Minutes of ERGA 6th plenary meeting

Brussels, 29 November 2016

1. Opening of the meeting

The meeting was opened by the ERGA Chair – Prof. Dr. Madeleine de Cock Buning. She underlined the importance of functionally, financially and intellectually independent regulators. Free and critical media protect the values of humanity: freedom of expression, freedom of information, freedom of thought, conscience and religion. Excellent media regulators can protect free and pluralist media. The Chair underlined the importance of the cooperation of regulators within ERGA, based on their day-to-day experience in the field. ERGA has produced excellent reports. ERGA has demonstrated that it is capable of adequately reaching common positions. ERGA combines professional expertise with a hands-on approach most recently when adopting the ERGA opinion on the AVMSD Proposal under the framework of subgroup 1 chaired by Oli Bird. Also last year's work of the two taskforces under subgroup 2, chaired by Michael O'Keeffe, demonstrated that ERGA is able to adequately explore highly actual themes providing concrete results. ERGA also enables regulators to share experiences and learn from each other. To this end the Digital European Toolkit was created in 2016 that includes a great amount of valuable documents to be used by regulators, both in their day to day practice and on a more strategich level. This was all possible thanks to subgroup 3, chaired by Tanja Kersevan. We may conclude that also 2016 was a very productive and successful year for ERGA and its members.

The Chair received numerous invitations to give speeches and participate in panel discussions. She has tried to accept all the invitations that provided an opportunity to explain what ERGA in reality is and how we can best contribute.

The Chair thanked ERGA Vice-Chairs Mr Olivier Schrameck and Ms Mirjana Rakić as well as the ERGA team and ERGA members for their support throughout the year.

She welcomed the new ERGA members and said farewell to those leaving ERGA.

The Chair presented the new ERGA website that provides ERGA with its first independent digital window to the world.

The Vice-Chair – Mr Olivier Schrameck took the floor. He regretted the resignation of ERGA Vice-Chair – Ms Mirjana Rakić and underlined his support for the Troika system which enables ERGA to

function effectively as it is linked to authorities. He invited ERGA members to discuss next year's priorities together and underlined the importance of ensuring continuity in ERGA's work. He stressed that ERGA was created under Article 2 of the Decision to advise and assist the Commission on audiovisual maters, including the revision of the Directive. He also referred to Article 3 of the Decision which specifies that the Chair may advise the Commission to consult ERGA.

2. Adoption of the Agenda.

The Agenda was adopted without comments.

3. Information from EPRA.

Celene Craig – EPRA Chair - gave a presentation on the EPRA activities in 2016 and relations with ERGA. EPRA met at two plenary meetings in Barcelona and Yerevan where the members discussed current issues and challenges, including aspects of the AVMSD review. A statement of strategy for 2017-2019 was adopted during the Yerevan meeting. The statement of strategy constitutes an opportunity to reaffirm EPRA's core purpose as a non-political network of European regulators. EPRA's role vis-a-vis ERGA was also clarified. ERGA and EPRA coexist with separate roles though there may be some overlaps in sharing experience and best practices. She welcomed ERGA's input on EPRA WP 2017.

4. Report from the ERGA Contact Network (CN)

Marianne Minnecré reminded the group that during the last plenary meeting in Amsterdam it was decided to bring forward the CN, that would function as a filter between the subgroups and the plenary meetings. The 1st CN meeting which took place on 8 November 2016, proposed the internal guidelines that were submitted for the approval of ERGA members. The DK regulator pointed out that a new instrument – such as "A" items on plenary agenda's – cannot be introduced via CN guidelines, but must be adopted as part of the ERGA Rules of Procedure. BE CSA drew attention to the lack of correlation between Article 7 of the Rules of Procedure (RoP) that envisaged 2 plenary meetings and the guidelines that point to one meeting of CN. The Chair suggested seeing how the CN functions in 2017 and then possibly adjusting the procedures.

5. Election of the Chair and Vice-Chairs

Prof. dr. Madeleine de Cock Buning was elected as the **ERGA Chair**, for a second term, by unanimity.

From among three candidates for ERGA Vice-Chair, **Damir Hajduk** Vice-President of the Croatian Council for Electronic Media and **Luboš Kukliš,** Chief executive of the Council for Broadcasting and Retransmission of the Slovak Republic were elected as ERGA Vice-Chairs in 2017.

6. Sub-group on the Audiovisual Media Services Directive Review

Oli Bird – the Chair of the ERGA sub-group 1 on AVMSD Review – described the work of the sub-group. He said it was focused on practical regulatory challenges that NRAs are facing and was divided into 3 phases: (1) developing common positions on matters which ERGA had not considered previously (e.g. AVCC) (2) producing an opinion, adopted in written procedure on 5 October 2016 and (3) identifying further work related to the proposal.

He then summarised the ERGA opinion and the ideas for further work (phase3). In response to his presentation IT Agcom volunteered to chair the sub-group preparing the implementation of the proposal.

7. Digital European Toolkit (DET)

Tanja Kersevan-Smokvina - Chair of ERGA sub-group 3 dealing with the development of DET - presented the work carried out in 2016. The rationale for the sub-group was that NRAs face similar challenges and thus increased cooperation is needed. The exchange of concrete documents in a structured way can support the NRAs strategies and activities.

Resources were reported to be an issue. The European Commission contributed by providing a restricted area in CIRCABC and access to machine translation. NRAs invested in collecting, translating, editing and uploading documents on a voluntary basis.

The report prepared by the sub-group was approved by ERGA members. The ERGA Chair thanked the Commission for upgrading the DET in 2017.

8. ERGA Rules of Procedure

The Chair presented the changes to the rules of procedure. Some members raised comments on the deadlines in the urgent procedure. IE BAI supported by LUX, DE, ES and FR regulators believed that a 1 day deadline for comments in the urgent procedure is really too short. They suggested that at least 2 working days should be envisaged in those cases. Additionally, they considered that the urgency procedure can take place only in justified and very exceptional circumstances. The DE regulator also suggested having different procedures as regards press releases and longer documents.

The Chair agreed that in case of urgent written procedures the members will have two days for comments and 2 days for voting; ERGA would also need to motivate the need to act urgently. This possibility will be used only in exceptional circumstances.

Referring to the other aspects of the rules of procedure, the Vice Chair- Olivier Schrameck raised a question on the way the Chair in 2018 will be elected.

It was agreed that the Chair for 2018 will be elected from among two Vice-Chairs at the final plenary meeting in 2017.

9. Information from the European Commission

Roberto Viola – Director General of DG CNECT welcomed the ERGA members and thanked them for their advice during the preparation of the AVMSD review and its follow up. He stressed that this demonstrates the importance of cooperation between strong and independent regulators, competent to fulfil their tasks.

Roberto Viola summed up the **state of play on the AVMSD review**. He mentioned that the co-legislators had started their work. Since July 2016 numerous meetings of the Council working groups have taken place and two EYCS Councils. In the European Parliament the two co-rapporteurs prepared the CULT committee report and other committees are also working on it in order to reach agreement next year.

He further explained that, at the level of head of states and governments, there is an agreement that the bulk of DSM should be in place by 2018 which means that the legislative process on the main proposals, including the proposal for the AVMSD, should be completed next year. The Maltese and Estonian Presidencies commit to completing the work. General approach in the Council is expected in May and the trilogues in June.

Roberto Viola concluded that the European Commission will always defend the independence of regulators and ERGA as the collective wisdom of independent regulators.

10. ERGA Work Programme 2017

The Chair described the Work Programme 2017. She proposed four areas of work:

1. Continuation of the work started in 2016 on Protection of minors;

2. Exchanging experiences and practices between the regulators, including the upgrade of the Digital Toolkit to 2.0 and creation of ERGA Academia;

3. Self and co-regulation; and

4. Future-proofing of ERGA's organisation.

As regards the 1st topic of protection of minors, Michael O'Keefe – the Chair of Subgroup 2 where the taskforce on protection of minors was created, stressed that a lot of work has been done but there is still more to be done in this area so it is justified to continue this work in 2017. Lubos Kuklis – the Chair of the taskforce explained that in 2017 the group should devote to talking to the industry. The output of these conversations could lead to further insight also for all those smaller media providers. Another activity foreseen for 2017 could be the organisation of a workshop with stakeholders comprising not only those parties representing the converged media industry but also organisations representing media consumers and parents.

As regards the 2nd topic of exchanging practices some comments referred to the ERGA Academia requesting more detail and clarity as to what it involved. Three regulators (HR, ES, EE) expressed some concerns regarding the resources they could invest in this. According to the Chair the idea

behind it is that everyone can benefit with little investment of resources. DE regulator suggested it could very well include the sharing of innovative national initiatives such as the one run in Germany on internet bloggers, in how they respect advertising rules.

It has been decided that the ERGA sub-group will look into these issues and will define the scope of this initiative in the terms of reference.

As regard the 3rd topic of <u>self- and co-regulation </u> a number of regulators offered to share their experience with this respect (UK/ES) and UK Ofcom offered to chair this subgroup.

Agcom offered to chair the 4th subgroup <u>on future proofing ERGA's organisation.</u>

Lorena Boix Alonso indicated that the Commission may ask this sub group for assistance on ad hoc questions linked to technical issues coming up in the legislative process.

She also underlined the importance of both protection of minors and self and co-regulation topic, underlining that their importance should not be underestimated.

<u>The following ERGA members volunteered to be the chairs of new ERGA Sub groups:</u>

Subgroup on sharing experiences – Damir Hajduk, ERGA Vice-chair 2017;

Subgroup on protection of minors – Lubos Kuklis, ERGA Vice- Chair 2017;

Subgroup on self- and co-regulation – Oli Bird, UK Ofcom;

Subgroup on future-proofing ERGA – Benedetta Liberatore, IT Agcom.

11. Future-proof European Audiovisual regulation

This point on the Agenda summarised the results of work of ERGA sub-group 2 on the future proof audiovisual regulation. The Chair of the sub-group – Michael O'Keefe from IE BAI described the two work flows that were followed within 2 taskforces: on protection of minors and on accessibility of audiovisual content. Then the chairs of the taskforces presented their respective work.

Maria Bergerlind Dierauer – the Chair of the taskforce on accessibility gave an overview of the report presented to plenary for adoption. It contains the following recommendations:

1. ERGA recommends an extensive benchmarking and bench-learning initiative addressing the entire value chain for accessibility within the field of audiovisual media services. Both linear and non-linear services should be covered as well as multiple platforms and user-devices. The study should address users, delivery modes and equipment as well as costs.
ERGA also request the Commission to support the implementation of such a study.

2. It considers it valuable that the European Commission launched a Platform for Accessibility in order to initiate dialogue between stakeholders at the European level. It would enable a structured dialogue and exchange of expertise within the topic of accessibility, including audiovisual media.

The Report was adopted by unanimity.

Lubos Kuklis – the Chair of the Taskforce on protection of minors presented the work that has been done in order to gather the literature and data from the industry. The questionnaire on labelling and other technical measures was used. A broad spectrum of stakeholders was approached but not every party replied yet. So some more time and additional efforts are needed to collect more relevant information. The work initiated in 2016 will be continued in 2017.

12. Any Other Business

No points were raised to discuss under this agendapoint. The ERGA chair thanked everyone for their active participation and closed the meeting.