

INDIREG

FINAL REPORT – ANNEX

Indicators for independence and efficient functioning of audiovisual media services regulatory bodies for the purpose of enforcing the rules in the AVMS Directive” (SMART 2009/0001)

Annex II – Country Tables – Japan

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I. GENERAL INFORMATION

Table 1 - Market data

This table is aimed at gathering information on the number of audiovisual media services that are supervised in the country.

Country	Number of linear commercial services	Number of non-linear commercial services	Number of public service channels (PSBs)
Japan	781 in total Terrestrial: 127 (total operators nationwide, among which 13 are independent broadcasters operating locally, the rest of which belonging to one of the five "Key Networks" formed under the five major broadcasters in Tokyo) Satellite: 117 Cable: 537 (excluding those which retransmit terrestrial channel programmes only) Mobile: 5 (plus local broadcasters in the region, if any)	22 in total PC /broadband: 9 Cable: 2 IPTV (STB): 6 Mobile: 5	10 in total Terrestrial: NHK1*, NHK2* Satellite : NHK BS1*, NHK BS2*, NHK BS HDTV Mobile: 1 *Each on two channels; analogue and digital Above not including NHK World TV (English broadcast) and non-linear service (NHK Ondemand for PC and mobile)

Table 2 - Audiovisual laws and regulatory bodies

This table lists the regulatory bodies in charge of overseeing the areas covered by the Audiovisual Media Services (AVMS) Directive, in relation to commercial linear television, non-linear audiovisual media services and public service broadcasters (PSBs). It also lists the relevant laws.

Country	Areas	Main laws	Regulatory body in charge of commercial television	Regulatory body in charge of non-linear commercial media services	Regulatory body in charge of PSB
Japan	Information requirements (art. 5 AVMS Directive)	N/A	Ministry of Internal Affairs and Communications (MIC)	MIC	MIC
	Audiovisual commercial communication, sponsorship, product placement (Art. 9 – 11 AVMS Directive)	Self-regulation for commercial broadcasters -> <u>NAB (the National Association of Commercial Broadcasters in Japan) Standard of broadcast:</u> http://nab.or.jp/ For PSB, Broadcasting law (BL) (Ar 46; ban commercials) applies	MIC	MIC	MIC

Country	Areas	Main laws	Regulatory body in charge of commercial television	Regulatory body in charge of non-linear commercial media services	Regulatory body in charge of PSB
	Accessibility to people with a disability (Art. 7 AVMS Directive)	BL (Ar 3-4)	MIC	MIC	MIC
	Broadcasting of major events (Art. 14 AVMS Directive)	N/A	MIC	MIC	MIC
	Access to short news reports (Article 15 AVMS Directive)	N/A	MIC	MIC	MIC
	Promotion of European works (Art. 13, 16, 17 AVMS Directive)	Implicit in <u>BL (Ar 3)</u> *Self-regulation: Each broadcaster must establish its standards of broadcast program, which should reflect the advice from its consultative organisation Also implicit in <u>BL (Ar 52-3)</u> , which forbids contracts that will eliminate the broadcast of local programmes.	MIC	MIC	MIC *Self-regulation: Each broadcaster must establish its standards of broadcast program, which should reflect the advice from its consultative organisation. Consultative committee www.nhk.or.jp/pr/keiei/kijun/index.htm
	Hate speech (Art. 12 and 6 AVMS Directive)	Implicit in BL (Ar 3) *Self-regulation: Each broadcaster must establish its standards of broadcast program, which should reflect the advice from its consultative organisation.	MIC	MIC	MIC *Self-regulation: Each broadcaster must establish its standards of broadcast program, which should reflect the advice from its consultative organisation. Consultative committee www.nhk.or.jp/pr/keiei/kijun/index.htm
Television advertising and teleshopping, (Art. 19 – 26 AVMS Directive)	BL (partially Art 51-1, 51-2) Self-regulation -> <u>NAB Standard of broadcast:</u> http://nab.or.jp/	MIC	MIC	MIC	

Country	Areas	Main laws	Regulatory body in charge of commercial television	Regulatory body in charge of non-linear commercial media services	Regulatory body in charge of PSB
	Protection of minors (Art. 27 AVMS Directive)	Implicit in BL (Art 3) *Self-regulation: Each broadcaster must establish its standards of broadcast program, which should reflect the advice from its consultative organisation	MIC	MIC	MIC *Self-regulation: Each broadcaster must establish its standards of broadcast program, which should reflect the advice from its consultative organisation. Consultative committee www.nhk.or.jp/pr/keiei/kijun/index.htm
	Right of reply (Art. 28 AVMS Directive)	BL (Art 4: Correction Broadcasting)	MIC	MIC	MIC
	Communication and cooperation with other European regulation bodies and the Commission (Art. 30b AVMS Directive)	N/A	N/A	N/A	N/A

Table 3 - Regulatory bodies – general information

This table provides basic information on the regulatory authority (name, website address, date of establishment and location).

Country	Name of regulatory body	Link to website	Date of establishment	Location
Japan	The Ministry of Internal Affairs and Communications (MIC) (Information and Communications Bureau mainly oversees the broadcast sector. See also Table 5)	www.soumu.go.jp/english/index.html	January 6, 2001 For more history see; www.soumu.go.jp/menu_news/kouhoushi/soumu_p/pdf/01_y.pdf	1-2 Kasumigaseki 2-chome, Chiyoda-ku. Tokyo 100-8926, Japan + 81-3-5253-5111

Table 4 - Sectors covered

This table provides an overview of the areas that are covered by the regulatory authority.

Country	Body	Audiovisual content (radio/TV, on demand media services)	Transmission aspects of audiovisual content (e.g. spectrum)	Distribution aspects of audiovisual content (e.g. must carry, EPG, API)	Spectrum	Electronic communications (networks and services in general)	Others (e.g. energy, post)
Japan	MIC	Yes	Yes For all services	Yes	Yes	Yes	<ul style="list-style-type: none"> • administrative organizations • the public service personnel system • local administration and finance • electoral systems • fire fighting and disaster prevention • information and communications • postal services, systems

Table 5 - Staff and overall budget

This table provides an overview of the staff and overall budget of the regulatory authority. The figures are given for the areas covered by the AVMS directive (where possible) for regulators with a broader area of responsibility.

Country	Body	Total number of staff foreseen in statutes/law	Current staff count	Annual budget (€m) foreseen in statutes/law	Current annual budget	Reference year +source
Japan	<p>The Ministry of Internal Affairs and Communications (MIC)</p> <p>Relevant bureaus</p> <p>Information and Communications Bureau (broadcast)</p> <p>Telecommunications Bureau (telecoms and spectrum management)</p>	<p>Staff number for the MIC main function* in statute for FY 2008 is 5001-5031.</p> <p>*The number does not include the affiliated agencies, i.e. the Environmental Dispute and the Coordination Commission and Fire and Disaster Management Agency</p>	<p>Total staff: 5238, among which,</p> <p>Information and Communications Bureau: 279</p> <p>Telecommunications Bureau: 295</p> <p>Global ICT Strategy Bureau: 196</p> <p>Regional Bureaus of Telecommunications: 1413 (monitors use of</p>	<p>Expenditure; JPY 19.5tn (€172bn)</p> <p>Consisting mostly of the transfer of local allocation tax (from national tax revenue to local governments)</p> <p>(Revenue; JPY 370.9bn, €3.28bn)</p> <p>Including spectrum fees , amount foreseen is not</p>	<p>Expenditure; JPY 17.3tn (€153.2bn)</p> <p>Consisting mostly of the transfer of local allocation tax (from national tax revenue to local governments)</p> <p>(Revenue: JPY 379.4bn (€3.36bn) Including spectrum fees, JPY 75bn (€664m))</p> <p>General accounts covering the</p>	<p>FY2008 Financial statement (Report on General Account Budget)</p> <p>www.soumu.go.jp/main_content/00051704.pdf</p> <p>staff count >> p24</p> <p>financial statements summary >> p 26</p> <p>FY2008 Statement outline</p> <p>www.soumu.go.jp/menu_yosan/gaiyo_h20.html</p>

Country	Body	Total number of staff foreseen in statutes/law	Current staff count	Annual budget (€m) foreseen in statutes/law	Current annual budget	Reference year +source
	<p>Global ICT Strategy Bureau (international competitiveness)</p> <p>Regional Bureaus of Telecommunication (spectrum use monitoring and enforcement)</p>	<p>http://law.e-gov.go.jp/htmldata/H13/H13F11001000004.html</p> <p>The number of staff responsible for audiovisual matters is not specified in the law.</p>	<p>spectrum, is responsible for enforcement)</p> <p>FY2008 Financial statement P24</p> <p>www.soumu.go.jp/main_content/000051704.pdf</p> <p>Staff count >> p24 Financial statements summary >> p 26</p>	<p>available)</p> <p>General accounts covering the overall situation</p> <p>Figures taken from FY2008 statement outline >> www.soumu.go.jp/menu_yosan/gaiyo_h20.html</p> <p>-----</p> <p>FY 2008 budgetary request JPY 16.751tn ** (€148.36bn)</p> <p>>> ICT budget request JPY 103.5bn* (€916.7m) Audiovisual specific budget unknown.</p> <p>*Figure taken from >>, www.soumu.go.jp/english/pdf/mic.pdf</p>	<p>overall situation</p> <p>Figures taken from FY2008 statement outline >> www.soumu.go.jp/menu_yosan/gaiyo_h20.htm</p> <p>----</p> <p>FY2009 budgetary request JPY 17.7359tn** (€157bn)</p> <p>>> ICT budget request JPY 101.2bn ** (€896.3m) Audiovisual specific budget unknown.</p> <p>**Figures taken from p1, p2, FY2009 Budget Request www.soumu.go.jp/menu_news/s-news/2008/pdf/081224_5.pdf</p>	<p>FY2009 budget request www.soumu.go.jp/menu_news/s-news/2008/pdf/081224_5.pdf</p> <p>FY2008 budget information (English) www.soumu.go.jp/english/pdf/mic.pdf</p>

II. INSTITUTIONAL FRAMEWORK

Table 6 - Legislation establishing and governing the regulatory body

This table shows the legislation setting up and governing the regulatory authority.

Country	Body	Legislation setting-up the regulatory body	Governing legislation
Japan	MIC	<p>Law establishing the Ministry of Internal Affairs and Communications (Law No. 91 of July 16, 1999)</p> <p>http://law.e-gov.go.jp/htmldata/H11/H11HO091.html</p>	<p>Order for the Organization of the MIC (Law No 246 of June 6, 2000)</p> <p>http://law.e-gov.go.jp/htmldata/H12/H12SE246.html</p>

Table 7 - Legal status

This table provides information on the legal status taken by the regulatory authority.

Country	Body	What form does it take?	It is a separate legal entity?	If it is not a separate legal entity, it is part of:	Specific organisational characteristics	Source
Japan	Part of legal entity	Particular bureaus in a ministry	No	the Ministry of Internal Affairs and Communications		www.soumu.go.jp/english/index.html www.soumu.go.jp/

Table 8 - Independence as a value

This table is intended to capture whether independence of the regulatory body is explicitly or implicitly recognised as a value in the legal framework.

Country	Body	Is independence implicitly or explicitly recognised as a value in the legal framework?		Source (highest formal legal level)
		No	Yes	
Japan	MIC	√		

III. POWERS OF THE REGULATORY BODIES

Table 9 - Regulatory powers

This table is aimed at understanding the types of decisions that can be taken by the regulatory body.

We have distinguished from a theoretical point of view, between:

- general policy setting powers, i.e. the power to decide on the general orientation of the rules to be followed (for instance the power to decide on the amount of quotas)
- general policy implementing powers, i.e. once the general policy has been adopted, to specify by means of general or abstract rules how this general policy will be implemented (for example to decide in general terms (not connected to a specific case) how the quotas should be applied and monitored)
- third party binding policy application powers, i.e. the power to take in a specific case a decision binding on specific operators

Country	Body		General policy setting	General policy implementing powers	Third party decision making powers
Japan	MIC	Tick boxes	√	√	√
		Areas	Regulation and promotion of the ICT sector including broadcast Matters related to the PSB Spectrum management and enforcement Monitoring the use of equipment	See left column	Breach
		Source	Law establishing the Ministry of Internal Affairs and Communications (Law No. 91 of July 16, 1999) http://law.e-gov.go.jp/htmldata/H11/H11HO091.html	Law establishing the Ministry of Internal Affairs and Communications (Law No. 91 of July 16, 1999) http://law.e-gov.go.jp/htmldata/H11/H11HO091.html	Penal provisions; Chap 6, BL; Chap 10 .RL, Disqualification; Art 5, RL Revocation; Art 76, RL

Table 10 - Supervision and monitoring power

This table is aimed at understanding the supervision/monitoring/information gathering powers of the regulatory body.

Country	Body	Areas	Systematic monitoring	Ad-hoc monitoring	Information collection powers	Monitoring only after complaints	Others	Source (legislation, or practice)
Japan	MIC	Quotas			√			Legislation
		Advertising			√			Legislation
		Protection of minors			√			Legislation
		Except revocation (Art. 76 RL) and disqualification (Art. 5 RL), there are no serious penal provisions in the law. Nor does the law provide for a specific system about monitoring However, the MIC may require information for the purposes of law enforcement (Art. 53-8 BL, Art. 81 RL). Regulatory action is expected to be taken on an ex-post basis. The same applies below (Table 11 - 13).						

Table 11 - Powers of sanctions

This table provides an overview of the sanctions that can be adopted by the regulatory body in case of breach of the rules implementing the AVMS Directive on quotas, advertising and protection of minors.

Country	Body	Areas	Warnings/formal objections	Fine (lump sum) If so, list maximum and minimum amounts	Publication of decisions in the media	Suspension/Revocation of licence	Penalty payments (in case of non compliance with decision)	Others
Japan	MIC All sanctions are discretionary	Quotas	√	N/A	√	√	√	
		Advertising	√	N/A	√	√	√	
		Protection of minors	√	N/A	√	√	√	

Table 12 - De facto use of formally granted competences and monitoring powers

This table shows whether the regulatory body has made use of its formally granted powers in the areas covered by the AVMS Directive within the past 5 years.

Country	Body	Policy setting	General policy implementing powers	Specific rule making	Systematic monitoring	Ad-hoc monitoring	Information collection powers	Monitoring after complaints
Japan	MIC						√	

Table 13 - De facto use of formally granted sanction powers

This table shows whether the regulatory body has made use of its formally granted sanction powers within the past 5 years.

Country	Body	Warnings	Fine (lump sum)	Publication of decisions in television programmes/on demand services	Suspension/Revocation of licence	Penalty payments (in case of non compliance with decision)
Japan	MIC	KTV (Kansai TV)		www.soumu.go.jp/menu_news/s-news/2007/070330_15.html#bt	The MIC sent a warning to KTV, on the ground that it had breached Art 3-2-1-iii) of the BL (distorting facts). However, the ministry stopped short of using the sanction power of revocation. March 30, 2007	

Table 14 - Complaints handling

This table shows whether there are procedures for dealing with complaints coming from viewers against conduct of audiovisual media service providers. Briefly explain them.

Country	Body	Do complaints handling procedures exist?	Link to website
Japan	<p>BPO (Broadcast Ethics and Program Improvement Organization), established on July 1, 2003 as a voluntary organisation.</p> <p>BPO currently operates the following committees: <u>the Committee for the Investigation of Broadcasting Ethics</u>, which holds discussions to improve broadcasting programs and performs corroboration with respect to alleged falsified broadcasting; <u>the Broadcast and Human Rights / Other Related Rights Committee (BRC)</u>, which helps parties whose human rights are infringed by broadcasting; and, the <u>Broadcast Committee for Youth Programming</u>, which organizes opinion exchanges and conducts surveys and research designed to improve broadcast programs targeting the youth.</p>	<p>Yes</p> <p>The viewers or listeners whose human rights are infringed upon by broadcasting first contact the broadcaster, who should take necessary steps to solve problems.</p> <p>If the situation does not improve, they contact the BPO (phone & fax numbers on its HP)</p> <p>Based on the complaints and submitted information, the BPO considers whether the case is worthy of investigation. If it is decided so, the BPO conducts further inquiry and holds hearing sessions with the interested parties as necessary.</p> <p>The result is informed to the both parties, as well as published. It takes the form of either an “opinion” or “recommendation”. Except for cases where there were no problems was found, the BPO requests the broadcaster to broadcast the result of investigation and to report on the measures taken to rectify the situation</p>	<p>www.bpo.gr.jp/bpo/english/index.html</p>

IV. INTERNAL ORGANISATION AND STAFFING

Table 15 - Highest decision-making organ – composition

This table shows whether the highest decision-making organ of the regulatory body/bodies (i.e. the organ responsible for regulatory tasks, namely supervision and enforcement) is an individual or a board/commission and if it is a board/commission, who are its relevant representative components

Representation does not necessarily mean formal representation of that group. It can mean that the board member is expected to emanate from that group, but does not have to formally represent it during the mandate.

Country	Body	Individual or Board	Legal requirements regarding composition of highest decision-making organ						Implicit representation structures?	Source
			Number of Board members	Representatives of civil society	Representatives of government	Representatives of parliament	Representatives of industry	Experts		
Japan	MIC	Minister								

Table 16 - Highest decision-making organ – competences and decision-making process and transparency

This table shows the main fields of responsibility of the highest decision-making organ of the regulatory body as well as its decision-making process (in particular its transparency and whether minutes and agendas are published).

Country	Body	Competences	Decision-making process	Is the decision making process transparent?	Minutes and agendas published?
Japan	Minister	All	n/a	n/a	n/a
	Highest decisions are made by the minister, but not by a decision making organ. The question is not relevant in the Japanese context.				

Table 17 - Highest decision-making organ – appointment process

This table shows whether there are several stages in the appointment process of the chairman and members of the highest decision-making organ of the regulatory body, for the nomination and appointment phases respectively. It also shows who is involved in each of these two stages (government, minister, parliament, civil society, religious groups, political parties, board members, board chairman, others) and whether the appointer(s) can override the proposals made at the nomination stage.

Country	Body		Nomination stage Yes – No	Nomination stage Specify who is involved in that stage and who has the decisive say	Appointment stage Specify who is involved in that stage and who has the decisive say	If there are two stages, can the appointer ignore the nominations?	Source
Japan	n/a	Chairman	n/a	n/a	n/a	n/a	
		Board members	n/a	n/a	n/a	n/a	

Table 18 - Term of office and renewal

This table shows the term of office of the chairman and members of the highest decision-making organ of the regulatory body and whether the term is staggered not to coincide with election cycles. It also indicates if appointment is renewable and for how many times.

Country	Body		Term of office	Is the term staggered not to coincide with election cycle?	Renewal possible? If so, state how many times	Source
Japan	N.A.	Chairman of the board	n/a	n/a	n/a	
		Board members	n/a	n/a	n/a	

Table 19 - Professional expertise/qualifications

This table illustrates the qualifications and professional expertise required to become a chairman or member of the highest decision making organ of the regulatory body.

Country	Body		Qualifications	Professional expertise	Source
Japan	N.A.	Chairman of the board	n/a		n/a
		Board members			
		N.B. the Minister must be civilian. (Ar. 66, Constitution)			

Table 20 - Rules to guard against conflicts of interest – Appointment process

This table shows whether there are clear rules, in the appointment process of the chairman and members of the highest decision-making organ of the regulatory body, to avoid possible conflicts of interest.

Country	Body		Do such rules exist?		Rules to prevent conflicts of interest with government	Rules to prevent conflicts of interest with political parties	Rules to prevent conflicts of interest with industry	Can other offices be held at the same time?	Others (e.g. obligation to disclose participations in companies)	Source
			Yes	No						
Japan	N.A.	Chairman	n/a							
		Senior staff	n/a							

Table 21 - Rules to guard against conflicts of interest – during term of office

This table shows whether there are rules to avoid conflicts of interest during the term of office.

Country	Body		Do such rules exist?		Rules to prevent conflicts of interest with government	Rules to prevent conflicts of interest with political parties	Rules to prevent conflicts of interest with industry	Source
			Yes	No				
Japan	N.A.	Chairman	n/a					
		Senior staff	n/a					
		Rules applied to the Minister during the term (the Code of conduct for ministers; http://www.cas.go.jp/jp/siryoku/kihan.html) The Minister cannot occupy a position in a profit making organisation or a public interest corporation. He/she must refrain from dealing with marketable securities or investing in real estate. Securities should be entrusted to an organisation such as trust banks, and no change should be made to the contracts with those organisations during the term. He/she must disclose the assets held by the spouse and children. He/she should not organise excessively large gatherings such as parties for political fund raising that would attract public attention.						

Table 22 - Rules to guard against conflicts of interest – after term of office

This table shows whether there are clear rules to avoid conflicts of interest after the term of office.

Country	Body		Do such rules exist?		Is a cooling-off period foreseen?	Source
			Yes	No		
Japan	N.A. No rules exist for after term of office.	Chairman	n/a			
		Board members	n/a			
		Senior Staff	n/a			

Table 23 - Rules to protect against dismissal

This table shows the rules to protect against dismissal of the whole decision making organ, the chairman and individual members of the highest decision-making organ of the regulatory body. Please add any other comments in the row below.

Country	Body		Do such rules exist?		Who can dismiss? Specify who is involved in that stage and who has the decisive say	Grounds for dismissal listed in legal instrument?	Can the whole body be dismissed or only individual members?	Source
			Yes	No				
Japan	Minister	Rules applied to the Minister: The Prime Minister may remove the Ministers of State as he chooses (Article 68, Constitution). The Ministers, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister. (Article 75, Constitution)						

Table 24 - Dismissal before term

This table shows available statistics on dismissal before term in the last 5 years as well as the reasons for this dismissal.

Country	Body	Year		Dismissal before term		Reasons	Comment
				Yes	No		
Japan	Not relevant in the Japanese context.	2005-2009	Chairman				
			Individual board members				

V. FINANCIAL RESOURCES

Table 25 - Sources of income

This table shows the sources of income of the regulatory authority.

Country	Body	End-user broadcasting licence fees (max level)	State budget	Spectrum fees	Authorisation/licence fees paid by broadcasters	Fines	Other fees, e.g., 'market surveillance fee' based on % of revenues of broadcasters (or other operators – e.g. in case of converged regulators)	Source
Japan	MIC	No	JPY 28.43bn (€250.57) (ICR estimate, not official figure)	JPY 75.01bn (€661.1m)	JPY 0.6bn (€5.3m) (Handling charges, etc)	No	No	FY2008 financial statement www.soumu.go.jp/main_content/000051704.pdf Spectrum fees www.tele.soumu.go.jp/j/sys/fees/account/index.htm

Table 26 - Annual budget

This table shows who decides on the annual budget of the regulatory body and decides on adjustments to it as well as the extent to which the regulatory body is involved in these processes.

Country	Body	Who decides the annual budget?	Is the regulator involved in the process?	Rules on budget adjustment – who is involved in the process (e.g. parliament, government and/or industry) ?	De facto influence of third parties on budget amounts	Source
Japan	MIC	Parliament (Diet)	Yes <ul style="list-style-type: none"> drafts budget request negotiates with the MOF 	Each ministry submits its budget request* to the Ministry of Finance in August. The MOF assesses the budgets and engage in negotiations until December, when it produces its budget draft. After further negotiations with the requesting ministries, the MOF submits the budget proposal to the Cabinet in January, which submits it to the Diet for deliberation. The Diet passes the budget bill by the end of March, or of the fiscal year.	Only potential influence on the MIC's budget request, in so far as relevant parties may have influenced the MIC's policy making.	www.mof.go.jp The Constitution The Public Finance Act

Table 27 - Financial accountability – auditing

This table shows if the regulatory authority is subject to periodic financial auditing.

Country	Body	Is the regulatory body subject to periodic external auditing?					
		Yes/no	Periodicity	By national (state) audit office, etc.	Private audit firm	Other	Legal basis
Japan	MIC	Yes	Annual (plus as needed)	The Board of Audit of Japan (National)	No	No	The Constitution The Board of Audit Act

VI. CHECKS AND BALANCES

Table 28 - Formal accountability

This table shows to whom the regulatory body is accountable to and through which means (e.g. reports, parliamentary questions).

Country	Body	Body accountable to		Accountability means	Legal basis
Japan	MIC	Parliament	Yes	Answer parliamentary questions and/or submit reports	The Diet Act
				Submit policy evaluation report*	The Government Policy Evaluations Act
		Government as a whole	Yes	Mutual coordination and liaison among the Administrative Organs of the State	The National Government Organization Act
				Specific ministers (e.g. Media, finance, etc)	Yes
		Submit policy evaluation report to the MIC (Administrative Evaluation Bureau)*	The Government Policy Evaluations Act		
		Public at large	Yes	public consultation disclose policy evaluation reports	The Administrative Procedure Act The Basic Act on Central Government Reform
		Other	Yes	Seek opinions from advisory bodies that have outside experts as members	The Law establishing the Ministry of Internal Affairs and Communications
				Publish policy evaluation reports in press releases and pick-up copies held at PR centres, as well as posting on an Internet web site	The Government Policy Evaluations Act

Country	Body	Body accountable to	Accountability means	Legal basis
				<p>Although not required by law, the MIC publishes a white paper each year for the general public.</p> <p>* All ministries are required to conduct policy evaluation. Report containing all results is prepared and submitted by the MIC to the Diet as well as the public each summer, before the closing of budgetary requests. .</p> <p>** Final accounts of the expenditures and revenues of the State shall be audited annually by a Board of Audit and submitted by the Cabinet to the Diet, together with the statement of audit, during the fiscal year immediately following the period covered. The organization and competency of the Board of Audit shall be determined by law. (Article 90 of the Constitution). The board of audit does not belong to any ministry and is independent from the Cabinet. (Art. 1 & 2 of the Board of the Audit Act). See www.jbaudit.go.jp/engl/pdf/contents01_status.pdf</p>

Table 29 - Reporting obligation

This table is aimed at understanding the scope of the reporting obligation.

Country	Body	Report submitted to	Periodicity	Scope	Does statistical data need to be provided about own performance? Explain	Approval necessary?	Has a report been disapproved ?	Link
Japan	MIC	MIC (Administrative evaluation Bureau)	Annual	Performance linked to objectives and clearly defined indicators	Broadly yes The law requires the evaluation should 1) use as quantitative a method as possible, 2) employ outside experts as appropriate. (Statistical data may be considered necessary but the indicator may vary depending on each policy objective e.g.broadband coverage, airtime ratio of subtitled programmes for those with hearing impairment, overseas seminars organised by the MIC)	Yes	No	www.soumu.go.jp/english/aeb/index.html www.soumu.go.jp/main_sosiki/hyouka/seisaku_n/pes.html (in English)
		No Ministries may hold public consultation if needed						
		Parliament, Public						

Table 30 - Auditing of work undertaken

This table shows if the regulatory body is subject to periodic external auditing, either by a private or a national audit office.

Country	Body	Is body subject to periodic external auditing					
		Yes/no	Periodicity	By public authority	By private authority	Other	Legal basis
Japan	MIC	No Audit done by MIC itself	Every 3 to 5 years	No	No	No	The Government Policy Evaluation Act

Table 31 - Power to overturn/instruct

This table shows if (regardless of an appeal lodged against a decision) any other body can overturn the decisions of the regulator or give it instructions.

Country	Body			Ministry/Minister	Government	Parliament	Other	Source
Japan	MIC	Does anybody have the power to overturn decisions of the regulator?	Yes	Prime Minister	No	No	No	Art. 8 of the Cabinet Act provides for the Prime Minister's a power to suspend administrative measures Art. 72 of the Constitution states that the Prime Minister exercises control and supervision over various administrative branches
		Does anybody have the power to give instructions to the regulatory body?	Yes	Prime Minister	No	No	No	Art. 72 of the Constitution states that the Prime Minister exercises control and supervision over various administrative branches
		Are there limitations in the power to overturn (e.g. limited to legal supervision, which would exclude political supervision)?	No (not clear)	N/A	N/A	N/A	N/A	<i>No information available</i>

Country	Body			Ministry/Minister	Government	Parliament	Other	Source
		Are there limitations in the power to give instructions (e.g. limited to legal instructions which exclude instructions on political grounds)?	No (not clear)	N/A	N/A	N/A	N/A	<i>No information available</i>
Apart from the above rare cases, administrative decisions may face court challenges. Court decisions may overturn the administrative decisions.								

Table 32 - Number of stages in appeal procedure

The following tables are concerned with the appeal procedure relating to decisions taken in relation to the enforcement of the rules listed in the AVMS directive (eg. non-compliance with quota requirements if binding, advertising, protection of minors, etc.). The stages include the internal stages.

Country	Body	Stage	Number of stages in appeal procedure and appeal body at each stage	Do internal procedures need to be followed before external recourse?	Who has the right to lodge an appeal?	Legal basis
Japan	MIC <i><u>Procedure defined for decisions based on the RL</u></i> *	Internal	1 the Radio Regulatory Council / Commission ('Commission' is used in later translation)	Yes	Not specified	RL
		External	1 the Tokyo High Court			

Table 33 - Does the regulator's decision stand pending appeal?

Country	Body	Does regulator decision stand pending appeal body decision?			
		Yes	No	Yes, unless appeal body suspends it	Other
Japan	MIC			√	Art. 99, RL

Table 34 - Accepted grounds for appeal

Country	Body	Errors of fact	Errors of law (including failure to follow the due process)	Full re-examination	Other
Japan	MIC	N/A	N/A	N/A	Not specified in the Radio Law
	Tokyo High Court		√		N/A

Table 35 - Does the appeal body have power to replace the original decision with its own?

Country	Body	Appeal stage	Yes	No	Comments
Japan	MIC	Internal: 1 The Radio Regulatory Council		√	The appeal body has the power to cancel the decision and send it back to regulator for new decision.
		External: 1 The Tokyo High Court		√	

VII. PROCEDURAL LEGITIMACY

Table 36 - External advice regarding regulatory matters

This table shows if the regulatory body is able to take outside advice regarding regulatory questions.

Country	Body	Is a budget foreseen for outside advice?	If so, what is the budget/year?	Must the body respect public tender procedures?	Other requirements	Does the regulatory body de facto take external advice on a regular basis?
Japan	MIC	Yes (MOF)	April 1 – March 31	Yes	Ex-ante and ex-post impact assessments	The Radio Regulatory Council The Telecommunications Business Dispute Settlement Commission The Telecommunication Council Experts' advice required in Policy Evaluation Members include external experts.

Table 37 - Public consultations

This table shows if the regulatory authority is required to publish public consultations.

Country	Body	Which decisions require prior public consultation?	Requirements on who must be consulted? (e.g. broadcasters, consumer organisations, academics etc.)	Consultation period	Consultation responses published		Legal basis
					Full responses (if authorised by contributor)	Summaries prepared by regulator	
Japan	MIC	Administrative Orders, etc; -Orders established pursuant to Acts and rules, -Review Standards, -Disposition Standards, -Administrative Guidance Art 2-8, APA	The public (all parties)	Over 30 days	Yes	Yes	The Administrative Procedure Act

Table 38 - Public consultations – figures

This table shows the number of public consultations that were organised by the regulatory body in the past five years, in the areas covered by the AVMS Directive.

Country	Body	Year	Number of public consultations
Japan	MIC	2009	3 (programmes, distribution: 3)
		2008	8 (programmes, distribution: 6 - pluralism: 2)
		2007	5 (programmes, distribution: 3 - privacy: 2)
		2006	1 (pluralism: 1)
		2005	4 (privacy: 1 - pluralism: 3)

Table 39 - Publication of regulator’s decisions

This table shows if the regulatory authority is required to publish its decisions, if its decisions need to be motivated and if impact assessments are required.

Country	Body	Which decisions required by law to be published?	Obligation to motivate decisions? Legal basis?	Obligation to include/publish impact assessment? Legal basis?	
				Ex ante	Ex post
Japan	MIC	Ministerial ordinances	Yes The Administrative Procedure Act The Basic Act on Central Government Reform	Yes. See Tables 28, 29 The Government Policy Evaluations Act	Yes. See Tables 28, 29 The Government Policy Evaluations Act

VIII. COOPERATION

Table 40 - Cooperation with other regulatory authorities

Country	Body	Describe the mechanism of cooperation with other bodies	Source and form of cooperation	Can body receive instructions from other bodies? If so, state which and explain	Comments
Japan	MIC		Cooperation taking place in an ad-hoc manner	It is not obvious whether the MIC receives instructions from other ministries. Ministries need negotiate and agree on new legislation depending on its nature.	In the field of audio-visual regulation, conflicts of interests tend to arise between the MIC and the Cultural Affairs Agency.
	MIC and JFTC (Japan Fair Trade Commission)		Guidelines: Guidelines for promotion of competition in the telecommunications business field, Nov. 2001*		Co-operation defined for the field of telecommunications
	No formal cooperation mechanism with other bodies exists for audio-visual regulation. Example outside audio-visual: (Cooperation of the Minister and the Minister for Land, Infrastructure and Transport) Article 102-10 of RL, concerning spectrum management.				

Table 41 - International cooperation

Country	Body	Does it cooperate with other national regulatory bodies in EU and international fora?	Source and form of cooperation (legal basis)	Comments
Japan	MIC	N.A.	N.A.	N.A.
	Activities in organisations such as the ITU and APEC could be relevant. Also, there are meetings and symposiums where delegates are invited from the EU, as well as small scale staff exchange with overseas counterparts. The latter do not particularly intend to achieve regulatory result, however.			