



Brussels, 26 March 2021

Press Release

ERGA Report provides recommendations feeding into debates on strengthening the EU Code of Practice on Disinformation and new rules on political advertising transparency

ERGA offers its take on defining disinformation and related concepts, and on political and issue-based advertising. ERGA believes the report's recommendations will contribute to more clarity and legal certainty and feed into the debate as the European Commission prepares the much-anticipated guidance on the strengthened Code of Practice on Disinformation and runs a public consultation on political advertising. Regulators within ERGA thus support the crucial combat against disinformation and at the same time aim to protect media freedom and the freedom of expression of European citizens.

While assisting the European Commission in monitoring of the Code of Practice on Disinformation in 2020, ERGA has observed a lack of clarity on key concepts, leading to inconsistency when applying the commitments laid down in the Code. The new ERGA report identifies and maps relevant elements and characteristics of notions of disinformation and related concepts. The aim is to provide for clearer and more uniform definitions and common understanding of key concepts. The report is part of ERGA's contribution to the ongoing debates about a strengthened Code of Practice as envisaged in the European Democracy Action Plan.

L'uboš Kukliš, Chief Executive at the Slovak Council for Broadcasting and Retransmission, who is leading ERGA's work on disinformation, stresses the importance of fully understanding the problem of disinformation to design appropriate policies to address it: *"The complexity of content regulation and protection of media freedom and plurality is well known to media regulators across the European Union and this report is yet another example of that. To my knowledge, this is the first-ever attempt to map out the different understanding of the key concepts related to disinformation across the Member States. I believe it will contribute to a more informed European debate about the next steps in combating disinformation."*

The report concludes that there is no commonly shared definition of disinformation, and a number of other notions, such as fake news, false information, misinformation, malinformation, propaganda, foreign influence, are routinely used as different ways to indicate the same concept.

On this basis, the report provides concrete recommendations to follow when designing provisions related to disinformation and related concepts:

- **Clarify if only the act of public dissemination is covered, or also the creation.**
- **Describe clearly the object of the definition.** A definition that refers to an objective standard, such as objectively wrong or factually wrong will offer more legal certainty and predictability than definitions that refer to vague notions such as false information.
- **When there is a lack of malicious intent, content should not be considered as disinformation but misinformation.** Accordingly, different measures should be considered, which are proportionate and strike the right balance with securing the freedom of expression.
- **A definition must be as specific as possible about the harms the provision seeks to prevent.** If a reference to public values, such as public order, peace, public opinion is part of the definition, it risks overly broad application and a lack of legal certainty.
- Given the wide range of parties that can play a role in the dissemination of disinformation **references to specific actors in a definition should be avoided.**

- **Automatic amplification techniques should be addressed** to acknowledge the role of online platforms in the dissemination of disinformation and mitigate the risks.
- When references are made in provisions to related concepts such as propaganda and hate speech these should be fitted into existing categories in order to **increase the overall conceptual clarity and comparability**.
- With regard to political advertising a **broad definition recognising the framework used by the European Court of Human Rights is necessary**. Political advertising would need to cover targeted and paid advertising on matters of general interest and therefore also include issue-based advertising.

The report 'Notions of Disinformation and Related Concepts' can be downloaded via <https://erga-online.eu/wp-content/uploads/2021/03/ERGA-SG2-Report-2020-Notions-of-disinformation-and-related-concepts-final.pdf>

About ERGA:

The European Regulators Group for Audiovisual Media Services (ERGA) consists of the national regulatory authorities in the field of audiovisual media services. ERGA advises the European Commission and facilitates cooperation between the regulatory bodies in the EU. Dr Tobias Schmid, Director of the Media Authority of North Rhine-Westphalia, is the current Chairperson of ERGA.