

# 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 – Italy

## Table of contents

|       |  |    |
|-------|--|----|
| I.    | GENERAL INFORMATION .....  | 2  |
|       | <b>Table 1 - Market data</b> .....   | 2  |
|       | <b>Table 2 - Audiovisual laws and regulatory bodies</b> .....  | 2  |
|       | <b>Table 3 - Regulatory bodies – general information</b> .....   | 4  |
|       | <b>Table 4 - Sectors covered</b> .....   | 4  |
|       | <b>Table 5 - Staff and overall budget</b> .....  | 4  |
| II.   | INSTITUTIONAL FRAMEWORK .....  | 5  |
|       | <b>Table 6 - Legislation establishing and governing the regulatory body</b> .....                                | 5  |
|       | <b>Table 7 - Legal status</b> .....  | 6  |
|       | <b>Table 8 - Independence as a value</b> .....   | 6  |
| III.  | POWERS OF THE REGULATORY BODIES .....  | 7  |
|       | <b>Table 9 - Regulatory powers</b> .....   | 7  |
|       | <b>Table 10 - Supervision and monitoring power</b> .....   | 7  |
|       | <b>Table 11 - Powers of sanctions</b> .....  | 8  |
|       | <b>Table 12 - De facto use of formally granted competences and monitoring powers</b> .....                       | 9  |
|       | <b>Table 13 - De facto use of formally granted sanction powers</b> .....   | 9  |
|       | <b>Table 14 - Complaints handling</b> .....  | 10 |
| IV.   | INTERNAL ORGANISATION AND STAFFING .....   | 10 |
|       | <b>Table 15 - Highest decision-making organ – composition</b> .....  | 10 |
|       | <b>Table 16 - Highest decision-making organ – competences and decision-making process and transparency</b> ..... | 11 |
|       | <b>Table 17 - Highest decision-making organ – appointment process</b> .....                                      | 13 |
|       | <b>Table 18 - Term of office and renewal</b> .....   | 14 |
|       | <b>Table 19 - Professional expertise/qualifications</b> .....  | 15 |
|       | <b>Table 20 - Rules to guard against conflicts of interest – Appointment process</b> ..                          | 15 |
|       | <b>Table 21 - Rules to guard against conflicts of interest – during term of office</b> ...                       | 16 |
|       | <b>Table 22 - Rules to guard against conflicts of interest – after term of office</b> .....                      | 17 |
|       | <b>Table 23 - Rules to protect against dismissal</b> .....   | 17 |
|       | <b>Table 24 - Dismissal before term</b> .....  | 18 |
| V.    | FINANCIAL RESOURCES .....  | 19 |
|       | <b>Table 25 - Sources of income</b> .....  | 19 |
|       | <b>Table 26 - Annual budget</b> .....  | 20 |
|       | <b>Table 27 - Financial accountability – auditing</b> .....  | 21 |
| VI.   | CHECKS AND BALANCES .....  | 21 |
|       | <b>Table 28 - Formal accountability</b> .....  | 21 |
|       | <b>Table 29 - Reporting obligation</b> .....   | 22 |
|       | <b>Table 30 - Auditing of work undertaken</b> .....  | 23 |
|       | <b>Table 31 - Power to overturn/instruct</b> .....   | 24 |
|       | <b>Table 32 - Number of stages in appeal procedure</b> .....   | 25 |
|       | <b>Table 33 - Does the regulator’s decision stand pending appeal?</b> .....                                      | 25 |
|       | <b>Table 34 - Accepted grounds for appeal</b> .....  | 26 |
|       | <b>Table 35 - Does the appeal body have power to replace the original decision with its own?</b> .....           | 26 |
| VII.  | PROCEDURAL LEGITIMACY .....  | 26 |
|       | <b>Table 36 - External advice regarding regulatory matters</b> .....   | 26 |
|       | <b>Table 37 - Public consultations</b> .....   | 27 |
|       | <b>Table 38 - Public consultations – figures</b> .....   | 27 |
|       | <b>Table 39 - Publication of regulator’s decisions</b> .....   | 28 |
| VIII. | COOPERATION .....  | 28 |
|       | <b>Table 40 - Cooperation with other regulatory authorities</b> .....  | 28 |
|       | <b>Table 41 - International cooperation</b> .....  | 29 |

## 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) |
|---------|--|---|--|
| Italy   | 889 total established, national and local<br>(December 2008 - Observatory annual yearbook) | 93<br>(December 2008 - Observatory annual yearbook) | 3<br>(Rai Uno, Rai Due, Rai Tre)         |

**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 |
|---------|---|---|--|---|----------------------------------|
| Italy   | Information requirements (art. 5 AVMS Directive)  | Legislative Decree July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 3 ss.)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-09-07&amp;redaz=005G0206&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-09-07&amp;redaz=005G0206&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) | Agcom is responsible for all areas and for all the categories of audiovisual media services. |   |                                  |
|         | Audiovisual commercial communication, sponsorship, product placement (Art. 9 – 11 AVMS Directive) | Legislative Decree July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 36 bis)<br>(for URL, see above)   |  |   |                                  |
|         | Accessibility to people with a disability (Art. 7 AVMS Directive)                                 | Legislative Decree July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 32).<br>(for URL, see above)  |  |   |                                  |

| 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)   | Legislative Decree of July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 32 ter).<br>(for URL, see above)                      |  |   |                                  |
|         | Access to short news reports (Article 15 AVMS Directive)  | Legislative Decree of July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 32 quater).<br>(for URL, see above)                   |  |   |                                  |
|         | Promotion of European works (Art. 13, 16, 17 AVMS Directive)  | Legislative Decree of July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 44).<br>(for URL, see above)                          |  |   |                                  |
|         | Hate speech (Art. 12 and 6 AVMS Directive)  | Legislative Decree of July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 32).<br>(for URL, see above)                          |  |   |                                  |
|         | Television advertising and teleshopping, (Art. 19 – 26 AVMS Directive)  | Legislative Decree of July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 37 ss.).<br>(for URL, see above)                      |  |   |                                  |
|         | Protection of minors (Art. 27 AVMS Directive)   | Legislative Decree of July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 34).<br>(for URL, see above)                          |  |   |                                  |
|         | Right of reply (Art. 28 AVMS Directive)   | Legislative Decree of July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 32 quinquies).<br>(for URL, see above)                |  |   |                                  |
|         | Communication and cooperation with other European regulation bodies and the Commission (Art. 30 AVMS Directive) | Regulation of Agcom n. 316/02/CONS of October 9, 2002 (art. 33).<br><a href="http://www2.agcom.it/regol/reg_organ.htm">www2.agcom.it/regol/reg_organ.htm</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     |
|---------|---|--|---|--------------|
| Italy   | Agcom<br>(Autorità per le garanzie nelle comunicazioni) | <a href="http://www.agcom.it">www.agcom.it</a> | July 31, 1997 by law, active since March 1998 | Naples, Rome |

**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) |
|---------|-------|--|---|---|--------------------------------|--|----------------------------|
| Italy   | Agcom | Yes  | Yes (together with government)                              | Yes   | Yes (together with government) | Yes  | Publishing                 |

**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   |
|---------|-------|--|---------------------|---|---|--|
| Italy   | Agcom | 419  | 348                 | 1.50% of operators' yearly revenues<br>(In 2010 the annual contribution to AGCOM from national operators in | €65m<br>(€62m from operators and €3m from the state budget) | 2009 – Agcom annual report<br><a href="http://www.agcom.it/Default.aspx?message=viewrelazioneannuale&amp;idRelazione=17">www.agcom.it/Default.aspx?message=viewrelazioneannuale&amp;idRelazione=17</a><br>(in Italian) |

| 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 |
|---------|------|--|---------------------|---|-----------------------|------------------------|
|         |      |  |                     | the sectors under its responsibility is 1.50‰ (1.45‰ in 2009 and 2008).<br>Source: <a href="#">AGCOM decision 722/09/CONS</a> |                       |                        |

## 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  |
|---------|-------|---|--|
| Italy   | Agcom | Law August 31, 1997 n. 249<br><a href="http://www.normattiva.it//dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it//dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) | Law August 31, 1997 n. 249<br>(for URL, see previous column)<br><br>Regulation of Agcom n. 316/02/CONS of October 9, 2002<br><a href="http://www.agcom.it/default.aspx?message=viewdocument&amp;DocID=604">www.agcom.it/default.aspx?message=viewdocument&amp;DocID=604</a> (in Italian) |

**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   |
|---------|-------|--------------------------------------|--------------------------------|--|---|--|
| Italy   | Agcom | Administrative independent authority | Yes                            |  |   | Law n. 249/1997 (Art. 1, co. 1)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) |

**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   |  |
| Italy   |      |  | ✓<br>The law provides measures to assure the independence of the Authority.<br>Legislation setting up Agcom states that Agcom operates in full autonomy and with independence of judgment and evaluation. | Law n. 249/1997<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian)<br>Law n. 481/1995<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) |

### 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   |
|---------|-------|------------|------------------------|--|--|
| Italy   | AGCOM | Tick boxes | No                     | √  | √  |
|         |       | Areas      | N/A                    | Broadcasting, electronic communications, publishing  | Broadcasting, electronic communications, publishing  |
|         |       | Sources    | N/A                    | General act<br>Legislative Decree July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 3 ss.)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-09-07&amp;redaz=005G0206&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-09-07&amp;redaz=005G0206&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) | General act<br>Legislative Decree July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 3 ss.)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-09-07&amp;redaz=005G0206&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-09-07&amp;redaz=005G0206&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) |

**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)   |
|---------|-------|--------|-----------------------|-------------------|-------------------------------|--|--------|---|
| Italy   | Agcom | Quotas | √                     | √                 | √                             | Extra monitoring is carried out after complaints |        | Legislative Decree July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 44).<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-09-07&amp;redaz=005G0206&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-09-07&amp;redaz=005G0206&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) |



| Country | Body | Areas                | Systematic monitoring | Ad-hoc monitoring | Information collection powers | Monitoring only after complaints | Others | Source (legislation, or practice)   |
|---------|------|----------------------|-----------------------|-------------------|-------------------------------|----------------------------------|--------|---|
|         |      |                      |                       |                   |                               |                                  |        | Art. 1(6) lit. B), n. 13, law no. 249/97<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) |
|         |      | Advertising          | √                     | √                 | √                             | Same as above                    |        | Legislative Decree July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 37 ss.).<br>Art. 1(6) lit. B), n. 13, law no. 249/97 (for URLs, see above)  |
|         |      | Protection of minors | √                     | √                 | √                             | Same as above                    |        | Legislative Decree July 31, 2005 n. 177, as amended by Legislative Decree 15 march 2010 n. 44 (art. 34).<br>Art. 1(6) lit. B), n. 13, law no. 249/97 (for URLs, see above)  |

**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)<br>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  |
|---------|------|--------|----------------------------|--|---------------------------------------|----------------------------------|--|---|
| Italy   |      | Quotas | √<br>discretionary         | €10,329 – €258,228   |                                       | √                                | No<br>According to information provided by AGCOM, penalties are not foreseen. In case of non-compliance or of late payment, interests are due. This is a general administrative provision. | (Sanctions are not automatic, but can be applied only after the violation has been established at the end of a sanctionatory proceeding). |

| Country | Body | Areas                | Warnings/formal objections | Fine (lump sum)<br>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          |
|---------|------|----------------------|----------------------------|--|---------------------------------------|----------------------------------|--|-----------------|
|         |      | Advertising          | √<br>discretionary         | €10,329 – €258,228   |                                       | √                                | No<br>Same as above  | (Same as above) |
|         |      | Protection of minors | √<br>discretionary         | €25,000 – €350,000   | √                                     | √                                | No<br>Same as above  | (Same as above) |

**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 |
|---------|-------|----------------|------------------------------------|----------------------|-----------------------|-------------------|-------------------------------|-----------------------------|
| Italy   | Agcom | No             | √                                  | √                    | √                     | √                 | √                             | √                           |

**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) |
|---------|-------|----------|--|--|---|--|
| Italy   | Agcom | √        | √<br>About 40% of handled sanctioning proceedings each year are concluded with a fine (data provided by AGCOM) | √<br>In all cases concerning protection of minors and right of reply | √<br>Only once since the establishment (pornographic FTA satellite channel) | No   |

**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  |
|---------|-------|--|--|
| Italy   | Agcom | Yes<br>There are specific procedures only in case of infringements in the field of electronic communications services, pay-tv services and political communication, notwithstanding the general right to present complaints in any form in case of audiovisual issues. | AGCOM regulation n. 136/06/CONS<br><a href="http://www.agcom.it/default.aspx?message=viewdocument&amp;DocId=2284">www.agcom.it/default.aspx?message=viewdocument&amp;DocId=2284</a> (in Italian)<br>For more information, see AGCOM website (in Italian)<br><a href="http://www.agcom.it/Default.aspx?message=contenuto&amp;DCId=%20200">www.agcom.it/Default.aspx?message=contenuto&amp;DCId=%20200</a> |

#### 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) |   |        |
| Italy   | Agcom | President           | Not applicable  | No                               | No                            | No                            | No                          | Yes<br>The law requires all members to be experts in Agcom's field of competence | No                    | Law August, 31 1997 n. 249 (art. 1, co.3)<br><a href="http://www.normattiva.it//dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it//dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian)<br><br>Law November 14, 1995 n. 481 (art. 2, co. 8)<br><a href="http://www.normattiva.it//dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it//dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian) |        |

| 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) |                                     |  |
|         |      | Board: Council                                 | 9   | No                               | No                            | No                            | No                          | Yes (same as above) | No                    |                                     | Law August, 31 1997 n. 249 (art. 1, co.3) (for URL, see above)<br>Law November 14, 1995 n. 481 (art. 2, co. 8) (for URL see above) |
|         |      | Board: Commission services and products        | 5 (incl. president)   | No                               | No                            | No                            | No                          | Yes (same as above) | No                    |                                     | Same as above  |
|         |      | Board: Commission infrastructures and networks | 5 (incl. president)   | No                               | No                            | No                            | No                          | Yes (same as above) | No                    |                                     | Same as above  |

**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? |
|---------|-----------|---|--|---|--------------------------------|
| Italy   | President | Convenes the meetings of the collegial bodies, determines the agenda, chairs the proceedings, and supervises the implementation of decisions. | The deliberations of the Authority are adopted by majority vote of present and may be declared enforceable by the vote of a majority of voters. Those absent are considered present but not voting.<br><br>Agcom regulation n. 316/02/CONS of October, 9 2002<br><a href="http://www.agcom.it/default.aspx?message=viewdocument&amp;DocID=604">www.agcom.it/default.aspx?message=viewdocument&amp;DocID=604</a> (in Italian) | Yes   | No                             |

| Country | Body    | Competences   | Decision-making process | Is the decision making process transparent?  | Minutes and agendas published? |
|---------|---------|---|-------------------------|--|--------------------------------|
|         | Council | <p>Main competences include:</p> <ul style="list-style-type: none"> <li>• Expressing views to the Ministry of Communications on the outline of the National plan for the distribution of frequencies</li> <li>• Drawing up the plans for the allocation of frequencies</li> <li>• Advising Government on legislative intervention</li> <li>• Guaranteeing application of provisions on access to media and communication infrastructures, also by the drawing up of specific regulations</li> <li>• Adopting regulations on criteria for licenses and authorizations and on the amount of contributions</li> <li>• Proposing to the Ministry of Communications regulations to be annexed to concessions and authorizations in the field of radio and television broadcasting</li> <li>• Ascertaining the existence of dominant positions in the radio-television sector and adopts the consequent measures</li> <li>• Carrying out the functions and tasks previously assigned to the former Broadcasting and publishing Office (Garante per la radiodiffusione e l'editoria)</li> <li>• Proposing to the Ministry of Communications the outline of the agreement to be annexed to the concession for public radio-television service and monitors implementation of all</li> </ul> | Same as above           | <p>The process provided by law is transparent. According to data provided by AGCOM, evidence of the voting process is given in the minutes which are accessible on request. AGCOM publishes every decision on its website, apart from those concerning its personnel. Even though its bulletin is not updated regularly, all regulatory decisions are published in the Official Journal.</p> | No                             |

**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<br>Yes – No | Nomination stage<br>Specify who is involved in that stage and who has the decisive say  | Appointment stage<br>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  |
|---------|-------|-------------|------------------------------|---|---|--|---|
| Italy   | Agcom | President   | Yes                          | a) Designation by the President of the Council of Ministers in consultation with the Minister of Economic Development<br>b) Submission of name to the competent parliamentary committees (positive opinion by 2/3 of the members of the competent parliamentary committees) | c) Appointment by decree of President of the Republic                                   | No   | Law August 31, 1997 n. 249 (art. 1, co. 3)<br><a href="http://www.normattiva.it//dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it//dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) |
|         |       | Commissions | Yes                          | The House and Senate each elect 4 Commissioners: each senator and each member expressing a  | Appointment by decree of President of the Republic                                      | No   | Same as above   |

| Country | Body |  | Nomination stage<br>Yes – No | Nomination stage<br>Specify who is involved in that stage and who has the decisive say  | Appointment stage<br>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 |
|---------|------|--|------------------------------|---|---|--|--------|
|         |      |  |                              | vote indicating two names, one for the networks and infrastructures committee, another one for the committee for services and products. |   |  |        |

**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   |
|---------|-------|---------------|----------------|--|--|--|
| Italy   | Agcom | President     | 7 years        | Yes (election cycle is 5 years)                            | No   | Law November 14, 1995 n. 481 (art. 2, co.8)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian)   |
|         |       | Commissioners | 7 years        | Yes (election cycle is 5 years)                            | No (apart from cases when a replacement election is made 3 years before the expiry of the ordinary period) | Law November 14, 1995 n. 481 (art. 2, co.8) (for URL, see above)<br><br>Law no. 249/97 (art. 1)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100615</a> (in Italian) |

**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   |
|---------|-------|----------------------------|--|------------------------|--|
| Italy   | Agcom | President<br>Commissioners | High and recognised experience and expertise in the sector |                        | Law November 14, 1995 n. 481 (art. 2, co.8)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian) |

**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 |  |   |  |   |  |  |
| Italy   | Agcom | President    | Yes                  |    | Yes<br>(Transition from a governmental position to Agcom is possible, but both positions cannot be held at the same time). | Yes<br>(Positions in political parties have to be left).      | Yes<br>(Direct or indirect interests in companies active in Agcom's field of competence must be left). | No  | Yes  | Law November 14, 1995 n. 481 (art. 2, co.8)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian) |
|         |       | Commissions  | Yes                  |    | Yes<br>Same as above   | Yes<br>Same as above  | Yes<br>Same as above   | No  | Yes  | Same as above  |
|         |       | 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 |  |   |   |  |
| Italy   | Agcom | President    | Yes                  |    | Yes  | Yes<br>(No position can be held in political parties during term of office)             | Yes<br>(No interest or working cooperation during term of office) | Law November 14, 1995 n. 481 (art. 2, co.8)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian) |
|         |       | Commissions  | Yes                  |    | Yes  | Yes<br>(same as above)  | Yes<br>(same as above)  | Same as above  |
|         |       | Senior staff | Yes                  |    | No specific provisions                                 | Yes<br>(If elected to positions in political parties, contract with Agcom is suspended) | Yes<br>(No interest or working cooperation during term of office) | Law November 14, 1995 n. 481 (art. 2(31))<br>(for URL, see above)<br>And general legislation on public servants  |

**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 |  |  |
| Italy   | Agcom | President    | Yes                  |    | Yes<br>For 4 years (no working relation or cooperation with any company active in Agcom's field of competence). Additionally, the law does not foresee any monetary compensation for the cooling-off period. | Law November 14, 1995 n. 481 (art. 2, co.9)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian) |
|         |       | Commissions  | Yes                  |    | Yes<br>(same as above)   | Same as above  |
|         |       | 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?<br>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 |  |  |   |   |
| Italy   | Agcom | President | Yes                  |    | No specific provisions   | Automatically without a specific dismissal procedure, if appointed members do not resign from political posts or leave their interests in companies active in Agcom's field of competence. No other grounds for dismissal. | Only individual members in cases of decadence               | Law November 14, 1995 n. 481 (art. 2(8))<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian) |

| Country | Body |                               | Do such rules exist? |    | Who can dismiss?<br>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 |  |   |   |               |
|         |      | Individual Commission 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 |         |         |
| Italy   | Agcom | 2005-2009 | Chairman                 |                       | 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   |
|---------|-----------------------------------|--|-----------------------------------|--|---|--|--|--|
| Italy   | AGCOM<br>Total revenues<br>€66.2m | No   | State funding<br>€3.16m<br>(4.8%) | No<br>Spectrum fees go to the government | Yes, but satellite only<br>€1.4m (2.1%)         | Aggregate amount not available<br>Average fines from €10,000 to €258,000 and from €25,000 to €350,000 (minors) | Yes<br>€61.64m (93.2%)<br>In 2010 the annual contribution to AGCOM from national operators in the sectors under its responsibility is 1.5 per thousand of the revenues resulting in the last budget approved by each operator.<br><br>The amount of contribution is determined by Authority's decision, respecting the limits provided by law. The law does not provide any obligations of cost orientation.<br>(Source: law 266/2005, art. 1, par. 65, 66, 68). | AGCOM annual report 2009<br><a href="http://www.agcom.it/Default.aspx?message=viewrelazioneannuale&amp;idRelazione=17">www.agcom.it/Default.aspx?message=viewrelazioneannuale&amp;idRelazione=17</a> (in Italian)<br>Law November 14, 1995 n. 481 (art. 2 (38))<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian) |

**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  |
|---------|-------|--|---|--|---|---|
| Italy   | Agcom | <p>AGCOM Council decides on the overall budget. The Ministry of Economy can adjust it when necessary.</p> <p>The budget is made up of:</p> <ul style="list-style-type: none"> <li>• annual contribution from all operators;</li> <li>• state financing, indicated for each year in the State Budget Law.</li> </ul> <p>As indicated in the last Agcom Annual Report (2008):</p> <ul style="list-style-type: none"> <li>• the aggregate contribution from operators in 2008 was €62.8m</li> <li>• the state funding for the same year was €3.3m.</li> </ul> | <p>Yes</p> <p>See previous column</p> <p>As regards the state contribution, Agcom may intervene during hearings in Parliament or with requests to the government.</p> | <p>Minister of economy decides on the percentage given by the state (c.a. 5% of the overall budget of Agcom)</p> |   | <p>Law December 23, 2005 n. 266, art. 1, co. 65 ss.<br/> <a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-12-29&amp;redaz=005G0293&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-12-29&amp;redaz=005G0293&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618</a><br/>                     (in Italian)</p> <p>Law n. 481/1995 (art. 2, co. 41)<br/> <a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a><br/>                     (in Italian)</p> <p>Annual Report of Agcom (2008)<br/> <a href="http://www2.agcom.it/rel_08/08_Relaz_part04.pdf">http://www2.agcom.it/rel_08/08_Relaz_part04.pdf</a></p> |

**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  |
| Italy   | Agcom | Yes   | Annual      | Yes<br>Auditing committee composed of judges and university professors.<br>The final balance is subject to the control of the Court of auditors. | No                 | Yes<br>Internal auditing:<br>Commission of guarantee of AGCOM<br>Internal audit service | Law n. 481/1995 (art. 2)<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian)<br><br>AGCOM Regulation n. 713/00/CONS |

## 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  |
|---------|-------|--|-----|--|--|
| Italy   | Agcom | Parliament                                     | Yes | Annual report to Parliament<br>But Parliament has no power to formally adopt or reject it.<br>Annual report to the Parliament presented via the President of the Council of Ministers. | Art. 1(6) lit b), no. 12 , law no. 249/97<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618</a> (in Italian) |
|         |       | Government as a whole                          | No  | But see above  |  |
|         |       | Specific ministers (e.g. Media, finance, etc.) | No  | N/A  | N/A  |

| Country | Body | Body accountable to |    | Accountability means | Legal basis |
|---------|------|---------------------|----|----------------------|-------------|
|         |      | Public at large     | No | N/A                  | N/A         |
|         |      | 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   |
|---------|-------|---------------------|-------------|--|--|---------------------|--------------------------------|--|
| Italy   | Agcom | Parliament          | Annual      | Evaluation of activities carried out and work programmes<br><br>Audiovisual, electronic communications, publishing, human resources and organisation | The report shall contain indication on activities carried out and work programmes; data and statements in the sector of competence, with regard to technological development, resources, revenues and capital, the diffusion potential and actual audience shares, the plurality of views in the information | No                  | No                             | <a href="http://www.agcom.it/Default.aspx?message=contenuto&amp;DCId=5">www.agcom.it/Default.aspx?message=contenuto&amp;DCId=5</a> |

| Country | Body | Report submitted to | Periodicity | Scope | Does statistical data need to be provided about own performance?<br>Explain                   | Approval necessary? | Has a report been disapproved ? | Link |
|---------|------|---------------------|-------------|-------|---|---------------------|---------------------------------|------|
|         |      |                     |             |       | system, the cross-ownership between radio, television, newspapers, magazines and other media. |                     |                                 |      |

**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 |
| Italy   | Agcom | No<br>(in addition to budget, see above)      | N/A         | N/A                 | N/A                  | N/A   | N/A         |



**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  |     |
|---------|-------|--|-----|-------------------|------------|---------------------------------|-------|---|-----|
| Italy   | Agcom | Does anybody have the power to overturn decisions of the regulator?  | No  | No                | No         | No                              | No    | Art. 1, para 1, law no. 249/97<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1997-07-31&amp;redaz=097G0287&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618</a> (in Italian) |     |
|         |       | Does anybody have the power to give instructions to the regulatory body?   | No  | No                | No         | Yes<br>(data provided by AGCOM) | No    | General principle of constitutional law (data provided by AGCOM)  |     |
|         |       | Are there limitations in the power to overturn (e.g. limited to legal supervision, which would exclude political supervision)? | N/A | N/A               | N/A        | N/A                             | N/A   | N/A   | N/A |
|         |       | Are there limitations in the power to give instructions (e.g. limited to legal instructions which exclude                      | N/A | N/A               | N/A        | N/A                             | No    | N/A   | N/A |

| Country | Body |                                     |  | Ministry/Minister | Government | Parliament | Other | Source |
|---------|------|-------------------------------------|--|-------------------|------------|------------|-------|--------|
|         |      | instructions on political grounds)? |  |                   |            |            |       |        |

**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  |
|---------|-------|----------|--|----------------------|--|---|--|
| Italy   | Agcom | External | 1  | Administrative Court | No   | Anybody who has direct interest in the question | Art. 2, Law n. 481/1995<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian) |
|         |       |          | 2  | Council of State     |  |   |  |

**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 |
| Italy   | Agcom |   |    | √                                   | 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 |
|---------|-------|----------------|---|---|-------|
| Italy   | Agcom |                | √   | √<br>In cases falling under the electronic communications package and in cases of request of compensation | 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  |
|---------|-------|------------------------|-----|----|---|
| Italy   | Agcom | 1 Administrative court |     | √  | The appeal body has the power to cancel the decision and remit it back to regulator for new decision. |
|         |       | 2 The Council of State |     | √  | Same as above   |

## 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?   |
|---------|-------|--|---|---|--------------------|--|
| Italy   | Agcom | Yes                                      | Each directorate has a certain budget that may be used for outside advice | Yes   | -                  | Yes in cases where the law obliges the use of independent auditors (e.g. net cost calculation for universal service obligations) |

**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 |   |
| Italy   | Agcom | Agcom may conduct public consultations to acquire information and documentation concerning all questions under its competence.<br>This derives from general action by Agcom. | No specific requirement.<br>In practice, anybody with specific interest in the issue to be dealt with by the regulation to be adopted. | The period is fixed for each consultation.<br>Average is 30 days. Might be shortened in urgent matters. | Yes   | Yes (most frequent)             | AGCOM regulation n. 278/99<br><a href="http://www2.agcom.it/provv/D278_99.htm">www2.agcom.it/provv/D278_99.htm</a> (in Italian) |

**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  |
|---------|-------|------|---|
| Italy   | Agcom | 2010 | 5<br>(VOD services, AVMS services on non-traditional networks, short extracts, list of events; European works)  |
|         |       | 2009 | 1<br>Sports rights on emergent platforms <a href="http://www.agcom.it/default.aspx?message=viewdocument&amp;DocID=3417">www.agcom.it/default.aspx?message=viewdocument&amp;DocID=3417</a> (in Italian)  |
|         |       | 2008 | 2<br>European works <a href="http://www.agcom.it/default.aspx?message=viewdocument&amp;DocID=2441">www.agcom.it/default.aspx?message=viewdocument&amp;DocID=2441</a> (in Italian)<br>Secondary rights <a href="http://www.agcom.it/default.aspx?message=viewdocument&amp;DocID=2444">www.agcom.it/default.aspx?message=viewdocument&amp;DocID=2444</a> (in Italian) |

**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?<br>Legal basis?   | Obligation to include/publish impact assessment?<br>Legal basis?  |         |
|---------|-------|---|---|---|---------|
|         |       |   |   | Ex ante   | Ex post |
| Italy   | Agcom | All decisions<br>(apart from those dealing with human resources and thus not accessible by third parties)<br><br>Art. 2, Law n. 481/1995<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1995-11-18&amp;redaz=095G0522&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100616</a> (in Italian) | Yes<br><br>Art. 2, Law August 7, 1990 n. 241<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1990-08-18&amp;redaz=090G0294&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=1990-08-18&amp;redaz=090G0294&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618</a> (in Italian) | Yes<br><br>On the basis of general legislation on regulatory impact assessment<br><br>Law no. 229/2003<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2003-08-25&amp;redaz=003G0223&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2003-08-25&amp;redaz=003G0223&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618</a> (in Italian) | N/A     |

## 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  |
|---------|-------|--|--|---|---|
| Italy   | Agcom | Consultations with the competition authority during the market analysis procedures according to the electronic communications package (Agcom leading body) and in cases of unfair commercial practices (Competition authority as leading body) | Electronic communications code<br>Legislative decree no. 259/2003<br><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2003-09-15&amp;redaz=003G0280&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2003-09-15&amp;redaz=003G0280&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618</a> (in Italian) | No  | There is only one regulator in the communications field. Cooperation is ensured with other bodies active in other |

| 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  |
|---------|------|---|---|---|---|
|         |      |   | <p>Consumer code<br/>Legislative decree no. 206/2005<br/><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-10-08&amp;redaz=005G0232&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2005-10-08&amp;redaz=005G0232&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618</a> (in Italian)</p> <p>Audiovisual sports rights<br/>Legislative decree no. 9/2008<br/><a href="http://www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2008-02-01&amp;redaz=008G0019&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618">www.normattiva.it/dispatcher?task=attoCompleto&amp;service=212&amp;datagu=2008-02-01&amp;redaz=008G0019&amp;parControllo=si&amp;connote=false&amp;aggiorn=si&amp;datavalidita=20100618</a> (in Italian)</p> |   | fields (competition and privacy authorities being the main cases) |

**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 |
|---------|-------|--|--|----------|
| Italy   | Agcom | <p>Yes</p> <p>As regards audiovisual media regulation, contact committee under AVMSD, all groups and committees coordinated by the European Commission together with governmental representatives, BEREC, EPRA, Standing Committee on transfrontier television</p> | <p>AVMSD and ratification law of the European Convention on Transfrontier Television</p> <p>See also AGCOM Regulation n. 316/02/CONS<br/><a href="http://www2.agcom.it/regol/reg_orga.htm">www2.agcom.it/regol/reg_orga.htm</a> (in Italian)</p> |          |