

## ERGA Work Programme 2024

## Introduction

The European Regulators Group for Audiovisual Media Services (ERGA) is an advisory group for the European Commission on the application of the Audiovisual Media Services Directive (AVMSD) and all related audiovisual media issues. Established by the Commission in 2014<sup>1</sup>, the role and tasks of ERGA have been further detailed in the revised AVMSD<sup>2</sup>.

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 Work Programme defines ERGA's priorities for the year 2024 and sets out an appropriate working structure for the group to attain meaningful and significant outcomes.

As ERGA's primary focus, the consistent implementation of the AVMSD will continue being at the forefront of the Group's work, taking into account that ERGA's National Regulatory Authorities (NRAs) have gained experiences in specific relevant issues, such as vloggers, the promotion of European works, media literacy and the protection of minors in the online

<sup>&</sup>lt;sup>1</sup> Commission Decision of 3.2.2014 on establishing the European Regulators Group for Audiovisual Media Services, C(2014) 462 final.

<sup>&</sup>lt;sup>2</sup> Directive (EU) 2018/1808.

environment, amongst others. NRAs have also developed specific knowledge regarding the fight against disinformation.

It is expected that in late 2023 or in the first months of 2024 the co-legislators could reach an agreement on the new European Media Freedom Act (EMFA). This Regulation covers extremely important substantive aspects related to audiovisual issues and media markets, such as media market scrutiny, audience measurement, media in the online environment as well as regulatory cooperation, including in case of media under the influence/control of third countries.

This will also entail the overhaul of ERGA and its transformation into the European Board for Media Services (EBMS) after the Regulation enters into force. The EBMS will count on new competences and will require the deployment of new coordination procedures. Given the high stakes of this new regulation, ERGA will continue dedicating important resources in 2024 to feed in the legislative process where relevant, as well as to analyse the adopted text to actively prepare the setting-up of the EBMS, for it to be ready to perform as soon as required by the adopted Regulation.

Moreover, 2024 will be another crucial year for ERGA and its NRAs as the regulatory framework applying to traditional audiovisual media services is complemented by new EU rules targeting the online environment.

The Digital Services Act (DSA), a horizontal Regulation covering as *lex generalis* all digital services, which was adopted in November 2022, will be fully enforceable at Union and national level in 2024. This may require further analysis regarding the interplay between the AVMSD and the DSA, specially in relation to cross-border coordination between competent authorities, but also on the role of the NRAs on the implementation and enforcement of said Regulation, among other topics.

As mentioned in the AVMSD and other legislative instruments such as the DSA, the protection of minors is one of the key principles of platform and media regulations. Given the global nature of the online players, strengthened cross-border enforcement and cooperation is required to ensure an adequate protection of young audiences. In this sense, ERGA considers that in 2024 it should focus an important part of its Work Programme on this issue to ensure a smooth and effective implementation of the different regulatory provisions.

In addition, there is a continuous need to follow the debates and developments regarding other legislative initiatives, such as the Artificial Intelligence Act, that may concern the audiovisual sector, including as regards issues such as the reliability and authenticity of online content, that could thus have an impact on the media sphere and on the competencies of the NRAs.

The trustworthiness of content distributed online will be a particularly important topic in view of the European elections taking place in 2024. The EU is making an unprecedented effort to ensure that information on digital platforms is trustworthy and not manipulated. Also in this regard the role of audiovisual regulators will be of utmost importance.

Similar considerations may be relevant in relation to other initiatives which would likely have a more significant impact in the work of media regulators, for example, the proposed Regulation on transparency of political advertising, currently under discussion by the EU co-legislators. ERGA will continue to feed its views in the legislative process, where relevant, and, once they are adopted, examine their possible interplay with the AVMSD for the benefit of all concerned stakeholders.

This Work Programme therefore aims to make sure that the various work streams are tackled in a smooth and efficient way.

## Topics for the 2024 Work Programme

Against this background, the topics that ERGA intends to work on during 2024 have been identified as follows:

- Consistent implementation of the AVMSD provisions (notably on commercial communications and the protection of minors) in relation to vloggers: this would address, for instance, consistent approaches on the qualification of on-demand services.
- Consistent implementation of the AVMSD in relation to the promotion of European and independent works and, more in detail, the important topic of their prominence.
- EMFA: monitoring of and contribution to the debate leading to the adoption of the Regulation, identification of the Board competencies, timetable and schedule, ensuring readiness and paving the way forward.
- EMFA and the regulatory cooperation through the ERGA Memorandum of Understanding (MoU).
- Elaboration of the EBMS Rules of Procedures, the EBMS Statement of Purpose and/or multiannual strategy and procedures for an effective and transparent workflow.
- Follow the implementation of the Regulation on the transparency and targeting of political advertisement where it concerns media regulators.
- Interplay of the AVMSD with the Regulation on the transparency and targeting of political advertisement.
- Participation to the monitoring of the Strengthened Code of Practice on Disinformation.
- Participation in the Task-force of the Strengthened Code of Practice on Disinformation.
- Interplay of the AVMSD with the DSA:

- The role of NRAs and ERGA in articulating the sectoral rules of the AVMSD and the horizontal DSA provisions.
- ERGA's contribution to the implementation of the DSA, including collaboration and coordination on media specific issues.
- Relation between the cross-border application of the AVMSD and the DSA.
- Protection of minors in the digital world: consistent implementation of the AVMSD in relation to the protection of minors, with a special focus on harmful content, including the issue of age verification and pornographic VSPs, and in other legislative initiatives (e.g., the DSA) as well as cross-border enforcement.
- Follow the implementation of the EU legislative initiatives concerning the digital environment, which may have an impact on the audiovisual regulators (e.g., the Artificial Intelligence Act and the Regulation to prevent and combat child sexual abuse).
- Participation in the DMA High-Level Group.
- Media literacy: focus on the implementation of the relevant provisions of the AVMSD.

## Organization of the work

ERGA believes that it is important to adapt its working structure to the evolving regulatory framework whilst ensuring a seamless continuation of its work from 2023 and previous years. 2024 provides an opportunity to update the structure of ERGA subgroups and action groups.

In this regard, based on the identified work streams and topics, the following working structure will be adopted by ERGA in 2024:

- Subgroup 1: Consistent implementation of the AVMSD.

As principal focus of ERGA, the group will continue to follow and support the implementation of the AVMSD in the Member States, providing analysis and recommendations, including in the perspective of a future revision of the AVMSD. The Subgroup will address the topics of vloggers' regulation (including on video game content), and the promotion of European and independent works as well as their prominence. The Subgroup will also keep on monitoring the effectiveness of the MoU and contribute to the preparation of the transition to the new regulatory instrument on regulatory cooperation foreseen in the EMFA. This work will be done in close cooperation with Subgroup 2.

- Subgroup 2: European Media Freedom Act. With the support of this Subgroup, ERGA will continue contributing to the debate leading to the adoption of the Regulation. This Subgroup will be also responsible for ERGA's input to the preparatory work for the future application of the EMFA and the transition to the new EBMS (e.g., the internal procedures).
- Subgroup 3: Countering disinformation and strengthening democracy.

This comprises of the support to the Commission in the monitoring activities concerning the implementation of the Code of Practice on Disinformation, the participation of ERGA to the Permanent Task-force foreseen in the Code and follow-up the implementation of the Regulation on the transparency and targeting of political advertisement, where relevant for ERGA members.

- Subgroup 4: EU regulation of digital services - implementation, enforcement and the role of audiovisual regulators.

ERGA will also follow the implementation of other pieces of EU legislation regarding the digital environment, which may have an impact on media regulators and media service providers, and potential questions regarding their interplay. Following the work of SG1 in 2023, this particularly includes effective cross-border procedures when enforcing the European legal framework for the media, notably the AVMSD and its relation to other EU legislative acts like the DSA. As the DSA will start to fully apply in 2024 specific focus will be given to its implementation (in close cooperation with the Commission). In this context, the Subgroup will dedicate special attention to the issue of protection of minors in the digital environment. Following up on the work of Subgroup 2 in 2023, the Subgroup will also monitor the developments concerning other pieces of legislation with an impact on the media sphere and may propose an appropriate positioning of ERGA, where relevant. Lastly, the Subgroup will monitor the implementation of the Digital Markets Act (DMA) and advise ERGA's participation in the DMA High Level Group.

- Action group 1: Media literacy.

ERGA will continue the exchange of experiences and lessons learned on the tool/measures used by NRAs/Member States to promote media literacy skills, with a particular focus on the implementation of the relevant provisions of the AVMSD.

- Communications Group.

Besides the subgroups and action group referred to above, a Communications Group, as an ad hoc working group chaired by the ERGA Chair, will support the work of the Chair, the Board and the Plenary in drafting relevant press releases on the activities of ERGA as well as a future Annual Report. The Group will outline a general communication strategy, including the outreach to specialised media.