

## **Günther H. Oettinger attending the BDZV General Assembly, 7 May 2015**

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### **I. Scene setter**

#### **Participants**

*For DG CONNECT: -*

*For the Cabinet: Marlene Holzner, Anna Herold*

**Objective:** Engaging with the representatives of the German press publisher about the copyright and AVMSD reform. Re-assure them that the reforms should not favour big internet platforms to the detriment of right owners.

#### **Their Position:**

##### ***Copyright / competition with platforms***

BDZV argues that the recent adoptions of laws to protect press publishers in Spain and Germany have been an important first step to protect press publishers. BDZV takes the view that a wide ranging exception on text and data mining would be detrimental also for press publishers.

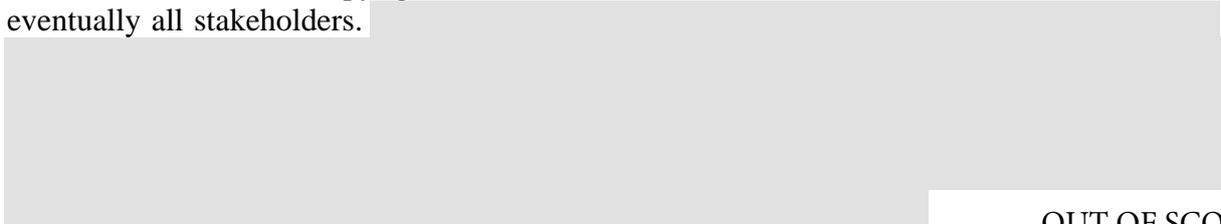
Publishers are under pressure from news and content aggregators such as Google (Google News, Google Books) and are losing shares of the advertising market. Therefore, they stress that there is a need for strong copyright protection and a liability of online platforms for infringing content.

OUT OF SCOPE

**Our Position:**

*Copyright*

A copyright reform is essential 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.



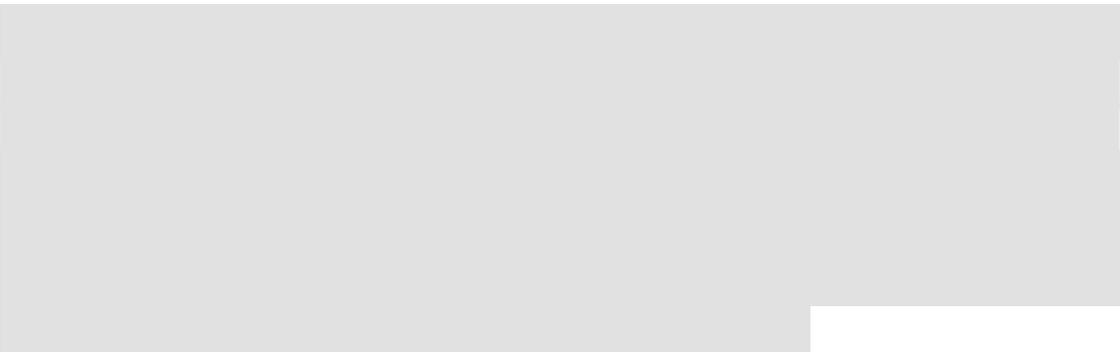
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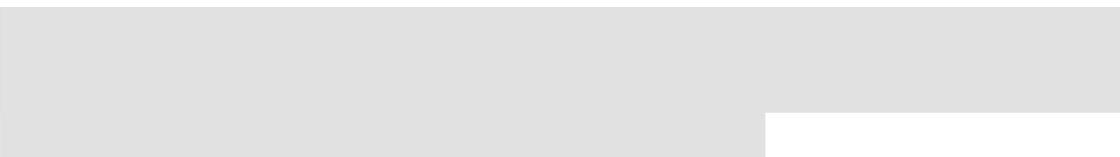
*(Copyright)*

- Finally, let me outline our views on copyright: We need to modernise copyright to make it fit for the Digital Single Market. We want citizens to access online services across

borders and give businesses the incentives to develop cross-border platforms. At the same time we want to make sure that copyright remains a driver for creativity and investment.

- The interests of right owners and users can be reconciled. The creation of a Digital Single Market can contribute to aligning them. Therefore, our ultimate objective is to release the full potential of the European Digital Single Market.
- In this context, it is important to create a regulatory framework which gives incentives to press publishers for investing into new products and content. Our proposal will be published in October or November of this year.
- We are closely observing the discussions and legislative interventions in the Member States, notably in Germany and Spain.

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OUT OF SCOPE

## IV. Background

### 1. Copyright

#### **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 (Springer, Burda etc.) gave their approval to have their publications included in Google News. In February 2014, 12 publishers, including Springer, Burda and Dumont Schauberg joined the collecting society VG Media. In June 2014, VG Media published their 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 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 with 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.

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

**Contacts:**

[Redacted], [Redacted] (F.5), Copyright