



ERGA Work Programme 2017

Introduction

ERGA's objectives are twofold. On the one hand ERGA advises the European Commission in its work to ensure a consistent application of the Directive on Audiovisual Media Services (AVMSD) as well as on other matters related to audiovisual media services within the Commission's competence. On the other hand ERGA facilitates cooperation between the regulatory bodies within the EU, as provided for in the AVMSD, and in order to allow for an exchange of experience and good practices. In 2014 and 2015 ERGA focused on advising the Commission towards a revision of the AVMSD. In 2016 ERGA not only advised on the regulatory implications of the application of the Commission's proposal for a new AVMSD, but also started to support and empower its members in their supervisory practice and the application of the regulatory framework for audiovisual media services.

Context

In May 2016 the European Commission presented its proposal to revise Directive 2010/13/EU on Audiovisual Media Services (AVMSD). Prior to its publication, ERGA advised the Commission on the revision, by publishing reports with concrete recommendations.¹ Many of these recommendations were taken into account in the proposal. To name a few: ERGA recommended reviewing the scope of the AVMSD, because of the dynamics in this sector. ERGA also recommended that a coordinated approach should be maintained in respect of self- and co-regulation. ERGA found that the current distinction of regulatory density between linear and non-linear content is no longer appropriate with

¹ ERGA Report on the Protection of Minors in a Converged Environment, <https://ec.europa.eu/digital-single-market/en/news/erga-report-protection-minors-converged-environment>;

ERGA Report on the Independence of National Regulatory Authorities, <https://ec.europa.eu/digital-single-market/en/news/erga-report-independence-national-regulatory-authorities>;

ERGA Report on Material Jurisdiction in a Converged Environment, <https://ec.europa.eu/digital-single-market/en/news/erga-report-material-jurisdiction-converged-environment>;

ERGA Report on Territorial Jurisdiction in a Converged Environment, <https://ec.europa.eu/digital-single-market/en/news/erga-report-territorial-jurisdiction-converged-environment>.

regard to the protection of minors. These are just a few examples of the way in which ERGA contributed to the revision of the AVMSD, based on the professional and hands-on experiences of national audiovisual media regulators.

The Commission furthermore proposed to strengthen the independence of NRAs and to formalise the role of ERGA. These proposals were done at the same time when ERGA was confronted with a growing number of Members that had to encounter challenges with their independence.² Considering these events, the aspects of the AVMSD proposal that i.a. guarantee that NRAs should be legally distinct and functionally independent of any other public or private body, and that NRAs shall have adequate financial and human resources are essential for NRAs to be able to effectively perform their tasks. This was also recommended in the ERGA Report on the Independence of NRAs (see footnote 1).

Apart from these institutional guarantees provided for in the proposal of the Commission, also ERGA itself can provide NRAs with peer support and plays therefore an invaluable added role for the NRAs collectively. The strand of work within ERGA to share experiences and good practices encourages individual NRAs to further improve and align their effective functioning. And as a consequence this contributes to the single market as well as the predictability to parties investing in the EU AVMS sector.

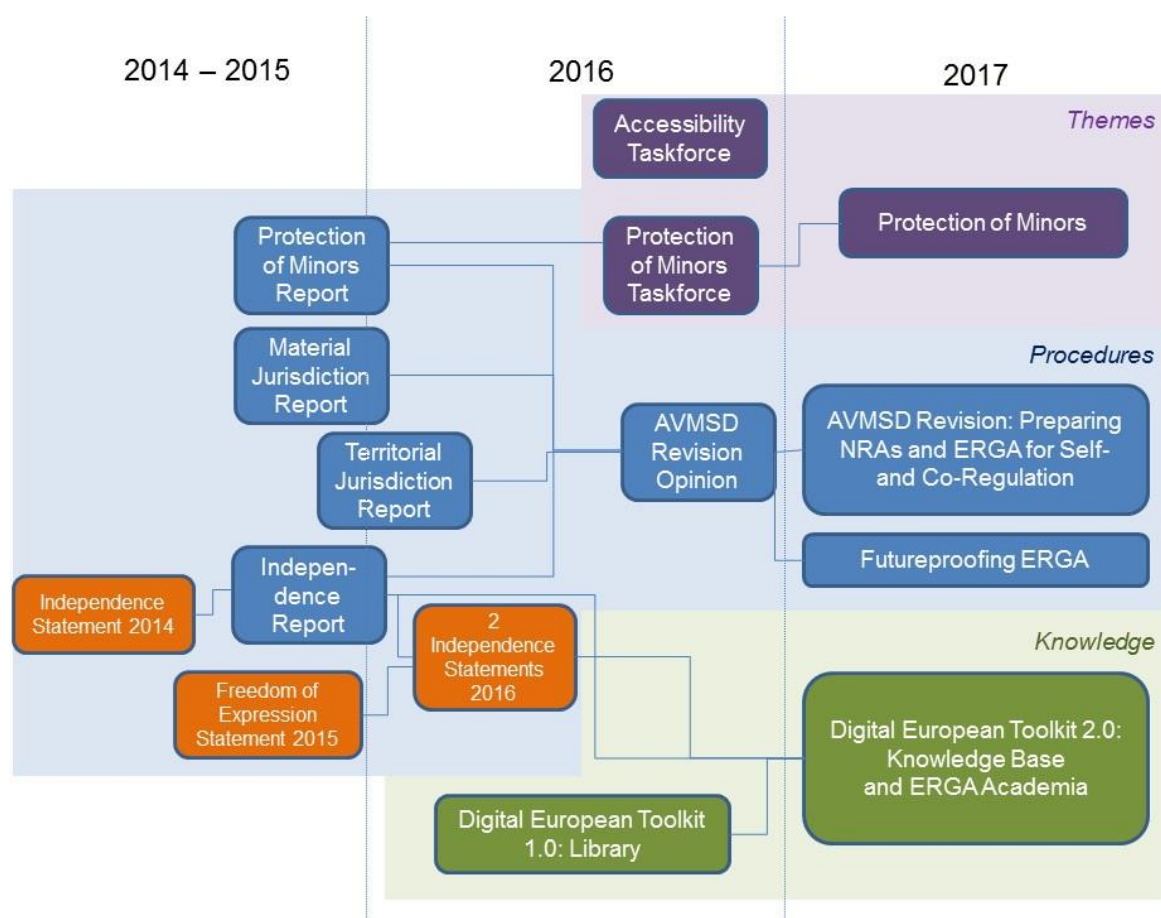
The revision of the AVMSD is now in the legislative process. ERGA issued an opinion³ in which it has looked at the proposal from the expert perspective of audiovisual media regulators. ERGA analysed the consequences of the proposed provisions in terms of day-to-day application if they become European law. ERGA also looked at what would be the implications and needs when applying and enforcing the proposed rules. During the legislative process the proposal may be changed several times.

² ERGA Statement on the Necessity of Independent Media, <https://ec.europa.eu/digital-single-market/en/news/statement-european-regulators-group-audiovisual-media-services-erga-necessity-independent-media>;

ERGA Statement on Alarming Developments for the Independent and Effective Functioning of Media Regulators in Europe, <https://ec.europa.eu/digital-single-market/en/news/erga-statement-alarming-developments-independent-and-effective-functioning-media-regulators>.

³ ERGA Opinion on the Practical Implications of the AVMSD Proposal, <https://ec.europa.eu/digital-single-market/en/news/erga-opinion-avmsd-proposal>.

In the figure below an overview is presented of the products ERGA has published so far. It can be seen that ERGA has focused on three main areas: 1) concrete themes, 2) concept and values from the AVMSD and 3) sharing and gathering knowledge, good practices and experiences.



To continue this division of work, ERGA's annual work programme for 2017 will cover again these main areas:

- Exchanging experiences and good practices through the Digital European Toolkit 2.0 and exploring possibilities to set up an ERGA Academia;
- Exploring current practices with regard of the protection of minors;
- Preparing ERGA and NRA's for self- and co-regulation;
- Future-proofing ERGA.

1. Exchanging Experiences and Good Practices

By exchanging good practices and experiences, regulators can help each other and be more efficient. In 2016 ERGA created a Digital European Toolkit, by pooling existing documents and templates for all Members. This includes i.a. a list of good regulators principles, boiler plates for co-operation protocols with other regulators and frameworks for effective prioritisation within the scope of the public policy goals. The Digital European Toolkit frees national regulators from the need to reinvent the wheel.

From digital library to knowledge base

In 2016 a total number of 195 documents were uploaded. This makes the Digital European Toolkit already very valuable. At the end of 2016 ERGA concluded that the Digital European Toolkit offers a huge and exciting potential to develop into an online communication and collaboration platform

facilitating the exchange of best practices and sharing of experiences between NRAs and supporting the work of ERGA. However, ERGA also found that there is room for improvement. Most importantly, the current system is a library which contains all the useful information, but its search function can be further improved to create added value and more efficient access. To enable this in 2017, ERGA needs to develop the Digital European Toolkit into a knowledge base.

Non-digital exchange of experiences: ERGA Academia

ERGA considers that it is useful to not only digitally share experiences and good practices, but also in real life. In 2017 ERGA will therefore explore the possibilities to introduce an ERGA academy, which could enable the Members of ERGA to learn even more from each other. Various options can be explored such as inter-vision, team up and twinning projects, internships, short lectures by renowned speakers on relevant topics during the plenary meetings and working visits.

Expected Timetable and Deliverables: The recommendations of 2016, to develop the library into a knowledge base, are the starting point of this subgroup. This will be reflected in the Terms of Reference. The ERGA Secretariat will continue to be of very valuable assistance in this regard. It is foreseen that the transformation to a knowledge base will be completed before the end of 2017.

The Terms of Reference will also include a roadmap to explore the possibility to set up an ERGA Academia and in what way this could add the most value to the Members and Observers of ERGA. This roadmap will be presented to and discussed at the Autumn Plenary meeting of ERGA.

2. Future-proof European Audiovisual Media Regulation: Protection of Minors

ERGA constantly acknowledges the importance of the Protection of Minors as one of its key themes. For this, the collaboration among stakeholders in the audiovisual media environment to provide parents with effective tools to protect children, is considered essential. In the beginning of 2016 ERGA published a Report on the Protection of Minors in a Converged Environment in which it has drawn key recommendations on the future system of protection of minors. In the course of 2016, ERGA started with collecting current practices used by parties, active in the whole value-chain, to protect minors from harmful content. In 2017 ERGA will present this collection in a report, which will consist of the trends and current practices.

Expected Timetable and Deliverables: As this work has already started in 2016 and will continue in 2017, ERGA expects to present the results in the first half of 2017. Especially stakeholders that contributed to ERGA's research will be informed directly of the results.

3. Preparing ERGA and NRAs for Self- and Co-Regulation

In a dynamic audiovisual media sector self- and co-regulation are becoming more and more effective methods to protect (vulnerable) viewers and listeners from unwanted content. Self- and co-regulation can offer flexibility, prompt adaptability to change and potentially create stronger support for regulation, because the sector commits itself to self- and co-regulatory schemes. It is essential though that NRAs prevent that these schemes become a form of window-dressing, which means that NRAs should in most cases still have enforcement powers.

Also the proposal to revise the AVMSD includes to a considerable extent proposals for self-regulation and co-regulation. Some Member States and NRAs have more experience of these approaches to regulation than others; discussions within ERGA also suggested that there may be different understanding of these concepts. Therefore ERGA will set up a subgroup to exchange experiences

and good practices regarding the establishment of self- and co-regulatory regimes, codes of conduct, the role of the NRA, etc.

Expected Timetable and Deliverables: The subgroup chair will draft the Terms of Reference to be adopted by the ERGA Members at the first plenary meeting of 2017. This Terms of Reference will include the expected deliverables and timetable and will also address whether involvement of stakeholders is to be expected.

4. Future-proofing ERGA

In the proposal to revise the AVMSD a number of new tasks are foreseen for the NRAs and ERGA. However, these tasks are all subject to the legislative process and the outcome is yet unclear. Therefore, it would be premature for ERGA to start preparing itself for possible new tasks at this stage. Once the revised AVMSD is adopted, ERGA should take a moment to evaluate how it can prepare itself and its members for the new tasks.

In the meantime, ERGA has identified some improvements of its own organisation, e.g. the development of internal guidelines for the functioning of subgroups. For this purpose, this subgroup will propose concrete suggestions to improve its own functioning. Furthermore the European Commission may request this subgroup practical and technical advice regarding topics of high relevance to the AVMSD and the legislative process.

Terms of Reference

ERGA will be able to decide on the more specific themes and the expected outcomes of the new subgroups, and their timetables, in the Terms of Reference. They will be drafted by the future subgroup chairs, in close cooperation with the ERGA chair and vice-chairs. The Terms of Reference are expected to be adopted during the first plenary meeting of ERGA, in 2017.