

AUSTRIA

Name of Regulatory Authority : *Kommunikationsbehörde Austria (KommAustria)*
Address : *c/o Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH),
Mariahilfer Straße 77-79, 1060 Wien, Austria*
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Basis for operation

Legal framework : *Bundesgesetz über die Einrichtung einer Kommunikationsbehörde Austria ("KommAustria") und eines Bundeskommunikationssenates (KommAustria-Gesetz - KOG), BGBl. I Nr. 32/2001 idF BGBl. I Nr. 136/2003*
(Federal Act on the establishment of an "Austrian Communications Authority" ("KommAustria") and a Federal Communications Board – see text at http://www.rtr.at/web.nsf/englisch/Rundfunk_Rundfunkrecht_Gesetze_RFGesetze_KOG)

General remit : TV radio networks and infrastructures
 others (please specify): *Press Subsidies*

Funding mechanisms ⁱ : licence fee industry fee state budget
 mixed funding (please specify):
*Broadcasting issues are funded by industry fee,
Press subsidies issues are funded by federal budget*
 other (please specify):

Composition

Number of members: 5 Term of office: 5 years (*director*) Re-election possible:
Proposal of members: *The appointment of the Director and the Deputy Director is preceded by a public invitation to apply for the position in accordance with Section 3 of the Public Tender Act of 1989. The appointment procedure follows the ordinary rules for civil servants. by Federal Chancellor*
Appointment of members: *by Federal Chancellor*
Revocation of mandate possible: based on: *civil servant laws*
Number of staff: *additional Staff is provided by RTR-GmbH (approx. 20 persons for regulatory broadcasting issues)*

Chairman: *Mag. Michael OGRIS*

(if not applicable, please name Director General)

Vice Chairman: *HR Dipl.-Ing. Franz PRULL*

Please describe your authority's structure if it doesn't have a board:

The KommAustria consists of one Director and the requisite number of staff, i.e. in total five persons at the moment. All Decisions are made by the Director (monocratic authority). The authority is subject to instructions by the Federal Chancellor.

In order to provide administrative support to KommAustria and the Telecom Control Commission (the NRA for telecommunication), a limited-liability company named "Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH)" is set up. The company has two managing directors, one for the broadcasting and one for the telecommunications sectors.

Competences

		national	regional	local
Granting of licences	terrestrial analogue broadcasters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	terrestrial digital broadcasters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	satellite analogue broadcasters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	satellite digital broadcasters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	cable analogue broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	cable digital broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	others(please specify): <i>terrestrial digital multiplex operators</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	in the areas where your authority is not competent to grant licences, please specify the authority in charge: <i>"licences" for the public broadcaster are granted by the law</i>			
	Please add any other relevant information:			
Granting of declarations	terrestrial analogue broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	terrestrial digital broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	satellite analogue broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	satellite digital broadcasters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	cable analogue broadcasters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	cable digital broadcasters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	others(please specify): <i>communication network and/or service operators as far as broadcasting is relevant (e.g. cable network operators, operators of terrestrial broadcasting infrastructure, ...)</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	in the areas where your authority is not competent to grant declarations, please specify the authority in charge:			
	Please add any other relevant information:			
Frequency allocation	<input checked="" type="checkbox"/>			

Supervision of private broadcasters
public broadcasters
others:
communication network and/or service operators as far as broadcasting is relevant (e.g. cable network operators, multiplex operators, operators of terrestrial broadcasting infrastructure, ...)

Handling complaints

Sanctioning issue warning impose fine demand to broadcast announcement
 revoke licence suspend licence reduction in the licensing period
 suspend a programme / broadcast
 other (please specify):

Rule making codes rules (please specify):
 other (please specify):

Consultative powers please specify the areas covered:

Power of nomination please specify:
(e.g. chairman of PSB)

Monitoring programming (*only legal supervision*)
 financial performance
 others (please specify):

others Please specify: *granting federal press subsidies*

Please add any information you deem important:

All regulatory decisions are subject to appeal to the “**Bundeskommunikationssenat (BKS)**” - Federal Communications Board.

The BKS consists of five members, three of whom must belong to the judiciary. In the exercise of their function, the members of the BKS are independent and not bound by instructions and orders. The members of the BKS shall be appointed by the Federal President upon proposal of the Federal Government for a term of six years. For each member, a substitute is appointed who takes the place of a member if the member is prevented from fulfilling his obligations.

For the appointment of each of the three judicial members (substitute members), the Federal Government shall be bound by proposals consisting of three persons belonging to the judiciary listed in alphabetical order, namely

1. one proposal for appointment submitted by the President of the Supreme Court,
2. two proposals for appointment submitted by the President of the Court of Appeal in whose district the BKS has its seat.

The submission of a proposal for appointment is preceded by a public invitation of applications.

Members of a general representative body, persons who work in a body of the Austrian Broadcasting Corporation, who are partners of another broadcaster or persons who are in a close legal relationship with anyone who makes use of an activity of the BKS or is affected by such activity as well as employees of KommAustria or RTR-GmbH may not be members of the Federal Communications Board (para 5)

If a member of the Federal Communications Board has failed to comply with invitations to three successive meetings without good cause or if a ground for the exclusion of a member in accordance with para. 5 subsequently comes to light, the Federal Communications Board shall conduct a hearing and adjudicate accordingly. If the Board finds against the member, the member shall lose his membership

The BKS is also competent for legal supervision of the public broadcaster.

ⁱ By “licence fee” we refer to the public service licence fee usually paid by the entire population, whereas the term “industry fee” implies all those funding mechanisms based on a contribution from broadcasters themselves, including, for example, licensing fees (i.e. an amount of money that is paid by the broadcaster for it to be able to carry out its broadcasting operations) and frequency taxes.