



## ERGA statement

### **“ERGA welcomes the co-legislators’ progress and reiterates its priorities for a reinforced EMFA”**

*June 2023*

As stated in its contribution to the public consultation in March 2022<sup>1</sup> and in its position adopted in November 2022<sup>2</sup>, the European Regulators Group for Audiovisual Media Services (**ERGA**) **welcomes the proposal** of the European Commission **for a European Media Freedom Act** (EMFA).

**ERGA members**, the national regulatory authorities (NRAs) for audiovisual media services and video-sharing platforms, **fully embrace the importance of this legislation** for the protection of media freedom, pluralism and independence. These are indeed preconditions for European citizens to freely form their opinions on the basis of quality and trustworthy information, and thus be able to effectively participate in the democratic debate and processes. More specifically, ERGA notes positively the principle-based approach of EMFA and the reasonable level of harmonisation. ERGA also commends the ambition of the proposal, which covers a wide range of relevant themes, while calling for a careful consideration of the interplay with other EU legislative acts such as the Digital Services Act, and especially the Audiovisual Media Services Directive, which provisions should not be undermined by the new legislation in its final form.

Now that the European discussions on EMFA are well underway, **ERGA welcomes the significant progress made by both co-legislators** on the proposal and the steady pace at which the work is taking place in order to adopt this key piece of legislation in time before the end of the current European legislative mandate.

From ERGA’s perspective, the EMFA proposal, in order to be even more effective and better contribute to its paramount objectives, should be strengthened in several areas. To that end, ERGA has adopted a series of proposals for amendments on key issues from the audiovisual media regulators’ perspective. ERGA gladly notes that those same areas are also being considered to be reinforced by the Members of the European Parliament as well as the Member States in the Council discussions.

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<sup>1</sup> [ERGA position for the open public consultation on EMFA](#), March 2022.

<sup>2</sup> [ERGA position on the European Commission’s proposal for a European Media Freedom Act](#), November 2022.

Firstly, ERGA believes it is highly relevant that EMFA includes a specific provision (article 16) **granting NRAs with additional, better suited tools to tackle problematic media services originating from outside the EU** which, as experienced notably since the beginning of the war in Ukraine, present serious threats for our democracies, in particular by spreading disinformation. ERGA therefore welcomes the amendments considered by the co-legislators to this provision going in the direction of a larger scope and a more tailored approach enabling more effective and impactful cooperation between regulators, as has been proposed by ERGA<sup>3</sup>.

Secondly, as EMFA is a piece of legislation dedicated to the media sector and its specificities but also given the importance of online platforms in the European citizens' access to media, ERGA members strongly support the Commission's approach to provide for **special treatment for media outlets in the online environment** (articles 17 and 18) in order to preserve and foster media freedom online, building on the guarantees and achievements already introduced by the general framework of the Digital Services Act. This being noted, ERGA is very much aware about the issues at stake, especially in terms of need and urgency of tackling harmful content online such as disinformation, and believes the relevant articles should be further improved. Against this background, ERGA is pleased to observe the emerging compromise and concrete solutions to make the platforms more accountable regarding the way they preserve media freedom and pluralism online, while at the same time strengthening the guarantees that this scheme will not benefit rogue operators claiming to be media. The objective of ERGA's proposals for amendments on articles 17 and 18<sup>4</sup> is precisely to strike this necessary balance.

Thirdly, ERGA agrees that there is a **need to create a real level playing field in the audience measurement area** (article 23), by reducing the asymmetry of information through the explicit inclusion of online platforms in the scope, the access to aggregated audience measurement data and the introduction of independent audits of methodologies not abiding by market standards. ERGA, whose proposals for amendments on article 23<sup>5</sup> reflect that, welcomes the similar suggestions put forward by certain European decision-makers.

Last but not least, ERGA strongly welcomes the central role given in EMFA to the future European Board for Media Services, which will succeed ERGA. ERGA members stand ready to actively contribute to the implementation and enforcement of EMFA. However, **the actual impact of EMFA will be guaranteed if and only if the Board is properly set up through adequate powers and resources, an appropriate structure and an effective independence**, as reflected in ERGA's proposals for amendments to articles 7 to 15<sup>6</sup>. In order to act independently, it is crucial that the Board be able to **act on its own initiative** and to **adopt its procedural arrangements autonomously**. ERGA is therefore very much pleased to note the amendments considered by the co-legislators in this regard. In the same vein, ERGA sees a risk that the Board would not be fully and effectively independent if its secretariat is provided by the European Commission. **Stronger guarantees for a truly independent secretariat**, as considered for instance by some Members of the European Parliament in their preparatory work, would much better ensure that the Board's activity, and especially its opinions, being elaborated and adopted with adequate guarantees of actual independence, have the necessary weight and impact to properly preserve and defend media freedom and pluralism in the EU. This is a **vital prerequisite for a meaningful contribution of the Board to EMFA's objectives and ambitions**.

**ERGA**, building on the experience and expertise of its members, **remains committed to actively supporting the negotiation and adoption process of the EMFA**, notably in view of the trilogues, and reiterates its wholehearted support to the fundamental objectives pursued by this legislation.

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<sup>3</sup> [ERGA proposals for amendments to EMFA art.7-16](#), February 2023.

<sup>4</sup> [ERGA proposals for amendments to EMFA art.17-18](#), April 2023.

<sup>5</sup> [ERGA proposals for amendments to EMFA art.23](#), May 2023.

<sup>6</sup> [ERGA proposals for amendments to EMFA art.7-16](#), February 2023.