

Meeting between Mathias Döpfner and Commissioner Oettinger in Brussels - 29 June 2015

Scene setter

Commissioner Oettinger will meet Mathias Döpfner, the CEO of Axel Springer (CV in *Background*). **Axel Springer** is one of the largest digital publishing houses in Europe, with numerous multimedia news brands, such as BILD, WELT, and FAKT and nearly 14,000 employees.

Agenda: it appears from the briefing request that the regulation of platforms and the review of Satellite and Cable Directive will be discussed at this bilateral meeting.

Interlocutor Position

Axel Springer considers that publishers need an increased protection to defend and exploit their content in the digital environment. They will probably argue that changes to EU copyright law should be made so that publishers benefit from a neighbouring right independent and additional to the rights of their authors. Moreover, they will probably say that legislative solutions at EU level should be found to address the specific situation of online (mainly press) publishers' being used by news/content aggregators without authorisation. The background to this latter issue are problems faced by online publishers mainly as regards Google news which have prompted the adoption of "ancillary right" or similar mechanisms in Germany and in Spain over the last few years.

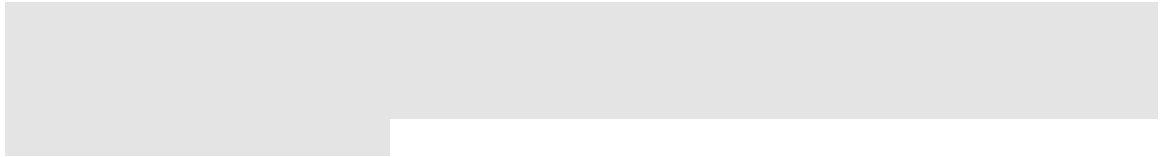
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Our Position

- A modernisation of the copyright framework is important for an efficient digital single market (DSM). The Commission understands the role of copyright in the cultural sector and believes that the DSM will benefit eventually all stakeholders.
- Issues related to the role of internet intermediaries in the distribution of copyright protected content will be addressed in the 2015 copyright legislative proposal, as announced in the DSM strategy.

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Objectives

- Inform Mr Döpfner about the Commission's future action with respect to the regulation of platforms.
- Inform Mr Döpfner on the state of play regarding the copyright reform and the broader DSM Strategy. Re-assure them that the reform should not favour big internet platforms to the detriment of right owners.

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On Copyright (including Cable and Satellite Directive review)


- The **modernisation of copyright** is one of the clear priorities for this Commission and is included in the Commission 2015 Work Programme.
- The Commission is already working on the copyright modernisation initiative and is aiming at submitting a proposal by the end of 2015 (as indicated in the DSM Communication adopted on 6 May 2015).
- Amongst the areas of intervention that were announced in the DSM Communication, we intend to clarify the rules on the activities of online intermediaries in relation to copyright-protected content, particularly on whether there is a fair sharing along the value chain in the digital environment.
- Overall, the copyright reform should ensure that there is **a right balance between the different interests at stake**. We want to facilitate cross border uses of copyright protected content but it is clear that copyright must remain a key driver for innovation and investment in the digital economy. The Commission is planning a targeted modernisation intervention and not an overhaul of the current legal framework

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Defensives

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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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Will the Commission include in its copyright reform similar provisions to the ones from which press publishers' benefit in Germany (Presseverleger-Leistungsschutzrecht)?

- The Commission is looking into this complex question and monitoring the developments in Germany and Spain which give more protection to press publishers.
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Background

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Copyright and the press publishers

*Google News and related initiatives in the Member States

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

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

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

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

*German neighbouring right for press publishers

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

It should be noted that press publishers already enjoy the right to authorise the use of their publications, either as authors (through a legal mechanism in place in some Member States) or as licensees of the works created by journalists and photographers.

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