

Minutes of the Inaugural Meeting of the  
European Regulators Group for Audiovisual Media Services  
Tuesday, 4 March 2014, 11h00 -17h00  
Brussels

Opening of the meeting

Roberto Viola (Deputy Director General, DG CONNECT) opened the meeting and welcomed the members of the new Group. Members introduced themselves in a tour de table.

1. Adoption of the agenda

The agenda was adopted.

2. Election of the Chair and Vice-Chairs

The election of the Chair took place pursuant to Article 5 of the Commission Decision establishing the European Regulators Group for Audiovisual Media Services (i.e. election with a 2/3 majority). All members agreed that the same rule should be applied to the election of the Vice-Chairs. The draft rules of procedure, received by all members in advance of the meeting, provide that there shall be one Chair and two Vice-Chairs. All members agreed that the mandate of the first Chair and Vice-Chairs should last until the end of 2015, by way of derogation from the general rule that the Chair should be in charge for one year. This transitory mechanism was also foreseen in the draft rules of procedure. The Commission services received the candidacy of Mr Olivier Schrameck, President of the French regulator - Conseil Supérieur de l'Audiovisuel (CSA), for the position of Chair; of Prof. Madeleine de Cock Buning, President of the Dutch Commissariaat voor de Media (CvdM), for the position of Vice-Chair; and of Mr Jan Dworak, President of the Polish regulator –Krajowa Rada Radiofonii i Telewizji (KRRiT), for the position of Vice-Chair. No other candidacies were registered. After the candidates were elected by unanimity, R. Viola handed the chairmanship of the meeting to Mr Schrameck.

The Chair thanked all members of the Group for entrusting him with their confidence to become the first Chair; and the European Commission and Vice-President Neelie Kroes for making this initiative come true so rapidly. He underlined the importance of the group in the audiovisual field and highlighted its complementarity with existing structures dealing with audiovisual issues such as EPRA. The Vice-Chairs congratulated the Chair on his election and stressed the importance of this group of independent regulators to meet, exchange good practices and engage on the future of the audiovisual sector and the implementation of the legal framework for audiovisual media services.

3. Adoption of the rules of procedure

The draft rules of procedure were examined article by article.

Regarding Article 1 – Membership, it was clarified at the request of the Luxembourg regulator - Autorité Luxembourgeoise Indépendante de l'Audiovisuel (ALIA) that there is no obligation that delegations be composed of more than one person. Delegations are to be comprised of representatives of regulatory authorities. It is important that within delegation at each ERGA meeting, at least one of the two nominated representatives, described in the article 1.1 and 1.2 of the RoP, will be present, in order to provide adequate, high level representation of a given regulatory authority. Article 1 was adopted without modifications.

Regarding Article 2 – Observers and experts, the regulator from Liechtenstein asked that the invitation of EEA/EFTA Member States be clarified. The Group decided that the first paragraph of Article should be split in two: the Commission invites EEA/EFTA States as observers and it may invite other observers. Article 2 was adopted with this amendment.

Article 3 – Tasks was adopted without observations or modifications.

Regarding Article 4 – Chair, in reply to the Irish regulator's (Broadcasting Authority of Ireland -BAI) questions, the Chair and the Commission explained that the procedure according to which the Chair will serve as Vice-Chair the following year serves the principle of the "troika" based on continuity of work. It was also made clear that the members of the Group (i.e. the regulators themselves) are the ones making the nominations for the Chair and Vice-Chairs. Concerning the number of supporters required for a candidacy, the number of three was replaced by two, considering that two supporters in addition to the candidate regulator's own vote equals three supporting votes. Article 4 was adopted with these modifications.

Article 5 – Secretariat was adopted without observations or modifications.

Regarding Article 6 – Agenda, the Cypriot regulator (Cyprus Radio Television Authority) proposed to add the provision that if an item is proposed by 3 or 4 members of the Group, then it would be automatically added to the agenda. The Chair stressed that this could lead to putting too much pressure on the Group's agendas that could already be quite full. The NL Vice-Chair proposed to raise the number to 5 members. The Chair underlined that this could be achieved by the initiative of one member, with the support of the Chair and two Vice-Chairs and the support of another member. This proposal was accepted; the Chair signaled that the functioning of this provision would be evaluated and could eventually lead to a revision of the support threshold. The LU regulator further pointed out that the Group's members must be informed on time of the points on the agenda so that there can be efficient and fruitful discussions during the meeting. The Chair referred to the time limits provided for in Article 8 of the rules of procedure. Article 6 was adopted with the above-mentioned modification.

Article 7 – Meetings was adopted without observations or modifications.

Regarding Article 8 – Documentation to be sent to group members, the regulator from Liechtenstein asked whether it also applied to EEA/EFTA States. The Chair confirmed that since these States have been invited to participate in the work of the Group as observers, they should receive these documents. Article 8 was adopted without modifications.

Regarding Article 9 – Types of act, the Chair gave the floor to the Commission representative who underlined that the Commission services have reservations as regards the drafting of paragraph 1(a) of this Article. The Group noted the Commission's reservation and its preference for a wording that would clarify that the Group can only adopt acts at the request of the Commission, given its status as an expert group of the latter. The Chair stressed that the Group can work on the basis of the current wording of Article 9(1) (a) while being ready to reconsider this rule should there be a problem concerning its application in the future. The LU regulator pointed out that subsection a) includes "opinions, recommendations and reports" while subsections b) only "opinions and reports". The Commission explained that this refers to the institutional role of the Commission as having the

initiative for the legislative process. The Chair noted the reservations of the Commission. Article 9 was adopted without modifications and without further observations.

Regarding Article 10 – Decision making procedure, the LU regulator asked that the word "recommendations" be added for the sake of consistency with Article 9 a) and remarked that section 4 should refer to the written procedure provided for in Article 11, instead of Article 9. Article 10 was adopted with these modifications.

Article 11 – Written procedure was adopted without observations or modifications.

Article 12 – Annual Work Programme was adopted without observations or modifications.

Article 13 – Sub-groups was adopted without observations or modifications.

Article 14 – Contact Network was adopted without modifications. Members should indicate by 18 March to the Secretariat the name of the person to be part of this Contact Network.

Article 15 – Public consultations was adopted without observations or modifications.

Article 16 – Correspondence was adopted without observations or modifications.

Article 17 – Access to documents was adopted without observations or modifications.

Article 18 – Confidentiality of deliberations was adopted without observations or modifications.

Article 19 – Protection of personal data was adopted without observations or modifications.

Article 20 – Amendment of the rules of procedure was adopted without observations or modifications.

Article 21 – Entry into force (initially listed as Article 20) should be renumbered as Article 22. It was adopted without further modifications.

Article 22 – Transitional provisions will therefore be renumbered as Article 21. It was adopted without further modifications.

The rules of procedure were thus adopted.

The Bulgarian regulator (Council for Electronic Media) asked that the rules of procedure (and any important document of the Group) be made available in all languages. The Commission underlined its respect for linguistic pluralism but explained that this was not possible in practice; the request would be noted in the meeting minutes.

#### 4. Information from the Commission on the ongoing activities

The Commission reported on some factual gathering exercise concerning the views of stakeholders on the application of Article 13 AVMSD on the promotion of European works in on-demand services and the three examples provided in the Directive (a share of European works in the catalogue, the use of prominence tools, financial obligations). This information is based on a study by the European Audiovisual Observatory on the presence of 50 European films in the catalogues of on-demand services, on a hearing with stakeholders in October 2013, on a questionnaire sent to the regulators and on the replies to the Green Paper on convergence. In general, a share of the catalogue was deemed by many as not necessarily effective and difficult to monitor. However, some regulators also defended this tool. Prominence tools were considered as useful, with a higher link between promoting certain European content and their consumption. Providers have a preference for prominence tools. As regards financial contributions, opinions were split: some find them efficient or, on the contrary, find them to be a very heavy burden. But service providers all found that it would be useful to get an incentive in return (tax benefit, exclusivity period). The Commission is reflecting on how to publish these factual elements.

The Commission also mentioned the upcoming application report on Articles 16 and 17 AVMSD. Questionnaires were sent on 30 January 2014 and the accompanying tables were being sent. The deadline to reply was extended until 2 June 2014.

Regarding the state of play of the transposition of the AVMS Directive, the Commission reported that all Member States notified full transposition measures, letters have been sent to 27 Member States seeking information about their implementation of the AVMSD and bilateral meetings took place with 22 of them. The Commission acknowledged that five Member States have already fully and correctly transposed the Directive, while infringement procedures have been launched against five Member States.

Finally, the Commission gave a short debriefing of the replies to the Green Paper "Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values". There were more than 230 replies, a majority came from the UK, Germany and France. The authorities from 18 Member States replied, as well as 13 national regulators. Views varied greatly on all topics. The main subjects were: the scope of application of the Directive (scope of activities and geographical scope) and the country of origin principle, the distinction between linear and non-linear services (some say that the rules should be softened for linear while others advocate reinforcing the non-linear rules, especially on protection of minors), European works, and protection of minors (a majority is not satisfied with the status quo and how things are working in this area, however, some think that rules in the AVMSD should be strengthened, while others want more self-/co-regulation). The issue of "findability" is also another important topic, in particular in the European Parliament's report on convergence. The next steps will be the REFIT exercise of the Directive in 2015. This is a review exercise that will start at the beginning of 2015 and the Commission will then decide whether the Directive should be revised. The Commission might publish a factual summary of the replies to the Green Paper.

The NL regulator asked about article 30 of the Directive on the guarantee of independence of regulatory authorities and the idea of the review process. The Commission replied that this was part of the public consultation last year but that, although it is technically and legally possible to review only one article, a final decision is left to be taken in the context of a global review of the Directive.

On Article 13 AVMSD, the FR regulator highlights two issues: release windows in relation to non-linear services and the scope of these services. The Belgium and FR regulators underlined the role of distributors in the value chain and the issue of whether these players should be taken into

consideration. The FR regulator also raised the issue of spectrum allocation and whether this group could contribute on this topic. The Commission underlined that efficient allocation of radio spectrum is one of its policy priorities. This is discussed in the Radio Spectrum policy Group (RSPG) and in a dialogue with stakeholders, chaired by Mr Lamy. The conclusions of these groups could be interesting for this Group as well. The Connected Continent regulation also includes some measures for spectrum allocation in Europe.

5. Topics for the Annual Work Programme, including a brief presentation on EPRA Work programme 2014

Mr J.-F. Furnémont gave an overview of EPRA and of its Work Programme for 2014. The first plenary theme for this year will be "Beyond the AVMSD", discussing the replies to the Green Paper with industry, and then proposing possible regulatory responses. The second plenary theme will address hate speech and discrimination in a converged media environment. Two working groups will concentrate on: 1) "Empowering users" with a focus on media literacy and signalling tools and 2) "Independence of NRAs", with a focus on ways in which NRAs responded to the Commission's consultation, as well as tools and best practices. Ad hoc working groups will also focus on 1) major events and 2) evolutions around digital radios. The next meetings will take place on 5-6 June 2014 and 9-10 October 2014.

The Chair opened the tour de table on possible topics for the Group's own Work Programme for 2014. The Latvian regulator (National Electronic Mass Media Council) mentioned the issue of programmes outside the EU that appeal to military conflict and propaganda. The Chair underlined that this could be a question which complements EPRA's work programme and the Commission highlighted that jurisdiction issues were important in the replies to the Green Paper. The Chair also pointed to the issue of protection of minors and of vulnerable audiences. The UK regulator - Ofcom agreed that jurisdiction, protection of minors and the independence of regulators are issues that could be tackled. The Spanish regulator - Comisión Nacional de los Mercados y la Competencia (CNMC) also agreed that protection of minors is an essential issue and suggested that this could be the subject of a working group. It further supported identification of best practices regarding access for persons with disabilities. Similarly, the NL regulator was interested in learning from the regulators' experience with regard to the protection of minors and self-regulation. For the Chair, all these themes (protection of minors, jurisdiction, independence of regulatory bodies, accessibility, gender equality) can benefit from EPRA's experience and at the same time be the object of a reflection inside the Group. He further suggested that media pluralism could be added to the list of topics already invoked. This could also be the case for broader issues such as the form of regulation in the audiovisual and related sectors given the current delinearisation (role of self-/co-regulation). The Commission indicated that a study on the efficiency of self- and co-regulation would be launched this year.

The Chair suggested that the Group's members send their contributions to the Work Programme via the Contact Network. The Group agreed that it would adopt a Work Programme covering 2014 and another one for 2015 in order to take into account that the composition of the European Parliament and the Commission will be subject to changes in 2014. Depending on the members' contributions and the activity of the Contact Network on the Work Programme, the Chair and Vice-Chairs will propose the draft Annual Work Programme before the end of spring and will decide on whether it should be adopted by written procedure or during a plenary meeting.

Vice-President Neelie Kroes closed the meeting by highlighting the importance of the audiovisual sector in Europe. She underlining the importance of having independent regulators and stressed their contribution in shaping the regulatory framework.