

Internal Consultation on  
**EPRA's WORK PROGRAMME for 2019**  
14 December 2018

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This draft Annual Work Programme, which lays out EPRA's priorities and anticipated work for 2019, has been compiled by assembling member authorities' suggestions, collected further to a call for topics and by implementing key findings originating from deliverables of the 2018 Work Programme. The draft also incorporates some suggestions made by members on the occasion of the open debate on the future format of EPRA meetings which took place in Bratislava in October 2018. The draft WP is entering a consultation phase to assess support for the overall construct and to coordinate individual authorities' involvement. The Board will approve the final WP at its meeting on 1 February 2019.

During the recent debate in Bratislava, members endorsed the [small-steps approach proposed by the Executive Board](#) for the future format of EPRA meetings, namely retain the overall basic architecture of the meetings, while varying the approach by reshaping elements of the internal structure. The two plenary meetings in 2019 will take place on **29-31 May in Sarajevo** (hosted by CRA) and on **23-25 October in Athens** (at the invitation of NCRT).

**EPRA's motto for 2019** will be to foster interactive and practically-oriented discussions on current issues of relevance for members while encouraging regulators to think transversally and to look ahead for adapting to a rapidly-changing environment.

In the coming year, EPRA proposes to examine how **two core regulatory objectives** for audiovisual regulators, namely protecting vulnerable audiences and ensuring a sustainable ecosystem for European content, **can be enforced in an online world** by discussing best practices concerning the **PROTECTION OF MINORS** and **EUROPEAN WORKS** in on-demand programme services and video sharing platforms. In parallel, EPRA will focus on **complementary tools** that can support the delivery of regulatory objectives by reviewing recent and on-going **RESEARCH EVIDENCE ON ONLINE HARM** and by continuing to discuss **MEDIA LITERACY** for the third consecutive year.

EPRA will continue its work in raising **the awareness of members on emerging technological issues and market changes** with sessions on **ARTIFICIAL INTELLIGENCE & MACHINE LEARNING** and on **SPORTS' RIGHTS**.

In 2019, we also aim to implement **KEY FINDINGS OF PAST MEETINGS AND RECENT MEMBERS' SUGGESTIONS**, with a session structure that takes into account the importance of a **reinforced dialogue with stakeholders**, the need for **stronger dialogue and cooperation with other regulatory authorities**, notably Data Protection Authorities, and the appetite of our members for **interactive discussion formats and open debates**.

Against this background, the proposed plenary themes are:

**"Protecting Minors in the online world: focus on evidence of harm and access control tools"** (Plenary 1);

**"Sports' rights"** (Plenary 2 – spring) and **"Artificial Intelligence and Machine Learning"** (Plenary 2 - autumn).

The proposed working groups would focus on: **"Media Literacy"** (WG1) and **"European Works and Prominence"** (WG2). For the ad hoc groups, we propose that you choose your two favourite topics from three suggestions: **"Update on Accessibility of TV and On Demand Programme Services"**, **"Government and public-sector advertising"** and **"Hate speech"**.

**This draft is presented for consultation. We are looking for comments by 15 January.**

## 1. European Regulatory Context

In setting out our work programme, we have considered the European regulatory context - both at the EU and the Council of Europe levels - in which media regulators operate.

The implementation of the 16 actions comprising the [Digital Single Market strategy](#) (DSM), which was commenced in 2016, progressed considerably in 2018 with three major regulatory instruments adopted or about to be adopted:

- The [revised AVMS Directive](#) will enter in force on 19 December 2018; member States will have until September 2020 to transpose the text in their respective national legislation. The upcoming two years are likely to be very intense for AV regulators in the EU; most of them will take part in working groups and consultations led by their respective ministries on how to transpose the AVMSD provisions at the national level.
- In parallel, there has been a fundamental overhaul of EU telecoms regulation with the introduction of a *European Electronic Communications Code* (EECC) replacing all existing regulatory tools. On 6 June 2018, the EU Council and Parliament reached [a political agreement on the EECC](#). Formal adoption and publication in the Official Journal of the EU are expected in December 2018; Member States will then have two years to transpose the EECC into national law.
- *In the field of copyright*, ongoing reforms ('copyright package') aim to improve specific mandatory exceptions to copyright rules for education, research and cultural heritage and to make it easier for broadcasters to enrich their online offerings across borders. After a period of strong controversy regarding certain provisions, the plenary session of the EU Parliament [agreed on a new proposal](#) for the final round of negotiations (trilogue) with the EU Commission and the Council of the EU on 12 September 2018. A final vote is envisaged to take place in the early months of 2019. On 13 December 2018, the European Commission, the Parliament and the Council also reached [a political agreement](#) on access to online TV and radio services across borders as part of a new SatCab Directive.

*With regard to data protection*, the EU General Data Protection Regulation (GDPR) became directly applicable on 25 May 2018, 2 years after its adoption and entry into force, replacing Directive 95/46/EC.

Another area of continued interest in 2019 will be the impact on the national communications markets of the *consequences of the UK's vote to leave the EU*<sup>1</sup>. In 2018, several publications have attempted to assess the potential impact of BREXIT on the European audiovisual media landscape.

For the third consecutive year, the development of *strategies to tackle the combined phenomena of dis-information, mis-information and mal-information* remained very much in the centre of attention. The [European Commission's High-Level Expert Group on Fake News and Online Disinformation](#) delivered its [final report in March 2018](#) advocating a multi-dimensional approach including ensuring transparency of online news, promoting media and information literacy, developing tools for empowering users and journalists; safeguarding the diversity and sustainability of the European

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<sup>1</sup> See i.a. European AV Observatory: "[Brexit in context: The UK in the EU28 audiovisual market](#)"; "IRIS Plus 2018-2 Brexit: [The impact on the audiovisual sector](#)"; European Parliament, Research for the CULT Committee [Audiovisual Sector and Brexit: the Regulatory Environment](#)

news media ecosystem, and promoting continued research on the impact of disinformation in Europe. The report was followed by a [Communication on "Tackling online disinformation: a European approach"](#) in April. The [Code of practice on disinformation](#), a self-regulatory initiative unveiled on 26 September, aimed at achieving the objectives set out in the Communication by setting a range of commitments, from transparency in political advertising to the closure of fake accounts and demonetization of purveyors of disinformation. Most recently the European Commission has published an ["Action Plan against Disinformation"](#), which focuses on the four key areas "improved detection", "coordinated response", "online platforms and industry" and "raising awareness and empowering citizens" in order to build up the EU's capabilities and to strengthen the cooperation between Member States and the EU. The European Commission has also proposed to hold an EU Media Literacy Week in 2019.

At the Council of Europe, the Committee of Ministers adopted the recommendations [CM/Rec\(2018\)1 to Member States on media pluralism and transparency of media ownership](#) and [CM/Rec\(2018\)2 on the roles and responsibilities of internet intermediaries](#) on 7 March 2018. The Committee of experts on Human Rights dimensions of automated data processing and different forms of artificial intelligence (MSI-AUT) and the Committee of experts on Quality Journalism in the digital age (MSI-JOQ) met in February and September 2018. The deliverables for MSI-JOQ in 2019 will include a [draft recommendation on promoting a favourable environment for quality journalism in the digital age](#), a [declaration on the funding of quality journalism](#) and a [study on media and information literacy in the digital environment](#). The deliverables for MSI-AUT will include [a study of the implications of advanced digital technologies \(including AI systems\) for the concept of responsibility within a human rights framework](#), a [recommendation on the human rights impacts of algorithmic systems](#), and a [declaration on the manipulative capabilities of algorithmic processes](#).

## **2. Plenary Themes for 2019**

In 2019, it is proposed that the plenary sessions have a dual aim: to foster interactive and practically-oriented discussions on current issues of relevance for members but also to encourage regulators to think transversally and to look ahead in adapting to a rapidly-changing environment.

The call for topics has revealed the keen interest of members to discuss topics covered by the revised AVMSD, even though the implementation of the revised Directive will be discussed by ERGA in three taskforces within Subgroup 3 in 2019. In the first year after the adoption of the AVMSD, the energy of many regulators in Europe will be harnessed for the preparation of the transposition process and the implementation of the Directive at national level. But the revised AVMSD is not only of relevance for regulators from EU countries and members of the European Economic Area. AVMSD also impacts regulators in non-EU Member States: many European, non-EU countries are required ultimately to align their legal frameworks with the revised AVMS Directive, for instance in the framework of the Stabilisation and Association Agreements. Other non-EU countries that are not candidate or potential candidate countries may also apply key features of the AVMSD in the framework of a bilateral Treaty with the EU. With this in mind, and following its long-standing approach, EPRA proposes not to focus on the legal instrument as such (the AVMSD) but on substantial issues, addressing specific angles that are selected on the basis of the added-value for

members and the complementarity with the work of other cooperation networks. Against that background, EPRA suggests examining how protecting minors, a key regulatory objective for audiovisual regulators, can be enforced in an online environment by looking at recent and on-going research evidence of harm and discussing access control tools for on-demand services and video sharing platforms.

In parallel, many members have expressed the clear wish for future-oriented debates to be continued within EPRA on technological issues and market changes that may have disruptive effects on the European media landscape. This would reflect a continuation of the discussions that took place in 2017 on “promises and challenges of digital disruption” with sessions on “the impact of algorithms and filters on diversity” (Edinburgh) and “advertising literacy of minors in the digital age” (Vienna).

In 2019, we propose to raise the awareness of members on two very different sets of topics: Sports’ Rights and Artificial Intelligence and Machine Learning.

We also propose adopting a different structure for the two plenary sessions to better reflect their specific objectives. It is proposed that Plenary 1 be a bi-annual session, examining two different aspects of the same theme in spring and autumn, while Plenary 2 would consist of two unrelated ad hoc sessions in spring and in autumn respectively.

### **PLENARY SESSION 1: Protecting Minors in the online world: focus on evidence of harm and access control tools (Bi-annual session)**

- **Spring: “Protecting Minors in the online world: focus on evidence of harm”**

One of the core principles of broadcasting regulation is to protect vulnerable audiences, especially children, from harm while safeguarding freedom of expression. The protection of minors is generally the public’s greatest concern across all types of content in Europe. Art. 6a of the revised Audiovisual Media Services Directive introduces a new approach to protections correlating with the level of harm. In this context, addressing the topic of evidence of online harm to minors would be particularly timely to inform the discussions around the implementation of the AVMS Directive’s new approach. EPRA meetings have repeatedly highlighted the crucial importance of evidence-based regulation in a changing media world. And indeed, harmful content on online platforms may take many forms: it can range from TV-like programmes, to short-form video, to images and written text or a mix of these content types. It may originate from organisations or individuals and be intended for a large audience, a niche group, or a closed group<sup>2</sup>. Considering this, the session could explore what the online harms to children are; how the levels of harms can be measured; what evidence looks like in this field, who is best placed to collect it and how assessments and determinations about harm are

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<sup>2</sup> For more details, see Ofcom’s Discussion paper Addressing harmful online content: [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/120991/Addressing-harmful-online-content.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/120991/Addressing-harmful-online-content.pdf)

made. The session could involve members currently conducting work in this area and academics and researchers also with a view to shedding more light on minors' online use and attitudes.

- **Autumn: "Protecting Minors in the online world: Focus on access control tools"**

The next logical step after examining and understanding online harms to children is to focus on mechanisms to protect minors from accessing harmful content. Further to the newly adopted Directive, AVMS providers and VSPs are required to implement concrete measures to protect minors from accessing harmful content such as age verification tools. Important new provisions, such as Art. 6a par. 2 and Art. 28b par. 3., specifically refer to the protection of children's data and their use for commercial purposes. As the interplay between the AVMSD and the GDPR is a new area for members, there could be much to learn through exchanges with Data Protection Authorities. The autumn session thus proposes to focus on age verification and other parental control systems, through the combined angles of media regulation and data protection. The session could involve representatives of NRAs and representatives of Data Protection Authorities as well as companies offering age verification services. The goal could be to have a discussion on the suitability and practicability of existing technical measures, combined with the search for creative inputs on possible future models.

## **PLENARY SESSION 2: Ad hoc plenary sessions "Sports' Rights" and "Artificial Intelligence and Machine Learning"**

- **Spring: "Sports' Rights"**

Sport has always been an important pillar of the audiovisual industry. The transmission of live major sporting events is one of the main "crowd pullers" for linear broadcasting. Sport events also play an important role for the identity and integration of society. Sport is therefore often a part of the public service broadcasters' remit. The large increases in the price for the transmission rights that were recorded in the past years puts PSBs, and more generally free-to-air broadcasters, under a lot of pressure. These are increasingly losing transmission rights to well-funded Pay-TV actors and new OTT players. In particular, public service broadcasters find themselves in a dilemma, because on the one hand, the expensive broadcasting of premium, live sporting events generates conflicts with media policy and the fee payers. On the other hand, if PSBs do not broadcast such events anymore, the payment of television licence fees becomes less acceptable. In addition, right holders are searching for ways to impact on the editorial work of the broadcasters or to reach viewers directly (disintermediation). Sport associations, teams and even athletes are developing business models for the own exploitation of their rights. There are increasingly less options for sport fans to watch their favourite sport events without having to contract one or more subscriptions.

Taking the specific area of sports' rights as a focus, the session would examine developments in respect of content rights, with reference to the evolving nature of the value chain within the audiovisual ecosystem. Topics would include the examination of challenges and opportunities for linear content providers arising from recent developments and the role of regulators, if any, in this

ever-changing environment. How can the proper balancing of different interests, including the right to information for the viewers and the right of property for the broadcasters, be achieved? Is there need for a review of the list of events of major importance for society? Should the right to short news reporting be extended? What are the implications of property rights regarding sporting events? What are the drivers of the costs?

- **Autumn: “Artificial Intelligence & Machine Learning”**

Growth in computing power, availability of data and progress in algorithms have turned Artificial Intelligence (AI) into one of the most strategic technologies of the 21st century. The opportunities and challenges raised by AI and its sub-segment of “machine learning”, a class of algorithms that automates analytical model building and gives computers the ability to learn without being explicitly programmed are currently the subject of much debate in Europe. The Council of Europe has launched an expert group on the impact of AI on human rights and fundamental freedoms and the implications for the concept of responsibility and will organise a high-level conference in February 2019 in Helsinki under the Finnish Chairmanship. On 25 April 2018, the Commission released a [Communication on Artificial Intelligence for Europe](#) which calls for an appropriate ethical and legal framework, based on the EU's values and in line with the EU's Charter of Fundamental Rights. Possible fields of usage of AI in the media sector include recommendation mechanisms, automatic content production, robotic journalism or programmatic advertising, which will inevitably put new challenges before regulators.

Against this background, an exploratory session with selected speakers from the industry and academia could highlight the opportunities and challenges that AI raises for the media sector in practice, identify potentially adverse effects on key concepts of media regulation, such as editorial responsibility or media pluralism and diversity and open a debate on permissible or necessary regulatory intervention.

### **3. Working Groups for 2019**

At EPRA meetings, Working Groups allow for more practical and focused exchanges than in the plenary sessions; they facilitate interaction between members and reinforce the practical cooperation between regulators on key issues of relevance. For 2019, we propose a variety of formats: one **permanent group** for the year (email group and sessions in May and October), one **biannual group** (sessions in May and October) and two ad hoc groups (topic addressed once).

#### **3.1. WG1: Media Literacy (Permanent WG: Email group and 2 sessions during EPRA meetings)**

Media literacy is a topic that is, and will be, on the top of the agenda for many regulators for the foreseeable future. Having a permanent Working Group on media literacy in EPRA's Work Programme in 2019 would allow for a continuation of the fruitful work conducted by EPRA since 2017 in this field while facilitating the active participation of members. In 2017, EPRA ran a biannual Working Group on media literacy; its final outcome was the production of a comparative paper on "[Media Literacy: Focus on the Role of Regulators](#)", which i.a. highlighted that working in collaboration

with other stakeholders was a priority for many regulators but that national networks of MIL were scarce. In 2018, media literacy was included in the [Work Programme](#) but only as a side activity through the creation of a *MIL Taskforce*, the principal aim of which was to produce guidelines as a kind of "check-list", on how to establish a national media literacy network. The Taskforce proved very successful. In addition to regular exchanges via an email group, participants from up to 28 regulatory authorities, all at different stages of developing their own approach to MIL, met twice – on the margins of both EPRA meetings - to exchange experience and best practice. Besides issuing [guidelines on how to establish a national MIL network](#), the group adopted guidance on [how to encourage the involvement of stakeholders](#) and on [how to evaluate media literacy projects](#).

As the Taskforce had fulfilled its purpose but had continued to grow in terms of size and ambitions, it is now proposed to reintegrate the activities around media literacy into the regular structure of EPRA meetings. Such an arrangement would enable the participation of additional members who were not in the position to travel to taskforce meetings. It may also facilitate – where required – the participation of relevant stakeholders in the discussions of the Working Group. It is suggested, however, that the group retains the informality and working atmosphere of the MIL Taskforce and that the dedicated email group remains active throughout the year and acts as a driver of the work. MIL expert Martina Chapman has indicated her willingness to continue providing guidance. In addition to exchanges via the MIL email group, participants of the Working Group will meet twice, in spring and autumn. We suggest that the MIL email group defines the precise focus and deliverables of the WG.

### **3.2. WG2: European Works & Prominence (Biannual WG)**

One of the ultimate purposes of the strategies developed by broadcasting regulators in Europe is to ensure that the national media landscape provides content and programming that caters for and reflects diversity within society. Methods to achieve this objective include measures to promote European films and audiovisual content, as well as obligations to ensure appropriate prominence of content of general interest. The newly adopted AVMSD includes new provisions regarding the share of European works on VOD services and the imposition of financial levies. The new obligations raise a wide range of technical and legal questions for regulators, as highlighted in [ERGA's Analysis and discussion paper to contribute to the consistent implementation of the revised AVMSD](#).

European works and prominence will be on the agenda of many organisations in 2019. The three taskforces of [ERGA's Subgroup 3](#), on changes to the material rules, changes to the material scope and concrete mechanisms of regulation will include discussions on European works. The Legal Department of the European Audiovisual Observatory is also currently working on a mapping report of national rules for the promotion of European works in the EU conducted for the European Film Agency Directors Association (EFADs), the results of which should be published in 2019. Moreover, the Market Department of the Observatory will publish facts and figures on the availability and prominence of European works on linear and non-linear services in the coming year. EPRA, through its practical focus, wide membership and agile character could support a better understanding of technical and practical issues of implementation and facilitate cooperation between regulators.

- **Spring: Tools and best practices for the promotion and supervision of European works**

The spring session in Sarajevo could examine issues of definitions, instruments and methodologies that are used to promote European works and to measure the quantity of these works, especially on on-demand audiovisual services. Reaching a common understanding of the concepts of “European” and “works” would be of added value. In addition, the [work conducted in 2018 by ERGA on European works](#) has revealed the great diversity in the provisions implementing share obligations for on-demand media services and the absence of prevailing methodology, notably for calculating the share of catalogues. In such a context, a practically-oriented discussion between broadcasting regulators on core concepts and methodologies with a view to identifying best practices could contribute to the gradual development of a shared understanding of European works and ultimately to a consistent approach for the application of the newly introduced rules.

- **Autumn: Tools and best practices to ensure Prominence of European and general interest content**

The autumn session in Athens could focus on tools and best practices to ensure the prominence of European and general interest content on both linear and non-linear platforms. This would include practically-oriented discussions on concepts, instruments and methodologies with a view to identifying best practices. The [work conducted by ERGA in 2018 on prominence](#) has pointed out that the experience of regulators in implementing and measuring the provisions on prominence of European works on on-demand audiovisual media services was scarce and very varied in nature. Considering this, a practically-oriented discussion on concepts, methodologies and best practices could contribute to the gradual development of a shared understanding of the concept of prominence and ultimately to a consistent approach for the application of the newly introduced rules. In addition, the group would discuss concrete measures that some jurisdictions envisage introducing, to ensure the appropriate prominence (or “discoverability”) of content of general interest, such as public service media content.

### **3.3. WG3: Ad hoc working groups:** (two groups convening just once)

The third working group will address ad hoc themes on the occasion of the meetings in spring and autumn. Members will be asked to choose their two favourites from three potential topics:

- **Update on Accessibility of TV and on-demand audiovisual media services**

Six years after EPRA last addressed the topic (in Krakow in 2013), this group would provide an update on issues of accessibility for people with impaired vision or hearing: what progress has been accomplished in recent years? What about the accessibility of on-demand services? Has the role of regulators changed? This update would be timely in view of the reinforced provisions stipulated by Art. 7 of the revised AVMSD which require that services are made continuously and progressively more accessible to “*people with disabilities*” through proportionate measures. But this topic is of relevance well beyond the EU borders as testified by the [United Nations Convention on Persons with Disabilities](#). EPRA could contribute to mapping the state of play regarding the available and future technologies to improve accessibility, the challenges regarding the cost factor for audiovisual media services, the needs of persons with disabilities, and existing self and co-regulatory measures.



- **Government and public-sector advertising**

This ad hoc group would allow for a continuation of debates that took place during EPRA meetings in 2018 around political communication and pluralism, while focusing on a specific topic to enable interactive and practically-oriented discussions between members. Participants could exchange best practices on problematic issues, such as how to differentiate between public service announcements and PR or government advertising vs. political advertising. The group could also cover issues related to the indirect promotion and financing of media by public enterprises through advertising or sponsorship agreements; issues of transparency; impact on editorial independence, linking to political campaigns and elections. Participants could also discuss remedies and the toolkit at the disposal of regulators.

- **The prevention of Hate Speech in the media in countries with multicultural communities**

This ad hoc group would be a follow-up of discussions held among EPRA members, notably during the Working group on “Media in Times of Crisis” in 2016 and the Plenary Session in 2014 held in Budva. Participants could be informed about recent developments, such as the key outcome of the [Council of Europe conference in Zagreb on 6 November 2018](#) or of [OIF/REFRAM’s recent Practical Guide on preventing hate speech](#) and on relevant research findings. They could also exchange on recent cases and best practices, with a focus on the range of positive measures to encourage a culture of tolerance, how these principles are fulfilled and how to assess if they work in practice.

## QUESTIONS FOR MEMBERS

To be returned to the EPRA Secretariat (machtet@epra.org) by 15 January at the latest

### Plenary Themes

1. Will your NRA be **ADDRESSING** one (or more) of our plenary theme(s) in its own Work Programme? If YES please briefly indicate the main activities planned in these areas.
2. Is your authority interested in **ACTIVELY CONTRIBUTING** to one (or more) plenary session(s)? If YES how (content producer, panellist, discussant, other...) and when (spring or autumn)?
3. Any **REMARKS/SUGGESTIONS** on the plenary themes that will be covered this year?

### Working Groups

4. Will your NRA be **ADDRESSING** the topics of one (or more) of our WGs within its own Work Programme? If YES please briefly indicate the main activities planned in these areas.
5. Is your authority interested in **ACTIVELY CONTRIBUTING** to one (or more) working group(s)? If YES how (content producer, panellist, discussant, other...) and when (spring or autumn 2019)?
6. Any **REMARKS/SUGGESTIONS** on the Working Groups that will be covered this year?

### Ad Hoc Working Groups

7. From the 3 suggestions, which are your **FAVOURITES** for spring 2019 and for autumn 2019?  
Please rate from 1 (favourite) to 3 (least favourite)  
"Update on Accessibility of TV and on-demand audiovisual media Services":   
"Government and public-sector advertising"   
"Hate Speech"
8. Is your authority interested in **ACTIVELY CONTRIBUTING** to a group? If so, how (as content producer, panellist, discussant, other...) and when (spring or autumn 2019)?
9. Any **REMARKS/SUGGESTIONS** on the ad hoc Working Groups that are proposed this year?
10. Please add any additional **REMARKS/SUGGESTIONS** for the WP 2019 that you might have.

THANK YOU