

EUROPEAN DEMOCRACY ACTION PLAN

ERGA POSITION



In conjunction with the Audiovisual Media Services Directive, currently being transposed in European Member States, the European Democracy Action Plan (Action Plan), together with the Digital Services Act (DSA) Package, are the two major future initiatives of the European Commission that have the potential to overhaul the current regulatory framework for audiovisual media services and video-sharing platform services in Europe, and thus provide the relevant regulatory authorities with tools to protect and promote core European values, such as freedom of expression and freedom to make informed decisions in national or European elections. The challenges faced by the European Union in this area are significant as outlined in a range of reports including the 2020 [Media Pluralism Monitor](#) and the recently published [Rule of Law Report](#). The European Regulators Group for Audiovisual Media Services (ERGA), drawing on the unique experience of media regulators in content regulation, has taken, therefore, the opportunity to contribute to the Commission's public consultation on the Action Plan. In September 2020, ERGA published its submission to the European Commission's consultation on the DSA¹, together with a copy of its position paper on the Digital Services Act. ERGA's conclusions as set out in these documents are also relevant to the matters under consideration in the European Democracy Action Plan.

With the European Democracy Action Plan, the European Commission wants to ensure that citizens can participate in the democratic system through informed decision-making, free from unlawful interference and manipulation and that the outcomes are honest, fair and unbiased for all concerned.

ERGA, in its contribution to the public consultation approached the issues to be addressed focusing on five areas:

- Transparency
- Harmonised definitions
- Co-regulation
- Cooperation
- Access to data

¹ https://erga-online.eu/wp-content/uploads/2020/06/ERGA_SG1_DSA_Position-Paper_adopted.pdf

TRANSPARENCY

Drawing from the work of ERGA members in the area of disinformation, particularly in the Report on Disinformation, ERGA advocates for transparency generally in the activities of platforms particularly in respect of the platform's activities to counter Disinformation (e. g. the implementation of the commitments of the Code of Practice on Disinformation) as well as the criteria applied to microtargeting of advertisements especially in the context of elections. For media regulators, transparency is the cornerstone in approaching new rules for online political advertising and to tackle online disinformation in general. Moreover, the members of ERGA call for meaningful transparency for algorithmic content recommendation systems.

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HARMONISED DEFINITIONS

In the *Report on Disinformation* ERGA stressed the importance of uniform definitions of disinformation and related concepts, such as misinformation, and malinformation. ERGA highlights the need for a harmonised approach to ensure the integrity of information and commercial communications particularly in the context of elections. To contribute to fulfilling this ambition, ERGA members are currently preparing a report mapping the definitions that exist currently in the legal systems of the EU Member States. The aim of the report is to identify relevant elements and characteristics of notions of disinformation and related concepts and will comprise several steps such as to a description of the different potential forms of disinformation and a differentiation between these different concepts.

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⁴ <https://erga-online.eu/wp-content/uploads/2020/05/ERGA-2019-report-published-2020-LQ.pdf>

CO-REGULATION

ERGA in its Disinformation report encouraged the Code's signatories and the European Commission to improve the Code of Practice and its measures. This could be, according to ERGA members accomplished by requiring that all the platforms comply with the same obligations in a uniform manner, adopt more precise definitions, procedures and commitments as well as measurable and auditable key performance indicators (KPIs). ERGA believes that in order to allow the Commission or the National Regulatory Authorities (if delegated) to effectively monitor implementation of these new commitments and to adopt enforcement tools to ensure the compliance to the rules, moving from the current self-regulatory model to more structured co-regulation may prove to be more effective to counter disinformation online.

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COOPERATION

In line with the ERGA Position Paper on the Digital Services Act², ERGA again underlines the continued relevance of the country of origin principle as the basis for EU online content regulation. In this context, ERGA members are determined to enhance the effectiveness of this principle by advocating for a reinforced role for ERGA and for strengthened cooperation among European media regulators in overseeing the implementation of the rules applying to online media content – especially when dealing with cross-border issues. To that end, ERGA members are currently working on concluding a Memorandum of Understanding that will serve as the framework for seamless cooperation by regulators across borders.

“ERGA underlines the continued relevance of the country of origin principle as the basis for EU online content regulation while ensuring an effective law enforcement online – especially in cross border cases. To enhance the effectiveness of this principle ERGA is currently preparing a Memorandum of Understanding that will provide a framework for seamless cooperation by regulators across borders.

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ACCESS TO DATA

The importance of relations between signatories of the Code of Practice on Disinformation and researchers and fact-checkers have already been highlighted by ERGA in its *Report on Disinformation*³. Furthermore, ERGA, in its contribution to the European Democracy Action Plan highlights the need for privacy-compliant access to platform data for accredited researchers in order to facilitate transparency and the impartial and objective review of the relevant content moderation processes in which platforms engage. There is an urgent need to better understand the online advertisement ecosystem in order to understand its manipulative potential and, in turn, to guarantee the integrity of online content which can influence and impact the outcomes of democratic processes.

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Final remarks

The public consultation approached the issues to be addressed under four main headings:

- Election integrity and political advertising
- Strengthening media freedom and media pluralism
- Tackling disinformation
- Supporting civil society and active citizenship

In its contribution, ERGA addressed questions related specifically under the first three headings and references are made to two of ERGA's previous reports, namely: the 2018 report, *Internal Media Plurality in Audiovisual Media Services in the EU: Rules and Practices*⁴ (*Internal Media Plurality Report*) and the May 2020 *ERGA Report on Disinformation: Assessment of the Implementation of the Code of Practice*⁵ (*Report on Disinformation*). A considerable part of the *Internal Media Plurality Report* was dedicated specifically to identifying tools currently available to media regulators and discussing the impact of the rapidly evolving media landscape on elections and democracy in general.

ERGA welcomes the opportunity to bring the experience and views of European audiovisual media regulators into the ongoing discussion on how Europe can safeguard democracy in the online environment. ERGA looks forward to further deliberations in this regard in the context of the implementation of the AVMSD and the development of new policy initiatives such as the Digital Services Act and European Democracy Action Plan. ERGA, at the same time, continues in its core mission of sharing with the European Commission and other stakeholders the experience and expertise of its members

³ <https://erga-online.eu/wp-content/uploads/2020/05/ERGA-2019-report-published-2020-LQ.pdf>

⁴ <https://erga-online.eu/wp-content/uploads/2019/01/ERGA-2018-07-SG1-Report-on-internal-plurality-LQ.pdf>

⁵ <https://erga-online.eu/wp-content/uploads/2020/05/ERGA-2019-report-published-2020-LQ.pdf>