**Conference on Audiovisual and Copyright issues – content annotation**

**Prague, 14 and 15 July 2022**

1. Media part

1. Cooperation between regulators
2. Self-regulation and co-regulation

1. Cooperation between regulators

What is it about

Cooperation between regulators in the field of audiovisual media services takes place on several levels and is both formally established and informally ongoing, initiated by regulators themselves. Establishing of the European Regulators Group for Audiovisual Media Services (ERGA) in 2014, initiated by the European Commission, meant a significant shift in the field, as well as ERGA subsequent formalization in the Audiovisual Media Services Directive in 2018, in view of changing market realities. ERGA has acquired formal competence to resolve cross-border disputes over jurisdiction and to take further opinions related to the application of the Directive. Cooperation within ERGA continues to further develop as a superstructure for effective implementation of the AVMSD and for achieving its objectives.

In what context is this topic chosen

What will be the aim of the conference

The panel will focus on exchange of good practice and experience with different forms and procedures of regulatory cooperation, in particular in relation to the Audiovisual Media Services Directive and its implementation in the EU internal market.

During CZ PRES, most of the attention in the field of media will be focused on the new proposal of the European Media Freedom Act. According to the Commission’s legislative activity perspective, the proposal is expected to be issued at the beginning of CZ PRES. Subsequently, CZ PRES will open negotiations and try to achieve the maximum possible progress in finalizing the document. The CZ PRES priority focusing on fostering effective cooperation between regulators will be complemented by a discussion at an expert level. Representatives of the ERGA Group of European Regulators and other experts and stakeholders will be invited to the conference. The expert conference may also highlight areas that need to be addressed during negotiation of the European Media Freedom Act proposal and, where appropriate, identify synergies between the new European Media Freedom Act and the revised Audiovisual Media Services Directive.

*Cross-border cooperation is a key element in particular for large transnational service providers. Thus, during its Presidency to the EU, the Czech Republic takes the opportunity to start a debate on the appropriateness of the regulatory regime set up, both in the context of the Audiovisual Media Services Directive and in the light of the forthcoming European Media Freedom Act, which should follow up on AVMSD also in regards of improving international cooperation between regulators, among other things.*

Who will be invited

Representatives of regulatory authorities, in particular the European Regulators Group for Audiovisual Media ERGA, the European Platform for Regulatory Authorities EPRA, and representatives of the EC will be invited among other panel participants.

2. Self-regulation and co-regulation

What is it about

Self-regulatory and co-regulatory mechanisms are already an integral part of the media environment and its regulations. However, these mechanisms have been developing differently in different Member States, depending on local legal traditions and social norms. Nevertheless, it can be viewed as a potentially very powerful tool to ensure compliance and enforcement of expected forms of behaviour. The Audiovisual Media Services Directive finds these mechanisms very important and effective in achieving its objectives. In order to produce the desired effect, self-regulatory and co-regulatory bodies must be equipped with a strong internal structure and relevant competencies and powers to ensure the objectives agreed on by the actors involved will be achieved.

In what context is this topic chosen

What will be the aim of the conference

The panel will focus on presenting different approaches to the application of self-regulatory and co-regulatory mechanisms in individual Member States. These mechanisms are always based on local legal traditions of each state and at the same time reflect expectations in society. It is therefore impossible to expect to find a single solution that will be unqualified in each and every country. Yet, sharing of experience is always inspiring, exchange of good practice and successful procedures can help others to avoid unnecessary mistakes, and help create a system that is efficient and fast. By definition, the providers themselves are involved in functioning of self-regulation and co-regulation mechanisms, their own experience and incentives are also brought into the system. Moreover, in particular today, large multinational companies determine the level of social responsibility due to their market position. To create a fully functional system that is able to achieve its objectives, cooperation of all stakeholders is required.

Who will be invited

Representatives from academia and media industry will be invited to participate in the panel discussions.

**II. Copyright part**

1. **ADR – alternative dispute resolution**
2. **Collective bargaining in area of copyright**
3. **ADR – alternative dispute resolution**

**What is it about?**

*ADR (Alternative Dispute Resolution) is a procedure for resolving disputes out of court. ADR is an institute based on the search for a mutually acceptable agreement between the dispute parties and aims to reach an amicable settlement and agreement between the parties.*

**Why is the topic chosen?**

*The ADR has a great potential to be used in the area of copyright. Its importance is emphasized by two new copyright directives - Directive (EU) 2019/790 (CDSM Directive) and Directive (EU) 2019/789 (Online SatCab Directive), which both oblige EU Member States to ensure that parties have the possibility to use an alternative dispute resolution mechanism in specific cases.*

*Among those specific cases belong disputes related to the Article 17 of the CDSM Directive, namely disputes concerning the disabling of access to content uploaded by users of online content sharing services. Other disputes when an ADR procedure could be used according to the CDSM Directive are disputes relating to the transparency obligation and the contractual adjustment mechanism.*

*In addition, parties have a possibility to use an ADR mechanism when seeking to conclude an agreement for the purpose of making available audiovisual works on video-on-demand services or when negotiating licences for the use of protected subject-matter by retransmission between CMOs and users, as the Online SatCab Directive foresees.*

**What is the objective of the panel?**

*The main objective of the panel will be to exchange practical experiences with various forms and methods of out-of-court dispute resolution and facilitating the negotiation of copyright licensing agreements. Also, the experience or expectations of the disputes emerging after the CDSM Directive implementations shall be discussed.*

**Who are the panel speakers?**

*A representative of the World Intellectual Property Organization, which in the framework of the Arbitration and Mediation Centre offers arbitration, mediation and expert witness procedures that enable parties to resolve their domestic or cross-border commercial disputes, will be invited as a panellist. In addition, representatives from various EU Member States with long-standing experience in ADR procedures shall be invited as well.*

1. **Collective bargaining in area of copyright**

**What is it about?**

*Collective bargaining is an important tool for improving working conditions. Traditionally, it has been understood as bargaining within the framework of employment relations between workers' trade unions and employers or their organisations (including a possible involvement of the State), with the aim of concluding a collective agreement.*

*Self-employed persons, which include a significant number of authors and performers, are, under EU law (and also under some national laws), traditionally considered as "undertakings”. This is the case even where they are so-called 'false self-employed persons'.*

*If these 'false self-employed persons' negotiate collectively (e.g. via their associations or federations) their remuneration and other working or trading conditions, there is a risk that those agreements shall be considered as anti-competitive. For this reason, there is uncertainty among these self-employed workers as to whether they can bargain collectively. Neither the legislation nor the decision-making practice of the courts and the relevant antitrust authorities across the EU Member States have been fully harmonised in this area.*

**Why is the topic chosen?**

*The CDSM Directive, adopted in 2019, takes into account the institute of collective bargaining in the area of copyright in several cases. It specifically mentions it as one of the mechanisms for implementing the principle of fair and equitable remuneration and for negotiating transparency agreements. The collective agreement may also provide for further details concerning the right to revoke a licence or transfer of the rights.*

*A public consultation on the European Commission's draft Guidelines on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons took place in early 2022. The Guidelines aim to change the traditional understanding of the institute of collective bargaining and to enable certain categories of self-employed workers, including authors and performers, to benefit from collective bargaining and thus to promote collective bargaining in these cases.*

**What is the objective of the panel?**

*The main objective of this panel will be to present the Guidelines on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons and, above all, to exchange experiences with the collective bargaining, both from the perspective of authors and performers and from the perspective of antitrust authorities.*

**Who are the panel speakers?**

*A representative of the Czech Office for Personal Data Protection will be invited to present the new Guidelines. In addition, representatives of authors and performers from selected EU Member States and UK who have experience with collective bargaining in the area of copyright will also be invited.*