

Lunch Meeting between Dr. Mathias Döpfner (CEO Axel Springer SE) and Commissioner OETTINGER

on 27/04/2015 at 13:00, Berlin

I. Scene setter

For Axel Springer SE: Dr. Mathias Döpfner, Vorstandsvorsitzender der Axel Springer SE,
(CV see Background)

For DG CONNECT: —

For the Cabinet: Marlene Holzner

Estimated duration: 60 minutes

Agenda: Copyright – Is there to be a European Leistungsschutzrecht?

Objective: Engaging with the Mathias Doepfner about the copyright reform. Re-assure him that we want a balanced proposal and that it is not our intention to favour big internet platforms to the detriment of right owners.

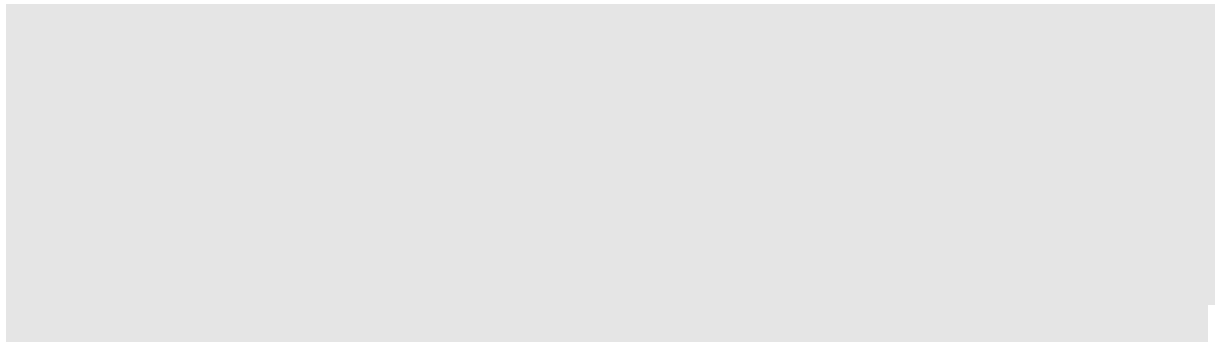
Their Position:

Newspaper publishers are under pressure from news and content aggregators such as Google (Google News, Google Books) and are losing advertising market share. Therefore, they stress that there is a need for strong copyright protection and a liability of online platforms for infringing content: "*Our industries need to rely on a fair and responsible framework for the Internet in order to remain sustainable. Publishers and producers have always and will continue to carry editorial responsibility, enabled by effective protection of intellectual property. All actors benefitting from the opportunities offered by the Internet should also take their responsibilities and respect rules of fair competition.*" (Creative Media Business Alliance position paper co-signed by the European Publishers Council - Springer is member - of 26 September 2014).

The European Publishers' Council EPC (Springer is a member) is advocating such a neighbouring right at the EU level.

Our Position:

Eine Urheberrechtsreform ist von grundlegender Bedeutung für einen funktionierenden digitalen Binnenmarkt. Die Kommission ist sich darüber im Klaren, wie wichtig das Urheberrecht im Kultursektor ist, und davon überzeugt, dass der digitale Binnenmarkt allen Stakeholdern zugute kommt.



II. Speaking points

(Urheberrecht allgemein)

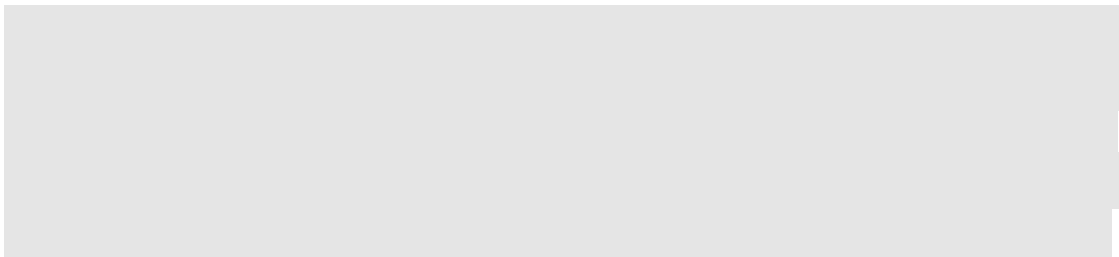
- Eine der unmittelbaren Prioritäten der neuen Kommission ist die Modernisierung des Urheberrechts im Lichte der digitalen Revolution, des veränderten Verbraucherverhaltens und der kulturellen Vielfalt in Europa. Dies wurde im Arbeitsprogramm der Kommission für 2015 bestätigt.
- Die Modernisierung des Urheberrechts ist eine Voraussetzung für die Schaffung eines echten digitalen Binnenmarkts in Europa. Wir brauchen ihn, damit Bürger über Grenzen hinweg Zugang zu Online-Diensten haben und um Anreize zur Entwicklung grenzübergreifender Plattformen zu geben. Gleichzeitig wollen wir sicherstellen, dass das Urheberrecht eine treibende Kraft für kreatives Schaffen und Investitionen bleibt.
- Die Interessen von Rechteinhabern und Nutzern können miteinander vereinbart werden. Ein echter digitaler Binnenmarkt wird allen zugute kommen, da er allgemein für Wachstumsimpulse sorgt.
- Die letzte Kommission leistete wichtige Arbeit zur Urheberrechtsreform: eine umfassende öffentliche Konsultation, die im März 2014 abgeschlossen wurde, sowie Rechts- und Wirtschaftsstudien.

- Wir haben eine gute Basis für die Reform. Jetzt arbeiten wir gemeinsam mit Mitgliedstaaten, dem Parlament und natürlich den Stakeholdern an einem Vorschlag für eine ausgewogene Modernisierung des Urheberrechts.

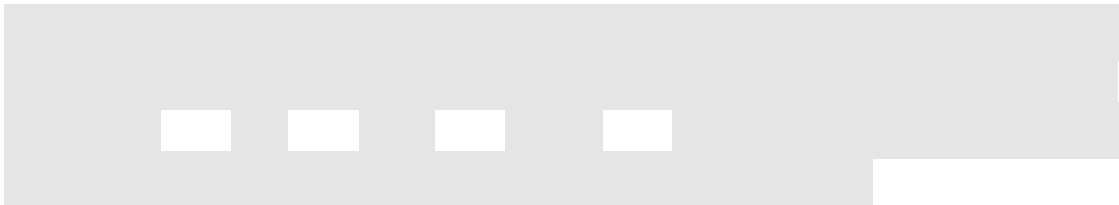
(Leistungsschutzrecht für Presseverleger)

- Es ist wichtig, einen Regulierungsrahmen zu schaffen, der Presseverlegern Anreize bietet, in neue Produkte und Inhalte zu investieren.
- Wir verfolgen die Debatten und Gesetzgebung in den Mitgliedstaaten sehr genau. Dies gilt insbesondere für Deutschland und Spanien.

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OUT OF SCOPE

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.

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Contact:

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