

# Independence of Regulators

Broadcast Regulatory Master Class  
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# Basic communications regulatory principles

- Principles of independent regulation
  - Transparency
  - Accountability
  - Consistency
  - Proportionality
- Converged regulation (suitable for the technical means of delivery)

# Legal and policy aspects

- What is government policy and what is regulatory activity
- Consistency and non-political nature of regulatory activity
- Use regulation (and law) to shape the market
  - Telecom: what technology, how many operators
  - Broadcasting: diversity of programming, cultural policies

# Independence

- The regulator must be independent and must be seen to be independent: only in this way will it be able to gain the trust of the broadcasters and be able to work with the sector

# Accountability

- The regulator shall be accountable for its work
- Annual reports to parliament or similar
- Possibility to appeal decisions to a higher body and/or to court (normally on points of law only)
- *Independence does not mean absence of control but that no-one can interfere in the decision-making of the regulator*

# Accountability

- Individual decisions (decision-making activity) of the regulator can be appealed
- Rules and regulations (rule-making activity) of the regulator cannot be appealed but there may be responsibility and liability under general administrative principles for maladministration and abuse of powers

# Transparency

- Transparency of the work helps the regulator to show its independence and makes it more difficult for anyone to try to influence its decisions
- Access to information legislation and special rules for the regulator
- General principle should be openness with rules determining what can be secret
- Not necessary to have open meetings but decisions should be available and special open events can be organised

# Independence

- Independence from political influence: no direct government control
- Persons selected based on expertise and personal qualifications
- Selection process involving different bodies, civil society, non-political process
- Secure positions for a set period of time (e.g. four years with possibility of two terms)



# Board of the regulator

- Appointment process is essential
- Involve civil society, the sector: call for candidates widely publicised and open for all
- Not government appointments, use a special (external) body for the appointments or a special committee of parliament that includes also the opposition
- Requirements on candidates not to be political, to have personal qualifications that give them credibility and respect

# Board of the regulator

- Clear criteria in law for the qualifications of the members and disqualification (personal financial interests, also of family members; political activities; serious crimes)
- Members must have secure positions (to be able to take also “uncomfortable” decisions)
- Remuneration for the work varies, depending on workload – most boards meet only occasionally and work expected of members varies, there should be reasonable compensation

# Staff of the regulator

- Clear criteria in law for the qualifications of the members and disqualification (personal financial interests, also of family members; political activities; serious crimes)- different than for the board as the staff is not the final decision-maker and not as public.
- The criteria will vary depending on the position and tasks

# Staff of the regulator

- In many countries the staff members are not civil servants – even if they are, special rules may be needed (special competence)
- Legally trained staff for case handling (acting like a court)
- Converged regulators or close working relationship between different regulators

# Director of the regulator

- The face of the regulator: competence and credibility especially important
- Term of office not too short but a limit on number of terms (years)
- Clear division of competence between the Director and the Board (Chairman of the Board)

# Independence

- Financial independence: own means of financing the regulator (from licence fees)
- If no own means, security in the budget process – longer term budgets, no interference in the details
- Independence in selecting staff – based on competence and expertise in the field (different from general civil service)

# How to ensure independence?

- What main issues and challenges do you face as a regulator? Is there anything special that has changed in recent years?
- What are the main ways to ensure independence of the regulator?