

**52<sup>nd</sup> EPRA (Virtual) Meeting**

**Plenary session 1: “Great expectations:  
The changing paradigm of media regulators”  
Background paper<sup>1</sup>**

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**27 October 2020**

## Table of Contents

<b>Introduction</b> .....	2
Setting the context: AVMSD transposition status .....	2
<b>1. Changes to the structure, mandate and resources of NRAs further to evolving legal frameworks</b>	4
1.1 Change of mandate .....	4
1.2. Change of structure .....	5
1.3 Changes in resources .....	5
<b>2. Preparing for change: strategy, internal initiatives, and cooperation</b> .....	6
2.1. Strategy .....	6
2.2. Internal initiatives .....	7
2.3. Cooperation with other stakeholders and authorities .....	7
<b>3. Building NRAs’ expertise: research, training and recruitment</b> .....	8
3.1. Research .....	8
3.2. Training and recruitment .....	9
<b>4. Adapting regulatory mechanisms</b> .....	10
4.1. Introducing new self- or co-regulatory schemes .....	11
4.2. Building on existing self- or co-regulatory schemes .....	12
4.3. A potential alternative under consideration .....	12
<b>Conclusion</b> .....	13

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<sup>1</sup> **Disclaimer:** This background report has been produced for an internal meeting by EPRA, an informal network of 54 regulatory authorities in the field of audiovisual media services. It is not a fully comprehensive overview of the issues, nor it represents the views nor the official position of EPRA or of any member within the EPRA network.

## Introduction

The EPRA (revised) Annual Work Programme 2020 for Plenary session 1 focused on “Reconciling regulatory and market approaches”. The spring webinar addressed current market trends and changes occurring in the media landscape, including the effects of COVID-19. The expert discussion revealed that the health crisis acted as an accelerator of already existing trends such as the emergence of major global players, the delinearisation of media consumption, the rise of on demand audiovisual media services, new business models based on the individual user’s experience, the ‘platformisation’ of the market and the dominance of US media groups<sup>2</sup>.

By contrast, the autumn session of Plenary 1 focuses on the practical ways in which media regulators are adapting to the changed media ecosystem. The change of paradigm for media regulators is partially due to the evolving legal framework applying to audiovisual media and the clear trend towards an extension of the scope of audiovisual regulation as was recently remarked by legal scholars<sup>3</sup>. The revised AVMSD is an illustration of this trend, as it now includes a significant extension of the material scope of media regulation in order to cover video-sharing platforms (VSPs). As a consequence, it is likely that the range of duties of most media regulators in the EU will expand to designing co-regulatory regimes in which the NRA assesses the appropriateness of measures taken by VSPs.

This session aims to facilitate a discussion among EPRA members on how far media regulators need to reinvent themselves in a meaningful manner to face the challenges of regulation in the online era. To inform the preparation of this background document, a questionnaire<sup>4</sup> was circulated among EPRA members.

There were a total of 22 responses to the questionnaire. Respondents included the regulatory authorities from: Albania AMA (AL), Austria KommAustria (AT), Belgium – French speaking Community CSA (BE), Bosnia and Herzegovina CRA (BA), Cyprus CRTA (CY), France CSA (FR), Germany DLM (DE), Greece NCRT (GR), Ireland BAI (IE), Latvia NEPLP (LV), Lithuania RTCL (LT), Netherlands CvdM (NL), North Macedonia AAAMS (MK), Norway NMA (NO), Poland KRRiT (PL), Slovenia AKOS (SI), Spain/Catalonia CAC (ES), Sweden Swedish Media Council and Swedish Press and Broadcasting Authority MPRT (SE), Switzerland OFCOM (CH), Turkey RTÜK (TR) and United Kingdom Ofcom (GB).

## Setting the context: AVMSD transposition status

The questionnaire enquired about the transposition status of the Audiovisual Media Services Directive. This was an important element of context to consider as the official deadline expired on 19 September 2020. The responses to the survey show that out of 19 countries covered, only one had transposed

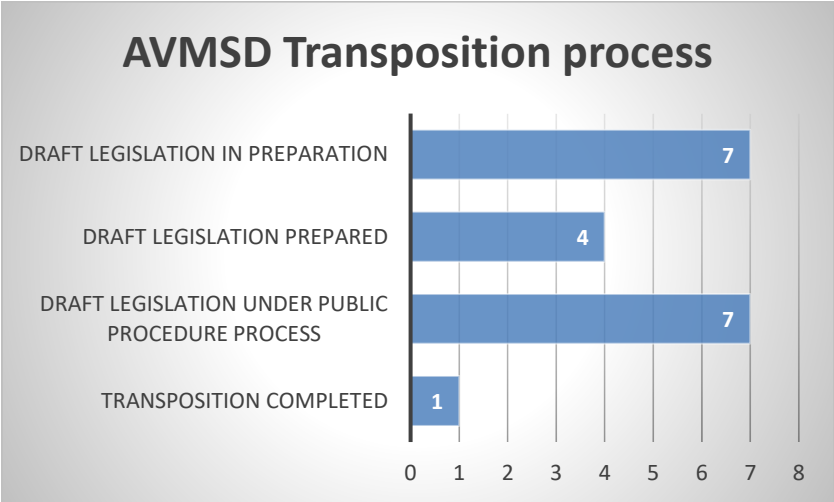
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<sup>2</sup> For more details, see the EPRA Introductory document: “[Understanding key market trends in times of COVID-19](#)” as well as the [Summary](#) of the webinar.

<sup>3</sup> Working paper: Stephan Dreyer / Rike Heyer / Theresa Josephine Seipp / Wolfgang Schulz (2020): [The European Communication \(Dis\)Order. Mapping the media-relevant European legislative acts and identification of dependencies, interface areas and conflicts by Leibniz-Institut für Medienforschung](#) (EN-DE)

<sup>4</sup> The full results of the questionnaire can be accessed at this link: <https://www.epra.org/surveys/plenary-session-1-great-expectations-the-changing-paradigm-of-media-regulators/results> (members' only)

the AVMSD while seven countries had drafts currently undergoing legislative procedure as illustrated below.

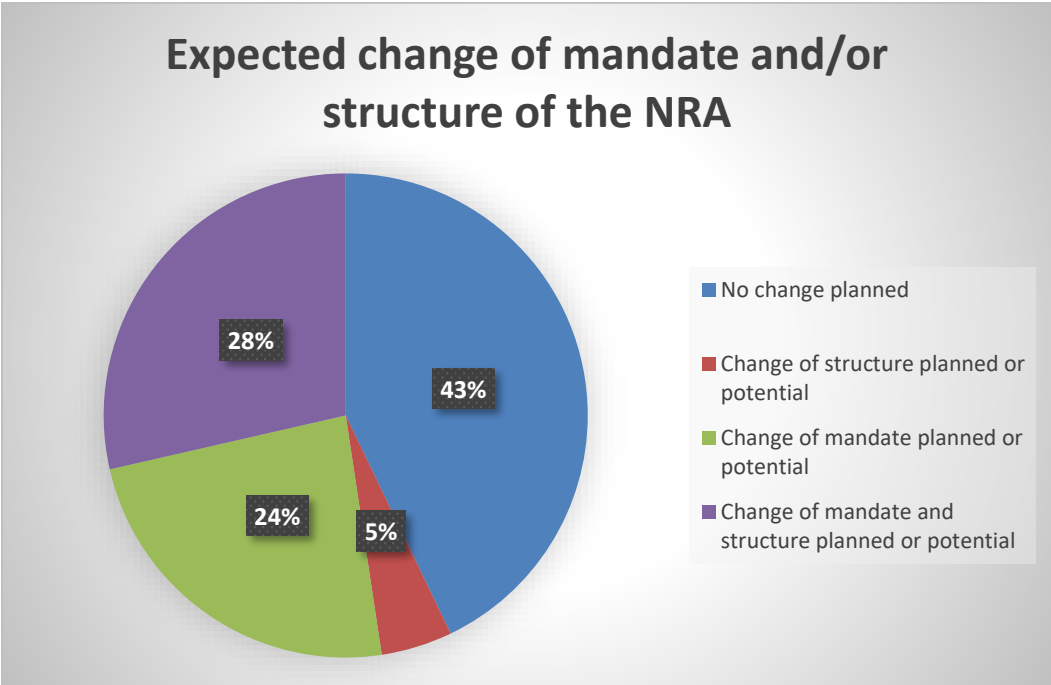


*Graph 1: AVMSD transposition state of play according to survey responses (early Oct.2020)*  
 Draft legislation in preparation (CRA – BA, RTCL – LT, NMA – NO, CSA – FR, RTÜK – TR, AMA – AL, NEPLP – LV)  
 Draft legislation prepared (BAI – IE, RTCL – LT, MPRT – SE, NCRT – GR)  
 Draft legislation under public procedure (KRRIT – PL, CAC – ES, AKOS – SI, CRTA – CY, CvdM – NL, DLM – DE, CSA – BE)  
 Transposition completed: (Ofcom – GB)

While incomplete, and also including information from a few non-EU members, the trends observed in the EPRA survey appear to generally reflect the current state of play of the transposition as informed by other sources such as the European Audiovisual Observatory. The analysis of the EAO’s [Table](#) of the transposition state of the play, which is feeding into the Observatory’s work on the [AVMSDatabase](#), indeed reveals that the transposition process has considerably been delayed, notably further to Covid-19, and that only a few EU members have ticked all the boxes of the official transposition process in time for the prescribed deadline. In most cases, transposition can be expected at the earliest by the end of 2020. Concretely, this means that there is still a high level of uncertainty on how exactly the legislative changes will impact the regulatory authorities. In addition, it is likely that - as was the case during the last revision of the Directive in 2009 - the transposition process in many member States largely consists in a “copy-paste exercise” of the provisions of the Directive, which leaves many practical details of the implementation to be decided by secondary legislation issued at a much later stage.

As the environment is in considerable flux, the information provided in the next paragraphs should be treated with caution: it describes the state of play at the time of the survey but may have evolved since and may not reflect the provisions that will eventually be adopted.

# 1. Changes to the structure, mandate and resources of NRAs further to evolving legal frameworks



Graph 2: Changes to NRA structure and mandate

The majority of respondents to the survey (57%) report the possibility for either a change of structure or of mandate or both, mostly - but not only - stemming from the transposition of the AVMSD.

## 1.1 Change of mandate

First of all, it is important to recall that the legislative process is still ongoing in the majority of the member States. However, it appears that the mandate of many regulators is likely to be expanded to cover a range of new tasks in the following fields.

- Worth highlighting are the new duties relating to video-sharing platforms, notably **setting up co-regulatory schemes for VSPs** and monitoring VSP compliance with newly introduced obligations (for instance in ES-CAC, DE, GB, LV, NL, SE, SI, TR).
- **Online harms** (GB, IE)

The UK government has described the regulation of UK-based VSPs as an interim regime ahead of a broader Online Harms framework it intends to legislate for in the future. The Government has said it is minded to appoint Ofcom as the regulator for the future Online Harms regime, which would build on the regime for VSPs. Should Ofcom be confirmed as the Online Harms regulator this will represent a significant new mandate for Ofcom, as the proposals cover a much broader range of services and harms.

In Ireland, further to the General Scheme of the Online Safety and Media Regulation Bill (OSMR) 2019 (“the Bill”) a newly established “Media Commission” will be responsible for the

implementation of the revised AVMSD with additional regulatory powers in respect of harmful online content.

- **Media Literacy** is also mentioned by several regulators (AT, BE-CSA, SE)

The CSA of the French-speaking Community of Belgium will be entrusted with the mandate to participate in carrying out studies and analyses, including recommendations, on media education and the fight against disinformation, in consultation with the Higher Council for Media Education. In Sweden, the Media Council might be mandated to assist the mapping initiatives to promote media and information literacy. In Austria, RTR-GmbH, the operational support body of KommAustria, will be assigned with activities in the field of media literacy.

- Other competences mentioned in the survey include handling the matter of the financial contribution to the production of European works (SI), being a point of contact for persons with disabilities (SI) and copyright online (FR).

## 1.2. Change of structure

At this early stage of the transposition process, only a few respondents have reported plans for restructuring the regulatory authority. However, two major changes of structure are expected:

- In *Ireland*, the EU member State with the jurisdiction over some major VSPs available in Europe, the General Scheme of the Online Safety and Media Regulation Bill (OSMR) 2019 (“the Bill”) proposes to dissolve the Broadcasting Authority of Ireland and give the present functions of the BAI to a new multi person Media Commission.
- In *France*, even if the COVID-19 crisis has impacted the legislative agenda and the way the measures will eventually be adopted<sup>5</sup>, the intention was to merge the CSA with the HADOPI, the body in charge of the protection of copyright and related rights online, through the creation of a new authority called ARCOM vested with more powers in the digital field. ARCOM would reunite the staff of the CSA (nearly 300 people) and that of the HADOPI (around 50 people).

Other responses have mentioned some, less drastic changes in the structure of their regulatory authorities. In Greece, the NCRTV is expecting to undergo changes to its organisational structure, in order to adapt to new powers stemming from the revised AVMSD. In Austria, while KommAustria will remain in charge of the execution of the relevant legislation, some tasks (arbitration body or media literacy activities) will be assigned to RTR-GmbH, its operational support body.

## 1.3 Changes in resources

As a rule, the introduction of changes in the mandate or the structure of regulatory authorities requires additional resources, be it human or financial. In this regard, several EPRA members have reported increased funding to cover additional staff as well as the introduction of new funding mechanisms.

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<sup>5</sup> The revised AVMSD is to be transposed by ordinance before the end of 2020 while the discussions on the provisions relating to the regulatory structure have been postponed (source: French CSA response to survey)

- Additional human resources (e.g. in AT, FR, GR, SI, SE)

In Slovenia, it is planned that AKOS will recruit two additional staff, while the Swedish MPRT received funding for three additional full-time staff members. The draft Austrian law assigns six full-time equivalent staff members for the fulfilment of new duties. The Greek NCRT is currently looking to fill 18 vacancies.

- Additional funding (e.g. in AT, GB, IE)

In Austria, the draft legislation provides for additional funding (€215.000) to cover the new duties of RTR-GmbH. In the UK, the Government has raised the spending cap for Ofcom to enable it to receive additional funding during the set-up phase of its new duties as the regulator for UK-based VSPs, recognising that more resources will be needed. If Ofcom is confirmed as the Online Harms regulator this will require a significant increase in resource and expertise.

- New financing system (e.g. in GR, IE, SI)

Several draft legislative acts include provisions relating to the funding of regulatory authorities and the costs of regulation. In Greece, it is envisaged to implement a more efficient financing system for the NCRT. In Slovenia, it is proposed to extend the obligations of AVMS providers to make an annual payment to AKOS based on a valid TV-licence or registration of AVMS on demand to VSP providers. In Ireland, the Bill makes reference to “a provision to grant the Media Commission the power to impose on regulated entities levies to provide for the cost of regulation and to provide for the Commission’s working capital”.

## 2. Preparing for change: strategy, internal initiatives, and cooperation

In addition to the changes in structure and duties because of the evolving legal framework, it is also relevant to look at how regulators prepare themselves for change by devising strategies, launching internal initiatives, and developing cooperation with other organisations.

### 2.1. Strategy

Adapting or reviewing the organisational strategy and setting clear priorities for the coming years is at the core of change management. The responses to the survey indicate that several EPRA members are currently in the process of reviewing their strategic plans and considering possible responses to the new realities (e.g. NMA-NO, OFCOM-CH, MPRT-SE, CvdM-NL, BAI-IE). The Dutch CvdM is currently examining the key trends as part of its project ‘Commissariaat 2025’, which aims to identify the most important developments and to prioritize the mid-term policies for the next five years. The Swedish MPRT is also reviewing its annual strategic plan to the new tasks stemming from the revised AVMSD. The outcome of the analyses of the audiovisual market trends conducted by the Authority feeds in the working plans for the organisation. In Ireland, the BAI is also in the process of developing its new three-year Strategy Statement. A key consideration for the BAI in this process, and one which will be reflected in the final document, will be the significant changes envisaged for the media regulatory landscape over the coming years.

Devising a specific Data and Innovation Strategy:

In the UK, Ofcom is developing a 'Data and Innovation Strategy' that will embed data and AI solutions into all aspects of its organisation, from the market research and policy work to its corporate processes. Its long-term aims are to:

- develop 'big data' and analytics skills to support teams and groups more effectively
- develop AI-enabled solutions that can be applied to improve Ofcom's corporate processes and services
- provide the appropriate underlying platform/software to enable the processing and analysis of big data across the organisation.

Based on this strategy, Ofcom has created of a Data and Innovation Hub with dedicated members of staff with expertise in data analytics and AI. Its aim is to develop an up-to-date understanding of advanced analytics and tools, undertake targeted projects involving the analysis or visualization of data, and providing advice and professional development for data specialists throughout Ofcom, including by the establishment of a specialised training programme.

## 2.2. Internal initiatives

Respondents to the survey have reported on a range of initiatives and projects that NRAs have launched to adapt to the changing environment. This includes:

- The creation of an **internal team/task force**

In the UK, Ofcom has established a **new Online Harms policy team** which is in charge of implementing VSP regulation and will lead preparations for new duties and the transition from the VSP regime. In Norway, the NMA has set up an **analysis team** in order to make better use of market data and make it available in new ways. In Switzerland, a **task force** of OFCOM has been established to reflect on the possible need to adapt its approach project to regulation with regard to new market trends. In France, the CSA has set up a **new platforms regulation team** composed of a coordinator, one member of each CSA Directorate, and a full-time officer.

- Working on **emerging issues** to adapt regulatory policies to new market trends

Together with its European Affairs service, the TV Unit of the Belgian CSA has been developing an approach relating to the **regulatory challenges raised by Vloggers**. The CSA's Distributors & Networks Unit published a recommendation proposing legislative changes to tackle illegal content online.

## 2.3. Cooperation with other stakeholders and authorities

A number of NRAs have reported that cooperation with stakeholders as well as other regulatory authorities in adjacent regulatory fields is of key importance to remain fit for the digital age.

- Cooperation with other regulatory authorities in adjacent regulatory fields:

In the UK, the competition authority (CMA), the data protection authority (ICO) and Ofcom have together formed a Digital Regulation Cooperation Forum (DRCF) to support regulatory coordination in online services, and cooperation on areas of mutual importance. While the

three organisations already cooperate regularly on a wide number of areas within their respective remits, both bilaterally and through existing networks, they believe that the unique challenges posed by the regulation of online platforms require an even greater level of regulatory cooperation.

- Cooperation with stakeholders:

In France, the CSA has set up **an expert committee** on disinformation composed of journalists, academics and representatives of the advertising world, IT, AI and medical experts. Its role is to help shape the thinking of the CSA in this area. The CSA has also been in **regular contact with video-sharing platforms** when preparing the first assessment report of the French Law against information disorder<sup>6</sup>. In addition, the French law against online hate content (June 24, 2020) provides for the creation of an “Observatory of hatred online” set up and organised by the CSA<sup>7</sup>. It is composed of representatives of platforms, academics, NGOs, and French institutions. The role of this observatory is threefold: to produce a qualitative and quantitative analysis of hateful contents, to follow up on the phenomenon in order to improve its understanding, and to encourage cooperation and the sharing of information between relevant stakeholders, both public and private. The project team on the regulation of platforms is in charge of this task.

In the French-speaking Community of Belgium, the detailed rules relating to the measures that video-sharing platforms have to implement under the revised AVMSD will be established in the framework of a code of conduct or a regulation of the Advisory Council of the CSA, while the Board of the CSA will assess the appropriateness of the measures that are taken by VSPs and the enforcement of the regulatory rules. The Advisory Council, an existing co-regulation body within the CSA entitled to draft and update regulations or codes of conduct on audiovisual matters such as protection of minors, accessibility or commercial communications, is currently under an overhaul of its organisation and composition and, once adopted, will include the representatives of VSPs (*out of 20 members of the sector, VSPs are entitled to a maximum of 2 representatives, while the 4 members of the Board of the CSA are part of the Advisory Council as well*).

### 3. Building NRAs’ expertise: research, training and recruitment

#### 3.1. Research

The survey enquired about research activities, either conducted by NRAs or externally commissioned, related to key market trends and/or on how NRAs can adopt to contemporary changes and challenges.

Many responses (10) indicate that the NRAs have not yet embarked on these activities (NMA – NO, CRA – BA, AAAMS – MK, KRRiT – PL, BAI – IE, AMA – AL, NCRT – GR, AKOS – SI, CRTA – CY, NEPLP – LV). However, other examples show, to a lesser or more comprehensive extent, examples of relevant

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<sup>6</sup> [https://www.epra.org/news\\_items/french-law-against-information-disorder-the-first-assessment](https://www.epra.org/news_items/french-law-against-information-disorder-the-first-assessment)

<sup>7</sup> <https://www.csa.fr/Informer/Toutes-les-actualites/Actualites/Observatoire-de-la-haine-en-ligne-analyser-pour-mieux-lutter>



research activities.

Most activities that have been reported in the survey revolve around the **analysis of market trends, media consumption and plurality**:

- Status of new digital actors in the market (OFCOM-CH, RTCL-LT, CAC-ES, CSA-FR, CvdM-NL, CSA-BE, MPRT-SE, Ofcom-UK: Strategic market insights, MPRT-SE: Media Development Sweden)
- Media plurality and diversity (CvdM-NL: Reuters Digital News Report, the Mediamonitor; DLM-DE: annual report on media plurality, Ofcom-UK)
- Audience perception of new digital actors in the market (OFCOM-CH, CAC-ES, CSA -FR, CSA-BE, Ofcom-UK)
- Digitalization (DLM-DE), and impact on public sphere (OFCOM-CH)
- Disinformation (DLM-DE, OFCOM-CH, CSA-FR, CAC-ES)
- Use of algorithms (CvdM-NL, CSA-FR)
- Research overview on gaming disorder (SMC-SE)

In addition, some authorities conduct or commission research into legal implications of new media developments (OFCOM -CH) or look at regulatory models (Ofcom-UK).

In the UK, Ofcom has developed a framework that describes the different conceptual approaches to regulation. This descriptive project aims to help the Ofcom teams develop new models to address future policy issues and assess Ofcom's way of working (e.g. skills base, organisational structure). To this end, a small team has been exploring different regulatory models, tools and capabilities that regulators have, as well as the different factors that may influence the adoption of a particular model (for e.g. incentives of firms to comply, regulators access to information, market developments etc).

### 3.2. Training and recruitment

In addition to research, training and recruitment are essential elements to build the expertise of regulatory authorities in order to respond to the changed media ecosystem and evolving regulatory frameworks.

Several respondents report that specific training has not yet been implemented: RTCL-LT, NMA-NO, OFCOM-CH, AAAMS-MK, KRRIT-PL, AMA-AL, MPRT-SE, CRTA-CY.

Many responses also highlight the need for future training: CRA-BA, BAI-IE, RTÜK-TR, NCRT-GR, AKOS-SI, NEPLP-LV),

However, several examples of specific **training activities** have been reported by EPRA members.

- Protection of minors in the new media environment:  
In early 2020, Bosnia and Herzegovina organised a training under the EC-funded TAIEX project, focusing primarily on the protection of minors, but also on the regulatory challenges in connection with on-demand and VSPs and the shift towards self and co-regulation (CRA-BA).
- Changed media ecosystem and evolving regulatory framework:  
The Catalan CAC offers its staff training on social networks services and audiovisual regulation, on the revised AVMSD Directive and on the European Commission guidelines on essential functionality and prominence.

KommAustria organises training targeted at the lawyers of its support body RTR as well as internal lectures with experts from the online ecosystem for the board members of KommAustria. For KommAustria, it is also crucial to understand how influencers think. The exchange with influencers on the occasion of events was an opportunity to gain information and insights on these markets, and the findings informed the internal trainings for lawyers.

In the UK, Ofcom is currently developing new training along three pillars

- (1) ‘Brilliant basics’: Digitisation of all core training programmes from welcoming new colleagues into the organisation to project management skills.
- (2) ‘Critical knowledge pathways’: planning long-term development programmes for current colleagues to re-skill or up-skill into differing roles related to the online sphere.
- (3) ‘Group specific learning’: tailored development for colleagues based on the type of role they perform for the organisation, for example policy specialist, economist, technologist.

As many authorities are in the process of adjusting their strategies (see *infra*), the training and recruiting policy will be developed at a later stage. As an example, in the Netherlands, several training activities will be addressed within the Commissariaat 2025 project, such as those related to approaches to dealing with AI technologies and its usage for the regulator’s supervisory work.

In the UK, Ofcom is currently reviewing its recruitment practices to prioritise diversity of thinking from a range of sectors and backgrounds, which could involve opening offices in new locations across the UK.

It is clear that the forthcoming period will be essential for the further elaboration of matters pertaining to the internal structures of the NRAs and training for its employees, regarding the new (revised) roles and mandates. The research activities directly related to the role of NRAs in the changing media ecosystem do not seem to feature high on the agenda of NRAs at present, but are rather focused on the examination of market trends and users media habits.

#### 4. Adapting regulatory mechanisms

Extending the scope of the regulator’s mission to online media providers might lead NRAs to rethink their traditional way to regulate. In this regard, the revised AVMSD puts strong emphasis on self- and co-regulation and encourages member States to develop such schemes, as they can play a very important role in delivering a high level of consumer protection and more effective measures if they are taken with the active support of the industry itself. The questionnaire attempted to see whether and how intended usage and/or expansion of existing models are currently foreseen.

No self- or co-regulation planned	Self- or co-regulation ( <i>established, planned or considered</i> )
7 NRAs	15 NRAs ( <i>14 countries</i> )

Source: EPRA survey

In some cases, no new self- and/or co-regulatory mechanisms or expansion of existing ones are (currently) envisaged (NMA-NO, AAAMS-MK, AMA-AL, NCRT-GR, RTÜK-TR, CRTA-CY, NEPLP-LV).

However, for most respondents to the survey, self- or co-regulatory schemes are considered as a solution to deal with the expansion of the NRA's scope of regulation.

Areas of self- or co-regulation established or planned	
Protection of minors	4
Video-sharing platforms	8
Commercial communications	2
Media literacy	1

Source: EPRA survey

#### 4.1. Introducing new self- or co-regulatory schemes

Protection of minors for online content providers and the specific obligations related to VSPs are fields likely to be subject to self- or co-regulatory schemes.

In Switzerland, a co-regulatory scheme with obligations concerning the protection of minors for VoD (age categorisation, age verification and systems of parental control) and VSPs (age verification and notification systems) is currently being discussed. It should however be noted that OFCOM will not be the responsible supervisory body, but the Swiss Federal Office for Social Security. In the same vein, Austria will experience the introduction of a new regulatory scheme in the field of protection of minors (classification and labelling of content) while in Lithuania, the (draft) legislation foresees the supervisory role relative to the obligatory regulatory mechanisms for VSPs (RTCL - LT), as encouraged by the AVMSD.

##### → Examples of self- and co-regulatory schemes

In Sweden, whereas the Media Ombudsman, an independent self-disciplinary body, has extended its mandate to handle individual complaints on the editorial content of newspapers, magazines, broadcast media and their websites and social media, the Swedish Press and Broadcasting Authority (MPRT) shall now contribute to co-regulation on issues relating to appropriate measures to be taken by video-sharing platforms providers and develop the related out-of-court redress mechanisms. Furthermore, the other authority, the Swedish Media Council (SMC), might be mandated according to the current draft Law, to assist the content providers in the creation of a content warning system and to participate in the co-regulation of video sharing platforms by mapping initiatives aimed at promoting media and information literacy.

In Spain (Catalonia) and in the Netherlands, VSPs will have to establish and apply a code of conduct providing for regular, transparent and independent monitoring, evaluation measures with regard to the extent to which the objectives are being achieved and effective enforcement, including effective and proportionate sanctions. The Dutch media authority, CvdM, and the Catalan authority, CAC, have been assigned with the legal task to supervise this obligation of the VSPs, and to ensure the compliance of the measures implemented by the VSPs with the objectives established in these codes of conduct.

In France, a new co-regulatory scheme was introduced by the French law against the manipulation of information. The Law (December 22, 2018) provides that platforms shall be/are encouraged to - depending on the topic - take measures in order to fight online disinformation and gives the CSA the power to issue recommendations to online platforms in this field<sup>8</sup>. Additionally, this law requires the CSA to publish a periodic report on the implementation and efficiency of the measures adopted by the platforms<sup>9</sup>.

## 4.2. Building on existing self- or co-regulatory schemes

In several countries, self- or co-regulatory systems will serve as a base or a case-study to develop new regulatory schemes, especially, as a first step, when it comes to monitor the video-sharing platforms' obligations created by the AVMSD. For instance, in the UK, the existing co-regulatory relationship with the UK Advertising Standards Authority (ASA) for TV and on-demand advertising will be taken into account by Ofcom in the development of its regulatory framework related to video-sharing platforms<sup>10</sup> while in the Netherlands the CvdM will take note of its practical experiences and lessons learned with existing co-regulatory systems in the area of protection of minors to organise its supervision duty related to video-sharing platforms.

In Austria and Germany, the scope of the existing self-regulatory body for commercial communications will now include video-sharing platforms (already done in Germany).

## 4.3. A potential alternative under consideration

→ *Emphasis on the need for co-regulation*: In Bosnia and Herzegovina, the draft legislation in its current version recognizes that certain issues, such as the implementation of rules on video-sharing platforms, may be dealt with through co-regulation or fostering self-regulation. The draft introduced such regulatory schemes as a complementary possibility to regulation, in cooperation and/or with the support of the NRA that should be regularly informed about the implementation of any such self- or co-regulatory mechanisms. Similarly, the Polish legislative draft recognises the implementation of VSP rules by supporting self-regulation, to the extent as provided for by the revised AVMSD, and not beyond, and also leaves the possibility of introducing further definition of these systems by means of sub-legislation, as the current system of self-regulation is deemed insufficient (KRRiT - PL).

→ *An option left at the NRA's discretion*:

In Ireland, no new self- or co-regulatory schemes have been introduced yet but the Bill provides for

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<sup>8</sup> For more details, please refer to the Recommendation of the CSA of May 15, 2019 (also available in English), at: <https://www.csa.fr/Reguler/Espace-juridique/Les-textes-reglementaires-du-CSA/Les-deliberations-et-recommandations-du-CSA/Recommandations-etdeliberations-du-CSA-relatives-a-d-autres-sujets/Recommandation-n-2019-03-du-15-mai-2019-du-Conseil-superieur-de-l-audiovisuel-aux-operateurs-de-plateforme-en-lignedans-le-cadre-du-devoir-de-cooperation-en-matiere-de-lutte-contre-la-diffusion-de-faussees-informations>

<sup>9</sup> <https://www.csa.fr/Informer/Toutes-les-actualites/Actualites/Lutte-contre-les-inox-le-CSA-publie-son-premier-bilan>

<sup>10</sup> Ofcom has recently [published a short guide](#) outlining the new statutory requirements on providers intended to assist platforms to determine whether they fall in scope of the new regime and to understand what providers need to do to ensure their services are compliant.

the future Media Commission to enter into cooperation agreements with other bodies as it sees fit, in the interests of the effective discharge of its functions. Currently, only on-demand services and commercial communications are subject to a co-regulatory Code of Conduct overseen respectively by the On-Demand Audiovisual Services Group (ODAS) and the Advertising Standards Authority of Ireland.

In Slovenia, no specific self- or co-regulatory schemes are foreseen in the proposed legislation, but AKOS is given a very broad mandate to implement co-regulation. Therefore, AKOS can determine clear and unambiguous regulatory goals in a general act and allow individual AVMS providers or organizations that represent them to establish relevant means of achieving these objectives under the supervision of the regulator (AKOS – SI).

As a result of the extension of material scope and of the nature of new media players NRAs have started to adopt or to design new methods of work, with a shift in focus from content to processes and measures implemented by stakeholders; a new paradigm shift that tends to enhance co-regulatory schemes.

## Conclusion

**Great Expectations:** To what extent and in what manner is it up to the media regulators to respond to “modern agoras” paradigms, changed media ecosystems, redefinition of the public space, never-before-seen boost to freedom of expression, but also proliferation of dis/mal/misinformation, hateful and discriminatory speech? Are their institutional structures and the ways in which they interact with the other relevant institutions fit to provide appropriate responses? Will they be capable of acquiring the necessary new skills, knowledge and resources to keep up with the pace of change? How far and with what appropriate level of trust (and backstop) could/should they empower private enterprises to take a responsibility in safeguarding fundamental public policy objectives?

**We are only at the beginning of the journey:** The survey carried out to feed this session shows that, for the vast majority of EPRA members, these questions remain open for the time being. It also shows that it is too early to predict how new initiatives of regulatory restructuring, such as the establishment of a new regulatory body in Ireland, will operate in practice. These uncertainties can be explained by the rather low pace of the AVMSD transposition process. The pandemic also forced most of the regulators, like their regulatees, to function in ‘emergency mode’ and face unknown and immediate new organisational and regulatory challenges. Therefore, while the present session could appear timely when the Work Programme was drafted almost a year ago, it seems today that it may provide more questions than answers and will “pave the way” for future EPRA sessions. A broader context than the one directly affecting media regulators may also explain why so many questions remain open. Many initiatives are currently taking place regarding issues in which media regulators are involved and which might influence their mandate, such as the [EU Action Plan for European Democracy](#), which aims to address some of the major challenges facing European democracy, including external interference and election manipulation, media freedom and pluralism, and the fight against disinformation, and the [EU Digital Services Act](#), which aims to define the future European regulatory framework for digital services. Both documents, which were under public consultation until September 2020, will influence the way in which public bodies deal with the public policy challenges raised by the

current era of 'platformisation'.

The measures outlined in this paper are thus to be considered as the first steps of a wide-ranging review and a long-term process.

**Towards new working methods:** Nevertheless, various initiatives are starting to emerge, with announced changes in terms of the structure, mandate and resources of several regulators. In addition, many NRAs are busy developing strategies, internal processes and building their expertise to keep up with the changing media environment. NRAs have started to adopt or to design new methods of work, with a shift in focus from content to processes and measures implemented by stakeholders.

**Cooperation is key:** Due to the legal uncertainties and the nature of online media players, more intense and inclusive cooperation have to be put in place with stakeholders, governing bodies, regulatory authorities from adjacent regulatory fields (telecommunications, data protection, competition, elections), NGOs and academia.

The cooperation and the sharing of experience between media regulators is crucial to be able to anticipate and to adapt to the changed environment while remaining relevant and coherent.

**Reconciling regulatory and market approaches to embrace change:** NRAs need to adapt to the new market realities to retain the trust of market players and of the citizens.