

Meeting between Monique Goyens, Director General of the European Consumer Organisation (BEUC) and Commissioner OETTINGER

at 11.00 am on 1 September 2015 in Brussels

I. Scene setter

For BEUC:

Monique Goyens - Director General (CV attached)

Ms Mrs Ursula Pachl – Deputy Director General (CV attached)

 (CV attached)



Out of Scope

For DG CONNECT: XXX

For the Cabinet: XXX

Estimated duration : 30'

Agenda:

- The revision of the Copyright Directive

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Objective(s):

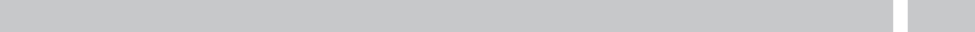
Their Position:

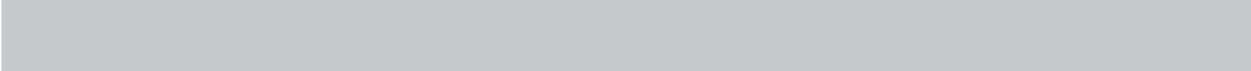
BEUC is strongly in favour of legislative intervention and opposes an approach based on licensing/market solutions.

Out of Scope



Out of Scope

BEUC also advocates for copyright rules that are clear and easy to understand for consumers in their daily activities 





Our Position:

We are working on a pragmatic step-by-step copyright modernisation initiative.

Line to Take:

- Any copyright reform must be balanced and take into account the protection of creators and cultural industries on the one hand, and on the other hand the expectations of users, including as regards cross-border uses.
- The whole copyright modernisation initiative will aim at meeting better the needs and expectations of European consumers in the digital era, while making sure that creators and creative industries continue to enjoy a favourable regulatory environment in Europe.

II. Speaking points

Speaking points:

- A well-functioning, modernised copyright is key to guaranteeing, on the one hand, the protection of creators and cultural industries and, on the other, access to culture, knowledge and education, including across borders.
- Europe needs a modernised copyright to meet the challenges of the Digital Single Market.
- The DSM Strategy has outlined several copyright areas for policy action, in particular:
 - [REDACTED]; Out of Scope
 - improving enforcement of copyright and looking into the role of online intermediaries;
 - [REDACTED] Out of Scope
- We are currently working to prepare concrete legislative proposals to be tabled in the coming months.
- We are considering the expectations of consumers and specificities of different sectors and aim to achieve a right balance between the different interests.
- This will, therefore, be a pragmatic and targeted copyright modernisation rather than complete overhaul of the copyright system.

Defensives:

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What is the Commission's view on the copyright protection of newspaper publishers?

- We are closely observing the discussions and recent legislative interventions on this issue in the Member States, notably in Germany and Spain.
- It is not clear whether intervention at EU level is warranted.

- Aside from copyright, one particular issue in this context is the strong market position of certain platforms.

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Meeting between Facebook and Commissioner OETTINGER

[Silicon Valley]

I. Scene setter

For [organisation/interlocutor etc.]:

Name, CV (including a line on the personality of the principal interlocutor e.g. common points of interest) and title/function of anyone accompanying the interlocutor. Not Available

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protection

Other Senior Executives TBC

[REDACTED]

For DG CONNECT: NA

For the Cabinet:

Estimated duration :

Agenda:

- Long-term policy priorities, including copyright [REDACTED]
[REDACTED]. Upcoming DSM consultations on platforms, [REDACTED]

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Objective(s):

Their Position:

- Facebook CEO Mark Zuckerberg says he's in favor of the European Union's proposed "Digital Single Market" concept: "Sometimes you're trying to conform to 20 different versions of different kinds of laws [...] I think that [a Digital Single Market] would be very good. It would make it easier for companies to offer services, easier for them to comply with the laws because they actually know what the laws are in all these different places."
- Facebook is the owner of WhatsApp, the standalone messaging company Facebook paid \$19 billion for in early 2014. WhatsApp is an over-the-top communication services like WhatsApp and Skype and there is a link to the current telecom framework review.
- Beyond the general support for the DSM U.S. interlocutors on various levels tend to show concern regarding three elements of the DSM Strategy: [REDACTED]
[REDACTED].
- [REDACTED]
- Facebook is not a vocal stakeholder in the copyright discussion. As other social media and platforms Facebook's services may involve the use of copyright protected content, either because people upload this in their Facebook's pages (see for example the discussion on freedom of panorama – people uploading pictures of monuments and buildings online) or link to it. [REDACTED]

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- Facebook is a member of the Computer and Communications Industry Association CCIA. CCIA advocates for a harmonisation of EU copyright law, [REDACTED]

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Our Position:

- Present the three pillars of Digital Single Market Strategy
- [REDACTED]
- A copyright modernisation is essential for an efficient digital single market (DSM). The Commission believes that the DSM will benefit eventually all stakeholders.
- In the forthcoming months the Commission will gather evidence and consult stakeholders to see how best to address illegal content on the Internet. We must find an efficient solution that respects the fine balance between the interests and fundamental rights of the affected stakeholders.

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Line to Take:

II. Speaking points (only if requested)

Agenda item/subject:

Speaking points:

The DSM Strategy - overview

- The Digital Single Market Strategy – released in May - aims to maximise the positive impacts of digital technologies in creating jobs and growth, while protecting competition and consumers.
- The DSM strategy aims to sweep away regulatory barriers and move from 28 national markets to a single one – complementing the physical single market.
- A fully functional DSM could contribute €415 billion per year to our economy and create hundreds of thousands of new jobs – so we must tap into it.

Improving Access

- Improving access to content, goods and services is paramount.
- A well-functioning, modernised copyright is key to guaranteeing the protection of creators and cultural industries and, in parallel, access to culture, knowledge and education, including across borders.

- Europe needs a modernised copyright system to meet the challenges of the Digital Single Market.
- The DSM Strategy adopted on 6 May 2015 proposed the following action on the copyright front:
 - [REDACTED]
 - [REDACTED]
 - improving copyright enforcement and looking into the role of online intermediaries;
 - [REDACTED]
- This calls for a pragmatic and targeted copyright modernisation rather than a complete overhaul of the copyright system.

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Platforms

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Copyright

- Digital technologies are changing the ways creative content (e.g. films, music, books or games) is produced, distributed and accessed. They create opportunities as well as new challenges for all players in the value chain.
- In a market where the online distribution and access to cultural content are wide-spread, copyright rules must be adapted to, and back the potential of, the Digital Single Market. The modernisation of the EU copyright framework is therefore an essential part of the Digital Single Market strategy.
- The Commission's ambition is to achieve the right balance between the different interests.
- [REDACTED]
- On the other hand, copyright must remain a key driver for creativity, innovation and investment in the digital economy, and the whole creative content value chain should ensure adequate reward for those who create and invest in creativity.

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Suggestions for a conclusion

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Defensives:

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Copyright

How do you plan to ensure rightholders get fairly remunerated in the internet economy?

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• [REDACTED]

1. **Introduction**
 2. **Background**
 3. **Methodology**
 4. **Results**
 5. **Discussion**
 6. **Conclusion**
 7. **References**
 8. **Appendix**
 9. **Figure 1**
 10. **Figure 2**
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- We are closely observing the discussions and legislative interventions on this issue in the Member States, notably in Germany and Spain. It is not clear whether intervention at EU level is warranted.
- Aside from copyright, one particular issue in this context is the strong market position of certain platforms in the internal market.

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III. Press speaking points (*for meetings abroad*) if relevant

Key messages that the Commissioner should / could convey to the Press.

Liaise with D3 if necessary

- (Objective of the meeting)
- (Broader context)
- (Significance of the meeting)
- (Proposed quote summing up the hoped-for outcome)

IV. Attachments

Annexes	Status of the annex
- Country fiche (where appropriate)	
- If visiting / receiving visitors from a company, include a description (main activities; turnover and financial overview; ownership structure; organisational structure including management board);	
- Exchange of letters between organisers and Commissioner/ Cabinet re the event (e.g. invitation to participate, Commissioner's confirmation letter...);	
- Original invitation to the event ;	
- press release, press articles, flyers etc. announcing the event;	
- list of (VIP) participants;	
- seating order;	
- if he meets a group with a Brussels' programme, include their programme;	
- if it is an award ceremony, include a short history of the event, names of previous key awardees, possibly advanced copy of the laudation speech;	
- CVs of all relevant participants/ speakers/ ... whom the Commissioner meets;	
- any other relevant information that may allow the Commissioner to better understand the event, its speakers and participants and to see what role he is expected to play (e.g. press release...).	
- Relevant links such as page on the DAE website dealing with the issue(s) in question; social media info for the event - # @	

Background. List of public consultations and next steps

We have started implementing the DSM actions and as a first step we will engage with the widest audience of stakeholders through **public consultations**:

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These consultations will feed into rigorous impact assessments, allowing the Commission to **find the best solution to address** the problems identified in the Digital Single Market Strategy.

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Background copyright

Ongoing review of the EU copyright rules – State of play:

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Positions of MS as to the need and extent of a copyright reform vary but are generally cautious. In the run up to the adoption of the DSM Communication, several Member States (e.g. FR, DE, IT, UK, FI, PL, ES, LU, RO) adopted positions highlighting the need to ensure

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Name and phone number(s) of briefing author(s)

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the protection of copyright and a balance approach to any copyright review. After the adoption of the DSM Communication, these positions were reiterated at the Education, Youth, Culture and Sport Council of 18-19 May.

Reda-Report

On 9 July, the European Parliament adopted the Report on the implementation of Directive 2001/29/EC (Reda-Report).

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- An amendment asking the Commission to examine and to make a proposal on how to ensure media diversity, taking into account the role of press publishers, was rejected.

Overall, the report (i) acknowledges implicitly that the copyright review requires a targeted intervention and (ii) identifies similar key areas as the Commission in the DSM Communication.

Google News and legislative initiatives in the Member States

Google News offers internet users access to news published in the press by providing the headlines and the first lines of press articles along with the links to the original pages. This has resulted into litigation in a number of Member States (notably in Belgium and France). In France Google reached an agreement with press publishers in 2013 (by establishing a €60 m fund to support French press publishers).

Two Member States (Germany and Spain) have adopted laws to address press publishers' concerns. Both aim at the same result (i.e. payment to press publishers for the use of their works by news aggregators), but follow different approaches:

- Under the Spanish law, news aggregators do not need an authorisation from the relevant right holders to make news snippets available to the public. However, the use is subject to the payment of an equitable compensation to the publishers or authors of the original press articles. This compensation cannot be waived and is subject to mandatory collective management. The exception will not be applicable to images or photographs. For the latter, the exclusive right of the relevant right owners remains.

- Germany has introduced a neighbouring right for press publishers, in force since August 2013. The law grants newspaper publishers an exclusive right to allow or prohibit the making available of press products or parts of press products online. The making available is lawful unless carried out by commercial news aggregators such as search engines or social networks. Authors and journalists have a right to participate in a possible remuneration.

[REDACTED]

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German neighbouring right for press publishers

Initially, certain big publishers (Springer, Burda etc.) gave their approval to have their publications included in Google News. In February 2014, 12 publishers, including Springer, Burda and Dumont Schauberg joined the collecting society VG Media. In June 2014, VG Media published their tariff (up to 11% of the turnover generated from the making available of the snippets). After Google's refusal to pay licence fees based on this tariff, VG Media filed a complaint against Google with the Federal Competition Authority. In August 2014, the complaint was dismissed on grounds of inadmissibility (The Federal Competition Authority confirmed on 9 September 2015 that Google did not behave unlawfully). In October 2014,

Google announced that it would display only the titles of publications and their links (which are not covered by the exclusive right). As a consequence, the publishers represented in VG Media agreed again with the display of snippets.

In parallel, several publishers represented by VG Media have started a proceeding against Google at the Regional Court Berlin. In their view, Google abuses its dominant position by announcing that it would display only the titles of publications and their links unless it received a free of charge licence. Furthermore, VG Media has filed a complaint against Google with the arbitration body of the Patent and Trademark Office, the competent supervisory authority for collecting societies. A decision is awaited for September 2015.

In addition, in August 2014, Yahoo News filed a constitutional complaint against the law with the Federal Constitutional Court.

Contact: [REDACTED] (F.5), Copyright

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Meeting with Google Management Team

Scene setter

- **Meeting participants:** Sundar Pichai (CEO of Google Inc.), David Drummond (Senior Vice President Corporate Development and Chief Legal Officer), [REDACTED]
 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
 [REDACTED]
- In August Google announced the creation of a new umbrella company called "Alphabet". Google's internet-search and advertising business, including its YouTube online-video service, Chrome web browser and Android operating system, will be a subsidiary of Alphabet.
- In a meeting with [REDACTED] on 19 January 2015 you announced that the Commission will present a strategy for a European DSM in May 2015. Google's management may now want to discuss the details of EU's DSM Strategy, the Commission's future approach to online platforms, copyright, data privacy [REDACTED]
 [REDACTED]
 [REDACTED].
- While Google is generally supportive of moves to create a DSM, potential for disagreement exists with respect to:
 - Copyright: Google advocates a more flexible copyright framework in the EU, as reflected in its contribution to 2014's public consultation.
 - [REDACTED]
 [REDACTED].
 - Levies on internet services: Google opposes levies recently imposed by Spain and Germany on its Google News service.
 - [REDACTED]
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 [REDACTED].

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Objectives

- Promote the DSM Strategy, clarify any existing misconceptions and assure Google that the Commission will consider carefully all available evidence before deciding on what steps to take with regard to online platforms.
- [REDACTED]
 [REDACTED]
 [REDACTED]
- Assure Google that the aim of the DSM is to create a single market in which all digital companies can thrive – we are not looking to 'punish' Google.

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Line to take

DSM

- The European Commission has adopted a Digital Single Market Strategy on 6 May.
It has three main pillars:

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- [Redacted]

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Comprehensive assessment of platforms

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- [Redacted]
- [Redacted]
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Copyright / Liability of intermediaries:

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Defensive points

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What are the most controversial aspects?

- Any changes to the copyright regime will be controversial, regardless of how we address it.
- We must strike a balance to ensure: 1) Our creative industries and rights-holders are protected and incentivised and rewarded for their work and innovation; 2) Consumers can legally access much more content than ever before.

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What is the view of the European Commission the copyright protection of newspaper publishers?

- We are closely observing the discussions and legislative interventions on this issue in the Member States, notably in Germany and Spain. It is not clear whether intervention at EU level is warranted.
- Aside from copyright, one particular issue in this context is the strong market position of certain platforms in the internal market.

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IV. Background

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Sundar Pichai

David C. Drummond Senior Vice President, Corporate Development and Chief Legal Officer

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GOOGLE

Google on Monday 10 August announced plans for a new operating structure, including a new umbrella company called "Alphabet". Google's internet-search and advertising business, including its YouTube online-video service, Chrome web browser and Android operating system, will be a subsidiary of Alphabet. So will its other, newer ventures, which will henceforth be run more independently from the main business, including the development of driverless cars, delivery drones, glucose-detecting contact lenses for diabetics, devices for the "smart home" and research into extending human lifespans. [REDACTED]

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Google News and legislative initiatives in the Member States

Two Member States (Germany and Spain) have adopted laws to address press publishers' concerns. Both aim at the same result (i.e. payment to press publishers for the use of their works by news aggregators), but follow different approaches:

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- | Government | Percentage |
|---------------------|------------|
| Current government | 85% |
| Previous government | 15% |

Commissioner Oettinger meeting Google Management

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German neighbouring right for press publishers

Initially, certain big publishers (Springer, Burda etc.) gave their approval to have their publications included in Google News. In February 2014, 12 publishers, including Springer, Burda and Dumont Schauberg joined the collecting society VG Media. In June 2014, VG Media published their tariff (up to 11% of the turnover generated from the making available of the snippets). After Google's refusal to pay licence fees based on this tariff, VG Media filed a complaint against Google with the Federal Competition Authority. In August 2014, the complaint was dismissed on grounds of inadmissibility (The Federal Competition Authority confirmed on 9 September 2015 that Google did not behave unlawfully). In October 2014, Google announced that it would display only the titles of publications and their links (which are not covered by the exclusive right). As a consequence, the publishers represented in VG Media agreed again with the display of snippets.

In parallel, several publishers represented by VG Media have started a proceeding against Google at the Regional Court Berlin. In their view, Google abuses its dominant position by announcing that it would display only the titles of publications and their links unless it received a free of charge licence. Furthermore, VG Media has filed a complaint against Google with the arbitration body of the Patent and Trademark Office, the competent supervisory authority for collecting societies. A decision is awaited for September 2015.

In addition, in August 2014, Yahoo News filed a constitutional complaint against the law with the Federal Constitutional Court.

DSM PRESENTATION

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Copyright modernisation reform

Ongoing review of the EU copyright rules – State of play:

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Positions of MS as to the need and extent of a copyright reform vary but are generally cautious. In the run up to the adoption of the DSM Communication, several Member States (e.g. FR, DE, IT, UK, FI, PL, ES, LU, RO) adopted positions highlighting the need to ensure the protection of copyright and a balance approach to any copyright review. After the adoption of the DSM Communication, these positions were reiterated at the Education, Youth, Culture and Sport Council of 18-19 May.

Reda-Report

On 9 July, the European Parliament adopted the Report on the implementation of Directive 2001/29/EC (Reda-Report).

[REDACTED]

Out of
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- An amendment asking the Commission to examine and to make a proposal on how to ensure media diversity, taking into account the role of press publishers, was rejected.

Overall, the report (i) acknowledges implicitly that the copyright review requires a targeted intervention and (ii) identifies similar key areas as the Commission in the DSM Communication.

Tackling unjustified Geo-blocking

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Out of
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[REDACTED] **DG CNECT,** [REDACTED]

Meeting between Bruce Sewell, General Counsel and SVP Government Affairs of Apple, and Commissioner OETTINGER

[Silicon Valley]

I. Scene setter

For [organisation/interlocutor etc.]:

Name, CV (including a line on the personality of the principal interlocutor e.g. common points of interest) and title/function of anyone accompanying the interlocutor.

Data
protection

Bruce Sewell

[Redacted content]

For DG CONNECT:

For the Cabinet:

Estimated duration :

Agenda:

Cyber scene setter:

- [Redacted content]

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Name and phone number(s) of briefing author(s)

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Objective(s):

Their Position:

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Copyright

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Art.
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- Copyright (EDIMA – umbrella association of internet players, including Apple-- submission to the 2014 copyright consultation):

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Our Position:

- Present the three pillars of Digital Single Market Strategy
- [REDACTED] Out of Scope
- A copyright modernisation is essential for an efficient digital single market (DSM). The Commission believes that the DSM will benefit eventually all stakeholders.
- In the forthcoming months the Commission will gather evidence and consult stakeholders to see how best to address illegal content on the Internet. We must find an efficient solution that respects the fine balance between the interests and fundamental rights of the affected stakeholders.
- [REDACTED] Out of Scope

Line to Take:

II. Speaking points (only if requested)

Agenda item/subject:

Speaking points:

The DSM Strategy - overview

- The Digital Single Market Strategy – released in May - aims to maximise the positive impacts of digital technologies in creating jobs and growth, while protecting competition and consumers.
- The DSM strategy aims to sweep away regulatory barriers and move from 28 national markets to a single one – complementing the physical single market.
- A fully functional DSM could contribute €415 billion per year to our economy and create hundreds of thousands of new jobs – so we must tap into it.

Improving Access

- Improving access to content, goods and services is paramount.

Name and phone number(s) of briefing author(s)

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- A well-functioning, modernised copyright is key to guaranteeing the protection of creators and cultural industries and, in parallel, access to culture, knowledge and education, including across borders.
- Europe needs a modernised copyright system to meet the challenges of the Digital Single Market.
- The DSM Strategy adopted on 6 May 2015 proposed the following action on the copyright front:
 - [REDACTED]
 - [REDACTED]
 - improving copyright enforcement and looking into the role of online intermediaries;
 - [REDACTED]
- This calls for a pragmatic and targeted copyright modernisation rather than a complete overhaul of the copyright system.

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Copyright

- Digital technologies are changing the ways creative content (e.g. films, music, books or games) is produced, distributed and accessed. They create opportunities as well as new challenges for all players in the value chain.
- In a market where the online distribution and access to cultural content are wide-spread, copyright rules must be adapted to, and back the potential of, the Digital Single Market. The

modernisation of the EU copyright framework is therefore an essential part of the Digital Single Market strategy.

- The Commission's ambition is to achieve the right balance between the different interests.
- [Redacted]
- On the other hand, copyright must remain a key driver for creativity, innovation and investment in the digital economy, and the whole creative content value chain should ensure adequate reward for those who create and invest in creativity.

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Copyright / Liability of intermediaries

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What is the view of the European Commission the copyright protection of newspaper publishers?

- We are closely observing the discussions and legislative interventions on this issue in the Member States, notably in Germany and Spain. It is not clear whether intervention at EU level is warranted.
- Aside from copyright, one particular issue in this context is the strong market position of certain platforms in the internal market.

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III. Press speaking points (*for meetings abroad*) if relevant

Key messages that the Commissioner should / could convey to the Press.

Liaise with [REDACTED] if necessary

- (Objective of the meeting)
- (Broader context)
- (Significance of the meeting)
- (Proposed quote summing up the hoped-for outcome)

IV. Attachments

Annexes	Status of the annex
- Country fiche (where appropriate)	
- If visiting / receiving visitors from a company, include a description (main activities; turnover and financial overview; ownership structure; organisational structure including management board);	
- Exchange of letters between organisers and Commissioner/ Cabinet re the event (e.g. invitation to participate, Commissioner's confirmation letter...);	
- Original invitation to the event ;	
- press release, press articles, flyers etc. announcing the event;	
- list of (VIP) participants;	
- seating order;	
- if he meets a group with a Brussels' programme, include their programme;	
- if it is an award ceremony, include a short history of the event, names of previous key awardees, possibly advanced copy of the laudation speech;	
- CVs of all relevant participants/ speakers/ ... whom the Commissioner meets;	
- any other relevant information that may allow the Commissioner to better understand the event, its speakers and participants and to see what role he is expected to play (e.g. press release...).	
- Relevant links such as page on the DAE website dealing with the issue(s) in question; social media info for the event - # @	

Background. List of public consultations and next steps

We have started implementing the DSM actions and as a first step we will engage with the widest audience of stakeholders through **public consultations**:

- [Redacted]
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These consultations will feed into rigorous impact assessments, allowing the Commission to **find the best solution to address** the problems identified in the Digital Single Market Strategy.

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Background on Competition Policy – Apple related

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Name and phone number(s) of briefing author(s)

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Background on copyright

Ongoing review of the EU copyright rules – State of play:

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Positions of MS as to the need and extent of a copyright reform vary but are generally cautious. In the run up to the adoption of the DSM Communication, several Member States (e.g. FR, DE, IT, UK, FI, PL, ES, LU, RO) adopted positions highlighting the need to ensure

the protection of copyright and a balance approach to any copyright review. After the adoption of the DSM Communication, these positions were reiterated at the Education, Youth, Culture and Sport Council of 18-19 May.

Reda-Report

On 9 July, the European Parliament adopted the Report on the implementation of Directive 2001/29/EC (Reda-Report).

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- An amendment asking the Commission to examine and to make a proposal on how to ensure media diversity, taking into account the role of press publishers, was rejected.

Overall, the report (i) acknowledges implicitly that the copyright review requires a targeted intervention and (ii) identifies similar key areas as the Commission in the DSM Communication.

Google News and legislative initiatives in the Member States

Google News offers internet users access to news published in the press by providing the headlines and the first lines of press articles along with the links to the original pages. This has resulted into litigation in a number of Member States (notably in Belgium and France). In France Google reached an agreement with press publishers in 2013 (by establishing a €60 m fund to support French press publishers).

Two Member States (Germany and Spain) have adopted laws to address press publishers' concerns. Both aim at the same result (i.e. payment to press publishers for the use of their works by news aggregators), but follow different approaches:

- Under the Spanish law, news aggregators do not need an authorisation from the relevant right holders to make news snippets available to the public. However, the use is subject to the payment of an equitable compensation to the publishers or authors of the original press articles. This compensation cannot be waived and is subject to mandatory collective management. The exception will not be applicable to images or photographs. For the latter, the exclusive right of the relevant right owners remains.

- Germany has introduced a neighbouring right for press publishers, in force since August 2013. The law grants newspaper publishers an exclusive right to allow or prohibit the making available of press products or parts of press products online. The making available is lawful unless carried out by commercial news aggregators such as search engines or social networks. Authors and journalists have a right to participate in a possible remuneration.

Contact: [REDACTED] (F.5), Copyright

Meeting between EMMA members (including president, tbc) and GHO

29 September 2015

I. Scene setter

EMMA (European Magazine Media Association) 

Data
protection

Estimated duration: 18:00 – 18:45

For DG CONNECT:


For the Cabinet: tbd

DG attendance: 

II. Objectives:

Their Position:

On copyright:

- EMMA's main concern is the use of press publishers' creative content for free, without the authorisation of and remuneration to the publisher, by third parties such as news aggregators and online platforms. Publishers are losing shares of the advertising market and stress that certain intermediaries are in fact distributors of content. These market players use publishers' content to generate revenues related to advertising and data but they do not share them with copyright owners.
- Therefore, they stress that there is a need for strong copyright protection and a liability regime for online platforms infringing copyright. EMMA calls for the introduction of a new exclusive right for publishers.
- 

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- [REDACTED] In the case of copyright infringements of newspaper or magazine publishers' content, EMMA's concerns focus on the adequate enforcement and respect of judicial decisions.

On AVMS Directive:

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Our Position:

On Copyright and data protection: See Line to Take

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III. Line to Take:

On copyright

- A copyright reform is essential for an efficient digital single market (DSM). The Commission understands the role of copyright in the cultural sector and believes that the DSM will bring benefits for all stakeholders.
- It is important to create a regulatory framework which gives incentives to press publishers for investing into new products and content.
- Different solutions related to news aggregators, both legislative and market-led, are being tested at national level². The Commission is closely looking into them. Further analysis is needed regarding specific provisions on press publishers.
- At this stage we have not yet a final position as to whether legislative intervention at EU level is needed. Our proposal will be published end of this year.
- [REDACTED] (4(3))
- The Commission will also consider further measures on enforcement and clarifying the rules on the activities of intermediaries in relation to copyright-protected content.
- I am open to continue discussing these issues with you. I am also in touch with my fellow Commissioners, who look at these issues notably from a competition angle.

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Contacts:

Copyright: [redacted]

AVMSD: [redacted]

R&D: [redacted]

Data protection: [redacted]

Background

A. Copyright

Google News and related initiatives in the Member States

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German neighbouring right for press publishers

The effectiveness of the law remains unclear. Initially, certain big publishers (Springer, Burda etc.) gave their approval to have their publications included in Google News. In February 2014, 12 publishers, including Springer, Burda and Dumont Schauberg, joined the collecting society VG Media. In June 2014, VG Media published their tariff (up to 11% of the turnover generated from the making available of the snippets). After Google's refusal to pay licence fees based on this tariff, VG Media filed a complaint against Google with the Federal Competition Authority. In August 2014, the complaint was dismissed on grounds of inadmissibility. In October 2014, Google announced that it would display only the titles of publications and their links (which are not covered by the exclusive right), unless it obtained a free licence. The publishers represented agreed again with the display of snippets, but sued Google before the Regional Court of Berlin in December 2014, alleging abuse of a dominant position. Finally, the publishers have filed a complaint against Google with the arbitration body of the Patent and Trademark Office, the competent supervisory authority for collecting societies. A decision is awaited for September 2015. In addition to these proceedings, in August 2014, Yahoo News filed a constitutional complaint against the law with the Federal Constitutional Court.



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Latest developments: agreements between internet platforms and press publishers

The market of services providing access to news content is evolving very rapidly.

On the one hand, Google launched in April the "Digital News Initiative", a partnership with eight European newspapers: Les Echos, FAZ, The Financial Times, The Guardian, NRC Media, El País, La Stampa and Die Zeit.

This agreement included the following elements:

- Establishment of a working group to focus on product development in the sector of online press publishers;
- Google has also agreed to set a 150 million euro innovation fund over three years, for the benefit of online press publishers.
- Other initiatives on training and research.

Furthermore, other initiatives are thriving in the context of online news aggregators:

- Facebook has created the service Instant Articles, which enables access to content directly from the Facebook users.
- Apple has created an app called Apple News, which will include content from different press publishers (and other media, including broadcasters). The user will be able to access content from different sources in the same app, instead of resorting to several apps.

According to information published on the media, Apple and Facebook would not pay for the content. Moreover, the traffic would not be directed to the websites of the different publishers, since it would be consulted directly on Facebook or Apple News. However, press publishers could receive a share of up to 70% of the turnover on advertisements generated by the platforms in relation to these services.

These initiatives seem to count on the support of lots of publishers worldwide, even though others have also raised some concerns about them (for instance, on their impact on paid subscription models).

Discussions in the EP in the context of the Reda report

The issue of publishers' ancillary rights or similar arrangement was also discussed in the EP in the context of the preparation of the Reda report. Proposals suggesting the Commission to look at /intervene in legislation were tabled in JURI and in plenary and were rejected. As a result, the Reda report as adopted on 9 July 2015 does not contain any paragraph on this issue.

B. AVMS Directive

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Meeting VP Ansip - CEO Hachette and some CEOs of the Federation of European Publishers

Scene setter

1. The Federation of European Publishers (FEP)

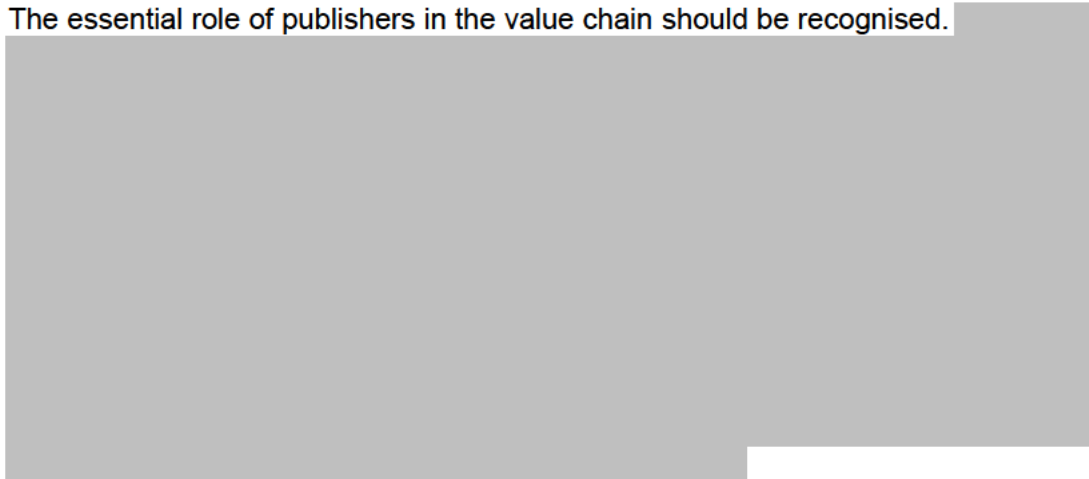
The Federation of European Publishers (FEP) represents 28 national associations of book and learned journal publishers of the European Union and of the European Economic Area. It acts on behalf of its members in discussions and negotiations with the Institutions of the European Union particularly concerning legislation, regulation and taxation. FEP is the voice of the large majority of European publishers.

According to data provided by FEP, book publishing is the largest cultural industry in Europe; it generates around 23 billion € of net revenues per year, for a retail market value of about 40 billion €.

2. FEP's position on issues related to copyright

FEP claims, as a general rule, that existing practices in the publishing sector, including with regard to licensing, are functioning well. FEP's main concerns on the upcoming copyright legislation review are:

- The essential role of publishers in the value chain should be recognised.



- 



Objective(s)

- Better understand FEP's position on the upcoming copyright legislation review, particularly with regard to the role of publishers in the value chain (which is their demand).

- Reassure FEP that the Commission's communication (to be published two days after the meeting) will be broad enough to consider publishers' concerns more carefully in 2016.

Line to take

- The Copyright modernisation is a clear priority for this Commission and it is in the Commission 2015 Work Programme.
- The objective is to modernise copyright rules in light of the digital revolution, new consumer behaviour and Europe's cultural diversity.
- The Commission set a comprehensive vision for the Digital Single Market in its Communication "A Digital Single Market Strategy for Europe" of 6 May 2015, which includes creating more internal market in the area of copyright.

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- Further actions to come in 2016 and a longer term vision for copyright in the EU will be presented in a Copyright Communication, accompanying the first legislative proposal. The Communication will also be adopted on 9 December.

- Some overarching principles followed in the preparation of the copyright reform:
 - citizens and businesses should be able to provide services and to access content across borders;
 - copyright should remain a key driver for creativity, innovation and investment in the digital economy;
 - more opportunities for the users of content are compatible with the protection of the rights of creators and of those who invest in content.

Out of
Scope

Defensive points

Out of
Scope

[REDACTED]

- [REDACTED]

Does the Commission plan to intervene in the area of publishers' rights to ensure that their role in the value chain is fully recognised?

- The Commission is reflecting on the different factors around the sharing of the value created by new forms of online distribution of copyright-protected works among the various market players.

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[REDACTED]

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- [REDACTED]

Out of
Scope

[REDACTED]

- [REDACTED]

Background notes

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

Contact(s): [REDACTED] (DG CONNECT), tel.: [REDACTED]

Commissioner Guenther H. Oettinger meeting Thieme Verlagsgruppe,

5 January 2015

I. Scene setter

For DG CONNECT: -

For the Cabinet: Anna Herold

Their position:

Generally, publishers are under pressure from content aggregators such as Google (Google News, Google Books) and are struggling to find new business models adapted to new consumption habits. Increasingly, consumers (including researchers) expect that they can access/use scientific content on various devices and platforms.

[Redacted text block]

Out of
scope

Our position:

[Redacted text block]

Out of
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Line to Take:

[Redacted text block]

Out of
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II. Speaking points

- A well-functioning, modernised copyright is essential for guaranteeing, on the one hand, the protection of creators and cultural industries and, on the other, access to culture, knowledge and education, including across borders.
- As announced in the 2016 Commission Work Programme, the DSM Strategy will be taken forward in the area of copyright with a step by step approach.
- Let me stress that I firmly believe that all our actions should contribute to preserve the essential functions of copyright.
- First: copyright should make sure that creators are adequately remunerated. Second: It should serve as incentive for our creative industries to invest into new content production.
- Only if we keep these principles in mind, will be able to create a flourishing Digital Single Market.
- In December 2015 we have launched two initiatives:

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- A Communication on copyright that indicates our next steps in the copyright reform for 2016.

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III. Defensives

What is the view of the European Commission the copyright protection of newspaper publishers?

- We are closely observing the discussions and legislative interventions on this issue in the Member States, notably in Germany and Spain.
- As we will indicate in the Communication, we will look closely at the issue of news aggregators, although it is early to take decisions on this matter.

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Out of Scope

[Redacted]

[Redacted]

[Redacted]

Out of Scope

[Redacted]

IV. Background

Copyright modernisation – state of play

As established in President Juncker's political guidelines and reiterated in Vice President Ansip and Commissioner Oettinger's mission letters, adapting the current EU copyright rules to the realities of the Digital Single Market (DSM) *“in light of the digital revolution, new consumer*

behaviour and Europe's cultural diversity" is one of the Commission priority projects for the first part of the mandate. In particular, the DSM Strategy calls for addressing within the EU copyright framework a set of key obstacles to the functioning of the DSM, including specific issues related to (i) the territoriality of copyright, (ii) the definition of rights and exceptions to rights and (iii) the functioning of the copyright marketplace.

A **Commission Communication** setting the scene for the Commission policy action in the area of copyright during the entire mandate has been adopted in December 2015. The initiative sets out the Commission's plans for the modernisation of the EU copyright framework and serves as roadmap for future proposals. For 2016, subject to further decisions, at the moment the Commission is focussing in particular on the following objectives:

achieving a well-functioning copyright market place,

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German neighbouring right for press publishers

Initially, certain big publishers (Springer, Burda etc.) gave their approval to have their publications included in Google News. In February 2014, 12 publishers, including Springer, Burda and Dumont Schauberg joined the collecting society VG Media. In June 2014, VG Media published their tariff (up to 11% of the turnover generated from the making available of the snippets). After Google's refusal to pay licence fees based on this tariff, VG Media filed a complaint against Google with the Federal Competition Authority. In August 2014, the complaint was dismissed on grounds of inadmissibility (The Federal Competition Authority confirmed on 9 September 2015 that Google did not behave unlawfully). In October 2014, Google announced that it would display only the titles of publications and their links (which are not covered by the exclusive right). As a consequence, the publishers represented in VG Media agreed again with the display of snippets.

In parallel, several publishers represented by VG Media have started a proceeding against Google at the Regional Court Berlin. In their view, Google abuses its dominant position by announcing that it would display only the titles of publications and their links unless it received a free of charge licence.

Recent developments

Furthermore, VG Media has filed a complaint against Google with the arbitration body of the Patent and Trademark Office (DPMA), the competent supervisory authority for collecting societies. The DPMA issued its decision on 24 September 2015:

- DPMA takes the view that Google is in principle obliged to pay the tariff set by VG Media, but that the concrete rate is too high (VG Media had asked for about 6% of the turnover Google made of exploiting German press products).

- DPMA makes a suggestion for concretising the requirements set out in the law. Accordingly, a snippet of only 7 words (excluding the search terms) should not trigger the remuneration obligation.

- In addition, DPMA takes position regarding issues raised by German constitutional and EU law (the DPMA press release says not more than that. In contrast, VG Media states that according to the DPMA, the law is compliant with German constitutional and EU law). The DPMA advises the parties to find a compromise.

According to media coverage from end of October 2015, both parties have filed an appeal with the Higher Regional Court Munich ("Oberlandesgericht München"). The litigation could go up to the Federal Supreme Court.

In addition, in August 2014, Yahoo News filed a constitutional complaint against the law with the Federal Constitutional Court ("Bundesverfassungsgericht").

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VI. Thieme Verlagsgruppe

Thieme ist Anbieter von Büchern, Zeitschriften, elektronischen Medien, Dienstleistungen und Services rund um Medizin und Gesundheit sowie die angrenzenden Naturwissenschaften. Das Familienunternehmen ist weltweit aktiv. Mit seinen rund 900 Mitarbeitern entwickelt Thieme für sämtliche Zielgruppen im Gesundheitswesen Produkte und Angebote. Jedes Jahr erscheinen rund 450 neue Buchtitel. Über 150 Fachzeitschriften werden aktuell gehalten. Kongresse, Beratungsleistungen und Services erweitern das Informations- und Kommunikationsangebot. In multimedialen Online-Plattformen werden die Leistungen oft miteinander vernetzt angeboten.

Themenschwerpunkt ist Humanmedizin. Das Unternehmen bezeichnet sich selbst als Marktführer bei deutschsprachigen Medizinpublikationen. Daneben spielen die angrenzenden Naturwissenschaften Chemie und Biologie sowie die Veterinärmedizin eine wichtige Rolle im Verlagsprogramm.

Out of
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Contact:

CONNECT, F.5 (Copyright),

Commissioner Günther Oettinger meeting Thieme Verlagsgruppe on 5 January 2015 at 13:00, Stuttgart

I. Scene setter

For Thieme Verlagsgruppe:

— [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(CVs see Background)

Estimated duration: 45 minutes

Agenda: Copyright

Their position:

Generally, publishers are under pressure from content aggregators such as Google (Google News, Google Books) and are struggling to find new business models adapted to new consumption habits. Increasingly, consumers (including researchers) expect that they can access/use scientific content on various devices and platforms.

[REDACTED]

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Our position:

[REDACTED]

Out of
Scope

Line to Take:

Wir prüfen zurzeit, wie der Zugang zu wissenschaftlichen Inhalten und Bildungsinhalten verbessert und wie Text- und Datenschnüffeln möglich gemacht werden kann, ohne die Möglichkeiten der Verleger zur Amortisation ihrer Investitionen zu untergraben.

II. Speaking points

- Ein gut funktionierendes modernisiertes Urheberrecht ist wesentlich, um einerseits den Schutz von Urhebern und Kulturwirtschaft und andererseits den Zugang zu Kultur, Wissen und Bildung auch über Grenzen hinweg zu garantieren.
- Wie im Kommissionsarbeitsprogramm für 2016 angekündigt, wird die DSM-Strategie im Bereich Urheberrecht schrittweise umgesetzt.
- Ich bin fest davon überzeugt, dass alle von uns ergriffenen Maßnahmen dazu beitragen sollten, die wesentlichen Funktionen des Urheberrechts zu wahren.
- Erstens: Das Urheberrecht muss sicherstellen, dass Urheber angemessen vergütet werden. Zweitens: Das Urheberrecht sollte Anreiz für unsere Kreativindustrien sein, in die Produktion neuer Inhalte zu investieren.
- Nur wenn wir diese Grundsätze nicht aus den Augen verlieren, werden wir einen florierenden digitalen Binnenmarkt schaffen können.
- Im Dezember 2015 haben wir zwei Initiativen gestartet:
 - einen Gesetzgebungsvorschlag zur grenzüberschreitenden Portabilität. In diesem Kontext bezieht sich der Begriff „grenzüberschreitende Portabilität“ darauf,

dass sichergestellt wird, dass Abonnenten online bereitgestellte Inhalte auch dann nutzen können, wenn sie sich vorübergehend in einem anderen Mitgliedstaat aufhalten;

- eine Mitteilung zum Urheberrecht, in der unsere für 2016 geplanten Schritte in der Urheberrechtsreform dargelegt sind.

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[REDACTED]

Contact: [REDACTED], CONNECT, F.5 (Copyright), [REDACTED]

III. Defensives

Wie sieht die Europäische Kommission den Urheberrechtsschutz von Zeitungsverlegern?

- Wir verfolgen die einschlägigen Diskussionen und legislativen Interventionen in den Mitgliedstaaten, vor allem Deutschland und Spanien, sehr aufmerksam.
- Wie wir auch in der Mitteilung darlegen werden, werden wir uns sehr genau mit der Frage der Nachrichtenaggregatoren befassen. Jetzt ist es aber noch zu früh für Entscheidungen in dieser Angelegenheit.

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IV. Background

Copyright modernisation – state of play

As established in President Juncker's political guidelines and reiterated in Vice President Ansip and Commissioner Oettinger's mission letters, adapting the current EU copyright rules to the realities of the Digital Single Market (DSM) “*in light of the digital revolution, new consumer behaviour and Europe's cultural diversity*” is one of the Commission priority projects for the first part of the mandate. In particular, the DSM Strategy calls for addressing within the EU copyright framework a set of key obstacles to the functioning of the DSM, including specific issues related to (i) the territoriality of copyright, (ii) the definition of rights and exceptions to rights and (iii) the functioning of the copyright marketplace.

A **Commission Communication** setting the scene for the Commission policy action in the area of copyright during the entire mandate has been adopted in December 2015. The initiative sets out the Commission's plans for the modernisation of the EU copyright framework and serves as roadmap for future proposals. For 2016, subject to further decisions, at the moment the Commission is focussing in particular on the following objectives:

Out of
Scope

iii) achieving a well-functioning copyright market place,

German neighbouring right for press publishers

Initially, certain big publishers (Springer, Burda etc.) gave their approval to have their publications included in Google News. In February 2014, 12 publishers, including Springer, Burda and Dumont Schauberg joined the collecting society VG Media. In June 2014, VG Media published their tariff (up to 11% of the turnover generated from the making available of the snippets). After Google's refusal to pay licence fees based on this tariff, VG Media filed a complaint against Google with the Federal Competition Authority. In August 2014, the complaint was dismissed on grounds of inadmissibility (The Federal Competition Authority confirmed on 9 September 2015 that Google did not behave unlawfully). In October 2014, Google announced that it would display only the titles of publications and their links (which are not covered by the exclusive right). As a consequence, the publishers represented in VG Media agreed again with the display of snippets.

In parallel, several publishers represented by VG Media have started a proceeding against Google at the Regional Court Berlin. In their view, Google abuses its dominant position by

announcing that it would display only the titles of publications and their links unless it received a free of charge licence.

Recent developments

Furthermore, VG Media has filed a complaint against Google with the arbitration body of the Patent and Trademark Office (DPMA), the competent supervisory authority for collecting societies. The DPMA issued its decision on 24 September 2015:

- DPMA takes the view that Google is in principle obliged to pay the tariff set by VG Media, but that the concrete rate is too high (VG Media had asked for about 6% of the turnover Google made of exploiting German press products).
- DPMA makes a suggestion for concretising the requirements set out in the law. Accordingly, a snippet of only 7 words (excluding the search terms) should not trigger the remuneration obligation.
- In addition, DPMA takes position regarding issues raised by German constitutional and EU law (the DPMA press release says not more than that. In contrast, VG Media states that according to the DPMA, the law is compliant with German constitutional and EU law). The DPMA advises the parties to find a compromise.

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In addition, in August 2014, Yahoo News filed a constitutional complaint against the law with the Federal Constitutional Court ("Bundesverfassungsgericht").

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V. CVs

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Kommunikationsangebot. In multimedialen Online-Plattformen werden die Leistungen oft miteinander vernetzt angeboten.

Themenschwerpunkt ist Humanmedizin. Das Unternehmen bezeichnet sich selbst als Marktführer bei deutschsprachigen Medizinpublikationen. Daneben spielen die angrenzenden Naturwissenschaften Chemie und Biologie sowie die Veterinärmedizin eine wichtige Rolle im Verlagsprogramm.

Die Verlagsgruppe besteht aus insbesondere aus:

Data protection

- [illegible]

Meeting VP Ansip - CEO Hachette and some CEOs of the Federation of European Publishers

Scene setter

1. The Federation of European Publishers (FEP)

The Federation of European Publishers (FEP) represents 28 national associations of book and learned journal publishers of the European Union and of the European Economic Area. It acts on behalf of its members in discussions and negotiations with the Institutions of the European Union particularly concerning legislation, regulation and taxation. FEP is the voice of the large majority of European publishers.

According to data provided by FEP, book publishing is the largest cultural industry in Europe; it generates around 23 billion € of net revenues per year, for a retail market value of about 40 billion €.

2. FEP's position on issues related to copyright

FEP claims, as a general rule, that existing practices in the publishing sector, including with regard to licensing, are functioning well. FEP's main concerns on the upcoming copyright legislation review are:

- FEP, as representative of book publishers, has not been at the forefront of the discussions on a new ancillary copyright for the use of press publications by news aggregators and platforms. Although this may change in the future, FEP is still focused on two other areas of copyright law (please see next bullet points).
- The essential role of publishers in the value chain should be recognised.

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Objective(s)

- Better understand FEP's position on the upcoming copyright legislation review, particularly with regard to the role of publishers in the value chain (which is their demand).

Line to take

- The Copyright modernisation is a clear priority for this Commission and it is in the Commission 2016 Work Programme.
- The objective is to modernise copyright rules in light of the digital revolution, new consumer behaviour and Europe's cultural diversity.
- The Commission set a comprehensive vision for the Digital Single Market in its Communication "A Digital Single Market Strategy for Europe" of 6 May 2015, which includes creating more internal market in the area of copyright.

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- We also set out in a Communication a comprehensive EU copyright modernisation plan. The second package of legislative proposals is planned before the summer of 2016.

- The Commission considers necessary to:
 - inject more single market and, where warranted, a higher level of harmonisation into the current EU copyright rules;
 - where required, adapt copyright rules to new technological realities so that the rules continue to meet their objectives.

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Defensive points

[REDACTED]

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- [REDACTED]
- [REDACTED]

Does the Commission plan to intervene in the area of publishers' rights to ensure that their role in the value chain is fully recognised?

- The Commission is reflecting on the different factors around the sharing of the value created by new forms of online distribution of copyright-protected works among the various market players. This is recognised in the Communication we adopted on 9 December 2015.
- A decision on whether intervention in the area of publishers is needed has not been made yet.

[REDACTED]

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- [REDACTED]
- [REDACTED]
- [REDACTED]

Background notes

Out of
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[REDACTED]

[REDACTED]

[REDACTED]

Contact(s): [REDACTED] (DG CONNECT), [REDACTED]

.....

Brussels, XX January 2016

Dear,

In its 9 December 2015 Communication "Towards a modern, more European copyright framework, the Commission presented its objectives and work plan for the modernisation of the EU copyright rules in the context of the digital single market strategy.

One of the Commission's policy objectives is to achieve a well-functioning copyright market place in the EU which enables rightholders to licence and to be paid for the use of their content online and that reward their investments in content creation.

In order to pursue our dialogue with all concerned stakeholders, we would like to invite you to a press publishers' round table discussion. The objective of the meeting will be to hear the views and experiences of high-level representatives of the press publishing industry on the challenges and opportunities faced by the sector in the digital single market and discuss whether identified problems could be addressed at EU level, and if so how.

The meeting will take place at the **Berlaymont building** (Rue de la Loi 200, 1049 Brussels) and is scheduled for **Monday, 25 January 2016 from 17.00-18.30**. You will find attached the annotated agenda.

I see this as an occasion for an informal and open discussion - it will be conducted under Chatham House rules - that would give me the opportunity to profit from your specific expertise on these matters.

I would be grateful if you could confirm your attendance via e-mail to Mr [REDACTED] (DG CONNECT, Copyright Unit, Phone: [REDACTED] or e-mail: [REDACTED]@ec.europa.eu), by Wednesday, 20 January 2016 at the latest. My Cabinet remains at your disposal for any further questions you might have.

I look forward to meeting you on 25 January 2016.

Yours sincerely,

Encl: Agenda of the meeting

Press Publishers' Discussion with Günther H. Oettinger
European Commissioner for Digital Economy and Society

Monday, 25 January 2015, 17.00 - 18.30

Room S7, Berlaymont Building
Rue de la Loi 200, 1049 Brussels

Agenda

1. Opening remarks by Commissioner Günther H. Oettinger

2. Exchange of views:

Participants will be invited to share their experience and views on the challenges and opportunities faced by the press sector in the digital single market and discuss whether identified problems could be addressed at EU level, and if so, how. More in detail, based on the participants' business experience, we would suggest the discussion to focus on the following points:

1. What are the main copyright-related challenges faced by press publishers in the online environment? In particular, what are the concrete problems you face when seeking to licence your products for online uses and/or enforce the rights to stop unauthorised uses? How do you expect these challenges to evolve in the medium term?

2. Do you face problems due to the fact that you rely on the rights of authors (journalists, photographers, writers, etc.) to licence online uses of your publications and/or to enforce rights online? If so, which ones? To what extent the situation is different, in practice, when the publisher is identified as author of a collective work on the basis of national law?

3. What solution, if any, should in your view be proposed at the EU level to address the problems identified above? Should new rights be granted to publishers at the EU level, what should be the subject of the protection and the beneficiaries of this potential new right (i.e. publishers of written content, publishers of all (including audiovisual) media, all the publishers?) And why/how would this make a difference?

3. Closing remarks by Commissioner Günther H. Oettinger

Copyright

Roundtable Commissioner Oettinger with Press Publishers

Monday 25 January 2016 (BERL, 7/S1, 17:00-18:30)

I. Scene setter

List of participants /CVs and company descriptions (see attachments for more details). The participants have been invited following suggestions from the four main press/news media publishers associations: EPC (European Publishers Council), ENPA (European Newspaper Publishers), EMMA (European Magazine Publishers), NME (News Media Europe):

Data protection

, Roularta Media Group (Belgium)

 De Persgroep Nederland B.V. (The Netherlands)

 Guardian Media Group (UK)

, Burda (Germany)

 Schibsted Media Group (Norway/Sweden)

, Financial Times (UK)

 Axel Springer AG (Germany)

 Reutlinger General Anzeiger (Germany)

, News Corp (US/UK)

 Società Edizioni e Pubblicazioni (SEP) (Il Secolo XIX) (Italy)

, Grupo Heraldo (Spain)

For DG CONNECT: Gerard de Graaf, , 

For the Cabinet: Michael Hager, Anna Herold

Estimated duration: 1.5 h

Agenda (see attachments):

1. Opening remarks setting out objective of the meeting and policy question to be discussed-
Commissioner OETTINGER

2. Exchange of views with the stakeholders: brief statements by each stakeholder followed by a discussion (*NB. the agenda shared with the meeting participants proposes three broad questions to focus the discussion: see below*)

3. Closing of the meeting - Commissioner OETTINGER

Objectives:

The objective of this roundtable is to clearly identify the positions of the different European newspaper publishers in relation to the problems they face as regards the online exploitation of their products (particularly but not exclusively on aggregation platforms such as Google News) and the related possible solutions.

As a background, over the last few years many newspapers publishers have been vocally asking the Commission to propose modifications to EU copyright law with the objective to grant publishers new harmonised rights at EU level. Publishers are currently not identified as rightholders by EU copyright rules: they licence/enforce rights either on the basis of the rights authors (eg. journalists) transfer to them contractually and/or (in some Member States) as authors of "collective works". Publishers justify their request with the difficulties they face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that link to press articles freely available online and/or use excerpts ("snippets") of articles without acquiring licences from the right owners. At the same time, due to the dominant positions of these platforms, many publishers depend on the web traffic generated by the platforms.

Solutions to these problems have been attempted at national level, in particular in Germany and Spain. The adoption of a German law granting press publishers an "ancillary right" in 2013 and of a Spanish law introducing a "compensation right" for press publishers in 2014 (see details in the background) have not yielded the expected results but have contributed to spark the debate about possible solutions at EU level.

The whole discussion about possible new rights at EU level for publishers is highly controversial. The European Parliament debated about new rights for publishers in the context of the "Reda-Report" (July 2015). Proposals from the EPP to request or examine new publishers' rights did not gain a majority and were voted down in that context. The Commission has taken up the debate in the 9 December 2016 Communication "Towards a modern, more European copyright". The recent Communication indicates that the Commission will look at the issue of "news aggregators" including as regards a possible intervention "on rights in general", in the chapter covering the objective of a "well-functioning market place for copyright". Partly as a reaction to the Communication, in a letter of December 2014, 80 MEPs from the main political groups (except EPP) rejected the idea of new rights for press publishers.

Their Position:

Generally, news publishers are under pressure from content aggregators such as Google (Google News) and other platforms (for example Facebook) which build (part of their) services on the reuse of newspapers content freely available online (for example on newspapers webpages). This is part of a more general situation where news publishers are struggling to find new business models adapted to new consumption habits. Increasingly, consumers expect that they can access/use content on various devices and platforms.

Newspapers publishers often point to the paradox that while their content has never been so successful with the public licencing/monetising its use online is today more difficult than ever.

While most of the mainstream European newspaper publishers consider that a solution strengthening their bargain power vis à vis platform is needed at EU level, there is no homogenous position of press publishers on how to respond to these challenges.

Different solutions are advocated:

Whereas certain publishers ask for a mere **compensation or remuneration right** (the publisher cannot prevent the online use and only has the right to claim compensation, subject to collective management, the "Spanish" approach": see the background), others take the view that publishers need exclusive rights in order to licence their rights to users and favour other solutions.

Amongst those asking for an exclusive right, some seem to prefer (or at least indicated in the past to prefer) a so-called **ancillary right** (exclusive economic right only related to online exploitation – mainly the use of snippets- with a very short term of protection (possibly one year - the "German" approach). The request for an ancillary right has often been coupled with the request to introduce a compulsory collective management of this right by publishers' collecting societies.

Finally, others (apparently the majority in the industry) would prefer a fully-fledged **neighbouring right** (exclusive economic right related to copyright for all kinds of uses, offline and online, protected for 50 years after publication). In essence a neighbouring right would grant press publishers an equal status as the one enjoyed by the other neighbouring rightholders in the EU copyright acquis, notably films and music producers and broadcasters

[REDACTED]

(4(3))

[REDACTED]

(4(2 par.1))



Our Position:

We agree that the Digital Single Market needs to ensure a fair sharing of the benefits generated from online uses of copyright protected content. This is the objective that we have formulated under the section on "a well-functioning value chain for copyright" in the December Communication and that we will be pursuing notably through the intervention on intermediaries in the 2016 legislative package (the "value gap" issue). To be noted that the planned intervention in the area of the "value gap" while not fully addressing the request of to introduce new rights, will go some way in improving the situation of publishers vis à vis internet platforms and is as such supported by the EPC.



(4(3))



Line to Take:

- The objective of this roundtable is to clearly identify the positions of the different European newspaper publishers in relation to the problems they face as regards the online exploitation of their products.
- As indicated in the recent Copyright Communication (9 December 2015), the Commission's objective is to ensure a well-functioning value chain for copyright in the Digital Single Market, to rewards investments in creation and ensure that rightholders are paid when their content is used online.

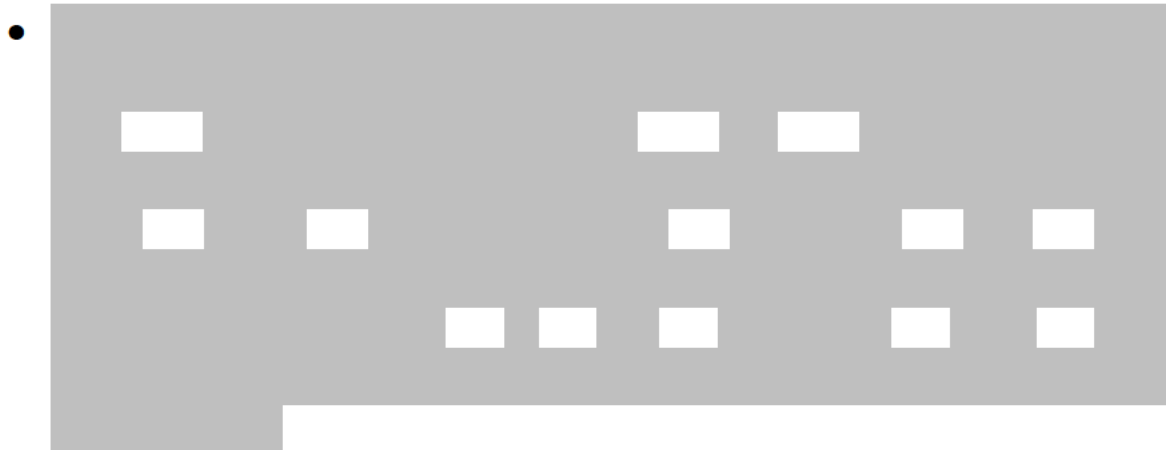
- [REDACTED] Out of scope
- [REDACTED]
- In the December Communication we have also said that we intend to analyse the situation as regards publishers and news aggregators. We have not taken any decision yet as to whether intervention is needed in this respect and if so what.
- We understand that different ideas have been put forward by publishers. In particular, the request to introduce in EU copyright law a new "neighbouring right" which will identify publishers as rightholders (as for example music producers, film producers, broadcasters).
- [REDACTED] (4(3))
- [REDACTED], I am open to hear your views on how a neighbouring right could help contributing to a flourishing Digital Single Market. The discussion today is therefore very important to better understand the problems faced by publishers and how the EU could address them.
- *[As a background, participants have received an annotated agenda beforehand with three main questions. We suggest that participants focus on these questions during the discussion (although – in the interest of time and to stimulate contributions from different angles– not all participants will necessary have to cover the three questions in their interventions). See the questions below*
 - 1. What are the main copyright-related challenges faced by press publishers in the online environment? In particular, what are the concrete problems you face when seeking to licence your products for online uses and/or enforce the rights to stop unauthorised uses? How do you expect these challenges to evolve in the medium term?
 - 2. Do you face problems due to the fact that you rely on the rights of authors (journalists, photographers, writers, etc.) to licence online uses of your publications and/or to enforce rights online? If so, which ones? To what extent the situation is different, in practice, when the publisher is identified as author of a collective work on the basis of national law?
 - 3. What solution, if any, should in your view be proposed at the EU level to address the problems identified above? Should new rights be granted to publishers at the EU level, what should be the subject of the protection and

the beneficiaries of this potential new right (i.e. publishers of written content, publishers of all (including audiovisual) media, all the publishers?) And why/how would this make a difference?]

II. Speaking points

Einleitung:

- Für mehr Wachstum brauchen wir einen vernetzten, digitalen Binnenmarkt.
- Der digitale Binnenmarkt sollte auch ein fairer Markt sein. Dies ist nicht nur wichtig für die Wettbewerbsfähigkeit Europas, sondern geht in Bezug auf Ihre Branche weit über rein wirtschaftliche Erwägungen hinaus. Die Inhalte, die Sie herstellen, sind für unsere Demokratien von besonderer Bedeutung. Presseerzeugnisse tragen dazu bei, dass sich unsere Bürger eine Meinung über öffentliche Angelegenheiten bilden und auf dieser Grundlage Entscheidungen treffen können.
- In der kürzlich erschienen Mitteilung zum Urheberrecht hat die Kommission darauf hingewiesen, dass ein fairer Markt in Bezug auf Urheberrecht insbesondere bedeutet, dass Anreize für Investitionen in Kreativität gesetzt werden und sichergestellt wird, dass Rechteinhaber für die Online-Nutzung ihrer Werke angemessen bezahlt werden.



Out of
Scope

- Ich bin der Überzeugung, dass diese Maßnahmen dazu beitragen werden, die Content-Branche insgesamt zu stärken, auch im Hinblick auf die Verhandlungsstärke der Verleger gegenüber den Plattformen.

- Gleichzeitig haben wir in der Mitteilung deutlich gemacht, dass wir die spezifischen Problemstellungen im Verhältnis von Verlegern und News-Aggregatoren analysieren wollen.

- 

Out
of
Scope

- Ich habe insoweit noch keine Entscheidung getroffen.

- 

- Ich würde heute gerne Ihre Sicht der Dinge hören, welches die Herausforderungen auf dem Online-Markt sind und inwieweit ein vollumfängliches Leistungsschutzrecht – oder eine andere Lösung – zu einem florierenden, digitalen Binnenmarkt beitragen könnte.
- In der Tagesordnung haben wir zu diesem Zweck drei Fragen formuliert, die als Orientierung für Ihre Beiträge dienen sollen. Ich lade Sie ein, insbesondere auf diese Fragen zu antworten.

Schluss:

- Ich danke Ihnen, dass Sie mit uns diskutiert haben.
- Wir werden über unser heutiges Gespräch weiter reflektieren, gerade auch im Zusammenhang mit der Konsultation zu Plattformen.
- Lassen Sie mich nochmals betonen, dass für mich die Verlagsbranche eine besondere Rolle in unserer Gesellschaft spielt. Wir brauchen Presseverlage, um den

öffentlichen Diskurs mitzugestalten. Eine lebendige Debatte über gesellschaftliche und politische Themen ist das Fundament für unsere Demokratie.

- Meine Kollegen in DG CONNECT sowie ich selbst stehen Ihnen gern für weitere Gespräche zur Verfügung.

Defensives

What is the view of the European Commission on the German and Spanish laws granting specific rights to press publishers?

- It is important to create a regulatory framework which gives incentives to press publishers for investing into new products and content.
- We are closely observing the discussions and legislative interventions in the Member States, notably in Germany and Spain.
- The laws in Germany and Spain seem - at least for the moment - not to have achieved their intended goal. [REDACTED]. In this context, further analysis is needed.

(4(3))

[REDACTED]

[REDACTED]

[REDACTED]

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

Out
of
Scope

Author: [REDACTED] (CONNECT F.5 – Copyright), [REDACTED]

IV. Background

Google News and legislative initiatives in the Member States

Google News offers internet users access to news published in the press by providing the headlines and the first lines of press articles along with the links to the original pages. This has resulted into litigation in a number of Member States (notably in Belgium and France). In France Google reached an agreement with press publishers in 2013 (by establishing a €60 m fund to support French press publishers).

Two Member States (Germany and Spain) have adopted laws to address press publishers' concerns. Both aim at the same result (i.e. payment to press publishers for the use of their works by news aggregators), but follow different approaches:

- Under the Spanish law, news aggregators do not need an authorisation from the relevant right holders to make news snippets available to the public. However, the use is subject to the payment of an equitable compensation to the publishers or authors of the original press articles. This compensation cannot be waived and is subject to mandatory collective management. The exception will not be applicable to images or photographs. For the latter, the exclusive right of the relevant right owners remains.
- Germany has introduced an ancillary right for press publishers, in force since August 2013. The law grants newspaper publishers an exclusive right to allow or prohibit the making available of press products or parts of press products online. The making available is lawful unless carried out by commercial news aggregators such as search engines or social networks. Authors and journalists have a right to participate in a possible remuneration.

German ancillary right for press publishers

Initially, certain big publishers (Springer, Burda etc.) gave their approval to have their publications included in Google News. In February 2014, 12 publishers, including Springer, Burda and Dumont Schauberg joined the collecting society VG Media. In June 2014, VG Media published their tariff (up to 11% of the turnover generated from the making available of the snippets). After Google's refusal to pay licence fees based on this tariff, VG Media filed a complaint against Google with the Federal Competition Authority. In August 2014, the complaint was dismissed on grounds of inadmissibility (The Federal Competition Authority confirmed on 9 September 2015 that Google did not behave unlawfully). In October 2014, Google announced that it would display only the titles of publications and their links (which are not covered by the exclusive right). As a consequence, the publishers represented in VG Media agreed again with the display of snippets.

In parallel, several publishers represented by VG Media have started a proceeding against Google at the Regional Court Berlin. In their view, Google abuses its dominant position by announcing that it would display only the titles of publications and their links unless it received a free of charge licence.

Recent developments

Furthermore, VG Media has filed a complaint against Google with the arbitration body of the Patent and Trademark Office (DPMA), the competent supervisory authority for collecting societies. The DPMA issued its decision on 24 September 2015:

- DPMA takes the view that Google is in principle obliged to pay the tariff set by VG Media, but that the concrete rate is too high (VG Media had asked for about 6% of the turnover Google made of exploiting German press products).

- DPMA makes a suggestion for concretising the requirements set out in the law. Accordingly, a snippet of only 7 words (excluding the search terms) should not trigger the remuneration obligation.

- In addition, DMPA takes position regarding issues raised by German constitutional and EU law (the DPMA press release says not more than that. In contrast, VG Media states that according to the DPMA, the law is compliant with German constitutional and EU law). The DPMA advises the parties to find a compromise.

According to media coverage from end of October 2015, both parties have filed an appeal with the Higher Regional Court Munich ("Oberlandesgericht München"). The litigation could go up to the Federal Supreme Court.

In addition, in August 2014, Yahoo News filed a constitutional complaint against the law with the Federal Constitutional Court ("Bundesverfassungsgericht").

Spanish compensation right

Under Spanish law (adopted in November 2014), news aggregators do not need an authorisation from the relevant right holders to make news snippets available to the public. However, the use is subject to the payment by news aggregators of compensation to the publishers and authors of the original press articles. This compensation cannot be waived and is subject to mandatory collective management. In reaction to the law, Google has stopped Google News in Spain in December 2014.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of
Scope

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

Out
of
Scope

V. Attachments

Data protection

1. CVs

Xavier Bouckaert, [REDACTED]



[REDACTED]

[REDACTED]

[REDACTED] De Persgroep Nederland B.V.



[REDACTED], Guardian Media Group



, **Hubert Burda Media**



Raoul Grünthal, Schibsted Media Group



Financial Times





[Redacted text block]

[Redacted text block]

[Redacted text block]

Valdo Lehari Jr., Reutlinger General Anzeiger



[Redacted text block]

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

James Marcovitz, News Corp

[REDACTED]

[REDACTED]

Carlo Perrone, Società Edizioni e Pubblicazioni (SEP) (Il Secolo XIX)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block]

Fernando de Yarza Lopez-Madrado, Grupo Herald (Spain)



[Redacted text block]

2. Companies

Axel Springer

[Redacted text block]

Data
protection

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Burda

[REDACTED]

Financial Times

[REDACTED]

[REDACTED]

Grupo Heraldo

[REDACTED]

Guardian Media Group

[REDACTED]

News Corp

[REDACTED]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

De Persgroep

[Redacted text block]

[Redacted text block]

Reutlinger Generalanzeiger

[Redacted text block]

Roularta

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Schibsted

[REDACTED]

Società Edizioni e Pubblicazioni (SEP) (II Secolo XIX)

[REDACTED]

Claire Bury meeting James Waterworth (CCIA)

1. Scene setter

You are meeting James Waterworth, Vice-President of CCIA Europe.

Due to their very diverse membership, CCIA is interested in a wide range of topics falling under the DSM agenda, [REDACTED]

Out of
Scope

CCIA was very active during the public consultations, replying to the questionnaires on online platforms, AVMSD, telecom review and copyright reform.

Their position

[REDACTED]

Out of
Scope

[REDACTED]

With regard to copyright, CCIA favors the relaxing of copyright rules. Their main areas of interest are online intermediaries [REDACTED]

[REDACTED]

[REDACTED]

Out of
Scope

2. Line to take

Online platforms

- [REDACTED]
- However, some online platforms can control access to online markets and exercise significant influence over various players, for example with regard to their “findability” and their remuneration.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

Out of
Scope

Copyright reform:

- The Copyright modernisation is a clear priority for this Commission.
- The Communication on copyright adopted on 9 December sets out the main political objectives and areas of action with concrete measures as well as the timeline, based on a step-by-step approach;

- [REDACTED]
- A second set of legislative proposals will follow in 2016 which will focus in particular on the following objectives:
 - [REDACTED]
 - [REDACTED]
 - Achieving a well-functioning copyright market place where the applicable rules are clear for different parties, and where right holders can exercise their rights under fair conditions. [REDACTED]
- [REDACTED]
- Action in these areas does not exclude further action at a later stage on other aspects of the EU copyright framework.

Out of Scope

Out of Scope

On publishers' rights

- We are aware of the requests coming from publishers to legislate at EU level to allow them to get remuneration for the exploitation of their content online.
- However, at this stage nothing has been decided as to whether EU intervention would be desirable and in which form. More reflection and analysis of different options is needed here.

Government	Percentage
Current government	85%
Previous government	15%

Out
of
Scope

-
- The image shows a horizontal bar chart with 12 rows. Each row consists of a small gray square on the left, followed by a long gray bar, and then a shorter gray bar. The bars are arranged in a staggered, descending pattern from top-left to bottom-right.

[Redacted]

[Redacted]

- [Redacted]
- [Redacted]

Out of
Scope

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

3. Background

1. [REDACTED]

[REDACTED]

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

2. Bio

James Waterworth, Vice President, CCIA Europe

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. Copyright

Publishers' rights

Over the last few years, many newspapers publishers have been vocally asking the Commission to propose modifications to EU copyright law with the objective to grant publishers new harmonised rights at EU level. Publishers are currently not identified as rightholders by EU copyright rules: they licence/enforce rights either on the basis of the rights authors (eg. journalists) transfer to them contractually and/or (in some Member States) as authors of "collective works". Publishers justify their request with the difficulties they face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that link to press articles freely available online and/or use excerpts ("snippets") of articles without acquiring licences from the right owners. At the same time, due to the dominant positions of these platforms, many publishers depend on the web traffic generated by the platforms.

Solutions to these problems have been attempted at national level, in particular in Germany and Spain. The adoption of a German law granting press publishers an "ancillary right" in 2013 and of a Spanish law introducing a "compensation right" for press publishers in 2014 (see details in the background) have not yielded the expected results but have contributed to spark the debate about possible solutions at EU level.

Different solutions are advocated:

Whereas certain publishers ask for a mere **compensation or remuneration right** (the publisher cannot prevent the online use and only has the right to claim compensation, subject to collective management, the "Spanish" approach), others take the view that publishers need exclusive rights in order to licence their rights to users and favour other solutions.

Amongst those asking for an exclusive right, some seem to prefer (or at least indicated in the past to prefer) a so-called **ancillary right** (exclusive economic right only related to online exploitation – mainly the use of snippets- with a very short term of protection (possibly one year - the "German" approach). The request for an ancillary right has often been coupled with the request to introduce a compulsory collective management of this right by publishers' collecting societies.

Finally, others (apparently the majority in the industry) would prefer a fully-fledged **neighbouring right** (exclusive economic right related to copyright for all kinds of uses, offline and online, protected for 50 years after publication). In essence a neighbouring right would grant press publishers an equal status as the one enjoyed by the other neighbouring rightholders in the EU copyright acquis, notably films and music producers and broadcasters

[REDACTED]

(4(3))

[REDACTED]

(4(3))

[REDACTED]

[REDACTED]

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of
Scope

Out of
Scope

- ## Out of Scope

[REDACTED]

Out of
Scope

[REDACTED]

Out of
Scope

[REDACTED]		[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Out of
Scope

© 2006 The Authors
Journal compilation © 2006 Blackwell Publishing Ltd

Figure 1. The effect of the *in vitro* and *in vivo* release of the *in situ* formed hydrogel on the release of the *in situ* formed hydrogel.

[illegible]

© 2006 The Authors
Journal compilation © 2006 Blackwell Publishing Ltd

Out of Scope



³ <https://ec.europa.eu/digital-agenda/en/news/contributions-and-preliminary-trends-public-consultation-audiovisual-media-services-avmsd>

Meeting between Google's CEO and M. Selmayr – Head of Cabinet Juncker

on 25 February 2016

Scene setter

Google company

You are meeting Google's CEO: Mr Sundar Pichai (*CVs in annex*).

Google is one of the leading U.S. companies specialising in Internet-related services and products.

Out of
Scope

Out of
scope

Important initiatives for Google are:

- The copyright reform (a communication setting out political objectives and a legislative proposal on cross border portability adopted in December 2015 and a second set of proposals before summer)

- [REDACTED]
- [REDACTED]

Objectives

[REDACTED]

- [REDACTED]
- [REDACTED]

Out
of
Scope

On DSM initiatives

Platforms

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of
Scope

Audiovisual Media Services Directive (AVMSD)

- [REDACTED]

2. Investment in Europe

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of
Scope

-
- | Government | Percentage |
|---------------------|------------|
| Current government | 100% |
| Previous government | 0% |

Line to take

Out of Scope

-
- | Government | Percentage |
|---------------------|------------|
| Current government | 85% |
| Previous government | 15% |

3. Platforms

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

[REDACTED]

[REDACTED]

Line to take

- [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

Out of
Scope

- [REDACTED]
- [REDACTED]

4. Copyright and intermediary liability

Copyright

In the Digital Single Market Strategy, the Commission announced legislative proposals by the end of 2015 to reform the copyright system. [REDACTED]

Out of
Scope

Although Google does not belong to the hard-line opponents of copyright reform, it is not keen on it either. It seems to favour open norms and market solutions over further harmonisation of copyright exceptions. They claim that law cannot predict technological change, and that barriers to cross border services arise not from defects in copyright law, but from inefficient licensing practices. To ensure portability of paid for content across the EU, they could envisage solutions in the area of consumer protection (e.g. a right of continued access), not per se in copyright law.

*Several EU countries have introduced laws creating an '**ancillary copyright**' in newspaper text and headlines (Germany and Spain), or are pondering whether they should. Such a right limits Google's ability to display excerpts of newspaper articles in its search results without paying a fee. The idea behind such proposals is to create additional income for publishers, who then share in the advertisement income of news aggregators and search engines, such as Google. Understandably, Google opposes such an ancillary copyright. This year, it started the Digital News Initiative, a partnership with 8 European publishers to support innovation and product development in digital journalism. It involves the creation of a 150 million euro innovation fund (funds to be disbursed over the coming 3 years), and the provision of training and research.*

*Recently, the publishing industry expressed the common position to ask for a **new neighbouring right for publishers** (exclusive economic right related to copyright for all kinds of uses, offline and online, protected for 50 years after publication). This would be different from the ancillary right solutions in Spain and Germany. In essence a neighbouring right would grant press publishers an equal status as the one enjoyed by the other neighbouring rightholders in the EU copyright acquis, notably films and music producers and broadcasters*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Line to take

Copyright

- Digital technologies are changing the ways creative content (e.g. films, music, books or games) is produced, distributed and accessed. They create opportunities as well as new challenges for all players in the value chain.
- In a market where the online distribution and access to cultural content are wide-spread, copyright rules must be adapted to, and back the potential of, the Digital Single Market. The modernisation of the EU copyright framework is therefore an essential part of the Digital Single Market strategy.
- The Commission's ambition is to achieve the right balance between the different interests.
- [REDACTED]
- On the other hand, copyright must remain a key driver for creativity, innovation and investment in the digital economy, and the whole creative content value chain should ensure adequate reward for those who create and invest in creativity.
- These are the objectives of the copyright review.
- [REDACTED]

Out of
Scope

Out of
Scope

- [REDACTED]

Ancillary copyright

- We have learned with interest about the Google Digital News Initiative. In principle, we welcome any attempt to boost a sustainable model for publishers online.
- We are aware of publishers' requests for a neighbouring right and that this reflects a clear problem for this industry. We are also observing the discussions and legislative interventions in the Member States, notably in Germany and Spain. In any event, the Commission has not taken any decision yet.

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of
Scope

5. Audiovisual Media Services Directive (AVMSD)

[REDACTED]

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Line to take

- [REDACTED]
- [REDACTED]

Out of
Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Defensive points

[Redacted text block]

Out of
Scope

[Redacted text block]

[Redacted text block]

Out of
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[Redacted text block]

[Redacted text block]

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Scope

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[Redacted text block]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of
scope

[REDACTED]

[REDACTED]

Out of
Scope

[REDACTED]

[REDACTED]

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[REDACTED]

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Scope

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[REDACTED]

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Scope

[REDACTED]

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[REDACTED]

[REDACTED]

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Scope

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[REDACTED]

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[REDACTED]

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[REDACTED]

Out of
Scope

•

[Redacted text block]

[Redacted text block]

[Redacted text block]

Out of
Scope

[Redacted text block]

[Redacted text block]

Background. Platforms

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

Background. Copyright

I. Press publishers and copyright

Press publishers have been asking the Commission to propose modifications to EU copyright law with the objective to grant publishers new harmonised rights at EU level. Publishers justify their request with the difficulties they face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that link to press articles freely available online and/or use excerpts ("snippets") of articles without acquiring licences from the right owners. At the same time, many publishers depend on the web traffic generated by the platforms.

³ [REDACTED]

Different solutions have been advocated at EU level, among them the introduction of an ancillary right:

- A so-called ancillary right (exclusive economic right only related to online exploitation – mainly the use of snippets- with a very short term of protection (possibly one year - the "German" approach) or a fully-fledged neighbouring right (exclusive economic right related to copyright for all kinds of uses, offline and online, protected for 50 years after publication).

Two Member States (Germany and Spain) have adopted laws to address press publishers' concerns. Both aim at the same result (i.e. payment to press publishers for the use of their works by news aggregators), but follow different approaches:

a) German ancillary right for press publishers

Initially, certain big publishers (Springer, Burda etc.) gave their approval to have their publications included in Google News. In February 2014, 12 publishers, including Springer, Burda and Dumont Schauberg joined the collecting society VG Media. In June 2014, VG Media published their tariff (up to 11% of the turnover generated from the making available of the snippets). After Google's refusal to pay licence fees based on this tariff, VG Media filed a complaint against Google with the Federal Competition Authority. In August 2014, the complaint was dismissed on grounds of inadmissibility (The Federal Competition Authority confirmed on 9 September 2015 that Google did not behave unlawfully). In October 2014, Google announced that it would display only the titles of publications and their links (which are not covered by the exclusive right). As a consequence and as a temporary remedy, the publishers represented in VG Media agreed again with to display of snippets. The overall situation is however still unresolved and there are currently at least five cases pending at different levels.

b) Spanish compensation right

Under Spanish law (adopted in November 2014), news aggregators do not need an authorisation from the relevant right holders to make news snippets available to the public. However, the use is subject to the payment by news aggregators of compensation to the publishers and authors of the original press articles. This compensation cannot be waived and is subject to mandatory collective management. In reaction to the law, Google has stopped Google News in Spain in December 2014.

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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⁴ Statagic JF with VP Ansip – ref. Ares(2016)648677.

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⁵ <https://ec.europa.eu/digital-agenda/en/news/contributions-and-preliminary-trends-public-consultation-audiovisual-media-services-avmsd>

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Contact(s): [REDACTED] (CNECT), tel.: [REDACTED];



Commissioner Oettinger meeting with Google CEO Sundar Pichai on 25 February 2016

Scene setter

Data
 protection

You are meeting Google's CEO: Mr Sundar Pichai. [REDACTED]

Sundar Pichai is meeting with you, and also with Commissioner Vestager, and [REDACTED]. The meetings are part of Pichai's first trip to Europe as head of Google.

Google is one of the leading U.S. companies specialising in Internet-related services and products. These include online advertising technologies, search, cloud computing, mobile phones and apps and software. It has a 90% share of the search market in Europe, its mobile phone operating system and app store (Google Play) is used in 80% of smartphones. Many of its services are free, provided that users accept its terms of services, which include personal data related advertising.

Out of
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A Berlin court rejected on Friday 19 February a legal complaint filed by German publishers which said Google was abusing its market power by refusing to pay them for displaying newspaper articles online. Axel Springer, and 40 other publishers had accused Alphabet Inc's Google of unfair treatment. But the court declared Google's business model to be a "win-win" proposition for both parties and said that although Google had a 90 percent share of the German market, it was not treating certain publishers unfairly. A related ruling on

whether publishers should receive payments from Google for displaying their news articles is still outstanding.

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Topics Google would like to discuss:

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- Google's vision of DSM with focus on the role of platforms in the digital ecosystem

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Google's vision DSM with focus on the role of platforms in the digital ecosystem

Their Position

Online platforms, copyright and DSM

- In a broad context, Google has come out in favour of Europe becoming a single digital market, as a unified digital policy would eliminate the need to know all the rules and regulations of the 28 Member States.

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Our position

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On copyright reform

- A well-functioning, modernised copyright is essential for guaranteeing, on the one hand, the protection of creators and cultural industries and, on the other, access to culture, knowledge and education, including across borders.
- Actions by the Commission should contribute to **preserving the essential functions of copyright**. First: copyright should make sure that creators are adequately remunerated. Second: It should serve as an incentive for our creative industries to invest into new content production.
- [REDACTED] a second set of legislative proposals will follow. It will in particular include:
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■ **THE FUTURE OF THE FIRM** The firm's future is bright. The company is well positioned to continue its growth and success in the coming years.

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Copyright

I. Press publishers and copyright

Press publishers have been asking the Commission to propose modifications to EU copyright law with the objective to grant publishers new harmonised rights at EU level. Publishers justify their request with the difficulties they face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that link to press articles freely available online and/or use excerpts ("snippets") of articles without acquiring licences from the right owners. At the same time, many publishers depend on the web traffic generated by the platforms.

Different solutions have been advocated at EU level, among them the introduction of an ancillary right:

- A so-called ancillary right (exclusive economic right only related to online exploitation – mainly the use of snippets- with a very short term of protection (possibly one year - the "German" approach) or a fully-fledged neighbouring right (exclusive economic right related to copyright for all kinds of uses, offline and online, protected for 50 years after publication).

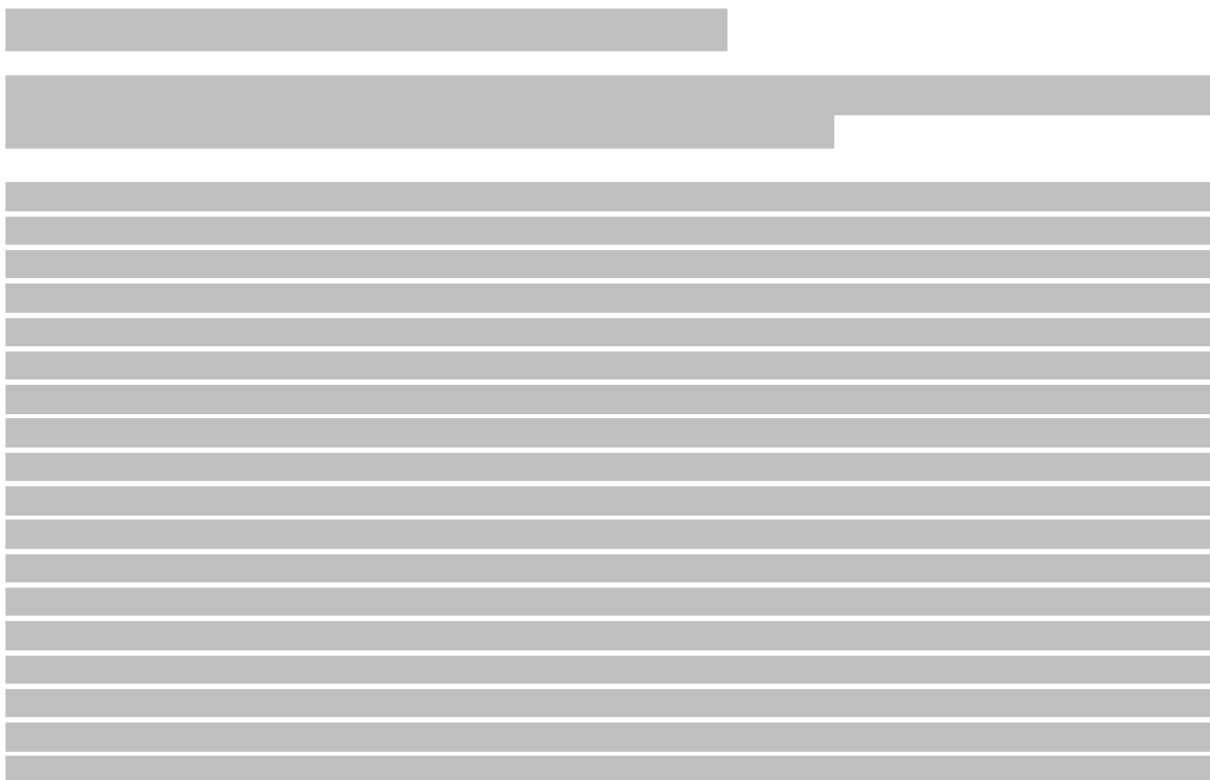
Two Member States (Germany and Spain) have adopted laws to address press publishers' concerns. Both aim at the same result (i.e. payment to press publishers for the use of their works by news aggregators), but follow different approaches:

a) German ancillary right for press publishers

Initially, certain big publishers (Springer, Burda etc.) gave their approval to have their publications included in Google News. In February 2014, 12 publishers, including Springer, Burda and Dumont Schauberg joined the collecting society VG Media. In June 2014, VG Media published their tariff (up to 11% of the turnover generated from the making available of the snippets). After Google's refusal to pay licence fees based on this tariff, VG Media filed a complaint against Google with the Federal Competition Authority. In August 2014, the complaint was dismissed on grounds of inadmissibility (The Federal Competition Authority confirmed on 9 September 2015 that Google did not behave unlawfully). In October 2014, Google announced that it would display only the titles of publications and their links (which are not covered by the exclusive right). As a consequence and as a temporary remedy, the publishers represented in VG Media agreed again with to display of snippets. The overall situation is however still unresolved and there are currently at least five cases pending at different levels.

b) Spanish compensation right

Under Spanish law (adopted in November 2014), news aggregators do not need an authorisation from the relevant right holders to make news snippets available to the public. However, the use is subject to the payment by news aggregators of compensation to the publishers and authors of the original press articles. This compensation cannot be waived and is subject to mandatory collective management. In reaction to the law, Google has stopped Google News in Spain in December 2014.



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Contribution from DG CNECT

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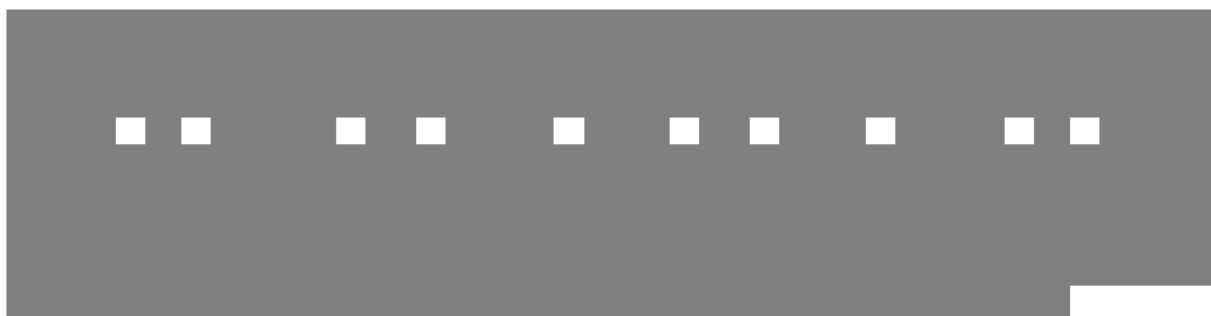
Contact(s):

Data protection



Mr. Sundar Pichai





Mr

Brussels, XX March 2016

Dear Mr,

In its 9 December 2015 Communication "Towards a modern, more European copyright framework, the Commission presented its objectives and work plan for the modernisation of the EU copyright rules in the context of the digital single market strategy. In particular, the Commission policy on copyright aim to achieve a well-functioning copyright market place in the EU which enables rightholders to licence and to be paid for the use of their content online and that reward their investments in content creation.

Further to previous discussions with the publishing industry, including the roundtable meeting held with news publishers' representatives on 25 January 2016, I would like to invite your association to participate in a meeting to continue our dialogue on copyright matters, together with other representatives from the publishing business.

The meeting will take place at the **Berlaymont building** (Rue de la Loi 200, 1049 Brussels) and is scheduled for **Wednesday, 9 March 2016 from 17.30-18.45**.

As already discussed between our respective offices, I would like to ask you to identify three people from your association (one representative from the association at such and two representatives from companies) who will attend the meeting. The meeting will be conducted under Chatham House rules. I am looking forward to an informal and open discussion which would no doubt give me the opportunity to profit from your specific expertise on these matters.

I would be grateful if you could confirm the names of the people who will attend on behalf of your association via e-mail to [REDACTED] (DG CONNECT, Copyright Unit, Phone: [REDACTED] 0 or e-mail: [REDACTED]@ec.europa.eu). My Cabinet remains at your disposal for any further questions you might have.

I look forward to meeting you on 9 March 2016.

Yours sincerely,

Second Roundtable Commissioner Oettinger with Publishers

Wednesday, 9 March 2016 (BERL – meeting room TBC, 17:30-18:45)

I. Scene setter

List of participants /CVs and company descriptions (see attachments for more details).

N.B. Since the meeting was called at very short notice, we are working together with the associations to see who will be attending precisely. The format of the meeting will be three people per each of the six associations below (hence a maximum of 18 people around the table). One person from the association's secretariats and two from member publishing companies. The names of attendants are not yet available at the moment, but we will keep on informing the Cabinet as we get confirmations.

Participants from the publishers:

We have invited the six publishers' associations mentioned below (EPC, ENPA, EMMA, NME, FEP, and STM). EPC, ENPA, EMMA and NME represents news publishers and they already attended the previous roundtable organised on the 25 January. FEP and STM represent respectively "books" publishers and "scientific" publishers.

(4(3))

- EPC (European Publishers Council)
- ENPA (European Newspaper Publishers)
- EMMA (European Magazine Publishers)
- NME (News Media Europe)
- STM (International Association of Scientific, Technical and Medical Publishers)
- FEP (Federation of European Publishers)

For DG CONNECT: To be decided. Will likely include Claire Bury, Gerard de Graaf,

[redacted], [redacted], [redacted], [redacted].

For the Cabinet: Michael Hager, Anna Herold

Estimated duration: 1h 15 min

Objectives:

- The objective of this roundtable is to follow up on the roundtable meeting held on 25 January where news publishers took a common position requesting the Commission to consider the adoption of a new *neighbouring right* for publishers in EU copyright rules. This time it has been decided to include also representatives from publishers

other than "news publishers" ("books" and "scientific" publishers).

(4(3))

thus it would be important to understand their position

- You could explain to the participants that the Commission is taking their concerns seriously and you may want to consider indicating that, as a next step, a public consultation is likely to be launched in the coming weeks (note however that we have not made any public announcement yet - the public consultation is expected to last 12 weeks, i.e. until end-June).
- As you are aware, publishers are currently not identified among rightholders in the EU copyright rules (they usually licence the use of their products by means of the rights transferred to them by the authors). Including them in the list of neighbouring rightholders would therefore be a big step for EU copyright and something highly controversial. As an example of the political difficulties around this topic, the European Parliament discussed the issue in the context of the so-called "Reda report" (July 2015). Proposals from the EPP to request or examine new publishers' rights did not gain a majority and were voted down in that context. The Commission has taken up the debate in the 9 December 2016 Communication "Towards a modern, more European copyright", which indicates that the Commission will look at the issue of "news aggregators" including as regards a possible intervention "on rights in general". Partly as a reaction to the Communication, in a letter of December 2014, 80 MEPs from the main political groups (except EPP) expressed concerns as to a possible intervention in this area and took the position that no "ancillary right" should be proposed.

Their Position:

Press publishers.

(4(2 par.1))

As a background for their position, news publishers point to the difficulties they face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that link to press articles freely available online and/or use excerpts ("snippets") of articles without acquiring licences from the right owners. In addition, news publishers have reported problems when seeking to protect their products against piracy on the basis of the enforcement of (the underlying) authors' rights. They have mentioned national cases where courts have asked them to prove the entire chain of rights (i.e. that they have acquired the rights for various writers, photographers and other authors) before being granted the required relief.

Finally, publishers (in this case the request comes also from publishers beyond the news publishers, including book publishers) argue that a solution at EU level (a neighbouring right

or else) is necessary to stabilise their position as regards the payments of compensation for the "reprography" exception following the recent "Reprobel" CJEU's judgment (see background). In this judgement the Court noted that publishers do not qualify as right owners under EU law and ruled that, on the basis of EU law, they cannot therefore be granted a share of the private copying or reprography levies alongside authors. We are still analysing the concrete implications of this decision.

Book publishers and scientific publishers

[REDACTED]

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par.1)

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One important element to be considered is that granting a new publishers' right beyond news publishers may have substantial implications in the area of scientific publishing, both in terms of political resistance from the researchers' constituency and of impact on the open access policy/model. This is an area that will have to be carefully assessed, taking into account the specificities of scientific publishing (researchers are increasingly deciding not to transfer their rights to scientific publishers and they may see a new publishers' right as a disincentive for publishers to opt for open access).

Our Position:

- The possibility to introduce a neighbouring right for publishers would have a considerable impact on the EU copyright system, which will have to be properly assessed over the coming weeks/months.
- The public consultation that we will be launching in March (*no public announcement has been made yet*) will be an essential step to gather information and stakeholder reactions which will inform our Impact Assessment work.

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Line to Take:

- As indicated at our roundtable on 25 January, we are taking seriously the concerns of the publishing industry. We have taken note of the common position expressed by news publishers at the roundtable who have requested that they should be granted a new neighbouring right in EU copyright legislation.

- We are ready to seriously examine this idea and will be working at this over the coming weeks/months. It is important to be aware of the fact that a new neighbouring would be a major change to the EU copyright and would therefore require proper evidence and consultation. [REDACTED]

(4(3))

- We need to better understand the position of book publishers and scientific publishers and the impact that a possible legislative intervention would have in these areas (including on the open access policy in scientific research publishing).
- The Commission has not yet taken any final decision as to whether granting a new publishers right in a future legislative proposal. We need to consult all stakeholders and properly gather evidence before being able to take a final decision.

II. Speaking points

- Thank you very much for attending this meeting at a very short notice. As you know, this is the follow up to the very useful roundtable meeting we had with the news publishers on the 25 January and of other meetings I have had with the books and scientific publishers on copyright matters.
- As you know, the Commission is committed to make sure that the Digital Single Market is a fair market, where the creative industries can get a fair return of their investments and innovative services can be developed. We have made our objectives clear in the Copyright Communication adopted on the 9 December last year.
- A well-functioning copyright market place is important for Europe's competitiveness, but as far as your sector is concerned, goes far beyond economic considerations. The content that you produce is very important for our societies: it helps our citizens forming their opinions on public issues and making informed decisions; it helps advancing scientific progress; it contributes to our European culture.
- As indicated at our roundtable on 25 January, we are taking seriously the concerns of the publishing industry. We have taken note of the common position expressed by news publishers on that occasion: the request that publishers should be granted a new neighbouring right in EU copyright legislation.
- Today, I have decided to also invite representatives of the book and scientific publishing industry I am aware that different publishing sectors are facing different challenges and opportunities in their transition to the digital environment. The specificities of each publishing sector, news, books, scientific publishing, will have to be taken into account when assessing the need for a possible

legislative intervention, including as regards the impact that such intervention would have on other stakeholders.

- The results of the public consultation on platforms already gave us some indications of the importance of the discussion.
- At the same time, it is clear that a new neighbouring right for publishers would be a considerable change in EU copyright law, which requires specific consultation and evidence gathering before the Commission can take any decision as to the possible way forward.
- We need in particular to assess the impact that such a change would have on different publishing sectors, taking into account the effects on the other rightholders, on authors, researchers, journalists, but also on service providers.
- I count on your continued cooperation – as well as on that of other stakeholders – to make sure that we base our decision on the best possible evidence.

Author: [REDACTED] (CONNECT F.5 – Copyright), [REDACTED]

IV. Background

1. Q/A note presented at the meeting with SG and Cabinets Juncker, Ansip and Oettinger on 25 February 2016

What is a neighbouring right?

A neighbouring right is a right similar to a copyright although in certain cases the level of protection granted by a neighbouring right can be lower than the protection granted by copyright. Different from copyright, neighbouring rights do not reward an original creation (a work). They reward either the performance of a work (e.g. by a musician, a singer, an actor) or an organisational or financial effort which may also include a participation in the creative process. The EU framework grants neighbouring rights to performers, film producers, record producers and broadcasting organisation. Rights enjoyed by neighbouring rightholders under EU law generally include (except in specific cases) the exclusive rights of reproduction, distribution, and communication to the public/making available). EU law also grants a "sui generis" rights (more limited than a neighbouring right) to the makers of non-original databases (to reward the cases of a substantial financial or time investment)¹.

Neighbouring rights usually have a shorter protection term than copyright (in most cases 50 years) and their "national treatment" (i.e. the obligation to protect neighbouring right holders from third countries) is more limited. At international level, protection is granted (to different extent) to performers, phonogram producers and broadcasting organisation (in the 1961 Rome Convention, the TRIPs Agreement, the 1996 WIPO Performances and Phonograms Treaty and the 2012 Beijing Treaty).

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(4(3))

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¹ A "sui generis" right also exists for the protection of the makers of semiconductors under the specific directive.

² [REDACTED]

The rest of this note assumes that a possible EU intervention will cover "print" publishers (press, book publishers, and scientific publishers).

On what basis do publishers currently exploit their products?

Under current EU law, publishers of press products or books do not have neighbouring rights.

Press publishers licence/enforce rights either on the basis of the rights that authors (e.g. journalists, novelists, writers, photographers) transfer to them contractually and/or (in some Member States) as authors of "collective works" (e.g. ES, PT). In some MS (e.g. UK, NL, IE), a publisher is, in principle, considered the first owner of the copyright of a work made by an employee (e.g. a journalist) in the course of his employment. This state of affairs has allowed publishers to authorise (or prohibit) the making of copies of books/journals and their distribution, and the making available online of books/journal. This also includes the cases where not the whole book/journal is used but also a part of it (e.g. the use of excerpts for a press review).

In some countries publishers have also been granted (by law or by practice) a share in the compensation for certain copyright limitations (notably in the case of levies for private copying/photocopying). Publishers have been put under pressure in this area by the recent "Reprobel" decision of the CJEU (see below).

What would be the difference between an EU neighbouring right for publishers and the Spanish and German "ancillary rights"?

Germany and Spain introduced laws granting new rights to press publishers. Both approaches target specifically the online aggregation of small excerpts ('snippets') and are usually defined as "ancillary" rights. Whereas the Spanish law consists of a mere remuneration right (technically the compensation for an exception) for press publishers subject to mandatory collective management, the German law is an exclusive right with a very short term of protection (1 year) and limited scope (only snippets of press products). A neighbouring right for publishers would imply a more fundamental amendment to the EU acquis, granting an exclusive right to press and book publishers for all kinds of exploitations, comparable to the rights of film and music producers (see above "what is a neighbouring right?").

How is the relationship between authors and publishers evolving in the platform economy?

Authors have been experimenting with alternative publishing models both in the press and in the book business. These experiments have not led to a substitution of the traditional publishing model though, and often involve professional publishers. In the press business, many journalists have started own blogs. With a few exceptions of well-known journalists, these blogs often serve as complementary publications linked to the publishers' websites. Typically, these blogs are closely linked to the brand of specific publishers and benefit from the readership the latter attracts. In the book business some authors have been testing self-publishing models, often as a way to gain reputation before joining a publisher. However, self-publishing has not emerged as a mainstream publication channel.

Why are press publishers asking for an own right now?

The origin is the difficulties press publishers face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that link to press articles freely available online and/or use excerpts ("snippets") of articles without acquiring licences from the right owners.

In addition, (some) press publishers have reported problems protecting their products against piracy on the basis of the enforcement of (the underlying) authors' rights. They have mentioned national cases where courts have asked them to prove the entire chain of rights (i.e. that they have acquired the rights for various writers, photographers and other authors) before being granted the required relief.

(4(3))

Moreover, publishers (including book publishers) argue that the introduction of a specific neighbouring right is necessary given the recent "Reprobel" judgment of the CJEU³. The Court noted that publishers do not qualify as right owners under EU law and ruled that, on the basis of EU law, they cannot therefore be granted a share of the private copying or reprography levies alongside authors. We are still analysing the concrete implications of this decision.

Are book publishers asking for an own right too?

What would be the impact of a publishers neighbouring right for other right owners (journalists, writers, photographers)?

³

(4(3))

Would the proposal to introduce a publishers' neighbouring right have an impact on the hyperlinking discussion?

A neighbouring right for publishers would not alter the notion of 'communication to the public' as defined in the EU acquis and case law. Therefore, introducing a neighbouring right for publishers would not impact on the ability of internet users to set or use hyperlinks. A neighbouring right would only grant a status to press publishers comparable to the status of other right owners, e.g. film or music producers.

What would be the impact of a neighbouring right for commercial users such as online platforms?

What are the next steps?

⁴ Examples: Google News in Spain and in Germany

⁵ Opening Up Instant Articles to all Publishers, 17 February 2016 < <http://media.fb.com/2016/02/17/opening-up-instant-articles/> >

[illegible]

2. Meeting between Commissioner Oettinger and press publishers, 25 January 2016 - Read-out of publishers' interventions

C. Keese (Axel Springer):

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[REDACTED] **(Financial Times):**

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[REDACTED] **(Reutlinger Generalanzeiger):**

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[REDACTED] **Società Edizioni e Pubblicazioni, Il Secolo XIX):**

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[REDACTED] **(Roularta Media):**

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[REDACTED] **(Guardian Media Group):**

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[Redacted]

[Redacted] (De Pers Group Nederlands):

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[Redacted] (Schibsted Media Group):

[Redacted]

[Redacted] (Grupo Heraldo):

[Redacted]

3. Other relevant background information

A) Press publishers and copyright

Many newspaper publishers have been vocally asking the Commission to propose modifications to EU copyright law with the objective to grant publishers new harmonised rights at EU level. Publishers are currently not identified as rightholders by EU copyright rules: they licence/enforce rights either on the basis of the rights authors (eg. journalists) transfer to them contractually and/or (in some Member States) as authors of "collective works". Publishers justify their request with the difficulties they face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that link to press articles freely available online and/or use excerpts ("snippets") of articles without acquiring licences from the right owners. At the same time, due to the dominant positions of these platforms, many publishers depend on the web traffic generated by the platforms.

Different solutions have been advocated:

- A mere compensation or remuneration right (the publisher cannot prevent the online use and only has the right to claim compensation, subject to collective management, the "Spanish" approach).
- A so-called ancillary right (exclusive economic right only related to online exploitation – mainly the use of snippets- with a very short term of protection (possibly one year - the "German" approach). The request for an ancillary right has often been coupled with the request to introduce a collective management of this right by publishers' collecting societies.
- A fully-fledged neighbouring right (exclusive economic right related to copyright for all kinds of uses, offline and online, protected for 50 years after publication). In essence a neighbouring right would grant press publishers an equal status as the one enjoyed by the other neighbouring rightholders in the EU copyright acquis, notably films and music producers and broadcasters.

B) Initiatives in the Member States

Two Member States (Germany and Spain) have adopted laws to address press publishers' concerns. Both aim at the same result (i.e. payment to press publishers for the use of their works by news aggregators), but follow different approaches:

- Under the Spanish law, news aggregators do not need an authorisation from the relevant right holders to make news snippets available to the public. However, the use is subject to the payment of an equitable compensation to the publishers or authors of the original press articles. This compensation cannot be waived and is subject to mandatory collective management. The exception will not be applicable to images or photographs. For the latter, the exclusive right of the relevant right owners remains.
- Germany has introduced an ancillary right for press publishers, in force since August 2013. The law grants newspaper publishers an exclusive right to allow or prohibit the making available of press products or parts of press products online. The making available is lawful unless carried out by commercial news aggregators such as search engines or social networks. Authors and journalists have a right to participate in a possible remuneration.

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Briefing on copyright / media pluralism

Scene setter

Newspaper publishers and copyright

Generally, news publishers are under pressure from content aggregators such as Google News or Blendle and other platforms (for example Facebook) which build certain services on the reuse of newspapers content.

At the roundtable on 25 January 2016, a group of leading European press publishers (including Axel Springer) expressed the common position to ask for a new neighbouring right (exclusive economic right related to copyright for all kinds of uses, offline and online, protected for 50 years after publication). In essence a neighbouring right would grant press publishers an equal status as the one enjoyed by the other neighbouring rightholders in the EU copyright acquis, notably films and music producers and broadcasters.

In this context we are considering launching a public consultation on the issue of a possible new right for publishers in EU copyright rules *(to be noted that no public announcement has been made yet – nor it is sure whether it would be by the date of the meeting – the consultation is likely to run from end March/early April to end June approximatively)*

The possibility to introduce a neighbouring right for publishers would have a substantial impact on the EU copyright system, still to be properly assessed. The public consultation to be launched in the coming weeks should provide us with crucial input to inform our political decisions as to whether legislative proposals in this area are needed.

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Objectives

Copyright

- Reassure publishers that the Commission understands the role of copyright for creation of cultural content/press products and that the aim of the Digital Single Market is also to contribute to the creation of cultural content/press products.

Media Pluralism

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Line to take

Copyright













- To boost economic growth in Europe we need a truly connected Digital Single Market.
- A Digital Single Market should also be a fair market. It's important for Europe's competitiveness, but as far as the press sector is concerned, goes far beyond economic considerations. Press products are very important for our democracies: it helps our citizens forming their opinions on public issues and making informed decisions.
- This means in particular working to achieve a well-functioning market place which stimulates the investments in creation and ensures that rightholders get paid when their content is used by online services.
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- We are aware of many press publishers requests that the Commission should introduce a new neighbouring right for publishers in EU copyright rules. This is a serious issue that requires further consultation and analysis before a final decision as to whether legislation should be proposed is taken.

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Defensive points

Copyright

What is the view of the European Commission on the German and Spanish laws granting specific rights to press publishers?

- It is important to create a regulatory framework which gives incentives to press publishers for investing into new products and content.
- We are closely observing the discussions and legislative interventions in the Member States, notably in Germany and Spain.
- The laws in Germany and Spain seem - at least for the moment - not to have achieved their intended goal. One particular reason for this might be the strong market position of Google. In this context, further analysis is needed.

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Media Pluralism

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Background notes

Press publishers and copyright

Many newspapers publishers have been vocally asking the Commission to propose modifications to EU copyright law with the objective to grant publishers new harmonised rights at EU level. Publishers are currently not identified as rightholders by EU copyright rules: they licence/enforce rights either on the basis of the rights authors (eg. journalists) transfer to them contractually and/or (in some Member States) as authors of "collective works". Publishers justify their request with the difficulties they face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that link to press articles freely available online and/or use excerpts ("snippets") of articles without acquiring licences from the right owners. At the same time, due to the dominant positions of these platforms, many publishers depend on the web traffic generated by the platforms.

Different solutions have been advocated:

- A mere compensation or remuneration right (the publisher cannot prevent the online use and only has the right to claim compensation, subject to collective management, the "Spanish" approach).
- A so-called ancillary right (exclusive economic right only related to online exploitation – mainly the use of snippets- with a very short term of protection (possibly one year - the "German" approach). The request for an ancillary right has often been coupled with the request to introduce a collective management of this right by publishers' collecting societies.
- A fully-fledged neighbouring right (exclusive economic right related to copyright for all kinds of uses, offline and online, protected for 50 years after publication). In essence a neighbouring right would grant press publishers an equal status as the one enjoyed by the other neighbouring rightholders in the EU copyright acquis, notably films and music producers and broadcasters.

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Contacts:

[REDACTED] (DG CNECT, F.5), T.: [REDACTED] – copyright

[REDACTED] (DG CONNECT, G1), tel.: [REDACTED] – media pluralism

Discussions in France on topics related to the DSM Strategy (scene Setter and LTT)

Scene setter

1) Implementation of the DSM Strategy in 2016

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2. DSM Strategy delivery and some positions from France

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On Copyright:

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.On the Communication on copyright:

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- On **neighbouring right**, France has no position yet [REDACTED]. We understand however that the situation of press publishers is a concern for them, in particular in the context where Google will not renew its past financial support to the French press sector for its move into the online world (€60M – agreement reached in 2013). As a result, it can reasonably be expected that France will be open to discussions aiming at reinforcing the position of publishers in the online world (yet, it has never been at this point one of their priorities).

On AVMSD and other audiovisual issues :

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Objective(s)

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Line to take

Main messages on DSM:

If we want Europe to have a weight in the digital economy we need to find common rules and aim at full harmonisation. National measures are not likely to have enough leverage to achieve significant results on the global challenges raised by the digital economy. It is only by teaming up at the EU level that Member States can achieve something.

This is what the DSM is about, to establish common rules in the 28 members states, to allow our industry, SMEs and startups to benefit from scale and speed.

The main concern, in particular with minimum harmonisation is the risk of fragmentation of the legislative framework in the EU whenever national laws, as the bill Lemaire, are adopted whereas similar topics are being addressed at EU level.

Regulation may not always be the most appropriate solution in a fast evolving area such as the digital economy, and Member States initial position may diverge. It is essential to intensify the dialogue between various MS and the EU on subjects with have a strong EU dimension such as Platforms, Data Protection, Consumer protection in the digital economy, Collaborative economy.

The objective, which we can only address together, is to adapt the European legislative framework and make it fit for the digital age, embracing the challenge of online platforms, disruptive innovation and new business practices. This is what industries, businesses, entrepreneurs and innovators are looking for when deciding to invest in Europe.

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b) E-commerce package [REDACTED]
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Consumer protection

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c) Content package (online platforms, copyright, AVMS)

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Copyright

On the draft regulation on portability:

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On the Cable and Satellite Directive:

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On specific issues of the AV industry:

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Exceptions and limitations:

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On enforcement:

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On a well-functioning marketplace for copyright:

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On neighbouring rights for publishers:

- The Commission will launch before the end of March a public consultation which will cover, in addition to questions relating to the "exception of panorama", the issue of a neighbouring right for publishers.
- The Commission has taken note of EU level and national discussions and stakeholder reactions on this issue following the adoption of the December Communication
- The Commission aims to gather views on the impact that granting a neighbouring right to publishers at EU level could have on all stakeholders (including authors such as journalists, writers, researchers or photographers; online service providers; consumers, etc.).
- The Commission also intends to gather views on whether the need (or not) for intervention is different in the press publishing sector as compared to the book/scientific publishing sector.

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2) 2015 DSM Proposals state of Play

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Background:

The document includes:

(1) background French *Digital Republic bill/Loi Lemaire* (1)

(2) background on French position on the draft regulation on portability (2)

(3) background on other aspects of the DSM and, as available, French position (3)

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3. Background on other aspects of the DSM and, as available, French position

DSM priorities for France

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Contact(s): [REDACTED] (DG CNECT), [REDACTED]

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No, the U.S. should not take action to reduce greenhouse gas emissions	15%

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© 2006 The Authors
Journal compilation © 2006 Blackwell Publishing Ltd

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Contact(s): [REDACTED] (DG GROW), [REDACTED]

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Defensive points

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Why is the Commission looking into neighbouring right for publishers while it was a failure in Germany and Spain?

- Germany and Spain have passed legislation in the last few years to grant specific rights to publishers. The German and Spanish laws are different but they both aim at giving publishers very specific rights over the use of snippets or small excerpts of their content by online services such as news aggregators (often referred to as "ancillary rights"). This is different from the broader and general concept of neighbouring right on which the Commission intends to seek views now.
- A neighbouring right would give publishers self standing protection on their content in addition to the protection enjoyed by authors (similar to the protection enjoyed by current neighbouring rightholders such as film and record producers and broadcasters).

22 March 2016

Will the Commission tax hyperlinks?

- The Commission has no plan to tax hyperlinks. In other words, we have no intention to ask people to pay for copyright when they simply share a hyperlink to content protected by copyright.
- Europeans are sharing and posting hyperlinks every day and they should remain free to do so. We want to reassure them and make this point very clear.
- In our action plan to modernise EU copyright rules, we explained that we would look at the activities of different types of intermediaries in relation to copyright-protected content. This is a different issue.

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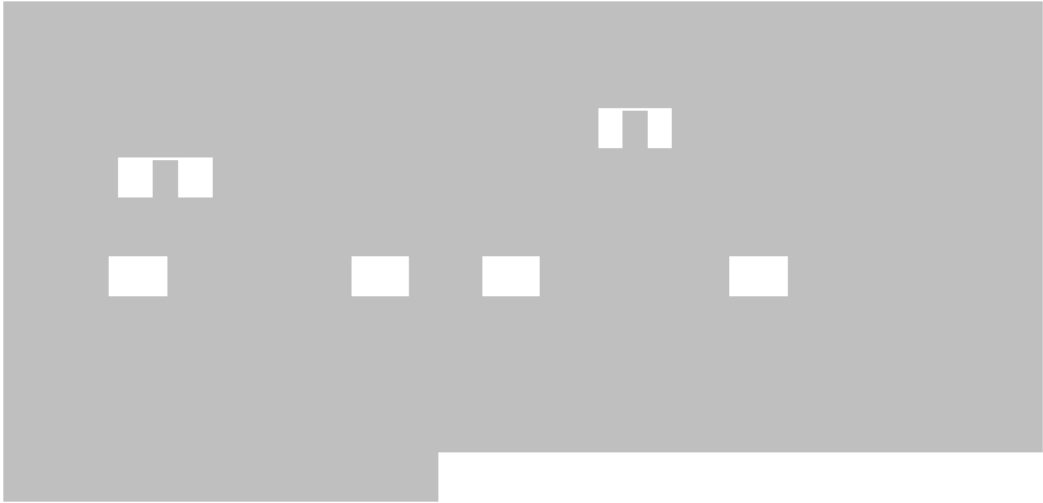


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² Together with services ordered online but consumed offline

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Commissioner Oettinger meeting Pierre Dutilleul (Federation of European Book Publishers), Brussels, 7 April 2016

I. Scene setter

Objectives:

- To engage with the Federation of European Book Publishers about the planned copyright reform.
- Listen to the concerns book publishers will probably raise as regards the consequences of the Reprobel- decision of the EU Court of Justice (as regards the publishers' ability to receive compensation for uses under the private copying exception). Explain that a public consultation on the role of publishers in the copyright value chain is currently ongoing. However, we should not give the impression that the Commission would consider legislative proposals on private copying levies in the 2016 proposal.

Their Position:

FEP participated at the publishers' roundtable on 9 March on a possible new neighbouring right for publishers. Whereas press publishers took a common position requesting the Commission to consider the adoption of a new neighbouring right, book publishers are not asking for this type of solution.. At the roundtable of 9 March, FEP explained that they would not be opposed to a neighbouring right for publishers but would still need to analyse further what it would imply for book publishers.

(4(2
par.1))

Book publishers, instead, consider that there is the need to intervene with respect to the consequences of the Reprobel-Decision of the Court of Justice of the EU in the area of private copying levies.

Out of
Scope

Our Position:

Line to Take:

- We are taking seriously the concerns of the publishing industry. We have taken note of the common position expressed by news publishers at the roundtable who have requested that they should be granted a new neighbouring right in EU copyright legislation.

- We need to better understand the position of book publishers in this regard.
- We encourage you to participate in the consultation launched on 23 March (deadline 15 June).
- The Commission has not yet taken any final decision as to whether proposing the introduction of a new EU neighbouring right for publishers in the 2016 copyright legislative proposal. We need to consult all stakeholders and properly gather evidence before being able to take a final decision.

II. Speaking points

- As you know, the Commission is committed to make sure that the Digital Single Market is a fair market, where the creative industries can get a fair return of their investments and innovative services can be developed.
- It's important for Europe's competitiveness, but as far as your sector is concerned, goes far beyond economic considerations. The content that you produce is very important for our societies: it helps our citizens forming their opinions on public issues and making informed decisions; it contributes to our European culture.
- At our roundtable of 9 March, we have taken note of the common position expressed by news publishers who have requested that they should be granted a new neighbouring right in EU copyright legislation.

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Out of
Scope

- However, we still need to better understand the views of the book publishing industry.
- Do you ask for an EU intervention or do you think that national solutions would be sufficient?
- Which would be the consequences of legislative interventions, particularly on authors?
- Please note that we have not taken any decisions yet and need to gather further evidence, notably through the consultation launched on 23 March. I encourage you to participate.

III. Background

On what basis do publishers currently exploit their products?

Under current EU law, publishers of press products or books do not have neighbouring rights.

Press publishers licence/enforce rights either on the basis of the rights that authors (e.g. journalists, novelists, writers, photographers) transfer to them contractually and/or (in some Member States) as authors of "collective works"(e.g. ES, PT). In some MS (e.g. UK, NL, IE), a publisher is, in principle, considered the first owner of the copyright of a work made by an employee (e.g. a journalist) in the course of his employment. This state of affairs has allowed publishers to authorise (or prohibit) the making of copies of books/journals and their distribution, and the making available online of books/journal. This also includes the cases where not the whole book/journal is used but also a part of it (e.g. the use of excerpts for a press review).

In some countries publishers have also been granted (by law or by practice) a share in the compensation for certain copyright limitations (notably in the case of levies for private copying/photocopying). Publishers have been put under pressure in this area by the recent "Reprobel" decision of the CJEU (see below).

How is the relationship between authors and publishers evolving in the platform economy?

Authors have been experimenting with alternative publishing models both in the press and in the book business. These experiments have not lead to a substitution of the traditional publishing model though, and often involve professional publishers. In the book business some authors have been testing self-publishing models, often as a way to gain reputation before joining a publisher. However, self-publishing has not emerged as a mainstream publication channel.



Out
of
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IV. CV Pierre Dutilleul

Pierre Dutilleul (President of the Federation of European Publishers, Paris) has just been appointed General Director of the Syndicat national de l'Edition (SNE). Previously he was Treasurer from the SNE and worked for EDITIS, French second largest publishers' group. He was also the CEO of many publishing houses, such as Robert Laffont, Julliard, Plon, Perrin, La Découverte, Masson, Belfond and was also Director for Human Resources and Communication of this group of 2,200 people. Pierre holds a degree from the INSEAD Executive Program and an MBA from Université de Paris IX Dauphine.

Contact: [REDACTED] (CONNECT F.5 – Copyright), [REDACTED]

Briefing material on AVMSD

To ensure coherence of the overlapping concerns the Commission will present the next DSM initiatives in three separate coherent packages:

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- and copyright 2nd delivery [to be proposed by the Commission later in 2016]

Out of
scope

Copyrights (more detailed LTT and defensive on copyright in the following sections).

[REDACTED]

Out of
Scope

Copyright second iteration (includes SatCab review)

[REDACTED] The package, originally announced for spring 2016, has been recently postponed to September given the need to hold a public consultation on a possible EU neighbouring right for publishers (part of the well-functioning marketplace reflection) and on the current 'panorama' exception (commonly referred to as 'freedom of panorama'). The consultation is open until 15 June 2016.

This second package will include measures to [REDACTED]

[REDACTED]

achieving a well-functioning copyright market place, [REDACTED]

Out of
Scope

[REDACTED] Further to the public consultation mentioned above, and depending on final political decisions on this matter, the September legislative proposal could also include the granting to publishers (notably in the press sector) of a new neighbouring right at EU level (such rights are currently granted in particular to broadcasters, film and record producers).

Negotiations on these proposals are expected to start during the SK PRES but to be achieved by MT Presidency.

Platforms

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Intermediary liability

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Geo-blocking:

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COPYRIGHT 2nd package (includes Satellite and Cable D)	September -16
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Out of
Scope

1. Online platforms

Defensive - [REDACTED]

Out of
Scope

- [REDACTED]

Response	Percentage
U.S. should take action	85%
U.S. should not take action	15%

DSM – comprehensive assessment of the role of platforms and intermediaries

Out of Scope

-
- | Region | U.S. should take action | U.S. should not take action |
|--------|-------------------------|-----------------------------|
| Total | 85% | 15% |
| U.S. | 85% | 15% |
| Europe | 85% | 15% |
| Asia | 85% | 15% |

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Notice and action procedures

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IP rights enforcement / copyright [Redacted]

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AVMSD

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3. Copyright

Portability - [redacted]

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Defensives - Portability

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Defensives – 2nd package of copyright proposals & the Marrakesh Treaty

What issues will be addressed by the second package of legislative proposals?

It will focus on several areas, including:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of
Scope

Why the adoption of the package has been postponed?

- In the context of the preparation of the second package, we are also going to gather views about a neighbouring right for publishers and about the panorama exception and for that purpose we will launch a public consultation this week (note: public consultation will be normally launched Wednesday 23rd).
- In order to analyse properly the results, the adoption of the package will be postponed until after the summer.

[REDACTED]

Out of Scope

Government	Percentage
Current government	85%
Previous government	15%

Out of Scope

Category	U.S. should take action	U.S. should not take action	U.S. should take action but not at the expense of the economy	U.S. should not take action but not at the expense of the economy
All respondents	71%	27%	1%	1%
Rep/Lean Rep	58%	39%	2%	1%
Dem/Lean Dem	83%	15%	2%	0%
Mod/Lib	68%	29%	2%	1%

Government	Percentage
Current government	85%
Previous government	15%

Government	Percentage
Current government	85%
Previous government	15%

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Response	Percentage
Yes	85%
No	15%



Government	Percentage
Current government	85%
Previous government	15%

Government	Percentage
Current government	100%
Previous government	0%

Response	Percentage
Yes	78%
No	18%
Don't know	4%

4. Value gap

11/11/2011

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Defensives

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AVMSD

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IV. Defensive points

AVMSD

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What is the state of play on the promotion of European works in on-demand services?

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Speech of Commissioner Guenther H. OETTINGER at the conference "News Publishing and Digital Innovation" 6 April 2016

I. Scene setter

For DG CONNECT: 

For the Cabinet: Anna Herold

Objective:

- To engage with the representatives of the ICT and the media industries about the copyright and media law modernisation plans

Their Position:

The conference will be attended by a wide range of stakeholders.

Representatives of ICT industries are concerned that the planned copyright reforms in the context of the DSM-Strategy could add further complexity to the copyright system. In particular, they are concerned that granting new rights for publishers could impede the establishment of new services and start-ups. Representatives of ICT industries tend to stress the opportunities of IT for news creation and distribution.



Out of
Scope

Our Position:

New technologies are an opportunity for creating innovative media services and increase media diversity. At the same time, our regulatory framework needs to continue giving incentives to cultural industries and publishers.

II. Speaking points

Introduction

- Ladies and Gentlemen, probably all of us have noticed in the last years how our media consumption has changed.
- Today, we enjoy print content not anymore only on paper but also on different screens: tablets and smartphones allow us read on the go. We receive and share newspaper articles on Facebook and Twitter.
- These developments confront us with different challenges. Let me name only two:
- First: as new players enter the publishing market, there is an increased competition both for the reader's attention but also for his money. We need to make sure that there are the right incentives in place for investing into content but also to establish innovative and consumer friendly services.
- Second: new consumption habits influence the ways how our citizens form their opinions and participate in our democracy.
- In Europe, studies show that sharing of social media stories is gaining quickly ground. In the US, it is even a majority of internet users who gets now political news through Facebook. I'm not saying that this good or bad – however, we need to make sure that our citizens continue having access to a variety of quality media both offline and online.
- In May of last year, we have published an ambitious Digital Single Market Strategy.

- It aims at opening up the opportunities of a market with more than 500 million citizens to the European consumers and businesses.
- I am convinced that this common market should be our priority if we want to remain competitive within our globalised world.
- But the Digital Single Market is not an end in itself. Our strategy aims precisely at creating a market which offers opportunities to invest into media content and new services and which ensure media diversity and quality.

Investments into creativity

- Let me start with copyright: The copyright modernisation is part of the more general plan to create a Digital Single Market.
- Therefore, a framework needs to be in place which makes sure that copyright can fulfil two essential functions also on the platform economy:
- First: To provide for a fair remuneration to the authors and the creators of content.
- Second: To give incentives to businesses to invest into new talent and creativity.
- Platforms have proven to be innovators in the digital economy. New platforms have rapidly and profoundly challenged traditional business models and have grown exponentially.

- However, there might be problems especially where right holders cannot set licensing terms and negotiate on a fair basis with potential users.

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- Of course, the role of authors is as important as that of publishers or producers.

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Widening access of citizens to cultural content

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Time line copyright initiatives

I know that many of you are impatient that the European Commission finally publishes its proposals. I am as impatient as you.

- However, if we make proposals on copyright, we will have to get it right.
- We should seize the opportunity to consult also on topics that were so far not subject to a public consultation.
- I am thinking especially of the role of publishers.
- We have launched a public consultation on the role of publishers in the copyright value chain and on the panorama exception, which will be open until mid-June.
- I encourage you to participate and to share your views with us.
- I have spoken to many of you and I know that the question of whether there should be new rights for publishers is very controversial. Not only here in Brussels, but also in the Member States, where different approaches to answer this question have been adopted.

- I think it is better to wait a few more months with our proposals and to have considered all relevant views on these topics in our internal assessment.

Media pluralism

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News publishing and digital innovation

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Conclusion

- The Internet has opened up huge possibilities of accessing and sharing information: we have witnessed the appearance of User-Generated-Content, citizen-journalism, and a number of new ways for citizens to intervene in public debates.
- The large quantity of digital news sources is however not a guarantee of diversity and pluralism per se. One of the challenges is to fund and create quality content in the digital environment and disseminate it to a wide audience.
- Good quality media will continue to make the difference and high quality standards reinforce the journalistic brand, which in turn results in more clicks and more appeal for advertisers.
- Yes, there are challenges – but these should not overshadow the great potential of a Digital Single Market.

[END]

**Opening Speech of Commissioner Günther H. OETTINGER at the
conference "News Publishing and Digital Innovation"
6 April 2016 at 19:15, LV Bayern**

I. Scene setter

For DG CONNECT: 

For the Cabinet: Anna Herold

Estimated duration: 20 minutes

Objective:

- To engage with the representatives of the ICT and the media industries about the copyright and media law modernisation plans

Their Position:

The conference will be attended by a wide range of stakeholders.

Representatives of ICT industries are concerned that the planned copyright reforms in the context of the DSM-Strategy could add further complexity to the copyright system. In particular, they are concerned that granting new rights for publishers could impede the establishment of new services and start-ups. Representatives of ICT industries tend to stress the opportunities of IT for news creation and distribution.



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Our Position:

New technologies are an opportunity for creating innovative media services and increase media diversity. At the same time, our regulatory framework needs to continue giving incentives to cultural industries and publishers.

II. Speaking points

Einleitung





- Meine Damen und Herren, in den letzten Jahren haben wir wahrscheinlich alle bemerkt, wie sich unsere Mediengewohnheiten verändert haben.
- Mittlerweile lesen wir Gedrucktes nicht mehr nur auf Papier, sondern auch auf verschiedenen Bildschirmen. Dank Tablet und SmartPhone haben wir auch unterwegs jederzeit Zugang dazu. Wir erhalten und verbreiten Zeitungsartikel via Facebook und Twitter.
- Diese Entwicklungen stellen uns vor verschiedene Herausforderungen. Ich möchte hier zwei davon nennen:
- Erstens: mit dem Eintritt neuer Teilnehmer in den Verlagsmarkt nimmt die Konkurrenz sowohl um die Aufmerksamkeit als auch um das Geld der Leser zu. Wir müssen für die richtigen Anreize sorgen, und zwar nicht nur für Investitionen in Inhalte, sondern auch für die Einführung innovativer und verbraucherfreundlicher Dienstleistungen.
- Zweitens: neue Konsumgewohnheiten wirken sich auch auf die Art und Weise aus, in der sich unsere Bürger ihre Meinung bilden und an unserer Demokratie teilnehmen.

- Studien zeigen, dass die Verbreitung von Nachrichten über soziale Medien in Europa rasch an Boden gewinnt. In den USA informiert inzwischen sogar eine Mehrheit der Internet-Nutzer per Facebook über die politischen Nachrichten. Ich sage nicht, dass dies gut oder schlecht ist. Wir müssen jedoch dafür sorgen, dass unsere Bürger weiterhin sowohl offline als auch online Zugang zu verschiedensten Qualitätsmedien haben.
- Im Mai 2015 haben wir eine ehrgeizige Strategie für den digitalen Binnenmarkt präsentiert.
- Sie soll den europäischen Bürgern und Unternehmen die Chancen eines Markts mit über 500 Millionen Bürgern erschließen.
- Ich bin davon überzeugt, dass dieser gemeinsame Markt unsere Priorität sein sollte, wenn wir in der globalisierten Welt wettbewerbsfähig bleiben wollen.
- Aber der digitale Binnenmarkt ist kein Selbstzweck. Unsere Strategie zielt auf die Schaffung eines Markts, der Gelegenheit bietet, in Medieninhalte und neue Dienste zu investieren, die wiederum mediale Vielfalt und Qualität garantieren.

Investitionen in Kreativität

- Lassen Sie mich zunächst vom Urheberrecht sprechen. Die Modernisierung des Urheberrechts ist Teil eines größeren Plans zur Schaffung eines digitalen Binnenmarkts.
- Deshalb muss ein Rahmen geschaffen werden, der sicherstellt, dass das Urheberrecht auch in der Plattformwirtschaft zwei wesentliche Funktionen erfüllt.
- Erstens: eine faire Vergütung für die Autoren und Urheber von Inhalten.
- Zweitens: Anreize für Unternehmen, in neues Talent und Kreativität zu investieren.
- Plattformen haben sich als Innovatoren in der digitalen Wirtschaft erwiesen. Neue Plattformen haben herkömmliche Geschäftsmodelle schnell und bis in die Grundfesten erschüttert und sind exponentiell gewachsen.
- Es kann aber zu Problemen kommen, insbesondere wenn Rechteinhaber keinen Einfluss auf Lizenzbedingungen

haben oder mit potenziellen Nutzern nicht fair verhandeln können.

-  Out of Scope
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- Autoren spielen selbstverständlich eine ebenso wichtige Rolle wie Verleger oder Produzenten.
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Ein breiterer Zugang für Bürger zu kulturellen Inhalten

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Zeitplan Urheberrechtsinitiativen

- Ich weiß, viele unter Ihnen warten ungeduldig darauf, dass die Europäische Kommission endlich ihre Vorschläge vorlegt. Mir geht es genauso wie Ihnen.
- Aber wenn wir Vorschläge zum Urheberrecht machen, müssen wir das richtig hinbekommen.
- Wir sollten die Gelegenheit nutzen, auch zu Themen zu konsultieren, die bisher noch nicht Gegenstand einer öffentlichen Konsultation waren.

- Ich denke vor allem an die Rolle der Verleger.
- Wir haben eine öffentliche Konsultation zur Rolle der Verleger in der Urheberrechtswertschöpfungskette und zur Panoramafreiheit eingeleitet, die bis Mitte Juni läuft.
- Ich ermuntere Sie, daran teilzunehmen und uns Ihre Stellungnahmen zukommen zu lassen.
- Ich habe mit vielen von Ihnen gesprochen und weiß, dass die Frage, ob es neue Rechte für Verleger geben sollte, sehr kontrovers ist. Nicht nur hier in Brüssel, sondern auch in den Mitgliedstaaten, in denen verschiedene Herangehensweisen an diese Frage angenommen wurden.
- Meines Erachtens ist es besser, mit unseren Vorschlägen noch ein paar Monate zu warten, bis wir in unserer internen Bewertung alle relevanten Standpunkte berücksichtigt haben.

Medienvielfalt

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[REDACTED] [REDACTED] [REDACTED]

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Nachrichtenwesen und digitale Innovation

Out of
Scope

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AVMD-Richtlinie

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Scope

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Schluss

- Das Internet hat ungeheure Möglichkeiten des Zugriffs auf und der Verbreitung von Informationen geschaffen. Wir haben gesehen, wie Nutzer begannen, selbst Inhalte zu erstellen, und sind Zeugen des Aufkommens von Bürger-Journalismus geworden sowie einer Reihe neuer Arten und Weisen, in denen Bürger an öffentlichen Debatten teilnehmen können.
- Die Vielzahl digitaler Nachrichtenquellen an sich ist aber keine Garantie für Vielfalt und Pluralismus. Eine der Herausforderungen, vor denen wir stehen, ist die Finanzierung und Produktion hochwertiger Inhalte im digitalen Umfeld und deren Verbreitung an ein großes Publikum.
- Gute Berichterstattung wird weiterhin einen Unterschied machen, und hohe Qualitätsstandards werden den

Journalismus stärken, was wiederum zu mehr Klicks führt und die Attraktivität für Werbetreibende erhöht.

- Ja, es gibt Herausforderungen – aber sie sollten das große Potenzial eines digitalen Binnenmarkts nicht in den Schatten stellen.

[ENDE]

Contact: [REDACTED], CNECT.F5 (Copyright) [REDACTED]

Meeting on publishers' rights with Yahoo - 27/04/2016

Participants:

Commission: [REDACTED] and [REDACTED]

Yahoo: Laura Covington (Vice President - IP Policy), François-Xavier Dussart (EU Public Policy Director) and [REDACTED], Bunswick Group LLP).

In the context of the ongoing public consultation of the role of publishers in the copyright value chain, Yahoo wished to discuss the possible consequences of granting a neighbouring right to publishers. [REDACTED]

(4(2 par.1))

Yahoo considers that copying full works or articles and making them available to the public without the authorisation of the publisher is a copyright infringement, whereas providing access to snippets with hyperlinks is beneficial to the interests of publishers (more traffic). Yahoo even claims that some of the agreements they have reached with publishers include payments from publishers to them, due to that increase of traffic. In Yahoo's opinion, publishers can always use robots and other technological tools to avoid being listed by news aggregators, if that is their business decision. [REDACTED]

(4(2 par.1))

The meeting gave us the opportunity to clarify that the consultation is about a neighbouring right which is a broader discussion than the so-called ancillary right, and would give publishers the possibility to authorise the use of their publications and enforce their rights, as they do today on the basis of the underlying rights they are transferees of (e.g. authors' rights). Hyperlinks are not part of the discussion either.

Main concerns expressed include:

- * How to define publishers. Yahoo is also a publisher, as they produce and disseminate their content. Bloggers are also publishers.
- * How a neighbouring right could affect their current business, but also impacts on small publishers and authors.
- * Negative impacts of a new neighbouring right: fewer incentives to be innovative and develop new ways of distributing content, news, etc.
- * They are sceptical as to real benefits a neighbouring right may bring to publishers.
- * This issue, in their view, is a competition issue, rather than something copyright can solve.

Yahoo will keep in touch with the Unit to provide data on their business, agreements and expected impacts of an eventual neighbouring right for publishers.

Of interest to: [Anna HEROLD](#), [REDACTED] and [REDACTED]

(Ref.Ares(2016)5144563)

From: [REDACTED] (CNECT)
Sent: Wednesday, May 04, 2016 5:15 PM
To: [REDACTED] (CAB-OETTINGER); BURY Claire (CNECT); DE GRAAF Gerard (CNECT); [REDACTED] (CNECT)
Cc: [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Subject: Publishers right - meeting with BEUC- 4/5/2016

Dear all,

we had a meeting with BEUC this morning in the context of the stakeholder discussions on the publishers' right. The minutes, drafted together with [REDACTED] are enclosed.

Data
protection

[REDACTED]

[REDACTED]

MEETING WITH BEUC

Wednesday 4 May 2016 ([REDACTED])

Object	: Informal meeting with BEUC within the context of the ongoing public consultation on publishers
Presents	: BEUC - [REDACTED] (Senior Legal Officer); [REDACTED] (Senior Legal Officer), [REDACTED] (Legal Assistant) CE DG CNECT – [REDACTED], [REDACTED], [REDACTED]

Discussions

The public consultation considers the recognition of a "neighbouring right" for publishers.

We recalled that the neighbouring right has to distinguished from the ancillary right (such as in Germany and Spain). It has also been recalled that the neighbouring right of the publisher is "neutral" whether or not, for instance, a hyperlink or a snippet is protected under copyright. Indeed, recognizing such right will change nothing about the scope of the communication to the public right of the author (nor his reproduction right).

BEUC recognised that the public debate, including their position on that matter had focussed very much on the ancillary right discussion as per the German and Spanish laws (i.e. specific legal intervention addressing the use of snippets by news aggregators). They welcomed the clarification we provided about the difference between an ancillary right and a neighbouring right. They also acknowledged that their main concern would be a legal intervention that

would change current rules applicable to hyperlinks and they were reassured to learn that this was not the subject of the neighbouring right discussion.

[REDACTED]
[REDACTED]. However, they would be concerned if legal intervention resulted in a negative impact on consumers. They indicated that, besides hyperlinks, their main concern would be that intervention aiming to grant publishers new rights may result in less content available online to users or in making it more difficult for users to find news online (they raised the example of the Spanish law that resulted in Google news closing down in Spain).

(4(2
par .1))

They recognised that they had to do some more thinking on the concept of neighbouring right as opposed to ancillary right and told us that they would like to contribute to our impact assessment work by sending us a list of criteria/indicators that they would consider important to measure the impact of EU intervention on consumers. They may also want to provide us with studies carried out by national associations on consumers' habits for consuming news online. We agreed to keep in touch in the next couple of weeks to continue the dialogue.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Out of
Scope

Ref.Ares(2016)5144449

From: [REDACTED] (CNECT)
Sent: Friday, May 13, 2016 9:32 AM
To: [REDACTED] (CAB-OETTINGER); BURY Claire (CNECT); [REDACTED] (CNECT)
Cc: [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
 [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
 [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
 [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Subject: Meeting with Facebook 12.05.2016 - publishers right and value gap

Data
protection

Dear all, enclosed a quick report from yesterday meeting with Facebook

[REDACTED]

Meeting with FACEBOOK
12.05.2016

Object: Exchange of views on the upcoming copyright reform with the focus on the ongoing public consultation on publishers and the "value gap" discussion.

- **FACEBOOK:** Myrup Kristensen Thomas (Managing Director EU Affairs), [REDACTED] (Deputy general Counsel USA), [REDACTED] (Manager USA)
- **F.5.:** [REDACTED], [REDACTED], [REDACTED], [REDACTED]

Main points discussed:

- The ongoing public consultation which considers the recognition of a "neighbouring right" for publishers:
 - So far, FB does not plan to answer this public consultation but welcomed this proposition of exchange of views on this issue.
 - We recalled that at the EU level, the discussion has shifted from an "ancillary right" to a full Neighbouring Right granting the publishers exclusive rights (+ underlying exceptions) and that the option to recognize a Neighbouring Right to publishers would not impact the current debate on whether a Hyperlink or a snippet is protected under copyright.
 - FB welcomed this confirmation and raised two general concerns about the publishers' issue:
 - The database legal protection already granted by the EU Directive. FB recalled that this protection exist and wondered whether more protection is needed at this regard.
 - Having a good and rational policy making focused on a long term perspective. FB expressed doubts on the opportunity to create a new Neighbouring Right, especially when such right does not already exist in other countries.

- As to the relation between FB and the Publishers: FB spoke about its new "Instant Articles" tool (in Phase Beta). This tool aims to enhance the user access to publishers' content on Facebook, by enable them to load and read them far quicker (notably on their mobile). For publishers, it maximizes the publication process and reach and thanks to a strong IT structure they get the ability to track (monitor and collect data: total views, time spent, etc.) and monetize their content through various advertising options. FB presents it as a "win-win" tool and gave us an article from the FR Newspaper Liberation telling the success of their experience.

- [REDACTED]

(4(2
par.1))

- [REDACTED]

- [REDACTED]

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out of
scope

- [REDACTED]

- [REDACTED]



Ref.Ares(2016)5144347

From: [REDACTED] (CNECT)
Sent: Wednesday, May 18, 2016 8:46 AM
To: HEROLD Anna (CAB-OETTINGER); BURY Claire (CNECT); DE GRAAF Gerard (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Cc: [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Subject: 17.05.2016 - Meeting with AMEC and FIBEC- Publishers right

Dear all,

Please find below a quick report from yesterday meeting with AMEC and FIBEP.

Data
protection

Kind regards,

[REDACTED]

Meeting with AMEC & FIBEP

17.05.2016

Object:

Exchange of views on the upcoming copyright reform with the focus on the ongoing public consultation on publishers

Presents:

- **AMEC & FIBEC:** Christophe Dickès (Global Copyright Director), [REDACTED] (Euralia), [REDACTED] (Euralia)
- **F.5:** [REDACTED], [REDACTED]

Main points discussed:

- Opening remarks: They have already prepared their contribution to the public consultation but welcomed our new proposition for an exchange of views on this issue very much.
- Their activity: They are two international associations, whose main activities are the **media monitoring and media analysing** (press review, press summaries, etc.) which encompass both a technical part (e.g. voice recognition) and a human **"added value"** (reading/analysing/summarising of each article). In their opinion, this human added value distinguishes them from the big players such as Google and FB as well as the fact that they work in a B2B environment. Because of this they do not consider themselves to be news aggregators in the same sense as these companies. They consider themselves to be providing a "niche" activity on a small but essential market [REDACTED] They insist on the fact that they don't offer substitutes to press content but rather a transformative work based on it.

(4(2
par.1))

- Their relation with publishers: without content from the publishers they cannot develop their activity based on this content. As they have no other option than reaching an agreement with them, they consider themselves in a **very weak bargaining position** while negotiating ("*small companies facing big publishers*"). They fully agree to pay remuneration (either on a copyright basis, or on a commercial one, up to the publisher) as long as it remains a **fair remuneration**.
- Their specific position on a new NR for the publishers: against this background they believe that a new NR would **threaten their market/activity** by creating or facilitating additional fees to be paid to the publisher, on top of the current copyright fee. This fee would surely be passed on to final clients, who may not be willing to pay much more to access their services. Thus the creation of a NR constitutes a threat to the market as a whole.

When asked whether there is a positive impact of their activities on the publishers: they agreed but answered in a vague way quoting the Spain experience and mentioning nevertheless that journalist find it positive (in term of reputation) to be able – with their service - to trace their articles and that the brand of a newspaper mentioned by them will profit.

- [REDACTED]
- Further steps. They agree to provide us with:
 - **Figures** about the licencing fee they pay per article by country
 - A USA case law (TV Eyes vs Fox News – 08/2015) which emphasizes the transformative use (versus substitution) a media monitoring service of broadcast contents (TV Eyes) make.

Out of scope

[REDACTED]



European Commission
DGCONNECT
UNIT F5 – Copyright

[REDACTED]

The views expressed in this e-mail are my own and may not, under any circumstances, be interpreted as stating an official position of the European Commission.

Ref.Ares(2016)5144849

From: [REDACTED] (CNECT)
Sent: Monday, June 06, 2016 9:43 AM
To: VIOLA Roberto (CNECT); BURY Claire (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Cc: [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); HAGER Michael (CAB-OETTINGER); HEROLD Anna (CAB-OETTINGER)
Subject: Publishers right - report from the meeting with International and European Federation of Journalists last week

Dear all,

As mentioned at our meeting on Friday, we met the European and International Federation of Journalists last week. Here a short report, prepared together with my colleague [REDACTED]. In a nutshell, journalists are not fully convinced and may push for different solutions but they are not likely to frontally attack the idea of the publishers' right.

Data
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MEETING WITH INTERNATIONAL/EUROPEAN FEDERATION OF JOURNALISTS on publishers right

Wednesday 1st of June 2016 (Residence Palace)

Object:

Exchange of views on the ongoing public consultation on publishers (what impacts granting a new neighbouring right to publishers would have on journalist)

Presents:

- EFJ: Mogens Blicher (Director EFJ), [REDACTED] (copyright contact, IFJ), + national delegations (ES, DE, UK - [REDACTED])
- CONNECT F.5.: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]

Main points discussed:

- EFJ/IFJ still largely on "analysis mode". They did not expect the discussion on neighbouring right to be put on the table with such a short timeframe for decision. They insisted at several occasions during the meeting that such an important issue would need more time than the September "horizon" to be properly discussed and to come up with balanced solutions.
- They generally agree with publishers that current practices of new internet players (news aggregators, social media, etc) are a serious problem for the publishing industry, including for journalist. Objective to ensure a fair share of value, not only with publishers but also with journalists.

- They are eager to find a solution which could in turn guarantee individual authors to receive remuneration but are not convinced that a new publisher right is the best solution. Journalists are worried that a new publisher right would strengthen the bargaining position of publishers as regards them. Plus ancillary rights have not worked in ES and DE
- Their mains concerns regarding the granting of a NR are:
 - The legal scope: how to define the subject matter of the right ("press product": quid for blog, broadcast, public domain info, etc.), the beneficiaries ("publisher"), the term of protection, the rights, etc.
 - Conflict of rights: ex. to what extent a NR would allow a publisher to oppose the re-publication/reselling of an article by his author? How to deal with the authors' moral rights (since their economic right are transferred to the publisher).
 - Enforcement: As the experiences in SP and GE have shown, how to guarantee that a NR would, this time, allow publisher to better enforce their rights on Internet, given the strong bargaining power of online big players.
 - Bargaining position: Worried that a new NR would accentuate the publishers' bargaining power vis-à-vis the authors. They would be put under pressure to assign more right and receive less revenue.
 - Magnitude of an NR + Long term approach: recognising a new Right is for them a major decision with possible huge impact on the long term and therefore requires careful consideration, no precipitation.
- Whatever legal intervention is chosen, EFJ/IFJ considered that fair remuneration to journalists could best be achieved through collective management. They suggested that if a new publishers right is granted EU law should mandate that this is subject to compulsory collective management (and that it should mandate the share of revenues between journalists and publishers).

- [REDACTED]

Out of
Scope

[REDACTED]

VP Ansip meeting with the European Newspaper Publishers Association

Scene setter

Information on interlocutor

ENPA describes itself as follows:

"ENPA is an international non-profit organisation representing publishers of newspaper and news media on all platforms. [REDACTED]

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par.1))

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]."

Media Freedom and Pluralism

[REDACTED]
[REDACTED]
[REDACTED]

Out of
scope

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

DSM Strategy and platforms

Their Position

- Learn more about the next steps for realising a DSM.
- Discuss and exchange views on the digital economy and society with special reference to the newspaper publishing industry.

Our Position

- Confirm your commitment to achieving a fully-functioning EU DSM; we are delivering according to schedule.
- Welcome the **support of the European Newspaper Publishers Association** for our policy on digital issues and inform about the state of play of adoption of DSM initiatives.
- Avoid detailed discussions on forthcoming policy which will be examined more thoroughly at a later stage (e.g. B2B issues related to online platforms).

Publishers' rights

Over the last few months the position of press publishers has evolved from an original request for an ancillary right for snippets (similar to the national solutions attempted in Germany and Spain – see the background) to a request for a full neighbouring right (i.e. the request that publishers are added to the list of neighbouring rightholders in the EU copyright directives, alongside other creative industries which already enjoy this status: broadcasters, record companies, film producers). This request was backed by the four main umbrella associations of news publishers EPC, EMMA, ENM and **ENPA** in spring 2016.

As a background for their position, news publishers point to the difficulties they face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that link to press articles freely available online and/or use excerpts ("snippets") of articles without acquiring licences from the right owners. In addition, news publishers have reported problems when seeking to protect their products against piracy on the basis of the enforcement of (the underlying) authors' rights. They have mentioned national cases where courts have asked them to prove the entire chain of rights (i.e. that they have acquired the rights for various writers, photographers and other authors) before being granted the required relief.

AVMSD

[illegible][illegible]

Table 1. Demographic characteristics of the study population					
Characteristic	Number	Percentage	Mean	SD	Range
Age (years)	100	100	61.5	10.5	45-85
Gender					
Male	50	50			
Female	50	50			
Marital status					
Married	40	40			
Single	10	10			
Divorced	10	10			
Widowed	10	10			
Education level					
High school	20	20			
College	20	20			
Postgraduate	10	10			
Illiterate	10	10			
Occupation					
Retired	20	20			
Unemployed	10	10			
Housewife	10	10			
Student	10	10			
Professional	10	10			
Manager	10	10			
Worker	10	10			
Self-employed	10	10			
Entrepreneur	10	10			
Other	10	10			

Out of
scope

[REDACTED]

[REDACTED]

ENPA's position:

[REDACTED]

Out of
scope

[REDACTED]

[REDACTED]

[REDACTED]

VAT applied to online newspapers and ebooks

Out of
Scope

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

Line to take

Media Freedom and Pluralism

- [REDACTED]
- [REDACTED]
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Out
of
Scope

DSM Strategy and platforms

- [REDACTED]
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Out of
Scope

06/06/2016 (11:00 - 11:45 h.)

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Copyright

- The Copyright modernisation is a key element of the Commission Digital Single Market Strategy. A well-functioning, modernised copyright is essential for guaranteeing, on the one hand, the protection of creators and the investments of cultural industries and, on the other, access to culture and knowledge, including across borders.
- The Commission has undertaken two actions in December 2015:
 - A Commission's Communication, based on a step-by-step approach, has set out political objectives, areas of action with concrete measures as well as the timeline.

- [REDACTED]

Out of
Scope

- [REDACTED]

- As announced in the December 2015 Copyright Communication, the second set of copyright modernisation legislative proposals will follow later in 2016 (current timeline: end September 2016).

- In the context of the preparation of these proposals, we have launched a public consultation (open until 15 June) focussing on two specific issues that were flagged in the Communication but had not been covered by the previous copyright consultations: namely, the possible introduction in EU law of a new right for publishers and the so-called "panorama" exception. We want to make sure to have properly consulted before any final decision is taken as to the issues to be included in the legislative proposals.

- No final decision on the content of the 2016 package has been taken yet. Following up on the December Communication, the broad objectives and areas for intervention we are currently analysing are the following:

- [REDACTED]
- [REDACTED]

Out of
Scope

06/06/2016 (11:00 - 11:45 h.)

- Achieving a well-functioning copyright market place. The objective is to make sure that our copyright rules enable to fairly share the benefits generated by the online uses of creative works. This includes notably the discussion on publishers on which we are consulting now, the role of online intermediaries when they distribute copyright-protected content and the remuneration of authors and performers.

- [REDACTED]

Out of
Scope

Publishers' rights

- In its December Communication the Commission announced its intention to analyse the situation as regards publishers and news aggregators.
- We understand that different ideas have been put forward by publishers. In particular, the request to introduce in EU copyright law a new "neighbouring right" which will identify publishers as rightholders (as for example phonogram producers, film producers, broadcasters).
- The Commission has launched a public consultation on the role of publishers in the copyright value chain (it will last till 15 June 2016). The public consultation will help us understand whether there are problems in the exploitation and enforcement of rights on publications. If so, contributions to the public consultation will help the Commission assess policy options to solve or alleviate them.
- A decision on whether action at EU level is necessary on this issue has not been made yet.

AVMSD

- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of
Scope

- ## Out of Scope

- 8/18

Defensive points

Publishers' rights

Is the Commission planning to grant new rights to all kind of publishers or only to press publishers?

- The public consultation on the role of publishers in the copyright value chain covers both book and news publishers. We believe that a broad public consultation is an excellent opportunity to have a detailed picture of the publishing sector to better understand the specificities of each type of publishers and whether problems and solutions are the same or not. The scope of the public consultation does not prejudice the scope of an eventual intervention at the EU level.

- The public consultation is still ongoing and will provide the Commission with relevant data to assess whether action at EU level is needed. No decision has been made on this issue.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of
Scope

DSM Strategy and Platforms

Online platforms

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

Out of
Scope

Media Freedom and Pluralism

[illegible]

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for ensuring the integrity and transparency of the financial system. This section also outlines the various methods used to collect and analyze data, highlighting the role of technology in streamlining these processes.






























The second part of the document focuses on the challenges faced by the organization in implementing these systems. It identifies key areas where improvements are needed, such as enhancing data security and ensuring the reliability of the information sources. The document also provides a detailed analysis of the current state of the organization's financial operations, including a breakdown of revenue and expenses.

The third part of the document presents a comprehensive overview of the organization's financial performance over the past year. It includes a detailed comparison of actual results against budgeted figures, as well as a discussion of the factors that have influenced these outcomes. The document also provides a clear and concise summary of the key findings and recommendations for future action.

The fourth part of the document discusses the organization's plans for the upcoming year, including its strategic goals and the specific actions that will be taken to achieve them. It also outlines the resources that will be required to support these plans, such as additional staff and equipment. The document concludes with a final summary of the key points and a call to action for all stakeholders to work together to ensure the success of the organization.

DSM Strategy and platforms

Out of Scope

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358

Contact(s):

Copyright

Publishers' rights

Why are press publishers asking for an own right now?

The origin is the difficulties press publishers face when seeking to monetise online uses of their content, in particular by online platforms (such as news aggregators) that use excerpts ("snippets") of articles without acquiring licences from the right owners (they can also provide hyperlinks to the original articles, but this is not copyright-relevant as long as the articles are freely available in the internet).

Publishers' advertising revenues are decreasing dramatically while platforms are getting a bigger and bigger share of online advertising revenues.

(4 (3))

In addition, (some) press publishers have reported problems protecting their products against piracy on the basis of the enforcement of (the underlying) authors' rights. They have mentioned national cases where courts have asked them to prove the entire chain of rights (i.e. that they have acquired the rights for various writers, photographers and other authors) before being granted the required relief.

Over the last few months the position of press publishers has evolved from an original request for an ancillary right for snippets (similar to the national solutions attempted in Germany and Spain) to a request for a full neighbouring right. The use of the press online is rapidly evolving and it seems they have concluded that they need to take a much more forward looking position. The request is backed by the four main umbrella associations EPC, EMMA, ENPA and NME.

Out of
Scope

Are book publishers asking for an own right too?

06/06/2016 (11:00 - 11:45 h.)

We are not aware of a formal position from book publishers yet (nor of scientific publishers).

Out of
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[REDACTED]

AVMSD

out of
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[REDACTED]

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Scope

[REDACTED]

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[REDACTED]

Out of
Scope

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[REDACTED]

[REDACTED]

06/06/2016 (11:00 - 11:45 h.)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Contact(s): [REDACTED] (DG CNECT), [REDACTED]

Ref. Ares(2016)5144739

From: [REDACTED] (CNECT)
Sent: Friday, June 10, 2016 5:44 PM
To: BURY Claire (CNECT); DE GRAAF Gerard (CNECT); HEROLD Anna (CAB-OETTINGER)
Cc: VIOLA Roberto (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
 [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
 [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
Subject: publishers right - meeting with Google 8/6/2016

Dear all,

Please find enclosed the short minutes of the meeting with Google on publishers' right early this week, written with my colleague [REDACTED]

[REDACTED]

MEETING WITH GOOGLE on publishers' right

Wednesday 8th of June 2016 (BU [REDACTED])

Presents:

- **GOOGLE:** [REDACTED] (IP Manager), [REDACTED] (Public Policy and Government Relations Manager- Central/Eastern Europe), [REDACTED] (id. UK), [REDACTED] (Public Policy Counsel)
- **CONNECT F.5.:** [REDACTED], [REDACTED], [REDACTED]
 [REDACTED], [REDACTED], [REDACTED] (CONNECT [REDACTED])

Data
protec
tion

Main points discussed:

- Google will reply to the public consultation.
- Strong concerns as to the **scope** of such right (Press, Books, Scientific publications? / Who would publisher among the one billion websites on the net?), and its potential impact on some of their specific products (ex. Google Book, Google scholar, etc.) as well as their **hyperlinks activity** and use of **snippets** (both being "linked").
- They challenged the existence of a problem: what problem are we trying to solve exactly with such NR? What would be its added value?
- Google stressed their usual position that publishers benefit from traffic brought to them by service providers. Partnerships are being

tested (eg the Google Digital News Initiative). Legal intervention would make everybody worse off

- In this context, a new right would only generate an unbalanced situation and make further collaboration very difficult. It would hugely increase the legal uncertainty (who/what benefits from the protection, quid in case of conflict of right with the author, etc.) and in a long term perspective, jeopardize the whole internet eco-system (potential higher licence fees, more enforcement, impact on the dissemination of information, etc...).
- Google informed us of the recent agreement reached with the Italian Newspaper Publishers Federation (FIEG) – a 3 years – partnership agreement reached with the Italian valued 12 millions EUR, allowing journalists to use and take advantage from Google distribution platforms (Google Play, You Tube) tools (Google Analytics to measure traffic, other features to protect their copyright, advertising schemes) and other trainings. Google believes that such win-win partnership (already existing in FR, BE, UK) where the importance of copyright and value of editorial content is recognized, and where a vast majority of revenues is shared, is a good commercial/market solution. In Google's view, this is and remains a business' issue, not a legal one.
- They provided us with two documents:
 - A state of the play of the “ancillary copyright in Germany”- to highlight its negative impact on press publishers and the huge number of litigations it has triggered;
 - Explanations about the Digital News Initiative (DNI), including the Accelerated Mobile Page project (AMP) - to underline the already existing partnership between Google and European news organizations.

European Commission
Directorate General CONNECT

Dinner with Dr. von Klaeden (Axel Springer SE) and MdBs and MdEPs
at the Journalisten-Club in Berlin on 20 June 2016, 21:00
Follow up on copyright: Copyright + next steps + DE position

I. Scene setter

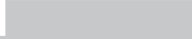



For Axel Springer: Dr. Dietrich von Klaeden, Head of Public Affairs and Mathias Döpfner, CEO.

Members of the Bundestag and Members of the European Parliament

For DG CONNECT:

Objective(s):

Their Position:

- Following the CJEU's decision on the Reprobel case (see background),  Out of Scope

- More broadly in terms of publishers' rights, Germany introduced the so-called ancillary right for publishers in 2013 and is supportive of the need to protect news publishers' investments and creative contribution regarding their publications.
- 
-  out of Scope

Our Position:

- The public consultation on a possible new neighbouring right for publishers has just finished. This consultation and ongoing impact assessment work will be used by the Commission to decide on the need to propose to the Council and the EP the introduction of such a right at EU level.
- No decision as to the scope of the second copyright package has been made. We are considering legislative options to address the concerns raised by Germany regarding publishers' rights.

Line to Take

Vorschlag zur grenzüberschreitenden Portabilität

Out of
scope

-

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-

[REDACTED]

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[REDACTED]

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[REDACTED]

Zweites Urheberrechtspaket

- Ende September 2016 wird das zweite Paket mit Gesetzgebungsvorschlägen zur Modernisierung des Urheberrechts folgen. Die Ziele sind:

-

[REDACTED]

-

[REDACTED]

- ein gut funktionierender Markt für urheberrechtlich geschützte Werke.

[REDACTED]

- Im Zuge der Vorbereitung dieser Vorschläge haben wir eine öffentliche Konsultation durchgeführt, deren Schwerpunkt auf zwei speziellen Fragen lag, die in der Mitteilung vom Dezember 2015 genannt wurden, aber nicht Gegenstand der vorausgegangenen Konsultationen zum Urheberrecht waren: die mögliche Aufnahme eines Schutzrechts für Verleger und der sogenannten „Panoramafreiheit“-Ausnahme ins EU-Recht.

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- Die Konsultation endete am 15. Juni. Wir wollen sicherstellen, eine ordnungsgemäße Anhörung durchgeführt zu haben, bevor eine endgültige Entscheidung über die Aspekte getroffen wird, die Eingang in die Gesetzgebungsvorschläge finden.
- [REDACTED]
- Das Ergebnis wird daher keine Generalüberholung des gesamten Urheberrechts, sondern eine pragmatische und gezielte Modernisierung der Rechtsvorschriften sein.
- Über den Inhalt des 2016-Pakets wurde noch nicht endgültig entschieden.

Defensives

Portability

Out of
Scope

[REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

-

Second copyright package

Will the Commission propose legislation to introduce a neighbouring right for publishers?

- The Commission has just finished a public consultation on this matter. We need to take into account the contributions to this consultation before making a decision as to whether this aspect is to be included in the legislative proposal on copyright to be adopted in September this year.
- Die Konsultation endete am 15. Juni. A decision on the next steps has not been made yet.

Out of
scope

Will the Commission tax hyperlinks?

- The Commission has no plan to tax hyperlinks. In other words, we have no intention to ask people to pay for copyright when they simply share a hyperlink to content protected by copyright.
- Europeans are sharing and posting hyperlinks every day and they should remain free to do so. We want to reassure them and make this point very clear.
- In our action plan to modernise EU copyright rules, we explained that we would look at the activities of different types of intermediaries in relation to copyright-protected content. This is a different issue. News aggregators, for example, are not only using hyperlinks but extracts of articles and make business out of this activity.

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Scope

Review of Satellite and Cable Directive

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Contact: [REDACTED], *CONNECT.F.5, Tel:* [REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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Cross-border portability proposal: state of play

Out of Scope

■ ■ ■

1. **Identify the problem.** The first step in the problem-solving process is to identify the problem. This involves recognizing the symptoms of the problem and determining the underlying cause. For example, if a machine is not working, the problem might be a broken part or a lack of lubrication.

- [REDACTED]

Copyright modernisation – State of play

- A **Commission Communication** setting the scene for the Commission policy action in the area of copyright during the entire mandate was adopted on 9 December 2015. The initiative set out the Commission's plans for the modernisation of the EU copyright framework and will serve as roadmap for future proposals. In addition, the Communication put forward a long-term vision on certain issues, where EU intervention may be necessary at a future stage. Non legislative intervention in certain areas is also foreseen and announced in the Communication.

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- [REDACTED]

- On 23 March 2016, the Commission launched a **public consultation on the role of publishers in the copyright value chain and on the panorama exception** (deadline ends on 15 June).

- The Commission intends to adopt a **second set of measures** to modernise the existing copyright rules **after the summer**. Subject to further decisions, the Commission is focussing in particular on the following objectives:

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[REDACTED]

(iii) achieving a well-functioning copyright market place,

[REDACTED]

[REDACTED]

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[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

V. Attachments

Data
protection

CVs:

Dr. Dietrich von Klaeden

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Mathias Döpfner - CEO Axel Springer Verlag

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED] January

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

VP Ansip mission to Paris

The present briefing covers the meeting with the culture minister Audrey Azoulay as well as the meeting with the "patrons" of the French newspapers;

Scene setter

Meeting with the French minister Audrey Azoulay

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On the creation of new right for publishers, France has no position yet. They commissioned the CSPLA, an advisory body of the French government with the mission to reflect on the possible creation of such right (preliminary findings could be reached in July). It is unlikely that France would advise against the creation of a new right given their general attachment to creative industries, but they would not necessarily call for a right covering all publishers. The situation of press publishers is a concern for them, in particular as Google will not renew its past financial support to the French press sector for its move into the online world (€60M – agreement reached in 2013).

[REDACTED]

Out of
scope

[REDACTED]

Meeting with French newspapers publishers

In its contribution to the public consultation on the possible creation of a new neighbouring right, the SPQN, the trade association representing the French daily newspapers, supported the creation of a new neighbouring right that, they argue, would enable them to better protect their contents, secure their investments, and would be consistent with the neighbouring rights in the music and the audio-visual sectors. In addition, by recognizing publishers as rightholders, they support that such right would also fix the Reprobel decision. At the same time, SPQN highlight the importance of intermediaries, such as search engines, to access information/freedom of expression and generate traffic to their sites, and want therefore to maintain and develop partnership with them. They make a distinction between these intermediaries and crawlers (web indexing services) which give access to their contents (via hyperlinks) without entering into a licence and in competition with traditional services providing press reviews; In light of the commercial purpose of these sites, they consider that these services should be considered as engaged into copyright relevant acts and call for an intervention to than end to change the legal framework as interpreted by the Svensson case on hyperlinking (February 13th, 2014);

In light of this position, it is expected that French daily newspapers would be supportive of the creation of a fully-fledged new right for press publishers. At the same time, it is possible that they will argue that such intervention address only one side of the coin and that further intervention would be needed to ensure that the concept of communication to the public apply to new forms of exploitations of content such as the ones operated by aggregation services and crawlers.

Objective(s)

- [REDACTED]
- On publisher's rights: stress the importance of France future position
- [REDACTED]

Out of
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Line to take

On portability:

- [REDACTED]
- [REDACTED]

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Scope

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[illegible]

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QUESTION

ANSWER

On value gap

- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
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[REDACTED]
[REDACTED]

On publisher right

- In its December Communication the Commission announced its intention to analyse the situation as regards publishers and news aggregators.
- We understand that different ideas have been put forward by publishers. In particular, the request to introduce in EU copyright law a new "neighbouring right" which will identify publishers as rightholders (as for example phonogram producers, film producers, broadcasters).

- The Commission has carried out a public consultation on the role of publishers in the copyright value chain that was open from 23 March until 15 June 2016. Views expressed and information gathered are helping us to understand whether there are problems in the exploitation and enforcement of rights on publications and assist the Commission's assessment of the need for initiatives, as part of its efforts to modernise EU copyright rules.
- As is common practice with all public consultations, the Commission will publish in the coming weeks the replies received and a first snapshot of results and statistics. A Synopsis report will be published at a later stage.
- A decision on whether action at EU level is necessary on this issue has not been made yet.
- We are looking forward to France position on this subject.

Defensives

Publishers' rights

Why is the Commission looking into neighbouring rights when it was a failure in Germany and Spain?

- Germany and Spain have passed legislation in the last few years to grant specific rights to publishers. The German and Spanish laws are different but they both aim at giving publishers very specific rights over the use of snippets or small excerpts of their content by online services such as news aggregators (often referred to as "ancillary rights").
- This is different from the broader and general concept of neighbouring right on which the Commission intends to seek views now. A neighbouring right would give publishers self-standing protection of their content, in addition to the protection enjoyed by authors (similar to the protection granted to current neighbouring rightholders, such as broadcasters and film or record producers).

Remuneration

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Exceptions:

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- [Redacted]

ON AUDIOVISUAL

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- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Response	Percentage
Yes	75%
No	25%

- _____

- [illegible]

Out of Scope

Responsibility	Percentage
Current government	85%
Previous government	10%
No government	5%

- _____

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Annex

Communiqué de presse de la Ministre de la culture (25 mai 2016)

Audrey Azoulay, ministre de la culture et de la communication, salue l'adoption aujourd'hui par la Commission européenne d'une série de mesures visant à créer, au niveau européen, les conditions d'une concurrence plus équitable entre tous les acteurs pour assurer l'avenir du financement de la création et la diversité culturelle européenne.

Ce plan se décline au travers de trois textes : la proposition de révision de la directive sur les services de médias audiovisuels, la communication sur les plateformes et le projet de règlement sur le géoblocage.

La proposition de révision de la directive sur les services de médias audiovisuels apporte des réponses encourageantes à deux préoccupations fortes de la France :

- d'une part, elle vise à rééquilibrer les règles du jeu entre les chaînes de télévision et les nouveaux acteurs de l'audiovisuel :
 - en relevant le niveau d'exigence à l'égard des services de vidéo à la demande en matière de diversité culturelle et de protection des mineurs,
 - mais également en intégrant dans le champ de la directive les plateformes de partage de vidéo qui en sont aujourd'hui exclues ;
- d'autre part, elle cherche à réduire les distorsions de concurrence liées aux asymétries de régulation au sein de l'Union européenne :
 - en imposant à tous les services de vidéo à la demande un quota minimal d'exposition d'œuvres européennes
 - et en permettant aux Etats membres d'imposer des contributions au financement de la création à l'ensemble des services de vidéo à la demande qui ciblent leur territoire, même lorsqu'ils sont implantés dans un autre Etat membre.

La ministre de la Culture et de la Communication salue ces deux avancées, qui doivent beaucoup à la détermination de la France à faire la pédagogie d'une régulation audiovisuelle modernisée et ambitieuse, au service de la diversité culturelle et de la protection des publics.

La ministre plaidera par ailleurs, lors de l'examen du projet de directive, et dès le prochain Conseil des ministres de la culture le 31 mai 2016, pour un niveau d'exigence renforcé sur certaines dispositions du projet.

A l'occasion de la communication sur « les plateformes en ligne et le marché unique du numérique : Opportunités et défis pour l'Europe », la ministre relève avec grand intérêt la volonté de la Commission européenne de responsabiliser davantage les plateformes numériques. En particulier, la ministre sera très attentive à l'ambition affichée d'avancer, à l'occasion de la réforme du cadre européen du droit d'auteur prévue à l'automne, vers un meilleur partage de la valeur entre les créateurs et les intermédiaires en ligne qui tirent profit de la distribution d'œuvres protégées sans participer à leur financement. Il importera, dans la même perspective, de clarifier les obligations de

précaution spécifiques applicables à ces acteurs, en coopération avec les titulaires de droit.

Enfin, la ministre se félicite que le projet de règlement relatif au géoblocage qui traite du commerce électronique, n'affecte pas la territorialité du droit d'auteur. Elle veillera à ce que les différentes réformes engagées au niveau européen pour adapter les pratiques commerciales à l'ère numérique préservent les mesures de soutien et de promotion de la diversité culturelle, notamment les législations nationales comme celle sur le prix unique du livre.

Contact(s): 