

Günther H. Oettinger attending the conference "Die Bedeutung von Leistungsschutzrechten für die europäische Medienvielfalt", 17 June 2015

I. Scene setter

Participants

For DG CONNECT: -

For the Cabinet: Anna Herold

Objective: Engaging with the representatives of the German press publishers (members of collecting society VG Media) about the copyright 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

VG Media as well as their members Springer and Burda argue that the recent adoptions of laws to protect press publishers in Spain and Germany have been an important first step to protect press publishers.

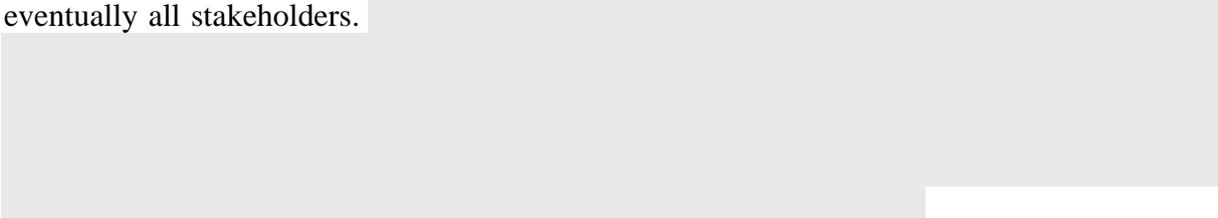
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Publishers are under pressure from news and content aggregators such as Google (Google News, Google Books) and are losing shares of the advertising market. Therefore, they stress that there is a need for strong copyright protection and a liability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

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.

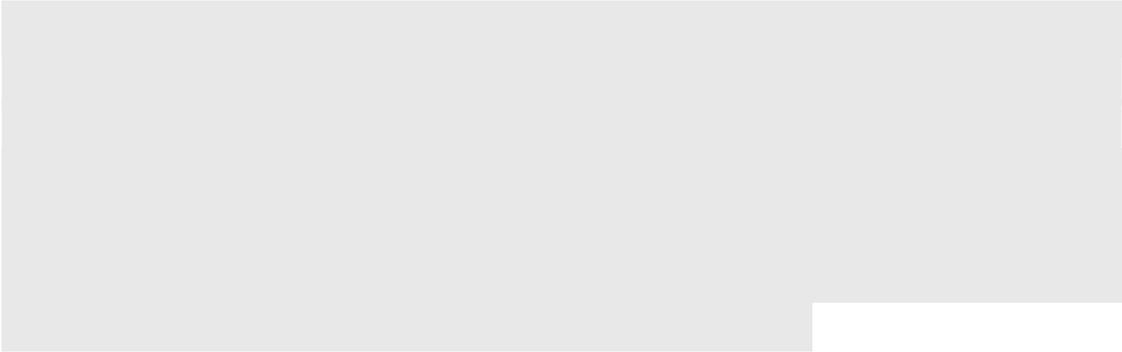


II. Speaking points

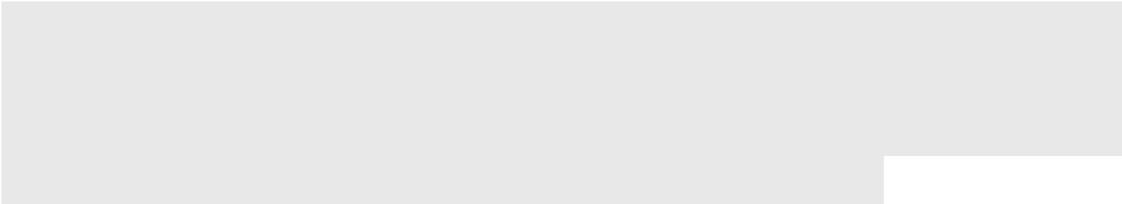
- The media landscape is changing rapidly. Consumers enjoy print content increasingly on a wide variety of devices and platforms. Tablets and smartphones allow us read on the go. Newspaper articles are more and more linked and shared in social networks.
- These developments have both economic and political repercussions.
- Firstly, as new players enter the publishing market, competition for readers' attention and as a result for advertising spends increase.
- Secondly, new consumption habits might influence the ways how our citizens form their opinions and participate in our democracy.
- According to a recent Pew survey, a majority of American Internet users now get political news from Facebook. We need to ask ourselves: How does Facebook select the articles which go into the newsfeeds of the users? Which are the criterions according to which this selection takes place? Should there be new ways of control on these issues?
- I think we need to better how platforms function in order to reply to these questions and make informed and appropriate policy decisions on the interaction between platforms, news media and consumers.
- Therefore, as announced in the Digital Single Market Strategy of May, we are going to launch before the end of 2015 a comprehensive assessment of the role of platforms, including in the sharing economy, and of online intermediaries, which will cover issues such as
 - (i) transparency e.g. in search results,

- (ii) platforms' usage of the information they collect,
 - (iii) relations between platforms and suppliers,
 - (iv) constraints on the ability of individuals and businesses to move from one platform to another and will analyse,
 - (v) how best to tackle illegal content on the Internet.
- In this context, let me outline our views on copyright concerning newspaper publishing:
 - 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.
 - Therefore, generally, 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 end of this year.
 - More specifically on the question whether we need to create new rights to the benefit of press publishers, we are observing closely the discussions and legislative interventions in the Member States, notably in Germany and Spain.

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- Ladies and Gentlemen, let me thank you for attention. I am looking forward to continuing our exchange on these issues so important for our digital economy and democracy.

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IV. Background

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).

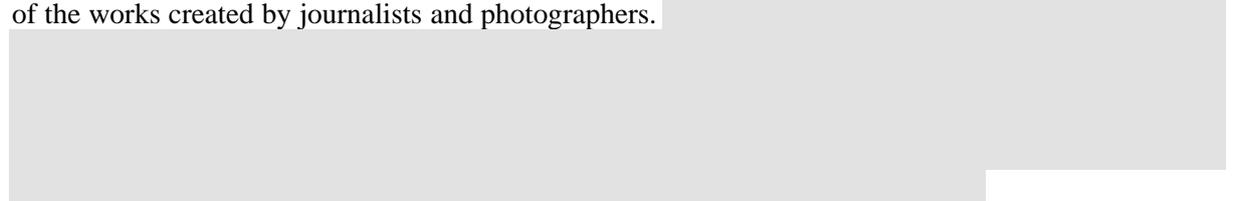
Two Member States (Germany and Spain) have adopted laws to address press publishers' concerns. Both aim at the same result (i.e. payment to press publishers for the use of their works by news aggregators), but follow different approaches:

- 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. 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 fiction in place in some Member States) or as licensees of the works created by journalists and photographers.



Google Digital News Initiative

Source: BBC Article of 27 April 2015 (<http://www.bbc.com/news/technology-32486019>)

"Google has pledged to give €150m (\$163m; £107m) to European news publishers and journalism-focused start-ups over the next three years. The funds - which are part of a wider package - will be used to support the organisations' efforts to earn money from their own online coverage. The Financial Times, the Guardian, Spain's El Pais and Germany's Die Zeit are among those backing the initiative.

But several media groups that have been critical of Google are not involved. Publications belonging to Rupert Murdoch's News Corp and the Berlin-based Axel Springer group are among those absent from a list of "founding partners", although Google has said they are welcome to join.

The US company previously agreed to set up a similar fund to support French media organisations in 2013 in order to settle a dispute about its right to show headlines and text culled from their sites on its Google News facility.

In addition to its innovation fund, Google has also pledged to:

- work with European publishers to discuss ways to boost revenues via the use of ads, apps, paywalls and analytics data
- pay for three of its own workers - based in Paris, Hamburg and London - to provide digital skills training to journalists
- fund research to investigate how people consume news and find new techniques to crowdsource information."

Contact:

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