

Great Expectations

The changing paradigm of media regulators

Top tips on embracing change from the EPRA webinar

30 October 2020, 10:30 - 12:00 CET



Chair: *Johanna E. Fell*, EPRA Vice chairperson

Speakers:

- *Celene Craig*, BAI (IE)
- *Frédéric Bokobza*, CSA (FR)
- *Kevin Bakhurst*, Ofcom (UK)

The recording of the event is available [here](#).

- As a result of the extension of material scope, the evolving audiovisual market and the nature of global players, NRAs have started to design or adopt **new methods of work**, with a shift in focus from content to processes and measures implemented by stakeholders.
- As was highlighted in the background paper prepared for the session, we are **only at the beginning of this change journey** and it is too early to predict how new initiatives of regulatory restructuring will operate in practice.
- Nevertheless, this document aims to provide **first top tips on embracing change**. They were collected during the webinar on 'Great Expectations' on 30 October 2020 and are based on the experience of three EPRA members: *the BAI (IE), the CSA (FR) and Ofcom (UK)*.

1. How to begin: first steps in a time of transition

❖ The Irish experience

BAI's approach: building on already existing experience and skills

Action undertaken: pending the creation of a new Media Commission, the BAI is drafting a **new strategy** to guide them during a transitional period. Setting a strategy is an important step, especially in time of change.

Key objectives of a strategy:

- Flowing from the broad legal framework
- Responding to the public expectations
- Defining priorities to be linked with the strategy's objectives
- Identifying the organisational and operational needs
- Determining how to concretely deliver the key objectives
- Setting a timeline

→ What was highlighted during the webinar:

- **The quantity and quality of human resources** is a primary need for the organisation, and it is important to **retain and capture the experience already acquired**.
- The design of the NRA's structure shall allow **flexibility** to better respond to the complexity and potential evolution of the market.

❖ **The French experience**

CSA's approach: reflecting the shift towards the online world

Action undertaken: the establishment of a **transversal Project Team**

Description: dedicated to online content/players and initially established in 2018, further to the Law on the fight against information disorder, the project team gathers diverse profiles and includes young staff members with some background in digital and data from various CSA departments (*programmes, broadcasters, VoD services, research and studies, information technology, international affairs, legal, communication...*).

Outcomes: the project team helps prepare for the new tasks emerging from the AVMSD by creating a strong relationship with online actors based on dedicated contact points and regular exchanges. The team also produces recommendations aimed at platforms and enhanced the knowledge and understanding of the CSA managers about the ecosystem of platforms.

→ What was highlighted during the webinar:

This kind of structure is not necessarily meant to last. Members of the team still need to work within their own department and cannot dedicate all their time to the project but as a first step, a flexible team built on the existing skills and workforce appears to be a good way to quick start activities and lay the foundation for future cross-sectoral approaches.

❖ **The UK experience**

Ofcom's approach: expanding expertise

Action undertaken: the reorganisation of the authority supported by a **large-scale recruitment**

Ofcom is now officially responsible for video-sharing platforms regulation in the UK and expects to become the online harm regulator from 2023. In response, Ofcom is planning:

- The reorganisation of the authority with recruitment of more than 300 new staff
- The establishment of a core group of twelve persons dedicated to policy development
- Recruitment focused on policy development and Information Technology
- An evidence-based approach (*e.g. the launch of a call for evidence and consultations to seek information related to the new requirements of video-sharing platforms*).

Costs: The regulation costs will be supported by the new players: VSP providers are expected to pay a regulatory fee each financial year from April 2022. In the meantime, Ofcom has reached an agreement with the Treasury on an amount of money to fund the additional activities in the transition period.

→ What was highlighted during the webinar: what about the issue of being ‘too big to govern’?

- It is important to put in place enough senior directors with clear strategic views to secure an efficient functioning.
- A large structure can help ease negotiations with large tech companies.

2.What to do next: acquiring new skills

Safeguarding independence and remaining agile

❖ Human Resources

Objective: to get a flexible and agile workforce

Key actions:

- Focusing new recruitments on people with online experience, IT and data analysts
- Establishing a workforce planning exercise at a significant scale
- Boosting flexible profiles to compensate the lack of resources
- Encouraging a horizontal learning approach (*per peers*)

❖ Partnerships for research and studies

Objective: collaboration with experts is a very valuable resource to understand and to anticipate changes which is essential for NRAs to allow them to provide relevant opinions to the government and take policy positions.

Key actions:

- Adapting areas of research (*e.g. studies on algorithm impact, mechanisms and tools used by platforms to fight information disorder or online hate...*)
- Cooperation with other authorities (*data protection, competition, telecoms...*)
- Sharing reports and analysis with other audiovisual regulatory authorities

- Collaboration with external consultants or academics



Partnerships or collaboration must not jeopardise the independence of the authority.

→ What was highlighted during the webinar:

- **Horizontal learning** (*per peers*) and the creation of a taskforce help get current employees on board and encourage their participation in the changes.
- **Recruitment is not automatically a solution** or even a possibility and NRAs should build on what already exists. The point is not just to bring new skills directly inside the organisation and a lot can be learned through partnership and collaboration with academics or consultants.
- An **incremental approach to recruitment** allows time for planning the training of new employees and for developing links with the existing workforce.
- The right balance must be found in order to build an efficient collaboration without weakening **the independence of the authority.**

3. How to get there: building relationships across all sectors

Good communication and liaising are key

❖ **Relationship with stakeholders**

Objective: at a time when co-regulation is becoming key to address high expectations regarding the regulation of online content, enhancing and structuring the relationship with online players becomes essential to provide effective regulation.

Key actions:

- Increasing consultations and meetings with online platforms, bilateral and collective, and encouraging exchange
- Identifying dedicated contact points
- Visiting online platforms
- Improving dialogue both at working AND at board level.

❖ **Relationship with government**

Objective: Liaising with the government and ministries is important at all times and vital in times of regulatory reorganisation, but NRAs should always keep in mind that independence is the bottom line. NRAs should be cautious not to engage in ways of cooperation that could compromise their independence.

❖ Cooperation between regulators

Objective: NRAs should initiate and secure a fruitful and structured cooperation with other sectoral regulators, at national level, and with other audiovisual regulators, at European level, in order to support effective implementation of the regulatory rules, oblige global players to take regulation seriously and prevent them from adopting a “divide and conquer approach”.

Key actions and objectives:

With other sectors:

- Building strong partnerships with other regulators such as the electronic communications, competition and data protection authorities to secure a united approach for overlapping areas

→ Best practice:

- 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.
- FR: The CSA has a good (and formalised) working relationship with Arcep, the Telecom and Post regulator (common studies, joint meeting of boards, formal opinions exchanged,...), as well as with Hadopi (fight against online piracy, fostering of legal offer online), CNIL (data protection) and the Competition Authority.
- IE: The BAI has a good (and structured) working relationship with ComReg (Telecoms regulator) and other relevant regulators such as the Competition and Consumer Protection Commission.

With other NRAs:

- Exchanging ideas and good practices to inspire each other
- Providing solutions to future difficulties regarding cross-border issues
- Being supportive

→ Best practice: The Draft Memorandum of Understanding between NRAs member of ERGA

- sets out a framework for collaboration and information exchange between these NRAs in order to resolve practical issues arising from the implementation of the revised AVMS Directive in a consistent manner
- lays down mechanisms to enable the exchange of information, experience, and best practice on the application of the regulatory framework for audiovisual media services and video-sharing platforms.

- ❖ **Partnerships with external parties:** to understand and to remain a key actor

Objective: Maintaining and developing links and partnerships with external parties can help understand better the environment and the issues at stake while promoting the regulator as a key actor of the audiovisual media landscape.

Key actions:

- Enhancing partnerships and projects with academics
- Developing partnership and projects with non-profit organisations and civil organisations (*media literacy, children protection, journalism, fact-checkers, human rights defence...*)
- Engaging with citizens to explain what NRAs do and also what they don't do¹

→ What was highlighted during the webinar:

Dialogue and communication can be time consuming but remain crucial for **trustful relationships, structured cooperation** and **building knowledge**.

4. General key advice to NRAs

- ❖ **Embrace change:** NRAs are more adaptive than they think and there is a real strength in terms of responsiveness and adaptivity
- ❖ Take all the challenges and break them in small pieces
- ❖ **Use the experience and skills already there**, inside the organisation
- ❖ **Remain faithful to fundamental principles and values** (*freedom of expression, protection of the audience, democracy, freedom of communication...*)
- ❖ **Be open:** communication is key to be known as a significant actor in the online world.
- ❖ Be flexible by accepting a **'learning by doing' approach** and enhancing exchanges of knowledge and practices
- ❖ Keep believing and remembering why this must happen. Getting involved in VSP regimes is an opportunity to learn

5. Speed of change and final considerations

Can NRAs afford to take time to adapt? Is time a friend or a foe?

- ❖ As the weight of the expectations is enormous, it is important to move with the greatest speed possible. But this also depends on the time line of the legislator.

¹ For **Top Tips on how to engage with citizens** as a regulator, see the [EPRA webinar on 'Regulators & citizens'](#) and the [EPRA Top Tips](#)

- ❖ Cooperation takes time but is a huge investment: mutual assistance between regulators is key to gain time to develop new ways of working.
- ❖ Developing partnership and a trustful relationship with the public and the stakeholders also requires time.
- ❖ Anticipating changes is important, for instance by conducting research and engaging with stakeholders.
- ❖ Time is indeed an issue, but it seems crucial to take this time to get stronger, to learn and to gain clearer ideas on what is needed.

- There is no one-size-fits-all answer: it is important to start from what is already existing and to adapt depending on the resources available.
- To remain fit and legitimate, NRAs will have to anticipate and invest time and efforts in communication and cooperation within the organisation and with stakeholder external parties and fellow regulators.

Annex

- ❖ Video recording of the webinar 'Great Expectations' on 30 October 2020:
<https://www.youtube.com/watch?v=TmyzLYglQ10&feature=youtu.be>
- ❖ Background document by Content Producer Asja Rokša-Zubčević & Jean-François Furnémont from Wagner-Hatfield for the Plenary I 'Great expectations: the new paradigm of media regulators':
<https://www.epra.org/attachments/epra-webinar-great-expectations-the-changing-paradigm-of-media-regulators-background-paper>
- ❖ Presentation of the aims, concept and speakers of the EPRA webinar 'Great expectations: the changing paradigm of media regulators' on 30 October 2020:
<https://www.epra.org/attachments/epra-webinar-great-expectations-the-changing-paradigm-of-media-regulators-presentation>
- ❖ Draft strategy and consultation of the Broadcasting Authority of Ireland (BAI):
<https://www.bai.ie/en/consultations/bai-draft-strategy-statement-2021-2023/>
- ❖ Draft Irish legislative scheme:
<https://www.gov.ie/en/publication/d8e4c-online-safety-and-media-regulation-bill/>
- ❖ BAI's Submission to the Department of Communications, Climate Action & Environment Public Consultation on the Regulation of Harmful Content on Online Platforms and the Implementation of the Revised Audiovisual Media Service Directive, 4 March 2019:
 - BAI Submission: www.bai.ie/en/download/134036/
 - News on the EPRA website: https://www.epra.org/news_items/bai-s-proposal-in-response-to-the-irish-government-s-public-consultation-on-avmsd-transposition
- ❖ Project Team of the French Conseil supérieur de l'audiovisuel (CSA):
 - News on the CSA's website: <https://www.csa.fr/Informer/Espace-presse/Communiqués-de-presse/Regulation-des-plateformes-le-CSA-met-en-place-une-equipe-projet-et-s-entoure-d-un-comite-d-experts-sur-la-desinformation-en-ligne>
 - News on the EPRA website: https://www.epra.org/news_items/information-disorder-the-monitoring-work-plan-of-the-french-csa
- ❖ UK Parliament hearing (Democracy and Digital Technologies Committee) of Ofcom; 13 March 2020: <https://parliamentlive.tv/Event/Index/fb18d9eb-ee86-4bb9-aa3f-c660d575fdf5>
- ❖ Ofcom short guidance on video-sharing platforms regulation:
https://www.ofcom.org.uk/_data/assets/pdf_file/0021/205167/regulating-vsp-guide.pdf
- ❖ Ofcom's consultation on draft guidance on Scope and Jurisdiction for video-sharing platforms:
<https://www.ofcom.org.uk/consultations-and-statements/category-2/video-sharing-platforms-notifying-ofcom>