

Günther H. Oettinger meeting Wirtschaftsrat, 24 June 2015

I. Scene setter

Participants

For DG CONNECT: -

For the Cabinet: -

Objective: Engaging with the representatives of the Wirtschaftsrat (Advisory Committee to the Christian Democratic Party CDU), in particular on reforms on copyright, data protection, digital health, cloud computing, standards & interoperability.

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Our Position:

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Copyright

A copyright reform is essential for an efficient digital single market (DSM). The Commission understands the role of copyright as an incentive for creativity and investment and believes that the DSM will benefit eventually all stakeholders.

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II. Speaking points

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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, 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.
- As announced in our Digital Strategy for Europe of 6 May, we plan proposals on:
 - Portability of legally acquired content, as well as access to legally paid for cross-border online services while safeguarding the value of rights in the audiovisual sector,
 - Adopting harmonised exceptions for specific purposes in view of creating more legal certainty in the Digital Single Market (e.g. education, text and data mining)
 - Launching a process to modernise the cross-border enforcement of copyright, focusing on commercial-scale infringements and the 'follow the money' approach.
- In addition, we will launch before the end of 2015 a comprehensive assessment of the role of platforms and intermediaries in the sharing economy.

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What is the view of the European Commission the copyright protection of newspaper publishers?

We are closely observing the discussions and legislative interventions on this issue in the Member States, notably in Germany and Spain. It [REDACTED]

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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. A decision is awaited for June/July 2015.

Contacts:

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