

**Meeting between Eric Schmidt and David Drummond, Google, and
Commissioner Oettinger**

at 13:30 on 19 January 2015 in Brussels

I. Scene setter

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Objective(s):

Their Position




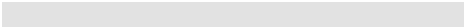
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- On copyright, Google has been critical to the legislative initiatives put forward by Germany and Spain with regard to online news aggregators (e.g. Google News) and claimed that his activity benefits press publishers by increasing the traffic in their websites.

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Our Position

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Line to take

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Copyright

- The Commission will continue monitoring the practical implementation of the legislative initiatives adopted in Germany and Spain, in light of the relevant EU law, and see if they achieve the objectives set by their respective governments.
- Copyright will be at the centre of the action of the new Commission in the context of the digital single market policy. President Juncker made this clear in his political guidelines from July 2014 as well as in the mission letters to Vice-President Ansip and to me.

- The objective is to modernise copyright rules in the light of the digital revolution, new consumer behaviour and Europe's cultural diversity.

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ON EU COPYRIGHT POLICY – STATE OF PLAY

A. *Current situation*

The EU copyright acquis is a set of ten directives, the main of which is the Directive on Copyright in the Information Society ('InfoSoc Directive'). In addition, the Directive on the Enforcement of Intellectual Property Rights ('IPRED') covers horizontal civil enforcement aspects valid for all forms of intellectual property, including copyright. This acquis provides for a high level of copyright protection and has harmonised the key author and neighbouring rights and, to a lesser degree, exceptions and limitations to copyright. These are listed in EU directives but most of them remain optional for Member States to implement.

The Barroso II Commission developed policy and legislation on a number of specific copyright aspects, including the proposal and adoption of the directives on Orphan Works and on Collective Management of Rights, a Memorandum of Understanding on Out-of-commerce Works and a stakeholder dialogue to foster licencing solutions (Licences for Europe). The often heard argument that the Commission "has not done anything on copyright recently" should therefore be rejected.

There is however a wide expectation, buttressed by the announcements and political guidelines of President Juncker, that the new Commission will introduce further reform

proposals covering certain 'core' aspects that have not been revisited since the adoption of the InfoSoc Directive in 2001. The modernisation of copyright has been formally included in the Commission work plan for 2015. Such modernisation can be delivered based on a review carried out recently by ex-DG MARKT, including a number of legal and economic studies. This has assessed the functioning of the current framework, the need to adjust certain rules and the impacts of possible changes, in particular on issues such as territoriality of copyright and exceptions. The new Commission will need to decide how to proceed with such reform prospects.

B. *State of play of consultation*

The Commission carried out a public consultation on the review of the EU copyright rules between December 2013 and March 2014, covering a large number of issues. Almost 10,000 replies were received, including from 11 Member States.

Furthermore, the Council Working Party had some exchanges of views during the Greek Presidency of the EU (first half of 2014). Discussions are also taking place in some Member States (e.g. DE, UK, ES, IE, AT, FI, SK, HR), either around national legislation reforms or the role of copyright and copyright enforcement in the digital economy more generally. The UK and ES have recently introduced changes to their national laws.

In the European Parliament, MEP Pavel Svoboda (EPP, CZ), the new chair of the JURI Committee (which traditionally has copyright in its competences) has set up an inter-group on copyright, while the only Pirate Party MEP, Julia Reda (Greens/EFA, DE) was appointed rapporteur on an own-initiative report on the implementation of the InfoSoc Directive and has started holding a series of hearings on the matter.

C. *Main positions of stakeholders, MEPs and Member States*

Very different views were expressed during the public consultation by stakeholders, with users and institutional users (consumer organisations, libraries, cultural heritage institutions, etc.) calling for a review of EU copyright rules to facilitate access to content and right holders (authors, publishers, producers, etc.) largely considering that the current rules remain appropriate in the digital environment. Generally speaking, the stakeholder environment is very divided, although positions vary in tone and content depending on the issue at hand. A detailed overview is available in the report of the consultation mentioned above, available here:

http://ec.europa.eu/internal_market/consultations/2013/copyright-rules/docs/contributions/consultation-report_en.pdf.



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D. Possible ways ahead and possible timelines

[REDACTED]

[REDACTED]

[REDACTED]

2. Member States' legislative initiatives related to news aggregators and Google:

As an online news aggregator, Google News offers internet users access to news published in the press, by providing, together with hyperlinks to pages or articles in different newspapers' websites, the headlines and the first lines of press articles. This has led to litigation in a number of Member States (notably in Belgium and France). In France Google reached an agreement with press publishers in 2013 (by establishing a 60 million-euro fund to support French press publishers). In reaction to this type of situation, two EU Member States (Germany and Spain) have put forward legislative initiatives to address press publishers' concerns on this issue.

Google has been critical to these legislative initiatives and claimed that his activity benefits press publishers by increasing the traffic in their websites.

⁵ On average in 2008-2010 (source: European Patent Office - Office for Harmonization in the Internal Market, *Intellectual property rights intensive industries: contribution to economic performance and employment in the European Union*, September 2013).

The effectiveness of the German law (in force since August 2013) is still to be confirmed, since Google News announced last year that it would not aggregate news snippets from those press publishers who want to exercise (be remunerated for) the new neighbouring right. As a result, most publishers have preferred to be aggregated by Google News against no remuneration.

The new law in Spain came into force on 1 January 2015. Google reacted to the adoption of the law in a similar way as in Germany. However, the compensation due to press publishers cannot be waived in Spain and is subject to compulsory collective management, so Google decided to stop the provision of the Google News services in Spain, as from 16 December 2014. This has given rise to a controversy amongst press publishers, who claim Google has refused to negotiate any compensation and has reacted based on its dominant position.

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