

Commissioner OETTINGER's
Speech at the EMMA publishers dinner
in Brussels on 15 November 2016


I. Scene setter

EMMA (European Magazine Media Association) is a non-profit organisation based in Brussels. It is the main European magazine association and represents 15,000 publishing houses, publishing 50,000 magazine titles across Europe in both print and digital format. EMMA members comprise 24 national associations, 5 international associations and 23 corporate members.

II. Speech

The Commission has recently adopted several proposals who are of interest to your sector: the copyright modernisation package, on the one hand, and the review of the Audiovisual Media Services Directive, on the other, thereby delivering on a key part of the Digital Single Market strategy which was announced at the beginning of its mandate. Moreover, we are currently in the middle of the review of the ePrivacy Directive.

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Finally, regarding ePrivacy, the review of the ePrivacy Directive is one of the key actions to create the right conditions for digital networks and services to flourish. This review will focus on ensuring a

high level of protection for data subjects and a **level playing field** for all market players.

The Commission proposal for a revised ePrivacy instrument is foreseen for the beginning of 2017. In preparation of the proposal, the Commission is undergoing a wide consultation exercise of all key stakeholders.


In terms of *substance*, the guiding broad principles of the review are:

- A true Better Regulation assessment (what we call REFIT) of the effectiveness and necessity of the ePD rules. **Everything not adding value should go.** The text needs to be future proof.
- **Simplify the ePD** and ensure **full consistency** between the ePrivacy Directive and the GDPR. **For example the data breach notification** provisions of the ePD: this now overlaps with the similar obligations under the GDPR and therefore can be repealed. Simplification also means that the **'cookie' rule** is assessed on effectiveness and on its applicability in practice.
- **Ensure a high level of protection and a level playing field.** Nowadays rules to protect the confidentiality of communications apply to telecom operators but do not apply to over the top services (so-called OTTs) such as popular mobile messaging apps or voice-over-IP or webmail services. We are looking into this, assessing whether this is justified and whether it has created

an uneven level playing field and an extension of the rules to cover these services is necessary.

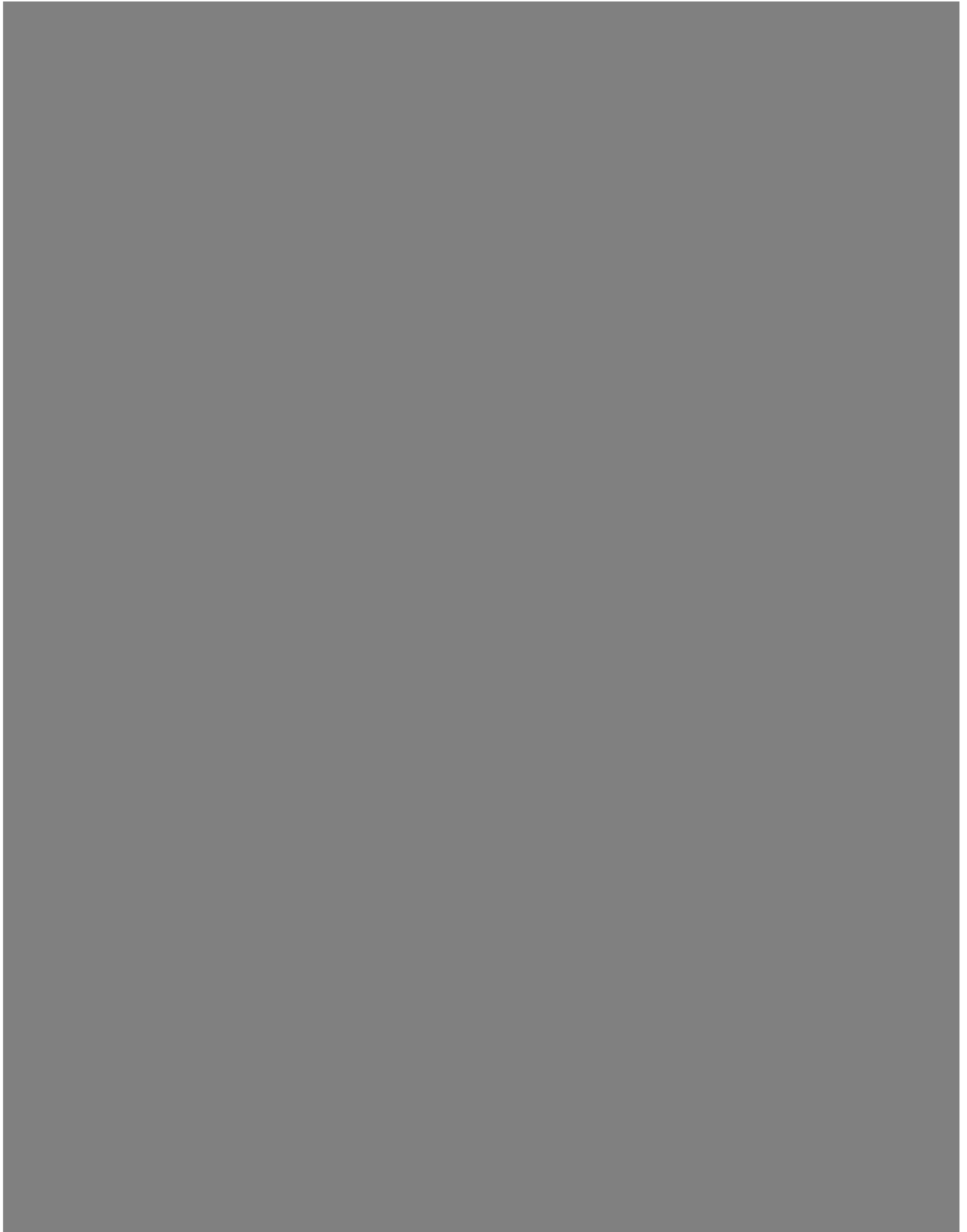
In conclusion, the different proposals we have put forward or we are finalising address the most significant problems the Commission has identified after consulting all stakeholders and citizens and assessing different policy options. I wish to thank you for your valuable contributions to these discussions.

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III. Line to take (for the 15-minute discussion after the speech)



On ePrivacy

Timing & Process:

- The Commission proposal for a revised ePrivacy instrument is foreseen for the beginning of 2017. In preparation of the proposal, the Commission is undergoing a wide consultation exercise of all key stakeholders.
- A public consultation was open for 12 weeks. It closed on 5th of July with 421 replies from stakeholders from different fields. A summary report was published in August and the full report will be published in due time.
- We have also consulted relevant national authorities, as well as the Article 29 Working Party, the European Data Protection Supervisor, stakeholders from industry and civil society. On top of that we conducted a Eurobarometer targeted to citizens.

Defensives on ePrivacy:

When revising the ePrivacy Directive, will you keep the "cookie" consent rule?

- The so-called 'cookie rule' is wrongly labelled. This rule simply requires consent to access or store information in users' devices. In the light of the sensitivity of the information stored in our devices, which can be considered to be ones 'home', this rule makes a lot of sense.
- This provision aims to protect the user from unwarranted intrusion into their smart phones, computers, etc., which are considered part of the private sphere of individuals.
- But is the rule as it stands now efficient? The review will assess the effectiveness of the rule in the light of the experience gained through its application in recent years.
- For example we will look at whether the exceptions to the rule remain valid or if they need to be amended.

What is the purpose of the banners regarding cookies when navigating on the internet?

- The ePrivacy Directive was updated in 2009 to provide clearer rules on customers' rights to privacy. In particular, it introduced new requirements on "cookies" and on personal data breaches.
- These rules require Member States to ensure that users grant their consent before cookies, malware and other spyware (small text files stored in the user's web browser) are stored and accessed in computers, smartphones or other device connected to the Internet. Such consent should be "prior" (i.e. must precede any storing or accessing of information) and "informed", i.e. users must be clearly informed about, inter alia, the purpose and consequences of their consent.
- The banners encountered when navigating common websites aim to provide such essential information and allow the user to make his/her choice.
- We will assess the rule in the context of the REFIT exercise.

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On ePrivacy: [REDACTED]