

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 IV – Stakeholder Survey

STAKEHOLDER QUESTIONNAIRE REGARDING INDEPENDENT REGULATORY BODIES (IRBS):

DE FACTO INDEPENDENCE, EFFECTIVE FUNCTIONING AND IMPLEMENTATION OF AUDIOVISUAL MEDIA SERVICES (AVMS) DIRECTIVE

1. DE FACTO INDEPENDENCE

1. Are you aware of any changes of specific legal provisions governing the IRB in the past 10 years?

Yes/No

[Condition: if Question 1 is "yes"]

- 1_1. Please select the consequences of the changes in the law.

[multiple answers allowed]

Changing organisational structure

Changing powers

Removing the head(s) of the IRB

Abolishing IRB

- 1_2. Please specify whether the law governing the IRB has been changed in order to influence a particular case or conflict?

Yes/No

- 1_3. Do you see any correlation between change in structure or leadership and election cycles/changing of the governing parties?

Yes/No

- 1_4. Who has been the driving force behind the law changes in your opinion?

[multiple answers allowed]

Government

Political Parties

Industry

Other

2. Are political majorities or political power structures reflected in the composition of the highest decision making organ (board or council) of the IRB?

Yes/No

3. Are you aware of any early resignations or dismissals of the heads of the IRB or its board/council in the last 5 years?

Yes/No

[Condition: if Question 3 is "yes"]

3_1. What do you think has been the reason for the resignation/dismissal?

[multiple answers allowed]

political pressure

incapacity or malperformance

personal reasons

other: please explain _____

3_2. Do you see any relation between early resignations or dismissals and election cycles/changing of the governing parties?

Yes/No

4. In your opinion, have the regulatory powers of the IRB's increased or decreased over the last 5 years?

increased

decreased

No changes in regulatory powers

[Condition: if Question 4 is "Increased" or "Decreased"]

Please explain: _____

5. Would you agree with the statement that the IRB has sufficient flexibility with regard to managing its own resources?

[Scale:

Strongly Disagree | Moderately Disagree | Slightly Disagree | Slightly Agree | Moderately Agree | Strongly Agree]

6. In your opinion, has the IRB refrained from making use of any of the powers listed below in the last 5 years although formally granted to IRB?

[multiple answers allowed]

Policy setting

General policy implementing powers

Specific rule making

Systematic monitoring

Ad-hoc monitoring

Information collection powers

Monitoring after complaints

None

7. In your opinion, has the IRB refrained from making use of its formally granted powers in any of the following areas in the last 5 years although there has been a material breach of the legal provision?

[multiple answers allowed]

Warnings

Fine

Decisions in programme/content-related matters

Suspension/Revocation of licence

None

2. GOOD GOVERNANCE PRACTICES

8. Would you agree with the statement that the IRB's activities are transparent, i.e. decisions, work programmes and strategies are easily publicly accessible (annual report, website, etc.)?

[Scale:

Strongly Disagree | Moderately Disagree | Slightly Disagree | Slightly Agree | Moderately Agree | Strongly Agree]

9. Is it possible to access the decisions of the IRB publicly (archive, website, etc.)?

[] Yes/No

[Condition: if Question 9 is "yes"]

9_1. Do the decisions include the reasoning behind the decisions?

[] Yes/No

3. QUESTIONS ON EFFECTIVE FUNCTIONING

3.1 Adequacy of structures and powers

3.1.1 Adequacy of funding and staffing

10. Would you agree with the statement that the IRB has an adequate number of staff in order to fulfil its tasks and duties?

[] Yes

[] Understaffed (number too low)

[] Overstaffed (number too high)

11. Would you agree with the statement that the IRB has adequate funds in order to fulfil its tasks and duties?

[Scale:

Strongly Disagree | Moderately Disagree | Slightly Disagree | Slightly Agree | Moderately Agree | Strongly Agree]

[Condition: if Question 11 is one of "Strongly Disagree | Moderately Disagree | Slightly Disagree"]

11_1. Do you think the IRB is more likely...

[] underfunded (financial resources too small)

[] overfunded (financial resources too high)

12. Would you agree with the statement that the IRB's staff has adequate professional expertise and qualifications in order to fulfil its tasks and duties?

[Scale:

Strongly Disagree | Moderately Disagree | Slightly Disagree | Slightly Agree | Moderately Agree | Strongly Agree]

[Condition: if Question 12 is one of "Strongly Disagree | Moderately Disagree | Slightly Disagree"]

12_1. Which professional competences do you think are under-represented?
[multiple answers allowed]

- Lawyers
- Public policy experts
- Economists
- Technical Expertise/Engineers

13. Do you think that the level of the IRB's staff turnover is an obstacle to fulfilling its tasks and duties?
 Yes/ No

[Condition: if Question 13 is "Yes"]

13_1. Please explain: _____

3.1.2 Revolving door and career paths

14. Do you think that IRB's senior staff is likely to be recruited from:
[multiple answers allowed]

- Industry/Stakeholders
- Government/Civil service
- the IRB itself
- other

15. Do you consider that working for the IRB is an attractive career step for experts?
 Yes/No

[Condition: if Question 15 is "No"]

15_1. You answered that you consider working for the IRB not as an attractive career step for experts. Please give possible reasons:
[multiple answers allowed]

- Low level of salary
- Limited career paths inside the IRB
- Limited subsequent career paths outside of the IRB
- other: please explain _____

3.1.3 Who is effectively running the IRB?

16. Who do you think is effectively setting the agenda in the IRB?
[multiple answers allowed]

- The highest decision making organ (council or board)
- Senior staff of the IRB
- The government / ministry in charge
- Industry/Stakeholder
- other, please specify _____

17. Who do you think is effectively making the decisions in the IRB?

[multiple answers allowed]

The highest decision making organ (council or board)

Senior staff of the IRB administration

Government / political party

Industry/Stakeholder

other, please specify _____

3.1.4 Participation

18. Are you aware whether IRB is considering public participation (e.g. public consultations) in decision making?

Yes/No

19. Do you think that IRB consultations are announced and conducted in an inclusive fashion?

Yes/No

[Condition: if Question 19 is "No"]

19_1. You answered that you think that the IRB's consultations are not announced and conducted in an inclusive fashion. Please give reasons:

[multiple answers allowed]

Only stakeholder and expert consultations (not open to the general public)

Selective invitations only; consultations are not announced publically

No apparent coherent use of public consultations; for selected topics only

Consultation does not provide for written submission

Background information, relevant evidence and draft decision not available

20. Does the IRB publish the results of public consultations (e.g. in print, on its website etc.)?

Yes/No

[Condition: if Question 20 is "Yes"]

20_1. Does the publication include reasons for accepting or rejecting consultation responses?

Yes/No

3.1.5 Accountability

21. Does the IRB publish periodically reports which give full account of its activities (e.g. in print, on its website etc.)?

Yes/ No

3.1.6 Credibility

22. Do you think the IRB in general delivers impartial regulation?

Yes/No

4. QUESTIONS ON IMPLEMENTATION OF AVMS DIRECTIVE (ONLY RELEVANT FOR EU MEMBER STATES)

4.1 Implementation of the AVMS Directive

4.1.1 Information requirements (Art. 5 AVMS Directive)

23. Would you agree with the statement that the IRB effectively enforces the requirements for audiovisual media services providers to make available minimum information for identification and contact purposes?

[Scale:

Strongly Disagree | Moderately Disagree | Slightly Disagree | Slightly Agree | Moderately Agree | Strongly Agree]

[Condition: if Question 23 is one of “Strongly Disagree | Moderately Disagree | Slightly Disagree”]

23_1. Please explain: _____

4.1.2 Audiovisual commercial communication, sponsorship, product placement (Art. 9-11 AVMS Directive)

24. Would you agree with the statement that the IRB effectively enforces the regulation of audiovisual commercial communication, sponsorship, product placement (Art. 9–11 AVMS Directive) for **linear** audiovisual media services?

[Scale:

Strongly Disagree | Moderately Disagree | Slightly Disagree | Slightly Agree | Moderately Agree | Strongly Agree]

[Condition: if Question 24 is one of “Strongly Disagree | Moderately Disagree | Slightly Disagree”]

24_1. Please explain: _____

25. Would you agree with the statement that the IRB effectively enforces the regulation of audiovisual commercial communications, sponsorships and product placements (Art. 9-11 AVMS Directive) for **non-linear** audiovisual media services?

[Scale:

Strongly Disagree | Moderately Disagree | Slightly Disagree | Slightly Agree | Moderately Agree | Strongly Agree]

[Condition: if Question 25 is one of “Strongly Disagree | Moderately Disagree | Slightly Disagree”]

25_1. Please explain: _____

*4.1.3 Protection of minors
(Art. 27 AVMS Directive)*

26. Would you agree with the statement that the IRB effectively enforces the requirements for the protection of minors in television broadcasting (Art. 23 AVMS Directive)?

[Scale:

Strongly Disagree | Moderately Disagree | Slightly Disagree | Slightly Agree | Moderately Agree | Strongly Agree]

[Condition: if Question 26 is one of “Strongly Disagree | Moderately Disagree | Slightly Disagree”]

26_1. Please explain: _____

4.2 Adequacy of structures

27. Do you believe that the existence of two or more IRBs in the field of AVMS produces difficulties for the implementation and enforcement of the provisions of the AVMS Directive?

Yes

No

Not relevant, as only one IRB is responsible

5. GENERAL COMPLIANCE

28. Are you aware of an actual situation in your country that does not reflect the formal legal provisions (non-compliance) regarding

the legal set-up of IRB?

the internal organisation of IRB?

the composition of the board/council of IRB?

regulatory tasks and duties?

No, not aware.

[Condition: if Question 28 is anything else than “No, not aware”]

28_1. Please specify: _____

6. FURTHER REMARKS

29. In case you want to provide any further remarks, feel free to use this commentary field:

[TEXTBOX]