



## European Media Freedom Act (EMFA)

### ERGA position paper for the Open Public Consultation

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## INTRODUCTION

Media freedom and pluralism are essential pillars of democratic systems based on the rule of law as well as EU fundamental values as solemnly stated by Article 2 of TEU. They enable citizens to form their free and informed opinions and foster the democratic debate. This democratic responsibility of the media is all the more critical in troubled times.

As laid out in [ERGA's "Statement of Purpose"](#), ERGA members wholeheartedly endorse the core democratic, economic, social and cultural values and objectives enshrined in the Audiovisual Media Services Directive (AVMSD), in particular guaranteeing freedom of expression, freedom of reception and accessibility of audiovisual media services across EU Member States; safeguarding media pluralism and promoting citizens' right to information; and preserving the independence of National Regulatory Authorities (NRAs). Although ERGA members do not have identical competences, the implementation of these principles and values is at the core of their mandate and expertise.

In this context, **the independent media regulators, gathered within ERGA, fully endorse the Commission's initiative for a European Media Freedom Act (EMFA) and its overall objectives to strengthen media freedom, independence and pluralism.** ERGA notes that the approach proposed by the Commission is internal market-oriented and recognises that the proper functioning of the internal market goes hand in hand with fostering an environment suitable for the development of a variety of European media. In this context, ERGA's main focus – and that of its members – is consubstantially on the above-mentioned EU values.

ERGA warmly welcomes the Commission's considerations to give the independent national regulatory authorities and ERGA a stronger role and renewed means to promote media freedom, independence and pluralism.

## PRELIMINARY REMARKS

ERGA wishes to stress the sensitivity of the issues at stake, some of which are traditionally governed, only or predominantly, by national laws that differ significantly between Member States of the EU. It also underlines that the **subsidiarity principle** should apply to the matters covered by the EMFA, while ensuring that the fundamental EU values at stake are effectively protected throughout the European Union.

In this vein, already existing and effective national schemes should be duly considered when conceiving the EMFA. It would indeed be counterproductive to propose measures that would potentially hinder well-established and performant national approaches, which do deliver on the aims foreseen by the EMFA. Therefore, having in mind the proportionality principle, ERGA advocates for rules enshrined in the EMFA to be formulated in terms of

objectives to be reached and without going into the details of the means to be used, the definition and modalities of which should be left to the Member States.

The **interplay of the EMFA and its governance setup with existing or forthcoming instruments** such as the AVMSD, the Digital Services Act (DSA), the Digital Markets Act (DMA) and the regulation on the transparency and targeting of political advertising, as well as the EU Code of practice on disinformation, both at EU and national level, shall be carefully and clearly designed. This is especially important and relevant for online platforms, which should contribute to the same fundamental objectives as traditional media, albeit with different modalities and tools, and should therefore be covered by EMFA without prejudice to obligations arising from previously mentioned legal acts.

Regarding the **EMFA scope**, ERGA understands that **press** needs to be covered by the EMFA in order to have a coherent approach for all media with editorial responsibility but needs to point out that the press sector is often not under the responsibilities of NRAs. Acknowledging that granting NRAs regulatory powers over the press is excluded in a significant number of EU Member States, ERGA therefore advocates for a great caution when envisaging any potential role for ERGA in this field: if any, such a role should be very carefully circumscribed, e.g. on transparency matters. Nevertheless, from a general perspective (i.e. not considering potential ERGA involvement) as press increasingly moves online, there might be a need in practice to consider media/editorial content in general when it comes to online websites, irrespectively of the identity or nature of the provider. For this purpose, it could be relevant to propose in the EMFA a **comprehensive** definition of “media service provider” in order to better reflect current trends, while duly ensuring that these definitions are future-proof.

When it comes to the **online players**, ERGA wishes to stress that online content platforms’ role in giving access to media/news content is increasingly important to EU citizens. Therefore, they should be duly covered by the EMFA, including when they do not have editorial responsibility over the content they give access to. They should indeed be subject to the same general objectives as the media (such as pluralism, diversity, fair and honest information etc.) and those objectives should be technology-neutral, to ensure that the EMFA will be future-proof. This would contribute to creating a level-playing field for all media-related economic operators, even though it is acknowledged that the regulatory approach and instruments applied to the online content platforms might differ from those applied to traditional editorial media. Furthermore, online content platforms are already foreseen to be covered by the future DSA and DMA as *lex generalis*. The EMFA should therefore take this into account and concentrate on adequately complementing these texts as a *lex specialis* when it comes to these players, while duly noting the relevance of the AVMSD’s article 28b to this respect.

Last but not least, media and information literacy actions for all citizens (children and adults) should be strengthened across the EU and foreseen in the EMFA as an indispensable strategy, aligned with shared European values, to fight disinformation.

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## ERGA POSITION ON THE EMFA PUBLIC CONSULTATION QUESTIONNAIRE

### 1. SAFEGUARDING THE EU INTERNAL MEDIA MARKET, MEDIA INDEPENDENCE AND PLURALISM

Given the importance of editorial independence and pluralism of media, as well as the need not to undermine or disrupt any effective regimes existing in Member States, ERGA would be in favour of the introduction of provisions in the EMFA when it comes to some general principles and safeguards for editorial independence and pluralism of media (as opposed to detailed prescriptive EU measures).

These provisions could cover all audio and audiovisual media (television and radio, linear and on-demand) with editorial responsibility – both the private sector (including issues related to independence of editorial staff from shareholders) as well as the public service media (including the prohibition of State interference in the editorial line).

ERGA could play a role in this area for instance through the exchange of best practices. The possibility could also be considered for ERGA to issue non-binding opinions on specific cases when editorial independence is manifestly endangered, with potential EU or cross-border implications and concerns.

ERGA notes that such an approach, in principle, would also make sense for the press (notably in terms of journalists' independence, SLAPPs, journalists' protection and safety, etc. – as relevantly pointed out in the European Democracy Action Plan), while stressing again the necessity to take into account the fact that granting NRAs regulatory powers over the press is excluded in a significant number of EU Member States.

Overall, journalistic independence is a fundamental value which should be pursued and preserved in all times and cases, and as such should be considered in EMFA.

## 2. TRANSPARENT AND INDEPENDENT MEDIA MARKETS

### 2.1 Transparency of media ownership

ERGA supports the idea to increase transparency obligations for media ownership through obligations applicable to all media companies in the EU to disclose their ownership structure (including beneficial owners) as well as reporting obligations for Member States about ownership structure (including beneficial owners) of media companies under their jurisdiction, including possibly also satellite TV services owned or controlled by governments of non-EU countries.

Setting up a pan-European transparency registry may in principle have added value, provided however that it would not be excessively burdensome (which might be the case especially to keep the registry up to date with information on changes in ownership). The concrete modalities should be carefully considered and relying as much as possible on existing repositories of information could be an option to be considered, with the possibility to interconnect them into a European registry.

ERGA could contribute to this objective: 1) Through the exchange and promotion of best practices; 2) With regard to a European register, if such a tool was put in place, and depending on its modalities (the resources involved should be carefully assessed and provided); 3) Through the adoption of non-binding opinions and reports on manifest systemic failures with potential EU implications / EU concerns regarding reporting obligations.

### 2.2 Media market scrutiny procedures and restrictions to media market entry and operation

ERGA members, given their experience as national media market regulators, would like to express two preliminary remarks: 1) Entry market procedures *as a matter of principle* do not necessarily/automatically have a negative effect *per se* on the market (a number of them are actually designed to preserve and foster media pluralism); 2) Concentration operations are not harmful *per se* as, if well-regulated and accompanied, they do contribute to the development of strong national and European economic operators able to compete with non-EU operators.

The approach to these topics in the EMFA should be technologically neutral and should cover all players having an impact on the formation of EU citizens' opinions on general interest issues, including online platforms.

a) While harmonising national **media-related procedures for the assessment of media market transactions** or creating an EU media-related procedure for the assessment of the effects of significant transactions on media pluralism would be excessive and could go against the subsidiarity principle, ERGA would be in favour of including basic common standards (structural rules and general principles) in the EMFA when it comes to these issues. These provisions should be **principle-based** and **cover** minimum procedural standards for the assessment by Member States of the effects of media market transactions on media pluralism. Ideally, only the principles of such a review should be enshrined in the EMFA, as Member States should remain free to choose the appropriate and proportionate modalities. These could include the obligation for the competition authority to ask the competent media authority (where applicable) for an opinion on the effects of the foreseen transaction on media pluralism and possible remedies (noting that such a procedure is already in place in a number of Member States). Should this be the case, adequate means and competencies (including on economic aspects) shall be ensured for all NRAs. In the same way, in cross-border media concentration cases, where the competence lies with the European Commission, ERGA could be given the possibility to issue an opinion regarding potential systemic effects on pluralism.

ERGA could also envisage contributing to the European register, should it be established by the EMFA, provided that it would not be excessively burdensome. It could also be considered for ERGA to, if relevant, potentially issue non-binding opinions/recommendations on certain specific significant market cases with EU implications.

**b) Regarding ownership restrictions and authorisation requirements**, ERGA believes that the harmonisation or even common standards on requirements and procedures would need to be worded extremely cautiously in order to be considered justified and proportionate, considering the diversity of situations and approaches in various Member States.

However, it may be envisaged: 1) To set out common basic procedural criteria for administrative decisions which affect media outlets (e.g. non-discrimination, proportionality, transparency); 2) Possibly, subject to an impact and proportionality assessment, to require Member States to inform of any national measure restricting entry or activity in the media market and explain its rationale.

Regarding national measures/procedures which may result in restrictions to the entry or operation of media, ERGA could potentially also issue non-binding opinions - when there is a clear and justified cross-border aspect/challenge.

### **2.3 Audience measurement**

Regarding potential measures concerning audience measurement, ERGA expresses its full support to the rationale exposed by the Commission regarding the importance of fairness, accuracy, transparency and inclusiveness, as well as the need to improve on these points across the board, especially when it comes to online platforms.

Acknowledging the existence of very diverse set-ups and organisations across Member States, often relying on private and/or self-regulatory bodies, ERGA therefore advocates for coordination measures at EU level to be enshrined in the EMFA, such as the affirmation of general principles (transparency, inclusiveness, objectivity) both for traditional media and for online platforms - for which there is a particularly clear lack of transparency and comparable approaches. These should ideally build on existing international standards which are already followed, on a voluntary basis, by audience measurement organisations.

Furthermore, notwithstanding the diversity of organisations in various Member States by means of self- or co-regulation, a general obligation (both on TV/radio and on online platforms) of regular audience measurement audit/certification by an independent (private or public) body could be introduced as well, along with the obligation for this body to publish its reports/audits/certifications.

ERGA could contribute to more coherent, transparent and fair audience measurement by serving as a forum for good practices, notably in terms of methodologies and governance, building on existing expertise and, when relevant, own countries/NRAs approaches.

## **3. CONDITIONS FOR HEALTHY MEDIA MARKETS**

### **3.1 Balanced and impartial media coverage**

Acknowledging the crucial character of balanced media coverage – especially in terms of political pluralism in election periods – for the functioning of pluralistic democracies, ERGA supports a general obligation of pluralism to be introduced into the EMFA, applying to all audiovisual media in particular during the election periods.

While respecting the subsidiarity principle and granting Member States enough room for manoeuvre and flexibility for regulation based on national specificities, common understanding of what pluralism constitutes could be achieved by describing its key characteristics.

ERGA wishes to stress that, given the sensitivity of the matter and the variety of national existing systems, the EMFA should comprise no prescriptive, detailed provisions as to how this general principle-based obligation should be met: this should be left to the Member States, which should explicitly be able to take more precise and/or detailed measures (e.g. in terms of monitoring/enforcement).

The specific question of online platforms, with algorithmic mechanisms running the risk of generating filter bubbles and/or encouraging polarization and unbalanced media coverage, should also be covered by the EMFA,

as a complement to the forthcoming DSA, which, given its horizontal nature (*lex generalis*), will probably not address this specific issue to the extent necessary.

ERGA could play a pivotal role in this aspect for instance as a forum for exchange of good practices, as certain NRAs have competence and have developed expertise on this matter over time.

Regarding very large online platforms, ERGA could contribute to this objective by being involved in the risk analyses foreseen by the DSA, using its expertise and experience of monitoring the EU Code of practice on disinformation. This approach should go beyond disinformation in order to cover issues such as polarization, radicalization or filter bubbles. To do so, ERGA could rely on research and studies carried out by its members and/or by/with academics/researchers. ERGA and its members should be adequately staffed and resourced to do so.

### 3.2 Regulatory convergence and cooperation

In December 2020, the national regulatory authorities have agreed on common principles and rules on how to ensure the cross-border enforcement of media rules on audiovisual media services and video-sharing platforms, which go beyond the stipulations of the AVMSD. As a result, an [ERGA Memorandum of Understanding](#) (MoU) was adopted by ERGA members (and by the national authorities of the European Economic Area; Norway, Iceland, and Liechtenstein). It provided ERGA members with a new instrument to overcome the challenges of an increasingly convergent and borderless media environment in order to work towards a democratic climate and a level playing field in the media sector. In practice, the MoU creates a common framework under which ERGA members provide each other with mutual assistance and exchange of information for the sake of a more effective enforcement of fundamental values in cross-border cases.

The MoU has been in place for over one year now. Overall, its adoption and implementation is viewed very positively by ERGA members, as an essential instrument in strengthening cooperation between NRAs across the EU to fulfil their responsibilities with increased relevance and efficiently. While the MoU is a non-binding cooperation agreement, its voluntary nature does not appear to have been problematic insofar as national regulatory authorities generally managed to cooperate effectively and in good will.

In its current setting, ERGA already delivers well on a number of aspects, especially based on the MoU. However, it must be acknowledged that the market conditions are evolving rapidly and radically, and the entry of new players that operate across borders requires additional cooperation, also in areas non covered by the AVMS Directive, especially online. Against this background, a number of items could be improved in order to overcome certain challenges: (i) in the current legislative framework, only a limited set of topics are in scope, which doesn't cover the whole range of issues relevant to media pluralism; (ii) resources are extremely limited both at ERGA and NRAs level, which is not sustainable in the long run especially given the future new responsibilities conferred by the other legislative acts; (iii) the institutional setting doesn't provide for the necessary independence of ERGA, as for the moment ERGA's status is that of a working group of the European Commission.

Therefore, the EMFA could secure and consolidate the situation for instance through the **reinforcement and institutionalization of the MoU** in order to better reflect ERGA's current activities, which – through the MoU – go already beyond what is strictly stipulated in the AVMSD. Institutionalizing the cooperation framework could also contribute to securing human resources to support its implementation, if ERGA would be reinforced. It would allow a broadening of the reach of the MoU by securing the involvement of all ERGA members, and it would be instrumental in providing more legal certainty, predictability and robustness by making the cooperation more substantive. This reinforced MoU could indeed go beyond the exchange of information and mutual assistance and could foresee certain binding procedures for cooperation among ERGA members. In order to achieve these objectives and not to run the risk of undermining the functioning of the current tool, utmost attention should be paid to: (i) The provision of appropriate resources and clear legal mandates for regulators at both EU and national level, as NRAs need to be able to get properly involved in these new tasks in order to contribute to ERGA's new responsibilities in a meaningful way; (ii) Only inscribing the principles and broad objectives in the new EU act, and leaving the definition of details and modalities to ERGA and its members.

Such a reinforced framework would enable to go further in 2 directions: 1) the extension of its scope to go beyond media regulation aspects covered by the revised AVMS directive, such as pluralism, audience measurement, media concentration...; 2) The ability for ERGA to adopt guidelines in circumscribed areas of cooperation, in particular related to cross-border issues.

While the harmonisation of key areas of media regulation relevant for media pluralism would be excessive (see above), ERGA could support and contribute to the exchange of best practices and, where relevant, issue

guidance based on existing best practices in order to assist Member States and/or NRAs in developing approaches regarding key areas of media regulation such as, for instance, prominence of content of general interest as well as balanced media coverage/exposure to plurality of views.

ERGA agrees with the issues mentioned in the questionnaire in terms of strengthening coordination and exchange of information, namely: (i) treatment of cross-border cases related to jurisdiction matters in the media market; (ii) coordination in cases related to licensing (or administrative authorisation) or activities of third country providers contravening European media standards; (iii) cooperation in the cross-border implementation of EU media rules.

Last but not least, the question of cross border cooperation in the area of **channels/media under the influence of third countries**, which has repeatedly (and again very recently) raised consistency and coordination issues, should be considered to the extent that such media may cause severe damage in terms of disinformation, state propaganda, incitement to hatred and violence and destabilization of European democracies. The crucial importance of these issues is even more acute in times characterised by growing geopolitical international tensions and/or conflicts, including with EU neighbouring countries. Regarding such non-European channels/media, ERGA therefore advocates for the EMFA to provide for a more systematic exchange of information and to explore the possibility to introduce a mechanism of mutual recognition of decisions as well as mutual help for monitoring. ERGA will continue working on the best approach to address these problems, possibly including new common principles (such as “state neutrality”) and new EU-level common responses to media under the influence or control of third countries.

### **3.3 Media self-regulation**

ERGA supports fostering media self-regulation, as stated in the AVMSD, as an added value to the existing and future legal framework.

Self-regulation is a useful tool to regulate certain market sectors in which a strong involvement of operators is necessary or appropriate; however, this tool is not always effective. The experience gained in carrying out activities aimed at combating disinformation has shown that self-regulation, especially with regard to online content dissemination, does not allow for sufficient/effective intervention of the regulator in the event that an operator does not fulfil its obligations as a signatory of a voluntary industry standard.

Therefore, ERGA insists that self-regulation of audiovisual and other media should not substitute regulation: for all objectives corresponding to European fundamental values to be preserved, a regulatory backstop shall be foreseen (in a genuine co-regulatory approach) involving media regulators, in order to guarantee the appropriateness of the means to achieve the objectives and their outcomes.

### **3.4 Enabling environment for innovative media**

While in principle supporting the establishment of regulatory sandboxes, ERGA would however like to insist on the fact that these exemptions should be carefully studied, monitored and controlled in order to ensure that they do not significantly affect the underlying mechanisms’ outcome when it comes to general interest objectives. The deployment and management of potential media sandboxing schemes should generally be managed by, or with the contribution of, authorities in charge of the rules to which the exemption would apply, including media regulators when relevant.

## **4. FAIR ALLOCATION OF STATE RESOURCES IN THE MEDIA MARKETS**

### **4.1 Functioning of public service media**

As a preliminary remark, ERGA would like to stress that the regulation of public service media varies greatly from one Member State to another and is generally an extremely sensitive issue.

ERGA would like in particular to underline that Protocol 29 on the system of public broadcasting in the Member States to the TEU and TFEU (the ‘Amsterdam Protocol’)<sup>1</sup> stipulates that the governance and strategic choices on public service broadcasting lie with the competence of Member States, as long as they are taken within the

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<sup>1</sup> Additional considerations are covered in the [Communication from the Commission on the application of State aid rules to public service broadcasting \(2009/C 257/01\)](#).



public service remit, which is to be defined and organised by each Member State. Therefore, in no case should the EMFA be dealing or interfering with missions of the public service media.

In this context, ERGA would advocate for a light principle-based framework to be envisaged in the EMFA, which could cover the following aspects: (i) General principles on governance, and editorial and political independence; (ii) Transparency and independence requirements for appointment/eviction procedures; (iii) The need for a permanent allocation of dynamic resources with a sufficient level of predictability to guarantee the independence of public service media companies.

Moreover, while establishing EU-wide detailed rules would be disproportionate and prejudicial to national competences, it could be envisaged to propose broad principles regarding the absence of conflict of interest for public service media management as well as the fair and diverse societal representation in the management.

Finally, as it exists in several Member States and could be considered as a best practice, the EMFA could also provide for the general principle that monitoring mechanisms shall be in place for the fulfilment of the public service remit. However, taking into account the subsidiarity principle, these should be developed at national level and not at EU level. ERGA could be granted a possible role in the above when it comes exchange of best practices (for those NRAs who have a competence over public service media), and non-binding recommendations/observations on observed manifest dysfunctions.

## **4.2 State advertising**

ERGA notes that the concern could be twofold: (i) state advertising allocated unfairly could have a negative impact on the competition in the media market by fostering investment in selected media outlets to the discrimination and detriment of others; (ii) it could also potentially negatively impact the editorial independence of those media companies.

Therefore, ERGA would support the idea of introducing reporting obligations for Member States with regard to the allocation of state advertising in the EMFA provided that these would not be excessively burdensome.

It could also be envisaged to establish an EU-wide monitoring of state advertising allocated by Member States in order to further foster transparency in this respect. This should take into account that in some cases it might be complicated to get information regarding advertising placed by state-owned companies subject to trade related obligations (for instance related to trade secrets).

Moreover, basic principles/standards could be envisaged in the EMFA applying to Member States for the allocation of state advertising. Those could for instance include safeguards to preserve the editorial independence of the media which are granted state advertising.

As many national regulatory authorities do not have any competence regarding state advertising, ERGA's potential role in this regard should be focused on fostering transparency regarding the allocations of state resources.

## **5. GOVERNANCE OPTIONS**

ERGA welcomes the central role that the Commission gave it in the EMFA public consultation for the reinforcement of EU fundamental rights through the media sector.

Indeed, ERGA – in its quality of network gathering independent national regulators in charge of these matters – believes it represents the best option to bear the role of the transparency and cross-border cooperation enabler, to provide advice/guidance, and to possibly (depending on the subject) supervise the situation across the EU. NRAs are independent from any private/industry interests or public influence of the executive powers (national governments, European Commission). ERGA members are the entities having the concrete experience of regulation (relying especially on the balance between freedom of expression and other fundamental objectives of general interest), and they are relying on daily interactions with all market players concerned (with exceptions regarding the press and, in a limited number of cases, public service media)<sup>2</sup>. Relying on ERGA as the group of

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<sup>2</sup> By contrast, an independent European entity (European agency or other) with no organic link with national regulatory authorities would be disconnected from the realities on the ground, from the specificities of each country and from the concrete practice of the regulator's profession.

independent national regulators and its internal dynamics (structural checks and balances, strength and intelligence of the network) also appears particularly relevant in the face of a potential drift of one of its members.

ERGA could thus play a central role in the implementation and governance of the EMFA, under several important preconditions:

- Ensuring ERGA's effective independence from the European Commission, by establishing it under an appropriate new statute and by ensuring its staff does not report to the Commission nor is directly hired by it;
- Reinforcing ERGA's proper resources, both financial and human;
- Strengthening the guarantees that sufficient resources be provided for at national level for NRAs in order to enable them to exercise their role within ERGA and be able to keep up with the extended responsibilities of ERGA (although the AVMSD already sets out the rule, it is necessary to better ensure its effectiveness);
- Adapting ERGA's governance to its new status and missions. Here again, the EU text should only set the ground rules and leave ERGA the flexibility to adopt its own detailed rules of procedures, within the general framework set by EMFA.

The question of the mapping of ERGA's remit with its members', as well as the related issue with the scope (especially regarding the press), should be clarified and settled, noting that ERGA is not necessarily relevant for all EMFA areas/tasks at EU level and it would therefore be difficult for ERGA to embark on new responsibilities, which may not be covered by current roles and missions of its members.

While it's the co-legislators' responsibility to define EU-wide measures and the Commission's responsibility to verify compliance by Member States, such a reinforced and independent ERGA could therefore be pivotal in the implementation of EMFA as follows:

- EXCHANGE OF BEST PRACTICES (e.g. on editorial independence of media, transparency of media ownership, balanced and impartial media coverage, for key areas of media regulation, on basic principles for the functioning of public service media);
- PROMOTION OF TRANSPARENCY (e.g. through the contribution to EU registers of media ownership and media market transactions; on state advertising);
- DEVELOPMENT OF NON-BINDING GUIDELINES AND RECOMMENDATIONS (for key areas of media regulation);
- MONITORING MEDIA PLURALITY RISKS ON ONLINE PLATFORMS giving access to content (balanced and impartial media coverage to prevent polarization and disinformation – through the DSA prism of risk assessment foreseen for VLOPSEs and the institutionalization of ERGA's work on monitoring of disinformation and on further developing guidelines on how to tackle them);
- INSTITUTIONALIZATION AND REINFORCEMENT OF THE MOU, which could become binding and whose scope could go beyond the areas covered by the AVMSD, provided ERGA members will be adequately equipped in terms of resources, legal mandates, supervisory and enforcement tools.
- POSSIBILITY TO ISSUE FACULTATIVE, NON-BINDING OPINIONS OR OBSERVATIONS, which could be made public and on the basis of which the Commission could eventually take action. This possibility should be without prejudice to the exchange of good practices and the elaboration of non-binding guidelines and recommendations, and should be carefully delineated and circumscribed. It could apply to some specific cases, for instance: on failures regarding transparency reporting obligations of media ownership or issues related to state advertising; on certain specific significant cross-border market transaction cases; on certain national measures/procedures that may result in systemic and/or repeated restrictions to entry or operation of media; when editorial independence is manifestly endangered with potential EU implications/EU concerns.



## CONCLUSION

ERGA supports the overall objectives sought by the European Commission in the framework of the EMFA and the rationale to address such crucial issues for EU democracies and citizens.

Hence, ERGA believes that the Commission should, depending on the outcome of the impact assessment it is going to carry out, propose a legislative instrument aimed at tackling the identified challenges for media freedom and pluralism, pursuant to option 2 of the [EMFA call for evidence](#).

ERGA wishes to underline that this legislative instrument should be principle-based and should not comprise detailed measures, in line with the subsidiarity principle and national specificities, and considering that existing well-working national approaches should not be disrupted.

Finally, ERGA welcomes the Commission's recommendation to rely on the network of European regulators for the implementation of the EMFA. It calls for proper independence, reinforced resources for the network and its members, and adequate institutional setup to be guaranteed in the EMFA in order to be able to step up and fulfil these potential new responsibilities.