

Subgroup 2 – 2022 Terms of Reference (ToR)	
Name of Subgroup 2 (SG 2)	Completion of the EU regulatory framework for media
SG Chair, NRA	Frédéric Bokobza, Arcom (France)
Background	<p>The 2019 ERGA's Statement of Purpose outlines the Group's Strategic Priorities for the period 2020-2023, including the forward-looking review of the EU regulatory framework applicable to media. As an advisory body to the European Commission, ERGA has committed itself to share its experience with the implementation of the AVMS Directive and to advise in identifying upcoming challenges affecting the media landscape as a whole.</p> <p>In 2020, ERGA made a first contribution with the adoption of its Position Paper on the upcoming Digital Services Act (DSA) with a particular focus on the role of media regulators in a possible future online enforcement framework. On this basis, ERGA also responded to the European Commission's public consultation on the DSA.</p> <p>In 2021 and following the publication by the European Commission of its DSA proposal, the Subgroup carried out the following activities:</p> <ul style="list-style-type: none"> • ERGA Statement on DSA & DMA (March); • ERGA Proposals Aimed at Strengthening the Digital Services Act (DSA) with Respect to Online Content Regulation (June); • Workshop "The evolution of the European Audiovisual Legal Framework – Strengths and weaknesses in the proposed regulation of online content and digital economy" (June); • Monitoring of the discussions in the European Parliament on the DSA (Internal report, December); • Questionnaire on a renewed ERGA (Internal report, December). <p>As set out in the ERGA 2022 Work Programme, the Subgroup's remit for 2022 will include following and feeding the legislative and non-legislative discussions on issues of concern for media regulators in order to ensure that their role and competences are well taken into account. The Subgroup will also continue its reflection on a renewed ERGA.</p> <p>Subgroup 2 will consult with Subgroup 3 and Action Group 1 on relevant matters.</p>
Subgroup scope and purpose	<p>Against this background, the Subgroup will work in three main directions:</p> <ul style="list-style-type: none"> • Workstream 1 – EMFA <p>The aim will be to develop ERGA's position in relation to the upcoming proposal for a European Media Freedom Act (EMFA) to be adopted tentatively in Q3 2022.</p> <p>It is proposed for the Subgroup to contribute to the preparatory work</p>

for the development of the EMFA and then to inform the legislative debate. ERGA will participate in the public consultation and if needed, will provide advice and expertise to the European Commission on specific matters.

When it comes to external outreach and in connection with the ERGA Board, the Subgroup will aim at coordinating ERGA's and its members' efforts to inform the policy debate in order to raise awareness of ERGA's role in the implementation and oversight of the future EMFA. Once the proposal has been adopted, a workshop could be organized to engage with and inform the co-legislators and other relevant stakeholders.

The ERGA Academy activities in relation to the EMFA will be organised with the contribution of the Subgroup and the Board. Its aim is to provide the insight of ERGA experts and academics to the Commission on specific issues related to the content of the EMFA.

- **Workstream 2 – DSA**

The Subgroup will continue to monitor the EU policy discussions about the DSA and will continue to promote ERGA's views on the DSA.

It will follow the final discussions in the European Parliament in January and then, as far as relevant, contribute to the policy debate in the "trilogues" between the European Parliament, the Council and the Commission. If relevant, the Subgroup could update and/or supplement ERGA's position to inform the "trilogue" negotiations on specific strategic matters (such as governance, VLOPs, access to data).

- **Workstream 3 – the future of ERGA**

Following the work carried out in 2021 and linked to its activities on the EMFA under Workstream 1, the Subgroup will continue the reflection and make proposals on the future of ERGA, in order to maintain its continued relevance and effective functioning in the evolving regulatory framework.

First, the Subgroup will prolong its reflection on the adaptation of ERGA's institutional set-up, competences and resources in order to:

- (i) enable ERGA to address its new (potential) responsibilities in the upcoming policy discussions, including ERGA's possible role in the oversight of the future EMFA;
- (ii) foster inclusiveness and capacities to allow all ERGA members to get as involved as possible in the ERGA work, including cross-border cooperation.

The Subgroup will also prepare an overview report of the competences of NRAs and the safeguards to protect their independence, in order to better inform the reflections on the future of ERGA.

Workstreams 1 & 2 may require a high degree of reactivity to ensure swift progress on the Subgroup's deliverables, while ensuring that members are appropriately involved at all times. While the work of the Subgroup in feeding the ongoing policy discussions at EU level may need to progress quickly, the group will do its utmost to ensure an inclusive approach and to ensure a broad consensus among the ERGA members on any common position statements. The working methods of the Subgroup will be designed accordingly, in compliance with ERGA's rules of procedures, especially article 12 thereof.

Subgroup 2 Deliverables

WORKSTREAM 1 - EMFA		
Deliverable 1	Deliverable type	Response to the public consultation
	Deliverable title	ERGA response to the public consultation on the EMFA
	Due date	March 2022
	Publication	Yes
Deliverable 2	Deliverable type	Additional input paper (if relevant)
	Deliverable title	ERGA's views on the future EMFA
	Due date	April - June 2022
	Publication	TBD
Deliverable 3	Deliverable type	Position paper
	Deliverable title	ERGA position on the proposal for the EMFA
	Due date	After publication of the proposal (date TBC)
	Publication	Yes
Deliverable 4	Deliverable type	Workshop involving the co-legislators
	Deliverable title	(To be decided)
	Due date	4 th trimester (after publication of the COM proposal)
	Publication	Yes (format TBD)
WORKSTREAM 2 - DSA		
Deliverable 1	Deliverable type	Internal report(s)
	Deliverable title	Overview of the Council General Approach and the EP report
	Due date	January 2021
	Publication	No

Deliverable 2	Deliverable type	Position paper(s) (if relevant)
	Deliverable title	ERGA's input informing policy discussion on specific issues (if needed)
	Due date	February-June 2022
	Publication	Yes
WORKSTREAM 3 – THE FUTURE ERGA		
Deliverable 1	Deliverable type	Report (Benchmark)
	Deliverable title	Overview of competences and safeguards to protect the independence of ERGA members
	Due date	June 2022
	Publication	TBC
Deliverable 2	Deliverable type	Report
	Deliverable title	ERGA: Recommendations on the way forward (TBC)
	Due date	(date TBC)
	Publication	Yes

Allocated Resources SG2

<p>Drafters</p> <p>Members</p> <p>Observers</p>	<p><u>Chair</u>: Frédéric Bokobza Arcom (France)</p>
<p>KommAustria (Austria) NCRTV (Greece) AGCOM (Italy) KRRiT (Poland) RVR (Slovakia)</p>	
<p>CSA (Belgium) CEM (Bulgaria) AEM (Croatia) CRTA (Cyprus) RRTV (Czechia) TTJA (Estonia) TRAFICOM (Finland) DLM (Germany) NMHH (Hungary) BAI (Ireland) NEPLP (Latvia) RTK (Lithuania) ALIA (Luxembourg) BA (Malta) CvdM (Netherlands) ERC (Portugal) AKOS (Slovenia) CNMC (Spain) MPRT (Sweden) IMC (Iceland)* NMA (Norway)*</p>	
<p>AMA (Albania) AVMU (North Macedonia) OFCOM (Switzerland) RTUK (Turkey)</p>	

* Without voting rights (Article 1 of the ERGA Rules of Procedure)

Workflow for Subgroup 2 (internal and external milestones)

Date	Action/deliverable	Internal Subgroup only	External CN, Plenary, Publication
2022			
January	WS2 (DSA): Report « Overview of the Council General Approach and the EP report »	All members	CN and Plenary
February-June	WS2 (DSA): adoption of the ERGA's strategic input for the "trilogues" (if needed)	All members	CN and Plenary
February/March	<p>1st SG2 meeting</p> <ul style="list-style-type: none"> • setting priorities and division of tasks amongst Subgroup members • WS1 (EMFA): exchange of views on the public consultation on the EMFA and discussion of ERGA's contribution to the consultation • WS2 (DSA): discussion on ERGA's strategic input for the "trilogues" • WS3 (ERGA+): discussion on the purpose and form of the overview of competences and safeguards to protect independence of ERGA members 	All members	
March	WS1 (EMFA): response to the public consultation		CN and Plenary
May	<p>2nd SG2 meeting</p> <ul style="list-style-type: none"> • WS1 (EMFA): exchange of views and preparation of an eventual additional input on the EMFA • WS2 (DSA): discussion on ERGA's strategic input for the "trilogues" • WS3 (ERGA+): discussion on the overview of competences and safeguards to protect independence of ERGA members 	All members	
June	<p>ERGA plenary meeting</p> <ul style="list-style-type: none"> • WS1 (EMFA): adoption of the additional input on the EMFA (if relevant) • WS2 (DSA): adoption of ERGA's strategic input for the "trilogues" if relevant • WS3 (ERGA+): adoption of the overview of competences and safeguards to protect independence of ERGA members 		CN and Plenary

Date	Action/deliverable	Internal Subgroup only	External CN, Plenary, Publication
September/ October	3rd SG2 meeting <ul style="list-style-type: none"> • WS1 (EMFA): exchange of views on the EMFA proposal and the legislative process • WS1 (EMFA): preparatory discussion for the EP and MS workshop • WS3 (ERGA+): discussion of the proposal for a renewed ERGA 	All members	
October	WS1 (EMFA): adoption of the ERGA position paper on the EMFA		CN and Plenary
November/ December <i>(potentially on the margins of the plenary meeting)</i>	WS1 (EMFA): EMFA workshop with co-legislators		CN and Plenary
December	ERGA plenary meeting <ul style="list-style-type: none"> • WS3 (ERGA+): adoption of recommendations for a renewed ERGA (timing TBC) 		CN and Plenary