

## Epra ANNUAL WORK PROGRAMME for 2016

4 February 2016

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#### Introduction:

EPRA's annual Work Programme (hereafter WP) aims to enhance transparency for members and external stakeholders of EPRA's priorities and work for 2016. The Board prepared this programme based on members' suggestions further to a call for topics. Partner organisations and stakeholders were also informally asked to provide their views. Further to a consultation phase, the Board approved the final WP on 4 February in Zagreb.

The 2016 WP will continue to be built around the current EPRA meetings structure, maintaining a format that has been functioning well in the last years:

- Two plenary themes: these cover key topics of relevance to all members, i.e. featuring high on the European agenda or addressing core missions of NRAs. To ensure continuity, the themes are discussed in both the May and October meetings. The specific subtopics are fine-tuned ahead of each meeting and the format is normally that of a panel of regulators, often with a keynote speaker from industry or academia.
- Three working groups: these allow for more practical and focused exchanges. Two of them are yearly groups with topics for discussion in both the May and October meetings. The third ad-hoc group enables more flexibility to address emerging issues. The format of the groups may vary from a roundtable discussion, a presentation by an external speaker, individual presentations by members or a combination of these.

The Board has carefully reflected on the suggestions collected through the call for topics and has attempted to accommodate these as much as possible in the following WP.

The Board has also considered the complementarity with the activities of other networks, such as ERGA, and has aimed to avoid overlap while building on specificities and making best use of synergies. With this in mind, the current programme is built on what the Board believes to be EPRA's main strengths, namely a mix of:

- **future-oriented discussions** to raise the awareness of regulators of emerging issues and regulatory challenges;
- **exchange of experience and best practices concerning internal processes** relating to the governance, the functioning and the daily operations of media regulatory authorities.

For the Plenary Sessions, we will look at the **future of free-to-view television** after the recent outcome of the WRC-15 (Plenary 1), and share success stories and failures with regard to **Compliance & Enforcement** (Plenary 2).

For the Yearly Working groups, we will address the "hot topic" of the moment in many jurisdictions (**Media in Times of Crisis**), as well as "EPRA evergreens", i.e. topics of continued relevance for our membership around protection of minors and editorial content (**Case Studies in Editorial Content Regulation**).

The **ad-hoc groups** will focus on two emerging topics, namely **audiovisual platforms** and **data protection**.

#### **A. EUROPEAN MEDIA POLICY CONTEXT**

In terms of European media policy and regulation developments, 2016 is likely to follow in the footsteps of 2015 which turned out to be one of the most eventful years so far. At the end of October

2015, the Commission published the [Contributions and preliminary trends of the Public consultation on Audiovisual Media Services](#) (AVMSD). The full results of the REFIT evaluation and the impact assessment are expected to be communicated in spring 2016 and will be accompanied by a legislative proposal.

This is part of the European Commission [Digital Single Market strategy](#) (DSM), which is the European Commission's top priority for this term after having conducted and closed numerous public consultations, notably on the modernisation of the EU copyright framework (consultations on Cable-Satellite Directive and geo-blocking), an evaluation and review of EU telecoms rules, the needs for Internet speed and quality beyond 2020 and ICT standards, and on platforms, online intermediaries, data, cloud computing and the collaborative economy. The first legislative proposals to be presented as part of the DSM strategy were disclosed in December 2015 in the form of a draft [Regulation on ensuring the cross-border portability of online content services in the internal market](#) to allow Europeans to travel with their online content and an [action plan](#) to modernise EU copyright rules.

This year will also mark the formal adoption of the EU General Data Protection Regulation (the "GDPR").

At the Council of Europe level, the [Steering Committee on Media and Information Society](#) (CDMSI) recently finalised and transmitted to the Committee of Ministers for possible adoption two draft Recommendations on "Safety of Journalists and other media actors" and on "Internet freedom", as well as the draft Internet Governance Strategy 2016-2019. The Committee of Ministers adopted the terms of references for two subordinate Committees of experts, respectively on media pluralism and transparency of media ownership (MSI-MED), and on Internet intermediaries (MSI-NET). A [Recommendation of the Committee of Ministers to member States on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality](#) was adopted on 13 January 2016. On 22 January 2016, the Committee of Ministers also adopted replies to two Parliamentary Assembly Recommendations on "[Increasing transparency of media ownership](#)" (Parliamentary Assembly Rec. 2074 (2015)) and "[Media responsibility and ethics in a changing media environment](#)" (Parliamentary Assembly Rec. 2075 (2015)).

## **B. PLENARY THEMES FOR 2016**

For the plenary sessions, the Board decided to focus on EPRA's main strengths:

- **future-oriented discussions** to raise the awareness of regulators of emerging issues and regulatory challenges and increase the understanding of the changing nature of regulation by giving keys to better grasp the complexity of the convergent media landscape and the interrelationships with other sectors.
- **exchange of experience and best practices concerning internal processes** relating to the governance, the functioning and the daily operations of media regulatory authorities - ultimately to encourage independent, accountable and efficient regulation of the sector.

### **PLENARY SESSION 1: Is there still a future for Free-to-View TV?**

This is a continuation of our future-oriented themes aimed at raising awareness on spectrum issues and their important impact for audiences and service providers. On 27 November 2015, the World Radiocommunication Conference 2015 (WRC-15) ended its deliberations by agreeing that there would be no change to the allocation in the 470-694MHz band in the next three years, i.e. that the lower UHF frequency band should be retained for broadcasting. There will be however a debate in 2023 to review the allocations across the entire band to consider the balance between mobile and broadcasting. On 2 February 2016, the European Commission published a [draft Decision on the Use of the 470-790 MHz frequency band in the Union](#) proposing that the 700MHz band should be assigned to wireless broadband by 30 June 2020 at the latest in all EU countries, thus suggesting to do away with the flexibility option

outlined in the [Lamy report](#). The outcome of these recent developments is likely to launch another round of discussions on the future of DTT and the benefits and sustainability of free-to-air TV more widely.

- **Spring session:** *“Focus on spectrum post WRC-15”*

The session in spring will focus on spectrum issues and will inter alia look at the recent decision at WRC-15 and its wider implications; national initiatives for 700MHz clearance, and different challenges faced; practical experiences of clearance/coexistence in 800MHz; recent developments in the TV sector, such as developments of means of delivery, greater levels of connectivity, transmission technologies and standards such as DVB-T2 and MPEG-4 AVC. It can also cover issues pertaining to the relationships and coordination with authorities in charge of spectrum matters.

- **Autumn session:** *“Free to air content provision in Europe, perspectives and business models”*

The session in autumn will focus on what the wider developments in the TV sector could mean for the future of free to air content provision. It will address questions, such as: can the wide availability of a low-cost multi-channel option for viewers who are unable to or choose not to subscribe to pay platforms still be secured and how? What is the economic and social value of DTT? What are the alternative delivery options that would support investment in the local (European) TV content market?

## **PLENARY SESSION 2: Compliance & Enforcement – *How does it work in practice?***

This theme builds on the EPRA tradition of looking at internal processes and roles of NRAs and collecting best practices, by addressing matters of compliance and enforcement in a changing media environment.

The ultimate aim of this session is to promote independent, accountable and efficient regulation of the sector. Notwithstanding reports and working groups dealing with the issue on a regular basis<sup>1</sup>, the appetite of the EPRA membership for addressing issues relating to the independence of regulators continues to be strong. While several reports have looked at formal prerequisites and legal guarantees, the recent work conducted within EPRA focused on the collection of best practices and what the regulators themselves can do in this regard<sup>2</sup>. It was thus decided to continue along in this direction by dedicating one of the annual plenary themes in 2016 to compliance and enforcement so as to improve the efficiency, transparency and accountability of regulators. One envisaged output of this plenary session will be to produce a comparative paper highlighting the range of compliance and enforcement strategies, policies and working practices as well as the methods used to implement these policies and strategies. EPRA will showcase some success stories and lessons learned from failures.

- **Spring session:** *“Compliance and Enforcement Policies, Strategies and Methods of NRAs put to test (Part I)”*
- **Autumn session:** *“Compliance and Enforcement Policies, Strategies and Methods of NRAs put to test (Part II)”*

The plenary session will spread over the two meetings in spring and in autumn. It aims to start a frank and open dialogue between regulatory authorities on matters of compliance and enforcement by looking at policies, strategies, methods and results achieved with a particular

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<sup>1</sup> See notably the recent ERGA Report: <https://ec.europa.eu/digital-agenda/en/news/erga-report-independence-national-regulatory-authorities> and the RADAR report: <http://ec.europa.eu/digital-agenda/en/news/study-audiovisual-media-services>

<sup>2</sup> <http://www.epra.org/attachments/budva-wg2-independence-of-nras-paper>; <http://www.epra.org/attachments/tbilisi-wg2-independence-of-nras-comparative-background-paper>

focus on case studies of good and bad experience. It will i.a. address the following set of questions:

- *How to set realistic priorities that are well adapted to the specificities of the national ecosystem and the resources of the regulator?*
- *How to set a suitable monitoring policy?*
- *What are the best tools for compliance and enforcement?*
- *How to monitor delivery and how to measure success?*
- *What success stories and epic failures?*
- *How do these policies and practices impact on the relationship between stakeholders and regulators?*
- *To what extent do audiences understand and support such practices?*
- *How to stimulate engagement by operators and audience?*

### C. **WORKING GROUPS FOR 2016**

For our annual working groups, we will adopt a dual, balanced approach:

- by addressing the “hot topic” of the moment in many jurisdictions (**Media in times of crisis**), and
- by discussing “EPRA evergreens”, i.e. topics of continued relevance for our membership namely protection of minors and the blurring lines between editorial and advertising content by looking at concrete case studies (**Key issues in editorial content regulation**).

#### 1. **WG1: Media in times of crisis**

(Yearly WG convening twice)

The past year has witnessed its fair share of crisis: wars and conflicts, terrorist attacks, natural and man-made disasters. In particular, the subject of extremist content (incitement to crime/hatred) and the coverage of the migration crisis have been salient issues for many EPRA members. The annual working group will look at strategies, responses, regulation and co-regulation of issues linked to incitement to crime, terrorism and/or hatred and generally dealing with and reporting on crisis situations. As many NRAs have dealt with an increased number of cases in recent years, the emphasis should be on an exchange of experiences to identify best practice. Ideally, EPRA will aim to produce a comparative paper as an output of the working group in the autumn.

- **Spring session** “Media service providers in times of crisis”  
The session in spring will focus on media service providers in times of crisis. Media coverage, particularly news, can be crucial in times of crisis by providing accurate, timely and comprehensive information. Media professionals may even make a positive contribution to the prevention or resolution of certain crisis situations by adhering to the highest professional standards<sup>3</sup>. How to maintain a favourable environment for the functioning of independent and professional media, notably in crisis situations?
- **Autumn session** “Regulatory authorities in times of crisis”  
The session in autumn will focus on the role of regulators in times of crisis. It will look inter alia at the following questions: How to deal with bias, false and deceptive materials? What is the right balance between regulatory intervention and editorial freedom? How to protect freedom of expression and information in times of crisis?

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<sup>3</sup> Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis: <https://wcd.coe.int/ViewDoc.jsp?id=1188493>

## 2. WG2: Case studies in editorial content regulation

(Yearly WG convening twice)

The second WG will address topics of relevance for the EPRA membership, namely protection of minors and the blurring lines between editorial and advertising content by looking at case studies.

- **Spring Session: “Case study on the Protection of Minors - *Focus on Reality and Talent shows*”**  
The call for topics has revealed a continued interest for protection of minors’ issues. As the subject was discussed at EPRA in 2014 with a yearly group on media literacy and protection tools, the topic will be treated this time by means of a case study on specific programme formats, i.e. Reality and Talent shows. The WG will notably look at issues of the coverage and participation of minors, classification, labelling and watershed, editorial responsibility and self-regulation, potential sanctions. The group may also cover some issues of jurisdiction and cooperation between regulators from different countries.
- **Autumn Session: “Case study on Editorial vs. Advertising Content - *Focus on Native Advertising, Advertorials, Branded Content, Surreptitious Advertising & co*”**  
In the wake of the working group on Product Placement which convened in 2015, the call for topics has revealed a continued concern of regulators for the increasingly blurring lines between editorial content and commercial communication. What are the new trends? How to make sure that advertising is readily recognisable as such and to ensure the prohibition of surreptitious advertising? Where to put the markers?

## 3. WG3: Ad-hoc working group: (two groups convening just once)

The third working group will address ad-hoc themes on the occasion of the meetings in Barcelona and Yerevan.

- **Spring 2016: Data Protection and Big Data – what impact on media regulation?**  
The aim will be to examine data protection and big data as they impact audiovisual media services and content. The session will build upon the outcomes of a [Workshop held by the European Audiovisual Observatory and EPRA in December](#) that looked at ways in which data protection issues are impacting AVMS providers and the regulatory implications for NRAs. The overall aim will be to raise awareness and increase the understanding of NRAs and to build a possible future agenda in this subject area going forward. Linked to this theme could be issues arising from the DSM Strategy in data protection and privacy.
- **Autumn 2016: Audiovisual Platforms**  
This session will focus on gathering practical evidence and understanding business models. The session could examine the role of various intermediaries in online content distribution, understanding the different ways in which the content value chain is evolving, and some voluntary initiatives taken by certain players including technical tools to protect users.

**SPRING MEETING 2016: Barcelona, 25-27 May**

*At the invitation of the Catalan Audiovisual Council (CAC)*

**PLENARY SESSION I:**

**GENERAL THEME: Is there still a future for Free-to-View TV?**

FOCUS: *spectrum post WRC-15*

**PLENARY SESSION II:**

**GENERAL THEME: Compliance & Enforcement – *How does it work in practice?***

FOCUS: *Compliance and enforcement policies, strategies and methods of NRAs put to test (Part I)*

**WORKING GROUP 1:**

**Media in times of crisis – *Focus on media service providers in times of crisis***

**WORKING GROUP 2:**

**Case study on the Protection of Minors- *Focus on Reality and Talent shows***

**(AD HOC) WORKING GROUP 3:**

**Data Protection & Big Data – what impact on media regulation?**

**AUTUMN MEETING 2016: Yerevan, 19-21 October**

*At the invitation of the Armenian National Commission on TV and Radio*

**PLENARY SESSION I:**

**GENERAL THEME: Is there still a future for Free-to-View TV?**

FOCUS: *Free to air content provision in Europe, perspectives and business models*

**PLENARY SESSION II:**

**GENERAL THEME: Compliance & Enforcement – *How does it work in practice?***

FOCUS: *Compliance and enforcement policies, strategies and methods of NRAs put to test (part II)*

**WORKING GROUP 1:**

**Media in times of crisis – *Focus on regulatory authorities in times of crisis***

**WORKING GROUP 2:**

**Case study on Editorial vs. Advertising Content - *Focus on Native Advertising, Advertorials, Branded Content, Surreptitious Advertising & co"***

**(AD HOC) WORKING GROUP 3:**

**Spotlight on Audiovisual Platforms**

***You have comments and suggestions on this work programme?***

***You would wish to contribute to the programme as a speaker or panelist?***

Please contact the EPRA Secretariat: [machet@epra.org](mailto:machet@epra.org)