



AVMS AND AEC PERFORMANCE MONITORING MATRIX

Project
Monitoring Efficiency, Effectiveness, Transparency and Accountability
of Media Regulatory Authorities - PROformance Watch





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METHODOLOGY

Monitoring methodology

The methodology will include analysis of primary and secondary legislation in the field of media, institutional set-up and performance track records of two regulatory authorities, i.e. Agency for Audio and Audiovisual Media Services (AVMS) and Agency for Electronic Communications (AEC), and will make due consideration of specificities of both regulators. Moreover, monitoring activities will target decisions and acts, reports, meeting minutes and other documents produced by these regulatory authorities.

For example, the monitoring will closely follow and analyse AVMS's baseline documents and activities arising therefrom:

- work programme;
- changes to AVMS's primary and secondary legislation and regulations;
- strategy on broadcasting activity development, as indicated in the Action Plan;
- analyses (market analyses, legal analyses, technical analyses);
- supervision activities and measures taken;
- annual operation reports;

- media monitoring reports;
- financial plan and budget;
- audit reports;
- annual public procurement plan;
- performance and decisions of the Ad-Hoc Committee on Monitoring Election Media Coverage and Presentation;
- other relevant documents, decision and procedures.

As regards AEC, subject of monitoring and analysis will be their baseline documents and activities related thereto:

- annual work programme;
- annual operation reports;
- decisions taken by AEC that are of interest for this monitoring;
- audit reports;
- public opinion survey reports;
- data about the market of electronic communications;
- registries, plans, templates and public hearings;

- procedure on issuing licenses for use of radiofrequency spectrum;
- extension of licenses;
- transfer of licenses;
- changes to licenses;
- withdrawal of licenses;
- charges collected for use of radiofrequencies;
- un-awarded radiofrequencies for public electronic communications networks/services;
- radio equipment;
- control and monitoring;
- ensuring security and integrity of the network and services;
- other relevant documents, decisions and procedures.

Also, monitoring activities will include regular overview of state-of-play, analyses and other documents (national and international) that are of importance in this area, such as: EC's Reports for Macedonia; Enlargement Strategy; Urgent Reform Priorities; Priebe Report and EC's recommendations arising therefrom; national strategic documents, as well other documents and reports containing relevant information about operation and performance of both regulatory authorities.

In addition to regular monitoring of documents produced as result of regulators' work, we will use the instrument for free access to public information, in order to obtain insight in documents and matters that are not made available on regulatory authorities' websites, but are of public interest.

Performance track records of media regulatory authorities will also be monitored by means of attending their public meetings and open sessions.

Preparations for this monitoring project included development of monitoring matrix comprised of four categories of issues addressing performance track records of both regulatory authorities that are subject of analysis. This questionnaire will be used to conduct interviews with three to five experts, analysts and connoisseurs of matters related to AVMS's operation and with three to five experts, analysts and connoisseurs of matters related to AEC's operation, for the purpose of individual quarterly reports and the final report.

Additionally, the same questionnaire will be filled-in by the assessment team comprised of four members, i.e. one member from each of the four partner organizations implementing this project. Members of the assessment team hold relevant expert knowledge in the field of audiovisual services, are actively following the work of regulatory authorities and are trained to apply similar research methodologies.

The questionnaire will be sent to both agencies that are subject of monitoring, in order to allow the regulators to assess their performance by themselves.

Monitoring activities will include organization of focus groups with representatives from the media, experts in the field of media and other connoisseurs of matters related to AVMS's and AEC's work, as well as series of interviews with representatives from regulatory authorities, media outlets and other stakeholders.

In parallel, we will monitor and analyse presence of both regulators in the media and the manner in which media report on their work and performance.

Information will be inputted into a unified table for all five quarterly reports, and for the final report. Moreover, project activities anticipate presentation of the most current and most important information arising from monitoring activities in the form of infographics, for the purpose of presenting monitoring findings in

user-friendly and more systematic manner and sharing them with the general and expert public.

Based on monitoring results and information, the project anticipates definition and presentation of specific recommendations aimed at promotion and advancement of AVMS' and AEC's work and performance.

Results from all monitoring reports will be presented at public events, for which attendance invitations will be extended to representatives from the two regulatory authorities, media outlets, civil society sector, as well as experts and other relevant actors in the field of media.

Assessments about de facto situation include correlation of compliance indicators on one side and notable effects and developments that might indicate to existence of external influence or de facto risk from external influence on the other side. Therefore, graphic visualization of state-of-play should not be viewed only as reflection of the current situation, but also as indication of risks for the regulatory authority's work. Graphic visualization is used only to provide overview of answers obtained in relation to individual indicators. Some indicators necessitate subjective judgement on the part of assessors and thereby their results reflect personal assessment of respondents

Methodology for the monitoring matrix

The monitoring matrix for AVMS's and AEC's work and performance is organized in several sections, as follows:

1. transparency and accountability;
2. effectiveness and independence;
3. work and performance;
4. public interest.

The matrix should be interpreted by means of individual assessment of formal and de facto parameters during the monitoring period.

Difference between formal and de facto indicators arises from the extent to which regulators' work has crucial impact on performance and independence of these authorities. Key characteristics and analyses that will be observed in the monitoring period will serve the purpose of detecting potential risks from external influences, depending on the weight of information.

Monitoring matrix

TRANSPARENCY AND ACCOUNTABILITY		Comment / argument	
Formal parameters	Comment / arguments	<i>De facto</i> parameters	Comment / arguments
Law-stipulated provisions, rules, procedures and other internal documents adopted by the regulator ensure transparency and accountability.		Transparency and accountability are integral part of the regulator's operation.	
Documents related to the regulator's work are made available to the public in complete and permanent manner.		Forms of information dissemination are complete, adequate, easily accessible, available, and provide an actual image about the regulator's operation.	
The regulator develops and publishes its annual programs, work plans and annual reports and is held accountable before competent institutions.		Annual programs, plans and reports are developed, submitted to competent institutions and published in timely manner, and they are of good quality, user-friendly, detailed and easily accessible.	
Clear methods are in place for timely and non-partial information dissemination.		The regulator's information is disseminated in public and to all stakeholders in timely and non-partial manner.	
The regulator's work allows open policy-making process.		The regulator's work allows policy-making processes.	

Approach – AVMS

- Analysis and monitoring of implementation of transparency rules and procedures as stipulated in the relevant law, Rules of Procedures, Code of Conduct, etc.
- Regular monitoring of AVMS's website and publication of documents, decisions and other information related to the Agency's work (accessibility, visibility, timeliness, etc.)
- Analysis of published documents (decisions, analyses, reports, plans, programs, reviews, etc.) within AVMS's scope of work.
- Analysis of tools and communication channels with the public and stakeholders, as well as contents of disseminated information.
- Monitoring and analysis of AVMS's media presence (qualitative and quantitative).
- Regular monitoring of AVMS's public meetings and other public events (debates, promotions, presentations, etc.)
- Regular monitoring of AVMS Council's sessions and their openness.
- Monitoring and analysis of public hearings and consultations organized by AVMS.
- Monitoring of parliamentary sessions dedicated to reconsideration of AVMS's annual reports and plans.
- Organization of focus groups with stakeholders (at least one focus group per quarter).
- Interviews with representatives from AVMS, experts and stakeholders.
- Instrument for free access to public information.

Approach – AEC

- Analysis and monitoring of implementation of transparency rules and procedures as stipulated by the relevant law, Rules of Procedure, etc.
- Regular monitoring of AEC's website and publication of documents and other information related to the Agency's work (accessibility, visibility, timeliness, etc.)
- Analysis of published documents (decisions, analyses, reports, plans, programs, reviews, etc.) within AEC's scope of work.
- Analysis of tools and communication channels with the public and stakeholders, as well as contents of disseminated information.
- Monitoring and analysis of AEC's media presence (qualitative and quantitative).
- Regular monitoring of AEC's public meetings and other public events (debates, promotions, presentations, etc.).
- Regular monitoring of minutes from AEC Commission's sessions and their availability for the public.
- Monitoring and analysis of AEC's public hearings and consultations.
- Monitoring of parliamentary sessions dedicated to reconsideration of AEC's reports and plans.
- Organization of focus groups with stakeholders (at least one focus group per quarter)
- Interviews with representatives from AEC, experts and stakeholders.

EFFECTIVENESS AND INDEPENDENCE		Comment / argument	
Formal parameters	Comment / arguments	<i>De facto</i> parameters	Comment / arguments
The regulator is formally independent from the legislative and executive government and from other parties.		The regulator is factually independent from the legislative and executive government and from other parties.	
The regulator's policies, strategies and decisions correspond to the sector needs.		Implementation of regulator's policies, strategies and decisions bring about actual changes in the sector.	
The regulator's actions improve the position of relevant target groups.		The regulator's actions bring about long term positive effects for relevant target groups.	
The regulator's capacity allows implementation of its obligations as stipulated in primary and secondary legislation.		The regulator's obligations as stipulated in primary and secondary legislation are implemented effectively.	
Clear criteria are in place for employment and carrier advancement.		There are no doubts that employment and carrier advancement are related to political and business influences.	

Approach – AVMS

- Monitoring and analysis of implementation and effects from AVMS's policies, strategies and decisions in terms of stimulating development of the media environment, as well as in terms of political independence and impartiality.
- Monitoring and analysis of practices related to appointment of AVMS Council members and AVMS director, as well as employments.
- Monitoring and analysis of relations between AVMS and legislative government, AVMS and executive government, AVMS and other stakeholders.
- Monitoring and analysis in terms of implementation of AVMS's competences stipulated by primary and secondary legislation.
- Organization of focus groups with stakeholders (at least one focus group per quarter).
- Interviews with representatives from AVMS, experts and stakeholders.
- Instrument for free access to public information.

Approach – AEC

- Monitoring and analysis of implementation and effects from AEC's policies, strategies and decisions, as well as its political independence and impartiality.
- Monitoring and analysis of practices related to appointment of AEC Commission members and AEC director, as well as employments.
- Monitoring and analysis of relations between AEC and legislative government, AEC and executive government, AEC and other stakeholders.
- Monitoring and analysis of enforcement of AEC's competences stipulated by primary and secondary legislation.
- Organization of focus groups with stakeholders (at least one focus group per quarter).
- Interviews with representatives from AEC, experts and stakeholders.
- Instrument for free access to public information.

WORK AND PERFORMANCE		Comment / argument	
Formal parameters	Comment / arguments	De facto parameters	Comment / arguments
Number and expertise of employees corresponds to the regulator's organizational set-up and internal act on job systematization.		Number of employees and their expertise contribute to successful attainment of operation goals.	
The regulator's employees are entitled and obliged to pursue continuous professional development and in-service advancement.		The regulator's employees attend training and other forms of in-service specialization.	
The regulator disposes with adequate financial resources.		The regulator's operation is characterized by solid financial management.	
The regulator has clear procedures on prevention of conflict of interests.		The regulator applies efficient procedures on prevention of conflict of interests.	
The regulator is committed to advance quality of its operation.		The regulator is continuously advancing quality of its operation.	

Approach – AVMS

- Analysis of AVMS's organizational set-up and internal act on job systematization.
- Monitoring and analysis of implementation of AVMS's Code of Conduct.
- Monitoring AVMS's financial planning and operation.
- Monitoring and analysis of the number and type of training and other forms of in-service specialization at AVMS.
- Organization of focus groups with stakeholders (at least one focus group per quarter).
- Interviews with representatives from AVMS, experts and stakeholders.
- Instrument for free access to public information.

Approach – AEC

- Analysis of AEC's organizational set-up and internal act on job systematization.
- Monitoring AEC's financial planning and operation.
- Monitoring and analysis of the number and type of training and other forms of in-service specialization at AEC.
- Organization of focus groups with stakeholders (at least one focus group per quarter).
- Interviews with representatives from AEC, experts and stakeholders.
- Instrument for free access to public information.

PUBLIC INTEREST		Comment / argument	
Formal parameters	Comment / arguments	<i>De facto</i> parameters	Comment / arguments
The regulator is in position to create enabling environment ¹ in its sector of operation.		The regulator creates and promotes enabling environment in its sector of operation.	
The regulator's resources are used for promotion of the public interest.		The regulator's priorities and resource distribution are in service of the public interest.	
Public has insight in the regulator's budget execution.		The regulator's budget execution is completely justified in terms of the public interest.	
Public interest is attained as result of the regulator's law-stipulated competences.		The regulator is proactive and non-selective in attainment of the public interest.	
Mechanisms are in place for consultations and involvement of stakeholders in policy-making.		Policy-making takes into consideration argument-based proposals and opinions from stakeholder consultations.	

¹ http://ec.europa.eu/enlargement/pdf/press_corner/elarg-guide-lines-for-media-freedom-and-integrity_210214.pdf

Approach – AVMS

- Monitoring and analysis of financial and human resources distribution for the purpose of attaining the public interest.
- Monitoring and analysis of AVMS's protection and development of pluralism in media services and media contents : (1) ensuring publicity in broadcasters' operation; (2) encouraging freedom of expression; (3) protection and development of pluralism in media services; (4) pluralism of opinions in media contents; (5) protection of underage audiences; (6) protection of citizens' interests; (7) establishment of unlawful media concentration; (8) change of media ownership structure; (9) issuance, extension or suspension of licenses; (10) taking measures on temporary prohibition for transmission and reception of audio and audiovisual media services from other countries; (11) encouraging media literacy; (12) conducting research and analyses in relation to audio and audiovisual media services.
- Monitoring consultation processes with stakeholders and analysis of AVMS's approval and acceptance of their proposals and opinions.
- Organization of focus groups with stakeholders (at least one focus group per quarter).
- Interviews with representatives from AVMS, experts and stakeholders.
- Instrument for free access to public information.

Approach – AEC

- Monitoring and analysis of financial and human resource distribution for the purpose of attaining the public interests.
- Monitoring and analysis of AEC's proactive and impartial work in terms of: 1) supervision and control, as well as monitoring operators' performance in compliance with LEC and regulations; (2) establishment of relevant markets of products and services and relevant geographical markets; (3) identifying operators with significant market power, imposing obligations in compliance with LEC and monitoring their compliance; (4) monitoring use of the radiofrequency spectrum in compliance with plans; (5) plan on numeration of electronic communications networks and services in the Republic of Macedonia; (6) provision of information to users, operators and international organizations and bodies.
- Monitoring consultation processes with stakeholders and analysis of AEC's approval and acceptance of their proposals and opinions.
- Organization of focus groups with stakeholders (at least one focus group per quarter).
- Interviews with representatives from AEC, experts and stakeholders.
- Instrument for free access to public information.

Decisions taken by the regulatory authorities according to their law-stipulated competences

The project team will regularly monitor regulators' operation and will conduct analyses of decisions in terms of their law-stipulated competences. Information will be gathered by means of monitoring their official websites, as well as by using the instrument for free access to public information.

In addition, focus groups and regular monitoring will be used to inquire whether and to what extent additional actions were needed on the part of both agencies and whether they have overstepped their law-stipulated rights and obligations in relation to certain competences.

Table – Analysis of decisions according to law-stipulated competences

AGENCY FOR AUDIO AND AUDIOVISUAL MEDIA SERVICES				
Competence	First quarter/ comment	Second quarter/ comment	Third quarter/ comment	Fourth quarter/ comment
Establishment of unlawful media concentration				
Changes to ownership structure				
Issuance, extension or withdrawal of television or radio broadcasting licenses				
Monitoring of programme contents				
Administrative supervision				

AGENCY FOR AUDIO AND AUDIOVISUAL MEDIA SERVICES				
Competence	First quarter/ comment	Second quarter/ comment	Third quarter/ comment	Fourth quarter/ comment
Expert supervision				
Protection of underage audiences				
Protection and development of pluralism in audio and audiovisual media services, encouraging and supporting independent and autonomous audio and audiovisual media				
Encouraging pluralism of opinion in media contents				
Measuring viewer and listener ratings per programme, i.e. broadcasters' programming services				
Audiovisual and commercial communications				

AGENCY FOR ELECTRONIC COMMUNICATIONS				
Competence	First quarter/ comment	Second quarter/ comment	Third quarter/ comment	Fourth quarter/ comment
Supervision and control over operators				
Establishment of relevant markets of products and services and relevant geographic markets				
Identifying operators with significant market power and imposing obligations in compliance with LEC, as well as monitoring their implementation				
Monitoring use of radiofrequency spectrum in compliance with plans (issuance of approvals for use of radiofrequencies, coordination with neighbouring countries)				
Numeration plan for electronic communications networks and services in Republic of Macedonia				
Information to users, operators and international organizations and bodies				

