

How to cite this article in bibliographies / References

T Suing, C Ortiz, V González (2016): “Configuration of television regulatory authorities in the Andean Countries”. *Revista Latina de Comunicación Social*, 71, pp. 730 to 749.

<http://www.revistalatinacs.org/071/paper/1118/38en.html>

DOI: [10.4185/RLCS-2016-1118en](https://doi.org/10.4185/RLCS-2016-1118en)

Configuration of television regulatory authorities in the Andean Countries

Abel Suing [CV] [ORCID] [i10] Research Professor. Department of Communication Sciences. Universidad Técnica Particular de Loja (UTPL), Ecuador / arsuing@utpl.edu.ec

Carlos Ortiz [CV] [ORCID] [i10] Research Professor. Department of Communication Sciences. Universidad Técnica Particular de Loja (UTPL) / ccortiz@utpl.edu.ec

Verónica González [CV] [ORCID] [i10] Research Professor. Department of Sciences Communication. Universidad Técnica Particular de Loja (UTPL) / vegonzalez@utpl.edu.ec

Abstract

Introduction. The objective of this research article is to evaluate the adequacy of television regulators in the Andean region according to the international standards set by UNESCO at times of reforms in communications legislation. The hypotheses that guide this research are that television regulators were created by law, that their autonomy has constitutional support, and that their resolutions promote communication rights. **Method.** The study is based on a qualitative method that involves the review of regulatory documents and resolutions and the analysis of such variables as: regulator-creation laws, regulatory authority types, financial autonomy, purposes, functions, composition and resolutions. **Results and conclusions.** The legislation of the regulatory authorities aims to cover from their constituent elements to the impacts of the new forms of communication. Colombia's national regulatory authority is the regulator in the Andean region with the largest number of functions in relation to the protection of television viewers. The legislation does not guarantee the participation of associations of television professionals that are free from influences nor that their members of the regulators are qualified to perform their job. The resolutions adopted by the television regulatory authorities have focused on the regulation of the administrative aspects of television.

Keywords

Regulatory council; communication rights; television; audiovisual sector; communication policies.

Contents

1. Introduction. 2. Methods. 3. Results. 4. Discussion and conclusions. 5. References.

Translation by **CA Martínez-Arcos** (PhD in Communication from the University of London)

1. Introduction

Between 2005 and 2015 many Latin American Governments amended their legislation on communications to institutionalise a system of checks and balances that generate trust between public, private and community actors. The changes that have taken place demonstrate the importance of the media in the promotion of democracy and their contribution to the coexistence of different currents of thought in society (Carniel and Sábes, 2014: 274).

In the recent history of Latin America, the media have proved to be close to the political powers (Lagos and Uganda, 2011: 89) but also to be “poorly regulated, in comparison to their European and American counterparts” (Becerra, 2014: 63). Today, the media face “a whirlwind of transformations, and for the moment they have not found innovative responses for the new challenges” (Becerra, 2014: 74).

The implementation of regulatory mechanisms is justified, as they aim to limit the influence of the economic and political powers in the work of the media, which has as immediate consequence the consolidation of democratic systems, which is in turn an objective recognised and supported by supranational initiatives (Carniel and Sábes, 2014: 274). However, although all Latin American countries “already have regulation on mass media” (Gómez, 2013: 43), these regulations are not always enforced.

The authorities in charge of regulating communications and the audiovisual sector have an important history in Europe but not in Latin America, where their implementation is generally based on arguments about the impact of the media in contemporary society (Carniel, 2009: 21). “The broadcasting of audiovisual content affects various fundamental rights recognised by the constitutions of the traditional democracies and, at the same time, impacts the varying and sometimes contradictory interests of the multiple protagonists of the audiovisual communication industry” (Pavani, 2014: 371).

Communication rights constitute the frame of reference in the field of regulation in democracy, which also advocates for information to become a public good that needs to be protected and promoted (Lagos and Uganda, 2011: 100; Checa, 2013: 14). Thus, the democratisation of the media would involve “focusing on criteria of responsibility in the production and broadcast of audiovisual messages and on the respect of the legally recognised rights” (Carniel, 2009: 29).

In a democracy, “political actors have it clear: they need the media to disseminate information and receive feedback; in other words, to build relations [...] with the citizenry” (Lagos and Uganda, 2011: 92) and this should never involve the use of political power over the media. This condition reaffirms

the importance of the creation of policies and institutions that ensure a democratic balance. Independent authorities overseeing television and the audiovisual sector cultivate “democratic values” as long as liberal democracy does it too (Botella, 2006: 3). “An audiovisual council always contributes to the improvement of the possible imperfections of the media and the democratic system” (Palomar, 2008: 124), even more so when they follow international standards to achieve the full exercise of human rights (Gómez, 2013: 40; several authors, 2015).

Communication rights involve the consideration of freedom of expression and information and a modality of freedom of entrepreneurship, “so that the principles and instruments of the regulation of the market and of public communication are often mixed” (Barata, 2007). Freedom of expression “protects, on the one hand, the right to found or use the media to exercise freedom of expression and, on the other hand, the right of society to have free, independent and plural media” (Gómez, 2013: 49).

Freedom of expression is regarded as a right without which it is impossible to exercise other equally important human rights (Gómez, 2013: 30; Lagos and Uganda, 2011: 100), but “it is not an absolute right and, as such, it admits regulations and restrictions” as stated by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights (Gómez, 2013: 31). In other words, even under the argument of freedom of expression the establishment of a regulatory authority is pertinent. “The guarantee of freedom of communication is the maximum exponent of the penetration of these authorities in the guaranteeing of rights” (Palomar, 2008: 122).

The constitutions that have been amended in the last decade in Latin American countries express their “will to change with respect to previous governments, and all of them, although to a greater extent the Ecuadorian one, describe the communication rights of citizens as an extension of the basic right of freedom of expression” (Jorge, Frutos and Galarza, 2015). Modern public information and communication “play fundamental roles in the configuration of the common space of deliberation and political representation. Thus, it is common to recognise that without access to communication and information, freedom of expression and other social rights tend to be violated” (Sierra, 2013: 89).

Plurality on the public stage is another goal pursued by the creation of independent audiovisual authorities, and is the “basis of free public opinion, which is, in fact, a constitutional requirement” (Palomar, 2008: 122). Plurality with a universal character is fundamental for the exercise of the rights of users of audiovisual services (García, 2010: 8), is an “essential condition for compliance with the freedoms of expression, information and communication [... and...] a key factor for strengthening democracy” (Carniel and Sábes, 2014: 277). The type of pluralism that is of interest in the field of television “is not reached automatically through the multiplication of channels, but through the provision of a variety of contents and the guarantee that media concentration will be prevented” (Pavani, 2014: 373).

The history of regulation on communication is related to natural, legal and administrative aspects: the radio spectrum (Ariño, 2008), the correction of market failures and social balances through the intervention of public monopolies to prevent any economic inefficiency that harms consumers (Culebro and González, 2013: 53; Hazlett, 2004: 235).

The first authorities in charge of regulating the audiovisual sector that have become international referents are the Federal Communications Commission (FCC) of the United States of America, the Office of Communications (Ofcom) of the United Kingdom, and the Audiovisual Council of Catalonia. The important distinction that needs to be made here is that Ofcom is a converged regulator (Michalis and Smith, 2016), as it merges “in one authority the regulation of telecommunications and the regulation of the audiovisual sector” (Botella, 2007). These institutions allow us to identify a set of standards and practices that guide the creation of regulators in other countries. An independent television regulatory authority that is compatible with international standards, should have the following characteristics (Carniel, 2009: 8; Gómez, 2013: 52; Pavani, 2014: 377):

1. Has its own legal personality, not attached to any entity of the public administration, and full capacity to work in private and public law.
2. Has been created a public body by law.
3. Has organisational, regulatory and budgetary autonomy.
4. Has a collegiate character that allows for the contrasting of opinions.
5. Has a member selection system, which includes requirements for members, the prevision of incompatibility with other activities, security of tenures, a pre-established number of members with recognised relation with the subject matter, and limited re-election.
6. Its members can only serve for a pre-established term.
7. Has a proportional territorial scope of competence.
8. Has the power to impose sanctions.
9. Its regulatory acts put an end to administrative proceedings and enable judicial proceedings.

The previous characteristics are consistent with the set of Media Development Indicators established by UNESCO (2008: 14):

“The regulatory system exists to protect the public interest. Regulatory bodies should enjoy autonomy and independence from political and commercial interference and their members should be elected through a transparent and democratic process. Their powers and responsibilities should be established by law, including explicit legal requirements to promote freedom of expression, diversity, fairness and the free flow of information. The regulatory authority should have the necessary resources to fulfil its role”.

In order to reach this configuration, UNESCO proposes the following indicators that enable measuring the independence of the regulatory system:

1. Explicit legal guarantees of autonomy and independence from partisan and commercial interference.
2. Legal guarantees of the independence of the regulatory body.
3. Powers and responsibilities of the regulatory body set out in law.
4. Members of the regulatory body must be chosen through a transparent and democratic process designed to minimise the risk of partisan or commercial interference (for instance, setting up rules on incompatibility and eligibility).

5. Adequate and consistent funding for the regulator is guaranteed by law to safeguard its independence and/or protect it from coercive budgetary pressures.

The means suggested for the verification of the application of the indicators are:

- a. Any relevant law on the role, membership and funding of the regulatory authority.
- b. Any relevant constitutional provision on the independence of the regulator.
- c. Reports of credible agencies about the effective institutional autonomy of the regulatory body.

The proposed indicators and means of verification constitute international standards that capitalise the experience of the existing regulatory bodies. Nonetheless we should reconsider the suitability of these models given the impact of technological developments such as digital television and television over the Internet (Botella, 2007).

“The regulatory bodies, most of which were created with the mission of overseeing radio and television, are now faced with a fast-changing movement, in which traditional media are just one of the platforms used for the mass distribution of audiovisual content. Today, it is difficult to set out clear boundaries between telecommunications, the traditional media and the Internet” (Carniel, 2009: 3).

Apart from the digital process, the elements of independence, the power to impose sanctions and the selection of members are the most outstanding powers possessed by the regulatory authorities. Independent bodies in charge of the regulation of audiovisual media “have become widespread in all European countries, [...] and, more modestly, in Latin America and Asia” (Botella, 2006: 1), “and it can be argued that they constitute a trend in democratic countries” (Carniel, 2009: 2). In order for the established administrative and legal mechanisms to reach their goals, “the responsible authority must be endowed with a high degree of autonomy from the political and economic powers [...] The central premise is to clearly set out the separation between the actors operating in the sector and those with the power to regulate” (Carniel, 2010: 45). More than one study has concluded that citizens, the media and governments prefer independent authorities (Barata, 2007; Botella, 2006: 3; Pavani, 2014: 367).

Scholars have shown that “all the regulatory bodies in the audiovisual field have the power to impose sanctions, which is required for the effective performance of their functions (Carniel, 2011: 60). The European (and American) experience is unanimous: regulatory bodies are administrative bodies, “and, as such, should have power to impose sanctions” (Botella, 2006: 2).

With regards to the members of the regulatory bodies, some formulas have been tested, such as proportional appointments by the Presidency of the Republic, the Presidency of the National Assembly or by Parliament, by large majorities and with additional requirements (Botella, 2006: 3). However, and even if the quotas are balanced, the challenge is to appoint the right professionals (Bourdon 2006).

When we talk about convergence, we should understand it as “the integration of communication networks and communication services, of infrastructure and audiovisual contents” (Pavani, 2014: 372). “The debate on the regulatory convergence between the audiovisual and telecommunications sectors is a reality in the European Union” (García, 2010: 6). However, although statistics show that traditional television is still the medium people use the most to obtain information, “the percentage of IPTV (Internet Protocol Television) is growing each year” (Pavani, 2014: 366).

Convergence would require extending the object of analysis: “Today, mass information and entertainment are not only produced and distributed by the mass media [...], but also, and increasingly, by telephony networks and Internet service providers” (Becerra, 2014: 65). The previous and the fact that the Internet is currently the preferred platform through which an increasing number of people consumes audiovisual content has made many scholars to wonder “what should we regulate and why?” (Ariño, 2008)

The purpose of this research is to determine the adequacy of the television regulatory authorities in Andean countries according to the international standards set out by UNESCO, within the framework of the Media Development Indicators. Television regulators in the Andean region are young in comparison to their European or American counterparts, and emerged in the middle of a political transition towards the predominance of laws that promote civil rights.

The objectives of this research study are:

- a. Determine whether television regulators in the Andean region have been created by relevant laws that set out their role, composition and funding.
- b. Establish the constitutional provisions that support the creation and independence of regulatory authorities that govern television in Andean states.
- c. Determine the characteristics and trends of the resolutions of the television regulators operating in the Andean region.

The hypotheses that guide the previous objectives are the following:

- a. Television regulators in the Andean region were created by relevant laws that set out their roles, composition and financing.
- b. The creation television regulators in the Andean region have the pertinent constitutional support regarding the independence of regulatory bodies.
- c. The resolutions of the television regulators in the Andean region promote justice, freedom of expression, freedom of criteria and ownership, public service programming and accessibility of broadcasting services for the general public.

2. Methods

The study is based on the qualitative content analysis of the legal regulations, constitutions, and the resolutions of the television regulators of the Andean states. The legislative database hosted by the Latin American Observatory of Regulation, Media and Competition (Observacom, 2016) was the main source to obtain the legal regulations on television in the Andean region.

The Andean states that were taken into account in this study are: Colombia, Ecuador, Peru and Bolivia (CAN, 2015). The regulators examined in this study are those recognised in the Latin American Platform of Television Regulators (PRAI, 2016; ANTV, 2015):

- Bolivia: Authority for the Regulation and Control of Telecommunications and Transport (*ATT - Autoridad de Regulación y Fiscalización de las Telecomunicaciones*, 2016).
- Colombia: National Television Authority (*ANTV - Autoridad Nacional de Televisión*, 2016).
- Ecuador: Information and Communication Regulation and Development Council (*CORDICOM - Consejo de Regulación y Desarrollo de la Información y Comunicación*, 2016).
- Peru: Radio and Television Advisory Council (*CONCORTV - Consejo Consultivo de Radio y Televisión* 2016).

In addition to the legal bodies, data was obtained from the websites of the selected regulators (the final month set for information retrieval was February 2016). For the analysis of the resolutions, we considered the resolutions published during the last year of administrative exercise. The variables selected for analysis are: regulator-creation laws, regulatory authority types, financial autonomy, purposes, functions, composition and resolutions

3. Results

All the regulatory authorities were created by law (table 1). Peru’s Radio and Television Advisory Council is the oldest regulator while Ecuador’s CORDICOM is the youngest: it was created in 2013 by an organic law that set out its fundamental rights. The regulators of Colombia and Peru refer specifically to television in their names, while the name of Ecuador’s television regulator is generic but encompasses information and communication. The name of Bolivia’s regulator covers telecommunications and transportation.

Based on their nature, the regulators of the Andean states are public institutions. In Bolivia and Peru the regulators are attached to ministries related to communication or telecommunications; while in Colombia and Ecuador the regulators have administrative autonomy.

Table 1. Description of television regulators in the Andean region

Countries*	Variables / information
Names of the regulatory authorities	
BO	Authority for the Regulation and Control of Telecommunications and Transport (<i>ATT - Autoridad de Regulación y Fiscalización de las Telecomunicaciones</i>)
CO	National Television Authority (<i>ANTV - Autoridad Nacional de Televisión</i>)
EC	Information and Communication Regulation and Development Council (<i>CORDICOM - Consejo de Regulación y Desarrollo de la Información y Comunicación</i>)
PE	Radio and Television Advisory Council (<i>CONCORTV - Consejo Consultivo de Radio y Televisión</i>)
Laws of creation	
BO	Created in April 2009, within the framework of new legal provisions set out by the

	National Government through the Supreme Decree 0071. It was subsequently recognised by the General Law on Telecommunications, Information and Communication Technologies (Law 164, of 8 August, 2011).
CO	Law 1507 of 2012.
EC	Organic Law of Communication, of 25 June, 2013, amended on 18 December 2015.
PE	Law on Radio and Television (LRTV). Law 28278, of 2004.
Nature	
BO	Technical and operational public institution with legal personality and administrative independence, under the Ministry of Public Works, Services and Housing.
CO	National Government Agency of Special Nature.
EC	Collegiate Body with legal personality, and functional and administrative autonomy.
PE	Autonomous, plural and consultative body attached to the Ministry of Transport and Communications responsible for the provision of administrative and logistical support.
Financial autonomy	
BO	Possess its own patrimony, financial, legal and technical independence. Operates with the following resources: a) regulation rates; b) rights and patents; c) resources from the Nation's General Treasury; d) donations and domestic or foreign credit; e) others resources explicitly set out by law.
CO	Is financially supported by the Television Development Fund (FONTV).
EC	Has financial autonomy. Its resources come from the National government budget.
PE	Uses part of the revenue collected for the rights fees, levies and fines established in telecommunications law.

*BO: Bolivia; CO: Colombia; EC: Ecuador; PE: Peru.

Source: Authors' own creation based on data from: Gaceta oficial de Bolivia, 2009; Asamblea Legislativa Plurinacional, 2011; Congreso de Colombia, 2012; Registro Oficial del Gobierno de Ecuador, 2013; Congreso de la República del Perú, 2004; CONCORTV, 2016-a.

The laws of creation of the regulatory authorities of Bolivia and Peru established the sources of funding (table 1) and the origin of the funds. Ecuador's regulator is financed with allocations from the national government budget, but the amount of the allocated budget is not specified. Colombia's television regulator does not have financial autonomy, as it depends on the income allocated to the Television Development Fund.

The functions of the television regulators in the Andean states (table 2), range from the promotion of good practices (Peru) and dialogue (Colombia) to regulation and control (Bolivia and Ecuador), which would correspond more to their essence as it promotes and executes communication policies related to the rights and freedoms of the public. In the case of Bolivia, the ATT regulates telecommunications and transport, and its functions with respect to television are not specified.

Table 2. Functions of television regulators in the Andean region

Bolivia: Authority for the Regulation and Control of Telecommunications and Transport – ATT
Monitor, control, supervise and regulate the activities of the telecommunications and transport sector.
Colombia: National Television Authority - ANTV

Maintain communication with television users and the public opinion in relation to broadcasting, protection and defend the interests of television viewers.

Ecuador: Information and Communication Regulation and Development Council - CORDICOM

It is part of the institutional framework for the regulation and control set out in the Organic Law on Communication.

Peru: Radio and Television Advisory Council - CONCORTV

Promote good practices in radio and television.

Source: Authors' own creation based on data from: Gaceta oficial de Bolivia, 2009; Asamblea Legislativa Plurinacional, 2011; Congreso de Colombia, 2012; Registro Oficial del Gobierno de Ecuador, 2013; Congreso de la República del Perú, 2004; CONCORTV, 2016-a.

The functions of the television regulators (table 3) can be grouped into eight broad groups:

1. Legal and administrative functions.
2. Functions related to the radio spectrum.
3. Functions related to communication rights.
4. Power to impose sanctions.
5. International relations.
6. Functions related to public service television.
7. Functions related to the industry and the market.
8. Academic research.

Administrative functions include compliance with the law and the creation of regulations, manuals and enforcement procedures, and to attend citations from Congress and public hearings. As for the radio spectrum, except in the case of Bolivia where the regulatory body oversees telecommunications, the regulators issue analyses prior to the granting of concessions, supervise the management of frequencies for television, and participate (through recommendations) in the oversight of public tenders to provide broadcasting services in an equitable manner.

Almost all regulatory authorities pay attention to the communication rights, in particular the Regulation Council of Ecuador. Communication rights are not mentioned among the functions of Bolivia's regulatory authority, which include the establishment of mechanisms for the classification of TV content programming and time slots, the design and implementation of educational strategies for family audiences to develop a critical spirit, and the dissemination of the forms of communication of social, ethnic and cultural groups to guarantee information pluralism.

The power to impose sanctions is not included among the functions of all the regulatory authorities. The regulatory authorities of Ecuador and Peru do not have the power to impose sanctions; the Radio and Television Advisory Council of Peru may issue non-binding opinions in administrative proceedings. The regulatory authorities of Bolivia and Colombia have the power to impose sanctions to those who violate the norms that protect citizens' rights.

The regulators in Bolivia, Colombia and Peru perform international representation and liaison functions with industry associations to coordinate policies and operation standards. The television

regulator in Ecuador does not perform this type functions. In relation to public television, only Colombia's television regulator has competence in this area.

Market-related elements such as the promotion of the television industry, the development of communication technology and market competition are included among the functions of the regulatory authorities of Bolivia and Colombia, while academic research functions are listed as commitments of the regulatory authorities of Ecuador and Peru.

Table 3. Functions of television regulators in the Andean region

Areas	Functions	Countries *			
		B	C	E	P
Legal / administrative	Comply and enforce the law and regulations; guarantee the proper application of principles, policies and objectives.	X	X		
	Assist the Government in the study of subject matters related to television services.		X		
	Develop, update and amend manuals, guides, notices and procedures necessary in the sector.	X			
	Develop and promote the regulations necessary for the fulfilment of its duties and operation.		X	X	
	Attend requirements and citations from Congress		X		
	Participate in public hearings.				X
Radio spectrum	Create administrative and operational bodies necessary to fulfil its functions.			X	
	Award concessions and licenses to provide television services.		X		
	Prepare binding reports for the granting of radio frequencies for the operation of free-to-air TV stations.			X	
	Prepare reports necessary for the telecommunications authority to be able to resolve the termination of TV concessions for breach of duties.			X	
	Oversee public tenders to grant authorisations for broadcasting services.				X
	Coordinate matters related to the management, administration and control of the radio spectrum.	X	X		
	Participate in the preparation of the National Frequency Allocation Plan.				X
Communication rights	Formulate observations and recommendations in processes of equitable distribution of frequencies.			X	
	Regulate universal access to information and communication.			X	
	Establish mechanisms for the exercise of rights of users of communication and information services.			X	
	Design and implement teaching strategies that promote critical thinking among family and children TV audiences.		X		
Communication rights	Establish mechanisms to guarantee variety of programming, with orientation to educational and/or cultural programmes.			X	

	Establish and give awards to people who contribute to the country's integral and cultural development through work in broadcasting.				X
	Regulate the classification of TV content and time slots.			X	
	Establish mechanisms to disseminate the forms of communication of social, ethnic and cultural groups. Ensure pluralism and impartiality of information.		X	X	
Power to sanction	Punish public TV concession holders who violate constitutional and legal provisions that protect family and children's rights.		X		
	Coordinate the implementation of policies for the prevention of all forms of discrimination and enforce sanctions.	X			
	Issue non-binding opinions, within administrative sanction proceedings.				X
International relations	Attend and collaborate in meetings with international telecommunications organisations and meet financial obligations of participation.	X	X		
	Develop and maintain the fundamental technical plans of the ITU and set out a technical standard to operate and improve telecommunications services.	X			
	Propose the celebration of national and international agreements that allow the development of broadcasting.				X
Public television	Ensure the strengthening and development of public television. Execute plans and programmes for the provision of public service television.		X		
Industry / market	Promote and develop the television industry.		X		
	Regulate the general regime of rates and prices. Guarantee competition and avoid monopolistic practices the operation and exploitation of television services.	X	X		
	Coordinate the development of information and communication technologies; provide support and technical assistance at the territorial and sectorial level.	X			
Academia and research	Carry out studies on the behaviour of the community towards media contents.			X	
	Promote academic research that impacts the improvement of broadcasting.				X
	Support initiatives with academic purposes, aimed at the preservation and archival of national audiovisual productions.				X

**B: Bolivia; C: Colombia; E: Ecuador; P: Peru.

Source: Authors' own creation based on data from: Gaceta oficial de Bolivia, 2009; Asamblea Legislativa Plurinacional, 2011; Congreso de Colombia, 2012; Registro Oficial del Gobierno de Ecuador, 2013; Congreso de la República del Perú, 2004; CONCORTV, 2016-a.

Television regulators in the Andean region are organised in different ways. For example, Bolivia's Authority for the Regulation and Control of Telecommunications and Transport (ATT) has three levels of organisation:

- a. Executive: Chief Executive Officer.
- b. Advisory: Council with social participation.
- c. Technical-operational: Sectorial and departmental technical directors, administrative and legal directors, and internal audit.

The Council is an institution of social participation and is responsible for designing, proposing and evaluating policies, exercising social control over the management of the Executive Director of the ATT. The Council shall be composed of the Minister of Public Works, Services and Housing or its representative, in the role of President of the Council; the Deputy Minister of Telecommunications; the Deputy Minister of Transport, and two representatives of social or user organisations. The representative of the Minister shall be appointed by ministerial resolution. Representatives of social or user organisations will be appointed according to the rules established by the Ministry head of sector.

Colombia's National Television Authority is composed of:

- a. The Minister or Deputy Minister of Information and Communications Technologies.
- b. One representative appointed by the President of the Republic.
- c. One representative of the country's governors.
- d. One representative of the public and private universities that is legally incorporated and recognised by the National Ministry of Education, rated as high-quality in accordance with the annual report of the National Higher Education Information System (SNIES), with legal personality, and with at least one of the following programmes: law; social communication; journalism; psychology; sociology; economics; education; international business; financial, public or business administration; civil engineering, and engineering in the areas of telecommunications, electronics, mechatronics, finance, systems or mechanics; film and television. The universities must also offer doctoral and master's degree programmes in areas related with the corresponding functions.
- e. One representative of the civil society.

The requirements to become a member of National Television Authority are:

1. Colombian nationality and over 30 years of age.
2. A bachelor's degree in law, social communication, journalism, psychology, sociology, economy, education, international business, financial, public or business administration; civil engineering, and engineering in the areas of telecommunications, electronics, mechatronics, finance, systems or mechanics; film and television.
3. A master's or doctoral degree in areas related to the functions of the position. In case of not having a master's or doctoral degree, the candidate must have proof of at least ten years of experience and expertise in the areas referred to in the second paragraph of this article.
4. Eight years or more of professional experience in the sector of information technologies, telecommunications, culture and education.

Ecuador's Information and Communication Regulation and Development Council (CORDICOM) is composed of:

- a. A representative of the Executive power, who will preside over it.
- b. A representative of the national equality councils.
- c. A representative of the citizen participation and social control council.
- d. A representative of the Decentralised Autonomous Governments.
- e. A representative of the Ombudsman.

The members of the CORDICOM shall meet the following requirements:

1. Ecuadorian nationality or legal status as foreign national in Ecuador;
2. No family relationship up until the fourth degree of consanguinity and second degree of kinship by election with people who are or have been partners or shareholders with a percentage higher than 6% of the capital, or with owners, directives and administrators of social media companies, during the two years prior to the date of their appointment;
3. Not having performed duties of administration or management for media companies, having worked under dependency of social media in the two years prior to the date of their appointment; and,
4. Enjoy all political and participation rights.

Peru's Radio and Television Advisory Council (CONCORTV) is composed of:

- a. A representative of the Peruvian Press Council;
- b. A representative of the Ministry of Transport and Communications, without the right to vote;
- c. A representative of the Schools of social communication and journalism, chosen by their Deans;
- d. A representative of the radio broadcasting and commercial television license holders;
- e. A representative of the radio broadcasting and educational television license holders;
- f. A representative of the Association of journalists of Peru;
- g. A representative of the consumer associations;
- h. A representative appointed by the National Association of Advertisers (ANDA);
- i. A representative of the Professional College of teachers of Peru;
- j. A representative of the National Association of Research Centres.

The members of the Radio and Television Advisory Council must have moral fitness, outstanding career and professional experience of at less ten years.

Regulators are composed of representatives of the national and local governments appointed by the ministries or directly by the President of the Republic, representatives of social organisations, the academia, the media, and associations of journalists. Election is by appointment or nomination but not all regulators set out the requirements for candidates.

With regards to references to the television regulators in the constitutions of the Andean states, the study indicates that this only happens in the case of Colombia’s National Television Authority, which is mentioned in article 77 of Colombia’s constitution, which states that:

“Television will be regulated by an autonomous national entity, subject to its own legal regime. The management and execution of the functions of the entity will be performed by a Board of Directors, composed of five members, which shall appoint the Director. The Board members will be appointed for a fixed period. The National Government will appoint two of the members. Another member will be chosen from the legal representatives of the regional television channels. The law shall set out the criteria for the appointment of the other members and shall regulate the organisation and functioning of the entity” (*Procuraduría*, 2016).

Finally, and in accordance with the objectives of the research, the following table presents the resolutions adopted by television regulators of the Andean states in the last year, and published on their respective websites. In Ecuador the Information and Communication Regulation and Development Council (CORDICOM) has no competence to issue resolutions. According to article 55 of Ecuador’s Organic Law on Communication, regarding the institutional framework for the regulation and control, the Information and Communication Superintendence is “the technical agency for monitoring, audit, intervention and control, with sanctioning power [...] and broad powers to enforce the regulation on information and communication” (Registro Oficial del Gobierno de Ecuador, 2013). For the purpose of comparison, the following table includes the resolutions of the Superintendence.

- BO Authority for the Regulation and Control of Telecommunications and Transport (ATT)
- CO National Television Authority (ANTV)
- EC Information and Communication Regulation and Development Council (CORDICOM)
- PE Radio and Television Advisory Council (CONCORTV)

Table 4. Resolutions of television regulators in the Andean region

Country / authority	Title	Description	Publication
Bolivia: Authority for the Regulation and Control of Telecommunications and Transport (ATT)	<i>RAR-ATT-DJ-RA TL LP 1689/2015.</i> <i>RAR-ATT-DJ-RA LP 226/2015.</i>	ATT in the DAKAR 2016. License to use radio frequencies of exceptional character - rally Dakar 2016 in favour of the Ministry of Culture and Tourism.	08/01/2016
	<i>RAR-ATT-DJ-RA TL LP 32/2015</i>	ATT and ADSIB sign a contract for the authorisation of digital certification services.	12/02/2016
	<i>RAR-ATT-DJ-RA-TL LP 1211/2014,</i> <i>RAR-ATT-DJ-RA-TL LP 32/2015</i>	Bolivia enters the era of digital signatures. Technical standards and other guidelines are established for the operation of certification authorities.	10/02/2016
Colombia: National Television Authority	<i>Resolución ANTV 093 de 2015</i>	“Establishes the programming of the <i>Señal Institucional</i> television channel”.	06/02/2015

(ANTV)	<i>Resolución ANTV 115 de 2015</i>	“Sets the monthly subscription fee that will be the basis to determine the variable component of the concession of subscription-based satellite television for the year 2015”.	19/02/2015
	<i>Resolución ANTV 114 de 2015</i>	“Updates the compensation value established in resolution 045 of 2012”.	19/02/2015
	<i>Resolución ANTV 113 de 2015</i>	“Updates the ”variable-value factor per month per subscriber” of subscription-based television concession contracts, their extensions, expansions, and the unique license for the presentation of subscription-based television services, for the year 2015”.	19/02/2015
Ecuador: Information and Communication Superintendence (SUPERCOM)	<i>RESOL.001-2016-DNJRD</i>	Right of reply.	05/01/2016
	<i>RESOL.003-2016-DNJRD</i>	Ethical standards and classification of audiences and time slots.	15/01/2016
	<i>RESOL.004-2016-DNJRD</i>	Copying of programmes or printed material.	25/01/2016
	<i>RESOL.002-2016-DNGJPO</i>	Violent content.	26/01/2016
	<i>RESOL.003-2016-DNGJPO</i>	Comprehensive protection of children and adolescents.	01/02/2016
	<i>RESOL.004-2016-DNGJPO</i>	Identification and classification of types of contents.	10/02/2016
Peru: Radio and Television Advisory Council (CONCORTV)	<i>D.S 020-2014-MTC</i>	Modifies the Master Plan for the implementation of Digital Terrestrial Television in Peru.	05/09/2014

Source: Authors’ own creation based on data published in the websites of the television regulators of the Andean states.

4. Discussion and conclusions

Television regulators in the Andean states are created by laws that establish their nature, financial autonomy, purpose, functions and composition. They are public institutions but not all them have administrative and financial independence. Since they are legally supported by organic laws, they promote respect for fundamental rights, whose protection is one of the objectives of the debate and creation of regulatory bodies. The legal framework allows regulatory bodies in Andean countries to promote and ensure citizens’ exercise of their rights and the free expression of their views in democratic societies.

Although not all television regulators in the Andean region enjoy administrative and financial autonomy, their laws of creation establish that their purpose, their *raison d'être*, is the regulation and control of television. Even in the case of Bolivia, there is no full disengagement from this area because it maintains a relation with telecommunications activities. This context denotes the value of television and its impact on the democratisation of communication.

The functions of the regulators are many, but coincide on eight aspects that encompass administrative elements, the supervision of the radio spectrum, the right to communication, sanctions, international relations, public television, industry and academic research. The regulators aim to cover from the constituent elements of the relationship among citizens to the evaluation of the impacts of new forms of communication. Together, the television regulators in the Andean region perform a total of 34 functions, of which 13 are performed by Colombia's National Television Authority, which is the regulator that carries out the largest number of functions related to television and the protection of viewers.

The functions of the regulators have as common factors, just like the purposes, the communication rights and the freedoms of expression and information, and thus aim to provide the conditions necessary for people to exercise these rights in a market economy as citizens and economic agents.

The first research hypothesis, which proposes that “television regulators in the Andean region have been created by relevant laws that establish their roles, composition and financing”, has been confirmed, as reflected by the information presented in tables 1, 2 and 3.

According to their composition, the regulatory authorities are related to the executive branch of their governments and although there is an organism that can review and appeal the appointment of the members, there will always be the risk of influence from the political groups in power. The regulation councils of Colombia, Ecuador and Peru include representatives of the academia and civil society, but with the exception of the case of Colombia, there are no forms to guarantee the appointed members are qualified to perform their duties or to include the opinion of professional bodies free from political or economic influences, despite this is necessary to achieve greater plurality and depth in the resolutions.

With regards to the constitutional support received by the television regulators of the Andean region, it is important to notice that only the Political Constitution of Colombia, in its article 77, makes reference to the National Television Authority, to establish that it is an autonomous national entity, subject to its own legal regime. Therefore, the second research hypothesis, which states that “the creation television regulators in the Andean region have the pertinent constitutional support regarding the independence of regulatory bodies”, has not been confirmed.

Finally, after examining the resolutions adopted by the regulators determined in the past year, we can point out that the regulatory authorities have focused on the regulation of administrative aspects. In fact, there have been few resolutions related to the protection and promotion of communication rights. Regulators in Ecuador and Peru have considered the rights of citizens in regards to access to digital terrestrial television and contents targeting children and adolescents. Also striking is the lack of updating of the resolutions sections in the websites of the regulators of Peru and Colombia.

Based on the analysis of the resolutions of the regulators in the Andean region, it can be concluded that there is no sufficient evidence to ensure these authorities will promote justice, freedom of expression, public service programming and accessibility for the general public, with rejects the third hypothesis. It is also important to note that in order to have a more precise criteria, it is necessary to study in depth the background and justification of each resolution, which will be a future line of research for the study.

In correspondence to the standards set by UNESCO, the regulatory authorities of the Andean region must develop more rules and regulations that, altogether, guarantee the independence of the regulatory system. Despite there is no evidence to demonstrate commercial or partisan interference in the resolutions adopted by regulators, the Constitutions of the Andean states do not include legal elements that promote and guarantee the proper composition and full independence of television regulators.

There is also necessary to improve the conditions that ensure that the members of the regulatory authorities are elected through transparent and democratic processes designed to minimise the risk of partisan or commercial interference. In terms of financial autonomy, the legislation generally guarantees the adequate and consistent funding for the regulators, but does not explicitly identify the sources of funding.

There is still room for improvement, but there are favourable conditions for television regulators of the Andean region to promote and guarantee communication rights which would lead to higher levels of democracy in each country.

* **Funded research.** This article is the result of the research project titled “[The transition towards digital television in the \[Andean\] region](#)”, which is part of the research programme on Edu-communication and Digital Culture in Ecuador’s Zone 7, funded by the Vice-chancellorship of research of the Private Technological University of Loja. The research programme started on 5 January 2015 and ended on 23 December 2016.

5. References

ANTV (2015): “Se institucionalizó la plataforma de reguladores de TV”. Retrieved on 26/01/2016, from: http://www.antv.gov.co/sites/default/files/comunicado_prai_3.pdf

ANTV (2016): Website of Autoridad Nacional de Televisión de Colombia. Retrieved on 15/01/2016, from: <http://www.antv.gov.co/>

Ariño, Mónica (2008): “La regulación audiovisual en la era de la convergencia digital” *Revista de los Estudios de Derecho y Ciencia Política de la UOC* IDP No. 7(2008) I ISSN 1699-8154.

- Asamblea Legislativa Plurinacional (2011): “Ley General de Telecomunicaciones, Tecnologías de Información y Comunicación. Ley 164. 8 Agosto, 2011”. Retrieved on 13/02/2016, from: <http://bolivia.infoleyes.com/shownorm.php?id=3175>
- ATT (2016): Website of Autoridad de Regulación y Fiscalización de las Telecomunicaciones de Bolivia. Retrieved on 15/01/2016, from: <http://www.att.gob.bo/>
- Barata, Joan (2007): “El tratamiento bibliográfico del modelo de regulación del audiovisual”. *Revista catalana de dret públic*, No. 34.
- Becerra, Martín (2014): Medios de comunicación: América Latina a contramano. *Revista Nueva Sociedad*. No. 249, pp. 61-74.
- Botella, Joan (2006): Preguntas y respuestas sobre los consejos audiovisuales. El País. Tribuna-Comunicación. Consulted on 9/10/2015 from: http://elpais.com/diario/2006/01/06/sociedad/1136502008_850215.html
- Botella, Juan (2007): “La regulación independiente del sector audiovisual español: una reflexión sobre problemas, perspectivas y posibilidades”. *Revista catalana de dret públic*, No. 34.
- Bourdon, Jérôme (2009): La experiencia internacional de los organismos de regulación. El caso del CSA (Conseil Supérieur de l’Audiovisuel). *Revista TELOS*. Nº 68. Segunda Época.
- CAN (2015): “Somos ciudadanía andina”. Retrieved on 28/01/2016, from: <http://www.comunidadandina.org/Seccion.aspx?id=189&tipo=QU&title=somos-comunidad-andina>
- Carniel, Ricardo (2009): “Organismos independientes de regulación del audiovisual: Los primeros cinco años de la OFCOM y el desafío de la convergencia”. *RUTA*, Nº 2 ISBN: 2013-0740.
- Carniel, Ricardo (2010): “Las actuaciones de Organismos Independientes en la regulación de la televisión pública: los casos de Reino Unido y España”. *Estudos em Comunicação*. Nº7 - Volume 2, pp. 43-62.
- Carniel, Ricardo (2011): “El Consejo Estatal de Medios Audiovisuales de España. Más de un año esperando la puesta en marcha”. *Textual & Visual Media*, No. 4, pp. 45-64.
- Carniel, Ricardo & Sabés, Fernando (2014): La observancia del pluralismo político en el audiovisual mediterráneo: autoridades independientes y criterios de regulación de la televisión. *Historia y Comunicación Social*. Vol. 19. Nº Esp. February, pp. 273-286.
- Checa, Fernando (2013): “Porque la comunicación es un derecho. Nota introductoria”. pp. 11-20. En Varios (2013) *La democratización de la comunicación y la información en América Latina*. CIESPAL. Quito: CIESPAL, The Carter Center.
- CONCORTV (2016): El CONCORTV. Retrieved on 13/02/2016, from: <http://www.concortv.gob.pe/index.php/el-concortv/nosotros/el-concortv.html>
- CONCORTV (2016-a): Sitio Web del Consejo Consultivo de Radio y Televisión de Perú. Retrieved on 15/01/2016, from: <http://www.concortv.gob.pe/>
- Congreso de Colombia (2012): “Por la cual se establece la distribución de competencias entre las entidades del estado en materia de televisión y se dictan otras disposiciones”. Retrieved on 7/02/2016, from: http://www.antv.gov.co/sites/default/files/ley_1507_2012_0.pdf

Congreso de la República del Perú (2004): “Ley de Radio y Televisión” (LRTV). Law 28278, of 2004. Retrieved on 13/02/2016, from: <http://www.irtp.com.pe/phocadownload/ley28278rtv.pdf>

Cordicom (2016): Website of Consejo de Regulación y Desarrollo de la Información y Comunicación de Ecuador. Retrieved on 15/01/2016, from: <http://www.cordicom.gob.ec/>

Culebro, Jorge & González, Christian (2013): Regulación y evolución de organismos reguladores en telecomunicaciones. El caso de México y Francia. *Gestión y Política Pública*. Volumen XXII. No. 1, pp. 45-83.

Gaceta oficial de Bolivia (2009): “Decreto Supremo N° 071, 9 de abril de 2009”. Retrieved on 13/02/2016, from: <http://www.lexivox.org/norms/BO-DS-N071.xhtml#dcmi>

García, Ángel (2010): “El escenario de la convergencia. La regulación de los contenidos audiovisuales”. *Revista TELOS*. October-December 2010, pp. 1-13.

Gómez, Gustavo (2013): “La regulación democrática de los medios de comunicación. Necesidad, alcances y límites de la intervención estatal” pp. 29-62. In *La democratización de la comunicación y la información en América Latina* (2013, several authors). CIESPAL. Quito: CIESPAL, The Carter Center.

Hazlett, Thomas (2004): “All broadcast regulation politics are local: a response to christopher yoo’s model of broadcast regulation”. *Emory Law Journal*. No. 53.1, pp. 233 – 253.

Jorge, A., Frutos, R. & Galarza, E. (2015): “La comunicación en los procesos de cambio social en América Latina: Bolivia, Argentina, Ecuador y Venezuela”. *Revista Latina de Comunicación Social*, 70, pp. 1 a 13. http://www.revistalatinacs.org/070/paper/1031_UMA/01es.html DOI: 10.4185/RLCS-2015-1031

Lagos, Claudia & Uranga, Victoria (2011): Comunicación(es) en América Latina: más que medios y campañas. In Koschützke, Alberto & Gerber, Elisabet (2011). *Progresismo y políticas de comunicación: manos a la obra*. 1st ed. - Buenos Aires: Fundación Friedrich Ebert.

Michalis, Maria & Smith, Paul (2016): “The relation between content providers and distributors: Lessons from the regulation of television distribution in the United Kingdom”. *Telematics and Informatics*. No. 33, pp. 665 – 673.

Muñoz, Mercedes (2010) “Código CoAN 2010: el primer código de corregulación audiovisual de España”. *Revista Latina de Comunicación Social*. No. 66, pp. 1-18.

Observacom (2016): “Base de datos legislativa”. Retrieved on 25/02/2016, from: <http://observacom.org/bdlegislativa/>

Palomar, Jordi (2008): La regulación audiovisual: argumentos a favor y en contra. *Comunicar*. N° 30, v. XV, pp. 119-124.

Pavani, Giorgia (2014): Las autoridades audiovisuales en Europa como instrumento de garantía institucional. Una mirada comparada. *Revista española de Derecho Administrativo*. No. 161, pp. 365 – 404.

PRAI (2016): “Miembros de la Plataforma Iberoamericana de Reguladores de Televisión”. Retrieved on 8/01/2016, from: <http://www.prai.tv/#!/miembros/crwv>

Procuraduría (2016): Constitución Política de Colombia 1991. Retrieved on 19/02/2016, from: [http://www.procuraduria.gov.co/guiamp/media/file/Macroproceso%20Disciplinario/Constitucion Política de Colombia.htm](http://www.procuraduria.gov.co/guiamp/media/file/Macroproceso%20Disciplinario/Constitucion%20Politica%20de%20Colombia.htm)

Registro Oficial del Gobierno de Ecuador (2013): “Ley Orgánica de Comunicación”. Retrieved on 13/02/2016, from: <http://www.presidencia.gob.ec/wp-content/uploads/downloads/2013/08/LeyDeComunicacion-espaniol.pdf>
<http://www.supercom.gob.ec/es/marco-juridico/biblioteca/normativa>

Several authors (2015): “Declaración por el pluralismo y la diversidad en América Latina”. Retrieved on 25/01/2016 de <http://observacom.org/declaracion-por-pluralismo-y-diversidad-2015/>

Sierra, Francisco (2013): “Redes alternativas de comunicación e imaginación emancipadora en la era del capitalismo cognitivo”, pp. 87-111. In Dantas, Marcos (Coord.) (2013). *Avances en los procesos de democratización de la comunicación en América Latina*. – 1st ed. – Ciudad Autónoma de Buenos Aires: CLACSO.

Unesco (2008): *Indicadores de Desarrollo Mediático: Marco para evaluar el desarrollo de los medios de comunicación social*. Quito: Consejería de Comunicación e Información para los países andinos, UNESCO: Quito.

Unesco (2014): *Tendencias mundiales en libertad de expresión y desarrollo de los medios: Situación regional en América Latina y el Caribe*. Montevideo: Oficina Regional de Ciencias de la UNESCO para América Latina y el Caribe, Sector Comunicación e Información.

How to cite this article in bibliographies / References

T Suing, C Ortiz, V González (2016): “Configuration of television regulatory authorities in the Andean Countries”. *Revista Latina de Comunicación Social*, 71, pp. 730 to 749.

<http://www.revistalatinacs.org/071/paper/1118/38en.html>

DOI: [10.4185/RLCS-2016-1118en](https://doi.org/10.4185/RLCS-2016-1118en)

Article received on 15 July 2016. Accepted on 20 July.
Published on 29 July 2016.