



**ERGA Subgroup 3 on the Implementation of the revised AVMS Directive
Task Force 1 – Changes to the material rules for audiovisual media services
30 January 2019**

Minutes

Attendees: MPRT Sweden (co-chair), AGCOM Italy (co-chair), CSA and VRM Belgium, CEM Bulgaria, RRTV Czechia, SLS Denmark, DLM Germany, BAI Ireland, ESR Greece, CNMC Spain, CSA France, AEM Croatia, CRTA Cyprus, NEPLADOME Latvia, RTK Lithuania, NMHH Hungary, BA Malta, KOMMAustria Austria, KRRIT Poland, ERC Portugal, AKOS Slovenia, RVR Slovakia, OFCOM UK, Medietilsynet Norway, AVMU North Macedonia, AMA Albania, European Commission.

Introductory remarks and tour de table

The aim of the meeting was to present the mission of Taskforce 1 (TF1), which will elaborate on the revised material rules, in particular on commercial communications, independence of the NRAs, signal integrity, new obligations for VoD, protection of minors, incitement to violence or hatred, accessibility, findability.

The TF1 will address the meaning of the amendments compared to the previous rules and the main challenges related to the implementation of the new rules, exchanges of already existing approaches of NRAs to monitor and enforce the respective rules and development of proposals for effective implementation. As output, TF1 aims at producing an overview document containing a few pages report for each of the topics addressed.

- **First Session chaired by the Italian NRA**

In the opening remarks, the Italian Chair underlined the relevance of the TF1's activities and called for a wide cooperation between all members. Following an introductory tour de table, the agenda of the meeting was approved.

The meeting focused on the presentation of the topics addressed by the Italian NRA (commercial communications, independence of the NRAs, signal integrity, new obligations for VoD) and an initial consultation with the NRAs.

The Chair stated that the TF1 intends to analyse the new regulatory changes introduced by the revised AVMSD and examine what are the main challenges for the enforcement and monitoring of the revised rules. He pointed out that drafters will be asked to produce short reports (2-3 pages) that would summarise the relevant changes in the rules and possible approach to tackle emerging challenges.

Audiovisual Commercial Communications

The Chair presented all changes in the revised AVMSD in the area of audiovisual commercial communications. It was mentioned that the reports in this section will cover the changes introduced in Articles: 9, 10, 11, 19(2), 20(2), 23, 28b of the AVMSD. The Chair pointed out that the TF1 intends to define 4-5 issues related to the new provisions on audiovisual commercial communications that are more challenging. In particular, he pointed out the following key issues/possible topics for short reports:

- Problems deriving from the change from hourly limit to 2 time-slots per day.
- Isolated spots, self-promotion, neutral frames
- Product placement – the Chair pointed out that the revised AVMSD includes an inversion of the existing rules on product placement. He stated that a similar legislative shift took place in 2010 in Italy and therefore Italy is keen to provide its input on the market influence of this amendment. The Chair also noted that analysis in this area should have a practical dimension, based on specific cases.
- Self- and co-regulation – the Chair mentioned that the TF1 should analyse existing approaches to incentivise and develop SRCR. Slovakia noted that research already exists on this topic, prepared by the UK, therefore it should be used for further reference. The UK added that its report targeted case studies and did not examine advertising of unhealthy foods or alcohol in particular. It was agreed that any duplication should be avoided. Spain and Norway also proposed to contribute to this topic as both countries have in place systems of self-regulation on unhealthy food. The Chair reiterated that the TF1 should benefit from and work on existing expertise.
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France noted that, with an exception of Art. 23, its legislative framework already foresees stricter rules, therefore it might be difficult for them to evaluate the impact of the revised AVMSD.

The Commission mentioned its study from 2016 on the effectiveness of SRCR in the implementation of the AVMSD, which dealt with codes in the areas of advertising and protection of minors. The Chair mentioned that this will serve as a basis but they will focus on examples of advertising. The Commission also noted that the Joint Research Centre is currently working on a database mapping all rules and codes of conduct in the Member States concerning the marketing of HFSS foods and beverages (including alcohol) [not yet published unfortunately].

Way forward: the Chair proposed that short surveys with 4-5 items (relating to the above mentioned topics – possibly in the form of a 3 column-table with old/new provisions and space for NRAs to indicate the possible implications) will be sent to collect initial input in April. Then the drafters will be asked to present their draft Reports by the end of June. After summer, meetings will be organised to present case studies/examples and comment on the drafts.

Additional topics for short Reports

The Chair proposed drafting short reports concerning the other topics (independence (Art.30), signal integrity (Art. 26) and new obligations for VOD services).

As regards independence, the Chair highlighted that it is not a main topic and that it was already examined by ERGA in a previous report. The idea would be to draft a very short report examining the new provisions and the emerging problems. The Greek NRA volunteered to draft this report on independence.

Concerning signal integrity, the Chair informed the TF1 that despite the fact that this issue would not be problematic it would be useful to collect data on how the NRAs dealt with the issue of data

compression. The Italian regulator will draft a short report on this topic. Main questions will focus on how to get consent, what are the data compression techniques that should not be covered and the (possible) relationship with Article 20.1.

With regard to the changes in VODs obligations concerning European works, France reminded that they have been covered in the ERGA report issued in 2018. The Commission also noted that throughout this year it will discuss with the Contact Committee the calculation of the share of European works and the definition of low audience and low turnover with the aim to issue guidelines on these topics. Therefore, the Commission suggested that such a Report could be limited to references to the ERGA report of last year and to the ongoing Commission's work in this area. The Chair concluded that the TF1 should address the issue of VOD services and present a short Report with an aim of drawing attention to the legislative changes.

Drafters: FR (AVCCs), SK (Accessibility), EL (Independence of NRAs), IT (Signal Integrity)

- **Second Session chaired by the Swedish NRA**

The second part of the meeting focused on the topics that will be analysed under the supervision of the Swedish NRA (protection of minors, incitement to violence or hatred, accessibility, findability).

The Chair pointed out that the reports would be drafted according to the following scheme: (i) a description of the meaning of the AVMSD amendments, (ii) a presentation and elaboration on existing NRA approaches concerning monitoring and enforcement and (iii) proposals for effective implementation of the rules.

The Chair underlined that more in depth discussions regarding potential problems and solutions will be held during the next TF1 meeting in April. The draft chapters will be circulated before the meeting and the revised versions will be sent out electronically in May for further comments. It was highlighted that the TF1's discussion will constitute the main source of input from members and therefore they are encouraged to present relevant examples from their countries.

As regards protection of minors, the Chair underlined that one of the major changes in Article 6a is on the new provision on content descriptors and the use of personal data. One issue with the new rules on personal data is that in most of the countries other authorities than the ERGA members are in charge of the issue of data protection. Due to this fact it may not be a problem to raise for ERGA, as ERGA members may not get involved, even on a national basis.

In its conclusions, the Chair mentioned that no questionnaires are envisaged and the upcoming discussion will be the main possibility to provide input. Any written contribution is, however, also welcomed both before and after the April meeting.

Drafters: Swedish NRA - SPBA (protection of minors and incitement to violence or hatred) Slovak NRA – RVR (accessibility) and Belgian NRA – CSA (findability/prominence).

Next steps

The next meeting of the TF 1 is scheduled for April 2019. The drafts of the Reports that Sweden are in charge of will be distributed early April, ahead of the April meeting. The drafts of the Reports that Italy are in charge of are expected to be distributed in the 3rd quarter of 2019 with a view on consulting on the final text in September.