

Günther H. Oettinger meeting Deutsche Content Allianz, 23 March 2015

I. Scene setter

Objective: Engaging with the representatives of the Deutsche Content Allianz about the copyright reform. Re-assure them that we want a balance proposal and that it is not our intention to favour big internet platforms to the detriment of right owners.

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Our Position:

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 (Copyright)

- One of the immediate priorities of the new Commission is to modernise copyright rules in the light of the digital revolution, new consumer behaviour and Europe's cultural diversity. This has been confirmed in the 2015 Commission work programme.
- 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.

- With regard to collective management, we are currently working closely with the Member States on the implementation of the Collective Management Directive (deadline April 2016). The Directive will in particular strengthen the position of right owners as members of collecting societies.
- The outgoing Commission carried out important work for the review of copyright: a broad public consultation closed in March 2014 and a number of legal and economic studies were undertaken.
- We have a good basis for the reform. Now, we are looking forward to working, in partnership with Member States and the Parliament, on a balanced copyright modernisation initiative.

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What is your position on the German neighbouring right for press publishers?

European copyright rules have achieved a high degree of harmonisation. However, Member States also keep a certain margin of discretion to lay down rules in their national legislation, so long as they are in compliance with the EU acquis and do not hamper the development of the digital single market.

The Commission will monitor the practical implementation of this provision, particularly after Google's agreements with some press publishers to keep on aggregating their content in Google News.

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German neighbouring right for press publishers ("Google Tax")

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.

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.

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.

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Contacts:

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