

Annex I – B. EC Documents

i. Report meetings

Meetings with stakeholders

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Doc. 1

To: [REDACTED] (CNECT)
Subject: FW: BTO, Meeting with Centre Français d'exploitation du droit de Copie (CFC), 27. September 2017
Attachments: [REDACTED]_2017.09.27_15.47.44_5C4N3048_1.pdf

Personal data

From: [REDACTED] CNECT)
Sent: Thursday, September 28, 2017 11:15 AM
To: CNECT LIST I2
Subject: BTO, Meeting with Centre Français d'exploitation du droit de Copie (CFC), 27. September 2017

BTO Meeting with Centre Français d'exploitation du droit de Copie (CFC), 27. September 2017

Participants:

CFC : [REDACTED] Personal data
CNECT : [REDACTED]

The meeting covered three topics in relation to the proposed Directive on Copyright in the DSM : The **exception for illustration for teaching (Art. 4)**, **claims to fair compensation (Art. 12)** and the **press publishers' right (Art. 11)**.

CFC presented themselves and explained that they license in two areas: education and reprography (including digital). Regarding reprography, the collective licensing scheme is compulsory .

[REDACTED]

Out of scope

[REDACTED]

[REDACTED]

Out of
scope

[REDACTED]

[REDACTED]

III. Regarding **Art.11**, they confirmed the strong support of French press publishers for this provision. They referred to the well-functioning mechanism of voluntary collective management of the digital rights of press publishers, that CFC operates. It allows CFC to control all uses of press publication by media monitoring agencies, through companies' intranet or extranet and by clipping agencies such as Meltwater (what they call "scrappers"). Such licences have been difficult to put in place before clarifications of the notion of communication to the public (hyperlinks) by the ECJ case law, however, they have not experienced difficulties regarding the "reproduction right" (e.g. regarding snippets) since it is not questioned that they reproduce all the content on their network in order to offer their services (online press review).

[REDACTED]

Out of
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[REDACTED]

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Doc. 2

To: [REDACTED] (CNECT) Personal data
Cc: [REDACTED] (CNECT)
Subject: BTO - Meeting with EANA (European Alliance of News agencies) 18.01.2017

BTO - Meeting with EANA (European Alliance of News Agencies) on 18.01.2017

For EANA: [REDACTED] Personal data
For I2: [REDACTED] data

News agencies main business is licensing media companies and others to use their content for publication on print and digital media outlet (B2B Business).

Their concern is to finance and defend a sustainable production of unbiased, quality news journalism. Their business is declining and they consider that the press would not survive without them providing such content.

For those reasons and since they are facing exactly the same challenges as press publishers, in particular, regarding the massive unauthorized use of their journalistic content by online intermediaries (social media, news aggregators), they wonder why they are kept away from the protection granted to art.11. For them, it is crucial to equally have a related right allowing them to strengthen their position when negotiating and enforcing their right regarding online intermediaries. Moreover, they explained that when they license their content to media, they grant them non-transferrable licences. Therefore, they still keep the right to grant licences to news aggregators and social media.

[REDACTED]

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From: [REDACTED] (CNECT)

Personal data

Sent: 26 July 2017 15:37

To:

[REDACTED]

Subject: BTO - Meeting with Facebook

Follow Up Flag: Follow up

Flag Status: Completed

See below minutes prepared following our meeting with Facebook.

Meeting with Facebook (FB) – 24/07/2017

FB: [REDACTED] (Policy Manager)

Personal data

COM: [REDACTED]

FB presented the tools it uses/makes available to rightholders to protect their content – apart from the general notification possibility for content present on the platform, FB developed *Rights Manager* which is a tool used in addition to the services of Audible Magic. *Rights Manager* is still in testing mode and will be deployed to a broader group of rightholders in the autumn.

[REDACTED]

Out of
scope

[REDACTED]

On press publishers' rights FB clarified that they have an interest in respecting copyright and driving traffic to publishers (as publishers also drive traffic to FB). They see them as partners. FB explained the positive experience of Instant Articles for press publishers. FB also thinks that the hyperlinking discussion is not so relevant, as hyperlinks as such are not interesting without the snippet. FB fears that publishers are not clear whether existing contracts with them will have to be renegotiated if the Directive is adopted as it is now (not-common position of publishers).

A more technical discussion followed about the functioning of Instant Articles and the use of FB buttons and widgets (FB explained that press publishers can certainly use FB widgets without FB's help, but big publishers usually contact FB to agree on the use). FB also explained the challenges related to the lack of an automated tool to recognise written content in order to remove it.

Finally, FB expressed their concerns about some MEPs making a link between Article 11 and the discussions on fake news.

Doc. 4

From: [REDACTED] (CNECT)
Sent: 18 January 2018 19:14
To: [REDACTED]

Personal data

Subject: BTO - Meeting with representatives of SROC, 19/12/2017

Meeting with representatives of SROC (<http://sroc.info/>), 19/12/2017

- CNECT I2: [REDACTED]
 - SROC: [REDACTED] (Premier League), [REDACTED] (DFL), [REDACTED] (La Liga)
- Person al data

SatCab Regulation

Out of scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Directive

- SROC explained that they have been lobbying to get their own right related to copyright, in order to protect their sport events, for many years. They recall that EP reports ask for it.
- The main aim of these rights would be to fight against unauthorised uses by betting operators and against piracy in general (as pirates do not always take the signal from broadcasters, but from sport event organisers directly). An amendment to the JURI draft report has been included in this sense (supported by 20 MEPs).
- They consider that the justification to grant related rights to press publishers should also apply to them, including regarding the need of harmonisation (they claim that HU, PL, IT and ES copyright legislations grant them rights – further info was requested by COM on this point).

Other

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

-

[Redacted text block]

[Redacted text block]

Personal data

From: [REDACTED] (CNECT)
To: [REDACTED]
Subject: Publishers right - report from the meeting with International and European Federation of Journalists last week
Date: 06 June 2016 09:42:35

Personal data

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].

Art.4(2)

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:** [REDACTED] (Director EFJ), [REDACTED] (copyright contact, IFJ), + national delegations (ES, DE, UK - [REDACTED])

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- **CONNECT F.5.:** [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.

Art. 4(2)

○ They are eager to find a solution which could in turn guarantee individual authors to receive remuneration

[REDACTED]

○ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

○ 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]

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[REDACTED]

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Directorate General CONNECT

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[REDACTED]

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Dear all,

On Friday morning, I attended a session of the Annual Colloquium on Fundamental Rights on Media Pluralism and Democracy: "*Media pluralism and independence from financial pressures and constraints*" (Session I.a - link: http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=31198)

Speakers: Frank La Rue (Assistant, Director General Communication and Information, UNESCO), Kristina Hristova (President of the Association of European Journalist- Bulgaria) François Le Hodey (CEO IMP Group- La libre BE, and member of the Executive Committee of ENPA)

Moderator: Helen Darbshire (Executive director, Access Info Europe)

MEPs: Presence of Julia Reda (Greens/EFA - DE) inter alia.

EC: [REDACTED]

In a nutshell, I would say that most of the discussions focused on the current general difficulties the media sector is facing in relation to:

<!--[if !supportLists]--> <!--[endif]-->*financial pressure*: monopolies, concentration of media ownership, transparency of the shareholding structure;
<!--[if !supportLists]--> <!--[endif]-->*political pressure*: government control on the media, state subsidies, in particular for advertisements; *the*,
<!--[if !supportLists]--> <!--[endif]-->pressure from the advertisers on

publishers: stopping collaboration if coverage is too low, but also, <!--[if !supportLists]--><!--[endif]-->credibility crisis of the press (US presidential campaign, Brexit, etc.). Instead of uniting, Internet has polarized the opinions.

To ensure a sustainable free and pluralist press with more transparency in this sector, the speakers and participants proposed: a non-for-profit model for media, a better regulation of state aids and of market concentration (market share). They also supported a better international regulation in media marketing and an increased cooperation and reflexion at EU level.

Apart from these general statements, **François Le Hodey** (ENPA) described the current, specific problems Belgian publishers are encountering in the digital era. According to him, the crucial question to be asked is: "**Is there a sustainable economic model for a high quality press on the Internet?**".

He illustrated with an example: "You are today a publisher with your own online and printed edition":

<!--[if !supportLists]--><!--[endif]-->On the one hand, your distribution and printing cost increase. You need more revenues. However, your print publications and print advertising revenues fall, respectively from 3 to 6 % and from 3 to 4 % annually. This trend will continue. Yet, in BE, publishers are the first employers of journalists. Under the current perspective, publishers will not be able to pay journalist anymore.

<!--[if !supportLists]--><!--[endif]-->On the other hand, you also have your website with specialized journalists dealing with FB communities and working in the creation of specific web-content. However, how to be paid on the Internet? <!--[if !supportLists]-->o <!--[endif]-->Paywalls? Not really working (Internet is considered as a place where information must be accessed freely).

<!--[if !supportLists]-->o <!--[endif]-->Other problem: the **competition with (public) broadcasting organisations** that benefit from state subsidies for the creation of content similar/identical to the one press publishers produce.

<!--[if !supportLists]-->o <!--[endif]-->Advertisement revenues: FB and Google's market share represent 80%, they are worldwide actors, with strong technological advantages, notably for their data, and they don't pay for the creation of content. In a nutshell, **they have a substantial competitive advantage**.

According to M. Le Hodey, it means that the current model is uncertain. Most of the publishers will have to abandon their print editions. **But what will be the next sustainable model?** M. Le Hodey underlined that the technological revolution is shaping the economy and regrets that national government do not do anything to build a new business model.

Regarding copyright and neighbouring rights, he only stressed that Internet favours plagiarism, and drew parallels with the pharmaceutical industry where the legal framework enables fair competition. He also underlined unfair competition with

broadcasting organizations benefiting from state subsidies.

Julia Reda took the floor to underline that the development of digital business models seems to be hampered by the legal framework (e.g: VAT is lower for print media than for online media). Regarding the new proposal, she highlighted the bad experience from Germany. According to her, the lack of copyright protection for press publications is not really the issue. The problem comes rather from changes in the way advertisers are targeting internet users. The users are likely to be more receptive to advertisement on Google than on a publisher's website. **It is therefore far more important for J.Redra to enforce current market rules in the advertising sector than to adopt a new neighbouring right.**

<image001.jpg>



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<image002.jpg>

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Doc. 7

BTO_Viola and Google – 19 October 2016 - copyright

Version 1

[REDACTED]

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Participants:

Commission: Roberto VIOLA, [REDACTED]

Google: [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

[REDACTED]

Out of
scope

A discussion on press publishers' rights followed. Google referred to the experience in DE and ES and their efforts to help press publishers with more traffic and technological tools to improve access to news content.

[REDACTED]

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Claire Bury's meeting with [REDACTED] - EPC - 8/12/2016

Meeting between Claire Bury and [REDACTED] Executive Director - 8 December 2016 - AVMSD, copyright and ePrivacy

Participants:

EPC: [REDACTED] (Executive Director) and [REDACTED]

DG CONNECT: Claire Bury(DDG2), [REDACTED]

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EPC expressed their views on the following issues in the files managed by DG CONNECT:

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

Out of
scope

- On copyright, EPC explained their efforts to discuss the Commission's proposal on press publishers' rights with MEPs from different political parties, in order to explain the benefits and get support. [REDACTED]

Art. 4(2)

[REDACTED]
[REDACTED]

- [REDACTED]
[REDACTED]

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Doc. 9

[REDACTED]

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[REDACTED]

[REDACTED]

Out of
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[REDACTED]

BTO Meeting Commissioner Oettinger with Burda on 20/12/2016

Participants: For Burda: [REDACTED] (CEO), [REDACTED] (Member of the Board), [REDACTED] (Head of public affairs)
For COM: Commissioner Oettinger, [REDACTED]
(CNECT I.2)

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The discussions focussed on three main topics: 1) the Commissions ongoing copyright reform, in particular as regards the proposed press publishers' right, 2) the Commission's upcoming communication concerning free flow of data and 3) possible need for action as regards the role of online platforms and their responsibilities for hosted content.

On copyright, Burda welcomed the initiative for a press publisher's right. Discussions focussed on the state of play of the negotiations in Council and Parliament. [REDACTED] stressed that according to Burda's assessment, the new publishers' right would have to be accompanied by compulsory collective management in order to avoid the negative experiences made in Germany and to secure the impact of the EU proposal. [REDACTED]

Art.
4(2)

[REDACTED] GHO pointed out that after the adoption of the proposals by the Commission in September they are now subject to the negotiations in Parliament and Council.

[REDACTED]

Out of
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[REDACTED]

[REDACTED]

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BTO Meeting with European Newspaper Publishers' Association (ENPA) and European Magazine Media Association (EMMA) – 8 May 2017

For ENPA/EMMA: [REDACTED]
For DG CONNECT: [REDACTED]
[REDACTED]

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- ENPA and EMMA are strongly opposed to a presumption of representation (Reference to Ms Comodini's draft report) which would not address their problems. They also referred to freelance journalists, who rarely grant exclusive licences to press publishers.
- ENPA and EMMA explained the recent public support of the European Federation of Journalists (EFJ), in favour of the publisher's right (under certain conditions, notably the exercise of the right through collective management organisations with both publishers and authors on their boards, so as to ensure fair remuneration for journalists – a meeting between EIJ and I2 is scheduled to better understand their position).

[REDACTED]

- [REDACTED]

Art.
4(2)

[REDACTED]

Out of scope

BTO_Vice-President Ansip and Christian Van Thillo (European Publishers Council) on copyright and ePrivacy– 22 May 2017

BTO_Vice-President Ansip and Christian Van Thillo (European Publishers Council) on copyright and ePrivacy - 22 May 2017

Commission: Vice-President Ansip, [REDACTED] Personal data
EPC: Christian Van Thillo (CVT), [REDACTED]

The discussion focused on two areas of interest to press publishers:

1. Copyright:

a) Press publishers' rights: EPC has met many MEPs and 18 MS to discuss the protection of press publishers. They see a general understanding of the problem but not so much of the solution proposed by the Commission, that EPC fully supports. When they see resistance from MEPs, they always ask "What legacy do you want to leave on this file?", as it is important to convince them that any other solution will certainly not solve the identified problem. [REDACTED] informed that journalists seem to be changing their position regarding the publishers' rights, as they see that an alternative of a presumption of transfer of representation (JURI draft report) would not give anything to authors. However, CVT explained that press publishers have agreements with the employed journalists but this is not the case with freelancers, whose unions do not support the press publishers' rights.

Art. 4 (2)

CVT acknowledged that the discussion on hyperlinks has faded away. [REDACTED]

[REDACTED] For most EPC members the priority is to have a stronger tool to negotiate regarding the most relevant reuses of their content (CVT gave the example of the reuse of broadcasts by cable operators, who pay for that content). Regarding the context, [REDACTED]

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BTO- Meeting CAB GABRIEL/ NEWS MEDIA EUROPE (NME) - copyright input 04/09/2017

Meeting CAB GABRIEL/ NEWS MEDIA EUROPE (NME) -04/09/17

(copyright input)

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For NME: [REDACTED]

For EC: [REDACTED] (CAB/Gabriel), [REDACTED] (CNECT/I4), [REDACTED]
(CNECT/ I1), [REDACTED] (CNECT/ I2)

- [REDACTED] gave background information on NME (splitting in ENPA). They wanted to distance themselves from some publishers [REDACTED]
- On the publisher's right and commenting the leaked text of the EE presidency in the Council:
 - On Option B: they are very worried about the presumption based solution because it would only favour "big press publishers" able to afford for litigation, to the detriment of small publishers. To the clarification that the presumption (Opt° B) would also facilitate the licencing of rights, he just kept mentioning that they had strong concerns regarding any kind of presumption.
 - On Option A: they consider that the clarification regarding the 'extracts' subject to the threshold of originality, narrows down the Commission's proposal. In their view, the protection would be meaningless if extracts are not covered.
- Regarding the negotiation into the EP:
 - They welcome the appointment of A.Voss as new rapporteur (JURI):
 - As to a possible carve out: they confirm it is not their intention to pursue individuals. They question the implementation/effectiveness of any carve out regarding snippets (ex. ITRE)
 - As to the allocation of a share of the revenues to journalists: they link it to the recent shift of position of the journalists. In principle, they are not against.

Art.
4(2)

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[REDACTED]
[REDACTED]

BTO Meeting with International/European...

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[REDACTED]

BTO Meeting with International/European Federation of Journalists on publishers' right - 20/09/2017 10-Oct-2017 20:34

BTO: Meeting with International/European Federation of Journalists on publishers' right - 20/09/2017

For I/EFJ: [REDACTED] (President/DK), [REDACTED] (copyright contact/FR) Personal data
For I2: [REDACTED] data

Background : When meeting with them on 02/06/2017, they had proposed, regarding art. 11, to turn the exclusive right into a remuneration right subject to a compulsory collective management (shared 50-50% between publishers and authors), that being the only way to ensure stronger negotiating power of author/publisher vis à vis tech giants and an effective and fairer remuneration.

Aim of the meeting for Journalists: see whether the EC's position has evolved (what the Commission would be ready to take on board) and address concerns regarding the transparency obligation (art. 14) and the teaching exception (art.4)

On article 11:

- They regret journalists' interests are not sufficiently reflected in the negotiation in EP and Council. Regarding **CULT** Amendment (MS "may choose" to ensure a fair share of revenue to journalists), they call for a **"shall"** provision.
- [REDACTED] explained that the Commission will defend its proposal. Potential evolutions taking into account current negotiations would imply prior internal official discussions. However, he explained that the Commission considers that a **compulsory collective management** of right is a fundamentally different approach than the one proposed, which aims at providing for sufficient flexibility to improve situation in all contractual relationships. **Voluntary collective management** could still have a place, depending on arrangements at national level (ex.VG Media in DE).

Out of scope

[REDACTED]

Out of scope

[REDACTED]

BTO_Mateo - 26 September 2017 - European Innovative Media Publishers - copyright

EIMA: [redacted] (Edinet), [redacted] (Spiil), [redacted] (KREAB) and [redacted] (EIMA).
Commission: [redacted] (Cab-Gabriel) and [redacted] (DG CNECT, note-taker).

Personal data

EIMA is an informal alliance of small and medium-sized press publishers in Europe, publishing digital or analogue newspapers.

[redacted] explained that the main concern of their members is the Commission's proposal on press publishers' rights. [redacted] explained how the right provided in ES law has affected the internet ecosystem in the country. They fear similar effects with the COM proposal, particularly regarding hyperlinks or the sharing of links. They fear that, if news aggregators disappeared due to the new right, the visibility of their content would be dramatically reduced, as they would not be able to emerge among bigger press publishers.

[redacted] explained the rationale of the COM proposal and how it does not affect hyperlinks and the scope of what is protected by copyright. Differences with the ES legislation were also highlighted.

Regarding the evolution of the file in Council and EP, [redacted] explained that their members prefer a presumption-based solution, as in Alternative B of the draft compromise text issued by the EE Presidency.

Finally, [redacted] referred to the initiative regarding fake news, on which the COM has started working. [redacted] invited EIMA members to participate in this initiative.

[redacted]
[redacted]

Personal data

BTO 12 and Facebook on copyright - 27 September 2017

- Facebook: [REDACTED] (Deputy General Counsel) and [REDACTED]
- Commission: [REDACTED] (note-taker)

Personal data

[REDACTED]
[REDACTED]
[REDACTED]

Out of scope

[REDACTED] explained Facebook's partnership-based approach to business. They prefer collaborating and relying on technology rather than complex legislation that risks being implemented in a diverse manner in MS.

[REDACTED] explained that Facebook works with both legacy and new press publishers, developing partnerships to attract readers and drive new traffic. [REDACTED] said that Facebook Journalism Project has met 2,600 publishers worldwide since January, developing news products and offering training and tools for journalists. They focus mainly on local news. Regarding Instant Articles, Facebook respects paywalls and subscription models and some publishers get up to 100% of the generated ad revenues.

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

Out of scope

BTO meeting CAB Gabriel with Google –
24/11/2017

For Google: [REDACTED] (Legal Director - Copyright US), [REDACTED]
For EC: [REDACTED] (CAB Gabriel), [REDACTED] (Connect I2)

Personal data

Out of scope

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

2° Regarding the **Publisher's right**, unsurprisingly, they were very critical:

- Who are the **beneficiaries**? They consider that the definition is too broad and could potentially cover any bloggers, etc.
- They do not understand the **rationale and added value** of the right regarding the copyright protection that publishers already have.

They also recalled the **win-win situation** between Google and press publishers (more traffic, more advertising revenues). Most importantly, they considered that this exclusive right would play to the detriment of **small publishers**. When they would not have licence agreement with publishers of press publications (as broadly defined in the Article 2), they would indeed simply block such content from their platforms, to be sure they are not infringing. They also referred to the **DE Case** (where licences have been granted for free) to highlight that press publishers need them and to question again the added value of our proposal.

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BTO - Meeting Claire Bury – Federation of European Publishers (FEP) – 11 October 2016

Participants

DG CNECT: Claire Bury, Deputy Director-General, [REDACTED] (CNECT I2)

FEP:

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

The Federation of European Publishers (FEP) presented a few examples of innovative approaches developed in the publishing sector. Dorothee Werner, from the German Publishers and Booksellers Association, explained how publishers are cooperating with start-ups, notably on e-learning and new payments systems. They gave the example of the "Contentshift" acceleration programme designed for the book and media industry. [REDACTED], representing a French publishing house, gave examples of digital products developed with enhanced features (e.g. atlas including videos, infography) and apps allowing to access such content by chapter. [REDACTED], representing a Hungarian educational publisher, presented one of the innovative education solutions they developed and explained how it can be used in the classroom to enrich the learning experience. [REDACTED], from the German educational publisher Cornelsen, presented a learning solution integrating virtual reality developed in cooperation with Samsung, which is currently being tested in secondary schools.

FEP expressed concerns on the lack of interoperability between e-books formats, which generates costs for publishers. They are in favour of open standards and more transparency for consumers.

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BTO meeting CAB Gabriel with DIGITAL EUROPE (Copyright working group) – 24/11/2017

• **For Digital Europe and members:** [REDACTED] (Digital Europe) and representatives from Bitkom, DropBox, Canon, Hewlett-Packard (HP), Intel, Sony, Western Digital, Microsoft, Siemens, Apple, etc.

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• **For EC:** [REDACTED] (CAB Gabriel), [REDACTED] (Connect I2), [REDACTED] (Connect I2)

The discussion revolved around two points of focus for Digital Europe's Copyright working group:

1. The ongoing negotiations of the Copyright reform package with special attention to Value Gap, TDM and the publishers' right

CAB presented the state of play of the developments in the Parliament and Council.

[REDACTED]

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In relation to **press publishers and online intermediaries** more generally, discussions centred on **fake news**. [REDACTED]

[REDACTED]

Out of scope

2. Private copying and reprography levies - state of play

[REDACTED]

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[Redacted text block]

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[Redacted text block]

Short BTO - Friday 11th of November - Claire Bury's Mission to London

Short BTO - Friday 11th of November - Claire Bury - Mission to London

'The relationship of the EU and the UK in the future of the Digital Single Market'
Event organised by University of Exeter at the Houses of Parliament

I gave a presentation on the DSM focussing on Copyright and AVMSD proposals. The workshop was attended by some 40 participants - many academics and several stakeholders from the creative industries. Questions focussed on the value gap/publishers' rights aspects of the copyright proposals

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BTO_Mateo - 9 November 2017 - News Media Europe - copyright, ePrivacy and fake news

Participants:

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News Media Europe: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Commission: [REDACTED]

The agenda of the meeting included press publishers' rights, ePrivacy and fake news.

On **press publishers' rights**, [REDACTED] outlined the state of play of the file and confirmed that the Commission it attached to its proposal, which we continue to explain to both co-legislators.

NME explained that they are aware of the discussions in the Council, where two options have been tabled by the Presidency. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Art.4
(2)

The discussion moved to the so-called option B (presumption of entitlement to license and enforce the rights in press publications). When asked about the problems press publishers would face should this option be adopted, NME pointed out that it would lead to litigation, particularly burdensome for small press publishers, and it would be problematic regarding the acquisition of all the necessary rights. Delegates from NL and UK explained that presumptions in their countries (based on employment contracts) have not solved their problems.

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[REDACTED]

[REDACTED]

[REDACTED]

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CEDC Conference - "Digital world: an opportunity for creation"?

On Monday 14 November, a conference organised by the European Coalitions for Cultural Diversity took place in the European Parliament (see attached programme) on "Digital world: an opportunity for creation?" to which Commissioner Oettinger and Claire Bury participated.

Commissioner Oettinger introduced the debate by explaining how the Creative Europe programme and the recently adopted legislative instruments on AVMS and Copyright will contribute to promote cultural diversity.

He underlined the need to invest in content creation and the importance of territoriality for the financing of audiovisual works.

The discussions in the first panel ("What future for copyright in the Digital Single Market?") focused on the recent copyright proposals.

MEP Jean-Marie Cavada stressed the importance of measures that preserve and promote content in Europe and diversity, and expressed the view that interests of consumers and rights holders converge. He welcomed the introduction of a new related right for press publishers (but stressed the need not to negatively affect small publishers) and indicated that the proposed measures on value gap were very positive but insufficient. On exceptions, he considers that the framework of the TDM exception should be better defined. He indicated that the discussions on the portability proposal are well advanced but considered that the priority is now to consolidate the text and could not promise to have the trilogues taking place before the end of the year. He promoted greater responsibilities for internet intermediaries on 3 important aspects: security, editorial responsibility and responsibility on taxes (paying taxes where the access providers are making profits).

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[REDACTED] (Film director and President of the Polish Film Academy) explained the importance of territoriality for the AV industry, in particular for small co-productions, and indicated that the large majority of revenues for AV works do not come from digital exploitation. He underlined that territoriality is not an obstacle to the distribution of films. He welcomed the Commission's proposed measures on the fair remuneration of authors, but considered that one important element missing in the Commission's package is a proposal for a better enforcement of copyright.

The importance of territoriality, of the fair remuneration of authors and performers and of a strong enforcement policy was also highlighted by MEP Mary Honeyball. She also considered that interests of consumers and rights holders are not opposed and that the issue of intermediaries raises one of the biggest concerns for copyright today.

[REDACTED] (President of the Federation of European Publishers) welcomed the recognition of the publishers' role in the value chain. He raised some concerns on the new exceptions introduced in the Copyright Directive, explaining that exceptions cannot be used as means to finance activities for which public funding is insufficient. He agreed with the transparency measures in the contracts of authors and performers but expressed criticism on the contract adjustment mechanism, which would create a high risk for publishers.

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██████████ (Director General, Association of Commercial Television in Europe) explained that the proposed Regulation on online transmissions and retransmissions of radio and TV programmes, in particular if considered together with the ongoing competition case, would have a negative effect on territorial exclusivity and would stop commercial televisions from investing in content such as local programmes. He was positive on value gap and would like to see more on enforcement. He considered that the text on portability will achieve a good balance between the interests of consumers and the need to maintain incentives for the sector to produce new content.

Claire Bury concluded the discussions of the first panel reminding the need to join up two different aspects of legislation, which are the AVMSD and the Copyright package. She explained that the MEDIA programme will be used to further promote of the circulation of works within the EU and that licensing issues for the exploitation of works on VoD services will be addressed in the context of a stakeholders' dialogue. She indicated that measures on enforcement are under preparation and will come a bit later probably in the second quarter 2017. She underlined the need to quickly close the discussions on portability. She also encouraged stakeholders to be constructive on copyright exceptions. She clarified what the Commission is proposing on press publishers and value gap and recalled the importance of freedom of speech as well as the political decision to not reopen the ECD. Concerning the Regulation, Claire pointed out that the Commission wants facilitate the licensing of rights whilst respecting territoriality.

The exchange of views in the second panel ("How to regulate the digital world to better support creation in Europe?") was not directly related to copyright but covered different aspects of the regulation affecting the distribution of content in the digital environment (competition, taxation, trade negotiations).

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██████████ (Film director) explained that cultural diversity constitutes Europe's most important wealth and underlined the need to ensure a wider circulation of works in Europe without undermining the production of new content. He considered, for example, the possibility to launch a platform for making European works more widely available).

██████████ (Director General of EDIMA) warned that copyright should not be used to address competition concerns or taxation issues. She explained that the modes of consumption are increasingly going digital and that platforms can help creators to reach new audiences and to better understand how their content is being consumed. She identified two means to improve the current situation for rights holders: more freedom to manage their rights individually and having access to data concerning the use of their works. She made the point that readers are not anymore interested in reading "full publications". Regarding the AVMSD, she expressed serious doubts as to the relevance of quotas to VOD services (which is a position that was fiercely criticized by the panel's chairman, Pascal Rogard - SACD).

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██████████ (IMPALA) welcomed the measures on value gap. He referred to unfair trading practices from online platforms towards small players (e.g. refusal to enter into negotiation) and considered that competition principles need to be reviewed in the digital age.

██████████ (DG TRADE) explained that the Commission always tries to obtain the best possible protection of copyright and related rights in international agreements, reminding that the AV sector is always excluded.

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MEP Viviane Reding gave an overview of the state of play of the different trade agreements (CETA, TTIP, TiSA).

Meetings regarding EP activities

23. Report on Working Breakfast of the Working Group Digital Agenda of SME EUROPE: Making Copyright Work: The Impact of Neighbouring Rights On European SMEs and Innovation, 8 November 2016, cnect.ddg2.i.2(2016)6931254
24. Report on EPP hearing on press publishers and value gap – 11.01.2017, cnect.ddg2.i.2(2017)521362
25. Report meeting on copyright in the DSM with JURI committee meeting 12.01.2017, cnect.ddg2.i.2(2017)521251
26. JURI draft report on the proposal for a Directive on copyright in the Digital Single Market, 8.03.2017, cnect.ddg2.i.2(2017)1451645
27. Report on JURI committee meeting on the Directive on copyright in the DSM, 22.03.2017 (Ref. Ares(2018)2114199)
28. Report meeting with IMCO committee on the Directive on copyright in the DSM, 11.05.2017, (Ref. Ares(2018)2114076)
29. Report on IMCO extraordinary meeting on the Directive on copyright in the DSM, 13.03.2017 (Ref. Ares(2018)2326294)
30. Summary of Opinion on the proposal for a Directive on Copyright in the Digital Single Market adopted by IMCO, 20.06.2017, Ref. Ares(2017)3089411
31. Summary of Opinions on the proposal for a Directive on Copyright in the Digital Single Market adopted by CULT and ITRE, 13.07.2017, cnect.ddg2.i.2(2017)4036557
32. Report on JURI committee meeting on the Directive on copyright in the DSM, 13.07.2017, cnect.ddg2.i.2(2017)4109173
33. Report of Breakfast debate hosted by MEPs V. Rozière and M. Boni on the role of press publishers in the @value chain, 10.11.2016, Ref. Ares (2016)6476722
34. Report meeting, JURI committee workshop on the Copyright Directive: strengthening the position of press publishers and authors and performers, 7.12.2017, Ref. Ares(2018)1992755

From: [REDACTED] (CNECT)

Sent: Wednesday, November 09, 2016 10:30 AM

To: [REDACTED] (CAB-OETTINGER); [REDACTED] (CNECT); [REDACTED]

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Subject: BTOs Working Breakfast of the Working Group Digital Agenda of SME EUROPE, 8 November

Dear all,

please find below short BTOs of yesterdays' working Breakfast of the Working Group Digital Agenda of SME EUROPE which focused on the impact that a new related right for press publishers would have on European SMEs and Innovation. [REDACTED]

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Kind regards,

BTO – Working Breakfast of the Working Group Digital Agenda of SME EUROPE: Making Copyright Work: The Impact of Neighbouring Rights On European SMEs and Innovation, 8 November 2016

MEPs: Therese Comodini Cachia, EPP, (Rapporteur regarding the Proposal for a Directive of the European Parliament and the Council on copyright in the Digital Single Market), Julia Reda, Greens/EFA, (Shadow Rapporteur for the said Directive), Angelika Niebler, EPP

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EC: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]

Others : [REDACTED] (Director for Policy and Research of OpenForum Europe), [REDACTED] (Global Copyright Director of Kantar Media)

The discussion focused on the impact that a new related right for press publishers, as recently put forward by the European Commission in the context of the so called second package of the ongoing copyright reform, would have on European SMEs and Innovation.

The introductory remarks were made by Therese Comodini Cachia who stressed that it is important to strike the right balance between protection, clear rules and not stifling innovation for SMEs. In her view, legislation should aim at allowing SMEs to compete more effectively with the big players.

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The first of the subsequent two keynotes was delivered by [REDACTED], who presented the Commission's second copyright proposal and in particular the proposed new related right for press publishers. He stressed in particular that the proposal would allow publishers to effectively enforce their rights while it would not change the scope of copyright protection, thus leaving the issue of hyperlinking untouched. He highlighted that the proposal does not foresee mandatory compensation but can be essential to enable publishers to protect their rights in the courts without a need to prove their rights to every single article.

The second keynote was delivered by Julia Reda. While acknowledging that the publishing industry is in a different position and losing revenues, Ms Reda argued that these problems cannot be addressed by copyright as they are stemming from unrelated causes, notably the shifting attention of the audience and declining revenues from classified ads. She underlined that the problems that publishers have with the IPR enforcement could be addressed in another way, ex. by using a concept of collective works. She also expressed doubts as regards the design of the proposal, highlighting that similar approaches in DE and ES had failed. In her view, the proposal may lead to a situation benefitting the big players at the cost of SMEs.

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_____ and _____ delivered to brief impulse statements toward the end of the event. _____ expressed doubts about the case made in the Commission's impact assessment regarding a need for action and called for alternative ways to help the publishing industry that would not be at the expense of SMEs. _____ expressed concern that Media Monitoring Services may be charged twice, based on the original copyright of the authors and the new related right for publishers.

In the following discussion, Angela Niebler emphasised the importance of media pluralism for the democracy and she agreed that copyright protected creative content should not be used for free.

Policy Officer



European Commission
DG CONNECT
UNIT I.2 – Copyright

Avenue de Beaulieu 25 _____
B-1060 Brussels/Belgium

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.

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From: [REDACTED] (CNECT)
Sent: Wednesday, January 18, 2017 11:08 AM
To: [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
[REDACTED] (CNECT)
Cc: [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED]
[REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT-EXT); [REDACTED] (CNECT); [REDACTED]
[REDACTED] (CNECT)
Subject: BTO - EPP hearing on press publishers and value gap – 11 January 2017

Dear [REDACTED] and colleagues,

Please find below a BTO on the EPP hearing on copyright (press publishers' rights and value gap) which took place in the EP on 11 January.

As it is quite long, for you to see whether it is also helpful for [REDACTED].

Best,

[REDACTED]

EPP hearing on press publishers and value gap – 11 January 2017

Presentation by Ms Comodini Cachia.

Video-message by Commissioner Navracsics.

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1st panel: Publishers' rights

- [REDACTED] (Petit Group - SK) reflected on the need to create an adequate environment for free independent press. Freedom of press is a guardian of democracy and human rights in SK, therefore its importance.
- [REDACTED] (News Media Europe) welcomed the COM proposal, which is also positive for journalists and gives press publishers legal and economic certainty to attract investments, as well as tools to fight against the free-riding of commercial platforms making money without remunerating them.
- [REDACTED] (University of Amsterdam) expressed her concerns regarding the effectiveness of the new right and its justification in terms of fundamental rights; the uncertainty and other negative consequences the new right may give rise to; the broad definition of the subject-matter of the right; and the assumption that what is good for the publishers is good for journalists.
- [REDACTED] (Mozilla) considered the COM proposal a non-credible and unworkable solution, as proven by experience in DE and ES. She considered it a lose-lose situation, at the potential expense of small market players and legal certainty. She pointed out that other effective alternatives, such as a review of the Enforcement Directive, have not been explored.
- [REDACTED] (Google) focused on the help provided by Google services to news publishers and described an ecosystem which is better and better for them. In his view, news publishers today can decide whether they want to be indexed or not. Most decide to be indexed, as it is a beneficial economic decision, a win-win balanced situation. He raised concerns with the scope and term of protection and considered the proposal as detrimental for authors' interests, not supported by economic evidence.

- [REDACTED] (CEIPI) sees no causal link between the introduction of the new right and the benefits for press publishers and referred to failing laws in DE and ES, with bad effects on smaller publishers, which is bad for freedom of expression. He is also concerned about the long term of protection and the retrospective protection.
- [REDACTED] (TH Wildau) welcomed the COM proposal, which secures new business models and gives economic incentives to publishers, who will avoid the free-riding on their content. He also denied the win-win relationship between publishers and news aggregators.
- [REDACTED] explained the proposal and replied to previous speakers.

Follow-up questions from MEPs included the following:

Ms Niebler asked for clarification on whether the use of hyperlinks was covered by the proposal. Mr Trupel asked whether authors will benefit from the press publishers' rights or not. Ms Comodini explained the need to identify the companies which will be affected by the press publishers' rights and need to obtain a licence.

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[REDACTED] ...).

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

Conclusion by Roberto Viola and Ms Comodini Cachia

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From: [REDACTED] (CNECT)
Sent: Monday, January 16, 2017 3:19 PM
To: VIOLA Roberto (CNECT); [REDACTED] (CNECT); [REDACTED] (CAB-ANSIP); [REDACTED] (CAB-ANSIP); [REDACTED] (CNECT)
Cc: CNECT DL INSTITUTIONS; [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Subject: minutes JURI committee meeting 12.01.2017- copyright Directive proposal

Dear all,

Please find below minutes from JURI committee meeting held on 12.1.2017.

Exchange of views on the Proposal for a Directive on Copyright in the Digital Single Market

Mrs COMODINI - CACHIA (rapporteur MT, EPP) intends to follow a transparent approach in the legislative process (she has already put online list of meetings with stakeholders and timetable). She acknowledged other committees interest in being associated to the file, especially under rule 54, but would not welcome involvement of too many committees to avoid conflicting opinions.

She confirmed IMCO as associated under rule 54. CULT, LIBE requested association as well, but no final decision has been taken yet. ITRE will be giving an opinion under rule 53. The rapporteur identified the creation of neighbouring rights for publishers (art 11) and "value gap" (art 13) as the most controversial aspects in the proposal.

L. De Geringer - Shadows S&D, PL

Thanked Mrs Comodini for organising a EPP hearing on copyright on 11.01.17, very interesting.

In her opinion, both art 11 and 13 should be deleted.

- On art 11- she pointed out that there is already legislation in place to preserve the interest of the publishers, they can negotiate licences on the basis of authors' rights.. Furthermore the retroactive implementation issue raises too many questions.

Out of
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- [REDACTED]

J. Reda – shadow GREENS, DE

Thanked for the transparent approach taken by the rapporteur; expressed willingness to collaborate for fruitful agreement. Art 11 and 13 to be discussed in great details.

- Mrs Reda shared Mrs De Geringer's views on harmonisation and simplification of the provisions.

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- [REDACTED]
- [REDACTED]

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- Opposed strongly to Art 11, convinced that even putting links can be considered infringement. Publishers rights' differs from other neighbouring rights, no need for another layer of protection.
- [REDACTED]

HONEYBALL(S&D, UK) – welcome the transparent approach taken by the rapporteur.

- Creators should receive fair remuneration, key element of this directive.
- Art 11 - In favour of the provision on publishers' rights, as this would stimulate investment in creation of works and ensure diverse forms of journalism.
- [REDACTED]

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Le Grip (EPP, FR) – Congratulated rapporteur on the work done so far.

No intention to weaken the ecosystem that finances culture and creative industry. The Commission's proposal goes in the right direction. Fair distribution of revenues is a priority.

NIEBLER (EPP, DE)

Congratulated the Commission for the good proposal. In general good start with some clarifications in the text; echoed Mrs Le Grip on the importance of preservation of culture creativity.

- Art 11 - Mrs Niebler supported the introduction of publishers' rights, publishers need to be put in a better negotiating position. Disagreed on the criticism regarding the threat to media pluralism (everybody can post what they like on the internet).

Out of
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CAVADA (ALDE, FR)

The introduction of neighbouring rights for publishers is a very good progress. Free access to creative works does not mean that there are no costs and should therefore result in remuneration for those who create and invest in creation of content. It is important not to penalize small publishers.

Out of
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Commission –

- Thanked the rapporteur for the organisation of the copyright EPP hearing held on 11.1.2017. Recalled the importance of other copyright files (Portability, Marrakesh

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Proposals and Broadcasting Regulation). Stressed the importance of striking a good balance between different interests.

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- Art 11 –the provision introduces a new category of neighbouring rights holder; the rights of reproduction and communication to public that will be granted to the publishers are left untouched. As regards Mrs Niebler question, the Commission referred to the ECJ court cases. Art 11 does not affect the possibility of linking.

Out of
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[REDACTED]



European Commission
DG CONNECT
Unit D2 – Interinstitutional relations
BU-25, [REDACTED]
tel.: [REDACTED]
e-mail: [REDACTED]@ec.europa.eu

From: [REDACTED] (CNECT)
Sent: Wednesday, March 08, 2017 10:52 AM
To: [REDACTED] (CNECT); VIOLA Roberto (CNECT); [REDACTED] (CNECT); [REDACTED] (CAB-ANSIP)
Cc: [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
A [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
[REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
[REDACTED] (CNECT)
Subject: JURI draft report on the proposal for a Directive on copyright in the Digital Single Market

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Dear all,

We have informally received Ms Comodini's draft report (JURI report) on the proposal for a Directive on copyright in the Digital Single Market.

Please find below a first summary of the main proposed amendments:

Press publishers' rights are completely modified: the Commission's proposal for exclusive rights has been replaced by a presumption of representation of the authors of the works contained in a press publication for the purposes of enforcement (except in criminal procedures).

Out of
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [Redacted]

[Redacted]

Kind regards,

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[Redacted]

From: [REDACTED] (CNECT)
Sent: Friday, March 24, 2017 4:27 PM
To: [REDACTED] (CAB-ANSIP); [REDACTED] (CAB-ANSIP); [REDACTED] (CAB-JUNCKER);
 [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
 [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
 [REDACTED] (CNECT); [REDACTED] (CNECT)
Cc: CNECT DL INSTITUTIONS
Subject: Flash: JURI 22.03.1

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Dear all,

Please find below a flash report for Wednesday's JURI committee meeting on the Copyright Directive.

Thanks a lot to [REDACTED] for her help.

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Best regards,

[REDACTED]

JURI meeting - 22 March 2017

Consideration of draft report on the proposal for a Directive on copyright in the Digital Single Market

Ms COMODINI CACHIA, Rapporteur (EPP, MT)

- presented her draft report explaining she aimed to address the copyright-relevant challenges encountered in the digital environment and to increase legal certainty without undermining the existing market solutions.

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

- acknowledged the challenges faced by press publishers (art. 11) ; proposed a legal presumption to help the latter in negotiations and in enforcing their rights while underlining that there is too much uncertainty to go further.

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- [REDACTED]
 [REDACTED]
 [REDACTED]

Shadow Rapporteurs

Mr CAVADA (ALDE, FR)

- expressed concerns on the fact that the draft report significantly departs from the initial proposal, described as rather balanced, on the following six points.

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4) on press publishers rights : emphasised that this provision should not be deleted, adding that the definition of press publishers should not include agencies.

Out of
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Ms REDA (Greens, DE)

- indicated that the draft report constitutes an improvement of the initial proposal.
- declared to be opposed to the creation of a new exclusive right for publishers and to be ready to discuss the legal presumption suggested by the rapporteur provided it is not extended to academic publishers and takes into account cases where licences are granted on a non-exclusive basis.

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Ms GERINGER (S&D, PL)

- did not see the need to create more rights.

Out of
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Members of the Committee

Ms NIEBLER (EPP, DE)

- indicated her support for the initial proposal, described as very balanced, while highlighting the need to provide more clarity on some issues.
- underlined the importance to make sure that creators get a fair share of the value and are fairly remunerated

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- on art. 11 : reminded the objective to protect high quality journalism.

Ms LE GRIP (EPP, FR)

- said to share the views of Mr CAVADA and Ms NIEBLER on publishers' rights, explaining it would be especially relevant to act at EU level ; supported the introduction of a new right to sustain independent journalism.

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[REDACTED]

Ms HONEYBALL (S&D - UK)

- highlighted the importance of fair remuneration for the creative sector referring to an unwaivable right for fair remuneration.

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- [REDACTED]

Ms ROZIÈRE (S&D - FR)

- stressed that the initial proposal contains some interesting elements such as its provisions on publishers, value gap and remuneration of authors and performers.

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scope

- [REDACTED]

- expressed surprise concerning the rapporteur's amendments to art. 11 and art. 13 ; stressed that the creation of a new right would contribute to an independent press.

- [REDACTED]

From: [REDACTED] (CNECT)" [REDACTED]@ec.europa.eu>
Date: 17 May 2017 at 10:35:47 GMT+2
To: " [REDACTED] (CNECT)" <[REDACTED]@ec.europa.eu>, " [REDACTED] (CNECT)"
 <[REDACTED]@ec.europa.eu>, " [REDACTED] (CNECT)"
 <[REDACTED] CAB-ANSIP)" [REDACTED]
Cc: CNECT DL INSTITUTIONS <CNECT-DL-INSTITUTIONS@ec.europa.eu>, " [REDACTED] (CNECT)"
 [REDACTED], [REDACTED] (CNECT)"
 [REDACTED] >, [REDACTED] (CNECT)"
 [REDACTED]
Subject: Minutes: IMCO on 11.05

Personal data

Dear All,

Please find below the minutes for the IMCO committee meeting on 11 May on the Copyright Directive.

Let us know if you would like further information.

Best regards,

[REDACTED]

Personal data

IMCO Committee Meeting on 11 May - Copyright Directive - Consideration of Compromise Amendments

Rapporteur :

STIHLER (UK, S&D)

- IMCO: Associated under rule 54. 508 amendments tabled.
- [REDACTED]
- [REDACTED]
- [REDACTED] The second batch with the more controversial issues (such as art. 11 on neighbouring rights for publishers and art. 13 on value gap) are currently been drafted and will be circulated to shadows by the beginning of next week.
- Second shadow meeting scheduled on 30 May.
- IMCO: Vote on opinion scheduled on 8 June.

Out of scope

Shadow Rapporteurs :

ARIMONT (EPP, BE)

- Welcomed the good set of CAs (first batch) and underlined that the second batch will be more difficult to deal with.
- Clarified EPP position on 5 points :
 - [REDACTED]

Out of scope

- [REDACTED]
- [REDACTED]
- Definition of Press Publication: art. 2 to be linked to art. 11. EPP can't accept the deletion of such definition. This will be discussed with the second batch of CAs.
- [REDACTED]

Out of scope

DALTON (ECR, UK)

Out of scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Publishers Right and Value Gap: maintained his position ; supports the full deletion of art. 11 as there is no way that we can get a sensible compromise. Risk to adopt provisions - quoting ECJ decision on sharing economy and elements of the SatCab Regulation - actually endangering the Digital Single Market making it impossible for companies to grow in the digital economy.
- [REDACTED]

Out of scope

KALLAS (ALDE, EE)

Out of scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Art. 11 and 13: underlined the need for further cooperation with the rapporteur as the wording of these art. could greatly damage innovation, creativity, freedom of information

Rapporteur :

STIHLER (UK, S&D)

Conclusive Remarks

From: [REDACTED] (CNECT)
Sent: Thursday, March 16, 2017 9:23 AM
To: [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); [REDACTED] (CNECT);
[REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Subject: IMCO meeting on 13.03

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data

Dear all, fyi the summary of the IMCO meeting on Monday

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IMCO extraordinary meeting on 13.03

Exchange of views on the draft option tabled by C. Stihler on the proposal for a copyright directive in the digital single market

The rapporteur presented her main amendments as follows:

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

Out of
scope

On the new neighbouring right for publishers- she has doubts as to whether the goal sought is achievable by the new right, publishers have the transferred rights, hence the question is what value added of the new right is. There is no evidence that adding a new layer of rights will help. She also found the retrospective application of the right problematic and mentioned that even if hyperlinks are excluded, scanning, indexing and TDM would be covered. She also referred to Berne Convention which allows press reviews under quotation exception. The argument of investment not convincing to her, she finds it stretched to compare the investment for press publications to those needed of film production. If press publishers bring her evidence happy to consider it but for now she has decided to delete Article 11.

Out of
scope

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

Reactions from other members:

Out of
scope

- Arimont (shadow) :

On Art. 11- doesn't share the view of rapporteur, rather the opposite ,
protection of press publishers is a question of principle. Deleting art 11 is not helping press,
support to COM proposal.

Out of
scope

- Dalton – On article 11 (press publishers) – supports deletion, the COM proposal rather
hurts the press as could be seen in DE and ES.

- Charanzova on behalf of Kaja Kallas –

Art 11

–evidence based approach is lacking, so supports the deletion.

Out of
scope

- Reda – rapporteur has right priorities, ie protecting digital single market and strengthening
education and research and consumers position.

. On art 11- only reasonable approach is deletion.

- Tarabella - criticised the deletion of art 11

.

Summary of the main changes

Vote: 8 June 2017

Out of
scope

TDM exception- Article 3

Out of scope

- Out of
scope

Out of
scope

- Out of scope

Out of
scope

Out-of-commerce (OoC) works – Articles 7 to 9

Out of scope

Publishers' rights - Articles 2(4), 11 and 18(2)

The text voted in IMCO does not include any amendment to Article 11. However, it contains other amendments:

- a) Specific reference to the negative impacts on media pluralism and remuneration of journalists of platforms such as news aggregators and search engines free-riding press publishers' content (recital 31).
- b) The protection granted would also apply to print uses (in recital 32) and the rights of rental, lending and distribution (in recital 34). These recitals would be inconsistent with Article 11.
- c) On hyperlinks (recital 33), the protection granted would not apply to "acts of a computation referencing or indexing system such as hyperlinking".
- d) The definition of 'press publication' in Article 2(4) has been deleted (probably because the CA on Article 2 was voted as a package).

- Out of scope

Out of scope

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

Out of scope

Article 15: Contract adjustment mechanism

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

NEW ISSUES

Out of scope

Freedom of panorama

- [REDACTED]

UGC exception

- [REDACTED]
- [REDACTED]

Public domain works

- [REDACTED]

From: [REDACTED] (CNECT)
Sent: Wednesday, July 12, 2017 6:53 PM
To: VIOLA Roberto (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Cc: [REDACTED] (CAB-JUNCKER); [REDACTED] (CAB-ANSIP); [REDACTED] (CAB-ANSIP); [REDACTED] (SG); [REDACTED] (CNECT); [REDACTED] CNECT);
[REDACTED] (CNECT); [REDACTED] CNECT); [REDACTED] (CNECT);
[REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
(CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT);
[REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED]
(CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED]
[REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED]
[REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED]
(CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED]
(CNECT)

Subject: copyright directive- opinions adopted this week by CULT and ITRE

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Dear all,

Please find attached a summary of the main amendments to the copyright directive adopted by the CULT and ITRE committees this week (we still do not have the final texts, but the summary should in all be accurate).

Main elements to flag:

Out of
scope

Publishers' right extended to analogue uses but reduced in its term to 8 years and complemented by optional rules on journalists' remuneration.

ITRE – [REDACTED]

[REDACTED] publishers right extended to scientific publications and to analogue uses and complemented by rules on fair remuneration of journalists and other authors in the publication. [REDACTED].

Out of
scope

Personal data



CULT and ITRE
opinions on the ...

European Commission
Directorate General CONNECT
Acting Head of Unit I2- Copyright
1049 Brussels, Belgium

office: BU 25 [REDACTED], tel.: [REDACTED]
e-mail: [REDACTED]@ec.europa.eu

CULT Opinion on the Directive on copyright in the Digital Single Market

Rapporteur: Marc Joulaud (EPP/FR)

Opinion adopted on 11 July (20 in favour; 8 against; 1 abstention)

Main changes:

Out of scope

- The **TDM exception** [REDACTED]
[REDACTED]
[REDACTED]
- The **teaching exception** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- The scope of the **preservation exception** [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- The opinion introduces an **optional exception for user-generated content**: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- A new mandatory exception is introduced to allow **access to the collections of cultural heritage institutions and educational establishments on their premises** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- The provisions on **out-of-commerce** [REDACTED]
- The **negotiation mechanism** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- The **press publishers' rights** have been maintained and extended to all uses (not only digital), with a carve-out for legitimate private and non-commercial use of press publications by individual users. The term of protection has been reduced to 8 years. A new provision has been added under Article 11, allowing MS to provide that a fair share of revenue derived from the use of press publishers' rights is attributed to journalists.

- [REDACTED]
- The provisions on **value gap** [REDACTED]
- A new provision has been added to cover **automated image-referencing services** [REDACTED]
- The provisions on the **remuneration of authors and performers** [REDACTED]
- In addition, the opinion suggests introducing an **unwaivable right to fair remuneration** [REDACTED]

ITRE Opinion on the Directive on copyright in the Digital Single Market

Rapporteur: Zdzislaw Krasnodebski (ECR/PL)

Opinion adopted on 11 July (39 in favour; 18 against; 6 abstentions)

Out of scope

Main changes:

- The **TDM exception** [REDACTED]
- The scope of the **teaching exception** [REDACTED]

From: [REDACTED] (CNECT)
Sent: Friday, July 14, 2017 12:56 PM
To: VIOLA Roberto (CNECT); [REDACTED] (CNECT); [REDACTED] (CAB-ANSIP); [REDACTED]
(CAB-GABRIEL); [REDACTED] (CAB-ANSIP)
Cc: [REDACTED] (CAB-JUNCKER); [REDACTED] (CNECT); [REDACTED] (CNECT);
[REDACTED] (CNECT); [REDACTED] (CNECT); CNECT D2; [REDACTED]
[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); [REDACTED] (CNECT)
Subject: Corrigendum - JURI - Consideration of Ams - Copyright Directive 13 July

Personal
data

Dear all,
Please see corrigendum in red to avoid misunderstandings.
Anna

Personal data

From: [REDACTED] (CNECT)
Sent: Friday, July 14, 2017 11:18 AM
To: [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CAB-ANSIP); [REDACTED] (CAB-GABRIEL); [REDACTED] (CAB-ANSIP)
Cc: [REDACTED] (CAB-JUNCKER); [REDACTED] (CNECT); CNECT DL INSTITUTIONS; [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Subject: JURI - Consideration of Ams - Copyright Directive 13 July

Dear all,

Please find below report from yesterday's JURI Committee meeting.

Attached EPP position.

Consideration of Amendments on the Copyright Directive

Voss (EPP, DE) – rapporteur

- Apologised for the delay in the process due to the change of rapporteur (Former : Comodini Cachia).
- Acknowledged the large amount of Ams tabled (almost 1000 AMs).
- Recalled the recently adopted (5 July) EPP position on the Directive Art 11 (more 100 Ams) : Mrs Comodini report provides a presumption of representation. Voss supports EPP approach in favour of a new right for press publishers (art 11).
- Art 13
- Art 3 : TDM -
- Users Generated Content exceptions:

Out of
scope

DZHAMBAZKI (ECR, BG)- will cooperate with the new rapporteur to find a balanced solution.

Out of
scope

Cavada- (ALDE, FR)

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

L. De Geringer (PL, S&D)

Out of scope

- looking forward to work with Mr Voss.
- [REDACTED]
- Concerned that all political groups are divided internally on art 11 and 13.
- Art 11 reiterated her concerns, no need to create a new neighbouring right, existing provisions are enough. Suggested to simplify current rules. Mentioned DE and ES as bad examples which created negative effects on smaller local publishers. The neighbouring right will furthermore generate a cost that will be passed on to end - users.

Reda (DE, Greens)

Out of
scope

- Ready to cooperate with Mr Voss on the basis of Comodini's draft report.
- Pointed out the difference between Comodini's and EPP position .
- Criticised the EPP position for not putting in question the Commission 's proposal.
- Welcomes Comodini transparent approach in trying to hear all voices (Comodini met a large amount of stakeholders)
- Mentioned the strong criticism expressed by academia, stakeholders and a large number of MEPs on Art 11 [REDACTED]
- Referred to AMs calling the deletion of art 11 supported by several MEPs coming from all political groups except for FN .
- [REDACTED]

Honeyball (S&D, UK)

Out of
scope

- important to achieve fairness and balance.
- [REDACTED]
- Art 11 : supported the EC provision on publishers rights; acknowledged that the important role of platforms (such as google) but a distinction should be made between their passive and active roles.

Adinolfi (IT, EFDD)

Out of
scope

- Copyright law should protect authors and in the same time preserve access to culture and information
- [REDACTED]

Boutonet (FN, FR)

- [redacted] een different interests ;
- [redacted]

Regner (S&D, AT)

- Art 11 : supported Geringer's views on publishers rights. The introduction of such neighbouring right would create legal uncertainty , and would increase the number of court cases.

Andersson (SE, Greens)

- Art 11: the creation of a neighbouring right for publishers will damage the Internet and all stakeholders involved.

Wieland (EPP, DE)

- subscribed to what Voss said. Suggested to avoid too broad analysis of costs/benefits. Essential to maintain the value chain, if authors have no income, they won't have the possibility to create content.

Le Breton (FR, FN)

- acknowledge no consensus of key issues.

The Commission ()

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- congratulated Mr Voss for his appointment.
- Comodini's report contains a number of good ideas, but some elements are calling into question the main objective of the copyright reform .
- Art 11 – important to address press publishers' challenges related not only to enforcement but also to licensing. New rights for press publishers will strengthen their bargaining position when they negotiate the use of their content with online players. That this good also for all the stakeholders dependent on the viability of publishers business model . The provision will be not affect sharing of hyperlinks.

Art. 4(3)

- Art 13 Value gap

Out of
scope

• Exceptions -

• Remuneration -

A. Voss – Conclusions

- certain provisions need to be changed to be suited to the modern digital society .
Balancing interests will be difficult but we are following the right path. If the figures are right, Europe provides for 70% of the content, but the majority of platforms are non- European. EU should protect its own content.
- All interests should be taken into consideration (reference to art 11 and art 13).
- ECJ ruling will be taken into account
- Asked all political parties to work constructively on this file .

10 October – JURI Vote

Best,

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To: [redacted] (CNECT) Personal data
Subject: FW: BTOs Breakfast debate hosted by MEPs Virginie Rozière and Michal Boni, on the role of press publishers in the @ value chain, 10 November 2016
Attachments: Doc press publisher-breakfast debate 10.11.16.pdf

From: [redacted] e (CNECT) Personal data
Sent: Monday, November 14, 2016 5:43 PM
To: [redacted] (CNECT); [redacted] (CAB-OETTINGER); [redacted] (CNECT); [redacted] (CNECT); [redacted] (CNECT); [redacted] (CNECT);
Subject: BTOs Breakfast debate hosted by MEPs Virginie Rozière and Michal Boni, on the role of press publishers in the @ value chain, 10 November 2016

Dear all,

Please find below short BTOs of last Thursday's breakfast debate hosted by MEPs Virginie Rozière and Michal Boni on the Role of press publishers in the @ value chain.

[redacted] Personal data

Kind regards,

[redacted]

BTO - Breakfast debate hosted by MEPs Virginie Rozière and Michal Boni, on the role of press publishers in the @ value chain, 10 November 2016

MEPs: Virginie Rozière (S&D - FR), Michal Boni (EPP – PL) + presence of Julia Reda (Greens/EFA - DE)

EC: [redacted] Personal data

Others: Carlo Perrone (President of ENPA & VP Italiana Editrice -IT), [redacted] (Head of Legal, Technology & Public Affairs, Sanoma Corporation- FI), [redacted] (Head of Legal Department, Petit Press Publishing House- SK), [redacted] (Executive Director EPC), [redacted] (Director Legal Affairs EMMA) inter alia.

The discussion focused on the situation of press publishers in the copyright value chain in view of the EC's adoption of the so-called second copyright package which introduces a new related right for press publishers.

The introductory remarks by **Michal Boni** highlighted the problems of press publishers in the digital era while recalling the importance of legal accessibility to high-quality professional news. M. Boni questioned the role of search engines using algorithms to profile and filter the information seen by consumers, for reasons of freedom of information. Along the same lines,

Virginie Rozière insisted that the biggest issue is to resolve the value gap; by ensuring that publishers receive a fair share of the value other derives from their content.

The first key note was delivered by **Carlo Perrone** who revisited the impacts the digital world had on publishers' activities (multiplication of digital copies, new business models, new actors). He particularly stressed the need to massively invest in IT, human resources and a whole new product (video, writing, photo). C. Perrone believes online aggregators and social media to be inevitable. While publishers both need and want to collaborate to receive an adequate return on investment, this however appears impossible without a strong copyright protection. Therefore, he welcomes the EC proposal.

In the second key note [REDACTED] presented figures of the Finnish publishing sector (developed licensing system, 700 publishers, up to 2 million readers out of 5 million citizens, successful mix of free access and paywalls). In his opinion, a new publisher's right is needed to increase clarity and provide fair and balanced opportunities to negotiate with new players on the market that do not invest into content. So far, reasonable negotiations have been impossible. [REDACTED] fears that initiatives such as Facebook Instant Article will make publishers lose control of their content, audience and advertising choices. He wants the readers to have a wide access to news and even encourages them to share links. He insists they have never pursued end users but rather target commercial users of their contents.

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The final key note delivered by [REDACTED], focused in particular on enforcement issues. [REDACTED] gave an example of the ongoing proceedings of a 2008 court case of Petit Press against a Media Monitoring Agency (MMA) in which a Court ruled that Petit Press could not efficiently prove its rights to exploit the articles that had been massively reproduced, monitored and sold without authorization by the MMA. He welcomed the EC copyright proposal for increasing legal certainty and providing a good basis for start-up operators.

Out of
scope

Regarding the EC proposal, the moderator [REDACTED] stressed that they would have preferred a full right (not only limited to online uses) including the rights harmonized under the European law (ex. rental right), and could be interested in having a clarification that the right only targets the commercial uses of their publications. She outlined the difference of the German and Spanish examples with the exclusive right proposed by the EC that is only about harmonizing and granting them the same right as other content creators. [REDACTED] acknowledges that Google and press publishers strike deals, a fair balance for both parties however is not available given Google's market dominant position.

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Julia Reda asked for evidence that a new right would help publishers in terms of advertising revenues. She pointed out that advertisers prefer to collaborate with aggregators which tools allow targeting users extremely precisely. Then she asked whether end users would be affected by this new right, and if not, which exceptions would apply to them. In reply, [REDACTED] underlined that publisher's websites have tools to target users that are as efficient as those used by platforms. As to the exception, she believes that the quotation exception for criticism and review would apply to which **Julia Reda** expressed doubts based on the German example where this exception apply only when one is criticising the information that is quoting. In this regard,

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Michal Boni called for more clarification in the definition of the exceptions allowing all Europeans users to know exactly what they can or cannot do with news.

Virginie Rozière further asked how to draw a line between commercial and non-commercial uses and asked whether the new right would address the current situation of platforms which are hiding behind the exemption from liability (e-commerce directive) to support that they are not liable for the content uploaded by their users. According to [REDACTED], distinguishing commercial and non-commercial uses is not that complex. Then he vaguely stated that the publisher's right would help regarding the exemptions from liabilities on which current business models rely so far.

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In conclusion, **Virginie Rozière** recalled the need for a free, pluralist and independent press which depends on an adequate protection, allowing adequate revenue. She also called for market competition in the press sector based on fair rules.

(In annex: documents received by press publishers during the breakfast)

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[REDACTED]
Legal Officer



European Commission
DGCONNECT
UNIT I2 – Copyright

Avenue de Beaulieu 25 1
B-1160 Brussels/Belgium

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data

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.

From: [REDACTED] (CNECT)
To: CNECT LIST 12
Subject: FW: JURI - workshop on the Copyright Directive - neighbouring right for press publishers +remuneration
Date: 12 December 2017 10:43:00
Attachments: [Draft programme Workshop on Copyright directive.pdf](#)
[Biographies of experts for workshop on copyright 2017.pdf](#)
[Briefing \[REDACTED\].pdf](#)
[Briefing \[REDACTED\].pdf](#)
[image001.gif](#)
[image002.gif](#)

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For info

From: [REDACTED] (CNECT)
Sent: Tuesday, December 12, 2017 10:21 AM
To: VIOLA Roberto (CNECT); [REDACTED] (CNECT); [REDACTED] (CAB-GABRIEL); [REDACTED] (CAB-ANSIP)
Cc: CNECT DL INSTITUTIONS; [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT); [REDACTED] (CNECT)
Subject: JURI - workshop on the Copyright Directive - neighbouring right for press publishers +remuneration

Dear all

Please find below a short report from the JURI Committee **workshop on the Copyright directive: "strengthening the position of press publishers and authors and performers?"**, held on 7 December.

Study presentation

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The workshop was organised to present a study, commissioned by the EP's Policy Department at the request of the JURI committee, and carried out by Prof [REDACTED] (Cambridge) and [REDACTED] (University of Glasgow and Technopolis Group) on the **neighbouring right for press publishers (Art 11) and "authors' remuneration" (Art 14-16 of the DSM-Directive)**.

The study results were very critical vis a vis the Commission proposal for Art. 11, suggesting to change the proposed right into a **presumption (either of ownership or of representation)**. During the presentation, [REDACTED] particularly raised questions about the scope of the new neighbouring right. [REDACTED] highlighted on the failed experience in DE and ES.

Out of scope

[REDACTED]

Other presentations

The presentation of the study was followed by short presentations of two other Professors, [REDACTED] and [REDACTED], who had a mainly positive view on the Commission proposal, in particular as regards the publishers' right, while criticising the result of the study.

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Presentation of a Briefing paper on the proposed Directive on Copyright in the Digital Single Market

Proj [REDACTED], Technical University Wildau

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- [REDACTED] supported the proposal in Art 11 and noted that the scope and the exceptions to the Publisher's Right adequately protect the legitimate interests of consumers.
- He was extremely critical towards the study. He admitted not being totally impartial himself, representing publishers, but claimed that authors of the study were not impartial either – who publicly criticised the right in 2016 – joining a campaign to delete the provision, but that they had withheld this information.
- Noted in particular the lack of economic analysis as regards the relation between aggregators and publishers. No links between their revenues and those of platforms.
- Claimed that the neighbouring right (protecting investments) had not the same scope as the copyright one (protecting the creative part). Accordingly, the Snippets (presumably too small to fulfil the originality threshold) have to be covered by the Directive (recalled the DE federal court).
- Stressed that the mere rebuttable presumption of representation proposed by the study is not helpful and difficult to implement in practice. It is rebuttable (easy to dispute) and would be problematic regarding e.g. Freelance journalists who don't want to transfer their right to publishers.
- Considers that DE and ES laws on publishers' rights are examples that can work and that EU has a chance now to learn lesson from these national experiences. Still recently in SP, a CMO reported that while the referral traffic to publishers official websites was barely affected, the direct traffic was higher, which is the intended goal.
- On the other hand, he pointed out that the proposed Articles 14 and 16 of the directive appear unnecessary and disproportionate.

Presentation of a Briefing paper on the proposed Directive on Copyright in the Digital Single Market (a legal analysis with focus on Articles 11)

[REDACTED], Université Paris-Est Créteil

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- [REDACTED] supported the creation of a neighbouring right for press publishers, as press should be protected in a democratic society.
- Noted the need to have equal treatment between the neighbouring rights granted in other sectors (such as music, audio-visual producers) and the one for press publishers.
- The right has to be reasonable and fair balanced, has to respect freedom of expression, does not have to stand above of other rights.
- Opposed as well to a "presumption" of any sort, as it would be pointless and would even complicate the existing rights.
- Suggested to modify art 11 Para 2 (Option A – Estonian Presidency compromise text). As other related rights, it should not be subject to the prior existence of protection of its subject-matter by copyright. In another words, it should be

independent of copyright.

- The Directive should neither prevent MS from providing neighbouring right as regards hard copies of newspaper (extension of the right to analogue uses) nor from extending to the distribution, rental and lending rights.
- The “snippets” and “hypertext links” must be treated differently and not expressly mentioned in the Directive. The directive must set out the broadest possible general principles in order to be future proof.
- Regarding the term of protection: 20 years is not enough to exploit press archives, but at the same time, it is too long regarding the short economic cycle of exploitation of news.

Comments

Cavada (shadow ALDE, FR) EU has the duty to protect quality content, supports the introduction of a neighbouring right for press publishers

Voss (rapporteur for the Copyright Directive – EPP, DE)

- Supports the introduction of a neighbouring right for press publishers
- A free independent press, is the key pillar for democracy (Link with fake news issue)
- Emphasised the need to change the status quo, the Institutions should send a strong signal, and a presumption of representation/ownership as concluded by the study seem not the best solution. Platform would continue to do what they do. It doesn't even lead to a fair compensation.
- The journalists in DE (German association from EFJ) support the right, with a proportion of the additional revenue going to journalists.
- Highlighted that the proposal is balanced, because it does not foresee compulsory collective management of the right.

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REDA (shadow GREENS, DE)

- The core of the issue is to know whether the neighbouring right is broader than the copyright (Prof [REDACTED] supported this interpretation).
- Referral traffic is a direct result of hyperlinking (yet, even the text of hyperlinking can be an infringement).
- The outcome of such a new right would not be that Google pays, but that referral traffic, which relying on hyperlinking, is prohibited.

Andersson (GREENS, SE) To get free media we need public funding, so Member State should invest more in that.

Twiefka (EPP, PL) Building of a network require major investment: does not depend of private, public funding. It depends of the result we want to achieve on the market.

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Commission [REDACTED] –Director I – DG CNECT)

- Was cautious as regards the conclusions of the study, drawn from a relatively small amount of interviews (8!)
- Clarified that one of the main objectives of the Commission's proposal on

copyright is to introduce fairer rules of the game for a better-functioning copyright market place

- By underpinning the press publishing industry we would contribute to support the full press value chain across the EU, with a positive impact on quality journalism and the phenomenon of fake news
- Noted that EFJ (European Federation of Journalists) supported the EC proposal and were ready to engage discussion to improve its effectiveness.
- On the scope, [REDACTED] stressed that the risks highlighted in the study are slightly exaggerated. [REDACTED] did not agree with [REDACTED] on the difference in scope between the neighbouring right and the copyright one, as per Recital 34, the rights granted in art 11 have the same scope as the rights granted to authors, but limited to digital uses. Therefore since the proposal does not intend to change the scope, consumers will continue to be able with same limitations to share snippets and hyperlinks. A neighbouring right for publishers will not make things worse for individual consumers. The same goes for the exceptions.
- Concerning the issue of remuneration [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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Out of
scope

Replies to questions/Comments

Prof. [REDACTED]

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- The Commission proposal effect is unclear
- Need to take into consideration the freedom of speech

Prof. [REDACTED] answered to J.Redá that referral traffic had been hardly impact (in ES), so no relevant impact on hyperlinking (2-3 %) and called to make a difference between a link and a text accompanying the link (snippet).

Prof. [REDACTED]

- Restated that a presumption of ownership/representation would be dangerous and not useful.
- Agreed with the Commission on the fact that art 11 does not limit the use of hyperlinking
- Regarding hyperlinking, would even propose a global licence - type solution (remuneration right) for cases of crawlers (indexing, analysing, exploiting links for commercial purposes).

Best,

[REDACTED] (with thanks to I2 for the comments)

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