



**9<sup>th</sup> Meeting of the European Regulators Group for Audiovisual Media Services  
Zagreb, Croatia, 23 March 2018**

**Minutes**

**Opening**

The meeting was opened by ERGA Chair Damir Hajduk, who welcomed all participants.

The plenary serves foremost the adoption of the ERGA subgroups' 2018 Terms of Reference and the presentations of the first deliverables. In this context, Mr Hajduk congratulated the chairs of Subgroup 2 for having successfully organized the ERGA Academy Strategy Session on Online disinformation, which included the participation of experienced regulatory authorities and Prof. Pollicino from the Bocconi University.

As part of the introductory remark, the Chair highlighted that today expectations from the public often exceed the remits of regulators. The revised AVMSD will address the changing landscape of the audiovisual media sector and regulators are required to work effectively in order to meet these new realities. Understanding the elements of the changing audiovisual media landscape is thereby crucial, which is one of the reasons why ERGA as a platform bringing together national regulators is so important and useful.

**Adoption of the Agenda**

No item was suggested under the AOB point.

<b>VOTE</b>	<b>The Agenda was adopted.</b>
-------------	--------------------------------

## **Information from the Commission**

### *State of play of the AVMSD legislative process*

Anna Herold (European Commission) greeted the participants in her capacity as new Head of Unit for Audiovisual and Media Services Policy. The revision of the AVMSD has passed its 7th trilogue and some outstanding issues are currently being discussed, including technical aspects on ERGA. The Commission hopes that negotiations will reach a political agreement by the end of the Bulgarian Presidency.

## **Terms of Reference – Subgroup 1: Internal and External Plurality**

Lubos Kukliš (Slovak NRA), Chair of Subgroup 1, presented the respective Terms of Reference. The subgroup's purpose is to take account of the medial plurality tools currently available to regulators and to contribute to the debate with the gathered data and the exchange of experience. In 2018, the focus would be on internal plurality while 2019 would be devoted to external plurality.

The deliverable for 2018 would be a report taking account of the media environment, the current measures on internal plurality (e.g. news, media coverage of elections) and the application of these (e.g. competencies, cross-border application). Cooperation with other initiatives and organisations are also planned (e.g. EPRA, LSE).

### **Debate**

The German NRA suggested for 2019 to address the development of market distribution in the telecommunications sector and regarding platform industries. The current negotiations between two large players on reciprocal sales of subsidiaries and certain mergers will have effects in the whole European digital market, but in particular in some Member States. If bottlenecks arise regarding distribution of content, this will have negative effects on plurality. The French NRA requested to consider the influence of algorithms when dealing with external plurality. The Subgroup chair confirmed that these suggestions would be taken into account for 2019.

The Spanish NRA asked whether both the quantitative and qualitative aspects of pluralism will be tackled. The Subgroup chair confirmed this and that a comparison of these will be made.

<b>VOTE</b> <b>Terms of Reference – Subgroup 1: "Internal and External Plurality" was approved.</b>
---

## **Terms of Reference – Subgroup 2: Exchange of Experiences and Best Practices**

The Subgroup's Terms of Reference had been adopted in written procedure. The co-chairs, Maria Borkowska (Polish NRA) for ERGA Academy and Balasz Jo (Hungarian NRA) for the Digital European Toolkit (DET) presented the adopted document and the ongoing work.

Ms Borkowska highlighted that this subgroup supports ERGA in its work but does not produce any content itself. The ERGA Academy has the task of organizing lectures with internal and external speakers, strategy sessions and workshops to encourage the exchange of information and cooperation among regulators. The Academy will also collect names for its expertise pool of speakers, standing at the availability for all regulators.

Based on the gathered requests for 2018, the Academy will focus on oversight strategies, media literacy and fake news. The first two deliverables in 2018 are the ERGA Strategy Session on Online Disinformation, which took place on 22 March, and the Lecture of Dr Judith Möller (Univ. of Amsterdam) in the afternoon of the ERGA Plenary. The outstanding deliverables are the workshop on the Protection of Minors and the lecture for the ERGA autumn plenary.

The Digital European Toolkit is the online platform for exchange of information through sharing documents. In 2018, work will continue from the previous year, keeping in mind also the new challenges ahead. The work will include: fixing the technical problems identified, enabling the existing features of CIRCABC, introducing the role of editors to raise the tool's awareness and to look for interesting topics, inform members of new contents through a newsletter and discuss the future development of the DET.

### **Terms of Reference – Subgroup 3: The extension of the material scope of the AVMSD. Preparing for new tasks for NRAs and ERGA and challenges of law enforcement online.**

The Subgroup's Terms of Reference had been adopted in written procedure. Frederic Bokobza (French NRA) explained that the work is done together team with the Italian and German NRAs via Taskforces. The aim of the subgroup is to produce a paper for ERGA members to prepare for the time after the adoption of the revised Directive.

Mr Bokobza underlined that there is consensus among the subgroup members not to prejudge the outcomes of the revision, the negotiations or the transposition of the Directive by national parliaments.

The work will be based on three pillars: on the previous work of ERGA, on the new adopted directive and on the experience of members from the digital environment. The three taskforces (TF) will tackle the following topics:

- TF1: Enforcement of rules in the Online environment (leader: German NRA)
- TF2: Promotion of European works (leader: Italian NRA) and
- TF3: Territorial jurisdiction/ERGA's role (leader: French NRA).

Tobias Schmid (German NRA) explained that the online environment is increasingly getting more into the view of the public. In this respect the TF1 will also have a cross-border component. The TF will notably look at the status quo and explore the common understanding of the issue among members. It will also look for solutions of cooperation and how to address current and future challenges.

Antonio Martusciello (Italian NRA) indicated that TF2 will focus on the issues resulting from the application of new obligations on the promotion of European works, especially for non-linear services, and on the exchange of best practices. The work will be based on a questionnaire, which will gather information from members on media services established in each country, existing measures of prominence and others.

Mr Bokobza finished by explaining that TF3 will analyse changes made to articles referring to aspects of territorial jurisdiction. The taskforce will look at ERGA's new responsibilities in a horizontal manner with a view to preparing the grounds for a change in the practical organisation of the Group.

The subgroup intends to cooperate with other subgroups, namely Subgroup 4 on Self- and Co-regulation.

#### **Debate**

The Luxemburgish NRA asked how the timing of the adoption process will influence the subgroup's work. Mr Bokobza replied that the modalities of the subgroup's work will be adapted to the state of play. Ms Herold added that work should have a collaborative approach in order to avoid any prejudice to the negotiations.

### **Terms of Reference – Subgroup 4: Preparing ERGA and NRAs for Self- and Co-Regulation**

Oli Bird (UK NRA), Chair of Subgroup 4, presented the Terms of Reference. The work will continue from last year's subgroup and will be based on a selection of 77 SRCR schemes (Self- and Co-Regulation) identified in 2017 through a survey. An internal report on the work above will be prepared for the ERGA Plenary.

The aim is to have a series documented case studies with sufficient details so that they can be of use to ERGA members. The analysis of identified SRCR schemes will be at disposal for the ERGA academy and be documented in the Digital European Toolkit. The Subgroup will also explore the possibility for making recommendations and to collaborate with Subgroup 3 (Taskforce 1).

Until the Plenary two meetings had been held, during which the Subgroup has identified seven schemes which would be analysed further. Also, useful discussion with representatives of Google and the European Advertising Standards Alliance were taking place.

<b>VOTE</b>	<b>Terms of Reference – Subgroup 4:" Preparing ERGA and NRAs for Self- and Co-Regulation " was approved.</b>
-------------	--

### **Speech by Commissioner Ms Mariya Gabriel on “The importance of regulatory coherence across the EU and further – the Western Balkans”**

The Commissioner made a speech stressing the importance of regulatory coherence between the EU and the Western Balkans countries, the role of women in media and the fight against online disinformation. Commissioner

Commissioner Gabriel thanked ERGA members for their support to the Commission in matters related to audiovisual media services within the Commission's competence, particularly the AVMSD.

On the importance of regulatory coherence across the EU, the Commissioner gave an example of the AVMSD and the Western Balkans. She stressed that, on the one hand, the directive assures the protection of consumers in these countries via the enlargement process and the respective policy alignment Acquis. On the other hand it also has a spillover effect on the functioning of the media environment, such the independence of regulators.

The Commissioner also gave an update on online disinformation. In mid-March the High Level Expert Group established to advise the Commission on Fake News and Online disinformation published its report. Its four main principles are transparency, diversity of information, their

credibility and inclusivity of all involved parties are. Since ERGA will tackle this issue in one of its subgroups, Ms Gabriel highlighted her interest in the outcomes.

Speaking about women in media and in the society on general, the Commissioner stressed that women already in leadership and senior management are key to boosting confidence and providing inspiration for the younger generation. The Commissioner highlighted that she would like to address this issue in the context of the upcoming Women in Digital strategy and asked ERGA to contribute with exchange of best practices to tackle stereotypes in the media.

### **Welcoming of the Croatian Minister of Culture, Ms Nina Obuljen Koržinek**

The Commissioner was joined by the Croatian Minister for Culture, Nina Obuljen Koržinek, who underlined the importance of ERGA as a platform of independent national regulators. She also congratulated the Croatian regulator on its 10th anniversary.

### **Debate**

The representative of FYROM gave an overview of the initiatives the regulator is taking in the audiovisual media field, highlighting the need for collaboration. The regulator is cooperating with its counterparts in other countries, on both EU and regional level, on a number of occasions. In April 2018 the regulator will prepare an event on LGBT issues. Regarding its own work structure, the regulator is on the forefront of gender balance in FYROM.

The representative from Kosovo\* explained that the regulator has been set up in 2006. Collaboration with their counterparts in the region, the EU and through EPRA has helped them aligning their legislation with the AVMSD. She underlined that exchanging experience with other regulators has been very helpful and underlined the importance of ERGA events.

The representatives from EPRA and the regulators from France and Belgium (CSA) offered the Commission their help with the work on Women in media. Croatia and Ireland announced that, respectively, a media campaign and gender action plan will be published soon.

The Commissioner thanked the regulators for their help and their expertise.

### **Debrief on Strategy session “Online disinformation: assessment of the impacts”**

Ms Sonia Monjas (Spanish NRA) provided a debrief from the Strategy Session, which took place on 22 March. The academic introduction given by Prof. Oreste Pollicino, who is a member of the Commission's High Level Expert Group on Fake News and Online Disinformation, mentioned the theoretical and practical implications of fake news. He raised the differences in measures applying to linear and non-linear media and that cooperation with platforms is crucial. He also raised the dilemmas of measures against fake news, freedom of expression and the relevance of data for political communication. In his view the debate will still be important in the years to come.

The introduction was followed by regulators presenting their experiences on the subject.

---

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence

Ms Maria Donde (UK NRA) stressed the importance of understanding the media landscape and how people access information. She also shared the principle findings of the Ofcom's Research on News Consumption and Media Literacy. She concluded that the online information still remains the weakest point and that in the future collective efforts need to be done.

Ms Benedetta Liberatore (Italian NRA) presented which measures the regulator has set up to with regards to tackling fake news. The regulator plays the role of "facilitator", coordinating the stakeholders in the online information sector in order to promote self-regulation on a voluntary basis, so to counter disinformation

Mr Luboš Kukliš (Slovak NRA) presented ERGA's potential contribution to the current debates on disinformation via the work of the Subgroup on Internal and External Pluralism.

Ms Kerstin Morast (Swedish NRA) explained the Swedish plans to establish a new public authority tasked with countering disinformation and fake news. A start date for the new authority has not yet been set and in the build-up to the forthcoming autumn general election, the Swedish Government has decided to strengthen its defences against foreign influencing campaigns.

The conclusions of the Strategy Session were that few authorities have taken concrete initiatives tackling the problem. One of the reasons is that digital platforms play a vital role and people's awareness in the online environment differs in quality. Nevertheless, disinformation is a multidimensional problem requiring collective responses, including the participation of stakeholders, and continued research.

### **ERGA Academy Lecture by Dr Judith Möller, University of Amsterdam**

Dr Judith Möller gave a lecture on "Algorithmic news recommendation: blessing or curse?" where she touched upon the functioning and consequences of the use of algorithms in users' access to news. She started off with seemingly contradictory findings, whereby according to the magazine Science, fake stories get disseminated a lot quicker than the truth. On the other side, the Oxford Internet institute came out that claimed that fake news are actually not that visible at all.

Dr Möller explained that in the online world algorithms took over the role of "gate keepers" for selecting the news for users from a myriad of sources. The algorithmic gatekeeping is considering various criteria before we receive the recommendations on our screens. These are usually a combination of "collaborative filtering", where the online choice of the users around us are being taken as a benchmark for the suggestions addressed to us; and the recommendations based on our clicks so far.

However, as Dr Möller explained referring back to the initial contradictory studies, users do not exclusively rely on news they get from algorithmic news recommendation systems – at least not in Europe. Trust in the source also plays an important part.

The difficulty with algorithms is that we can never see what other users are looking at and are thus not aware of their news recommendations. This also means that some users might get a completely wrong picture of the world with biased information. There are little empirical studies done on this topic.

The key points Dr Möller repeated are:

- Algorithmic news recommendation are useful and appreciated to navigate information overload
- Algorithmic design can lead to improved access to diverse, and relevant news, but it can also catalyse dissemination of sensationalist news, depending on the news selection logic applied
- Click based optimization combined with collaborative filtering can cause spread of misinformation among specific segments of the population
- Lack of diversity and presence of inaccurate information is currently hardly monitored

Dr Möller concluded that the existing media system in Europe is in good shape but that fundamental changes are on the horizon.

### **Debate**

On the question whether it would be feasible for industry to provide more transparency, Dr Möller replied that making technology and algorithm transparent could be a solution. However, she explained, in the example of Facebook, the newsfeed algorithm is embedded in a larger algorithmic structure, which would be taken out of the context if isolated.

When asked about the possibilities to assess what content users are seeing through the algorithmic news feeder, Dr Möller explained that one would need to start at the output and get a sense of personal digital "news diets". This can be done through online tracking, which has been done on a very small scale at the University of Amsterdam, but also in collaboration with the platforms themselves. To do so, the first step would be to develop indicators and benchmarks of what is (un)acceptable in bias and misinformation.

### **Information from EPRA**

Ms Celene Craig gave an overview of EPRA's activities in the current year, as detailed in the work programme.

The first plenary session in May will be on "the future of public service and public interest content in the digital age". The spring session (Luxembourg, 24 May) will aim at taking stock of stakeholders' views, the autumn session (Bratislava, 11 October) will debate the role of regulators. The second plenary session will look at "Regulation of political communication and challenges of social media". The spring session (Luxembourg, 25 May) will include recent case studies and initiatives; the autumn session (Bratislava 12 October) will debate the role of regulators.

Two biannual Working Groups will focus on "Commercial Communication 2.0." (WG 1) and on "Achieving greater diversity in broadcasting media" (WG2); the first WG 1 meeting in Luxembourg will be dedicated to gender and media.

In addition, two ad hoc Working Groups will deal with "New challenges for Privacy" (spring 2018) and "Spotlight on AVMSD: Implications for cooperation between NRAs from EU and non-EU countries" (autumn 2018).

In parallel, a Media Literacy Taskforce will be working on guidelines on how to establish a national media literacy network.

In response to Commissioner Gabriel's request regarding Women in Media, Ms Craig has also expressed EPRA's willingness to share the outcomes of EPRA's gender working group with the Commission, with the added benefit of aiding complementarity between ERGA and EPRA.

### **Closure**

The Chair Damir Hajduk thanked all the participants for their contributions and congratulated all for a successful Plenary session.



## Annex I – List of participants

<b>FIRST and LAST NAME</b>	<b>ORGANISATION</b>
Michael Ogris	Austria - KommAustria
Stefan Rauschenberger	Austria - KommAustria
Bernardo Herman	Belgium - Conseil Superieur de l'Audiovisuel
Joris Sels	Belgium - Vlaamse regulator voor de Media
Dirk Peereman	Belgium - Vlaamse Regulator voor de Media
Karim Ibourki	Belgium - Conseil Superieur de l'Audiovisuel
Paul-Eric Mosseray	Belgium - Conseil Superieur de l'Audiovisuel
Maria Stoyanova	Bulgaria - Council for Electronic Media
Damir Hajduk	Croatia - Agency for Electronic Media
Robert Tomljenovic	Croatia - Agency for Electronic Media
Sanja Pancic	Croatia - Agency for Electronic Media
Anita Malenica	Croatia - Agency for Electronic Media
Davor Maric	Croatia - Agency for Electronic Media
Gordana Simonovic	Croatia - Agency for Electronic Media
Suzana Kunac	Croatia - Agency for Electronic Media
Rona Petri Kassapi	Cyprus - Cyprus Radio Television Authority
Neophytos Epaminondas	Cyprus - Cyprus Radio TV Authority
Petr Kozak	Czech Republic - Council for radio and TV broadcasting
Ivan Krejci	Czech Republic - Council for Radio and TV Broadcasting
Ulrike Clade-Christensen	Denmark - SLKS
Marie Frank-Nielsen	Denmark - SLKS
Marcel Regnotto	EFTA
Oliver Gerber	EFTA
Celene Craig	EPRA
Margus Krupp	Estonia - Technical Regulatory Authority
Petri Makkonen	Finland - Communication regulatory authority
Martine Coquet	France - Conseil Superieur de l'Audiovisuel
Frederic Bokobza	France - Conseil Superieur Audiovisuel
Peter Matzneller	Germany - Die Medienanstalten
Tobias Schmid	Germany - Die Medienanstalten
Bianca Heuser	Germany - ARD
Marie-Franca Hesse	Germany - Die Medienanstalten
Athanasios Koutromanos	Greece - NCRTV
Persa Lampropoulou	Greece - NCRTV
Ocsko György	Hungary - NMHH
Kinga Sorban	Hungary - NMHH
Balazs Jo	Hungary - NMHH
Heiðdís Lilja Magnúsdóttir	Iceland - Media Commission of Iceland
Ciaran Kissane	Ireland - Broadcasting Authority
Stephanie Comey	Ireland - Broadcasting Authority
Antonio Martusciello	Italy - Agcom
Benedetta Liberatore	Italy - Agcom
Ieva Beitika	Latvia - National Electronic Mass Media Council
Anna Adam	Liechtenstein - Office for communications
Mantas Martišius	Lithuania - Radio and TV Commission

<b>FIRST and LAST NAME</b>	<b>ORGANISATION</b>
Thierry Hoscheit	Luxembourg - ALIA
Joanna Spiteri	Malta - Broadcasting Authority of Malta
Marcel Betzel	The Netherlands - Commissariaat voor de Media
Witold Kołodziejcki	Poland - Polish National Radio and TV Council
Ewa Murawska-Najmiec	Poland - Polish National Radio and TV Council
Maria Borkowska	Poland - KRRiT
Telmo Gonçalves	Portugal - ERC
João Pedro Figueiredo	Portugal - ERC
Răsvan Popescu	Romania - National Audiovisual Council
Lubos Kuklis	Slovak Republic - Council for broadcasting and retransmission
Martin Dorociak	Slovak Republic - Council for broadcasting and retransmission
Michal Hradicky	Slovak Republic - Council for broadcasting and retransmission
Tanja Muha	Slovenia - AKOS
Tomaz Gorjanc	Slovenia - AKOS
Alejandra de Iturriaga Gandini	Spain - CNMC
Sonia Monjas	Spain - CNMC
Josep Maria Guinart	Spain - CNMC
Charlotte Ingvar-Nilsson	Sweden - MPRT
Kerstin Morast	Sweden - MPRT
Kevin Bakhurst	United Kingdom - Ofcom
Oli Bird	United Kingdom - Ofcom
Maria Donde	United Kingdom - Ofcom
Natasa Miljevic	Bosnia and Herzegovina - Communications Regulatory agency
Sanja Dokic Mrsa	Bosnia and Herzegovina - Communications Regulatory
Zoran Trajchevski	FYROM - Agency for Audio and Audiovisual Media Services
Emilija Janevska	FYROM - Agency for Audio and Audiovisual Media Services
Naile Krasniqi	Kosovo* - Independent Media Commission
Arben Bilalli	Kosovo* - Independent Media Commission
Djordje Vujnovic	Montenegro - Agency for Electronic Media
Nenad Jankovic	Serbia - Electronic Media Regulatory Authority
Milan Todorovic	Serbia - Electronic Media regulatory authority
Hamit Ersoy	Turkey - RTÜK
İlhan Yerlikaya	Turkey - RTÜK
İlhan Taşçı	Turkey - RTÜK
Oreste Pollicino	Bocconi University, Milan
Judith Möller	Amsterdam University -
Anna Herold	European Commission
Marcel Boulogne	European Commission
Ziga Drobnic	European Commission

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence