

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 – United States
of America

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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)
USA	<p>Full-Service TV stations = 1817 Low Power TV stations (LPTV) = 2180 Source: Private consulting company M Street Corp, which runs the website www.10000watts.com with up-to-date figures. The figures can be replicated by using the Query function and targeted searches at the website of the regulator (Federal Communications Commission, Media Bureau) at www.fcc.gov/mb/audio/new-visitors.html and the linked Database Query services for TV, FM, and AM.</p>	<p>Note: “non-linear commercial services” is known as “on demand” in the USA. Supervised Services = 0 Note: These are delivered via cable or satellite and therefore in USA the content of such services is not regulated by the Federal Communications Commission. This regulator does have some oversight of pricing and access issues but due to American regulatory precedent, since these are paid services (not pervasive), the content is not regulated. Relevant Statutes: Cable Television Consumer Protection and Competition Act of 1992 (regulation of pricing and access); and Telecommunications Act of 1996 (deregulatory focus on paid/on-demand media content). See also: FCC Cable Television Fact Sheet at www.fcc.gov/mb/facts/csgen.html.</p>	<p>Note: “public service” and “PSB” are defined differently in the USA as compared to Europe. Supervised PSBs = 0 Note: In the USA, the public service broadcaster receives a portion of its funding from the federal government, but also relies heavily on donations from individuals. Government funding carries no requirements for content, except for a general philosophy of non-commercial programming for educational or cultural purposes. Government does not directly operate public service broadcasters in the USA. The content of PSBs that receive government funding is loosely promoted by a private firm, The Corporation for Public Broadcasting (CPB) that was created by the federal government. CPB consults for networks such as Public Broadcasting System (PBS-TV) and National Public Radio (NPR). Relevant Statutes: Public Broadcasting Act of 1967. See also CPB articles of incorporation at www.cpb.org/aboutcpb/cpb_articlesofincorporation.pdf.</p>

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
USA	Information requirements (art. 5 AVMS Directive)	No requirement	N/A	N/A	N/A
	Audiovisual commercial communication, sponsorship, product placement (Art. 9 – 11 AVMS Directive)	Telecommunications Act of 1996, an amendment to Communications Act of 1934	Federal Communications Commission (FCC)	Federal Communications Commission (FCC) – pricing and access only (see Table 1)	Corporation for Public Broadcasting (CPB) – loose consultation only (see Table 1)
	Accessibility to people with a disability (Art. 7 AVMS Directive)	Americans with Disabilities Act of 1990 (amends Communications Act of 1934 by requiring access to communications devices) – regulation of access only, not content	(not applicable – Americans with Disabilities Act is a horizontal statute to be observed by all government entities)	(not applicable – Americans with Disabilities Act is a horizontal statute to be observed by all government entities)	(not applicable – Americans with Disabilities Act is a horizontal statute to be observed by all government entities)
	Broadcasting of major events (Art. 14 AVMS Directive)	(not applicable – this category of content is not regulated in USA)	N/A	N/A	N/A
	Access to short news reports (Article 15 AVMS Directive)	(not applicable – this category of content is not regulated in USA)	N/A	N/A	N/A
	Promotion of European works (Art. 13, 16, 17 AVMS Directive)	N/A	N/A	N/A	N/A
	Hate speech (Art. 12 and 6 AVMS Directive)	(not applicable – this category of content is not regulated in USA, but can be contested in court and subjected to the Free Speech clause of the First Amendment to the US Constitution)	N/A	N/A	N/A
	Television advertising and teleshopping, (Art. 19 – 26 AVMS Directive)	Federal Trade Commission Act of 1914 Telecommunications Act of 1996, an amendment to Communications Act of 1934 Food and Drug Administration Amendments Act of 2007, an amendment to several previous governing statutes Note: In USA the regulation of advertising usually takes the form of <i>ex post</i> protection for consumers who have been deceived by false advertising.	Federal Trade Commission (FTC), Bureau of Consumer Protection (advertising in general) Federal Communications Commission (FCC) (children's and political advertising) Food and Drug Administration (FDA) (food and drug advertising)	Federal Trade Commission (FTC), Bureau of Consumer Protection (advertising in general) Federal Communications Commission (FCC) (children's and political advertising) Food and Drug Administration (FDA) (food and drug advertising)	Federal Trade Commission (FTC), Bureau of Consumer Protection (advertising in general) Federal Communications Commission (FCC) (children's and political advertising) Food and Drug Administration (FDA) (food and drug advertising)

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
		There is some <i>ex ante</i> regulation of advertising targeted at children and for some categories of products such as food and drugs		Commission (FCC) (children's and political advertising) Food and Drug Administration (FDA) (food and drug advertising)	
	Protection of minors (Art. 27 AVMS Directive)	Children's Television Act of 1990	Federal Communications Commission (FCC)	Federal Communications Commission (FCC)	Federal Communications Commission (FCC)
	Right of reply (Art. 28 AVMS Directive)	Formerly: Communications Act of 1934 Note: A right of reply, housed within a regulatory concept called the Fairness Doctrine, was formerly enforced by the FCC. But some parties that were impacted by such enforcement challenged in court based on the Free Speech clause of the First Amendment to the US Constitution. The US Supreme Court ruled that such regulation was a free speech violation in important precedents such as <i>Red Lion v. FCC</i> (1969) and <i>Miami Herald v. Tonrillo</i> (1974). The FCC discontinued all regulation of this type in 2000.	Formerly: Federal Communications Commission (FCC)	Formerly: Federal Communications Commission (FCC)	Formerly: Federal Communications Commission (FCC)
	Communication and cooperation with other European regulation bodies and the Commission (Art. 30 AVMS Directive)	(N/A) Note: The statutes governing most US government agencies (including the FCC) require cooperation with other agencies, but this usually pertains to subject matter expertise. In the US, the FCC is assumed to have subject matter expertise on media content so, <i>de facto</i> , there is no legal requirement to consult with other regulatory bodies for this general subject area.	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
USA	Federal Communications Commission (FCC)	www.fcc.gov/	1934 Note: Radio operations were regulated by other federal government bodies since 1912.	Washington, DC USA
	Federal Trade Commission (FTC) – advertising	www.ftc.gov/	1914	Washington, DC USA

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)
USA	Federal Communications Commission (FCC)	Yes Note: broadcasting only, not on-demand services (see Table 1 above)	Yes	Yes Note: EPG is not regulated in USA	Yes (all services)	Yes	Telephony, communications-related aspects of Public Safety and Homeland Security

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
USA	Federal Communications Commission (FCC)	Not foreseen	1800 (as of 2008) Note: The figure is for overall personnel, not just audiovisual. Precise current staff count by category and for the entire regulator (2010) could not be found by the researcher, though documents with this information should be released to the public soon.	Not foreseen	USD 352.5m (fiscal year 2010-2011) (€264m)	US Government Accountability Office, <i>FCC Management: Improvements Needed in Communication, Decision-Making Processes, and Workforce Planning</i> (2008) www.gao.gov/new.items/d1079.pdf Federal Communications Commission, <i>Fiscal Year 2011 Budget Estimates Submitted to Congress February 2010</i> http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296111A1.pdf See also: "FCC's requested \$325M in Obama's FY 2011 budget," <i>CedMagazine.com</i> , 2 February 2010 www.cedmagazine.com/News-FCC-\$325M-Obama-FY-2011-budget-020210.aspx

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
USA	Federal Communications Commission (FCC)	Communications Act of 1934	Telecommunications Act of 1996, an amendment to Communications Act of 1934

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
USA	Federal Communications Commission (FCC)	Independent government agency Note: in US terminology, an agency is considered “independent” because it is not within a higher-level cabinet department (such as Department of Commerce, Department of Defense, etc.). The agency is “independent” because it operates under its own statute, and this term refers more to the functional and structural characteristics of the agency. The independent agency is still overseen by the federal government. For the FCC, the President appoints Commissioners, while the US court system and the US legislature have oversight of agency decisions.	No	Within Executive Branch of US Federal Government	Seven bureaus dedicated to particular subject areas; ten offices dedicated to particular administrative requirements	www.fcc.gov/aboutus.html

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	
USA	Federal Communications Commission (FCC)		√ Note: Explicitly recognized, but see the explanation of the US definition of the term "independent" in Table 7 above. In the US the term is a functional and structural distinction only. See also Pierce, Richard; Shapiro, Sidney A.; Verkuil, Paul, Administrative Law and Process, Foundation Press (5th ed., 2009).	"Independent agency" defined by US Supreme Court in <i>Humphrey's Executor v. United States</i> (1935)

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
USA	Federal Communications Commission	Tick boxes	√	√	√
		Areas	Media content (broadcasting only), advertising (children's and political only), telephony, wired communications, wireless communications, access, pricing, infrastructure	Media content (broadcasting only), advertising (children's and political only), telephony, wired communications, wireless communications, access, pricing, infrastructure	Media content (broadcasting only), advertising (children's and political only), telephony, wired communications, wireless communications, access, pricing, infrastructure

Country	Body		General policy setting	General policy implementing powers	Third party decision making powers
		Source	General acts Telecommunications Act of 1996, an amendment to Communications Act of 1934	Telecommunications Act of 1996, an amendment to Communications Act of 1934	Telecommunications Act of 1996, an amendment to Communications Act of 1934

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)
USA	Federal Communications Commission	Quotas						
		Advertising		√ (children's and political advertising only)	√ (children's and political advertising only)	√ (children's and political advertising only)		Telecommunications Act of 1996, an amendment to Communications Act of 1934
		Protection of minors		√ (broadcasting content only)	√ (broadcasting content only)	√ (broadcasting content only)		Telecommunications Act of 1996, an amendment to Communications Act of 1934

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
USA	Federal Communications Commission (FCC)	Quotas						
		Advertising	√ (children's and political advertising only) all sanctions	√ (children's and political advertising only) – fines are ad-hoc based on precedent and	√ (children's and political advertising only)	√ (children's and political advertising only)	√ (children's and political advertising only)	√ (children's and political advertising only)

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
			mentioned in this table are discretionary	economic condition of the party being fined; there are no set maximum or minimum fines				
		Protection of minors	√	√ fines are ad-hoc based on precedent and economic condition of the party being fined; there are no set maximum or minimum fines.	√	√	√	

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
USA	Federal Communications Commission (FCC)	√	√	√	N/A	√	√	√
Note: These are all frequent activities (except systematic monitoring) and examples of each can be found in the recent Headlines at www.fcc.gov/ .								

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)
USA	Federal Communications Commission	√	√	√	√ Note: This is within the FCC's powers but is rarely used. Per precedent, fines are usually the most severe sanction.	√
Note: These are all frequent activities and examples of each can be found in the recent Headlines at www.fcc.gov/ .						

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
USA	Federal Communications Commission (FCC)	Yes. Per US law (Administrative Procedure Act of 1946), as a federal government agency the FCC must follow mandated procedures to collect and investigate complaints from the public.	http://esupport.fcc.gov/complaints.htm

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)		
USA	Federal Communications Commission (FCC)	Board of Commissioners Note: except for a prohibition of industry connections, there are no expressly mandated requirements for commissioners in US law.	5	No	No	No	No Note: This is expressly illegal. Commissioners must have no industry connections while serving.	No Note: Precedent in US, "experts" are desired but not legally required (nor is the term expressly defined)	No information available	Yes (Explicit) By law, out of five commissioners, a maximum of three can be from the same political party.	www.fcc.gov/commissioners/

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?
USA	Federal Communications Commission	Media content (broadcasting only), advertising (children's and political only), telephony, wired communications, wireless communications, access, pricing, infrastructure	Rulemaking: majority vote of commissioners after multi-step investigation and inquiry. See www.annenberg.northwestern.edu/pubs/telmar/telmar07.htm , www.fcc.gov/rules.html . Adjudication (Dispute Resolution): A case is heard and decided by an administrative law judge. The ruling can be appealed to the Board of commissioners who can then uphold or overrule by majority vote. www.fcc.gov/oalj/	Yes As required by law under the Administrative Procedure Act of 1946, the Freedom of Information Act of 1966, and the Government in the Sunshine Act of 1972.	Yes At www.fcc.gov/ and the <i>Federal Register</i> (print version and at www.gpoaccess.gov/fr/index.html).

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
USA	Federal Communications Commission	Chairman	No	n/a	The Chairman is selected from Board of commissioners by the US President, but this appointment does not need to be confirmed because that person was already confirmed as a Board member (see below).	n/a	www.fcc.gov/commissioners/
		Board members	No	Not applicable, though nominations can be made informally	All must be appointed by the US President and confirmed by the US Senate (higher house of the legislature).	n/a	www.fcc.gov/commissioners/

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
USA	Federal Communications Commission	Chairman of the board	5 years (within term of office as a Board Member)	Yes	No (but can continue as Board member)	www.fcc.gov/commissioners/ www.cybertelecom.org/notes/fcc1.htm
		Board members	5 years	Yes (except for acting for un-appointed positions)	Yes (indefinite, must be re-appointed)	www.fcc.gov/commissioners/ www.cybertelecom.org/notes/fcc1.htm

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
USA	Federal Communications Commission	Chairman of the board	There are no legally mandated qualifications per the FCC's governing statute. These are considered by the US President when appointing the Chairman (see Table 17 above).		N/A
		Board members			

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						
USA	Federal Communications Commission	Chairman	Yes		(none)	(none) Note: affiliation with a political party is expected and accounted for in other rules.	Yes Commissioners must have no industry connections while serving.	No	Possible: This may be required per financial regulations.	www.fcc.gov/commissioners/
		Board members	Yes		(none)	(none) Note: affiliation with a political party is expected and accounted for in other rules.	Yes Commissioners must have no industry connections while serving.	No	Possible: This may be required per financial regulations.	www.fcc.gov/commissioners/
		Senior staff		No						

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				
USA	Federal Communications Commission	Chairman	Yes		No	No Note: affiliation with a political party is expected and accounted for in other rules	Commissioners must have no industry connections while serving.	www.fcc.gov/commissioners/
		Board members	Yes		No	No Note: affiliation with a political party is expected and accounted for in other rules	Commissioners must have no industry connections while serving.	www.fcc.gov/commissioners/
		Senior staff		No				Note: The researcher could find no express rules for Senior Staff while in office, though potential conflicts of interest are often investigated by concerned citizens.

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		
USA	Federal Communications Commission	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				
USA	Federal Communications Commission	Chairman		No	US President	Abuse of process, conflicts of interest	Only individual board members.	Dismissal must comply with the Administrative Procedure Act of 1946
		Individual board members		No	US President	Abuse of process, conflicts of interest	Note: As far as the researcher has found, this has not happened in the history of the FCC.	Dismissal must comply with the Administrative Procedure Act of 1946

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		
USA	Federal Communications Commission	2005-2009	Chairman		No		Some Chairmen and individual board members have resigned voluntarily.
			Individual board members		No		
			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
USA	Federal Communications Commission	USD 85m €66.65m 19.2%	State funding USD 1m (fiscal year 2010-2011) €76,375.85 2.1%	-	USD 351.5m (fiscal year 2010-2011) €272.9m 78.4%	Note: Not a forecasted budget item. Fines are charged on an ad-hoc basis.	USD 2.5m (fiscal year 2010-2011) Note: Economic stimulus, relevant for 2010-2011 only €1.94m 0.5%	Federal Communications Commission, <i>Fiscal Year 2011 Budget Estimates Submitted to Congress February 2010</i> , http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296111A1.pdf

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
USA	Federal Communications Commission	FCC submits estimated budget to US Congress (legislature), which then approves it or returns it for alteration and re-submission.	Yes	Regulator (FCC) and legislature (US Congress)	This is widely believed by citizens and journalists but difficult to prove.	Federal Communications Commission, <i>Fiscal Year 2011 Budget Estimates Submitted to Congress February 2010</i> , http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296111A1.pdf

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
USA	Federal Communications Commission	Yes	Semi-annual or on demand	Yes Office of the Inspector General, Government Accountability Office	No	No	Inspector General Act of 1978, Budget and Accounting Act of 1921

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
USA	Federal Communications Commission	Parliament	Yes	US Congress (legislature) can demand investigation or audit by Government Accountability Office, semi-annual audits by Office of the Inspector General	Inspector General Act of 1978 Budget and Accounting Act of 1921
		Government as a whole	Yes	(same as above)	(same as above)
		Specific ministers (e.g. Media, finance, etc.)	Yes	(same as above)	(same as above)
		Public at large	Yes	Transparency and publication procedures	Administrative Procedure Act of 1946 Freedom of Information Act of 1966 Government in the Sunshine Act of 1972
		Other	No	N/A	N/A

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
USA	Federal Communications Commission	US Government at large (accessible to public)	Annual or on demand	Annual report (general), performance budget, financial reports, accountability reports	Yes, particularly for financial data per the relevant US regulations	Per internal procedures; no outside approval from legislature required, though the legislature can demand updates or improvement	Unknown. If so, a corrected report would have been released to the public within the legally mandated time frame.	www.fcc.gov/omd/strategicplan/

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
USA	Federal Communications Commission	Yes	Semi-annual or on demand	Yes Office of the Inspector General, Government Accountability Office	No	No	Inspector General Act of 1978, Budget and Accounting Act of 1921

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
USA	Federal Communications Commission	Does anybody have the power to overturn decisions of the regulator?	Yes	No (there is no relevant ministry/minister in the US)	Yes US President (executive) US President can overturn decisions by special order.	Yes US Congress (legislature) US Congress can overturn decisions with a new statute or alteration to existing statute	No	US Constitution
		Does anybody have the power to give instructions to the regulatory body?	Yes US court system can give instructions within rulings in cases brought by public (see above).	Same as above	Yes US President (executive) US President can give instructions by special order.	Yes US Congress (legislature) US Congress can give instructions in a new statute or alteration to existing statute.	No	US Constitution
		Are there limitations in the power to overturn (e.g. limited to legal supervision, which would exclude political supervision) ?	Yes All must be within the system of check and balances, among the three branches of the federal government, as per the US Constitution.	Same as above	See first column	See first column	N/A	US Constitution
		Are there limitations in the power to give	Yes All must be within the	Same as above	Same as above	Same as above	N/A	US Constitution

Country	Body			Ministry/Minister	Government	Parliament	Other	Source
		instructions (e.g. limited to legal instructions which exclude instructions on political grounds)?	system of check and balances, among the three branches of the federal government, as per the US Constitution.					

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
USA	Federal Communications Commission Note: The process described in this table is the judicial process per Table 31 above. Overturning of a decision by US Congress or US President is not considered an “appeal” per US law.	Internal	1	Internal Bureau (e.g. FCC Media Bureau)	Yes	Citizen, Corporation, or Civil Society Group	FCC Internal Regulations, Administrative Procedure Act of 1946 Administrative Procedure Act of 1946
			2	Administrative Law Judge (within FCC)			
			3	FCC Board of Commissioners			
		External	1	District Court (if necessary per nature of complaint)			
			2	Circuit Court of Appeals (this may be the first stage if #1 above is not necessary)			
			3	US Supreme 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
USA	Federal Communications Commission	√			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
USA	Federal Communications Commission	√	√		Conflicts of interest

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

Country	Body	Appeal stage	Yes	No	Comments
USA	Federal Communications Commission	Internal: 1 Internal Bureau (e.g. FCC Media Bureau)			N/A
		2 Administrative law judge (within FCC)	√		
		3 FCC Board of Commissioners	√		
		External: US Court System	√		Possible but unlikely due to modern US jurisprudence, in which courts are more likely to remand to the FCC for reconsideration or observance of proper procedure

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?
USA	Federal Communications Commission	No	N/A	N/A	-	Citizens and journalists often suspect that advice is taken from private industry, but this is difficult to prove.

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	
USA	Federal Communications Commission	All rulemaking (policy decisions) and some adjudication (dispute resolution)	Public must be informed of upcoming decision, and all interested parties are invited to provide comments which are collected by FCC.	(various, must be "sufficient" per US law)	Yes At www.fcc.gov/ and the <i>Federal Register</i> (print version and at www.gpoaccess.gov/fr/index.html).	Yes At www.fcc.gov/ and the <i>Federal Register</i> (print version and at www.gpoaccess.gov/fr/index.html).	Administrative Procedure Act of 1946, internal FCC regulations

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
USA	Federal Communications Commission (FCC) Note: This process is known as “request for public comment” and is a regular feature of the regulatory process as required by US law.	2009	309
		2008	353
		2007	361
		2006	290
		2005	532

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
USA	Federal Communications Commission	All rulemaking (policy decisions) and adjudication (dispute resolution)	Yes (Administrative Procedure Act of 1946)	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
USA	Federal Communications Commission	Informal collaboration and sharing of expertise (general); plus some precise instructions in particular subject areas such as environment or aviation	Inter-departmental communications (general); rulemaking decisions by other agencies (particular)	Yes, in particular areas of expertise, with instructions delivered by other agencies in the form of rulemaking decisions	Two examples: FCC must receive and consider instructions from environmental agencies (per National Environmental Policy Act of 1969) or the Federal Aviation Administration (per Federal Aviation Act of 1958)

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
USA	Federal Communications Commission	Yes (informally)	Regulations governing the FCC International Bureau (see www.fcc.gov/ib/)	Cooperates with authorities in Canada and Mexico for cross-border broadcasting; participates in the International Telecommunications Union and some other multi-national organizations.