

Digital Single Market (DSM)

Scene setter

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While Google is generally supportive of moves to create a DSM, potential for disagreement exists as follows:

- Levies on internet services – Google opposes levies recently imposed by Spain and Germany on its Google News service.

Objective(s)

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Our objectives:

- [REDACTED]

Line to take

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General copyright

- Copyright will be at the centre of the action of the new Commission in the context of the digital single market policy. One of the immediate priorities of the new Commission will be to modernise copyright rules in the light of the digital revolution, new consumer behaviour and Europe's cultural diversity.
- We need to modernise copyright to make it fit for the Digital Single Market. We want citizens and businesses to access and exercise online activities. At the same time we want to make sure that copyright remains a driver for creativity and investment.
- We believe that more opportunities for the users of content are compatible with the protection of the rights of creators.
- The outgoing Commission carried out important work for the review of copyright: a broad public consultation closed in March 2014 and 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.

German & Spanish levies

- The Commission will monitor the practical implementation of the legislative initiatives adopted in Germany and Spain, in light of the relevant EU law, and see if they achieve the objectives set by their respective governments.

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EU Copyright Policy

Overview

The EU copyright acquis is a set of ten directives, the main of which is the Directive on Copyright in the Information Society ('InfoSoc Directive'). The Directive on the Enforcement of Intellectual Property Rights ('IPRED') covers horizontal civil enforcement aspects valid for all forms of intellectual property, including copyright. This acquis provides a high level of copyright protection and has harmonised the key author and neighbouring rights and, to a lesser degree, exceptions and limitations to copyright. These are listed in EU directives but most remain optional for Member States to implement.

The Commission rejects accusations that it "has not done anything on copyright recently". The previous Commission developed policy and legislation on a number of specific copyright aspects, including: the proposal and adoption of the directives on Orphan Works and on Collective Management of Rights; a Memorandum of Understanding on Out-of-commerce Works; and a stakeholder dialogue to foster licencing solutions (Licences for Europe).

Following President Juncker's announcements and political guidelines, expectations are high that the new Commission will introduce further reform proposals covering certain 'core' aspects that have not been revisited since the adoption of the InfoSoc Directive in 2001. Copyright has been formally included in the 2015 Commission work and can be based on DG MARKT's review, which assessed the functioning of the current framework, the need to adjust certain rules and the impacts of possible changes (e.g. territoriality of copyright and exceptions).

Copyright Consultation: state of play

The Commission conducted a public consultation on the review of the EU copyright rules (December 2013-March 2014). Almost 10,000 replies were received, including from 11 Member States.

The Council Working Party exchanged views during the Greek Presidency (Jan-June 2014). Discussions are taking place in Member States (e.g. DE, UK, ES, IE, AT, FI, SK, HR), around national legislation reforms or the role of copyright and copyright enforcement in the digital economy more generally. The UK and ES have recently introduced changes to their national laws.

In the European Parliament, MEP Pavel Svoboda (EPP, CZ), the new chair of the JURI Committee (which traditionally has copyright in its competences) has set up an inter-group on copyright, while the only Pirate Party MEP, Julia Reda (Greens/EFA, DE) was appointed rapporteur on an own-initiative report on the implementation of the InfoSoc Directive and has started holding a series of hearings on the matter.

Positions: Stakeholders, MEPs and Member States

The stakeholder environment is very divided - positions vary in tone and content depending on the issue at hand.

Users and institutional users (consumer organisations, libraries, cultural heritage institutions, etc.) called for a review of EU copyright rules to facilitate access to content;

right holders (authors, publishers, producers, etc.) largely consider that current rules remain appropriate in the digital environment.

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Potential next steps & timelines

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¹ On average in 2008-2010 (source: European Patent Office - Office for Harmonization in the Internal Market, *Intellectual property rights intensive industries: contribution to economic performance and employment in the European Union*, September 2013).

Copyright: Google's position

Google advocates a more flexible copyright framework in the EU, as reflected in its contribution to the public consultation on Copyright:

a) Member States' legislative initiatives related to news aggregators:

Google News offers internet users access to news published in the press, by providing, together with hyperlinks to pages or articles in different newspapers' websites, the headlines and the first lines of press articles. This has led to litigation in a number of Member States (BE, FR). In France Google reached an agreement with press publishers in 2013 (by establishing a €60m fund to support French press publishers). In reaction to this type of situation, two EU Member States (DE, ES) put forward legislative initiatives to address press publishers' concerns.

The effectiveness of the German law (in force since August 2013) is to be determined, since Google News announced last year that it would not aggregate news snippets from publishers who want to be remunerated for the new neighbouring right. As a result, most publishers have preferred to be aggregated by Google News against no remuneration.

In Spain, the new law came into force on 1 January 2015. Google reacted to the adoption of the law in a similar way as in Germany. However, the compensation due to press publishers cannot be waived in Spain and is subject to compulsory collective management, so Google decided to stop the provision of the Google News services in Spain, as from 16 December 2014. This has given rise to a controversy amongst press publishers, who claim Google has refused to negotiate any compensation and has reacted based on this dominant position.

Google opposes legislative initiatives, claiming that its News service benefits press publishers by increasing traffic on their websites.

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