

**Meeting between Dr. Mathias Döpfner, CEO Axel Springer Verlag, and
Commissioner Oettinger**

on 14.1.2015, 13h on copyright and Google free licences

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For DG CNECT:[tbd]

For the Cabinet: GHO

Estimated duration of meeting: 1h

Agenda: -

Their Position



As publisher, Springer is concerned by the German law which give a neighbouring right to press publishers (in force since 2013) and states it should be more effective. The background to this is that Google News announced last year that it would not aggregate news snippets from those press publishers who want to exercise (be remunerated for) this new neighbouring right. As a result, most publishers have preferred to be aggregated by Google News against no remuneration (Springer has exempted certain titles from this free licence).

[REDACTED]

Döpfner thinks Google's conduct is an abuse of a dominant position. In April 2014 he published an open letter to Google chairman Eric Schmidt outlining all the reasons for the public to distrust the company. In July 2014 Mathias Döpfner stated: "We need a simple rule of fair and transparent search criteria, and I think the product that has the highest traffic should be on the top rank and the product that has the lowest traffic should be on the lowest rank. But unfortunately, Google is not respecting that."

Our Position

COM will monitor the implementation of the German and Spanish legislations.

[REDACTED]

Line to Take

- Die Kommission wird weiterhin die praktische Umsetzung der Gesetze in Deutschland und Spanien im Lichte des relevanten EU Rechts beobachten und sehen, ob sie die Ziele der jeweiligen Regierungen erreichen.
- Urheberrecht ist im Zentrum der Prioritäten der neuen Kommission in der Politik für den digitalen Binnenmarkt. Präsident Juncker hat dies in seinen politischen Leitlinien vom Juli 2014 sowie in seinen „mission letters“ an Vizepräsident Ansip und mich betont.
- Eine der Prioritäten der neuen Kommission wird die Modernisierung des Urheberrechts sein, insbesondere im Hinblick auf die digitale Revolution, dem veränderten Verbraucherverhalten sowie der kulturellen Vielfalt Europas.
- Wir müssen Urheberrecht modernisieren, um es fit für den digitalen Binnenmarkt zu machen. Wir wollen, dass Bürger und Unternehmen Zugang zu online Aktivitäten haben und diese ausüben. Wir wollen gleichzeitig sicherstellen, dass Urheberrecht ein Treiber für Kreativität und Investment bleibt.
- Wir glauben, dass mehr Möglichkeiten für Nutzer von Inhalten kompatibel sind mit dem Schutz der Rechte der Kreativen.

- Die letzte Kommission hat bereits wichtige Arbeit für die Reform des Urheberrechts geleistet: eine breite öffentliche Konsultation, die im März 2014 geschlossen wurde und juristische und ökonomische Studien, von denen einige noch andauern.
- Wir haben eine gute Basis für die Reform. Nun freuen wir uns darauf, gemeinsam mit den Mitgliedstaaten und dem Parlament an einer ausgewogenen Initiative für die Modernisierung des Urheberrechts zu arbeiten.

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Defensives

Qu: What do you think about the laws in Germany and Spain on press publishers?

- The Commission is aware of the laws adopted by Germany and Spain.
- It will monitor the effects of such legislation in practice as well as its impact on the functioning of the digital single market.

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Qu: Will the Commission include the press publishers' law from Germany (Presseverleger-Leistungsschutzrecht) or Spain in its reform?

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Contact: For copyright: [REDACTED], Unit F5, [REDACTED]
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Background

1. 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

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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.

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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