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Press release

ERGA Report on disinformation:

Assessment of the implementation of the Code of Practice

The COVID 19 crisis has highlighted once more the harmful impact that disinformation can have on public discourse and on the effective operation of democratic societies. The danger of disinformation is more graspable than ever. A report published today by the European Regulators Group for Audiovisual Media Services (ERGA) conveys the results of an in-depth monitoring of the implementation of the Code of Practice on Disinformation (Code) and identifies a number of weaknesses, which justify a shift from the current flexible self-regulatory approach to a co-regulatory one.

In 2018, the European Commission set up a Multi-stakeholder Forum, which agreed on the terms of the Code. On this basis, platforms such as Google, Facebook and Twitter made commitments to implement policies designed to counter the spread of disinformation. Pursuant to the Action Plan on Disinformation of December 2018, the European Commission carried out a monitor programme to verify the effective implementation of the Code. ERGA, an advisory body to the European Commission, was asked to assist the Commission in such monitoring activities. On 29 April 2020, ERGA adopted a Report “Assessment of the Implementation of the Code of Practice”, which evaluates the implementation of the Code’s five pillars and summarises the results of 2019 monitoring activities carried out by ERGA members in 13 Member States.

The Report shows that the Code is an important step to tackle online disinformation, as it has contributed to build a new relationship between its signatories, the EU and National Audiovisual Regulators. While some platforms have made clear efforts to comply with its measures, ERGA nevertheless **identified significant weaknesses** which need to be addressed if the Code is to achieve its goal in the future. Thus, ERGA **identifies concrete recommendations** as a way forward:

- There is a need for greater transparency, including much more detailed data (especially country-specific data) about how the signatories are implementing the Code; furthermore, some of the measures under the Code are too general in nature and are not uniformly enacted by all signatories.
Therefore, ERGA suggests that platforms make datasets, data monitoring tools and country-specific information allowing independent monitoring by NRAs available. In addition, in its work in 2020 ERGA proposes to assist the Commission in setting out relevant definitions (including on political advertising) as well as guidelines to ensure a more consistent approach.
- The number of signatories of the Code is limited and does not include some important platforms, information and communication services, and actors from the advertising industry that are active in the EU.
Therefore, ERGA suggest that every possible effort should be made to increase the number of platforms signing the Code, in order to avoid regulatory asymmetries.

- The current self-regulatory model proved to be an important and necessary first step, but there is a need to be more effective to counter disinformation online.

Therefore, ERGA proposes to shift from the current flexible self-regulatory approach to a co-regulatory one and proposes to assist the Commission, during 2020, in view of the identification of specific measures and Key Performance Indicators (KPIs) for the platforms and the definition of necessary tools for the NRA's monitoring and enforcement activities.

"The fight against Disinformation is of highest importance for our democracy. We need to preserve the value of public discourse on the internet by preventing the deliberate spread of false information while respecting the freedom of speech. This is why ERGA will continue its expert support to the European Commission. But a danger must be combated where it arises. Therefore, we also need to find ways to strengthen the signatories' efforts to increase the effectiveness of the Code's measures and of their reporting activities" comments Dr Tobias Schmid, chair of ERGA, on the Report.

Context

The Joint Communication adopted on 5 December 2018 by the European Commission and the European External Action Service (also known as "Action Plan against disinformation") assigned to the European Commission, with the help of ERGA, the task to monitor the implementation of the commitments under the five Pillars of the Code of Practice. The Action Plan was accompanied by the European Commission's Report on the implementation of the Communication "Tackling online disinformation: a European Approach"¹, which also refers to the role of ERGA in the monitoring of the implementation of the Code in the various Member States.

To that end, ERGA created a specific Sub-Group, currently led by Lubos Kuklis, the Chief Executive of the Slovak media authority, that supported the Commission in monitoring the implementation of the commitments made by the signatories to the Code of Practice on Disinformation, in particular by Google, Facebook and Twitter.

ERGA's monitoring of the implementation of the Code was carried out in two phases. In its first phase, the monitoring aimed at verifying the implementation of the signatories' commitments to protect the integrity of the electoral processes prior to the 2019 EU elections. The second phase involved at verifying the implementation of the signatories' commitments across all the five pillars of the Code.

The monitoring was based on information provided by the Code's signatories and on data that could be collected from relevant third parties, e.g. civil society, consumer associations, journalists, academics, researchers and fact-checkers. NRAs were also proactively exploring the tools and other available resources from the platforms and their availability in the individual countries.

In total, 13 NRAs decided to engage in monitoring the implementation of pillars D and E in line with the approach presented above. Three NRAs agreed to monitor the compliance with the provisions of Pillar B again, focusing on political advertising, during the electoral campaigns preceding the elections in their Countries while 2 NRAs decided to try to monitor compliance to pillars A and C.

¹ <https://ec.europa.eu/digital-single-market/en/news/communication-tackling-online-disinformation-europeanapproach>