



## ERGA Work Programme 2023

### Introduction

The European Regulators Group for Audiovisual Media Services (ERGA) is an advisory group whose role is to provide technical expertise to the Commission in its work to ensure a consistent implementation of the Audiovisual Media Services Directive (AVMSD) in the Member States, and regarding related audiovisual media matters as well as to facilitate cooperation among the national regulatory authorities or bodies, and between them and the Commission<sup>1</sup>. Originally established by the Commission in 2014<sup>2</sup>, ERGA has been recognised and established by the revised AVMSD<sup>3</sup> which reinforced its role and tasks.

In its Statement of Purpose, ERGA highlights that *“ERGA members wholeheartedly endorse the core democratic, economic, social and cultural values and objectives enshrined in Directive 2010/13/EU as amended by Directive (EU) 2018/1808. [...] ERGA assists the European Commission in implementing the EU audiovisual regulatory framework. It provides opinions on request of the Commission and sheds light on upcoming regulatory issues. By doing so, ERGA contributes to a better functioning of the internal market for audiovisual media and guarantees that the abovementioned values can continue to be safeguarded, particularly in the online environment.”*

This ERGA Work Programme is designed to define the priorities and structure of the work of ERGA for the year 2023 to ensure efficient work and beneficial outcomes.

2023 will be a crucial year as the regulatory framework applying to media and online content services will evolve with the adoption or entry into force of new rules, resulting from legislative and self-regulatory initiatives launched in the last years that are targeting in particular the online environment:

<sup>1</sup> See recital 56 of Directive (EU) 2018/1808 amending Directive 2010/13/EU.

<sup>2</sup> Commission Decision of 3.2.2014 on establishing the European Regulators Group for Audiovisual Media Services, C(2014) 462 final.

<sup>3</sup> See Article 30b of Directive (EU) 2018/1808 amending Directive 2010/13/EU.

- The Digital Services Act (DSA) and the Digital Markets Act (DMA), horizontal regulations covering as *lex generalis* all digital services, are expected to enter into application in the near future.
- The vertical legislation applying as *lex specialis* to various aspects of the audiovisual environment (currently including, *inter alia*, the AVMS Directive and the Copyright Directive) will be complemented with the Regulation on transparency and targeting of political advertising, which is expected to be adopted in the first half of 2023.
- The European Commission is preparing its proposal for the new European Media Freedom Act (EMFA), to be presented in the third quarter of 2022. The EMFA is expected to cover a wide range of substantive aspects related to audiovisual issues and media markets (including media market scrutiny, audience measurement, ownership transparency, regulatory cooperation). ERGA expects the EMFA to:
  1. enhance its institutional design as well as its role, competences and tasks;
  2. grant additional resources to support its activities; and
  3. highlight that, whenever possible, also the resources of NRAs should be enhanced in proportion to the amount of the potential new competences/tasks assigned to the regulators, to ensure their effective participation to the ERGA working groups and activities.

The debate on the evolution of its role, competences and tasks is expected to have a horizontal prominence for ERGA during 2023.

- The strengthened EU Code of Practice on Disinformation was published on 16 June 2022. The signatories have six months to implement the commitments and then one month to provide their baseline reports, due at the end of January 2023. The Code created a permanent Task-force which includes ERGA representatives and is chaired by the European Commission. The Task-force and its Subgroups will have to, among others, establish a risk assessment methodology, agree on reporting templates and publish a first set of structural indicators in the coming months.

Dealing with the above-mentioned topics will create new workstreams for ERGA, which will add to those normally dealt with by the Group. As a result, the ERGA work programme of 2023 will cover a considerable number of topics, heavily interrelated with one another.

### Topics for the 2023 Work Programme

On this basis, the topics ERGA will work on during 2023 are as follows:

1. Consistent implementation and enforcement of the European framework for audiovisual media services, with specific focus on cross-border issues and procedures: ERGA will continue to support the implementation of the AVMSD in the Member States, providing analysis and possible recommendations on the most complex topics. ERGA will focus

in particular on the coordination of the approaches dealing with cross-border issues. For example, this may include the cross-border dissemination of content from third-country services, the assessment of the measures adopted by VSPs, including age verification tools, the regulation of vloggers, and financial contributions demanded from VOD providers established in a Member State (but targeting other countries) and on the procedures aimed at solving these cases. While acknowledging that the AVMSD still has to be transposed and implemented in all Member States, the result of these activities may provide ideas for potential future amendments to the legal framework and to the development of additional procedures. Furthermore, the outcomes may serve as guidance and provide useful input for their supervisory and enforcement activities of ERGA's members, especially in the online domain.

2. Support the Commission on the EMFA, prepare for its future application and, where appropriate, contribute to the legislative debate with the European Parliament and the Council, with specific regard to the following areas (to be progressively checked on the basis of the evolution of the proposal/legislative debate):
  - a. Media-market related issues/procedures, including e.g., media market scrutiny and audience measurement;
  - b. Transparency of media ownership;
  - c. Independence of media and in particular issues related to media services under the influence/control from third countries;
  - d. EMFA governance and the future of ERGA (potential new tasks and organization/setup).
3. Preparation for the entry into application of the DSA and the DMA: proposals of possible transitory provisions at national level and analysis and proposals to facilitate the interplay between the horizontal and the vertical/sectoral provisions. Adoption of the procedures required for the participation in the High-Level Group of Digital Regulators set up by the DMA.
4. Monitor and contribute - where relevant - to the adoption and implementation of the Regulation on transparency and targeting of political advertising.
5. Support the Commission in the effective implementation of the strengthened Code of Practice on Disinformation and participate in the activities of the Permanent Task-Force;
6. Update of the ERGA Statement of Purpose for the post 2023-period.

In addition, there are further aspects that may need to be discussed by the group in 2023:

- Monitoring the evolution of NRAs' competences and independence, as well as resources, in light of the evolving EU media regulatory framework;
- Considerations around the scope and operations of the ERGA Memorandum of Understanding (MoU) in the light of cross-border cooperation;
- Reviewing ERGA's internal governance and procedures and discuss possible changes to the Rules of Procedures;
- Identifying ERGA's communication needs (e.g. Group's visual identity, procedures for press releases and external communication, potential future improvements of the ERGA website);
- Cooperating with EPRA and with other sectoral regulatory cooperation bodies and organisations (for example with the European Audiovisual Observatory on the MAVISE database);
- Media literacy, in the light of its importance for democratic discourse and debate.

### Organization of the work

2023 will provide a good opportunity to check the ability of the consolidated structure of the current ERGA subgroups to deal with a range of different topics effectively.

The 2022 Work Programme envisaged three subgroups and one action group, dealing respectively with the consistent implementation and enforcement of the new AVMSD framework, the completion of the EU regulatory framework relevant for media (i.e., the contribution to the DSA legislative process and the EMFA public consultation), the strengthening of democracy in the digital environment as well as the fight against disinformation and the ERGA's Memorandum of Understanding (MoU).

ERGA believes it is important to ensure continuity in the operations of the Subgroups. For this reason, the Subgroups of 2022 will be confirmed for 2023, but their tasks will be updated and extended in accordance with the evolution of the legal framework:

1. Subgroup 1 – Consistent implementation and enforcement of the European framework for audiovisual media services, with specific focus on the AVMSD, cross-border issues, and procedures (including the ERGA MoU);
2. Subgroup 2 – Support the Commission and, where applicable and appropriate, contribute to the legislative debate with the European Parliament and the Council, on the legislation that is not yet in application. This might also include monitoring the evolution of NRAs' competences and independence, as well as resources, in light of the evolving EU regulatory framework having an impact on the media sphere;
3. Subgroup 3 – Countering disinformation and strengthening democracy in the digital environment. This includes supporting the European Commission in the monitoring

activities related to the implementation of the Code of Practice on Disinformation as well as ensuring ERGA's participation to the Permanent Task-Force, and also following the adoption and implementation of the Regulation on transparency and targeting of political advertising (which could include monitoring the evolution of NRAs' competences in the light of the forthcoming legislation);

4. Action Group 1: ERGA internal governance and procedures (e.g. Statement of Purpose and Rules of Procedures, including on the appointment and mandate definition for ERGA representatives to external groups) as well as communication.
5. Action Group 2: Media literacy, in particular to exchange experience and best practices on tools/measures used by NRAs to promote or develop media literacy skills, as well as liaison with other relevant bodies, such as EPRA.