

ERGA WORK PROGRAMME

2014

1) Introduction

The ERGA Work Programme 2014, as set out in this document, aims to structure the activities of the Group for the rest of the year and to build a bridge with the challenges which we expect to arise in the coming years. The Work Programme for 2014 presents the various items in a concise manner, reflecting a choice to put the focus on the description of the main topics and priorities and on their relationship to the key strategic challenges ahead in EU audiovisual policy.

The present document is the result of an extensive consultation process. It involved an informal survey of the members of the group, who were invited to give their input on the topics that ERGA could address in 2014. This consultation ran from 4 March to 10 April 2014 to provide the Presidency with valuable feedback from the members. The Presidency's proposal, which was drawn up in cooperation with the Vice-presidents and received the agreement of the Commission, was then circulated among the members for consideration and comments, in accordance with article 12 of the Group's Rules of Procedure.

In order to launch the Group's works as soon as possible, the ERGA Work Programme 2014 will be adopted through written procedure, in accordance with articles 11 and 12 of the Group's Rules of Procedure¹.

2) Background

The ERGA was established on 3 February 2014 by a Decision of the European Commission, in accordance with article 30 of the Audiovisual Media Services (AVMS) directive. It is composed of the heads of the national independent regulatory authorities in the field of audiovisual services.

¹ "Article 11 – Written procedure

1. If necessary and justified, any acts defined in Article 9 may be adopted by a written procedure. To this end, the secretariat, in agreement with the chair, shall send the members of the group the documents(s) on which the group is being consulted. The acts are adopted if a 2/3 of the members have expressed their explicit agreement within a deadline, which must not be less than 14 calendar days.

2. However, if a simple majority of group members' requests that the proposed document be examined at a group meeting, the written procedure shall be terminated without result and the chair shall convene a meeting of the group as soon as possible.

Article 12 – Annual Work Programme

1. The draft Work Programme of the group shall be prepared by the chair, in agreement with the Commission.

2. The draft Work Programme should be submitted for the consideration and comments of all members and observers of the group. The amended draft shall be submitted for the approval of the plenary meeting and approved according to the provisions under Article 10 of these rules of procedure.

3. Once approved by the members, the draft Annual Work Programme shall be published for comments.

4. The members shall adopt the Annual Work Programme of the Group, agreed with the Commission services, before the end of each year preceding that to which it relates."

ERGA's task is to advise and assist the Commission in its work to ensure a consistent implementation of the AVMS directive in a converged media age and in other related fields in which the Commission can act. In providing the Commission with its expertise and its independent point-of-view, the Group will seek to bring its own coordinated and operational input on the evolution of the European legal framework. It will also aim at facilitating the cooperation between regulatory bodies in the EU, and will allow for an exchange of experience and good practice.

While setting out a work plan for 2014, this document also presents an insight into ERGA's longer-term priorities, looking towards 2015. Indeed, while dealing with the need to start off the work dynamics of the Group, it appears difficult for the ERGA to leave out the prospect of the modification of the EU regulatory instruments in the field of audiovisual media services, the process of which will start at the beginning of 2015 with the launch of the REFIT (Regulatory Fitness and Performance) exercise for the AVMS directive.

3) ERGA work in 2014 and beyond – key areas

As a first pillar for ERGA's work programme for 2014, it is proposed to focus on a fundamental topic that is **the independence of audiovisual regulators**. This subject was indeed recurring in the input of the members. Moreover, it would be the opportunity for a first expression of the collective identity of the Group, through the **publication of a statement of the Group setting out the principles and approaches** towards independence shared by all members. A first subgroup will be created to deal with this issue.

In 2014, the Group's works will be limited by the short period over which they will be carried out. ERGA should therefore make the most of this time by **initiating a discussion on the current regulatory framework at EU level**, with a view to go into this topic in depth in the next year. This would allow creating a strong and meaningful link between the first two annual work programmes of the Group. For the first year of activity of ERGA, the focus will be on **the issues of material jurisdiction and protection of minors**, two topics that appeared in many of the members' proposals. Those are indeed core subjects regarding the evolution of the current regulation. Therefore, two subgroups – one on material jurisdiction, the other on protection of minors – will be set up to carry out an in-depth analysis of these topics.

The ERGA annual work programme for 2014 will therefore encompass the following two main subjects:

- **the independence of audiovisual regulatory authorities;**
- **the evolution of the European regulatory framework** in a converged media age, through **the issues of material jurisdiction and protection of minors**.

Whereas the first topic will be dealt with over 2014, with the aim to achieve a final deliverable for the end of the year, the Group will carry on its works on the evolution of the regulation at EU level in 2015, with a modified remit to be discussed during the adoption procedure of the work programme for 2015.

Theme A: The independence of audiovisual regulatory authorities

Objectives

The purpose of the first subgroup will be to carry out an in-depth analysis of the notion of independence applied to audiovisual regulatory authorities. Independence is a key value, which is shared by the European regulators of audiovisual media services and on which all their missions are based. However, this notion is understood differently depending on the countries. The subgroup could draw together the work already done by EPRA, academics, the Council of the European Union – inviting the Member States “to ensure the independence of their audiovisual regulatory authorities”² – the European Commission – through its consultation on the Independence of media regulators – the Council of Europe and others, in order to produce common conclusions on the subject. This would allow each authority to share the logic underlying its regulatory model and to express how their conception of independence connects with the other major common values, such as freedom of expression, media pluralism, respect for ethics or the fight against discriminations, against incitements to hatred and violence.

Subgroup Participants

This subgroup shall be composed of experts from the members and can include observers. In accordance with article 13 of the Group’s Rules of Procedure, one of the members shall chair the subgroup.

Deliverable

- **Published statement setting out the principles and approaches** about independence of the regulatory authorities shared by all members

Activities and timetable

To the greatest possible extent, the subgroup shall favour collaborative work via electronic means. If needed to help with the progress of its works, the subgroup will meet physically.

The subgroup shall deliver its conclusions, along with a finalised project of common statement, for the next ERGA meeting that will take place on 21 October 2014.

² Council conclusions on media freedom and pluralism in the digital environment – Education, Youth, Culture and Sport Council meeting , 25-26 November 2013.

Theme B: Adapting the EU regulatory instruments to a convergent audiovisual world

Objectives

Two subgroups will have the remit to launch a prospective discussion on the reassessment of the European regulatory instruments in the field of audiovisual media services, with a particular focus on **the issues of material jurisdiction and protection of minors**. Each of these subgroups will address one of the following topics:

- 1) **Addressing the question of material jurisdiction in a convergent audiovisual world:** the emergence between editors and consumers of new “gatekeepers” require reflection on the notion of distribution and on the extension of the scope of the AVMS directive. The development of television through ADSL networks, the use of on-line audiovisual services and of connected devices has led to a considerable increase of the number of intermediaries between the media services providers and the consumers. Whereas they do not have any editorial responsibility for the contents, they are now major players of the audiovisual landscape, with key responsibilities concerning access to content, protection of minors, quality and diversity of programmes and development of creation and competition. In line with this, accessibility of content becomes a topical issue in a converged media environment, raising the question of “findability” of the services. It is all the more relevant to tackle these subjects at the European level that the distribution of audiovisual services is more and more of a cross-border nature.
- 2) **Tackling the issue of protecting the minors in a converged environment:** protection of minors is one of the core missions of the regulators, shared by all the members. In a converged era, the proliferation of different screens and devices makes it more and more difficult to ensure an appropriate level of protection. Shifts have been observed in the use of media by consumers, and particularly by minors, including growing demand for on-demand services on the Internet. If these recent technological developments offer many opportunities for the young audiences, they also imply new challenges regarding their protection. The AVMS directive sets out a framework of rules to address the challenge of protecting minors on both linear and non-linear services. However, it may not completely guarantee the appropriate level of protection needed in a fully converged audiovisual world. That is why it would be useful for ERGA to discuss possible evolutions of the current regulatory framework and how self- and co-regulation initiatives could complement this approach. The subgroup could draw together the work already done by the members, EPRA, academics, the European Audiovisual Observatory and others, in order to produce common conclusions on the subject.

Subgroup Participants

These two subgroups shall be composed of experts from the members and can include observers. In accordance with article 13 of the Group’s Rules of Procedure, one of the members shall chair each of the subgroups.

Deliverables

- The **report** that is expected from each subgroup shall take the form of a **detailed discussion paper**. This document shall make proposals for scoping the work on each topic, outlining the context, the problem definition, and the particular questions to be explored in detail, including planned milestones and outputs for an in-depth analysis, which shall be carried out in the next year.

Activities and timetable

To the greatest possible extent, the subgroups shall favour collaborative work via electronic means. If needed to help with the progress of its works, the subgroups will meet physically.

The subgroups shall deliver their discussion papers for the next ERGA meeting that will take place on 21 October 2014.