

Working Group 1: Jurisdiction
35th EPRA Meeting, Portorož, Slovenia,Summary of the working group discussion

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Board Sponsor: *Maja Cappello*, EPRA Vice-Chair

The working group was structured around three separate issues:

- Problems of identifying jurisdiction and the AVMS Directive's establishment criteria;
- Informal co-operation networks and relationships that have developed since the Directive came into force;
- The way in which regulators have used the formal co-operation procedure and the other mechanisms provided in the Directive.

AGCOM (*Maja Cappello* and *Francesca Pellicanò*) began the session with a practical interactive example of how to determine jurisdiction based on the variety of scenarios covered by Article 2 of the AVMS Directive.

This was followed by a presentation about the Baltic Cooperation Agreement between Latvia, Lithuania and Estonia by *Paulius Subačius*¹, Chairman of Radio and Television Commission of Lithuania, in which he detailed the benefits of this regional co-operation, including information sharing, similar solutions to problems, learning from each other to prevent mistakes and resolve conflicts in a straightforward and practical manner. Sweden was also invited to join the network at the working group.

A presentation from the International Legal Advisor for the Hungarian National Media and Infocommunications Authority, *Dr György Ocskó*, also set out the structure of the Central European Regulatory Forum², another well established informal co-operation network between Hungary, Slovakia, Poland, Serbia and Romania.

There followed a number of interventions from countries either wishing to discuss individual jurisdiction queries or to share experiences of difficulties they had experienced. Some key points that emerged from this discussion were:

- Not all NRAs require a formal "license" for countries broadcasting from outside the EU and receivable in their territory (e.g., France requires neither licence nor notification).
- Press TV: The steps taken by Ofcom to inform other countries' NRAs about our revocation of this broadcaster's licence provide an example of excellent informal and successful co-operation on enforcement – in particular with the German regulator, in whose territory Press TV had a satellite uplink, which was closed off (albeit subject to appeal)
- France has had a positive experience of the informal co-operation procedure in relation to a channel based in Luxembourg broadcasting free fights, which were, re-scheduled to later in the day to comply with protection of minors objectives.
- Retransmission appears to pose significant jurisdictional problems for other regulators, and it may be something to look into more closely at the next session of the working group.
- Determining the location of establishment of a provider of an internet-only audiovisual media service has also begun to pose difficulties for regulators.

Discussion turned to the formal mechanisms under the Directive, from which it emerged that:

- A number of countries have invoked the formal co-operation procedure without a positive outcome, and there is a sense of frustration that this mechanism, although it opens dialogue and improves communication and awareness, does not offer practical solutions.
- The Commission confirmed that no cases of circumvention had been brought to it yet, and that it will be difficult to prove.

Next steps: it was agreed that:

- a compilation of cases under formal cooperation procedure would be useful,
- the chair would set up a discussion group online or via email of those interested in debating and attempting to solve jurisdictional problems faced by individual regulators.

¹ <http://www.epra.org/attachments/portoroz-wg1-jurisdiction-presentation-by-paulius-subacius>

² <http://cerfportal.org/>