

Media Board Working group 2 – 2025 Terms of Reference (ToR)

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| Name of the Working group | Pluralism and media markets |
| WG Chair, NRA | Frédéric Bokobza, Arcom (France) |
| Background | <p>The Media Board was established by the European Media Freedom Act of 11 April 2024 (EMFA) and builds upon and replaces the European Regulators' Group for Audiovisual Media Services created in 2014.</p> <p>A dedicated Working group is set up, in line with the Work Programme for 2025, in order to provide substantive guidance on key aspects for the implementation of EMFA, especially regarding pluralism and media markets, as well as to prepare the respective Media Board's opinions.</p> <p>The Working group will implement certain pillars of the Media Board's Multiannual Strategy related to the smooth launch of the Media Board and an effective deployment of its activity (strategic priority 1), the provision of expertise and guidance for a convergent European regulatory approach (strategic priority 2) and the effective functioning of the internal media market in a constantly evolving environment (strategic priority 3). In particular, WG2 will contribute to the following pillars:</p> <ul style="list-style-type: none"> ◆ PILLAR 1.1: Conceive and implement appropriate and ambitious internal governance and processes ◆ PILLAR 2.2: Develop and provide new broad media-related expertise ◆ PILLAR 2.3: Foster regulatory convergence for the promotion of the EU dimension to media regulation ◆ PILLAR 3.3: Foster the viability of the media sector |
| Working group scope and purpose | <p>The Working group "Pluralism and media markets" (WG2) will focus on the monitoring of the implementation of key elements in the field of pluralism in the European media markets and its supervision. For this purpose, it is proposed for the WG2 to engage in the following workstreams:</p> <p>1. National measures</p> <p>Pursuant to article 21(4) of EMFA, the Media Board is empowered to issue opinions on national measures affecting media service providers, where such measures are likely to significantly affect the operation of media service providers in the internal market.</p> <p>In order to effectively deal with such opinions, WG2 will act in both a proactive and reactive mode. It is to be noted that the EMFA provision regarding opinions will not apply until 8 August 2025.</p> <p>In a proactive mode and before August 2025, WG2 will analyse the legal scope of article 21 of EMFA and identify and <u>list the various types of national measures</u> (legislative, regulatory or administrative) covered by this provision.</p> <p>Furthermore, WG2 will propose an <u>"internal guidance"</u> on national measures, in order to facilitate a first common understanding of the concept of a regulatory or administrative measure <i>"likely to significantly affect the operation of media service providers in the internal market"</i> pursuant to article 21(4) of EMFA. This "internal guidance" will be a short document allowing internal alignment and providing a first guidance for the development of the Media Board's opinions by the ad hoc expert groups. This "internal guidance" is meant to be a baseline for the first opinions and will be, if needed, amended and updated at a later stage, with the evolution of practice on the matter.</p> <p>In a reactive mode and starting from August 2025, the WG2 will be ready to prepare opinions of the Media Board on national measures affecting media service providers. From August 2025, WG2 will thus <u>coordinate the preparation of such opinions</u>, to be developed by the ad hoc expert groups, based on the agreed approach in an "internal guidance".</p> |

2. Concentrations (lead NL / CvdM)

Pursuant to articles 22(4) and 23(1) of EMFA, the Media Board is empowered to issue opinions on media market concentrations likely to affect the functioning of the internal market for media services.

In order to effectively deal with such opinions, WG2 will act in both a proactive and reactive mode. It is to be noted that the EMFA provision regarding opinions will not apply until 8 August 2025.

In a proactive mode and before August 2025, WG2 will propose an **“internal guidance”** on concentrations, facilitating a first common understanding of the concept of a media market concentration *“likely to affect the functioning of the internal market for media services”* pursuant to articles 22(4) and 23(1) of EMFA. In this framework, WG2 will also look into the specificities and challenges related in particular to opinions under article 23 of EMFA, enabling the Media Board to draw up opinions on the impact of a media market concentration either in the absence of an assessment at national level or consultation of the Media Board, or at Commission’s request, or at its own initiative. This “internal guidance” will be a short document allowing internal alignment and providing a first guidance for the development of the Media Board’s opinions by the ad hoc expert groups. It is meant to be a baseline for the first opinions and will be, if needed, amended and updated at a later stage, with the evolution of practice on the matter.

In a reactive mode and starting from August 2025, WG2 will **coordinate the preparation of opinions on media concentrations**, to be developed by an ad hoc expert group, based on the agreed approach in an “internal guidance”.

3. Monitoring of EMFA’s application and development of operational guidelines

With the intention to provide Media Board members with an overview of the NRAs’ competences resulting from EMFA, the WG2 will update the internal report developed in 2024 by ERGA SG2.

Building on the Rules of procedure developed in 2024 within the framework of ERGA SG2, WG2 will draft additional **operational guidelines**, in order, where appropriate, to clarify and/or provide more details regarding certain aspects of the Media Board’s internal functioning, drawing practical conclusions from the Media Board’s practice in the course of the first few months of functioning. Depending on the different priorities and actual workload of the Media Board and of the WG2, such guidelines will be discussed in the second semester. The WG2 will closely cooperate with WG6 and integrate its input in the area of structured cooperation in the procedural guidelines.

4. Media ownership databases

Pursuant to article 6(2) of EMFA, national regulatory authorities (or competent authorities) shall be entrusted with the development of national media ownership databases containing certain information on media service providers. Although the Media Board does not have a competence *per se* regarding such databases, WG2 will coordinate the **exchange of best practices** between the Member States and national regulatory authorities through a dedicated workshop in order to help identifying eventual challenges as well as finding inspiration for solutions. The workshop will present various case studies, including possibly those presented at the AVMSD Contact Committee meeting of 15 May 2024 and the results of the Euromedia Ownership Monitor financed by the Commission.

Finally, WG2 will prepare the required input of the Media Board upon consultation by the Commission on its **draft key performance indicators for, methodological safeguards to protect the objectivity of and criteria** for the selection of researchers for the monitoring exercise, pursuant to art.26(2) of EMFA.

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WG2 will hold three ‘comprehensive’ meetings throughout 2025, with the purpose of presenting the state of play or the result of the work done on the various topics, and confirm the way forward.

On top of such meetings, WG2 will gather in dedicated working sessions to focus on specific workstreams / themes and including experts from the relevant field and/or legal experts, in order to propose substantiated deliverables in an agile approach.

When relevant, WG2 will identify synergies with other Working Groups, especially the Working Group 6 on internal and external cooperation.

Working group 2 Deliverables

| WORKSTREAM 1 – National measures | | |
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| Deliverable 1 | Deliverable type | Internal document |
| | Deliverable title | List of measures covered under article 21 of EMFA |
| | Due date | June 2025 |
| | Approval procedure | June plenary |
| | Publication | No |
| Deliverable 2 | Deliverable type | Internal document |
| | Deliverable title | “Internal guidance” on national measures pursuant to article 21 of EMFA |
| | Due date | June 2025 |
| | Approval procedure | Written procedure in July (TBC) |
| | Publication | No |
| Opinions under article 21 of EMFA | Reactive mode | Depending on requests and developments |
| | Publication | Yes |
| WORKSTREAM 2 – Media concentrations | | |
| Deliverable 3 | Deliverable type | Internal document |
| | Deliverable title | “Internal guidance” on media market concentrations pursuant to article 22(4) and 23(1) of EMFA |
| | Due date | June 2025 |
| | Approval procedure | Written procedure in July (TBC) |
| | Publication | No |
| Opinions under article 22 and 23 of EMFA | Reactive mode | Depending on requests and developments |
| | Publication | Yes (for art.23) |
| WORKSTREAM 3 – Monitoring of EMFA’s application and development of procedural guidelines | | |
| Deliverable 4 | Deliverable type | Operational guidelines |
| | Deliverable title | Media Board – Procedural guidelines |
| | Due date | End of 2025 (TBC) |
| | Approval procedure | December plenary (TBC) |
| | Publication | Yes |

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| Deliverable 5 | Deliverable type | Internal report |
| | Deliverable title | NRAs' tasks and competences resulting from EMFA (update) |
| | Due date | December plenary |
| | Approval procedure | NA - for information |
| | Publication | No |
| WORKSTREAM 4 – Ownership databases | | |
| Deliverable 6 | Deliverable type | Dedicated workshop sharing best practices |
| | Deliverable title | TBD |
| | Due date | June (TBC) |
| | Publication | NA |
| OTHER | | |
| Deliverable 7 | Deliverable type | TBD |
| | Deliverable title | Contribution regarding the Commission's draft key performance indicators for the selection of researchers for the monitoring exercise , pursuant to art.26(3) of EMFA (upon consultation of the Commission) |
| | Due date | TBC |
| | Publication | NA |

Workflow for Working group 2 (internal and external milestones)

| Date | Action/deliverable | WG only | CN, Plenary, Publication |
|--|---|--------------------|--------------------------------|
| 28 March | 1st proto-WG2 ‘comprehensive’ meeting - Organization of the WG2 2025 work | All members | |
| 11 April | Media Board plenary meeting: adoption of WG2 ToRs | | |
| April - May | Thematic WG2 meetings: - national measures - discussion of list of measures and internal guidance - concentrations – discussion of internal guidance - ownership database – preparation of the workshop | Interested members | |
| 2 or 3 June | Workshop on media ownership databases | All members | |
| 3 or 4 June | 2nd WG2 ‘comprehensive’ meeting - finalization of the draft deliverable on the list of measures to be covered under art. 21 of EMFA - discussion on the ‘internal guidance’ drafts on national measures and concentrations, and eventual discussion on pending/strategic issues - proposal for the items to be covered in the operational guidelines | All members | |
| 4th or 5th June | Contact Network | | |
| 26th or 27th June | Media Board plenary meeting - adoption of the deliverable on the list of measures to be covered under art. 21 of EMFA - presentation of the state of play on the ‘internal guidance’ drafts on concentrations and national measures and eventual discussion on pending/strategic issues - presentation of the items to be covered in the operational guidelines | All members | CN and Plenary |
| Summer / autumn | Thematic WG2 meetings: - discussion on the operational guidelines | Interested members | |
| Autumn | Questionnaire for report on NRAs’ EMFA competences | | All members |
| October | 3rd WG2 meeting ‘comprehensive’ meeting - discussion on the draft operational guidelines - presentation of the outline of report on NRAs’ EMFA-related competences | All members | |
| 19th or 20th November | Contact Network - Presentation of the draft operational guidelines (TBC) - Presentation of the draft report on NRAs’ EMFA-related competences | | |
| 9th – 10th December | Media Board plenary meeting - Adoption of the operational guidelines (TBC) - Presentation of the report on NRAs’ EMFA-related competences | | CN and Plenary |

Participation by Media Board members / observers

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| Drafters | |
| Members | <u>Chair</u> : Frédéric Bokobza, Arcom (France) |
| Observers | |

To be filled in after the adoption, based on the call for expressions of interest for participations in the Working group.

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