



**Meeting of the Contact Network of
European Regulators Group for Audiovisual Media Services
Brussels, 03 June 2019
Minutes**

Attendees: RVR Slovakia (ERGA Chair), CSA and VRM Belgium, CEM Bulgaria, RRTV Czechia, DLM Germany, TTJA Estonia, BAI Ireland, ESR Greece, CNMC Spain, CSA France, AEM Croatia, AGCOM Italy, CRTA Cyprus, RTK Lithuania, NMHH Hungary, CVDM Netherlands, KRRIT Poland, CAN Romania, AKOS Slovenia, MPRT Sweden, OFCOM UK, Medietilsynet Norway, AEM Montenegro, AVMU North Macedonia, EFTA, European Commission.

The ERGA Chair, Luboš Kukliš, welcomed participants and presented the agenda. The agenda point regarding the independence of the regulator in Latvia will be discussed under AOB.

Update from the Commission

Anna Herold (DG CNECT I1) explained that the Commission is drafting the guidelines on the essential functionality criterion for Video-Sharing Platforms (VSPs) and on the calculation of share of European works, as stipulated by the revised AVMSD. For European works, the main issue is defining the threshold for low audience and low turnover, including in the context of financial obligations for services targeting another country than the country of origin. For the guidelines on essential functionality, the aim is to provide enough certainty to the involved parties to easily identify qualifying services, while ensuring that NRAs have sufficient flexibility in their assessment taking into account market developments. A discussion with Member States will take place in the Contact Committee on 1 July and at the beginning of September. The Commission strives to have the documents published by the end of the year, but the entry of a new Commission may have an impact on the planning. Ms Herold also thanked ERGA for their work, which is helpful for the Commission in further understanding the practical issues of regulators.

Subgroup 1

The Chair of SG1-TF1 (AGCOM) presented the outcomes of the intermediate monitoring of the Implementation of the Code of Practice on Disinformation. The report, focusing on political advertising, will be presented at Plenary in June. The main issue in the exercise was measuring and evaluating the platforms' actions in order to see if these are effective and if they correspond to the Code of Practice's requirements. The signatory platforms provided monthly reports on the measures taken. The methodology for the exercise was based on questions that the 16 participating NRAs had to reply to while performing random monitoring checks and analysing the reports.

The obtained results were very encouraging and showed that platforms made a great effort but also that some data was still missing. The final report will be discussed at the Plenary and the adoption of a public statement could be envisaged.

The Commission noted that a Communication package regarding the progress in fighting disinformation will be published in June, and asked the group to provide a short input on its work.

Subgroup 2

The Subgroup Chair (CSA France) explained that the proposed review of the procedural rules was prepared on the basis of a questionnaire sent to NRAs, bilateral meetings and on new provisions from the revised AVMSD. An SG2 meeting took place on May 14, where the proposal was discussed at working level.

The **Statement of purpose** of ERGA has two objectives: to define the core values (internal objective) and what ERGA stands for (external objective). It is composed of three parts:

- ERGA values and actions,
- ERGA tasks and operating principles,
- ERGA strategic priorities.

The **ERGA Board** would be formalised. Its role would be broader: it would have greater powers of initiative, including the power to represent ERGA externally at events, coordinate the preparation of the Work Programme, and prepare statements based on a mandate, particularly if ERGA already has a pre-defined view on an issue at stake. The Board composition and rules will be adapted to ensure greater representation and transparency. The Chair could have its mandate prolonged for a second year.

The drafting the **Work Programme** would start in May, followed by discussion in June and approval at the last Plenary. The Board may propose a communication plan to ensure visibility with a wider public, such as the media and its online presence.

A **Fast track procedure** would be set up as a direct consequence of the revised AVMSD, whereby the Commission may ask ERGA for opinion on jurisdiction issues to be provided in a very short time frame. A team of rapporteurs would prepare a draft and consult with the Contact Network, which would adopt the opinion with a simple majority.

During the debate, it was suggested that the Work Programme should also refer to EPRA in order to prevent a duplication of work. On the possibility to adopt two opinions (one by majority, one by dissenting minority) in case ERGA members cannot agree on a common text, the Commission stressed that the AVMSD refers to an “opinion”. The Chair also added that the proposal is aiming for ERGA to be effective, particularly taking into account the limited timeline, and that ERGA could fulfil its role towards the Commission. It was agreed that the opinions would be adopted at the level of Plenary and not Contact Network.

Subgroup 3

The Subgroup (DLM Germany) chair provided a brief overview of the work being done on Taskforce level, and explained that an oral update will be made at the Plenary. The next meetings of the Subgroup and its Taskforces will take place in Sep.

Taskforce 1 – material rules is preparing an inventory of possible challenges on seven topics, and solutions which NRAs could offer. Four chapters have already been drafted, three additional will be sent for comments in August.

Taskforce 2 – material scope is continuing its work through three workstreams, which could help NRAs in the implementation of the new rules concerning VSPs. The summary of each workstream will be finalised shortly and sent to members of the Contact Network.

Taskforce 3 – new forms of regulation in online environment consists of four workstreams, which look at different core values and potential issues in the online environment and possible methods of regulation. The aim is also to analyse the issues relating to content regulation online from a broad perspective and provide NRAs with flexible solutions when dealing with such issues . Drafters received a lot of comments, which demonstrates members’ engagement in the issue.

Subgroup 4

The Subgroup chair (CSA Belgium) explained that the evaluation of the answers from the questionnaires, sent to the NRAs, is ongoing. A review with first results and trends will be presented at the June Plenary whereas a final report will be ready for adoption at the Dec Plenary. The final report will also build on the existing work of EPRA and include best industry practices.

Any other business

Upcoming ERGA meetings

The first plenary in 2019 will exceptionally take place over two days – 20-21 June. Commissioner Mariya Gabriel will be present the first day. Members will have the opportunity to discuss the Statement of Purpose and the work on Disinformation on both days, before the documents are set for adoption. Interpretation in EN and FR will be provided both days.

Preliminary dates for upcoming workshops are:

- SG1/SG3 Workshop – 27 Sep
- Protection of Minors Workshop – beginning of Oct
- ERGA Academy Strategy Session – 9 Dec
- ERGA Plenary 10 Dec.

Independence of NRA in Latvia

The ERGA Chair informed participants of the ongoing communications with the Latvian NRA. The process of selection of the broadcaster’s new head and board members organised by the regulator was criticized by the Government and some members of the Parliament. The Latvian regulator asked ERGA for support.

This is a new situation for ERGA and an opportunity to set up a procedure for potentially similar future cases. The Board decided to create a small ad-hoc working group that will analyse the situation. IE, NL, UK and IT NRAs already offered their help and the Chair encouraged others to join, particularly from smaller and new Member States, or those who have experienced a similar situation.

The Commission requested to be kept informed in view of the new AVMSD provisions on regulators’ independence.