate to the purpose for which it is issued.

**2. Mismanagement is exclusively taken to mean:**

- a. financial mismanagement;
- b. unjust enrichment, whether intended or not, of the institution, the members of the management board or supervisory body itself or a third party; or
- c. an unlawful act, which is understood to mean acting in the capacity of director or supervisor in violation of statutory provisions or the apparent spirit of statutory provisions with which financial advantage is obtained for the benefit of the institution, the members of the management board or the supervisory body itself, or a third party.

**3. In the instruction, the Media Authority shall specify the mismanagement and the measures to be taken in connection with that.**

**4. The institution complies with the instruction. The instruction includes a time limit for this.**

**5. Before the Media Authority issues an instruction, it gives the institution four weeks to put forward its point of view.**

**6. An instruction may include the order to replace directors or supervisors.**

**Article 7.17**

In the event of a cancellation or reduction of hours, the Media Authority may, if necessary, revise the distribution of the hours referred to in Articles 6.1 and 6.5.a.

**Article 7.18**

- 1. The public and commercial media institutions, as well as political parties and the government, keep recordings of the programmes they provide for two weeks after the broadcast and make them available to the Media Authority upon request.**

2. A media institution that provides a media service on demand shall store its media content for another two weeks from the moment the content can no longer be purchased on demand and it shall make it available to the Media Authority upon request.

#### **Article 7.19**

1. The supervisory bodies referred to in Article 7.11, paragraph 2, are authorized:
  - a. to enter a home without the consent of the resident, taking the necessary equipment with them; and
  - b. to seal business premises and objects during the hours between 18:00 and 08:00 insofar as this is reasonably necessary to exercise the powers referred to in Article 5:17 of the General Administrative Law Act.
2. If necessary, the supervisory bodies exercise the powers referred to in paragraph 1 with the strong arm of the law.

#### **Article 7.20**

1. Before 1 November each year, the Media Authority shall notify Our Minister of the intended enforcement policy for the following calendar year.
2. The Media Authority does not exercise any prior supervision over the content of media content.

#### **Title 7.3. Other duties**

##### **Article 7.21**

1. The Media Authority is charged with investigating developments with regard to concentrations and financial-economic conditions in the national and international media markets and their consequences for the multiformity and independence of information provision.
2. The Media Authority reports annually on its findings to Our Minister.
3. The Media Authority publishes its findings, with the exception of information that is confidential by nature.
4. The Media Authority maintains compliance with the editorial statute, as referred to in Articles 2.88, paragraph 2, and 3.5, paragraph 2.

##### **Article 7.22**

1. The Media Authority maintains a list of public and commercial media institutions that fall under the competence of the Netherlands pursuant to Article 1.2, paragraph 1, stating the criterion, referred to in Article 2, paragraphs 2 to 5, of the European Directive, on which the jurisdiction of the relevant provider is based.
2. The Media Authority maintains a list of the providers of video platforms that fall under the competence of the Netherlands pursuant to Article 3a.2, paragraph 1, stating the criterion, referred to in Article 28a, paragraphs 1 to 4, of the European Directive, on which the jurisdiction of the relevant provider is based.

### **Chapter 8. Journalism**

#### **Title 8.1. Journalism Promotion Fund**

##### **Article 8.1**

1. A Journalism Promotion Fund is in place.

2. The Promotion Fund has legal personality and is located in the municipality of The Hague.

#### **Article 8.2**

1. In this chapter, the following terms are defined as stated below:

*Promotion Fund*: the Journalism Promotion Fund.

2. The Non-Departmental Public Bodies Framework Act applies to the Promotion Fund, with the exception of Article 22.

#### **Article 8.3**

1. The aim of the Promotion Fund is to maintain and promote the multiformity of the press, insofar as it is important for information and opinion-forming.
2. The Promotion Fund is charged with:
  - a. granting subsidies;
  - b. conducting or commissioning investigations into the functioning of the press; and
  - c. the fulfilment of other duties assigned to it by or pursuant to this Act and other acts.

#### **Article 8.4**

1. The Promotion Fund has a management board that consists of a chairman and a maximum of six other members.
2. Appointments are for five years and reappointment for a consecutive period is possible once.
3. Without prejudice to Article 12 of the Non-Departmental Public Bodies Framework Act, appointments by Our Minister of the members of the management board are made on the nomination of the management board and with due observance of paragraphs 4 to 9.
4. In the event of a vacancy, the management board is responsible for the procedure leading to the nomination, as referred to in paragraph 3.
5. The management board prepares profiles for the vacancy and for the management board as a whole.
6. The profiles require the approval of Our Minister.
7. The management board shall publish the profiles after approval.
8. The nomination of the management board to Our Minister must be motivated, in which case the suitability, profile, position of the candidate in the retirement schedule and the procedure that led to the nomination are discussed.
9. Our Minister adopts the nomination, unless it conflicts with:
  - a. this act;
  - b. requirements of due care;
  - c. other compelling interests; or
  - d. a reasonable expectation that the nominated candidate shall be suitable for the fulfilment of the duties of a member of the management board and that the management board shall be properly composed when appointed in accordance with the nomination.

#### **Article 8.5**

Without prejudice to Article 13 of the Non-Departmental Public Bodies Framework Act, the following

are incompatible with membership of the management board of the Promotion Fund:

- a. membership of one of the two Houses of the Parliament, a provincial council or a municipal council;
- b. employment with a ministry, a department, institution or company that falls under the responsibility of a minister; and
- c. membership of a body of or an employment relationship with the NPO, a public media institution, a broadcasting association that is represented in a cooperative broadcasting organization, a commercial media institution or a newspaper publisher.

#### **Article 8.6**

1. The Promotion Fund makes decisions by a majority of votes.
2. The Promotion Fund can only mandate and authorize one or more of its members to perform parts of its duties with the consent of all members.
3. The Promotion Fund adopts management regulations regarding its decision-making process and working methods.

#### **Article 8.7**

Our Minister shall reimburse the costs of the Promotion Fund from the income referred to in Article 8.8 and from other available financial resources on the basis of the budget approved by him.

#### **Article 8.8**

1. By ministerial regulation:
  - a. it can be determined what percentage, which amounts to a maximum of four percent, of the income from advertising and home shopping messages of the national, regional and local public media services and the commercial media institutions is paid out annually for the benefit of the Promotion Fund; and
  - b. rules may be laid down regarding the determination of the income referred to under a.
2. Each year, regional and local public media institutions and commercial media institutions pay the amount determined pursuant to paragraph 1 to the Media Authority, which makes it available to Our Minister.

#### **Article 8.9**

Rules may be laid down by ministerial regulation regarding the structure of the budget, the financial report and points for attention for the audit.

### **Title 8.2. Subsidies for newspapers**

#### **Article 8.10**

1. Pursuant to this Title, the Promotion Fund may grant a subsidy within the amounts made available by Our Minister.
2. Subsidies are only granted for the benefit of newspapers that meet the following conditions:
  - a. they are published in the Netherlands and are intended for the public in the Netherlands;
  - b. they contain to a large extent news, analyses, commentary and background information about a varied part of current social affairs, partly in the interest of forming political opinion;
  - c. they are edited by an independent editorial board on the basis of a statute in which the editorial identity is laid down;
  - d. they appear regularly and at least monthly;

- e. they are available to everyone;
- f. [repealed;]
- g. they are not published by or on behalf of the government; and
- h. they are not published or distributed in connection with membership, donorship or membership of any association, church or another organization.

#### **Article 8.11**

1. For the benefit of a newspaper, the Promotion Fund may grant a subsidy to its publisher in the form of credits or credit facilities for the implementation of a project aimed at operating the newspaper profitably.
2. Subsidies are only granted if:
  - a. the continuity of the newspaper is at risk;
  - b. the necessary financial resources cannot be obtained or cannot be sufficiently obtained in any other way;
  - c. the project is carried out according to an activity plan that offers the prospect of operating the newspaper profitably within a reasonable period of time; and
  - d. the activity plan has been approved by the Promotion Fund.
3. It is only for the purpose of a one-off reorganization of a newspaper that the subsidy can be granted in the form of a payment if the activity plan cannot be effectively implemented with credits or credit facilities.

#### **Article 8.12**

1. For the purpose of starting the operation of a newspaper, the Promotion Fund may grant a subsidy to its publisher in the form of credits or credit facilities.
2. Subsidies are only granted if:
  - a. the newspaper appears regularly and at least monthly;
  - b. it is not possible to start operating without a subsidy;
  - c. operation is started according to an activity plan that offers the prospect of operating profitably within a reasonable period of time; and
  - d. the activity plan has been approved by the Promotion Fund.
3. Subsidies can be granted up to a maximum of half of the costs budgeted in the activity plan, which have been calculated in accordance with guidelines to be determined by the Promotion Fund, over a maximum period of four years from the start of operation.
4. If the actual operating deficits are lower than the anticipated operating costs, the subsidy can be set lower to a maximum of twenty-five percent of the actual operating deficits.

#### **Article 8.13**

1. On behalf of two or more newspapers, the Promotion Fund may jointly grant the publisher or publishers a subsidy for the implementation of a project aimed at improving the operating position of those newspapers.
2. Subsidies are only granted if:
  - a. the project is carried out in accordance with an activity plan drawn up jointly by the responsible publisher or by the responsible publishers and which offers the prospect of a structural improvement in the operating position of the newspapers within a reasonable period of time;
  - b. the project fits in with the objectives of the Promotion Fund; and
  - c. the activity plan has been approved by the Promotion Fund.

#### **Article 8.14**

1. The Promotion Fund may grant a subsidy to a newspaper publisher for carrying out organizational research aimed at structurally improving the operating position of that newspaper.
2. Subsidies are only granted if:
  - a. the operation was loss-making or threatened to become loss-making in the financial year preceding the application for the subsidy;
  - b. the publisher has submitted a proposal that contains the set-up and implementation of the research;
  - c. the proposed research fits in with the objectives of the Promotion Fund; and
  - d. the proposal for the research has been approved by the Promotion Fund.
3. Subsidies can be granted up to a maximum of two-thirds of the costs of the research.

### **Title 8.3. Other forms of granting subsidies**

#### **Article 8.15**

1. The Promotion Fund may grant subsidies for conducting research for the benefit of the press industry as a whole.
2. Subsidies are only granted if:
  - a. a proposal has been submitted that contains the set-up and implementation of the research;
  - b. the proposed research relates to the industry as a whole and fits in with the objectives of the Promotion Fund; and
  - c. the proposal for the research has been approved by the Promotion Fund.

#### **Article 8.15a**

1. The Promotion Fund may, on the basis of regulations to be determined by it, grant subsidies for activities other than those referred to in Articles 8.11 to 8.15, insofar as those activities fit in with the objectives of the Promotion Fund.
2. These regulations require the approval of Our Minister.

### **Title 8.4. Other provisions**

#### **Article 8.16**

1. Each year, the Promotion Fund can determine subsidy ceilings for the various activities for which subsidy can be granted.
2. A decision to determine a subsidy ceiling is published in the Government Gazette.

#### **Article 8.17**

1. Subsidies are granted on application.
2. The Promotion Fund can submit an application to an external advisory body.
3. The Promotion Fund guarantees that confidential information regarding the applicant's business operations is treated as such.

#### **Article 8.18**

Obligations imposed on a subsidy recipient by the Promotion Fund do not relate to the content of a newspaper.

### **Article 8.19**

The Promotion Fund shall publish a decision to grant a subsidy in the Government Gazette within one week of the decision being made, stating the amount of the subsidy.

### **Article 8.20**

1. Rules can be laid down by or pursuant to order in council regarding:
  - a. the further conditions for obtaining a subsidy;
  - b. the obligations that the Promotion Fund can impose when granting the subsidy;
  - c. the submission and manner of processing applications;
  - d. the amount of subsidies and the method of calculation thereof;
  - e. the way in which the available financial resources for the various grants are distributed if a grant ceiling has been determined;
  - f. the provision of advances; and
  - g. the cancellation, adjustment and recovery of grants.
2. Conditions as referred to in paragraph 1, under a, do not relate to the content of a newspaper.

### **Article 8.21**

1. The members of the Promotion Fund and the employees of the Promotion Fund appointed by decision of the Promotion Fund are charged with monitoring compliance with the provisions and regulations that apply to subsidy recipients under this chapter.
2. A decision as referred to in paragraph 1 shall be announced by publication in the Government Gazette.

## **Chapter 9. Transitional and final provisions**

### **Title 9.1. Transitional provisions**

#### **Article 9.1**

In derogation from Article 2.144, paragraph 1, second sentence, the increase in the government media contribution amounts to:

- a. € 49,799 million for the year 2008;
- b. € 48,387 million for the year 2009;
- c. € 47,985 million for the year 2010.

#### **Article 9.2**

Articles 2.94, paragraph 2, under b, and 3.7, paragraph 2, part b, do, until one year after the entry into force of this Act, not apply to the distribution of advertising and home shopping message for the implementation of agreements with advertisers concluded before the entry into force of this Act.

#### **Article 9.3**

Chapter VII of the Media Act as that Act read on the day preceding the date on which this Act enters into force shall remain in force until 1 January 2011, on the understanding that the funds referred to in Articles 89 and 90 of the aforementioned chapter shall be made available to the executive board.

#### **Article 9.4**

1. Concessions, recognized status, broadcasting time allocations, permissions and exemptions granted under the Media Act as that Act read on the day prior to the date on which this Act enters into force, shall be deemed to have been granted under this Act for the duration for which they are

granted.

2. Appointments pursuant to the Media Act as that Act read on the day prior to the date on which this Act enters into force, shall be deemed to have been made pursuant to this Act for the duration of the term of appointment.

#### **Article 9.5**

For violations of the provisions of or pursuant to the Media Act as that Act read on the day prior to the date on which this Act enters into force, and with regard to objection and appeal procedures initiated before the entry into force of this Act, the Media Act as it read on the day prior to the date on which this Act enters into force, remains applicable.

#### **Article 9.6**

Rules may be laid down by order in council for up to two years after the date on which this Act enters into force, in cases not provided for by this Act, with regard to the introduction of articles of this Act or parts thereof.

### **Title 9.2. Transitional provisions in the Act of 6 November 2013 amending the Media Act 2008 to modernize the national public service broadcaster**

#### **Part 9.2.1. Transitional law granting recognized status for the period 2016–2021**

#### **Article 9.7**

For the recognition period running from 1 January 2016 to 31 December 2020, Our Minister may, with due observance of Part 2.2.2 and without prejudice to Article 9.8a, grant the recognized status referred to in Article 2.23, paragraph 1, only to:

- a. broadcasting associations Evangelische Omroep, MAX and VPRO;
- b. the broadcasting organizations formed from the broadcasting associations Algemene Omroepvereniging AVRO and TROS, BNN and VARA and KRO and NCRV respectively; and
- c. the broadcasting organizations of the composition referred to under a and b, including one or both broadcasting associations PowNed and WNL.

#### **Article 9.8**

1. In derogation from Article 2.32, paragraph 1, under a, Our Minister shall also reject an application for recognized status for the period from 1 January 2016 to 31 December 2020, if the applicant does not comply with Article 9.7.
2. In derogation from Article 2.33, paragraph 1, under a, Our Minister shall also withdraw recognized status for the period from 1 January 2016 to 31 December 2020 if the applicant no longer complies with Article 9.7.

#### **Article 9.8a**

The broadcasting associations PowNed and WNL may waive their participation in the procedure for granting recognized status, as referred to in Article 9.7, by submitting an application for provisional recognized status as referred to in Article 2.23, paragraph 2. In derogation from Article 2.26, paragraph 1, under a, Our Minister may, for the recognition period running from 1 January 2016 to 31 December 2020, grant provisional recognized status as referred to in Article 2.23, paragraph 2, to one or both of the broadcasting associations.

#### **Part 9.2.2. Transitional NTR law supervisory board**

#### **Article 9.9**

The members of the supervisory board of the Netherlands Programme Service, as referred to in Article 2.36, as that article read on the day prior to the entry into force of the part relating to Article 2.36 of the Act of 6 November 2013 amending the Media Act 2008 to modernize the national public broadcasting system, are from that date of entry into force, members of the NTR supervisory board, as referred to in Article 2.36, as that article reads at that time, for the remaining part of their term of appointment. These members of the NTR supervisory board can be reappointed once for a consecutive period of a maximum of four years.

### **Part 9.2.3. Transitional law financial accountability of churches and spiritual organizations**

#### **Article 9.10**

For the purpose of the financial accountability for the year 2015, Articles 2.171 to 2.174 and 2.176 to 2.178 continue to apply to churches, spiritual organizations and legal entities in which two or more of these societies cooperate and have been granted a designation, as referred to in Article 2.42, as that Article read on 31 December 2015. Articles 2.138b and 2.179 as those articles read on 31 December 2015 also apply.

### **Part 9.2.4. Transitional law determining NTR budget for the period 2014–2016**

#### **Article 9.11**

The determination of the budget, as referred to in Article 2.149, paragraph 1, under d, for the calendar years 2014 and 2015 is at least based on the legal bases that applied on the day prior to the entry into force of the part relating to Article 2.149 of the Act of 6 November 2013 amending the Media Act 2008 to modernize the system of the national public service broadcaster, with regard to the determination of the budget of the Netherlands Programme Service and the educational media institution that was granted recognized status on the basis of Article 2.28 as that article read at the time.

### **Part 9.2.5. Transitional law programme enhancement budget for the period 2016–2021**

#### **Article 9.12**

1. In derogation from Article 2.150, paragraph 3:
  - a. annually, for the 2016 to 2020 calendar years, five percent of the total of the budgets, referred to in Article 2.149, paragraph 1, determined for the 2016 calendar year, is for the benefit of the media content of the broadcasting organizations, referred to in Article 9.7, under b, or of the broadcasting organizations of the composition referred to in that part, including one or both broadcasting associations PowNed and WNL; and
  - b. the remaining budget shall fully accrue to the media content of the broadcasting organizations, the NOS and the NTR.
2. An equal part of the budget referred to in paragraph 1, under a, is spent on each of the broadcasting organizations referred to in paragraph 1, under a.

### **Part 9.2.6. Transitional law evaluation national public media service for the period 2010–2016**

#### **Article 9.13**

Articles 2,184 to 2,187 do not apply for the five-year period of the concession, as referred to in Article 2.19, paragraph 3, which runs from 1 September 2010 to 31 December 2015.

### **Part 9.2.7. Transitional law transfer tax exemption**

#### **Article 9.14**

1. Acquisitions of immovable property and the rights to which they are subject, upon formation of a

broadcasting organization as referred to in Article 9.7, preamble and under b and c, are exempt from transfer tax.

2. Paragraph 1 only applies if the immovable property and the rights to which they are subject are acquired by 1 July 2015 at the latest as a result of a merger into a broadcasting association or the establishment of a cooperative broadcasting organization.
3. If immovable property and the rights to which they are subject, which have been acquired under the application of paragraphs 1 and 2, are acquired by the contributor as a result of the non-completion of a broadcasting organization, that acquisition is exempt from transfer tax.

#### **Part 9.2.8\*. Transitional law exemption from notification of intended concentration by broadcasting associations**

##### **Article 9.14a**

1. In derogation from Article 34 of the Competitive Trading Act, no notification is required for an intended concentration of:
  - a. broadcasting associations as referred to in Article 9.7, under b, insofar as this leads to the broadcasting organizations referred to in that part; or
  - b. a broadcasting association as referred to in Article 9.7, under c, with a broadcasting association as referred to in Article 9.7, under a, or with a broadcasting organization as referred to in Article 9.7, under b.
2. This article applies in the period from 1 January 2013 to 31 December 2015.

#### **Part 9.2.8. Transitional law exemption from notification of intended concentration by broadcasting associations**

##### **Article 9.14b**

1. In derogation from Article 34 of the Competitive Trading Act, no notification is required for an intended concentration of:
  - a. broadcasting associations as referred to in Article 9.7, under b, insofar as this leads to the broadcasting organizations referred to in that part; or
  - b. a broadcasting association as referred to in Article 9.7, under c, with a broadcasting association as referred to in Article 9.7, under a, or with a broadcasting organization as referred to in Article 9.7, under b.
2. This article applies in the period from 1 January 2013 to 31 December 2015.

#### **Part 9.2.9. Transitional law RPO**

##### **Article 9.14c**

1. In derogation from Article 2.60k, the first concession granted to the RPO may be valid for a period shorter than ten years.
2. In the event of the application of paragraph 1, the first RPO concession policy plan, in deviation from Article 2.60l, relates to the entire period of the first concession.

#### **Part 9.2.10. Renewal of the national public media service concession and recognized status granted for a period expiring on 31 December 2020**

##### **Article 9.14d**

The NPO concession, the concession period and the second of the two five-year periods, referred to

in Article 2.19, paragraph 3, the second five-year period, referred to in Article 2.20, paragraph 1, the recognized status and the provisional recognized status, referred to in Article 2.23, paragraph 1 and 2 respectively, and the recognition period that applies at the time of entry into force of this article, insofar as applicable in deviation from this Act, shall by operation of law be extended by one year.

#### **Part 9.2.11. Transitional law maximum percentage of advertising and home shopping messages in television programme content national public media service**

[This section has not yet entered into force]

#### **Part 9.2.12. Transitional law appointment regional public media institution**

##### **Article 9.14f**

In derogation from Article 2.65, paragraph 1, an appointment under Article 2.65, paragraph 1, as it read on the day prior to the entry into force of this Article, which applies on the day on which Article I, part Ma, of the Act Amending the Media Act 2008 comes into force with a view to strengthening the future prospects of the public broadcaster, shall remain in force until 31 December 2025, after which it expires by operation of law.

#### **Title 9.3. Final provisions**

##### **Article 9.15**

The nomination for an order in council to be adopted pursuant to Articles 2.21a, 2.34a, 2.116 or 2.136 shall not be made earlier than four weeks after the draft has been submitted to both Houses of the Parliament.

##### **Article 9.16**

Our Minister shall lay down rules for the implementation of Article 22 of the European Directive, insofar as, in the opinion of Our Minister, one or more of these articles have not been elaborated, have not been elaborated sufficiently, correctly or in time in the Dutch Advertising Code or in a comparable regulation established by the Dutch Advertising Code Authority, or the Dutch Advertising Code Authority is in default with regard to its supervision.

##### **Article 9.17**

For the application of the provisions of or pursuant to Articles 1.2, 2.115 to 2.121, 3.20 to 3.23, and Chapter 5, an amendment to the European Directive shall apply from the day on which the relevant amending directive must have been implemented.

##### **Article 9.17a**

In anticipation of relevant legislation, rules may be laid down by ministerial order for forms of audiovisual commercial communications within the meaning of Article 1 of the European Directive to which Chapters 1 to 8 of this Act do not apply.

##### **Article 9.18**

After this Act enters into force:

- a. [repealed;]
- b. the Decree of 23 June 1988 (Act of Bulletins and Decrees 341), containing rules for the implementation of Article 173 of the Media Act, shall be based on Article 6.26, paragraph 1;
- c. the Regulation on Supervisory Costs for Commercial Broadcasting shall be based on Article 3.30, paragraph 2;
- d. the Regulation on designation and use of frequency range for commercial radio broadcasting 2003 shall be based on Article 6.23, paragraphs 1 and 2.

**Article 9.19**

The Media Act is repealed.

**Article 9.20**

1. This Act shall enter into force on a date to be determined by royal decree, which date may be different for the various sections or parts thereof.
2. If this Act enters into force after 31 December 2008, Articles 2.143, 2.144 and 9.1, under a, shall have retroactive effect to 1 January 2008.

**Article 9.21**

1. This Act is cited as Media Act 2008.
2. When placed in the Official Gazette, the indication «20..» in this Act is always replaced by the year of the Official Gazette in which this Act is published.

We order and command that this shall be published in the Bulletin of Acts and Decrees and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

The Hague, 29 December 2008

Beatrix

The Minister of Education, Culture and Science

R. H. A. Plasterk

Issued on the thirtieth of December 2008

The Minister of Justice,  
E. M. H. Hirsch Ballin