

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 – Netherlands

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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)
Netherlands	250	No information unavailable Inventory ongoing; will be finalized in 2010 according to the 2009 Annual Report of the Media Authority (Commissariaat voor de Media)	343 in total (36 national and 307 regional and local)

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
Netherlands	Information requirements (art. 5 AVMS Directive)	Act of 10 December 2009 to amend the Media Act of 2008 and the Tobacco Act, to implement the Audiovisual Media Services Directive	Commissariaat voor de Media	Commissariaat voor de Media	Commissariaat voor de Media
	Audiovisual commercial communication, sponsorship, product placement (Art. 9 – 11 AVMS Directive)	Media Act 2008 www.cvdm.nl/content.jsp?objectid=8835 Act of 10 December 2009 to amend the Media Act of 2008 and the Tobacco Act, to implement the Audiovisual Media Services Directive			
	Accessibility to people with a disability (Art. 7 AVMS Directive)	Media Act 2008; Act of 10 December 2009 to amend the Media Act of 2008 and the Tobacco Act, to implement the Audiovisual Media Services Directive; Media Decree 2008 www.cvdm.nl/content.jsp?objectid=8838			

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
	Broadcasting of major events (Art. 14 AVMS Directive)	Media Act 2008 Media Decree 2008			
	Access to short news reports (Article 15 AVMS Directive)	Act of 10 December 2009 to amend the Media Act of 2008 and the Tobacco Act, to implement the Audiovisual Media Services Directive			
	Promotion of European works (Art. 13, 16, 17 AVMS Directive)	Media Act 2008 Act of 10 December 2009 to amend the Media Act of 2008 and the Tobacco Act, to implement the Audiovisual Media Services Directive; Media Decree 2008			
	Hate speech (Art. 12 and 6 AVMS Directive)	Media Act 2008 Act of 10 December 2009 to amend the Media Act of 2008 and the Tobacco Act, to implement the Audiovisual Media Services Directive; Criminal Code / Penal Code (Wetboek van Strafrecht) section 137d http://wetten.overheid.nl/BWBR0001854/geldigheidsdatum_31-03-2010	Commissariaat voor de Media Public prosecutor	Commissariaat voor de Media Public prosecutor	Commissariaat voor de Media Public prosecutor
	Television advertising and teleshopping, (Art. 19 – 26 AVMS Directive)	Media Act 2008 Act of 10 December 2009 to amend the Media Act of 2008 and the Tobacco Act, to implement the Audiovisual Media Services Directive; Media Decree 2008	Commissariaat voor de Media Self regulation on the content of advertising by Advertising Code Foundation and Advertising Code Commission (Stichting Nederlandse Reclame Code/Reclame Code Commissie).	Commissariaat voor de Media Self regulation on the content of advertising by Advertising Code Foundation and Advertising Code Commission (Stichting Nederlandse Reclame Code/Reclame Code Commissie).	Commissariaat voor de Media Self regulation on the content of advertising by Advertising Code Foundation and Advertising Code Commission (Stichting Nederlandse Reclame Code/Reclame Code Commissie).
	Protection of minors (Art. 27 AVMS Directive)	Media Act 2008; Act of 10 December 2009 to amend the Media Act of 2008 and the Tobacco Act, to implement the Audiovisual Media Services Directive;	Commissariaat voor de Media Co-regulation: NICAM (Nederlands Instituut voor Classificatie van Audiovisuele	Commissariaat voor de Media Co-regulation: NICAM	Commissariaat voor de Media Co-regulation: NICAM (Nederlands Instituut voor Classificatie van Audiovisuele

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
		Media Decree 2008	Media)	(Nederlands Instituut voor Classificatie van Audiovisuele Media)	Media)
	Right of reply (Art. 28 AVMS Directive)	Civil Code, Book 6, section 167	Civil Courts	Civil Courts	Civil Courts
	Communication and cooperation with other European regulation bodies and the Commission (Art. 30 AVMS Directive)	Not codified.	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
Netherlands	Commissariaat voor de Media (CvdM)	www.cvdm.nl	January 1, 1989	Hilversum, the Netherlands Hoge Naarderweg 78 1217 AH Hilversum Postbus 1426 1200 BK Hilversum T: 035 773 77 00 F: 035 773 77 99 E: cvdm@cvdm.nl

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)
Netherlands	CvdM	Yes	No	Yes	No	No	No

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
Netherlands	CvdM	Not specified	+/- 50 full time equivalents	To be determined annually by the Minister of Education Culture and Science on the basis of a proposal from the Commissariaat voor de Media.	€5.4m (€4.2m from the minister, €0.3m from the fixed bookprice and the rest from surveillance fees received from market players)	Annual Report 2009 of the Commissariaat voor de Media

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
Netherlands	CvdM	Media Act 2008	Media Act 2008 www.cvdM.nl/content.jsp?objectid=8835 Framework Act Independent Administrative bodies

Country	Body	Legislation setting-up the regulatory body	Governing legislation
			http://wetten.overheid.nl/BWBR0020495/geldigheidsdatum_04-01-2010 (Kaderwet zelfstandige bestuursorganen) General Administrative Law Act (Algemene Wet Bestuursrecht)

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
Netherlands	CvdM	Independent administrative authority	Established by statute under the Media Act of 1988 as a public entity with legal personality		Governed by the general statutory rules which apply to all independent administrative authorities	Framework Act Independent Administrative Authorities Media Act 1988 (establishment of CvdM) Media Act 2008 (current legal basis)

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	
Netherlands	CvdM		√	Media Act 2008

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
Netherlands	CvdM	Tick boxes	No	√	√
		Areas		Licensing, maintenance provisions and obligations regarding quota, advertising, sponsoring, and specific supervision on PSB issues like control of financing and secondary activities.	Licensing, maintenance provisions and obligations regarding quota, advertising, sponsoring, and specific supervision on PSB issues like control of financing and secondary activities.
		Source		Media Act 2008	General act Media Act 2008

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)
Netherlands	CvdM	Quotas	√		√			Media Act 2008 General Administrative Law Act (Art. 5:20)
		Advertising	√	√	√			Media Act 2008 General Administrative Law Act (Art. 5:20)
		Protection of minors	Done by NICAM (See Table 2)			√	Done by NICAM (See Table 2)	

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
Netherlands	CvdM	Quotas	√ all sanctions are discretionary	√ Max. €225,000		√	√	
		Advertising	√	√ Max. €225,000		√	√	
		Protection of minors	√	√ Max. €225,000		√	√	

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
Netherlands	CvdM	N/A	√	√	√	√	√	√ (also)

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)
Netherlands	CvdM	√	√	N/A	Usually regarded as disproportionate and has not been imposed	√

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
Netherlands	CvdM	Yes But a general procedure based on the General Administrative Act exists. A natural person or legal entity having a direct interest can lodge an appeal with the administrative body that has to hold a hearing.	General Administrative Act: Awb (Algemene Wet Bestuursrecht) Chapter 5 and 6

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	Others (e.g. regions)		
Netherlands	CvdM	Board	3 or 5 In practice always 3	0	0	0	0	3	0	None	Media Act 2008 (Chapter 7) General Administrative Law Act Framework Act Independent Administrative Authorities

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?
Netherlands	CvdM	Administrative enforcement of the provisions of or under the Media Act 2008, including -decisions about sanctions -decisions to grant licenses -other decisions regarding supervision Decisions regarding internal affairs: staff, procedures	Officially by majority vote. In practice by consensus.	Yes	Minutes (i.e., summary of decisions) are published since 2001, earlier summaries are available on request.

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
Netherlands	CvdM	Chairman	No	n/a	The Minister of Education, Culture and Science appoints a new member of the board. In practice, the ministry will	n/a	Ministry of Education Culture and Science Framework Act Independent Administrative Authorities http://wetten.overheid.nl/BWBR0020495/geldigheidsdatum_04-01-2010

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
					seek consent of existing board members and take into account suggestions of board members about new members		
		Board members	No	n/a	Minister of Education, Culture and Science	n/a	Idem

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
Netherlands	CvdM	Chairman of the board: Prof. Tineke Bahlmann	5 years	No	Yes, once	Media Act 2008 (Chapter 7)
		Board members: Prof. Madeleine de	5 years	No	Yes, once	Media Act 2008 (Chapter 7)

Country	Body		Term of office	Is the term staggered not to coincide with election cycle?	Renewal possible? If so, state how many times	Source
		Cock Buning Prof. Jan van Cuilenburg				

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
Netherlands	CvdM	Chairman of the board	No information available	At present: Financial expert	Ministry of Education Culture and Science
		Board members	No information available	At present: Expert in intellectual property law and media law; expert in social sciences (communications studies)	Ministry of Education Culture and Science

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						
Netherlands	CvdM	Chairman	Yes		Cannot be a subordinate to the Minister who is responsible for media policies Cannot at the same time be employed by a ministry or a service, institution or company which falls under the responsibility of the Minister for Education Culture and Science	Cannot fulfil functions which are deemed to be undesirable with a view to his/her performance, independence or trust in such independence Cannot be an MEP or a member of a provincial or municipal administration	Secondary functions have to be reported and will be made public. Cannot be a member of an organ of a public service media institution, a private commercial media institution, or publisher of a press product.	Yes e.g. position at university, as long as there is no conflict of interests		Art. 7.4 Media Act 2008 Art. 1a, 9, 12 and 13 Framework Act Independent Administrative Authorities
		Board members	Yes		Same as above	idem Same as above	Same as above	Same as above	Same as above	Media Act 2008 Chapter 7, section 7.
		Senior staff		No But in practice same regime applies	Independent administrative authorities cannot hierarchically be subordinated to a Minister					

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				
Netherlands	CvdM	Chairman	Yes		Yes The membership of the Commissioner is not compatible with: -The membership of both Houses of Parliament, a provincial administration or a municipality; -an employment in a ministry, agency, institution or company falling under the responsibility of a minister, and -membership of an organ or an employment relationship with the NPO, a public media institution, a commercial institution or a media publisher of a newspaper.			Framework Act Independent Administrative Authorities Media Act 2008 Chapter 7 section 7.4
		Board members	Yes		Same as above			Framework Act Independent Administrative Authorities Media Act 2008 Chapter 7 section 7.4
		Senior staff		No But in practice same regime applies				

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		
Netherlands	CvdM	Chairman		No		
		Board members		No		
		Senior Staff		No		

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				
Netherlands	CvdM	Chairman	Yes		Minister of Education Culture and Science	Yes, Art 12 para. 2 Framework Act Independent Administrative Authorities (incapacity, incompetence, on request from the ministry of Education Culture and Science or other compelling reason)	Only individual members	Framework Act Independent Administrative Authorities
		Individual board members	Yes		Same as above	Same as above		Same as above

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		
Netherlands	CvdM	2005-2009	Chairman		No		
			Individual board		No		

Country	Body	Year		Dismissal before term		Reasons	Comment
				Yes	No		
			members				
			Individual board members		No		

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
Netherlands	CvdM	No	State funding €4.2m in 2010 No maximum level set	No	No	No Money from fines is transferred to ministry	€0.3m for the task of fixed bookprice €1.1m from surveillance fees	Annual Report Commissariaat voor de Media 2009

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
Netherlands	CvdM	Minister approves annual budget plan and annual account	Yes, by proposing the budget	Minister of Education Culture and Science upon proposal by the Commissariaat voor de Media	No	Media Act 2008; Framework Act Independent Administrative Authorities

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
Netherlands	CvdM	Yes	Twice a year, once when submitting annual budget and once when submitting annual accounts	Yes Audit chamber	Yes Audit of private audit firm is reviewed by another private audit firm appointed by National Court of Audit	No	Framework Act Independent Administrative Authorities Media Act 2008

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
Netherlands	CvdM	Parliament	No	But Minister of Education Culture and Science must send their annual report to Parliament	Framework Act Independent Administrative Authorities
		Government as a whole	No	N/A	N/A
		Specific ministers (e.g. Media, finance, etc.)	Yes	Minister of Education Culture and Science Submission of annual report before March 15 th ; Submission of financial statement by September 1 st	Media Act 2008 Framework Act Independent Administrative Authorities
		Public at large	Yes	Obligation to publish financial report annually	Media Act 2008

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
Netherlands	CvdM	Annual report to be sent by Commissariaat voor de Media to Minister of Education Culture and Science by March 15 Minister must send the annual report to Parliament Annual publication of financial statement by Commissariaat voor de Media before September 1.	Annual	The report describes the task performance and policies. The report also describes the policies concerning the quality	Yes	Yes, by Minister of Education Culture and Science	No	http://wetten.overheid.nl/BWBR0020495/geldigheidsdatum_04-01-2010#Hoofdstuk3

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
Netherlands	CvdM	Yes	Every 5 years Minister sends a report every five years to both houses of parliament in order to assess the effectiveness and efficiency of the functioning of an	Yes Minister of Education Culture and Science; who sends the evaluation report to Parliament.	No	No	Art. 39 Framework Act Independent Administrative Authorities

Country	Body	Is body subject to periodic external auditing					
		Yes/no	Periodicity	By public authority	By private authority	Other	Legal basis
			independent administrative	The report is prepared by a private audit firm.			

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	
Netherlands	CvdM	Does anybody have the power to overturn decisions of the regulator?	Yes	Yes	No	No	No	Framework Act Independent Administrative Authorities Media Act 2008	
		According to Section 23 of the Framework Act Independent administrative bodies If the Minister may undertake necessary measures if he has the opinion the authority's tasks are seriously neglected. These arrangements are, except for urgent cases, not taken earlier than after the independent authority had the opportunity, within a period specified by the Minister, to carry out its tasks properly. The Minister shall inform both houses of parliament immediately of steps taken by him.(Framework Act Independent Administrative Authorities Section 23) According to section 7.9 Media Act decisions of the CvdM can be suspended or annulled by the Minister during 8 weeks after reception of copy of decision (Media Act 2008, Chapter 7.9; Framework Act Independent Administrative Authorities Section 22)							
		Does anybody have the power to give instructions to the regulatory body?	No	N/A	N/A	N/A	N/A	N/A	Framework Act Independent Administrative Authorities
		Are there limitations in the power to	No	No	N/A	N/A	N/A	N/A	

Country	Body			Ministry/Minister	Government	Parliament	Other	Source
		overturn (e.g. limited to legal supervision, which would exclude political supervision) ?						
		Are there limitations in the power to give instructions (e.g. limited to legal instructions which exclude instructions on political grounds)?	N/A	N/A	N/A	N/A	N/A	N/A

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
Netherlands	CvdM	Internal	1	CvdM board	Yes	Parties whose interests are (likely to be) affected by the decision <i>No information available</i>	General Administrative Law Act (Chapter 6)
		External	1	Administrative Court			
			2	Council of State, Administrative Jurisdiction Division			
			3	European Court of Human Rights			

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
Netherlands	CvdM			√	N/A

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
Netherlands	Board of CvdM	√	√	√	N/A
	Administrative Court and Council of State	√ only when there is no appreciation margin for regulatory authority regarding specific policy	√	√ only when there is no appreciation margin for regulatory authority regarding specific policy	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
Netherlands	CvdM	1 District Court	√		The appeal body has the power to cancel the decision and refer the case back to the regulator for a new decision or replace the original decision by a new one
		2 Council of State	√		N/A
		3 European Court of Human Rights		√	N/A

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?
Netherlands	CvdM	Yes	Approx. €250,000/year	Yes	-	Yes

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	
Netherlands	CvdM	None	Not specified in law	Not specified in law	In practice, the CvdM does carry out public consultations		/

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
Netherlands	CvdM	2009	Average 8
		2008	Average 8
		2007	Average 8
		2006	Average 8
		2005	Average 8

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
Netherlands	CvdM	No	Yes. General Administrative Law Act	No	No

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
Netherlands	CvdM	NICAM (Netherlands Institute of Classification of Audiovisual Services) Protection of minors, NICAM is primarily responsible. If broadcasters do not affiliate to NICAM they fall directly under CvdM, also CvdM evaluates once a year way of classification. With that respect CvdM and NICAM have conducted co operation protocol.	Media Act 2008	No	
		OPTA (independent Post and Telecommunications Authority) Access to cable networks, the issues dealing with must carry programs, and programs advised by program council should be dealt with by CvdM; rest by OPTA. With that respect CvdM and OPTA have conducted co operation protocol.	Media Act 2008	No	

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
		AT (Radio Communications Agency) Supervision of compliance to format obligations by private radio broadcasters who have acquired terrestrial air frequency on the condition of respecting these format obligations. AT is responsible for formal maintenance; CvdM carries out control in practice. With that respect CvdM and AT have conducted co operation protocol	Media Act 2008	No	
		NMa (Netherlands Competition Authority) CvdM advises NMa in case of mergers of media companies, NMa has decisive power. With that respect CvdM and NMa have conducted co operation protocol.	Tijdelijke wet mediaconcentraties	No	

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
Netherlands	CvdM	<ul style="list-style-type: none"> Contact Committee AVMS Directive European Platform of Regulatory Authorities (EPRA) European Working Group of Authorities monitoring compliance with the Audiovisual Media Services Directive Euregiolators 	Annual Report 2009	Euregiolators is an international forum of public authorities supervising the media in The Netherlands Belgium (Flemish, French and German language communities), Luxembourg and the German Länder bordering these countries); Participation in the Contact Committee is jointly with representatives of the

Country	Body	Does it cooperate with other national regulatory bodies in EU and international fora?	Source and form of cooperation (legal basis)	Comments
				Ministry for Education Culture and Science