

Subgroup 1 – 2023 Terms of Reference (ToR)	
Name of Subgroup 1 (SG 1)	Consistent implementation and enforcement of the European framework for audiovisual media services
SG Chair	Tobias Schmid, DLM (Germany)
Background	<p>Ensuring a smooth and coherent implementation of the revised AVMS Directive has been a key topic in ERGA's work since its adoption in 2018, constituting one of its core commitments, as clearly expressed in the Statement of purpose¹.</p> <p>Also in 2023, according to its Work Programme, ERGA will continue to support the implementation of the AVMS Directive in the Member States, providing analysis and possible recommendations on the most complex topics. ERGA SG1 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, 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. The result of these activities may provide ideas including the assessment of needs for improvement of the existing legal framework and the development of additional procedures.</p> <p>In doing so, also the interaction with the respective provisions of the Digital Services Act will be taken into consideration, in order to facilitate a robust legal protection and an effective application of the AVMS Directive.</p> <p>The outcomes may serve as guidance and provide useful input for supervisory and enforcement activities of ERGA's members, especially in the online domain.</p>
Subgroup scope and purpose	<p>Already in 2021 and 2022, dedicated Subgroups were contributing to the implementation of the AVMS Directive, primarily focusing on the exchange of best practices regarding the transposition and implementation of the revised legal framework.</p> <p>The scope of this Subgroup in 2023 lies on the consolidation of ERGA's efforts as regards an enhanced and more effective enforcement of the European legal framework for audiovisual media services and at gathering evidence relevant for the implementation and potential future development of this framework.</p> <p>In close collaboration with Subgroup 2, Subgroup 3 and Action Group 1 the work of this Subgroup will follow a five-step approach:</p>

¹ [ERGA-2019-02_Statement-of-Purpose-adopted.pdf \(erga-online.eu\)](#) "ERGA promotes common regulatory approaches and effective cooperation between its members as well as with stakeholders. It also facilitates the development of an integrated 'regulatory culture', where knowledge, best practices and experiences are judiciously disseminated to inspire NRAs in the achievement of their duties at national level.

	<ol style="list-style-type: none"> 1. <u>Best practice</u>: The Subgroup will collect and describe the different steps necessary to conduct cross-border procedures under the current regimes in the AVMS Directive and the E-Commerce Directive, while also taking into account ERGA's Memorandum of Understanding on cooperation among its members. In this regard, the Subgroup will analyse concrete practical applications and assess their effectiveness, in order to develop respective practical recommendations for ERGA and its members. This task will serve as a benchmark and support for ERGA members who are interested in initiating such proceedings. 2. <u>Practical assessment</u>: With regard to the fact that the Digital Services Act and the proposed European Media Freedom Act are complementing the cross-border regime of the AVMS Directive, including with regard to ERGA's Memorandum of Understanding, the Subgroup will assess the implications of these new procedures on the regulatory practice and oversight strategies of ERGA members. Building upon this assessment, the Subgroup will develop guidance on a most effective use of these procedures to the benefit of audiovisual media regulation. 3. <u>Technical expertise</u>: Based on the results and learnings of the first steps, the Subgroup will explore whether there is any need for reactions by way of improvements to the legal framework and the development of additional procedures. If such a need can be identified, the Subgroup will also gather initial ideas for such possible improvements, based on the experiences from regulatory practice of ERGA members. Furthermore, it will follow the adoption of the EP INI-Report dedicated to the implementation of the AVMS Directive. 4. <u>Memorandum of Understanding</u>: The previous Action Group on the Memorandum of Understanding will be incorporated in the work of the Subgroup. A dedicated workstream on the Memorandum of Understanding will continue to foster its implementation and will in particular assess potential needs for practical improvement and propose concrete amendments, if necessary. 5. <u>Increase cooperation</u>: Within the role and mandate of ERGA, the Subgroup will also evaluate further options of exchanges/cooperation of ERGA with regulatory bodies and networks from third countries (e.g. REFRAM, FCC, CRTC, in order to be able to apply EU standards and fundamental values, as outlined in the AVMS Directive and the Digital Services Act, also to providers from third countries targeting audiences in the EU. <p>In addition, in consistency with the work carried out by the Group in the previous years and in line with the Work programme 2023, a distinct workstream of SG1 under the lead of another NRA will continue to support the implementation of the AVMSD, providing analysis on the topics whose implementation generates interest among ERGA Members, based on the practical experience and the needs of ERGA members in their application of the Directive. An analysis may be carried out on the implementation of issues such as age verification tools and the complaint handling systems adopted by VSPs, and the different transpositions of the obligation for VoD services</p>
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	to contribute to the financing of the production of EU works (art 13.2). Additional topics, for example the quota regime of Art. 13(1), may be addressed in case the need arises during the year.
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Subgroup 1 Deliverables

Deliverable 1	Deliverable type	Report
	Deliverable title	The practical application and future of cross-border enforcement of media law
	Due date	End of working year – 2 nd plenary
	Publication	Yes
Deliverable 2	Deliverable type	Implementation Report
	Deliverable title	Assessment of the Memorandum of Understanding including suggestions for improvement/amendments (tbc)
	Due date	End of working year – 2 nd plenary
	Publication	Yes
Deliverable 3	Deliverable type	Report (coordinated by another NRA)
	Deliverable title	Implementation of the AVMSD provisions concerning the age verification tools and the complaint handling procedures adopted by the VSPs and the VoD services' financial contribution to the production of EU works (art 13.2)
	Due date	End of working year – 2 nd plenary
	Publication	Yes
Deliverable 4	Deliverable type	Workshop (Title tbc)
	Deliverable title	/
	Due date	June or September
	Publication	/

Allocated Resources SG1

Drafters Members Observers	Chair: Tobias Schmid DLM (Germany)
Arcom (France) AGCOM (Italy) CvdM (Netherlands) MPRT (Sweden) RVR (Slovakia)	
KommAustria (Austria) CSA/Medienrat/VRM (Belgium) CEM (Bulgaria) AEM (Croatia) CRTA (Cyprus) RRTV (Czechia) TTJA (Estonia) TRAFICOM (Finland) NCRTV (Greece) NMHH (Hungary) BAI (Ireland) NEPLP (Latvia) RTK (Lithuania) ALIA (Luxembourg) BA (Malta) KRRiT (Poland) ERC (Portugal) NAC (Romania) CNMC (Spain) AKOS (Slovenia) IMC (Iceland)* NMA (Norway)*	
AMA (Albania) CRA (Bosnia & Herzegovina) OFCOM (Switzerland) AEM (Montenegro) AVMU (North Macedonia) RTUK (Turkey)	

* Without voting rights (Article 1 of the ERGA Rules of Procedure)

Workflow for Subgroup 1 (internal and external milestones)

Date	Action/deliverable	Internal Subgroup only, drafters	External CN, Plenary, Publication
2023			
13 th February	1 st SG1 meeting <ul style="list-style-type: none"> Setting priorities for the work of SG1. Organising the division of tasks and responsibilities for the planned activities and deliverables of SG1. 	All members	
April/May	2 nd SG1 meeting <ul style="list-style-type: none"> Set-up of the June Workshop. First discussion of concrete contents of deliverables. 	All members	
June (tbc)	Workshop (title tbc)	All members	
June	1 st Contact Network <ul style="list-style-type: none"> Report by SG Chair on the work done/ahead. 		CN
June	ERGA Plenary meeting <ul style="list-style-type: none"> Report by SG Chair on the work done/ahead. 		CN/Plenary
September/October	3 rd SG1 meeting <ul style="list-style-type: none"> Discussion of draft deliverables. 	All members	
October/November	4 th SG1 meeting <ul style="list-style-type: none"> Finalization of SGs deliverables. 	All members	
December	ERGA Plenary meeting <ul style="list-style-type: none"> Adoption of SG1 deliverables <ol style="list-style-type: none"> Report: The practical application and future of cross-border enforcement of media law Implementation report: Assessment of the Memorandum of Understanding including suggestions for improvement/amendments (internal report) Implementation of the AVMSD provisions concerning the age verification tools and the complaint handling procedures adopted by the VSPs and the VoD services' financial contribution to the production of EU works (art 13.2) 		CN/Plenary/Publication