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“Indicators for independence and efficient functioning of audiovisual media services regulatory bodies for the purpose of enforcing the rules in the AVMS Directive”

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Country Tables Slovenia

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I. GENERAL INFORMATION

Table 1 - Market data

This table is aimed at gathering information on the number of audiovisual media services that are supervised in the country.

Country	Number of linear commercial services	Number of non-linear commercial services	Number of public service channels (PSBs)
Slovenia	74	Soon to be decided	3

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
Slovenia	Information requirements (art. 5 AVMS Directive)	Mass Media Act	Ministry of Culture (Media Inspector)	APEK (probably)	same
	Audiovisual commercial communication, sponsorship, product placement (Art. 9 – 11 AVMS Directive)	Mass Media Act	APEK, Ministry of Culture (Media Inspector)	APEK (probably)	same
	Accessibility to people with a disability (Art. 7 AVMS Directive)	Mass Media Act, Act on RTV Slovenia	Ministry of Culture	APEK (probably)	Ministry of Culture + Programme Council of RTV Slovenia
	Broadcasting of major events (Art. 14 AVMS Directive)	Mass Media Act	Ministry of Culture (Media Inspector)	APEK (probably)	same
	Access to short news reports (Article 15 AVMS Directive)	Mass Media Act	Ministry of Culture (Media Inspector)	APEK (probably)	same

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
	Promotion of European works (Art. 13, 16, 17 AVMS Directive)	Mass Media Act	APEK, Ministry of Culture (Media Inspector)	APEK (probably)	same
	Hate speech (Art. 12 and 6 AVMS Directive)	Mass Media Act Radio and Television Corporation of Slovenia Act Penal Code	<i>In case of hate speech in advertising:</i> Media Inspector within the Ministry of Culture <i>On generally:</i> Court (Penal Code)	APEK (probably)	<i>In case of hate speech in advertising:</i> Media Inspector within the Ministry of Culture <i>On generally:</i> Programme Council of RTV Slovenia
	Television advertising and teleshopping, (Art. 19 – 26 AVMS Directive)	Mass Media Act	APEK, Ministry of Culture (Media Inspector)	APEK (probably)	same
	Protection of minors (Art. 27 AVMS Directive)	Mass Media Act	APEK, Ministry of Culture (Media Inspector), Broadcasting Council	APEK (probably)	same
	Right of reply (Art. 28 AVMS Directive)	Mass Media Act	Ministry of Culture (Media Inspector)	APEK (probably)	same
	Communication and cooperation with other European regulation bodies and the Commission (Art. 30b AVMS Directive)	/	/	/	/

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
Slovenia	APEK	www.apek.si	2001	Ljubljana
	Broadcasting Council (independent expert body with administrative support provided by APEK)	www.srdf.si/en/about_the_council <i>Decision by the Parliament on the establishment is available here:</i> www.uradni-list.si/1/objava.jsp?urlid=200162&stevilka=3262	2001 <i>(previous one according to previous mass media act was established in 1994)</i>	Ljubljana

Country	Name of regulatory body	Link to website	Date of establishment	Location
	Ministry of Culture	www.mk.gov.si/	1991	Ljubljana
	Inspectorate for Culture and Media-Media Inspector (within Ministry of Culture)	www.mk.gov.si/en/about_the_ministry/bodies_under_the_responsibility_of_the_ministry/	2004 <i>(as an inspectorate for culture and media; but from 2002-2004 the Media Inspector was part of the media division of the Ministry of Culture, and there was a separate Inspectorate for Cultural Heritage; now several inspections which supervise implementation of the regulation under responsibility of the Ministry of Culture are joined in the Inspectorate for Culture and Media)</i>	Ljubljana

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)
Slovenia	APEK	Yes	Yes	No	Yes	Yes	post
	Broadcasting council	Yes	Yes	No	No	No	No
	Ministry of Culture (including Media Inspector)	Yes	No	No	No	No	No

Table 5 - Staff and overall budget

This table provides an overview of the staff and overall budget of the regulatory authority. The figures are given for the areas covered by the AVMS directive (where possible) for regulators with a broader area of responsibility.

Country	Body	Total number of staff foreseen in statutes/law	Current staff count	Annual budget (€m) foreseen in statutes/law	Current annual budget	Reference year +source
Slovenia	APEK	75 in APEK as a whole (EC, BC, Post) (Government's Decree, Aug. 2009)	16 employers linked to audiovisual matters: <ul style="list-style-type: none"> • Head of the Division: 1 • Content regulation and licensing: 5 • Content monitoring: 4 • Broadcasting Spectrum management: 6 	€1.20m direct cost €774,958 indirect cost (finance, IT, law department, other) (for AVMS matters only)	€1.98m (for AVMS matters only)	Year 2009 www.apek.si/en/annual_reports English version of the last report not available.
	Ministry of Culture (including Inspectorate for Culture and the Media, Media Inspector)	210 (for the whole ministry) (Government's Human Resources Plan for 2010)	213	€198,223,436 (for the whole ministry) (€340,049 for Inspectorate for Culture and the Media)	€204,040,642 (for a whole ministry) (€317,876 for Inspectorate for Culture and the Media)	Figures for 2010 E-government web site: http://e-uprava.gov.si/ispo/zaposleni/osnovna.ispo?pageToModul=/podatki_mk.jsp For budget: 2009 2009 Annual Report of the Ministry of Culture www.mk.gov.si/fileadmin/mk.gov.si/pageuploads/Ministrstvo/Podatki/Letna_porocila/finan_2009.pdf

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
Slovenia	Post and Electronic Communications Agency of the Republic of Slovenia (APEK)	Telecommunications Act (no longer valid) - before 2004 Electronic Communications Act (art. 167) - after 2004 Governmental Decision establishing APEK	Electronic Communications Act (ECA, art. 115-128) www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/electronic_communications_act_official_consolidated_version_zekom-upb1_unofficial_translation_english.pdf Statutes of the Post and Electronic Communications Agency www.uradni-list.si/1/objava.jsp?urlid=200568&stevilka=3018 Act on establishment of the Post and Electronic Communications Agency http://zakonodaja.gov.si/rpsi/r09/predpis_SKLE2099.html Public Agencies Act http://zakonodaja.gov.si/rpsi/r04/predpis_ZAKO2024.html
	Ministry of Culture including Inspectorate for Culture and the Media (Media Inspector)	For Ministry: Government of the Republic of Slovenia Act (1993) For inspectorate: Inspectorate for Culture and the Media was established with the Government's Decree on the bodies within ministries (adopted on 12 June 2003) based on the Act on Public Administration	For inspectorate: Inspections Act (2002) (available in English at: www.ip-rs.si/index.php?id=326)

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
Slovenia	APEK	Independent regulatory agency / Public Agency	Yes			ECA (Art. 115) www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/electronic_communications_act_official_consolidated_version_zekom-upb1_unofficial_translation_english.pdf

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
	Broadcasting Council	Independent expert body	No	It has administrative support of APEK, its members are independent experts with employment outside the body.		www.srdf.si/en/about_the_council <i>Decision by the Parliament on the establishment is available here:</i> www.uradni-list.si/1/objava.jsp?urlid=200162&stevilka=3262
	Ministry of Culture (Inspectorate for Culture and Media)	The inspectorate is a body under the responsibility of the Ministry of Culture	The inspectorate is a separate legal entity as it has its own registration and tax number and own account, but at the same time in administrative way it is not separate from the Ministry of Culture since it is not allowed to independently address the Government with an initiative or proposal, but only through the Ministry (its financial and HR plan is not separate, but part of the plan of the Ministry etc.)	Ministry of Culture		www.mk.gov.si/en/about_the_ministry/bodies_under_the_responsibility_of_the_ministry/ <i>For relations between Inspectorate and the Ministry:</i> Public Administration Act (2002), Art. 23 www.uradni-list.si/1/objava.jsp?urlid=200252&stevilka=2526

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	
Slovenia	APEK		√	Electronic Communications Act (art. 117) www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/electronic_communications_act_official_consolidated_version_zekom-upb1_unofficial_translation_english.pdf
	Broadcasting Council		√	Mass Media Act (2006), art. 100 www.srdf.si/en/about_the_council
	Ministry of Culture (Inspectorate for Culture and Media)		√ ...for inspectorate	Inspections Act (2002), art. 4 (available in English at: www.ip-rs.si/index.php?id=326)

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
Slovenia	APEK	Tick boxes	No	√	No
		Areas		EU audiovisual works Rules on advertising Protection of minors	
		Source		Mass Media Act	

Country	Body		General policy setting	General policy implementing powers	Third party decision making powers
	Ministry of Culture	Areas	√ EU audiovisual works Rules on advertising Protection of minors	√ EU audiovisual works Rules on advertising Protection of minors	√ EU audiovisual works Rules on advertising Protection of minors
		Source	General act Mass Media Act	General act Mass Media Act	General act Mass Media Act

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)
Slovenia	APEK	Quotas		√	√	√		Mass Media Act + secondary legislation + practice www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/public_media_act_official_consolidated_version_zmed+zmed-a_unofficial_translation_english.pdf www.apek.si/sl/zakon_o_medijih_zmed_veljavni_predpisi_po_zmed
		Advertising		√		√		Mass Media Act + secondary legislation + practice Please see the 2 nd line
		Protection of minors		√		√		Mass Media Act + secondary legislation + practice Please see the 2 nd line
	Broadcasting Council	Protection of minors			√			Mass Media Act (art. 84)
	Ministry of Culture	Quotas				√		Mass Media Act (Art. 91)
		Advertising						
		Protection of minors				√		Mass Media Act (Art. 84)
	Ministry of Culture,	Protection of minors Advertising					√ With	After receiving a complain the Media Inspector requests from the APEK to exercise a

Country	Body	Areas	Systematic monitoring	Ad-hoc monitoring	Information collection powers	Monitoring only after complaints	Others	Source (legislation, or practice)
	Inspectorate for Media and Culture, Media Inspector	Quotas				assistance of APEK!		professional supervision ("strokovni nadzor") which includes monitoring (according to its mandate in Mass Media Act, Art. 109) and with its monitoring data support his procedure.

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
Slovenia	APEK	Quotas	√ *discretion on length of period for elimination of the violations			√ *discretion on length of licence suspension	√ *First penalty payment must not exceed €1,000, every next penalty can be defined in the same amount	
		Advertising	√ *discretion on length of period for elimination of the violations			√ *discretion on length of licence suspension	√ *First penalty payment must not exceed €1,000, every next penalty can be defined in the same amount	
		Protection of minors	√ *discretion on length of period for elimination of the violations			√ *discretion on length of licence suspension	√ *First penalty payment must not exceed €1,000, every next penalty can be defined in the same amount	

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
	Ministry of Culture (Inspectorate for Culture and Media/Media Inspector)	Quotas	√	√ Min €8,333 Max €62,500 (Mass Media Act still use the old currency, therefore we recalculated it in €) The fine is not automatic: the inspector has discretion on the amount.				
Advertising		√	√ Min €1,040 Max €83,333 (Mass Media Act still use the old currency, therefore we recalculated it in €) The fine is not automatic: the inspector has discretion on the amount.					
Protection of minors		√	√ Min €1,040 Max €83,333 (Mass Media Act still use the old currency, therefore we recalculated it in € as the Media Inspector does also) The fine is not automatic: the inspector has discretion on the amount.					

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
Slovenia	APEK	N/A	√	N/A	N/A	√	√	√
	Broadcasting Council	N/A	N/A	N/A	N/A	N/A	√	N/A
	Ministry of Culture	√	√	√	N/A	N/A	√	N/A
	Ministry of Culture – Media Inspector	N/A	N/A	N/A	N/A	N/A	N/A	√ With assistance of APEK!

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)
Slovenia	APEK	√	N/A	N/A	√	In all cases parties complied with the decision
	Ministry of Culture (Inspectorate for Culture and Media, Media Inspector)	√	√	N/A	N/A	N/A

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
Slovenia	APEK	Yes The complaints are handled in compliance with the General Administrative Procedure Act. After receiving a complaint, APEK institutes a proceeding against the broadcaster who allegedly was not in accordance with the regulations to find out if this is the case.	www.apek.si/
	Ministry of Culture (Inspectorate for Culture and Media, Media Inspector)	Yes The complaints are handled in compliance with the Inspections Act, the Minor Offences Act and the General Administrative Procedure Act. Short description: There is twofold procedure for handling complaints by the Media Inspector. The first one is used in case of repeating/durable violations when the inspector at first applies Inspections Act and General Administrative Procedure Act, requesting from the media/operator to stop the violations, Such procedure, if not efficient, can be followed by the one that includes financial sanctions. The second procedure is used in case of the violations for which the inspector introduces immediate sanctions/fines according to the Inspection Act and Minor Offences Act. That procedure is used for violations with immediate effect when the damage is already done. In that case, the inspector has possibility to gradually increase fine if the media/operator continues to violate the law. The inspector can introduce any of the procedures on the initiative of a complainant or on own initiative.	On responsibilities of the inspectorate: www.mk.gov.si/eN/About_the_ministry/bodies_under_the_responsibility_of_the_ministry/ Annual report 2007 of the inspectorate (the last published): www.mk.gov.si/fileadmin/mk.gov.si/pageuploads/Ministrstvo/Podatki/Letna_porocila/Porocilo_o_delu_IRSKM_2007.pdf E-government-possibility to submit a complain to any inspectorate, including Inspectorate for Culture and Media with the form available: http://e-uprava.gov.si/storitve/pridobiVlogo.esju?id=1109

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		
Slovenia	APEK	Individual decision-making organ (Director General)	No Board.	n/a						www.apek.si/
	Ministry of Culture	Individual (Minister)		n/a						

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?
Slovenia	APEK	Director has competence to: <ul style="list-style-type: none"> • manage APEK • represent APEK • adopt general and individual acts within APEK's remit • organize monitoring activities • prepare APEK's annual plan, including financial plan • decide on employment of APEK's staff • adopt the act on internal organization 	n/a, since it is an individual decision-making organ	Decisions of the director (acts) are published in the general acts	n/a since it is an individual decision-making organ

Country	Body	Competences	Decision-making process	Is the decision making process transparent?	Minutes and agendas published?
	Ministry of Culture	Minister Heads and represents the ministry, gives political directions for the work of the ministry and the bodies within its responsibility, supervises their work, issues legislation, and implements other duties according to the legislation (Art. 18, Government of Republic of Slovenia Act)	n/a	n/a	n/a

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
Slovenia	APEK	Director	Public tender	n/a APEK has an individual decision-making organ (i.e. the Director see Table 15).	Director is appointed by the Government.	n/a	ECA (art. 116) www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/electronic_communications_act_official_consolidated_version_zekom-upb1_unofficial_translation_english.pdf Act on establishment of APEK http://zakonodaja.gov.si/rpsi/r09/predpis_SKLE2099.html
	Ministry of Culture	Minister	n/a	n/a	Minister is appointed by the Parliament.	n/a	Constitution of the Republic of Slovenia, Art. 112

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
	Ministry of Culture, Inspectorate for Culture and the Media	Head of Inspectorate	Public tender	n/a	General Inspector of the Inspectorate for Culture and the Media is appointed by the Government based on the proposal from the responsible minister, e.g. Minister of Culture. The Minister selects the candidate from 5 short-listed candidates who applied to public tender. The first (short-listing) selection is made by the Administrative Board of the Public Administration.	n/a	Public Officials Act (2002), Art. 60 and Art. 64

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
Slovenia	APEK	Director (no board)	5 years	No	Renewal is possible? There are no limits regarding how many times the director can be re-appointed	ECA (art. 116) www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/electronic_communications_act_official_consolidated_version_zekom-upb1_unofficial_translation_english.pdf
	Ministry of Culture-Inspectorate for Culture and Media	Head of Inspectorate	5 years	No, but after the change of the Minister it is allowed in 3 months after his/her own appointment to change heads of the bodies under responsibility of the Ministry.	Renewal is possible; there are no limits on how many times.	For term of office: Public Officials Act (2002), Art. 69, Para 5 For relation to election cycle: Public Officials Act (2002), Art. 83, Para 5 For renewal: Public Officials Act (2002), Art. 82 www.uradni-list.si/1/objava.jsp?urlid=200256&stevilka=2759

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
Slovenia	APEK	Director	Selection must primarily take into account the candidate's educational background, professional and international experience in broadcasting, electronic communications and post, organizational skills and citizenship.		ECA (art. 116) www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/electronic_communications_act_official_consolidated_version_zekom-upb1_unofficial_translation_english.pdf Act on establishment of APEK http://zakonodaja.gov.si/rpsi/r09/predpis_SKLE2099.html
	Broadcasting Council	Members	Seven members of the BC are appointed by the Parliament following public call for experts in the fields of law, telecommunications, IT, AV culture, economy, journalism, and communication science.		Mass Media Act (2006), Art. 100. Para 2
	Ministry of Culture-Inspectorate for Culture and Media	Head of Inspectorate	University education, professional exam for inspectors.	Management skills, human resources management skills, special expertise, work experience	

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						
Slovenia	APEK	Director (no board)	Yes		No	No	Yes. The director, his/her spouse or partner and direct relations up to the second branch, may not be members of the supervisory board of the organisation	No	It is a matter of contractual terms.	ECA (art. 116) www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/electronic_communications_act_official_consolidated_version_zekom-upb1_unofficial_translation_english.pdf

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						
							performing the activities directly subject to arrangements within the competence of the Agency, or hold equity in organisations engaged in activities directly subject to arrangements within the competence of the Agency or organisations with equity holdings in such organisations.			df
		Senior staff		No						
	Broadcasting Council	Members	Yes		Yes Officials, and other persons employed at state bodies, as well as of the leadership of political parties cannot be members of the Council.	Yes Parliamentary deputies and members of the leadership of political parties cannot be members of the Council.	Yes Persons who hold more than 1% of the capital or management or voting rights of a radio or television station or of an advertising organisation, persons employed at a publisher of a radio or television station or at an advertising organisation, and persons who as external contractors have contractual relations with a radio or television station or an advertising organisation, cannot be Council members	Yes	No	Mass Media Act, Art. 101:

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				
Slovenia	APEK	Director	Yes Same as table 20		No	No	Yes	
		Senior staff		No				
	Ministry of Culture – Inspectorate for Culture and Media	Head of Inspectorate	Yes		General rule to be impartial in acting within his/her duty.	General rule to be impartial in acting within his/her duty. Membership or activities in political parties is allowed and do not need to be reported.	Yes	Public Officials Act, Art. 100

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		
Slovenia	APEK	Director		No It is a matter of contractual terms.		
		Senior Staff		No		

Table 23 - Rules to protect against dismissal

This table shows the rules to protect against dismissal of the whole decision making organ, the chairman and individual members of the highest decision-making organ of the regulatory body. Please add any other comments in the row below.

Country	Body		Do such rules exist?		Who can dismiss? Specify who is involved in that stage and who has the decisive say	Grounds for dismissal listed in legal instrument?	Can the whole body be dismissed or only individual members?	Source
			Yes	No				
Slovenia	APEK	Director	Yes		Government	<p>Yes</p> <p>The Government shall dismiss the director:</p> <ul style="list-style-type: none"> • at the director's suggestion • if he/she is deemed incapacitated or medically unfit to perform his/her work • if he/she performs his/her work unconscientiously or unprofessionally, or proves, in terms of work or professional qualities, to be unsuited for the performance of work in the position of director • if the Agency fails to achieve satisfactory working results • if he/she is lawfully sentenced to jail for criminal offences • if in the performance of his/her duties he/she violates the provisions of the Act and of regulations adopted pursuant thereto. 	n/a	<p>ECA (art. 116)</p> <p>www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/electronic_communications_act_official_consolidated_version_zekom-upb1_unofficial_translation_english.pdf</p>

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				
	Broadcasting Council	Members	Yes		Parliament	<ul style="list-style-type: none"> • If he/she requests • If he/she is sentenced to jail for criminal offences • If he/she is deemed permanently incapacitated to perform his/her work • If he/she doesn't fulfil the conditions for membership any more • If he/she doesn't act according to law • If he/she doesn't attend meetings without excuse. 	Only individual members	Mass Media Act, Art. 102
	Ministry of Culture – Inspectorate for Culture and Media	Head of Inspectorate	Yes		Government on the proposal of the Minister in charge (Minister of Culture)	<ul style="list-style-type: none"> • If he/she requests • If it is found in a proscribed procedure that he/she is not capable to perform his/her duty • if he/she is according to the decree found responsible for breach of discipline <p>The Minister is allowed in 3 months after his/her own appointment to change heads of the bodies under responsibility of the Ministry.</p>	n/a	Public Officials Act (2002), Art. 83

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		
Slovenia	APEK	2009	Director	Yes		On the grounds of non-compliance with the law.	Appeal against the governmental decision lodged. Court quashed the decision and sent it back to the Government for a new decision.
		2005	Director	Yes		Officially, it was a dismissal agreed ("sporazumna razrešitev") between the (new) government and the director of APEK.	The dismissed director explained that the new government decided to have its own person ("svojega človeka") for that position.
			Individual board members	No board members			
	Ministry of Culture-Inspectorate for Culture and Media	2009	Head of Inspectorate	Yes		On the grounds of not acting in accordance with the law (i.e. being passive) to protect cultural heritage (another area of responsibility of the inspectorate) in a concrete case.	The head of inspectorate claims the law (on protection of cultural heritage) gives him no power to act in the concrete case.

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
Slovenia	APEK	No	No	Yes Radio broadcasting licence fees: 54% of total income of converged regulator (which is €5,185,000)	Yes	Yes Fines go directly to the State budget	Yes <ul style="list-style-type: none"> • Notice fees 23% • Number licence fees 13% • Postal licence fees 10% of the total income of converged regulator <p>According to Electronic Communications Act (2007) fees in individual area cover the costs of management and monitoring of the same area. Please see art. 6, 56 and 70 of Electronic Communications Act. www.apek.si/sl/predmetna_zakonodaja</p> <p>The methodology for calculation of fees is provided by the respective ministry while tariff is established by the agency. All fees should be cost-oriented.</p>	APEK annual report www.apek.si/en/annual_reports All fees should be cost-oriented. English version of the Electronic Communications Act is available here: www.apek.si/sl/datoteke/File/2007/osebna%20izkaznica/electronic_communications_act_official_consolidated_version_zekom-upb1_unofficial_translation_english.pdf
	Broadcasting Council	No	No	The same as APEK since APEK has to provide funding for its operations.	No	The same as APEK since APEK has to provide funding for its operations.	The same as APEK since APEK has to provide funding for its operations.	Mass Media Act, Art. 103
	Ministry of Culture	No	State funding 100%	No	No	No	No	

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
	Ministry of Culture-Inspectorate for Culture and Media	No	State funding 100%	No	No	No	No	

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
Slovenia	APEK/Broadcasting Council	The Agency prepares financial plan for the next year no later than October 31 each year, presents it to Electronic Communications Council and submits it for approval to Government of the Republic of Slovenia.	The agency prepares its financial plan by itself and defends it in front of the Council and Government.	Government		Act on establishment of APEK (art. 16) http://zakonodaja.gov.si/rpsi/r09/predpis_SKLE2099.html Mass Media Act, Art. 103
	Broadcasting Council	The same as APEK since APEK has to provide funding for its operations.	The same as APEK since APEK has to provide funding for its operations.	The same as APEK since APEK has to provide funding for its operations.	The same as APEK.	Mass Media Act, Art. 103
	Ministry of Culture	The Parliament adopts the state budget and the financial plans of the direct users of the state budget. The financial plans are collected and adjusted by the Ministry of Finance.	Yes	Ministry of Finance, Government, parliament	No	Public Finances Act (1999), Art. 13
	Ministry of Culture-Inspectorate for Culture and Media	The Parliament adopts the state budget and the financial plans of the direct users of the state budget. The financial plans are collected and adjusted by the Ministry of Finance.	Yes, the Inspectorate submits its financial plan to the Minister	Ministry of Finance, Government, parliament		Public Finances Act (1999), Art. 13

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
Slovenia	APEK	Yes	Annual	No	No	No	Public Finance Act (1999)
	Ministry of Culture (including Inspectorate for Culture and Media)	Yes	Yearly Annual (general audit on the realisation of the state budget)	Yes	No	No	Constitution of the RS, Art. 150 www.rs-rs.si/rsrs/rsrseng.nsf/I/KE6187778279A17 38C1257061003E930E Court of Audit Act (2001) www.rs-rs.si/rsrs/rsrseng.nsf/I/K18FD FD2BA4047034C12570660026EBC9

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
Slovenia	APEK	Parliament	No	N/A	N/A
		Government as a whole	Yes	APEK submits Government of the Republic of Slovenia its annual report and financial plan.	Act on the APEK's establishment http://zakonodaja.gov.si/rpsi/r09/predpis_SKLE2099.html
		Specific ministers (e.g. Media, finance, etc.)	No	N/A	N/A

Country	Body	Body accountable to		Accountability means	Legal basis
		Public at large	Yes	APEK publishes all information of general interest on its website and provides the interested public with information also upon individual requests. The regulator is also obliged to publish all reports and adopted general acts in the Official Gazette of the Republic of Slovenia.	APEK Statutes www.uradni-list.si/1/objava.jsp?urlid=200568&stevilka=3018
		Other	Yes	APEK submits its statuses for preliminary opinion to Broadcasting Council and Electronic Communications Council, reports to them on its activities on the field of broadcasting and electronic communications and provides them with information on issues of their interest.	Act on the APEK's establishment http://zakonodaja.gov.si/rpsi/r09/predpis_SKLE2099.html
	Broadcasting Council	Parliament	Yes	Broadcasting Council submits to the Parliament annual report or assessment of the situation in the area of broadcasting and proposals for improving the situation	Mass Media Act, Art. 100
	Ministry of Culture	Parliament	Yes	Parliamentary questions (to the responsible minister)	Act on Members of the Parliament, Art. 20 www.uradni-list.si/1/objava.jsp?urlid=200524&stevilka=825
		Public at large	Yes	Ministry of Culture publishes its annual financial reports on its web site.	Access to Public Information Act (2004), Art. 10 www.ip-rs.si/index.php?id=324
	Ministry of Culture – Inspectorate for Culture and Media	Ministry for Culture	Yes	Inspectorate and a Head of the Inspectorate have to report to the Minister on regular basis and on the Minister's request.	Public Administration Act, Art. 23 and 24

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
Slovenia	APEK	Government	Annual	Annual plan, financial plan and annual report	Yes	Yes	No	Act on establishment of APEK http://zakonodaja.gov.si/rpsi/r09/predpis_SKLE2099.html
	Broadcasting Council	Parliament	Annual	Annual report or assessment of the situation in the area of broadcasting and proposals for improving the situation	No, but some statistical data on own performance have been included in previous reports.	No	No	Report on 2008 available here: www.srdf.si/sl/aktualno_porocila_o_delu
	Ministry of Culture – Inspectorate for Culture and Media	Ministry/Minister	Annual (at least) and on the request of Minister	Report on the work of the inspectorate and on all relevant issues from the scope of the work of the inspectorate.	Not specified in the law.	Not specified in the law.	No	Public Administration Act, Art. 23 and 24

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
Slovenia	APEK	No APEK is not subject of regular external auditing by the Court of Audit.	Depends on case selected for auditing by the Court of Audit (last time in 2008 in pre-	Yes Court of Audit of Republic of Slovenia	No	No	Court of Audit Act (2001)

Country	Body	Is body subject to periodic external auditing					
		Yes/no	Periodicity	By public authority	By private authority	Other	Legal basis
		Still, some of its operations/actions might be subject of occasional audit by the Court of Audit, depending on the case selected by the Court for auditing.	audit procedure on a spectrum-related controversial issue)				
	Ministry of Culture	Yes	Annual (as all other direct users of the state budget)	Yes Court of Audit of Republic of Slovenia	NO	No	Court of Audit Act (2001)

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
Slovenia	APEK	Does anybody have the power to overturn decisions of the regulator?	No	No	No	No	No	<i>No information available</i>
		Does anybody have the power to give instructions to the regulatory body?	No	No	No	No	No	<i>No information available</i>

Country	Body			Ministry/Minister	Government	Parliament	Other	Source
		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
		Are there limitations in the power to give instructions (e.g. limited to legal instructions which exclude instructions on political grounds)?	N/A	N/A	N/A	N/A	N/A	N/A
	Ministry of Culture-Inspectorate for Culture and Media	Does anybody have the power to give instructions to the regulatory body?	Yes, power to give directions and instructions	Yes According to the Public Administration Act it is the Minister who has power to give directions and instructions to bodies within competences of his/her ministry. It is limited to legal instructions or instructions aimed at efficient work of the body, and exclude instructions on political grounds	No	No	No	Public Administration Act, Art. 23, Public Officials Act, Art. 23

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
Slovenia	APEK	Internal	1	None	No	Party of the proceedings	Administrative Dispute Act (art. 17) http://zakonodaja.gov.si/rpsi/r07/predpis_ZAKO497.html
		External	1	Administrative dispute at the Administrative Court of the Republic of Slovenia			
			2	The Supreme Court of the Republic of Slovenia (in case of the appeal or revision)			
	Ministry of Culture, Inspectorate for Culture and Media	Internal	1	<i>Internal:</i> Ministry of Culture in case of inspection's rule which does not include fine.	Yes, at first an appeal has to be submitted to the Ministry of Culture and after that an appeal to Administrative Court can follow.	Party of the proceedings	Administrative Procedure Act, Art. 13 www.uradni-list.si/1/objava.jsp?urlid=199980&stevilka=3777 & Public Administration Act, Art. 25 www.uradni-list.si/1/objava.jsp?urlid=200252&stevilka=2526 Administrative Dispute Act (art. 17) http://zakonodaja.gov.si/rpsi/r07/predpis_ZAKO497.html
			2	<i>External :</i> Administrative dispute at the Administrative Court of the Republic of Slovenia			
			3	The Supreme Court of the Republic of Slovenia (in case of the appeal or revision)			
		External	1	District Court in case of inspections' rule which includes fine (issued according to the Minor Offences Act)	No	Party of the proceedings	Minor Offences Act (2002) www.uradni-list.si/1/objava.jsp?urlid=20037&stevilka=238
			2	Higher Court (instance court for appeals after the District Court decisions)			

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
Slovenia	APEK			√	N/A
	Ministry of Culture Inspectorate for Culture and Media		√		Inspections Act, Art. 30 & Administrative Procedure Act, Art. 13 (This appeal procedure is applied in case of the appeal to the Ministry of Culture for rules of the inspector which don't include fines)
					√

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
Slovenia	APEK	√	√	√	N/A
	Ministry of Culture Inspectorate for Culture and Media	√	√	√	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
Slovenia	APEK	1 Administrative dispute at the Administrative Court of the Republic of Slovenia 2 The Supreme Court of the Republic of Slovenia (in case of the appeal or revision)	√		The Administrative Court has the power to cancel the decision and remit it back to regulator for new decision. The Court can also replace regulator's decision if the conditions provided for in Administrative Dispute Act are met (rarely).
	Inspectorate for Culture and Media (within the Ministry of Culture)	Cases that do not involve fines: 1 Ministry of Culture in case of inspection's rule which does not include fine.	√		The Ministry as an appeal body has the power to replace the original decision of the Media Inspector with its own.
		2 Administrative dispute at the Administrative Court of the Republic of Slovenia 3 The Supreme Court of the Republic of Slovenia (in case of the appeal or revision)		√	The Administrative Court as an appeal body (on the next stage) has the power to cancel the original decision of the Ministry of Culture (which replaced the decision of the Media Inspector) and remit it back to regulator for new decision.
		Cases that involve fines: 1 District Court in case of inspections' rule which includes fine (issued according to the Minor Offences Act) 2 Higher Court (instance court for appeals after the District Court decisions)		√	The District Court as an appeal body has the power to cancel the original decision of the Media Inspector (with regard to fines charged by the Inspector according to the Minor Offences Act).

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?
Slovenia	APEK	Yes	No information available	Yes	-	Few times per year
	Ministry of Culture	Yes	No information available	Yes	-	N/A
	Ministry of Culture-Inspectorate for Culture and Media	Yes	No information available	Yes	It is possible for inspections to engage an expert („izvedenec“) (General Administrative Procedure Act, Art. 189)	Exceptionally. Media Inspector took the external advise (hired an external expert) once in the period from 2004-2009.

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	
Slovenia	APEK	General Acts and policies implementing general policies of the field.	Interested public in its broad sense. Agency takes into account all responses and views that are professionally elaborated and explained.	30 days	All responses published in 7 days after the end of consultation period at the latest.	In two weeks after publishing the responses, APEK on its website explains how the responses were taken into account at the preparation of the general act and gives reasons for adoption or refusal of responses.	Statutes

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	
	Ministry of Culture	Adoption of new media regulation	Interested public in its broad sense (industry, association of journalists, academics, civil society etc.)	30-60 days after publishing of draft regulation on the web site of the ministry	No	No	Rules of procedures of the Government of the Republic of Slovenia, amended on 19 April 2010, Art. 9 (Participation of the public)

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
Slovenia	APEK	2009	1 / 15 (AV matters / all AV, EC + post matters)
		2008	3 / 11
		2007	6 / 22
		2006	3 / 6
	Ministry of Culture	2009	Public consultations on the draft law on RTV Slovenija (public service broadcasting).
		2009	Meetings of an expert body appointed by the Ministry of Culture to be consulted by the Ministry in drafting changes of media regulation, including RTV Slovenija Act and Mass Media Act (to incorporate AVMS Directive). The expert body consists of 20 representatives of various stakeholders. There were around 10 consultations/meetings of the Minister and/or representatives of the Ministry with the expert body in 2009.
		2006	Public consultations on the draft law amending the Mass Media Act.

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
Slovenia	APEK	The law does not require from APEK to publish any decision deriving from its remit in the audiovisual field.	All decisions have to include justification/motivation. Legal basis: Administrative Procedure Act, Art. 210	No	No
	Ministry of Culture	The law does not require from Ministry to publish any decision deriving from its remit in the audiovisual field.	All decisions have to include justification/motivation. Legal basis: Administrative Procedure Act, Art. 210	No	No
	Ministry of Culture-Inspectorate for Culture and Media	The law does not require from Inspectorate to publish any decision deriving from its remit in the audiovisual field.	All decisions have to include justification/motivation. Legal basis: Administrative Procedure Act, Art. 210, Inspections Act, Art. 56	No	No

VIII. COOPERATION

Table 40 - Cooperation with other regulatory authorities

Country	Body	Describe the mechanism of cooperation with other bodies	Source and form of cooperation	Can body receive instructions from other bodies? If so, state which and explain	Comments
Slovenia	<ul style="list-style-type: none"> APEK (NRA) Broadcasting council - BC (independent expert body) Ministry of culture 	<ul style="list-style-type: none"> preliminary opinions (BC to APEK and Ministry) consents / approvals (BC to APEK) proposals for initiation of procedure <p>(APEK to the Media Inspector at the Ministry; BC to APEK)</p>	<ul style="list-style-type: none"> Formal mechanisms envisaged in Mass Media Law Ad-hoc manner when needed 	In some cases, mostly those deriving from its remits in the field of broadcasting licensing, APEK can receive opinions and approvals from the Broadcasting Council. APEK is also obliged to ask Ministry of Culture for opinions, when issuing a status of special significance to broadcasters which produce a certain amount of programming in public interest.	

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
Slovenia	APEK	<ul style="list-style-type: none"> • AVMS Contact Committee • EPRA • Close cooperation with regulators of neighbouring countries and in the region 		
	Ministry of Culture	<ul style="list-style-type: none"> • AVMS Contact Committee • Steering Committee on Media and New Communication Services (CDMC) of the Council of Europe • Audiovisual Group • The Education, Youth and Culture Council (EU) 		