

# 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 – Luxembourg

## Table of contents

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

## 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)
Luxembourg	33 The complete list is accessible via <a href="http://www.cnpl.lu/chaines_sous_surveillance">www.cnpl.lu/chaines_sous_surveillance</a>	Only one full-service video-on-demand-service in Luxembourg currently (P&T Luxembourg, available at <a href="http://www.pt.lu/portal/lang/en/telecom/tele">www.pt.lu/portal/lang/en/telecom/tele</a> ) Other relevant under Luxembourgish jurisdiction with (AV)M content, e.g. iTunes ( <a href="http://www.apple.com/lu/itunes/what-is">www.apple.com/lu/itunes/what-is</a> ) In addition, the main Luxembourgish broadcasters offer non-linear services (only replays) online. See e.g. RTL ( <a href="http://tele.rtl.lu/waatleeft/replay/">http://tele.rtl.lu/waatleeft/replay/</a> ); others are non-commercial such as Uelzechtkanal ( <a href="http://www.uelzechtkanal.lu/UKNEW/Home.html">http://www.uelzechtkanal.lu/UKNEW/Home.html</a> ). Others, such as offering by Numericable are outside of the jurisdiction (in this case Belgian, <a href="http://www.numericable.lu/tv.html">www.numericable.lu/tv.html</a> )	No real one for audiovisual media (different for radio ("100,7" <a href="http://www.100komma7.lu">www.100komma7.lu</a> )), but private commercial broadcasting company CLT-UFA (=RTL group) who is main holder of television licenses in Luxembourg has committed itself to provide a specific content for the Luxembourg public ("service public") covering a specific slot in the programme schedule and specific content such as mainly news, culture etc. ( <a href="http://www.rtl.lu/home/">www.rtl.lu/home/</a> )

**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
Luxembourg	Information requirements (art. 5 AVMS Directive)	<i>Now:*</i> Art. 6 (6) Loi du 27 juillet 1991 sur les médias électroniques (Mém. A 47 du 30 juillet 1991 p.972), modifiée par la Loi du 2 avril 2001 (Mém. A- 42 du 17 avril 2001, p.924)  <i>Near future:**</i>	Service de médias et des communications (SMC) Direction Médias, Audiovisuel et Société de l'Information (Art.2 (d) Règlement 2008) For the Government	Will only be introduced after e.i.f. of Projet de Loi N° 6145, after which the same bodies are competent as for	Not applicable

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
		Art. 46 Projet de Loi N° 6145 portant modification de la loi modifiée du 27 juillet 1991 sur les médias électroniques du 15 juin 2010 (Art. 34 <i>bis</i> Loi)		commercial (linear) services	
	Audiovisual commercial communication, sponsorship, product placement (Art. 9 – 11 AVMS Directive)	<p>Art. 28 Loi du 27 juillet 1991 sur les médias électroniques (Mém. A 47 du 30 juillet 1991 p.972), modifiée par la Loi du 2 avril 2001 (Mém. A- 42 du 17 avril 2001, p.924)</p> <p>Règlement grand-ducal du 24 juin 2008 portant modification du règlement grand-ducal du 5 avril 2001 fixant les règles applicables en matière de publicité, de parrainage, de télé-achat et d'autopromotion dans les programmes de télévision réputés relever de la compétence du Luxembourg conformément à la directive européenne "Télévision sans frontières"</p> <p>Together with the original Règlement of 2001</p> <p>Règlement grand-ducal du 5 avril 2001 fixant les règles applicables en matière de publicité, de parrainage, de télé-achat et d'autopromotion dans les programmes de télévision réputés relever de la compétence du Luxembourg conformément à la directive européenne modifiée "Télévision sans frontières" (Mém. A-N° 42 du 17 avril 2001, p.936) (in view of the changes in the law forthcoming a new Règlement is in preparation)</p> <p>Art. 37 Projet de Loi No 6145 (which will amend Art. 27<i>bis</i> (7) Loi 1991)</p>	SMC (if not content-related, cf. Country report)	SMC (if not content-related, cf. Country report)	Not applicable
	Accessibility to people with a disability (Art. 7 AVMS Directive)				
	Broadcasting of major events (Art. 14 AVMS Directive)	Art. 28 <i>bis</i> Loi 1991	SMC	SMC	not applicable
	Access to short news reports (Article 15 AVMS)	Art. 40 Projet de Loi N° 6145 (Art. 28 <i>ter</i> Loi)	Will be SMC	Will be SMC	not applicable

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
	Directive)				
	Promotion of European works (Art. 13, 16, 17 AVMS Directive)	<p>Art. 27 Loi 1991</p> <p>Règlement grand-ducal du 5 avril 2001 fixant les règles applicables en matière de contenu en œuvres européennes et en œuvres de producteurs indépendants des programmes de télévision réputé relever de la compétence du Luxembourg conformément à la directive européenne "Télévision sans frontières" (Mém. A-N° 42 du 17 avril 2001, p.934), esp. Art. 3 and 4</p> <p>Art. 36 Projet de Loi N° 6145</p>	SMC	SMC	not applicable
	Hate speech (Art. 12 and 6 AVMS Directive)	<p>Art. 6 Loi 1991</p> <p>Art. 34 Projet de Loi N°6145 (Art. 26bis Loi)</p> <p>Art. 40 Projet de Loi N° 6145 (Art. 28quater Loi)</p>	CNP	CNP	not applicable
	Television advertising and teleshopping, (Art. 19 – 26 AVMS Directive)	<p>Art. 7 and 28 Loi 1991</p> <p>Règlement grand-ducal du 24 juin 2008 portant modification du règlement grand-ducal du 5 avril 2001 fixant les règles applicables en matière de publicité, de parrainage, de téléachat et d'autopromotion dans les programmes de télévision réputés relever de la compétence du Luxembourg conformément à la directive européenne "Télévision sans frontières", esp. Art. 2 to 6, and original</p> <p>Règlement grand-ducal du 5 avril 2001 fixant les règles applicables en matière de publicité, de parrainage, de téléachat et d'autopromotion dans les programmes de télévision réputés relever de la compétence du Luxembourg conformément à la directive européenne modifiée "Télévision sans frontières" (Mém. A-N° 42 du 17 avril 2001, p.936)</p> <p>In addition: Texte coordonné du 30 avril 2010 de la loi du 4 juin 2004 sur la liberté d'expression dans les médias (Mém. A-85 du 8 juin 2004, p.1202, Mém. A-N°69 du 30 avril 2010, p.1323), this</p>	SMC (except, see above)	SMC (except, see above)	not applicable

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
		law includes general obligations for journalists and a self-regulatory code of conduct (Code de déontologie) which contains relevant aspects in Art. 11			
	Protection of minors (Art. 27 AVMS Directive)	Art. 6 (2) et (3) Loi 1991  In addition: Texte coordonné du 30 avril 2010 de la loi du 4 juin 2004 sur la liberté d'expression dans les médias (Mém. A-85 du 8 juin 2004, p.1202, Mém. A-N°69 du 30 avril 2010, p.1323), this law includes general obligations for journalists, relevant here are Art. 18 and 19  Art. 37 Projet de Loi N° 6145 (Art. 27ter Loi)	CNP	CNP	not applicable
	Right of reply (Art. 28 AVMS Directive)	Texte coordonné du 30 avril 2010 de la loi du 4 juin 2004 sur la liberté d'expression dans les médias (Mém. A-85 du 8 juin 2004, p.1202, Mém. A-N°69 du 30 avril 2010, p.1323), this law includes general obligations for journalists, relevant here are Art. 36 et seq.  Art. 23quater (4) Projet de Loi N° 6145	No monitoring specifically, possibility of taking urgent action in front of Président du Tribunal d'arrondissement (Art. 46 et. sec. of Loi 2004)		not applicable
	Communication and cooperation with other European regulation bodies and the Commission (Art. 30 AVMS Directive)	Art. 29 (1) (e), (f) Loi 1991	SMC, in reality shared with CNP	SMC, in reality shared with CNP	not applicable
	<p>Loi 1991 available at <a href="http://www.legilux.public.lu/leg/a/archives/2001/0088/a088.pdf#page=2">http://www.legilux.public.lu/leg/a/archives/2001/0088/a088.pdf#page=2</a></p> <p>Loi 2004 available at <a href="http://www.legilux.public.lu/leg/a/archives/2010/0069/a069.pdf#page=3">http://www.legilux.public.lu/leg/a/archives/2010/0069/a069.pdf#page=3</a></p> <p>Règlement 2001 Advertising (as modified by 2008) available at <a href="http://www.legilux.public.lu/leg/a/archives/2008/0091/a091.pdf#page=5">http://www.legilux.public.lu/leg/a/archives/2008/0091/a091.pdf#page=5</a></p> <p>Règlement 2001 Quotas available at <a href="http://www.legilux.public.lu/leg/a/archives/2001/0088/a088.pdf#page=20">http://www.legilux.public.lu/leg/a/archives/2001/0088/a088.pdf#page=20</a></p> <p>Bill (Projet de Loi N° 6145) available at <a href="http://www.chd.lu/wps/PA_1_084AIVIMRA061432DO10000000/FTSShowAttachment?mime=application%2fpdf&amp;id=1043784&amp;fn=1043784.pdf">http://www.chd.lu/wps/PA_1_084AIVIMRA061432DO10000000/FTSShowAttachment?mime=application%2fpdf&amp;id=1043784&amp;fn=1043784.pdf</a></p>				

**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
Luxembourg	Government, acting on basis of work of Service des médias et des communications (in preparation of ministerial or governmental decisions) (SMC) (Règlement grand-ducal du 14 novembre 2008 fixant l'organisation du Service des médias et de l'audiovisuel crée par l'article 29 de la loi du 27 juillet 1991 sur les médias électroniques)	<a href="http://www.mediacom.public.lu">www.mediacom.public.lu</a>	July 27, 1991	L-1917 Luxembourg
	Commission indépendante de la radiodiffusion (CIR)	<a href="http://www.mediacom.public.lu">www.mediacom.public.lu</a>	July 27, 1991	L-1917 Luxembourg
	Conseil national des programmes (CNP)	<a href="http://www.cnpl.lu">www.cnpl.lu</a>	July 27, 1991	L-1347 Luxembourg
	Institut Luxembourgeois de Régulation (ILR)	<a href="http://www.ilr.public.lu/">www.ilr.public.lu/</a>	March 21, 1997	L-2520 Luxembourg

**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)
Luxembourg	SMC	√	√	√ (Art. 22 (5) Loi 1991)	√	√	

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)
	CNP	√					
	CIR	√			√		
	ILR		√	√	√	√	√

**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
Luxembourg	CNP	2 (secretaries)	2	60.000 (no predefined figure mentioned in law for CNP, but depends on yearly established budget law)	60.000	Budget de l'Etat, Loi du 18 décembre 2009 concernant le budget des recettes et des dépenses de l'Etat pour l'exercice 2010, Mém. A – 254, p.5109

## 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
Luxembourg	SMC / Government	Loi du 27 juillet 1991 sur les médias électroniques (Mém. A – 42 du 30.07.1991, p.972) as amended by Loi du 02.04.2001 (Mém. A - 42 du 17.04.2001, p. 924), Loi du 19.12.2003 (Mém. A - 189 du 31.12.2003, p.	Règlement grand-ducal du 14 novembre 2008 fixant l'organisation du Service des médias et de l'audiovisuel créé par l'article 29 de la loi du 27 juillet 1991 sur les médias électroniques (Règlement 2008)



Country	Body	Legislation setting-up the regulatory body	Governing legislation
		3990), Loi du 08.06.2004 (Mém. A - 85 du 08.06.2004, p. 1202) and Loi du 23.04.2008 (Mém. A - 55 du 29.04.2008, p. 760) (Loi 1991)	
	CPN	<p>Loi du 27 juillet 1991 sur les médias électroniques (Mém. A – 42 du 30.07.1991, p.972)</p> <p>Arrêté grand-ducal du 12 septembre 1991 fixant la liste des organisations représentées au sein du Conseil national des programmes, Mém. B - 42 du 17.09.1991, as modified by Arrêté du 24 février 1995, Mém. B - 17 du 24.03.1995</p> <p><b>Arrêté grand-ducal du 27 juillet 1997 modifiant la liste des organisations représentées au sein du Conseil national des programmes, Mém. A - 60 du 18.08.1997, p. 1758</b></p> <p>Arrêté grand- ducal du 17 septembre 2007 portant nomination des membres du Conseil National des Programmes, Mém. B - 74 du 28.09.2007, page 1052</p>	Règlement grand-ducal du 27 février 1992 fixant les dispositions sur le fonctionnement interne du Conseil National des Programmes, créé par l'article 31 de la loi du 27 juillet 1991 sur les médias électroniques, Mém. A - 13 du 19.03.1992, p. 657 (Règlement 1991)

**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
Luxembourg	CNP	No specific form	No	Established as advisory body for the governmental dept. responsible for the media (SMC).	Depend on the government for administrative and budget questions, but is an independent body in its decisions and day-to-day work.	Confer for more details the country report.

**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	
Luxembourg	CNP		√ The CNP takes its decisions independently of the government but depends on the governmental budget and administration.	Art. 31(1) Loi 1991

### 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
Luxembourg	CNP	Areas	None	None	None
		Source	<a href="http://www.cnpl.lu/documentation/avis">www.cnpl.lu/documentation/avis</a>		

**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)
Luxembourg	SMC	Quotas	√	√	√			Art. 27 and 29 Loi 1991

Country	Body	Areas	Systematic monitoring	Ad-hoc monitoring	Information collection powers	Monitoring only after complaints	Others	Source (legislation, or practice)
	SMC/CNP	Advertising*	√	√	√			Art. 7 Loi 1991
	CNP	Protection of minors	√	√	√			Art. 6 and 31 Loi 1991
* competence of SMC, but if content-related question in advertising CNP acts (cf. Country report)								

**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
Luxembourg	SMC	Quotas	Art. 35(2bis) and Art. 35(2ter) Loi 1991		Art. 35(4) Loi 1991  The decisions to withdraw a license or prohibit the use of the Luxembourgish frequency or satellite capacity are to be published in the Official Journal (Mémorial)	Only revocation: Art. 35(3) Loi 1991  If a violation is found repeatedly or if it persists, the government may (discretion) revoke the license or the permission. The government may pronounce the prohibition to use the frequency or satellite capacity for those programmes that fall under its jurisdiction according to Art. 2(4) AVMS.		
	SMC / CNP	Advertising	Art. 35(2) and Art. 35(2ter) Loi 1991  If the CNP finds that a programme violates the Loi 1991, it informs the Minister who invites the license holder in writing to submit his observations		Same as above	Same as above		

<b>Country</b>	<b>Body</b>	<b>Areas</b>	<b>Warnings/formal objections</b>	<b>Fine (lump sum)</b> If so, list maximum and minimum amounts	<b>Publication of decisions in the media</b>	<b>Suspension/Revocation of licence</b>	<b>Penalty payments (in case of non compliance with decision)</b>	<b>Others</b>
	CNP	Protection of minors	ditto		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
Luxembourg	CNP	No	No	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)
Luxembourg	CNP	√*	No	No	No	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
Luxembourg	SMC/CNP	Art. 35 (1) and (2) Loi 1991 According to paragraph 1, each natural or legal person may complain to the SMC in view of a radio or television programme which violates the Loi 1991. The parties are informed of the complaint. In line with paragraph 2, the CNP may initiate the complaint by informing the relevant Minister.	<a href="http://www.cnpl.lu/comments_complaints">www.cnpl.lu/comments_complaints</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)		
Luxembourg	CNP	Assembly	24  Art. 31(5) Loi 1991 specifies that the CNP may be composed of a maximum of 25 members	Yes (24) Currently 1 per organisation	No	No  but: the list of important groups of civil society includes delegates from the four most important political groups (PCS, POSL, DP, Déi Gréng)	No	No*	No	No	Art. 31(5) Loi 1991 Arrêté grand-ducal du 12 septembre 1991 fixant la liste des organisations représentées au sein du Conseil national des programmes, Mém. B - 42 du 17.09.1991, as modified by

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)		
											<p>Arrêté du 24 février 1995, Mém. B - 17 du 24.03.1995 and Arrêté grand-ducal du 27 juillet 1997 modifiant la liste des organisations représentées au sein du Conseil national des programmes, Mém. A - 60 du 18.08.1997, p. 1758</p> <p>Arrêté grand-ducal du 17 septembre 2007 portant nomination des membres du Conseil National des Programmes, Mém. B - 74 du 28.09.2007, page 1052</p>
	Executive board ("Bureau élargi")	10 Does not exist by law, it is an own-initiative of CNP (i.e. created under CNP's internal rules which are unpublished).	6 (=2/3)		3 (=1/3)	1					
*External experts may be invited to provide assistance to the CNP. This is underlined twice in the legislative framework (Art. 31(6) Loi 1991 and Art. 7 Règlement 1992).											





**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?
Luxembourg	CNP- Assembly	All decisions	Majority of members to be present (or included in decision via postal exchange) and majority of votes cast** Art. 5 Règlement 1992	No publication because of secrecy of deliberations Art. 8 Règlement 1992	No publication because of secrecy of deliberations
	CNP- Executive board ("Bureau élargi")	Created on own initiative of CNP with competence to prepare meetings and decisions as well as decision power in case of urgency (made up of president, two vice-pres. and seven members from CNP assembly) The executive board also determines its internal organisation and procedures.	Same as above	Same as above	Same as above

**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
Luxembourg	CNP	Members	Yes	List of organisations	formal appointment by	No	Art. 31(4) Loi 1991

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
				established that have right to nominate	Minister and Publication of List with names in Official Journal		
		President*, Vice-President	Yes (inasmuch as they are selected from the delegated persons)	CNP Assembly members nominate and appoint the President and Vice-President	internal decision of the group of members (see left)		Art. 31(4), (5) Loi 1991

**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
Luxembourg	CNP	Members	5 years	No	Yes, unlimited	Art. 31(4) Loi 1991
		President, Vice- President	Same as above	Same as above	Same as above	Same as above

**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
Luxembourg	CNP	Members	No specific qualifications required	No specific professional expertise required but main profiles include lawyers, social workers, former journalists, etc.	
		President, Vice- President	Same as above	Same as above	

**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						
Luxembourg	CNP	Members		√				The fact that membership of the CNP is an honorary office implies that members of the CNP may and generally hold other positions		
		President, vice-President		√*				They may not be civil servants of the governmental administration		Art. 31(5) Loi 1991

**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				
Luxembourg	CNP	Members		√				
		President, Vice-President		√* *Except incompatibility (see Table 20), but no specific provisions on conflict of interests beyond that				

**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		
Luxembourg	CNP	Members		√		
		President, Vice-President		√		

**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				
Luxembourg	CNP	Members		√*				
		President, Vice-President		√*				
		*This may be explained by the fact that membership of the CNP is an honorary office.						

**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		
Luxembourg	CNP	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
Luxembourg	CNP	No	100% state budget					As an example the latest budget : Budget de l'Etat, Loi du 18 décembre 2009 concernant le budget des recettes et des dépenses de l'Etat pour l'exercice 2010, Mém. A – 254, p.5109



**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
Luxembourg	CNP	In the course of the year, the government requests a list from the Parliament of necessary projects to be included in the budget. In October, the Minister of Finance proposes the budget. This act of authorisation ( <i>acte d'autorisation</i> ) is adopted by the Parliament ( <i>Chambre des Députés</i> ) according to the normal legislative procedure. Concerning the budget of the CNP, the body (CNP) proposes its requested budget to the SMC that brings it in the governmental and parliamentary proceedings via the competent Minister. The decision on which amount is	Yes (see explanation in previous column)	Government and Parliament	No	<a href="http://www.chd.lu/wps/portal/public/BudgetDeLEta">www.chd.lu/wps/portal/public/BudgetDeLEta</a>

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
		actually proposed in the budget deliberations of the State is up to the Minister and Government.				

**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
Luxembourg	CNP*	No  However, each expenditure over 500€ must be cleared by the national state audit office.					
*There is no specific auditing of the annual budget of the CNP. Its annual budget is, however, audited in the context of the auditing of the state budget.							

## 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
Luxembourg	SMC/CNP	Parliament	No		
		Government as a whole	No		
		Specific ministers (e.g. Media, finance, etc.)	Yes, Minister of Communications and the Media	The Minister supervises the work of the SMC as the latter is to assist the former. The SMC forms the link between CNP and the Minister (see in more detail Country Report).	
		Public at large	No		
		Other	No		

**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
Luxembourg	CNP	Parliament/ministry/body/sector/public (if more than one, cover in separate rows)						
		There are no specific reporting obligations. Yet, the CNP voluntarily publishes its annual reports on its website and provides the Minister / SMC with information required by these.						

**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
Luxembourg	CNP	No		There is no formal auditing, but the work is followed by the SMC and Ministry of Communication and the Media			Art. 29(2) Loi 1991

**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
Luxembourg	CNP	Does anybody have the power to overturn decisions of the regulator?	Yes *In fact, the CNP does not have any formal decision-making powers. Yet, it determines whether a case is pursued or not. Only if the CNP becomes active can the Minister become involved. The CNP's action is therefore a prerequisite for the Minister's involvement. The Minister, in turn, is free to follow the CNP's proposition or, otherwise, ignore it.	√*			Court	Art. 35(2) Loi 1991 Art. 3 Règlement 1992 (general Administrative law)
		Does anybody have the power to give instructions to the regulatory	√ *The Minister for Communication and the Media may request topics to be included	√*				Art. 3 Règlement 1992

Country	Body			Ministry/Minister	Government	Parliament	Other	Source
		body?	on the agenda of the CNP.					
		Are there limitations in the power to overturn (e.g. limited to legal supervision, which would exclude political supervision) ?	√					
		Are there limitations in the power to give instructions (e.g. limited to legal instructions which exclude instructions on political grounds)?	√ The request only refers to the agenda, so the CNP has to deal with the issue. There is no instruction possible as to the outcome of the discussion and decision.					

**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
Luxembourg	SMC/CNP	External	1	Tribunal Administratif*		Each natural or legal person being affected by a revocation of his license or restriction of his rights.	Art. 35(6) Loi 1991
			2	Cour administrative			

**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
Luxembourg	SMC/CNP	√ (Cf. Art. 11 (1) Loi 1999 and Art. 45 in connection with 35 Loi 1996)*		Possibility for Tribunal/Court to decide differently (cf. e.g. Art. 11 (2) Loi 1999)	

**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
Luxembourg	SMC/CNP	√	√	√ (source: research of the consortium)  According to CNP, a full re-examination by the administrative court is not possible.	



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

Country	Body	Appeal stage	Yes	No	Comments
Luxembourg	SMC/CNP	1		√	No. The appeal body (Trib. admin. / Cour admin.) has the power to cancel the decision and remit it back to regulator for new decision (cf. Art. 2 (4) Loi 1996).

## 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?
Luxembourg	CNP	Yes	€ 54,000	No Confer Loi du 25 juin 2009 sur les marchés publics (Mém. A - 172 du 29.07.2009, p.2492) ; pursuant to this law public entities have in principle to respect public tender when buying a product/service as soon as a threshold is passed. Amounts differ and in some categories there are exemptions. Due to the limitation of budget for individual service agreements there is no public tender in the case of CNP-expertise requests.		Yes

**Table 37 - Public consultations**

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

Country	Body	Which decisions require prior public consultation?	Requirements on who must be consulted? (e.g. broadcasters, consumer organisations, academics etc.)	Consultation period	Consultation responses published		Legal basis
					Full responses (if authorised by contributor)	Summaries prepared by regulator	
Luxembourg	SMC / CNP	No public consultation, but requirement to hear the broadcaster before decision is taken.					Art. 35 (1), (2) and (2bis) Loi 1991

**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
Luxembourg	CNP	2005-2009	not applicable (see Table 37)

**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
Luxembourg	CNP	None	No	No	No
		*If the government decides to revoke a license, its decision needs to be published in the Official Journal (Mémorial) according to Art. 35(4) Loi 1991, no other publication obligation.			

## 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
Luxembourg	CNP	Informal exchange of views with e.g. "Conseil de la Presse"	Voluntary	No	

**Table 41 - International cooperation**

Country	Body	Does it cooperate with other national regulatory bodies in EU and international fora?	Source and form of cooperation (legal basis)	Comments
Luxembourg	CNP	In actual terms, with regard to content-related matters, the CNP participates in EPRA and assists the SMC in its involvement in the Contact Committees CNP also participates to the "réseau francophone des régulateurs de médias" (REFRAM)	Annual reports (voluntary basis)	<a href="http://www.cnpl.lu/documentation/rapports">www.cnpl.lu/documentation/rapports</a> <a href="http://www.cnpl.lu/documentation/epra">www.cnpl.lu/documentation/epra</a>
	SMC	By law, the SMC is charged of ensuring the cooperation with international organisations or those bodies established by Art. 29 AVMS (Contact Committees)	Art. 29(2)(e) Loi 1991	