Dear Ms Reda,

Thank you for your e-mail of 18 July 2015 in which you seek further information from the Commission concerning the German Presseverleger Leistungsschutzrecht.

In your question E-005574/2015 first sub question you asked the Commission what information (based on various sources) the Commission holds or is aware of that relates to the applicability of Directive 98/34/EC to the German Presseverleger-Leistungsschutzrecht. As I said in my reply, the Commission was informed that Germany did not consider that the legislation in question falls under Directive 98/34/EC and that Germany did not notify the law.

In your letter you now also enquire more specifically what exchanges took place between the German authorities and the Commission on the subject matter of notifiability of the German legislation. I can therefore inform you that the Commission reminded the German authorities via e-mail in February 2013 of the notification obligation under Directive 98/34/EC. In that mail the Commission services explained that notification would be required if the revision of the copyright legislation contained rules on information society services in the sense of Directive 98/34/EC. The German authorities took the view that this was not the case and adopted the legislation without notification. There was no follow up to the reply submitted by the German authorities.

You also enquired (second sub question) what the Commission has done, is doing and is intending to do to assess the applicability of Directive 98/34/EC to the German law in question. I informed you that the Commission was not undertaking specific actions to assess the formal notifiability under Directive 98/34/EC of the German legislation. As mentioned previously, national courts can decide on the inapplicability of a national legislation containing technical regulations if a Member State wrongly omitted to notify the national legislation under Directive 98/34/EC.

Finally, with your third sub question, you asked the Commission's assessment of the law in question and its compliance with all applicable EU legislation. As for the assessment in light of Directive 98/34/EC, I answered above. The Commission has not carried out any specific assessment on the compatibility of the German law with other applicable EU legal instruments. As indicated in my
reply to your written question, the Commission is monitoring the concrete implementation of this law and its impact on the online market players. We are aware of the debate around this measure and of the different positions and concerns expressed by different categories of rightholders but for the moment we have not reached any specific conclusions nor taken a position in this respect.

Yours sincerely

Elżbieta Bieńkowska