

# Broadcasting Services on Bonaire, St. Eustatius and Saba (BES / CN)

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## Introduction

This page contains information on how to apply for permission to provide a broadcasting service on Bonaire, St. Eustatius or Saba and the requirements that the broadcasting organisation and the content of its programme service must meet.

### Broadcasting organisation

The BES Media Act (*Mediawet BES*) describes a broadcasting organisation as a 'legal person governed by private law with full legal capacity or a natural person providing a broadcasting service'. A **broadcasting service** provides a programme service established on the basis of a chronological schedule by the provider, which bears editorial responsibility for the programming service and broadcasts by electronic means for simultaneous reception by the general public or a part thereof. The BES Media Act also distinguishes between a radio broadcaster and a television broadcaster. A radio broadcaster is a broadcasting service that provides a radio programming service. A television broadcaster is a broadcasting service that provides a television programming service.

### Public Entity

The permission will state the public entity or public entities to which it relates, and whether the permission concerns a radio or a television broadcaster. Permission to provide a television broadcasting service includes permission to provide a teletext service.

## 1. Applying for permission

### 1.1 Who can apply?

In principle, any natural or legal person may obtain permission to provide a commercial broadcasting service. An application will **not** be accepted if:

- the natural or legal person does not fall within the jurisdiction of the Kingdom of the Netherlands;
- the natural person is a minor;
- the legal person is in formation.

### 1.2 How to apply?

A broadcasting organisation is required to obtain permission from the Dutch Media Authority (DMA). All applications must be **in writing and signed**.

In order to assess your application, the DMA requires the following information:

For an application by a **natural person**:

- proof of registration in the Personal Information Register for the Dutch Antilles and Aruba (*Persoonsinformatievoorziening Nederlandse Antillen en Aruba*, or 'PIVA');

- a copy of your authorisation from the Radiocommunications Agency Netherlands (*Agentschap Telecom*);<sup>1</sup>
- a statement of the type of programming service to be provided: radio or television;
- the name of the broadcasting channel.

For an application by a **legal person**:

- a recent extract from the Trade Register of the Chamber of Commerce and Industry;
- a statement of the type of programming service to be provided: radio or television;
- the name of the broadcasting channel.

### 1.3 The assessment

Once it has received all the necessary information, the DMA assesses whether one of the following **grounds for refusal** applies:

- a. the information provided is incorrect or incomplete;
- b. there is reason to expect that the applicant will not comply with the statutory regulations.

If the DMA finds that there is no ground for refusal, the applicant will be granted **permission** to provide a broadcasting service for a term of **10 years**.

Permission is **not transferable** and legally expires at the end of the permission term.

The permission will state the public body or public bodies to which it relates, and whether the permission concerns a radio or a television broadcaster. Permission to provide a television broadcasting service includes permission to provide a teletext service.

The **term** within which the DMA is required to process the application is up to eight weeks. If the DMA requires further information in order to reach a decision, the applicant will be asked to supplement their application. The eight-week term will be suspended in this case until such time as the DMA has received the requested information.

### 1.4 Withdrawal of permission

The DMA may withdraw its permission if the broadcasting organisation:

- a. requests the DMA to do so;
- b. turns out to have provided incorrect or incomplete information in its application; or
- c. fails to comply with the provisions of or pursuant to the Act.

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<sup>1</sup> As referred to in Section 15 of the BES Telecommunications Act (*Wet telecommunicatievoorzieningen BES*)

## 2. Requirements with respect to the programming service

Among other things, the BES Media Act and the Media Decree set the following requirements regarding the content of the programming service:

### **Prohibition on sponsoring programmes consisting of news, current affairs and political information**

Programmes consisting of news, current affairs and political information must be exempt from commercial control by third parties. This is important in order to ensure objective, impartial and independent provision of information.

### **Restrictions on the duration of, and requirements for, advertisements**

Advertisements must be recognisable as such. This means that commercial breaks must be clearly separated from the rest of the programme's (editorial) content, both at the start and the end of the broadcast. This may be accomplished, for example, through the use of a theme tune. Another rule is that programmes must not contain more than 12 minutes of advertisements per hour.

### **Requirement of an editorial charter**

The purpose of the editorial charter is to ensure the independence of the broadcaster's editorial staff in performing their journalistic duties. The charter also provides for the rights and obligations of employees in relation to the broadcaster's journalistic role.

Editorial staff must be free to perform their work at all times, also if this appears to conflict with commercial or other interests, since there must be room for criticism of their own advertisers or sponsors.

### **Requirement to announce or list names of sponsors for sponsored programmes**

If a programme is sponsored, the name(s) of the sponsor(s) must always be clearly announced or listed. The purpose of listing the name(s) of the sponsor(s) is to inform the audience. When a programme is sponsored, the fact that it is sponsored and the name(s) of the sponsor(s) are both clearly announced or listed for the purpose of informing the viewers. This means such an announcement must be clearly audible or readable. An example of a clear sponsorship announcement is: 'This segment of the programme was produced with the support of...'

### **Prohibition on airing content which is harmful to minors**

Broadcasters are prohibited from airing content which is seriously harmful to minors. The Dutch Media Authority directly monitors compliance with this prohibition.

### **Restrictions on advertising for alcoholic beverages and tobacco products**

Advertising for alcoholic beverages must not be targeted at minors.

Advertisements for alcoholic beverages may be aired only between 10:00 p.m. and 1:00 a.m.

The duration of adverts for alcoholic beverages must never exceed 60 seconds. There must be an interval of at least 10 minutes between any such adverts.

### **Restrictions on advertising for medications**

Advertising medications on television is permitted subject to specific terms and conditions.

This point exclusively concerns television broadcasters. Advertising for medications must be truthful, genuine and verifiable.

From a public-health perspective, advertisements must solely provide factual information to viewers with the appropriate level of integrity.

### **3. The requirements for the media institution**

A broadcasting organisation shall archive recordings of the programming service it provides for one month after transmission and shall provide the original or a copy of the transmission to the DMA within 24 hours on request.

A broadcasting organisation shall not broadcast programming that may cause serious harm to the physical, mental or moral development of minors.

### **4. Other provisions**

The permission granted applies for 10 years and expires at the end of this term. Applications for an extension of permission must be submitted to the DMA not less than five months before the current permission expires.

If the media institution no longer wishes to make use of the permission, it must request the DMA to withdraw it. If the media institution wishes to change the name of the programme channel for which permission is granted, it must notify the DMA accordingly in writing as soon as possible.

Permission is not transferable. Transfer does not occur if there is only a change to the control structure due to share transactions. In this case, the name of the legal person to which permission was granted remains the same.

# Application form permission commercial broadcasting service BES

Name broadcasting

organization: .....

Station call: .....

Type of broadcasting

service (radio/television): .....

Address: .....

.....

Address studio: .....

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Telephone number: .....

E-mail: .....

Website: .....

Contact person: .....

Date: .....

Signature: .....

**Add to this application:**

- proof of registration in the Personal Information Register for the Dutch Antilles and Aruba (*Persoonsinformatievoorziening Nederlandse Antillen en Aruba*, or 'PIVA'); OR
- a recent extract from the Trade Register of the Chamber of Commerce and Industry;
- a copy of your authorisation from the Radiocommunications Agency Netherlands (*Agentschap Telecom*)