

Annex I – B. EC Documents

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1. Briefing Basis CAB OETTINGER/620, Commissioner Oettinger – 1.08.2016 Ref.Ares(2016)4031969 – 1.
2. Briefing Basis, CAB OETTINGER - at Coreper I Lunch, 23.09.2016, Ref. Ares(2016)6334355 – 9.
3. Briefing Basis SG-PDT-VPs/405, Vice-President Ansip - Federation of European Publishers - 19/09/2016 (Ref.Ares(2016)281.01) – 45.
4. Briefing Basis CAB OETTINGER/761, Commissioner Oettinger – BZDV conference speech - 20/09/2016 – 51.
5. Briefing Basis, CNECT/5972, Meeting Roberto Viola with Google, 19.10.2016, Ref. Ares(2016)6334509 and background document, Ref. Ares(2016)6333593 – 60.
6. Briefing Basis CAB OETTINGER/963, Commissioner Oettinger – VDZ conference speech -28/10/2016 – 66.
7. Briefing Basis CAB OETTINGER/1001, Commissioner Oettinger – speech at EMMA publishers' dinner – 14/11/2016 – 73.
8. Briefing Basis SG-PDT-VPs/960, Vice-President Ansip - Conference on Copyright Enforcement in the Online World - 14/11/2016 (Ref. VP5_2016_142.01) – 83.
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22. Briefing and Background Basis CAB OETTINGER/1493, Commissioner Oettinger – representatives of European publishers - 11/09/2017 – 233.
23. Briefing Basis CAB GABRIEL/55, Commissioner Gabriel - ENPA CEOS – 11.09.2017 – 238.
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28. Briefing Basis CAB GABRIEL/191, Commissioner Gabriel - International Association of STM Publishers – 14/11/2017 – 317.
29. Briefing Basis CAB GABRIEL/177, Commissioner Gabriel - Agence France-Presse (AFP), 15.11.2017 – 329.
30. Briefing Basis, CAB GABRIEL/170- meeting with Dr Kallen, Ceo Hubert Burda Media, 22.11.2017 – 358.
31. Briefing Basis, CAB GABRIEL/188, Commissioner Gabriel - European Federation of Journalists (EFJ), 5.12.2017 – 384.
32. Briefing Basis, CAB GABRIEL/237, Commissioner Gabriel – Chairman of European Publisher Council (EPC), Mr Christian Van Thillo, (CEO of De Persgroep), 6.12.2017 – 403.

**Meeting with Mr Heiko Maas,
Federal Minister of Justice and Consumer Protection (Germany)
in Berlin on 21 June 2016**

Copyright + 'Reprobel'

I. Scene setter

Objective(s):

Their Position:

Article 4(3)

On Reprobel and publishers' rights

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[REDACTED]

[REDACTED]
[REDACTED]

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On other copyright issues

Out of Scope

- [REDACTED]
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[REDACTED]
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Our Position:

- The public consultation on a possible new neighbouring right has just finished. This consultation and ongoing impact assessment work will be used by the Commission to

decide on the need to propose to the Council and the EP the introduction of such a right – for press publishers only or for all publishers – at EU level.

Out of scope

- [REDACTED]

- No decision as to the content of the second copyright package has been made yet.

II. Line to Take

On Reprobel and publishers' rights

- The second set of copyright modernisation legislative proposals will follow end of September 2016..
- In the context of the preparation of these proposals, a public consultation ended on 15 June. This consultation included the issue of the possible introduction in EU law of a new right for publishers.
- The consultation closed on 15 June. We want to make sure to have properly considered its results before any final decision is made on the issues to be included in the legislative proposals and are currently reviewing the contributions received.
- No final decision on this issue has been made yet.

Out of Scope

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- Achieving a well-functioning copyright market-place for copyright. Together with the discussions on publishers' rights, this notion also applies to other areas, such as the role of platforms in the distribution of content, the fair remuneration of authors and performers.

- [REDACTED]

- This will, therefore, be a pragmatic and targeted copyright modernisation rather than complete overhaul of the copyright system.
- No final decision on the content of the 2016 package has been made yet.

Out of Scope

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

III. Defensives

On Reprobel and publishers' rights

Will the Commission propose legislation to introduce a neighbouring right for publishers or to address our concerns regarding the effects of the Reprobel judgment?

- The Commission has just finished a public consultation on this matter. We need to take into account the contributions to this consultation before making a decision as to whether this aspect is to be included in the legislative proposal on copyright to be adopted in September this year.
- The consultation closed on 15 June. A decision on the next steps has not been made yet.

Second copyright package

Out of Scope

- [Redacted]
- [Redacted]

Will the Commission tax hyperlinks?

- The Commission has no plan to tax hyperlinks. In other words, we have no intention to ask people to pay for copyright when they simply share a hyperlink to content protected by copyright.

- Europeans are sharing and posting hyperlinks every day and they should remain free to do so. We want to reassure them and make this point very clear.
- In our action plan to modernise EU copyright rules, we explained that we would look at the activities of different types of intermediaries in relation to copyright-protected content. This is a different issue. News aggregators, for example, are not only using hyperlinks but extracts of articles and make business out of this activity.

Out of Scope

[REDACTED]

- [REDACTED]

- [REDACTED].

[REDACTED]

- [REDACTED]

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Personal Data

Contact: [REDACTED], CONNECT: [REDACTED], Tel: [REDACTED]

IV. Background

1. Repobel judgment of the CJEU and Vogel-Judgment of the Bundesgerichtshof

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Copyright modernisation – State of play

- A **Commission Communication** setting the scene for the Commission policy action in the area of copyright during the entire mandate was adopted on 9 December 2015. The initiative set out the Commission's plans for the modernisation of the EU copyright framework and will serve as roadmap for future proposals. In addition, the Communication put forward a long-term vision on certain issues, where EU intervention may be necessary at a future stage. Non legislative intervention in certain areas is also foreseen and announced in the Communication.

Out of Scope

- [REDACTED]

- On 23 March 2016, the Commission launched a **public consultation on the role of publishers in the copyright value chain and on the panorama exception** (deadline ends on 15 June).

Out of Scope

- The Commission intends to adopt a **second set of measures** to modernise the existing copyright rules **after the summer**.

(iii) achieving a well-functioning copyright market place, for example as regards the role of online intermediaries in relation to the distribution of copyright-protected content.

Out of Scope

[illegible]

- **The European Parliament** is only starting to work on the proposal, since discussions over the ownership of the file between the IMCO and JURI Committees lasted for a while. JURI is in the lead with IMCO and CULT associated:
- JURI → lead committee. Rapporteur: Cavada (ALDE, FR).
- IMCO → associated under Rule 54 (shared competences) for the entire proposal. Rapporteur: Zullo (EFDD, IT).
- CULT → associated under Rule 54 (shared competences) for Article 2(e) as far as Directive 2010/13/EU (definition of the online content service, linked to the Audiovisual Media Services Directive) is concerned and for Article 4 (localisation provision) for the sole purpose of the AVMSD + informal agreement that they can be present in dialogues. Rapporteur: Verheyen (EPP, DE).
- ITRE → will give opinion under rule 53. Rapporteur: Zorrinho (S&D, PT). *Out of Scope*
- JURI held a hearing on the modernisation of copyright and portability on 20 April 2016.

[REDACTED]

- [REDACTED]

- [REDACTED]

Commissioner OETTINGER at COREPER I lunch

At 13:00 on 23 September 2016

1. Scene setter

The SK Presidency has presented the state of play of DSM actions to Coreper I on Wednesday 21 September. The lunch discussion takes place in this context. The main objective is to take stock on the overall progress in the DSM following the publication of the second set of measures on modernizing the EU copyright framework and the review of telecoms regulatory framework on 14 September. The Coreper will be keen to have a short introduction of the new files and their political background. The Slovak Presidency is planning to again report on the DSM progress towards the end of their mandate to maintain momentum.

Topics covered by this briefing:

- *Telecom Review*
- *Copyright*
- *Background on Telecom Review and Copyright* *Personal data*
- *General background (Work Programme 2016 and 2017 and state of play on other files)*

The current Coreper I chair is Deputy Permanent Representative, Ambassador [REDACTED]. (Full list of Coreper I Ambassadors is annexed)

[REDACTED]
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Personal data

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Out of Scope

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For the Cabinet: M. Hager

Personal data

Estimated duration: 1 hour

Agenda: discussion on the Digital Single Market

Out of Scope

Objective(s):

Our Position

Our objective is overall to present the newly adopted DSM proposals and stress that now it is the turn of the Co-legislators to swiftly make progress on these files.

The SK Presidency has made important progress on the DSM files and is keen to proceed quickly.

[REDACTED]

2. Speaking points –Telecom Review and Copyright

Opening remarks

- I am very pleased to be here to present to you the DSM proposals adopted last week – the Connectivity package and the overhaul of copyright rules.
- Before I go into more detail on these initiatives, I would like to thank the Slovak Presidency for having set digital as one of their key priorities and for the progress achieved on DSM actions.
- It is important to keep up this momentum in this quickly evolving digital area and deliver concrete results to European citizens and businesses.
- We have plenty of work ahead of us and the Commission stands ready to assist the Co-legislators in this process.

Out of Scope

connectivity package

- [Redacted]
- [Redacted]

First [Gigabit objectives]

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Second [Wi-Fi initiative]

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Third [5G Action Plan]

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Fourth and finally [European Electronic Communications Code]

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Copyright package

- Now turning to the second set of measures
- With the adoption of the copyright modernisation package – two directives, two regulations and an accompanying Communication - the Commission is delivering on a key part of the Digital Single Market strategy which was announced at the beginning of its mandate.
- The Copyright package aims to support cultural diversity, increase content available online and establish up to date and clearer rules for all market players. The ultimate objective of the copyright modernisation initiative is a fairer framework that delivers more in terms of access for users, opportunities for creators, competitiveness for the cultural and creative sector, and predictability for online players.
- We need to maintain a copyright environment in Europe that gives the incentives to invest in creative content. The revenues generated by creators, performers and those that invest in creative content are accruing disproportionately to a few large players who themselves do not engage in content creation.
- Our proposals focus on three main objectives: *Out of Scope*
 1. [REDACTED]
 2. [REDACTED]
 3. **Introducing fairer rules of the game for a better functioning copyright market place.** *Out of Scope*
- [REDACTED]

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- In the **third area**, the proposed Directive will address the difficulties faced by right holders when seeking to monetise and control the distribution of their content online.
- The new Directive introduces a new **related right for press publishers**, designed to strengthen the bargaining power of the press industry in the online environment. It will help ensuring the viability of an independent and high quality press which is critical for a pluralistic society and the democratic debate.

Out of Scope

[REDACTED]

[REDACTED]

Concluding remarks

- I look forward to the upcoming discussions with the Council and the EP on these proposals and count on constructive exchange in order to ensure a swift adoption and implementation, for the benefit of all.
- The completion of the Digital Single Market will allow the economy of the EU to grow and be competitive, to benefit from new technologies, to innovate, and in the process, to create jobs.

3. Background for Telecom Review and Copyright

A. Defensives -Telecom

Out of Scope

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More detailed regulatory questions:

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Sector specific regulation for communication services

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B. Defensives - Copyright

New rules on online transmission and retransmission of television and radio programmes

Out of Scope

[REDACTED]

RELATED RIGHT FOR PRESS PUBLISHERS

WHAT IS THE ADDED VALUE OF THE NEW RELATED RIGHT FOR PRESS PUBLISHERS?

The new related right covering press publications will ensure that the organisational and economic contribution of press publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other creative sectors (film and phonogram producers, broadcasters). It will give them a stronger position when negotiating with other market players to license online uses of their content.

It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).

Overall we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the new right to help publishers developing further licence-based cooperation with innovative business models in the future.

How is the proposal different from recent attempts in Germany and Spain's ancillary rights?

The Commission proposal for a new related right for press publishers differs from the earlier attempts in this direction in Germany and Spain.

Germany and Spain have passed legislation in the last few years to grant specific rights to publishers. These laws follow individual approaches but they both aim at giving publishers very specific rights over the use of snippets or small excerpts of their content by online services such as news aggregators (often referred to as "ancillary rights"). In Spain online services were also obliged to pay for the use of newspapers online, as the law provides for a mandatory compensation subject to compulsory collective management.

This is different from the broader and general concept of related right that the Commission proposes now.

The Commission proposes an exclusive right that leaves margin of manoeuvre for press publishers to negotiate different types of agreements with online service providers wishing to use press content. This will allow press publishers to develop new business models in a flexible way.

The EU-scale of the new right guarantees a uniform approach to the digital exploitation of press content in the EU. The Commission proposal is therefore expected to be more effective in the long run than different national initiatives.

Value Gap

Out of Scope

[Redacted content]

Personal Data

Author: [Redacted] Unit [Redacted]

C. Background Telecom package

Out of Scope

A connectivity package for the Digital Single Market

[REDACTED]

[REDACTED] New common broadband objectives for a Gigabit Society 2025

[REDACTED] An **European Electronic Communications Code** establishing a modernised regulatory framework, including a more efficient institutional structure

[REDACTED] **5G Action Plan** to foster European industrial leadership in 5th generation (5G) wireless technology.

[REDACTED] **Wi-Fi for Europe** initiative, to bring Wi-Fi to public spaces in the EU

[REDACTED]

[REDACTED] proposed complementary long term [REDACTED]

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Out of Sight

Out of Scope

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In order to further stimulate competition and strengthen the internal market, the Commission will also strengthen consumer rights, which will translate into better offers for citizens and businesses.

The new rule will modernise end-user switching rights, including on tail bundles.

The new rule will also insure that vulnerable and user have right to in for ble
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The Electronic Communications Code establishes key principles for spectrum assignment in European Union level instruments to assignment deadlines and licence periods, and for review monitoring national regulators to ensure consistent assignment processes.

The new rules will promote consistent approach to cover obligations, to small deployment and to network sharing there multiple 5G deployment and run on one site.

The rule will facilitate spectrum sharing in 5G networks, and promote broadband use across to fiber-based connectivity.

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But we also need to be prepared for the possibility that the Commission will not balance the approach on spectrum and respect Member State views expressed during the review process.

.....

- 5G communications are the next strategic enabler for the digital transformation of the economy and society, from smart cities to smart factories.

- [REDACTED] is not sufficient to have 5G technology available on [REDACTED] me, [REDACTED] is vital to deploy [REDACTED] mel [REDACTED] nd on [REDACTED] la [REDACTED] le to trigger the [REDACTED] omp [REDACTED] veness [REDACTED] fe [REDACTED] ts on th [REDACTED] onom [REDACTED] This requires short [REDACTED] nd long [REDACTED] rm investm [REDACTED] nts [REDACTED] s we [REDACTED] s [REDACTED] quate [REDACTED] w business models to financ [REDACTED] the infrastru [REDACTED] ture.
- The 5G Action Plan sets [REDACTED] n EU [REDACTED] ramew [REDACTED] rk to [REDACTED] void [REDACTED] m [REDACTED] ntation of [REDACTED] pproa [REDACTED] s [REDACTED] twe [REDACTED] Membe [REDACTED] states [REDACTED] nd betw [REDACTED] n [REDACTED] tors (w [REDACTED] ich dela [REDACTED] d the implementation of the [REDACTED] urrent 4G). The [REDACTED] mbina [REDACTED] on of the proposed volunt [REDACTED] nd regul [REDACTED] tor [REDACTED] ons should also cr [REDACTED] te [REDACTED] more stable environment to stimulate investm [REDACTED] nts.

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[REDACTED]

[REDACTED]

[REDACTED]



D. background copyright

The Internet has changed the way in which copyrighted works are made accessible. A modern copyright framework needs to ensure that both the Internet users and copyright owners benefit from this dramatic change. The package aims to support cultural diversity, increase content available online and establish up to date and clear rules for all market players. The ultimate objective is a fair framework that delivers more in terms of access for users, opportunities for creators, competitiveness for the cultural and creative sector, and predictability for online players. We do not change the way consumers use and share content online.

We need to maintain a copyright environment in Europe that gives the incentives to invest in creative content. The revenues generated by creators, performers and those that invest in creative content are accruing disproportionately to a few large players who themselves do not engage in content creation. Over time, this risks leading to less creation, less diversity, less quality and also the disappearance of the free press, which is a keystone of our democracy.

The Copyright package adopted today (two Directives and two Regulations) provides concrete answers to all players along the value chain, from authors and performers to those that invest in creativity and to the citizens, who read, listen and watch Europe's creative output.

The copyright reform focuses on **three main objectives**:

- 1. More cross-border access** for citizens to copyright-protected content online.
- 2. Wider opportunities** to use copyrighted material for education, research, cultural heritage and disability (through so-called "exceptions").
- 3. Fair rules of the game** for a better functioning copyright marketplace, which stimulates creation of high-quality content.

1. Cross-border access to content

Out of Scope

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[Redacted text block]

2. Exceptions

[Redacted text block]

[Redacted text block]



3. A fair marketplace

Finally, we have provisions aimed at making the marketplace for copyright fairer and more transparent. These provisions stem from the principle that the investment of creators and creative industries has to be properly recognised and rewarded.

Introducing a new related right for **press publishers** for the use of their publications in digital environments will strengthen the bargaining position of publishers when they negotiate the use of their content with online players. The proposal aims to help preserve the viability of an independent and high-quality press, which is critical for a pluralistic society and for democratic debate. Without such a right, which other creative industries already enjoy, the future of the European press would be at risk. The new right will not change the way consumers share and link to news online as they increasingly do on social media (no "Link Tax"!). We want the press industry to benefit from a fairer market place so that it can enjoy the best possible environment to develop innovative business models to continue offering quality content online, which is what consumers crave for.

Out of Scope



4. General background

A. Work programme

Commission Work Programme 2016 – State of Play

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Legislative proposals ongoing in EP/COUNCIL

- Directive on accessibility for public web sites: agreement on 3rd May trilogue; Council position and Commission opinion adopted in July; it should be adopted by EP short second reading by the end of 2016.
- Legislative proposal on the use of UHF bands: general approach 26.05.2016 Council; EP/ITRE vote on 13th October; co legislators could start negotiating first reading agreement thereafter; agreement in trilogue possibly by the end of 2016/early 2017.
- Legislative proposal on Content Portability: General approach on 26.05.2016 Council; EP/JURI vote in October; co legislators could start negotiating first reading agreement thereafter; agreement in trilogue possibly by the end of 2016/early 2017.
- Legislative proposal on geo-blocking: Commission's proposal adopted on 25.05.2016; SK Presidency is aiming at a General Approach in November 2016; EP/IMCO 1st reading vote December.
- Legislative proposal for the review of the AVMS directive: Commission's proposal adopted on 25.05.2016; November Council will adopt a progress report; EP/CULT draft opinion published on 5.09.2016; 1st reading vote December 2016.
- Legislative proposal on the review of the wholesale roaming market: Commission's proposal adopted on 15.06.2016. Council common position/general approach December 2016; EP/ITRE 1st reading vote end November.
- 2 proposals for Council decision on the EU position in ITU (including WRC 2015): these 2 proposals have not been carried forward by the Council which adopted Council conclusions on WRC 2015 (case pending European Court of Justice decision).

There are no intentions to withdraw any of the above pieces of legislation as they are well underway for adoption or pending ECJ judgement.

Out of Scope

DG CONNECT proposals for Commission Work Programme 2017 (CWP 2017)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Summary of the proposed initiatives submitted to the Agenda Planning (Annex 1 and REFIT)

Out of Scope

CWP 2017 INITIATIVES – ANNEX 1

1) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. *How much time do you spend on the following activities?*
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 z. *How much time do you spend on the following activities?*

This communication on the DSM state of play including the European Digital Progress Report (EDPR), which provides an overview of Member States' progress in digitisation. It will look at progress so far and propose further steps , as appropriate. A key objective of the progress report will be to maintain a strong focus on delivery and to sustain pressure for the adoption of proposals by the co-legislators.

Out of Scope

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
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Contact Point: CNECT.D2 M. [redacted], [redacted], [redacted]

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[REDACTED]
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[REDACTED]

Personal Data

C. State of Play – Portability

Out of Scope

[illegible]

6. Attachments

List of Coreper I Ambassadors

Personal Data

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1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

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Briefing for President

**Meeting with Henrique Mota, President FEP (Federation European Publishers),
Brussels, 29 September 2016**

Scene setter

- Henrique Mota was elected new President of the Federation of European Publishers (FEP) in June 2016.
- FEP represents the book publishing industry at EU level. Regarding the current Copyright package, FEP is particularly interested in the discussion about:
 - The right in publication, especially the compensation for all kind of publishers "**Reprobel fix**".

Out of scope

[REDACTED]

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- [REDACTED]

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Personal Data

- FEP participated in the second publishers' roundtable organized by Commissioner Oettinger in March 2016. Their previous president [REDACTED] met the Commissioner again in April 2016 and Claire Bury in May 2016.

Objective(s)

- To engage with the FEP about the copyright 2nd legislative package adopted by the Commission on 14 September and learn about the concerns book publishers have as regards these legislative proposals.

¹ In Reprobel (nov.2015), the Court noted that publishers do not qualify as right holders under EU law and ruled that they cannot therefore be granted a share of the private copying or reprography levies alongside authors

- To reassure FEP that we are aware and we have taken into account the specificities of the book publishing sector, in particular as regards the "Reprobel" issue and the news exceptions, in our legislative proposals.

Line to take

Out of Scope

- The Commission has just proposed two directives and two regulations for the modernisation of copyright rules across the EU. In our proposals, we have identified the following main areas, where intervention is a priority in our view:
 - [REDACTED]
 - [REDACTED]
 - Introducing **fairer rules of the game** for a better functioning copyright market place.

Specific topics:

The Commission has been taking seriously the concerns of the book publishing industry regarding these specific topics :

1° On publishers' rights and "Reprobel" case

- Regarding publishers' rights, the Commission proposes to intervene, in a targeted way, in two areas where problems have been identified:
 - Firstly, the Commission proposes to introduce a **new related right for press publishers**.
 - The Commission also proposes to intervene in order to allow Member States to provide the possibility for all publishers, **including book publishers**, to claim a share of compensation stemming from exceptions. This proposal is flexible enough to allow existing systems of share of compensation between authors and publishers to keep functioning at national level.
 - This is a proportionate approach which should satisfy book publishers: the **new right** is only targeted to press publishers – where the problem has been identified after consulting with all publishers - and limited to digital uses. **The second measure directly addresses all publishers, including book publishers' concerns**, regarding their ability to receive a share of copyright levies collected.

2° On exceptions

Out of Scope

- [REDACTED]
- [REDACTED]

[REDACTED]

3° On Out of Commerce works

- [REDACTED]

[REDACTED]

[REDACTED]

Defensive points

[REDACTED]

[REDACTED]

[REDACTED]

Regarding the TDM exception:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ?

Out of scope

Out of Scope

[REDACTED]

Regarding the education exception:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ?

- [REDACTED]

[REDACTED]

Regarding the preservation exception

[REDACTED]

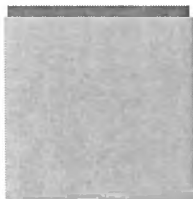
- [REDACTED]

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Contact(s): [REDACTED] (DG CNECT [REDACTED] tel.: [REDACTED]

CV of Henrique Mota



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FEP is an independent, non-commercial umbrella association of book publishers associations in the European Union. FEP represents 28 national associations of book publishers of the European Union and of the European Economic Area. FEP is the voice of the great majority of publishers in Europe.

**Basis 761 - Speech at the Federation of German Newspaper Publishers'
(BDZV) congress
26.09.2016 at 14h**

I. Scene Setter

The Federation of German Newspaper Publishers is the leading organization of newspaper publishers in the Federal Republic of Germany. They represent 11 regional associations which published together 298 newspapers as well as 13 weekly newspapers. They aim at the maintenance and the representation of the common ideals and economic interests of the publishing houses in Germany and Europe.

II. Their position

Out of Scope

On Copyright, BDZV is mainly concerned about:

- The introduction of new related rights for press publishers and the introduction of mechanisms to allow the sharing of compensation stemming from exceptions to copyright between authors and publishers, which they support.

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- [REDACTED]

On AVMSD, [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

III. Speaking points for the speech

On copyright:

- The Commission has recently adopted the copyright modernisation package – two directives, two regulations and an accompanying Communication, thereby delivering on a key part of the Digital Single Market strategy which was announced at the beginning of its mandate.
- The copyright package adopted on 14 September will contribute to increasing the competitiveness of the EU cultural and creative industries, in the digital environment. It also delivers more in terms of access for users, opportunities for creators and predictability for online players.

- The proposal provides concrete answers to all players along the value chain, from authors and performers to those that invest in creativity and to the citizens, who read, listen and watch Europe's creative output.

- Our proposals focus on three main objectives:

Out of Scope

1. [REDACTED]

2. [REDACTED]

3. Introducing fairer rules of the game for a better functioning copyright market place.

Out of Scope

- [REDACTED]

- [REDACTED]

- Finally, in the area of ensuring a well-functioning copyright market place, the proposed Directive will address the difficulties faced by right holders when seeking to monetise and control the distribution of their content online. This includes a **new related right for press publishers**, designed to strengthen the bargaining power of the press industry in the online environment. It will help ensuring the viability of an independent and high quality press which is critical for a pluralistic society and the democratic debate.

- The adopted copyright package addresses the most significant problems the Commission has identified after consulting stakeholders and citizens and assessing different policy options.

- Therefore, the Commission acknowledges in this proposal the important role of the press publishing sector in the creation and dissemination of news and information. Our proposal also recognises the importance of media pluralism for democracy in Europe.

- I count on your support during the upcoming discussions with the Council and the European Parliament on these proposals and count on constructive exchange in order to ensure a swift adoption and implementation for the benefit of creative industries and consumers.

On AMVSD:

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¹ Judgment of 21 October 2015 in the "New Media Online GmbH"

- [REDACTED]

IV. Relevant defensives

Copyright

1. ON PUBLISHERS' RIGHTS

What is the added value of the new related right for press publishers?

- The new related right covering news publications will ensure that the organisational and economic contribution of press publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other creative sectors (film and phonogram producers, broadcasters). It will in particular provide these publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.
- It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).
- Overall we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the new right to help publishers developing further licence-based cooperation with innovative business models in the future.

Why scientific publishers are not holders of related rights in the Commission's proposal?

- The Commission is aware of the important role and responsibility of scientific publishers in the investment and dissemination of scientific journals.
- The Commission's proposal on new related rights is targeted to press publishers. It is in this area where the main problems regarding the licensing and enforcement of rights have been identified. Press publishers are today facing significant problems regarding the recoupment of investments in their press publications.
- Although the transition to the digital environment is challenging for all sectors, the business models of STM publishers differ from the means of exploitation and reuse of news content by internet platforms, news aggregators and social networks.

Why are EU rules needed on the payment of compensation to publishers for uses of their content under exceptions? How is this related to the Reprobel decision of the EU Court of Justice?

Out of scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

2. ON EXCEPTIONS: TDM

Out of Scope

Is [REDACTED]

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- [REDACTED]
- [REDACTED]
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- [REDACTED]

3. REMUNERATION OF AUTHORS AND PERFORMERS

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AVMSD

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[REDACTED]

[REDACTED]

5. AUDIOVISUAL COMMERCIAL COMMUNICATIONS

5.1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

5.2. Will viewers in the EU be subject to more advertising on TV?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5.3. Will more flexibility on sponsorship and product placement mean that it's more difficult for viewers to distinguish between these forms of advertising?

- [REDACTED]

Authors:

Personal Data

[REDACTED] CNECT I.2), Tel. [REDACTED]

[REDACTED] (CNECT I.1), Tel. & [REDACTED]

Meeting of Roberto Viola with Carlo D'Asaro Biondo and [REDACTED]
[REDACTED] - Google

Personal
data

19 October 2016

Background document

BASIS Request CNECT/5972

Scene setter

Overview of issues related to Google in copyright proposal

- In general, Google may claim that they support a robust balanced copyright protection but they consider that "over-protection" can discourage innovation and threaten competition. In their view, protecting copyright does not mean protecting business models, which should be able to adapt to new technological changes.
- Google oppose to the new **press publishers' related rights**. Google contributed to the public consultation on the role of publishers in the value chain. They oppose intervention at the EU level in this regard. They consider that publishers already can act on the basis of transferred authors' rights. They also recall the failure of DE and ES legislation in this regard. They claim that industry-led solutions, like the ones they are developing with relevant EU press publishers, are a better and more proportionate solution.

Out of
Scope

- [REDACTED]

Out of Scope

- On copyright, Google has also expressed there should be no copyright on **linking and browsing**; (important to highlight that the new related right does not affect what acts of hyperlinking should be considered acts of communication to the public). [REDACTED]

Background on partnerships between google and EU industry stakeholders

Out of Scope

[REDACTED]

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[REDACTED]

Age Group	Should Take Action (%)	Should Not Take Action (%)
18-29	85	15
30-49	85	15
50-69	85	15
70+	85	15

-

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Authors: [REDACTED], *CNECT I2*, 6 [REDACTED]

[REDACTED], *CNECT F1*, [REDACTED]

Personal Data

Copyright package

The Internet has changed the way in which copyrighted works are made accessible. A modern copyright framework needs to ensure that both the Internet users and copyright owners benefit from this dramatic change. The package aims to support cultural diversity, increase content available online and establish up to date and clear rules for all market players. The ultimate objective is a fair framework that delivers more in terms of access for users, opportunities for creators, competitiveness for the cultural and creative sector, and predictability for online players. We do not change the way consumers use and share content online.

We need to maintain a copyright environment in Europe that gives the incentives to invest in creative content. The revenues generated by creators, performers and those that invest in creative content are accruing disproportionately to a few large players who themselves do not engage in content creation. Over time, this risks leading to less creation, less diversity, less quality and also the disappearance of the free press, which is a keystone of our democracy.

The Copyright package adopted on 14 September 2016 (two Directives and two Regulations) provides concrete answers to all players along the value chain, from authors and performers to those that invest in creativity and to the citizens, who read, listen and watch Europe's creative output.

The copyright reform focuses on **three main objectives**:

1. More **cross-border access** for citizens to copyright-protected content online.
2. **Wider opportunities** to use copyrighted material for education, research, cultural heritage and disability (through so-called "exceptions").
3. **Fair rules of the game** for a better functioning copyright marketplace, which stimulates creation of high-quality content.

1. Cross-border access to content

Out of Scope

[Redacted text block]

[Redacted text block]

2. Exceptions

[Redacted text block]

[Redacted text block]

[REDACTED]

3. A fair marketplace

Finally, we have provisions aimed at making the marketplace for copyright fairer and more transparent. These provisions stem from the principle that the investment of creators and creative industries has to be properly recognised and rewarded.

Introducing a new related right for **press publishers** for the use of their publications in digital environments will strengthen the bargaining position of publishers when they negotiate the use of their content with online players. The proposal aims to help preserve the viability of an independent and high-quality press, which is critical for a pluralistic society and for democratic debate. Without such a right, which other creative industries already enjoy, the future of the European press would be at risk. The new right will not change the way consumers share and link to news online as they increasingly do on social media (no "Link Tax"!). We want the press industry to benefit from a fairer market place so that it can enjoy the best possible environment to develop innovative business models to continue offering quality content online, which is what consumers crave for.

Out of Scope

[REDACTED]

Basis 963 - Speech at the VDZ Kongress (umbrella organisation of German Magazine Publishers)

Berlin, 07.11.2016 at 16h

I. Scene Setter

VDZ is the umbrella organisation representing the interests of German magazine publishers. It is made up of 7 federal-state associations. VDZ is the organisation of 400 publishers together producing more than 3,000 titles.

II. Their position

On Copyright, VDZ is mainly concerned about:

Out of Scope

- The introduction of new related rights for press publishers and the introduction of mechanisms to allow the sharing of compensation stemming from exceptions to copyright between authors and publishers, which they support.

- [REDACTED]
- [REDACTED]

III. Speaking points for the speech

On copyright:

- The Commission has recently adopted the copyright modernisation package – two directives, two regulations and an accompanying Communication, thereby delivering on a key part of the Digital Single Market strategy which was announced at the beginning of its mandate.
- The copyright package adopted on 14 September will contribute to increasing the competitiveness of the EU cultural and creative industries, in the digital environment. It also delivers more in terms of access for users, opportunities for creators and predictability for online players.
- The proposal provides concrete answers to all players along the value chain, from authors and performers to those that invest in creativity and to the citizens, who read, listen and watch Europe's creative output.
- Our proposals focus on three main objectives:
 1. **Facilitating cross-border access to copyright-protected content online**, with specific focus on TV and radio programmes and ensuring a wider presence of European works online.

2. **Modernising the EU rules on key exceptions and limitations in the areas of research, education, and preservation of cultural heritage** to make them fit for the digital single market.

3. **Introducing fairer rules of the game for a better functioning copyright market place.**

Out of Scope

- [REDACTED]
- [REDACTED]
- Finally, in the area of ensuring a well-functioning copyright market place, the proposed Directive will address the difficulties faced by right holders when seeking to monetise and control the distribution of their content online. This includes a **new related right for press publishers**, including magazine publishers, designed to strengthen the bargaining power of the press industry in the online environment. It will help ensuring the viability of an independent and high quality press which is critical for a pluralistic society and the democratic debate.
- The adopted copyright package addresses the most significant problems the Commission has identified after consulting stakeholders and citizens and assessing different policy options.
- Therefore, the Commission acknowledges in this proposal the important role of the press publishing sector in the creation and dissemination of news and information, as well as the challenges this industry is facing in order to generate revenues which ensure the sustainability of the sector, which the Commission recognises as essential for media pluralism and democracy in Europe.
- I count on your support during the upcoming discussions with the Council and the European Parliament on these proposals and count on constructive exchange in order to ensure a swift adoption and implementation for the benefit of creative industries and consumers.

IV. Relevant defenses

Copyright

1. ON PUBLISHERS' RIGHTS

What is the added value of the new related right for press publishers?

- The new related right covering news publications will ensure that the organisational and economic contribution of press publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other creative sectors (film and phonogram producers, broadcasters). It will in particular provide these publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.
- It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).
- Overall we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the new right to help publishers developing further licence-based cooperation with innovative business models in the future.

Why scientific publishers are not holders of related rights in the Commission's proposal?

- The Commission is aware of the important role and responsibility of scientific publishers in the investment and dissemination of scientific journals.
- The Commission's proposal on new related rights is targeted to press publishers. It is in this area where the main problems regarding the licensing and enforcement of rights have been identified. Press publishers are today facing significant problems regarding the recoupment of investments in their press publications.
- Although the transition to the digital environment is challenging for all sectors, the business models of STM publishers differ from the means of exploitation and reuse of news content by internet platforms, news aggregators and social networks.

Why are EU rules needed on the payment of compensation to publishers for uses of their content under exceptions? How is this related to the Reprobel decision of the EU Court of Justice?

- Publishers bear the economic risks linked to the exploitation of the works contained in their publications and may suffer losses when such works are used under exceptions or limitations to copyright. For this reason, publishers have until now received compensation in at least 18 Member States, under different national arrangements.
- However, partly as a consequence of a recent decision of the Court of Justice of the European Union (the "Reprobel" decision), publishers across different sectors, e.g. newspapers, books, scientific publishers, currently face legal uncertainty as regards their ability to receive compensation for such uses. In the 12 EU countries for which data were available, an aggregated total amount of €40 million was distributed to publishers over the course of the respective last financial year.

- The Commission proposes to give Member States the option to lay down in their national law rules allowing publishers to have a share of the compensation due for uses under an exception to copyright (for example private copying or reprography levies).

2. ON EXCEPTIONS: TDM

Out of Scope

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3. REMUNERATION OF AUTHORS AND PERFORMERS

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Won't the transparency obligations be very heavy and costly?

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- [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

Will this lead to the re-negotiation of thousands of contracts?

- [REDACTED]

[REDACTED]

Author:

Personal Data

[REDACTED] (CNECT I.2), Tel. [REDACTED]

V. Background

The Copyright package

The Internet has changed the way in which copyrighted works are made accessible. A modern copyright framework needs to ensure that both the Internet users and copyright owners benefit from this dramatic change. The package aims to support cultural diversity, increase content available online and establish up to date and clear rules for all market players. The ultimate objective is a fair framework that delivers more in terms of access for users, opportunities for creators, competitiveness for the cultural and creative sector, and predictability for online players. We do not change the way consumers use and share content online.

We need to maintain a copyright environment in Europe that gives the incentives to invest in creative content. The revenues generated by creators, performers and those that invest in creative content are accruing disproportionately to a few large players who themselves do not engage in content creation. Over time, this risks leading to less creation, less diversity, less quality and also the disappearance of the free press, which is a keystone of our democracy.

The Copyright package adopted on 14 September 2016 (two Directives and two Regulations) provides concrete answers to all players along the value chain, from authors and performers to those that invest in creativity and to the citizens, who read, listen and watch Europe's creative output.

The copyright reform focuses on **three main objectives**:

- 1. More cross-border access** for citizens to copyright-protected content online.
- 2. Wider opportunities** to use copyrighted material for education, research, cultural heritage and disability (through so-called "exceptions").
- 3. Fair rules of the game** for a better functioning copyright marketplace, which stimulates creation of high-quality content.

1. Cross-border access to content

Out of Scope

[REDACTED]

2. Exceptions

[REDACTED]

[REDACTED]

3. A fair marketplace

Finally, we have provisions aimed at making the marketplace for copyright fairer and more transparent. These provisions stem from the principle that the investment of creators and creative industries has to be properly recognised and rewarded.

Introducing a new related right for **press publishers** for the use of their publications in digital environments will strengthen the bargaining position of publishers when they negotiate the use of their content with online players. The proposal aims to help preserve the viability of an independent and high-quality press, which is critical for a pluralistic society and for democratic debate. Without such a right, which other creative industries already enjoy, the future of the European press would be at risk. The new right will not change the way consumers share and link to news online as they increasingly do on social media (no "Link Tax"!). We want the press industry to benefit from a fairer market place so that it can enjoy the best possible environment to develop innovative business models to continue offering quality content online, which is what consumers crave for.

out of
scope

[REDACTED]

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.

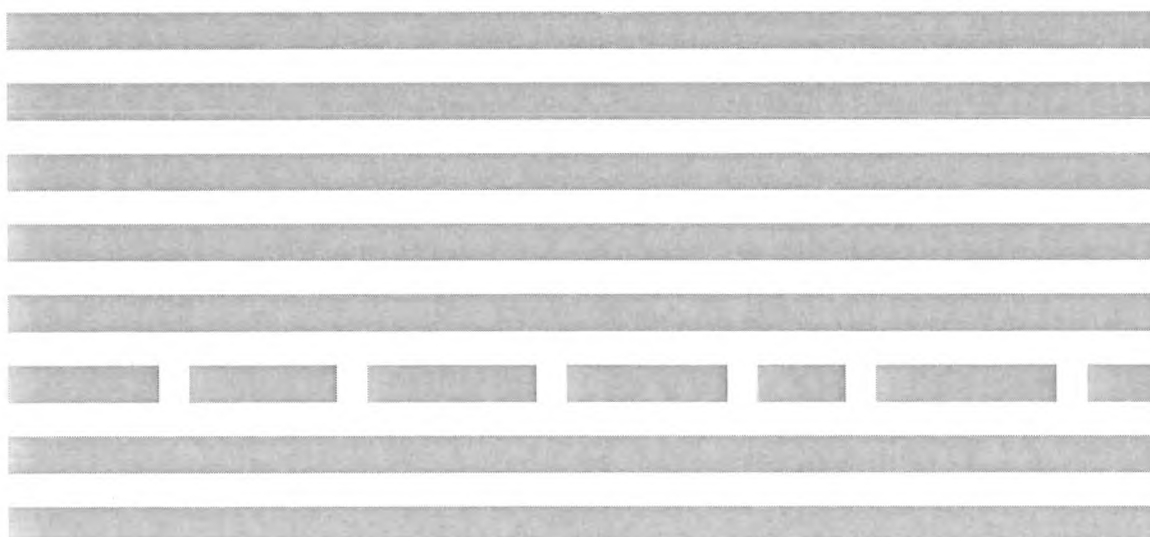
On copyright, our proposals will contribute to increasing the competitiveness of the EU cultural and creative industries in the digital environment. We have focused on three main objectives:

- 1. Facilitating cross-border access to copyright-protected content online.**
- 2. Modernising the EU rules on key exceptions and limitations to make them fit for the digital single market.**

3. Introducing fairer rules of the game for a better functioning copyright market place.

We have acknowledged in this proposal the important role of the press publishing sector in the creation and dissemination of news and information, as well as the challenges this industry is facing in order to generate revenues which ensure the sustainability of the sector, which the Commission recognises as essential for media pluralism and democracy in Europe. That is why we have proposed a **new related right for press publishers**, including magazine publishers, designed to strengthen the bargaining power of the press industry in the online environment. It will help ensuring the viability of an independent and high quality press which is critical for a pluralistic society and the democratic debate. At the same time, when we have proposed new exceptions to copyright, the role of rightholders and those who invest in the publication of copyright-protected content has been duly considered by the Commission.

Out of Scope



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

On copyright

Out of Scope

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- In the area of ensuring a well-functioning copyright market place, the proposed Directive will address the difficulties faced by right holders when seeking to monetise and control the distribution of their content online:
 - The new Directive introduces a **new related right for press publishers**, designed to strengthen the bargaining power of the press industry in the online environment. It will help ensuring the viability of an independent and high quality press which is critical for a pluralistic society and the democratic debate.

Out of Scope

- [REDACTED]
- [REDACTED]

Defensive on copyright

How will the Commission ensure the support of publishers' rights after the change of portfolio of commissioner Oettinger?

The proposal was adopted by the College of Commissioners and has the support of all the Commission. The Commission will remain committed to defending its proposals in the Council and the Parliament.

Out of Scope

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-
- | Category | Percentage |
|--------------|------------|
| Total | 78% |
| By Age Group | |
| 18-29 | 85% |
| 30-49 | 72% |
| 50-64 | 68% |
| 65 and older | 55% |

Out of Scope

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1. The first part of the document is a title page. It contains the title of the document, the author's name, and the date of the document. The title is "The first part of the document is a title page. It contains the title of the document, the author's name, and the date of the document." The author's name is "The author's name is the name of the person who wrote the document." The date of the document is "The date of the document is the date when the document was written." The title page is the first page of the document and it contains the title, author's name, and date of the document.

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AUDIOVISUAL COMMERCIAL COMMUNICATIONS

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- | Age Group | Percentage |
|-----------|------------|
| 18-24 | ~15% |
| 25-34 | ~45% |
| 35-44 | ~40% |
| 45-54 | ~40% |
| 55-64 | ~40% |
| 65+ | ~10% |

- [Illegible text]*

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Personal Data

Authors: On copyright: [REDACTED] CNECT I2, 6 [REDACTED]

On AVMSD: [REDACTED] CNECT II, [REDACTED]

On ePrivacy: [REDACTED], (CNECT H1), [REDACTED]

Conference on "Copyright Enforcement in the Online World", organised by CEIPI (the Center for International Intellectual Property Studies).

European Parliament, Strasbourg, 22.11.2016

VP5/2016/142.01 Conference on Copyright Enforcement in the Online World

Scene setter

VP Ansip will give a speech at the conference on "Copyright Enforcement in the Online World", organised jointly by CEIPI (the Center for International Intellectual Property Studies of the university of Strasbourg) and the European Audiovisual Observatory . It will take place in the European Parliament, in Strasbourg on Tuesday 22 Nov. 2016.

The theme of the VP's 20-minute speech will be "Copyright Enforcement in the Online World: Approach of the European Commission". The agenda of the conference, together with the names of the speakers is attached to the present briefing (see background).

*out of
scope*



The review of the EU IP enforcement system (including of the Intellectual Property Rights Enforcement Directive, IPRED) is perceived, by various stakeholders, including some Member States, as part of the copyright review process. In the last two Copyright Communications¹ the Commission has identified as priority areas (i) "follow-the-money" mechanisms based on a self-regulatory approach (aiming at depriving of revenue streams those engaging in commercial infringements, by targeting actors such as advertisers and payment service providers) and (ii) the review of IPRED focusing on: commercial-scale infringements, rules for identifying infringers, injunctions and their cross-border effect, damages and legal costs. The time-line for review was set out by the end of 2016. It is worth recalling that IPRED is a horizontal enforcement instrument covering patents, trademarks, design and copyright. Reflection on a possible IPRED review should notably take into account the adopted copyright package and the work on online platforms.

Objective(s)

- Reaffirm the Commission's commitment to fight against infringements of intellectual property rights.

¹ Communication "Towards a modern, more European copyright framework" (2015)626 dated 9/12/2015 and Communication "Promoting a fair, efficient and competitive European copyright-based economy in the Digital Single Market" (2016)592 dated 14/09/2016.

European Parliament, Strasbourg, 22.11.2016

- [REDACTED]
- [REDACTED]

Speaking points

- [REDACTED]
- With the modernization of copyright package of September 2016, the Commission has proposed measures aiming at:

Out of Scope

- [REDACTED]
- **Introducing fairer rules of the game for a better functioning copyright market place.** This includes new rules on the protection of press publications, on the use of copyrighted content by user generated content platforms as well as rules to ensure the transparency of contracts between creators and publishers/producers.
- [REDACTED]
- [REDACTED]

European Parliament, Strasbourg, 22.11.2016

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European Parliament, Strasbourg, 22.11.2016

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European Parliament, Strasbourg, 22.11.2016

Defensive points (enforcement/regulation on TV and radio programmes/press
publisher/value gap)

ENFORCEMENT

Out of Scope

[REDACTED]

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[REDACTED]

*What is the timing of the legislative review of IPRED? When can we expect a
proposal?*

[REDACTED]

[REDACTED]

[REDACTED]

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European Parliament, Strasbourg, 22.11.2016

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REGULATION ON RADIO AND TV PROGRAMMES

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[illegible]

- The new related right covering news publications will ensure that the organisational and economic contribution of press publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other

European Parliament, Strasbourg, 22.11.2016

creative sectors (film and phonogram producers, broadcasters). It will in particular provide these publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.

- It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).
- Overall we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the new right to help publishers developing further licence-based cooperation with innovative business models in the future.

Will the new related right affect hyperlinking? Will there be a tax on hyperlinks?

- Granting such rights to news publishers would not affect the way users share hyperlinks on the internet. It would recognise press publishers role as investors' actors investing in content and put them on equal footing of other neighbouring rightholders (film, music producers) to safeguard the role of quality press in the transition to digital as explained. It will give them a stronger position when negotiating with other market players when seeking to license online uses of their content.
- The Commission made it clear in December last year that there is no plan to tax hyperlinks. This is a totally different issue. The Commission has no intention to ask people to pay for copyright when they simply share a hyperlink to content protected by copyright. Europeans share and post hyperlinks every day and they should of course remain free to do so.

How is the proposal different from recent attempts in Germany and Spain's ancillary rights?

- The Commission proposal for a new related right for press publishers differs from the earlier attempts in this direction in Germany and Spain.
- Germany and Spain have passed legislation in the last few years to grant specific rights to publishers. These laws follow individual approaches but they both aim at giving publishers very specific rights over the use of snippets or small excerpts of their content by online services such as news aggregators (often referred to as

European Parliament, Strasbourg, 22.11.2016

"ancillary rights"). In Spain online services were also obliged to pay for the use of newspapers online, as the law provides for a mandatory compensation subject to compulsory collective management.

- This is different from the broader and general concept of related right that the Commission proposes now.
- The Commission proposes an exclusive right that leaves margin of manoeuvre for press publishers to negotiate different types of agreements with online service providers wishing to use press content. This will allow press publishers to develop new business models in a flexible way.
- The EU-scale of the new right guarantees a uniform approach to the digital exploitation of press content in the EU. The Commission proposal is therefore expected to be more effective in the long run than different national initiatives.

Out of Scope

VALUE GAP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [illegible]

1. *Journal of Management Studies*, 1997, 34, 1, 1-15.

Response	Percentage
Yes, the current system is the best way to run the country	65%
No, the current system is not the best way to run the country	35%

European Parliament, Strasbourg, 22.11.2016

[REDACTED]
[REDACTED]
[REDACTED]

Out of Scope

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Moderator: [REDACTED]

Personal data

Panellists:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Out of Scope

[REDACTED]

[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Contact(s):

Personal Data

[REDACTED] CNECT I2, [REDACTED]

Personal data

[REDACTED], GROW F.5, 6 [REDACTED]

[REDACTED], GROW F.5, [REDACTED]

Meeting between Burda and Commissioner OETTINGER

On 28 November 2016

I. Scene setter

Personal Data

For **BURDA**: [REDACTED] (CEO), [REDACTED] (Vorstand Medienmarken National), Dr. [REDACTED] (Head of Public Affairs).

Hubert Burda Media is one of the largest publishers in Europe, employing more than 8,000 people across 12 countries. It is a privately held, family-owned company. Its portfolio of magazines includes over 300 titles, around 80 of which are published in Germany. The global annual revenues of the company exceed 2 billion euros. In 2015, Burda launched TV Spielfilm, a platform offering viewers the possibility to watch over 50 TV channels as live-streams via PC, laptop, etc...It will be useful to further understand how this platform works and whether it retransmits the programs itself or whether it links to content retransmitted by someone else. *Out of Scope*

Dr. Paul-Bernhard Kallen has been serving as Burda's CEO since 2010. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Agenda: copyright, platforms, data.

Their Position on copyright:

- They are very supportive of the introduction of a right for press publishers and the introduction of mechanisms (the "Reprobel" fix) to allow the sharing of compensation stemming from exceptions to copyright between authors and publishers.

Out of scope

- [REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED]

Our Position: the package is balanced and positive for press publishers. The next steps include the negotiation in the Council and the Parliament, which may prove difficult regarding some of

the areas in which Burda is more interested (e.g. the publishers' right). Therefore, their support in the discussions to come would be important.

Line to Take

On copyright

- On 14 September last, the Commission adopted the copyright modernisation package, thereby delivering on a key part of the Digital Single Market strategy which was announced at the beginning of its mandate.

Out of Scope

- Our proposals focus on three main objectives:

- [REDACTED]

- [REDACTED]

- **Introducing fairer rules for a better functioning copyright market place.**

Out of Scope

- [REDACTED]

- In [REDACTED]

- Regarding the third objective, the proposed rules aim at making the marketplace for copyright fairer and more transparent. These rules stem from the principle that the investment of creators and creative industries has to be properly authorised and remunerated.

- We propose to introduce **a new related right for press publishers** for the use of their publications in digital environments. This will strengthen the negotiating position of publishers when they negotiate the use of their content with online players. This proposal contributes to preserving the viability of an independent and high-quality press, which is critical for a pluralistic society and the democratic debate.

Out of Scope

- [REDACTED]

- [Redacted text block]

On the data economy and free flow of data specifically

Out of Scope

- [Redacted text block]
- [Redacted text block]
- [Redacted text block]
- [Redacted text block]
- [Redacted text block]
- [Redacted text block]
- [Redacted text block]
- [Redacted text block]
- [Redacted text block]
- [Redacted text block]

- [Redacted]
- [Redacted]

On ePrivacy

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

On online platforms

- [Redacted]
- [Redacted]
- [Redacted]

II. Speaking points & defensives

Speaking points zum Urheberrecht

- In dem unlängst verabschiedeten Urheberrechtsvorschlag haben wir die wichtige Rolle des Presseverlagssektors bei der Berichterstattung und Verbreitung von Nachrichten und Informationen genauso anerkannt wie die Herausforderungen, vor denen dieser Sektor steht, um Einnahmen zu erzielen, die die Nachhaltigkeit des Sektors sicherstellen.
- Daher haben wir ein neues Schutzrecht für Presseverleger vorgeschlagen, das die Verhandlungsmacht der Presse im Online-Umfeld stärken soll.
- Unserer Ansicht nach wird dieses Schutzrecht dazu beitragen, die Lebensfähigkeit einer unabhängigen und hochwertigen Presse sicherzustellen, die wiederum von zentraler Bedeutung für eine pluralistische Gesellschaft und die demokratische Debatte ist.
- Was unser Konzept der Ausnahmen vom Urheberrecht angeht, sind wir der Meinung, dass es für ein ausgewogenes Verhältnis zwischen den Interessen und Bedürfnissen aller Beteiligten, einschließlich Presseverlegern und Bürgern, sorgt. Bei der Erarbeitung des Vorschlags für die neuen Ausnahmen vom Urheberrecht hat die Kommission der Rolle der Rechteinhaber und derjenigen, die in die Veröffentlichung urheberrechtlich geschützter Inhalte investieren, gebührend Rechnung getragen.

- [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted].

*Out of
scope*

- [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

- [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Defensives

On copyright

How will the Commission ensure the support of publishers' rights after the change of portfolio of Commissioner Oettinger?

The Commission adopted the copyright package, which includes the proposal to introduce a new related right for press publishers, on 14 September 2016. The proposal was adopted by the College of Commissioners and has the support of all the Commission. The Commission will remain committed to defending its proposals in the Council and the Parliament.

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Is not the exception on Text and Data Mining ('TDM') too broad?

[REDACTED]

Regarding TDM, what type of safeguards would be allowed to be used by the publishers?

[REDACTED]

Won't the transparency obligations imposed in the draft Directive (in the relationship authors-publishers) be very heavy and costly?

- [REDACTED]

[REDACTED]

- [Redacted]

On ePrivacy

[Redacted]

- [Redacted]

- [Redacted]

[Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

On 'Building the European Data Economy'

[Redacted]

- [Redacted]

- [Redacted]

Personal Data

Authors: [Redacted] (on copyright), Tel. [Redacted]

██████████ (on e-privacy), Tel. ██████████

██████████ (on online platforms), Tel. ██████████

██████████ (on data economy), Tel. 3██████████

██████████ (on free flow of data), Tel. ██████████

III. Background

A. Copyright

The Copyright package adopted on 14 September 2016 (two Directives and two Regulations) provides concrete answers to all players along the value chain, from authors and performers to those that invest in creativity and to the citizens, who read, listen and watch Europe's creative output. The copyright reform focuses on three main objectives:

Out of Scope

1. Cross-border access to content

[Redacted text block]

[Redacted text block]

2. Exceptions

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

3. A fair marketplace

We have proposed provisions aimed at making the marketplace for copyright fairer and more transparent. These provisions stem from the principle that the investment of creators and creative industries has to be properly recognised and rewarded.

Introducing a **new related right for press publishers** for the use of their publications in digital environments will strengthen the bargaining position of publishers when they negotiate the use of their content with online players. The proposal aims to help preserve the viability of an independent and high-quality press, which is critical for a pluralistic society and for democratic debate. Without such a right, which other creative industries already enjoy, the future of the European press would be at risk. The new right will not change the way consumers share and link to news online as they increasingly do on social media (no "Link Tax"!). We want the press industry to benefit from a fairer market place so that it can enjoy the best possible environment to develop innovative business models to continue offering quality content online, which is what consumers crave for.

Out of Scope

[REDACTED]

[REDACTED]

B. The emerging issues of "data ownership, access to and re-use of data"

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Approaches discussed in the forthcoming Communication "Building a European Data Economy"

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

What is the EC planning to do?

- [REDACTED]

- [REDACTED]

Big Data Value PPP

- [REDACTED]

- [REDACTED]

C. Free Flow of Data (data localisation)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. The ePrivacy Directive

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[illegible]

E. Online platforms – B2B practices

[The page contains faint horizontal lines, suggesting it was part of a lined notebook or document.]

Basis 6050 - Meeting with [REDACTED]
EPC (European Publishers Council)
 08.12.2016 at 17h

Personal data

I. Scene Setter

The European Publishers Council is a high level group of Chairmen and CEOs of leading European media corporations. Members are the most senior representatives of European newspaper and magazine publishers. Their companies are involved in multimedia markets spanning newspaper, magazine, book, journal, internet, online database publishers, radio and TV broadcasting. Ms [REDACTED] CV is enclosed as an annex.

II. Their position

Out of Scope

On **copyright**, their main interests are the following:

- They are very supportive of the introduction of new related rights for press publishers and the introduction of mechanisms to allow the sharing of compensation stemming from exceptions to copyright between authors and publishers.

- [REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On ePrivacy Directive:

[REDACTED]

III. Our position

On copyright, the meeting could be used to exchange views with EPC on the main criticisms the proposal on press publishers' rights has been subject to, as well as possible reactions:

Out of Scope

- Those against the proposal mainly argue that:
 - [REDACTED]
 - Users will be affected: irrespective of the discussions on hyperlinks, which the proposal does not affect, uncertainty regarding the non-commercial use of snippets and press articles should not be covered.
 - The interaction between press publishers and those who would have to pay a licence for the use of their content shows that press publishers are interested in their content being reused: press publishers encourage users to share their articles *Out of Scope* (e.g. facebook button) and use search-engine-optimisation tools to be more visible.
- [REDACTED]

The proposal for a revised AVMSD, adopted by the Commission on 25 May 2016, addresses some of the concerns of EPC:

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

On ePrivacy Directive:

• [REDACTED]

■ [REDACTED]

■ [REDACTED]

IV. Line to take

On copyright:

- Regarding publishers' rights, the Commission has made targeted proposals in two areas where problems have been identified.
- Firstly, the proposed Directive will address the difficulties faced by right holders when seeking to monetise and control the distribution of their content online. This includes a **new related right for press publishers**, designed to strengthen the bargaining power of the press industry in the online environment. It will help ensuring the viability of an independent and high quality press which is critical for a pluralistic society and the democratic debate.

Out of Scope

- [REDACTED]

- [REDACTED]

On AVMSD:

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

¹ Judgement of 21 October 2015 in the "New Media Online GmbH"

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED] the day. It is thus not expected to affect significantly the advertising revenues of the press.

On ePrivacy Directive:

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

² 77% of citizens responding to the Public Consultation, believe that websites should not have the right to block access to their content if users refuse the storing of cookies.

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

IV. Defensives

A. Copyright

ON PUBLISHERS' RIGHTS

Why does not the proposal on publishers' rights cover the rights of distribution or communication to the public?

- The Commission has put forward a balanced proposal based on the evidence gathered during consultation with all relevant stakeholders.
- The identified problem related to the exploitation of press publishers' content is linked to the digital uses of your content.
- We need to make sure that we propose something which does not go beyond what is necessary to achieve our objective.

What is the added value of the new related right for press publishers?

- The new related right covering news publications will ensure that the organisational and economic contribution of press publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other creative sectors (film and phonogram producers, broadcasters). It will in particular provide these publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.
- It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).
- Overall we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the new right to help publishers developing further licence-based cooperation with innovative business models in the future.

ON EXCEPTIONS: TDM

Out of Scope

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

REMUNERATION OF AUTHORS AND PERFORMERS

[REDACTED]

- [REDACTED]

- [REDACTED]

Won't the transparency obligations be very heavy and costly?

- [REDACTED]

- [REDACTED]

- [REDACTED]

Will this lead to the re-negotiation of thousands of contracts?

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. AVMSD

1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

2. AUDIOVISUAL COMMERCIAL COMMUNICATIONS

- [REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
 - [REDACTED]
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 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]

3. MUST CARRY / FINDABILITY

- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
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 - [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

C. ePrivacy Directive

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

- [Redacted]
[Redacted] [Redacted]
[Redacted]

- [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

V. Background

The Copyright package

The Internet has changed the way in which copyrighted works are made accessible. A modern copyright framework needs to ensure that both the Internet users and copyright owners benefit from this dramatic change. The package aims to support cultural diversity, increase content available online and establish up to date and clear rules for all market players. The ultimate objective is a fair framework that delivers more in terms of access for users, opportunities for creators, competitiveness for the cultural and creative sector, and predictability for online players. We do not change the way consumers use and share content online.

We need to maintain a copyright environment in Europe that gives the incentives to invest in creative content. The revenues generated by creators, performers and those that invest in creative content are accruing disproportionately to a few large players who themselves do not engage in content creation. Over time, this risks leading to less creation, less diversity, less quality and also the disappearance of the free press, which is a keystone of our democracy.

The Copyright package adopted on 14 September 2016 (two Directives and two Regulations) provides concrete answers to all players along the value chain, from authors and performers to those that invest in creativity and to the citizens, who read, listen and watch Europe's creative output.

The copyright reform focuses on **three main objectives**:

1. More **cross-border access** for citizens to copyright-protected content online.
2. **Wider opportunities** to use copyrighted material for education, research, cultural heritage and disability (through so-called "exceptions").
3. **Fair rules of the game** for a better functioning copyright marketplace, which stimulates creation of high-quality content.

1. Cross-border access to content

Out of Scope

[Redacted content]

2. Exceptions

[Redacted content]

[REDACTED]

3. A fair marketplace

Finally, we have provisions aimed at making the marketplace for copyright fairer and more transparent. These provisions stem from the principle that the investment of creators and creative industries has to be properly recognised and rewarded.

Introducing a new related right for **press publishers** for the use of their publications in digital environments will strengthen the bargaining position of publishers when they negotiate the use of their content with online players. The proposal aims to help preserve the viability of an independent and high-quality press, which is critical for a pluralistic society and for democratic debate. Without such a right, which other creative industries already enjoy, the future of the European press would be at risk. The new right will not change the way consumers share and link to news online as they increasingly do on social media (no "Link Tax"!). We want the press industry to benefit from a fairer market place so that it can enjoy the best possible environment to develop innovative business models to continue offering quality content online, which is what consumers crave for.

Out of Scope

[REDACTED]

Background on the AVMSD legislative proposal

-

-
- The figure consists of two parts. The left part shows a single trial with a 50% chance of a correct response. The right part shows two trials, where the probability of a correct response increases to 75%.

-

[illegible]

.....

> [REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Background on media freedom and pluralism

Out of Scope

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Media freedom and pluralism in Hungary

- [REDACTED]
- [REDACTED]

- [illegible]

Media freedom and pluralism in Poland

- [illegible]

- _____
- _____
- _____

- _____

- [illegible]

- _____
- _____

- _____

- _____

- [illegible]

- _____

- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

Background on ePrivacy Directive

[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Authors:

Personal Data

[REDACTED] (CNECT I.2), Tel. [REDACTED]

[REDACTED] (CNECT I.1), Tel. [REDACTED]

[REDACTED] (CNECT H.1, Tel. [REDACTED]

Personal Data

- [illegible]

Agenda: -

Out of Scope

As press publishers, on copyright, Axel Springer are expected to show the following views:

- They are very supportive of the introduction of new related rights for press publishers and [REDACTED]

- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]. Press publishers may consider this obligation burdensome for them, as they have contributions from high numbers of authors.

Our Position

We consider the package is balanced and positive for press publishers.

The next steps include the negotiation in the Council and the Parliament, which will be difficult regarding some of the areas Axel Springer are more interested in (see background). The introduction of the neighbouring rights for press publishers and the value gap section are being subject to controversy. Therefore, publishers' support in the discussions in the Parliament and Council would be important.

Line to Take

- The Commission has adopted the copyright modernisation package – two directives, two regulations and an accompanying Communication, thereby delivering on a key part of the Digital Single Market strategy which was announced at the beginning of its mandate.
- The copyright package adopted on 14 September will contribute to increasing the competitiveness of the EU cultural and creative industries, in the digital environment. It also delivers more in terms of access for users, opportunities for creators and predictability for online players.
- The proposal provides concrete answers to all players along the value chain, from authors and performers to those that invest in creativity and to the citizens, who read, listen and watch Europe's creative output.
- Our proposals focus on three main objectives:

Out of Scope

1. [REDACTED]
[REDACTED]
[REDACTED]

2. [REDACTED]
[REDACTED]
[REDACTED]

3. **Introducing fairer rules of the game for a better functioning copyright market place.**

Out of Scope

- [REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
- Finally, in the area of ensuring a well-functioning copyright market place, the proposed Directive will address the difficulties faced by right holders when seeking to monetise and control the distribution of their content online. This includes a **new related right for press publishers**, designed to strengthen the bargaining power of the press industry in the online environment. It will help ensuring the viability of an independent and high quality press which is critical for a pluralistic society and the democratic debate.
- The new publishers' right would also enhance new business models taking advantage of technological developments and potential partnerships with online platforms that would be mutually beneficial, such as the Instant Articles project with Facebook today.
- The adopted copyright package addresses the most significant problems the Commission has identified after consulting stakeholders and citizens and assessing different policy options.
- Therefore, the Commission acknowledges in this proposal the important role of the press publishing sector in the creation and dissemination of news and information. Our proposal also recognises the importance of media pluralism for democracy in Europe.
- Discussions in the Council and the European Parliament are still ongoing. We count on your support on these proposals and on a constructive exchange in order to ensure a swift adoption and implementation for the benefit of creative industries and consumers.

Personal Data

Contact: J [REDACTED] CNECT I2, [REDACTED]

Background

State of play of negotiations of the proposal for a Directive on copyright in the Digital Single Market

Discussions are at a very early stage both in the EP and in the Council. The first article-by-article examination of the proposal in the Council Working Party is still ongoing ([REDACTED]

[REDACTED]).

For the time being, discussions have consisted in questions and requests for clarification from the delegations. We are not yet in negotiation dynamic. The provisions on the publishers' right will be discussed for the first time mid-February. In the EP, a first exchange of views in JURI took place on 12 January. The rapporteur, Ms Comodini Cachia (EPP/MT), plans to present her draft report for consideration in JURI on 22/23 March. The vote in JURI is currently scheduled for 19/20 June 2017.

All in all, substantial institutional discussions on the different elements of the proposal have hardly started. Given the wide range and the complexity of the topics covered by the proposal, the Council and the EP need time before engaging in negotiations on the text.

Meeting with Mr Henrique Mota, President of Federation of European Publishers

Scene setter

FEP represents 28 national associations of book and learned journal publishers of the EU and of the EEA. It acts on behalf of its members in discussions and negotiations with the EU, particularly concerning legislation, regulation and taxation.

You met FEP on 17 February 2016, before the Commission's proposals were tabled.

Out of Scope

On **copyright**,

[REDACTED]

[REDACTED]

Line to take

Out of Scope

1. On copyright

- [REDACTED]
- [REDACTED]

Out of Scope

- [REDACTED]

2. On research

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Defensive

Out of Scope

- [REDACTED]
- [REDACTED]

Background

- On the state of play of the negotiations of the proposed DSM Directive

Out of Scope

The article-by-article examination of the proposal in the Council Working Party started in December 2016 and is expected to be concluded by the end of February. The provisions related to [REDACTED]

[REDACTED] s have been examined, allowing the clarification of a certain number of questions with Member States.

In the EP, a first exchange of views in JURI took place on 12 January. The rapporteur, Ms Comodini Cachia (EPP/MT), plans to present her draft report for consideration in JURI on 22/23 March. The vote in JURI is currently scheduled for 19/20 June 2017.

The proposed Directive has generally been welcomed in both institutions as a good basis for discussion and negotiation. The proposed new publishers' right and [REDACTED] have triggered considerable public discussions. These parts of the proposals have not yet been discussed in detail in Council or in Parliament. All in all, substantial institutional discussions on the different elements of the proposal have hardly started. Given the wide range and the complexity of the topics covered by the proposal, the Council and the EP need time before engaging in negotiations on the text.

Out of Scope

- On the Soulier-Doke case (for discussions on out-of-commerce)

Out of Scope

[REDACTED]

[REDACTED]

- Support publishing via R&D programmes – FEP Board member Piero Attanasio

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Personal data

Contact(s):

On copyright: [REDACTED] (DG CONNECT), tel.: [REDACTED]

On R&D: [REDACTED] (DG RTD A.6), tel.: [REDACTED]

[REDACTED] (DG RTD A.6), tel.: [REDACTED]

Meeting with MEPs on copyright package

Scene setter

You are meeting the rapporteurs of the four Commission's proposals which make up the copyright package.

On the DSM Directive:

- Ms Comodini's draft report will be considered in JURI on 23 March. The vote is scheduled for June. The main amendments introduced in the report deal with neighbouring rights for press publishers, the provisions related to the 'value gap', Text and Data Mining and out-of-commerce works.

On the Regulation on online transmissions and retransmissions:

Out of Scope

[REDACTED]

On Marrakesh:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Line to Take / Speaking points

Out of Scope

1. On the Directive

- [REDACTED]

On press publishers

- I believe that the role of press publishers in the investment in and the dissemination of content should be recognised and sufficiently incentivised, while respecting users' practices today. We need to make sure that both enforcement and licensing issues are addressed in our legislative intervention, in order to enhance the sustainability of this crucial sector.

On value gap

Out of Scope

- [REDACTED]
- [REDACTED]

On exceptions and out-of-commerce

- [REDACTED]

2. On the Regulation on online transmissions and retransmissions

- [REDACTED]
- [REDACTED]
- [REDACTED]

1 [REDACTED]
2 [REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

3. On Marrakesh

- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Personal Data

Contact(s): [REDACTED] (tel: [REDACTED]), [REDACTED] (tel: [REDACTED]),
CNECT I2

Out of Scope

[REDACTED]

VP Ansip's meeting with representatives of Hubert Burda Media and Cliqz

BASIS CAB ANSIP/24

Overall scene setter:

*Personal
data*

You will meet with **Dr. Paul-Bernhard Kallen**, CEO of Hubert Burda Media since 2010, together with **Mr. Jean-Paul Schmetz**, Founder and CEO of Cliqz, and [REDACTED], Managing Director at Cliqz.

Hubert Burda Media is a German tech and media company, one of the largest publishers in Europe. It focuses on innovative media products, both domestic and international. It is wholly owned by the Burda family and had a reported adjusted external turnover of 2.21 billion euros in 2015.

The company will promote a new browser ("**Cliqz**"), which *inter alia* stops online trackers from identifying its users and claims not to store personal data.

Cliqz GmbH is a Munich based start-up with a majority investment from Hubert Burda Media. It aims to improve the way users are navigating the internet by combining the power of data, browser and search. Cliqz's privacy-by-design architecture technology guarantees that no personal data or personally identifiable information is transmitted or saved on its servers, according to their website.

Out of Scope

[REDACTED]

Objectives

Their position on the **Proposal for an ePrivacy Regulation**

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]

Our position

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of Scope

Their position on the **EU copyright proposals**

- [REDACTED]
- [REDACTED]
- Regarding the current legislative process, they are expected to express strong concerns on Ms Comodini's (MEP) proposal to **replace publisher's rights** by a presumption of representation for the purpose of enforcement, given that this option would not recognise their role as creators and investors in a press publication nor help them in negotiations with online players.

Out of Scope

- [REDACTED]
- [REDACTED]

Our position

Out of Scope

- We consider this an important issue; therefore we address it in the DSM Directive.
[REDACTED]

Line to take

On ePrivacy

Out of Scope

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]

On copyright

- The Commission's **copyright proposal** is also **positive** for **press publishers**. Discussions in the Council and the Parliament are still at an early stage but will be difficult regarding some of the areas of interest to publishers (*e.g.* the publishers' right and TDM). Therefore, Burda's support in the discussions will be important. *Out of Scope*

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- Finally, the Commission is currently analysing the amendments contained in the draft report of MEP Ms Comodini Cachia and assessing to what extent they could affect the effectiveness of the proposed intervention, in particular regarding **publisher's rights**, [REDACTED].
- Regarding publishers' rights we are still analysing whether Comodini's draft addresses all the problems faced by publishers in the digital environment.
- [REDACTED]
[REDACTED]
[REDACTED].
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Out of Scope

Out of Scope

Background

HUBERT BURDA MEDIA & CLIQZ

Hubert Burda Media is a German tech and media company, one of the largest publishers in Europe, employing more than 10.000 employees across 12 countries. It focuses on innovative media products, both domestic and international. In the 2015 financial year, the company – which is wholly owned by the Burda family – reported adjusted external turnover of 2.21 billion euros.

Cliqz GmbH is a Munich based start-up with a majority investment from Hubert Burda Media. It aims to redesign the Internet for the user by combining the power of data, browser and search. More than

110 experts from 31 countries use big data, advanced algorithms, and massive infrastructure to drastically improve the way users are navigating the internet while protecting their privacy.

Cliz's privacy-by-design architecture and technology guarantee that no personal data or personally identifiable information is transmitted or saved on its servers.

Paul-Bernhard Kallen, who holds a PhD in Economics, joined Hubert Burda Media in 1996. On 1 January 2010, he took over from Hubert Burda as CEO. As a board member, he is responsible for the media corporation's holdings and for BurdaInternational and BurdaDruck. He already met Commissioner Oettinger in November 2016.

Jean-Paul Schmetz is the Founder and CEO of Cliqz and currently serves as an advisor to the management of Hubert Burda Media, after having been CTO and CEO of Burda Digital.

Personal data

is Managing Director at Cliqz GmbH.

Out of Scope

PRIVACY[illegible]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[illegible]

CONTACT: DG CNECT/H1 : [REDACTED], tel. [REDACTED], tel. [REDACTED]

COPYRIGHT

Article 4(3)

On the state of play of the negotiations of the proposed DSM Directive

The discussions on the Directive on copyright in the Digital Single Market and Regulation on online transmissions and retransmissions of TV and radio programmes started in October 2016. In the **Council**, a first article-by-article examination of the *Directive* has been completed allowing the clarification of a certain number of questions with Members States. Now, discussions are continuing under the Maltese Presidency. In the **European Parliament**, a first hearing on the copyright reform took place in JURI committee on 29 November 2016 and another exchange of views, on 12 January. The draft report MEP Ms Comodini Cachia (EPP) prepared in March has been discussed in JURI on 22/23 March. The vote in JURI is scheduled for June 2017. *On the Regulation*, the rapporteur (Mr Tiemo Wölken, S&D/DE) intends to publish his draft report in May.

[REDACTED]

[REDACTED]

Ms Comodini's Report

Out of Scope

The draft report contains some interesting ideas that merit further discussion. At the same time the Commission has concerns about some of the proposed amendments, [REDACTED]

[REDACTED] In the Commission's view, these amendments do not seem sufficient to meet one of the key objectives of the reform, which is the achievement of a fairer distribution of copyright revenues across the value chain.

Similarly, the proposed deletion of **publisher's right**, which would be replaced by some measures to facilitate enforcement of copyright by the publishers, do not seem to meet the objective of sufficiently remunerating press publishers for online uses.

The Commission is ready to engage in further discussions with the Parliament and the Council to make sure that the Directive keeps a high level of ambition and meets its objectives.

Publishers' right:

The Commission proposes to introduce a new related right for press publishers for the use of their publications in digital environments, in order to strengthen the negotiating position of publishers vis-à-vis online players.

The approach taken in Ms Comodini's draft report, which focuses only on enforcement issues, does not seem sufficient to guarantee that the press publishers role in investing and disseminating quality journalistic content is sufficiently recognised and compensated.

We need to make sure that the Directive as eventually adopted provides a real value added to strengthen the copyright industries in the digital environment.

Out of Scope

Value gap:

[REDACTED]

Out of Scope

TDM:

[REDACTED]

Personal Data

CONTACT: DG CNECT/I2 : [REDACTED], tel. [REDACTED]

CAB OETTINGER/ 1284

26/04/2017

LINE TO TAKE

On the Directive on copyright in the DSM:

Out of Scope

General:

- [REDACTED]
- [REDACTED]
- [REDACTED]

On publishers' right:

- A new right for press publishers for the use of their publications in digital environments would strengthen the bargaining position of publishers when they negotiate the use of their content with online players. We want to enable the press industry to develop new business models and to ensure that quality journalism flourishes in digital era.
- Granting such rights to press publishers would not affect the way users share hyperlinks today on the internet.
- We are aware of the discussions in the different committees of the European Parliament, where MEPs from different political groups have put forward amendments which would weaken the protection granted to press publishers under the Commission proposal.
- The Commission's proposal addresses the main problems faced by press publishers in the digital environment, both in terms of licensing and enforcement. The new right would help publishers in the licensing of their press publications in order to obtain a fair share of the revenues generated by the use of their content in the digital environment. Therefore, an approach that only addresses enforcement issues (Comodini's draft report) would not be sufficient to guarantee that the press publishers' role in investing and disseminating quality journalistic content is sufficiently recognised and compensated. Obviously, the deletion of the Commission's proposal on press publishers' rights would not meet our objectives regarding the press industry and would in the long run weaken media pluralism, democratic debate, quality of information and cultural diversity in the European society.

BACKGROUND INFORMATION

State of play of the negotiations of the proposal for Directive on copyright in the DSM, in the Parliament and Council

Article 4(3)

On publishers' rights



In the **European Parliament**, rapporteurs in **CULT** (Marc Joulaud EPP/FR), **IMCO** (Ms Stihler S&D/UK) and **ITRE** (Mr Zdzisław Krasnodębski ECR/PL) have delivered their draft opinion in February 2017. MEP Comodini Cachia's (**JURI**-Lead Committee) draft report was adopted on 10 March 2017 and discussed on 22/23 March 2017. New amendments to the **CULT**, **IMCO** and **ITRE** draft opinions have been proposed by the respective committee members in April 2017 and the votes for adoption of the respective draft opinions are expected to take place in May 2017. Amendments to the Draft report of MEP Comodini from JURI have still not been published. The vote in JURI is scheduled for June 2017.

Mr Joulaud, rapporteur in the **CULT Committee**, has expressed his support for the proposal, but he is proposing to amend it notably by making the new right applicable only to commercial uses and reducing its term of protection to 3 years. Ms Stihler, rapporteur in the **IMCO Committee**, has proposed the deletion of the whole provision granting protection to press publishers. Ms Comodini Cachia, rapporteur in **JURI (lead committee)** has presented her draft report in which she proposes to replace the press publisher's right by a presumption of representation, aiming notably at allowing publishers to bring legal actions in Court without having to prove the ownership of the underlying authors (journalists, photographers) rights.

Overview of the main changes proposed in the EP amendments regarding the publisher's right

Three trends emerge from the analysis of the current MEPs amendments, regarding the publisher's right:

1. Those in favour of the maintaining of the related right, either narrower (with new exceptions for private, non-commercial uses) and/or, broader in scope (ex. covering also analogue uses, scientific publications, lending, rental and distribution rights) (M. Joulaud/FR (**EPP**), rapporteur in the **CULT**, G.Grammatikakis/EL (**S&D**) **Shadow** in **CULT**, (**EPP**) **Shadow** in **ITRE** and **IMCO**), etc.
2. Those favouring alternative solution: either, a presumption of representation for the purpose of enforcement (Ms Comodini Cachia (**EPP**), rapporteur in **JURI**) or a presumption of transfer of rights (Mr Zdzisław KRASNODEŃSKI/PL (**ECR**) – Shadow rapporteur in **ITRE**) This MEP is the only one who proposes to replace the publisher's right under these terms: "*When a contract concerning a press publication is concluded, individually or collectively, by authors with a publisher, the author covered by this contract shall be presumed, subject to contractual*

clauses to the contrary, to have transferred his rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the digital use of the press publication".

3. The most extreme favouring the deletion of the provisions regarding the publisher's right. (Ms Stihler **(S&D)**, rapporteur in the **IMCO** Committee, **(ECR)** Shadow in IMCO, **(ALDE)** Shadow in CULT and IMCO, **(EFDD)** Shadow in **CULT**, **(Greens/EFA)** Shadow in CULT and IMCO.

Another finding is that there is **no consensus within some political groups** (such as **S&D, EPP, ALDE, ECR**) on the publishers' rights.

Personal Data

Contact: [REDACTED] –DG CNECT I2 – tel: [REDACTED]

**CAB OETTINGER/1307 - Vice-President Oettinger is attending BdZV evening event
"Federation of German News publishers"**

in Berlin on 17/05/2017, 20.00h

I. Scene setter on copyright

On copyright, the press publishers are expected to show the following views:

- Regarding the current legislative process, they are very supportive of the introduction of new related rights for press publishers and the introduction of mechanisms to allow the sharing of compensation stemming from exceptions to copyright between authors and publishers.

They are expected to express strong concerns regarding some MEPs amendments including Ms Comodini's (EPP) proposal to replace **publisher's rights** by a presumption of representation for the purpose of enforcement, given that, in their view, this option would not recognise their role as creators and investors in a press publication nor help them in negotiations with online players. They will require the Commission to keep strongly defending the press publisher's right (art.11) and could even refer to the European Federation of Journalists (EFJ) recent support in favour of the publisher's right, to suggest that the right be exercised through collective management organisations with both publishers and authors on their boards, so as to ensure fair remuneration for authors (journalists, etc.).

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

II. Line to Take/Speaking points

On the copyright package

Out of Scope

General:

- [REDACTED]
- [REDACTED]

- [REDACTED]

Regarding press publishers' areas of interest:

Out of Scope

- The Commission's proposal is balanced and positive for press publishers. We know the views are rather split among stakeholders and also within the EP on certain aspects of our proposal, regarding some of the areas of interest to publishers (e.g. the publishers' right and TDM). Therefore, press publishers' support in the discussions will be important.

- [REDACTED]

- [REDACTED]

Out of Scope

- [REDACTED]

- **Regarding the publisher's right**, the Commission's proposal addresses the main problems faced by press publishers in the digital environment, both in terms of licensing and enforcement. The new right would help publishers in the licensing of their press publications in order to obtain a fair share of the revenues generated by the use of their content in the digital environment. Therefore, an approach that only addresses enforcement issues (Comodini's draft report) would not be sufficient to guarantee that the press publishers' role in investing and disseminating quality journalistic content is sufficiently recognised and compensated. Obviously, the deletion of the Commission's proposal on press publishers' rights would not meet our objectives regarding the press industry and would in the long run weaken media pluralism, democratic debate, quality of information and cultural diversity in the European society.

For the rest, we would like to better understand whether the willingness of the European Federation of journalists (EFJ) to work on the basis of the Commission's proposal to introduce **press publisher's** exclusive rights will have a positive impact in the negotiations.

Out of Scope

- [REDACTED]

On DSM midterm review: follow up on illegal content on platforms

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Assessment of the German law on social media

- [REDACTED]
- [REDACTED]

Background

I. On the copyright package

Directive on copyright in the Digital Single Market – State of play

The discussions on the Directive on copyright in the Digital Single Market started in October 2016.

Out of scope

In the Council, a first article-by-article examination of the Directive has been completed allowing the clarification of a certain number of questions with Member States.

the **negotiation mechanism**. The next CWP will cover **press publishers' rights**,

Article 4 (3)

Out of scope

In the European Parliament, the draft report of MEP Ms Comodini Cachia (EPP/MT) has been discussed in JURI on 22/23 March. Several MEPs raised concerns on the amendments proposed by the rapporteur, in particular in relation to the **publishers' rights** and **value gap**. The amendments will be considered at the end of May. The vote in JURI is scheduled for July 2017. Discussions are also taking place in IMCO, CULT, ITRE and LIBE.

Out of scope

The amendments introduced by the rapporteurs in JURI and IMCO

On **publishers**, the rapporteur in IMCO (MEP Stihler, S&D/UK) proposed to delete the new right while the rapporteur in JURI proposed a solution based on a presumption of representation for the benefit of publishers of press publications.

Overview of the MEPs amendments regarding the publisher's right

Three trends emerge from the analysis of the current MEPs amendments, regarding the publisher's right:

1. Those in favour of the maintaining of the related right, either narrower (with new exceptions for private, non-commercial uses) and/or, broader in scope (ex. covering also analogue uses, scientific publications, lending, rental and distribution rights) (M. Joulaud/FR (**EPP**), rapporteur in the **CULT**, G.Grammatikakis/EL (**S&D**) **Shadow** in **CULT**, (**EPP**) **Shadow** in **ITRE** and **IMCO**), etc.
2. Those favouring alternative solution: either, a presumption of representation for the purpose of enforcement (Ms Comodini Cachia (**EPP**), rapporteur in **JURI**) or a presumption of transfer of rights (Mr Zdzisław KRASNODEBSKI/PL (**ECR**) – Shadow rapporteur in **ITRE**) This MEP is the only one who proposes to replace the publisher's right under these terms: *"When a contract concerning a press publication is concluded, individually or collectively, by authors with a publisher, the author covered by this contract shall be presumed, subject to contractual clauses to the contrary, to have transferred his rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the digital use of the press publication"*.
3. The most extreme favouring the deletion of the provisions regarding the publisher's right. (Ms Stihler (**S&D**), rapporteur in the **IMCO** Committee, (**ECR**) Shadow in **IMCO**, (**ALDE**) Shadow in **CULT** and **IMCO**, (**EFDD**) Shadow in **CULT**, (**Greens/EFA**) Shadow in **CULT** and **IMCO**.

Another finding is that there is **no consensus within some political groups** (such as **S&D**, **EPP**, **ALDE**, **ECR**) on the publishers' rights.

Focus on Ms Comodini Cachia (EPP/PT) draft report (March 2017)

Out of Scope

Text and data mining (TDM):

- [REDACTED]
- [REDACTED]
- [REDACTED]

Teaching

- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]

Preservation

- [REDACTED]

Out-of-commerce

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]

New provision on Access to EU publications

- [REDACTED]

Press publishers' rights

- The Commission's proposal for exclusive rights has been replaced by presumption of representation to the benefit of publishers of press publications aiming notably at allowing publishers to bring legal actions in Court without having to prove the ownership of the underlying authors (journalists, photographers) rights. The new mechanism does not apply to criminal procedures.

Value gap

[REDACTED]

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

- ## Article 13

- ## Remuneration

- ## II. On DSM midterm review: follow up on illegal content on platforms

- 7

- [illegible]

III. On the German law on social media

Out of Scope

- [illegible]

Contact:

██████████ CNECT I2, ██████████
██████████, CNECT F2, ██████████

The case for an updated European copyright framework

The European Union needs modern copyright rules fit for the digital age: current legal provisions date from a time when media and music were not impacted by the digital revolution. Last year, the European Commission presented a proposal to make sure that consumers and creators can make the most of the digital world.

An important aspect of reform which is being hotly debated by European parliamentarians and Ministers is the new related right for press publishers. This right has been designed to address the difficulties faced by publishers when seeking to monetise and control the distribution of their content online. This right will strengthen the bargaining power of the press industry in the online environment. The new publishers' right would also enhance new business models that take advantage of technological developments and potential partnerships with online platforms, such as the Instant Articles project with Facebook today. This will help protect media freedom and diversity in the online world and fair remuneration for journalists.

Given the on-going political debate it is important to address criticism of our reform. What are the most controversial issues?

Firstly, we do not want to impose any mandatory payment or "tax" for the use of press publications but instead leave publishers total freedom to decide to either grant free authorisations for the use of their content or to request the payment of a licence fee. This will allow different press publishers, big or small, established or new entrants in the market the flexibility to decide on how to manage their content.

Secondly, another hot issue is the sharing of hyperlinks. Let's be very clear: this practice will not be affected by the new rules. Already now, the provision of links on a website to publications freely available on another one with the authorisation of the right holder does not require authorisation or payment. The same is true, as recently clarified by the Court of Justice of the EU, if the provision of links is made to works that are available on a website without the authorisation of the right holder and the person providing the link does not pursue a financial gain and did not know the illegal nature of the publication of those works. These principles will continue to apply also to press publications covered by the proposal. Therefore, users will continue to use and share links to online press publications, which are freely available on the Internet.

Third, the treatment of snippets under copyright law will not change. Copying snippets of press articles may already covered by the current copyright of the author himself. If snippets are too short to reflect the intellectual creation of an author, authorisation is not needed. Moreover, the use of snippets is commonly tolerated by right-holders when there is no commercial gain or even purpose related to it. The related right for publishers will not change this.

Fourthly, analysis shows that platforms such as social media are becoming the main channel for people to read newspaper content. Therefore, they should share part of these revenues with press publishers, who have contributed to and invested in the creation and

dissemination of such content in the first place. Press publishers' rights will help publishers reach agreements with platforms to this effect.

And finally, the new related right covering news publications will ensure that the economic contribution of press publishers such as newspaper and magazine publishers is recognised. This is the case today for other creative sectors like film and music producers or broadcasters. We want to provide these publishers with incentives when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.

We expect the new right to give publishers a clearer legal framework to test new business models in the digital environment for the ultimate advantage of consumers. But this is not only about news aggregators. Licensed multi-brand services comparable to what Netflix or Spotify are for other sectors are just starting to emerge in the publishing sector. The new right for publishers should also have a positive impact on remuneration to be shared more equally between publishers and authors.

Overall, I am convinced that Europe needs these copyright reforms in order to secure a viable, independent and high quality press in Europe, which is so critical for an open and pluralistic and democratic society.



Commissaire Pierre Moscovici

RENCONTRE AVEC SYNDICAT DE LA PRESSE QUOTIDIENNE ET REGIONALE

DG CNECT

06/07/2017

TABLE DES MATIERES

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2. Note de cadrage
3. Objectifs
4. Éléments de langage / Discours
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*Personal
data*

NOTE DE CADRAGE

Droit d'auteur

- Leur position

Le 15 février 2017, le Syndicat de la Presse Quotidienne Nationale (SPQN) a publié conjointement avec BDZV (Bundesverband Deutscher Zeitungsverleger e.V) un communiqué de presse insistant sur la **nécessité d'instaurer un droit voisin des éditeurs de presse au niveau européen**. Les éditeurs de presse français et allemands soutiennent avec force l'initiative de la Commission Européenne qu'ils estiment essentielle pour la pérennité de la presse et son développement à venir.

Pour [REDACTED] (SPQN), *"La richesse de la presse, ce sont ses contenus. Sa force réside dans sa capacité à toucher un public large grâce aux supports qu'elle a développés, tant papier que digitaux. La presse ne peut pas laisser d'autres secteurs exploiter les contenus qu'elle produit"*.

Dans le cadre du processus législatif actuel concernant la proposition de directive sur le droit d'auteur dans le marché unique numérique, il faut donc s'attendre à ce que SPQR manifeste son inquiétude par rapport à certains amendements de Parlementaires européens et positions au Conseil de l'Union Européenne, en ce compris la proposition de Mme Comodini (PPE – JURI) de remplacer le droit voisin des éditeurs de publication de presse par une **présomption de représentation** dans le but de favoriser le respect des droits des éditeurs dans l'environnement numérique. Les éditeurs de presse estiment que cette option ne permettra de reconnaître leur rôle de créateur et d'investisseur dans la publication de presse et ne les aidera pas dans le cadre des négociations avec les acteurs en ligne. Ils vont donc **réitérer avec force leur support en faveur du droit voisin** et pourraient par ailleurs se référer à la position récente des Journalistes (European Federation of Journalistes "EFJ") pour soutenir également un droit voisin qui serait exercé via une gestion collective obligatoire (avec des représentants des éditeurs et des auteurs) de façon à assurer une rémunération équitable aux auteurs (journalistes, etc.).

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¹ http://www.humanite.fr/sites/default/files/lettre_ouverte_tabloid-web.pdf

OBJECTIFS

Droit d'auteur

En plein processus législatif concernant la proposition de directive sur le droit d'auteur dans le marché unique numérique, et alors que l'introduction d'un droit voisin pour les éditeurs de publication de presse est controversée, cette réunion doit être une occasion de :

- souligner que le support des éditeurs de presse français (SPQR) dans le cadre de ce processus législatif, est nécessaire;
- rappeler la volonté de la Commission de soutenir l'introduction d'un droit voisin en faveur de la des éditeurs de publications de presse. Ce droit constituera une plus-value nécessaire afin de renforcer cette industrie en difficulté dans l'environnement numérique. Il devrait en effet permettre à la presse de jouir d'une position de négociation plus forte pour protéger ses investissements, étudier de nouveaux modèles économiques et à terme, achever sa transition vers un environnement numérique.

ELEMENTS DE LANGAGE / DISCOURS

Droit d'auteur

Out of Scope

General:

- [illegible]

Concernant le droit voisin des éditeurs de publication de presse:

- La proposition de la Commission est équilibrée et positive pour les éditeurs de presse. Les discussions au Conseil et au Parlement sont en cours et s'avèrent difficiles, pour ce qui concerne les éditeurs, en particulier sur la question du droit des éditeurs de publication de presse et de l'exception Text and Data Mining (TDM). **Le support des éditeurs de presse français (SPQR) à cet égard est donc nécessaire.**

- Concernant le **droit voisin des éditeurs de publications de presse**, la proposition de la Commission vise à répondre aux problèmes principaux que ces derniers rencontrent dans leur transition numérique tant lorsqu'il s'agit de concéder des licences relatives à l'utilisation en ligne de leurs publications, que d'assurer le respect de leurs droits.
- Le nouveau droit voisin devrait précisément aider les éditeurs à obtenir un partage équitable des revenus générés par l'usage de leurs contenus dans l'environnement numérique, via la conclusion de licences.

Par conséquent, une **solution de type "présomption"** telle que celle proposée par certains parlementaires (dont Mrs Comodini PPE/JURI) et discutée au Conseil, qui se limiterait uniquement à favoriser le respect des droits des éditeurs dans l'environnement numérique, sans répondre à leurs problèmes en amont (exploitation de leurs droits), risque de ne pas être suffisante. Elle ne permettrait pas de garantir que le rôle des éditeurs de presse dans l'investissement et la dissémination d'un contenu journalistique de qualité soit adéquatement reconnu et rémunéré.

Bien sûr, une solution **consistant à supprimer la proposition** de la Commission sur le droit voisin des éditeurs de presse ne rencontrerait pas nos objectifs concernant l'industrie de la presse et à long terme, pourrait nuire au pluralisme des médias, au débat démocratique, à la qualité de l'information et à la diversité culturelle dans la société européenne.

- Pour le surplus, la Commission suit attentivement les discussions dans les différents comités du Parlement européen et au Conseil. Nous analysons encore les amendements proposés et vérifions dans quelle mesure ils pourraient affecter l'effectivité de l'intervention proposée.

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DEFENSIFS

Droit d'auteur

Quel est l'impact de l'introduction d'un nouveau droit voisin pour l'utilisation numérique des publications de presse, sur le fonctionnement de l'internet, notamment la capacité des internautes de partager les hyperliens ou de courts extraits de presse (snippets).

Avec sa proposition, la Commission entend conférer aux éditeurs, les droits (exclusifs) d'autoriser ou d'interdire la reproduction et la mise à disposition du public de leur publication de presse sur Internet (art. 11§1). De nombreux détracteurs y ont vu la création d'une taxe (parfois baptisée "Google Tax") sur les activités de partage de liens et courts extraits de presse (snippets), qui mettrait en péril le bon fonctionnement d'Internet. Une campagne "Save the link" a même été lancée afin de convaincre les parlementaires européens de ne pas soutenir cette proposition.

Il est à cet égard important de rappeler que:

- La capacité des internautes à partager des hyperliens ou des courts extraits de presse, notamment sur des réseaux sociaux, n'est pas affectée par la proposition de la Commission. Ce que les utilisateurs individuels peuvent faire avec des publications de presse aujourd'hui reste intact.
- L'objectif de la Commission n'est pas d'intervenir sur la façon dont les utilisateurs partagent ou utilisent des extraits de publications de presse mais bien sur la façon dont les tiers retirent de la valeur à partir de ces usages numériques.
- Pour ce faire, la Commission introduit une nouvelle catégorie de titulaire de droit voisin (les éditeurs de publication de presse) mais ne modifie pas le champ d'application de ce qui est déjà protégé aujourd'hui par le droit d'auteur.
- En matière d'hyperliens, la Cour de Justice de l'Union Européenne a déjà fourni des indications relatives aux circonstances dans lesquelles un hyperlien peut constituer un acte de communication au public. Cette jurisprudence s'appliquera également aux liens hypertextes vers des contenus protégés par le nouveau droit voisin des éditeurs de presse. La proposition de Directive dispose d'ailleurs expressément que la protection conférée aux publications de presse ne s'étend pas aux actes de création des liens hypertextes, qui ne constituent pas une communication au public. (Considérant 33).
- Le cadre juridique européen ne fait pas expressément référence aux snippets. D'après la Cour toutefois, un court extrait d'une œuvre protégée qui reflète en tant

que tel l'expression de la création intellectuelle propre à son auteur est couvert par le droit d'auteur (CJUE C-5/08 Infopaq). Par conséquent les courts extraits d'articles de presse (snippets) répondant à cette condition d'originalité sont déjà protégés par le droit d'auteur. Si par contre, ils sont trop courts pour refléter l'empreinte personnelle de l'auteur, leur reproduction ne nécessitera ni autorisation, ni paiement. Le droit voisin des éditeurs de presse ne va rien changer à cela.

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BACKGROUND

Droit d'auteur

1. Propositions sur la modernisation du droit d'auteur

Le 14 septembre 2016, la Commission a adopté des propositions sur la modernisation du droit d'auteur afin d'accroître la diversité culturelle en Europe et les contenus disponibles en ligne, tout en clarifiant les règles pour tous les acteurs des services en ligne.

Deux propositions sont en ce moment au Parlement et au Conseil:

Out of Scope

- ✓ [REDACTED]
- ✓ Directive sur le droit d'auteur dans le Marché Unique Numérique.

La proposition de Directive sur le droit d'auteur dans le Marché unique Numérique poursuit trois objectifs principaux:

- Moderniser les règles concernant des exceptions et limitations clés dans les domaines de la recherche, l'éducation, et la conservation de l'héritage culturel.
- Faciliter les licences afin d'assurer un large accès aux contenus.
- Introduire des règles du jeu plus équitables pour un meilleur fonctionnement du marché du droit d'auteur.

Dans le cadre de ce troisième objectif, la Commission propose notamment d'instaurer un nouveau droit voisin pour les éditeurs de presse, comparable à celui qui existe déjà dans le droit de l'Union pour les producteurs de films, les producteurs de disques et les autres acteurs des industries créatives tels que les radiodiffuseurs.

2. Le droit voisin sur les publications de presse

a. De quoi s'agit-il : un droit voisin pour l'utilisation numérique des publications de presse

Les droits voisins sont des droits semblables au droit d'auteur mais qui ne rémunèrent pas la création originale d'un créateur. Ils rémunèrent par exemple l'exécution d'une œuvre par un musicien ou un comédien, ou l'effort financier ou organisationnel d'un producteur qui participe à la création d'un film. Le cadre juridique européen reconnaît déjà des droits voisins aux artistes-interprètes ou exécutants, aux producteurs de film et de phonogrammes et aux organismes de radiodiffusions. La proposition de directive sur le droit d'auteur dans le Marché Unique Numérique propose d'étendre cette protection aux éditeurs de presse, pour les utilisations numériques de leurs publications de presse.

Dans l'état actuel de la législation en matière de droit d'auteur, les articles de presse, les photos et les autres contenus figurant dans une publication de presse sont protégés par le droit d'auteur. Les éditeurs de presse exploitent ces contenus sur base des droits d'auteur qui leur ont été transférés par les auteurs (journalistes, photographes, etc.). En tant que cessionnaires, ils sont cependant confrontés à d'importants problèmes lorsqu'ils cherchent à concéder des licences aux fournisseurs de services en ligne pour l'usage de ces contenus, ou à les faire respecter dans l'environnement numérique, en ce compris devant les tribunaux.

La Commission considère que l'introduction d'un droit voisin devrait permettre à la presse de jouir d'une position de négociation plus forte pour protéger ses investissements, étudier de nouveaux modèles économiques et, à terme, achever sa transition vers un environnement numérique.

b. Pourquoi un nouveau droit voisin? Pourquoi maintenant?

Les journaux, magazines et autres publications de presse contribuent de manière fondamentale au débat public et au bon fonctionnement d'une société démocratique. Une presse pluraliste et de qualité requiert toutefois des investissements sans lesquels elle ne peut survivre. La transition du papier vers le numérique a certes permis d'élargir le lectorat des publications de presse, mais elle a rendu de plus en plus difficile l'octroi de licences et le respect des droits dans ces publications.

Dans l'environnement numérique, les éditeurs parviennent difficilement à monétiser l'usage en ligne de leurs contenus, en particulier par des plateformes (telles que les agrégateurs de contenus, réseaux sociaux) qui réutilisent systématiquement et valorisent ces contenus (cf. supra), sans pour autant obtenir de licences des titulaires de droit. Les éditeurs de presse rencontrent également des problèmes lorsqu'il s'agit d'assurer la protection en ligne de leurs contenus sur base des seuls droits d'auteurs qui leur ont été transférés (ex. problèmes de preuves de la chaîne des droits).

Aucune protection spécifique n'est octroyée aux éditeurs de presse au niveau international. Au niveau national, certains Etats membres ont octroyé une protection additionnelle aux éditeurs, en leur qualité d'auteur d'une œuvre collective, ou d'employeur (ex. présomption de cession des droits de l'employé (journaliste) en leur faveur). D'autres ont également adopté des législations ad hoc (ex. "ancillary rights" en ES ou DE).

3. Etat des lieux des discussions au sein du Parlement Européen et du Conseil – Directive sur le droit d'auteur dans le marché unique numérique

Au Parlement européen, Mme Comodini Cachia, rapporteur dans la commission JURI, qui est chef de file sur ce dossier, a récemment été remplacée par Mr Axel Voss (PPE/DE). Au total, 996 amendements ont été déposés sur la table. Les vues sont très divisées en particulier concernant le droit voisin des éditeurs de presse (Article 11) et "value gap" (Article 13). Le vote devrait avoir lieu le 9/10 octobre 2017.

IMCO a adopté son opinion le 8 juin (rapporteur: Catherine Stihler). La proposition de la Commission concernant l'Article 11 est très peu modifiée.

Des discussions sont également en cours dans les Commissions CULT, ITRE (vote est prévu le 11 juillet) et LIBE (le vote serait reporté au mois de septembre).

Il est intéressant de noter que dans son projet de compromis d'amendement, la rapporteur de la commission JURI (MPE Comodini, EPP/MT) propose une solution fondée sur une présomption de représentation en faveur des éditeurs de publications de presse, dans le but de faciliter le respect des droits d'auteurs. Les éditeurs seraient présumés être habilités à agir en justice, en leur propre nom, pour défendre les droits d'auteur en lien avec l'exploitation numérique de leurs publications de presse. Cette approche est également partagée par le rapporteur ITRE qui propose plus particulièrement une présomption de transfert des droits d'auteurs vers les éditeurs de presse. Elle consisterait à supposer que les droits patrimoniaux des auteurs (journalistes, photographes, etc.) nécessaires à l'exploitation en ligne de la publication de presse, ont été cédés aux éditeurs de presse. Certains MPEs ont aussi proposé qu'une partie équitable de la rémunération découlant des droits des éditeurs soit attribuée aux auteurs (journalistes), lesquels voient d'un très mauvais œil les solutions de type présomptions. Certains proposent également que certains usages (privés, non-commerciaux/ ex. MPE Grammatikakis, S&D/EL) ou certains types d'œuvres (ex. de simples mots, des courts extraits de presse, hyperliens/ ex. MPE Arimont, EPP/BE) soient exclus de la protection.

[REDACTED]

Article
4(3)

[REDACTED]

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Out of Scope

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[REDACTED]

² Directive 2002/58/CE du Parlement européen et du Conseil du 12 juillet 2002 concernant le traitement des données à caractère personnel et la protection de la vie privée dans le secteur des communications électroniques (directive vie privée et communications électroniques), modifiée par Directive 2009/136/CE.

[REDACTED]

Renforcement de la protection en ligne et nouvelles perspectives d'activité *Out of Scope*

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1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

2. The second step is to gather relevant information and data. This can involve research, consultation with experts, or collecting data from various sources.

3. The third step is to analyze the information and data collected. This involves identifying patterns, trends, and relationships that can help in understanding the problem.

4. The fourth step is to develop a solution or answer. This involves applying the knowledge and skills gained from the previous steps to create a response that addresses the problem.

5. The fifth step is to evaluate the solution or answer. This involves checking the results against the original problem and requirements to ensure that the solution is effective and accurate.

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Que propose la Commission?

[illegible]

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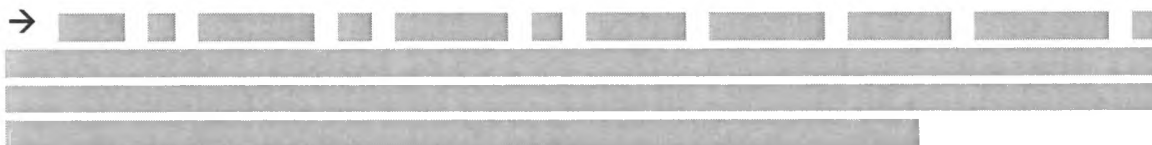
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- ePrivacy: [REDACTED], DG CONNECT, H1, [REDACTED]

- Droit d'auteur: [REDACTED], DG CONNECT, I2, [REDACTED]

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Un point d'avancement détaillé sur les discussions de la proposition de directive se trouve au point III.

II. Speaking points:

- The copyright modernisation package constitutes an ambitious step forward and a key element of the Digital Single Market strategy. It aims to support cultural diversity, facilitate access and use of content in the digital environment and establish up-to-date and clearer rules for all market players.
- We all know: digital technologies are changing how creative content (music, films press) is produced and distributed. Consumer behaviour, of course, is changing too. Content is not accessed today as it used to be.
- **In that context, what is the challenge today?** We need copyright rules which **preserve the function of copyright** as a reward and an incentive for creators and creative industries. At the same time we need to take into account new technical realities and consumption patterns and we need to strike the **right balance** between the interests at stake.
- First, let's clarify something: there is **no opposition between copyright holders and the public, but a mutual interest**. By recognising and rewarding the investment of creators and of creative industries, copyright contributes to ensure the creation of new and diverse contents. And this is, I think, clearly in **the interest of everyone** and notably the consumers.
- Beyond the consumers, let's not forget also that **we are home to some of the largest publishing houses, a dynamic music industry, and a film sector that is famous the world over**. Europe's creative and cultural industries make us a global leader. These industries provide nearly 3 % of total employment and around 4% of GDP. That makes them EU's largest employers.
- As you know, our intervention in the field of copyright focuses on three main objectives:

Out of Scope

1. **Facilitating cross-border access to copyright-protected content online.**

[REDACTED]

2. **Modernising the EU rules on key exceptions and limitations in the areas of research, education, and preservation of cultural heritage.**

Out of Scope

a. [REDACTED]

b. [REDACTED]

3. **Introducing fairer rules of the game for a better functioning copyright market place.** I understand that this part of the reform will be covered by two of the round tables today. **So, what is the logic of the measures we propose? :**

a. In the digital environment, the revenues generated by creators, performers and those that invest in them are

accruing disproportionately to a few large players. Over time, this risks leading to less creation, less diversity, less quality.

- b. Therefore, we want content owners to be in a better position to negotiate the online use of their content and be remunerated for it. This covers a new related right for press publishers, and measures to be put in place by user uploaded content platforms which would need to cooperate more with right holders. The proposed new rules will also ensure increased transparency to authors and performers on the exploitation and remuneration of their works and will help them to obtain appropriate remuneration.
- c. Of course the texts proposed by the Commission can be, in some respects, clarified, and it is the responsibility of the co legislators to discuss and improve the proposals of the Commission. I need however to highlight some important points to you:

On the publisher right:

- I think we all share the same objective, which is to make sure that media can flourish in the future, for the benefit of the society and the right to information.
- The Commission has proposed to this end to grant online rights to press publishers. We need a future-looking solution, which is flexible enough to adapt to the constant evolution of the way citizens access news online.
- These rights are designed to help publishers in **the licensing** of their press publications in order to obtain a fair share of the revenues generated by the use of their content in the digital environment. In addition, such protection would also help publishers in **enforcing their rights** in press publications in courts.
- I would like to insist that our proposal will not impact what you, as **individual users**, can do with press publications, especially in terms of sharing of hyperlinks and of snippets. We have not modified the scope of what is already protected by copyright. Our objective is not to intervene on the way users share or use extracts of publications online, but on the

way third parties may negotiate and obtain financial gain from these online uses.

Out of Scope

On the value gap:

- [illegible]

- [REDACTED]

On data and copyright:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Conclusion:

- The Commission tabled ambitious and balanced proposals. Our objective now is to ensure that the Directive keeps the level of ambition of our proposals when adopted. We trust that the discussions in the Council and in the European Parliament will allow maintaining this level of ambition and striking the right balance between the different interests at stake.

- Therefore, we encourage both the Parliament and the Council to speed up work on the proposed Directive (and Regulation) so they can adopt their position by the end of this year.
- I would like to thank you very much for your attention and to wish you interesting and constructive discussions today.

III. Fact sheet on copyright (proposal of directive + data related aspects

1. Directive on copyright in the DSM – State of play

a) In the European Parliament

In JURI (lead committee):

The draft report of Ms Comodini (EPP/MT) was delivered on 10 March. However, Ms Comodini has been replaced recently by Mr Axel Voss (EPP/DE) as rapporteur. Mr Voss does not necessarily share Ms Comodini's views as expressed in her report (e.g. he is closer to the Commission's views on press publishers' rights or value gap).

The shadow rapporteurs are Lidia Geringer (S&D/PL), Angel Dzhambazki (ECR/BG) Jean-Marie Cavada (ALDE/FR), Jiri Mastalka (GUE/CZ), Julia Reda (Greens/DE), Isabella Adinolfi (EFDD/IT) and Marie-Christine Boutonnet (ENF/FR).

An exchange of views on the draft report took place on 22 March. 924 amendments have been tabled (to be added to 72 in the draft report) and were discussed on 13 July. The vote for adoption of the draft report will take place on 10 October (tbc).

Overview of the main changes proposed in the amendments tabled in JURI:

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scope*

[REDACTED]

On press publishers' rights, there is no consensus, including among political groups (EPP, ALDE, and S&D). Amendments are made with very opposite objectives, ranging from the complete deletion of the new right (Geringer, Mastalka, Reda and Adinolfi) to the extension of its scope (Voss, Cavada, Dzhambazki). The approach taken by Comodini is only followed by a couple of EPP members.

Out of Scope

[REDACTED]

[REDACTED]

In other EP committees:

Out of Scope

[REDACTED]

CULT adopted its opinion on 11 July (rapporteur: Marc Joulaud). On value gap, CULT

Out of Scope

[REDACTED]

[REDACTED]. Publishers' rights are extended to analogue uses but reduced in its term of protection to 8 years and complemented by optional rules on journalists' remuneration.

ITRE adopted its opinion on 11 July (rapporteur: Zdzisław Krasnodębski).

Out of Scope

[REDACTED]

[REDACTED]. Press publishers' rights are extended to scientific publications and to analogue uses and complemented by rules on fair remuneration of journalists and other authors in the publication.

Out of Scope

[REDACTED]

LIBE (rapporteur: Michał Boni) will vote its opinion in September (date to be defined).

Out of Scope

b) In the Council

- [REDACTED]

Article 4
(3)

Out of
scope

- T [REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED] The Estonian Presidency intends to table a compromise text covering the remaining articles of the Directive (negotiation mechanism, publishers' rights, value gap, and remuneration) in September.

2. Evaluation of the Database Directive – State of play

Out of Scope

- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

IV – Detailed program (as available today) of the event

Better Regulation for Copyright:

Academics Meet Policy Makers

Wednesday, 6 September 2017

Out of Scope

15:00–18:30

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Keynote by Commissioner Mariya Gabriel

Panel debates:

- **News aggregators vs. press publishers**

What about rights for publishers of press publication?

- **Online platforms vs. rightsholders**

What about the "value gap" rhetoric and remedy?

- **Data access vs. ownership**

What about a text and data mining exception and a data producer right?

Panelists will include copyright rapporteur MEP Axel Voss, representatives from the Commission and the Estonian Presidency, as well as academics selected by ILAWS.

Personal Data

[REDACTED] - [REDACTED]

[REDACTED] - [REDACTED]

Meeting between MEP Christian Ehler (EPP) and Commissioner Gabriel

on 05/09/2017 16:30

Request (CAB GABRIEL/17)

I. Scene setter

Out of Scope

Christian Ehler - info

Christian Ehler DE, EPP, member of the ITRE Committee, qualified as a journalist. [REDACTED]

[REDACTED]

Mr Ehler's Position on Copyright reform

Out of Scope

ITRE Committee

Concerning Mr Ehler's activity in the ITRE Committee on the copyright files, he submitted, with other EPP MEPs, amendments on the publishers' rights and value gap aiming at extending/reinforcing the Commission's proposal. Concerning publishers right, he proposed to cover scientific journals and cases when content is automatically generated (news generators), and to expressly exclude the hyperlinks from the provision and to extend the protection beyond digital uses. [REDACTED]

[REDACTED]

EPP

Out of Scope

The EPP group has published a general line on the proposal for a Directive on copyright in the DSM. They support the Commission's proposal on press publishers' rights. [REDACTED]

[REDACTED]

Objectives

On Copyright reform

- Reaffirm that according to the Commission the package is balanced and positive for press publishers and transfer of value.

- Underline that the next steps include the negotiation in the Council and the Parliament, which are difficult regarding those two areas of interest for Mr Ehler. The introduction of the neighbouring rights for press publishers and the value gap section are being subject to controversy. Therefore, a strong support in the discussions in the Parliament and Council (including regarding the position of DE, which is not clearly defined) would be important.

Out of Scope

On DSM State of Play

- [REDACTED]
- [REDACTED]

II. Line to Take

Out of Scope

On Copyright reform

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- The Commission tabled ambitious and balanced proposals. Our objective now is to ensure that the Directive keeps the level of ambition of our proposals when adopted. We trust that the discussions in the Council and in the European Parliament will allow maintaining this ambition and striking the right balance between the different interests at stake.
- In particular, we need to make sure that the Directive as eventually adopted provides a real value added to strengthen the copyright industries in the digital environment, including in areas like the press publishers' rights.
- We are working in close collaboration with the Parliament and the Council to make sure we achieve this objective, for the benefit of the EU citizens and creative industries.
- [REDACTED]

Out of Scope

On DSM State of Play

- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

III. Defensives

On Copyright reform

Press publishers

The Commission has proposed a new press publishers right for the online use of their publications. Does not the Commission's proposal risk to affect the functioning of Internet, especially the sharing of hyperlinks or of snippets, for instance when tweeting?

- The right of individual users to share hyperlinks or snippets, in particular in social networks, is not affected by the Commission's proposal. The proposal does not impact what individual users can do with press publications.
- The COM's objective is not to intervene on the way users share or use extracts of publications online, but on the way third parties obtain financial gain from these online uses.
- For that purpose, the COM has introduced a new category of neighbouring right holders - press publishers - but has not modified the scope of what is already protected by copyright.
- As regards **hyperlinks**, the proposed Directive specifies explicitly that the protection granted to press publishers does not extend to acts of hyperlinking, which do not constitute communication to the public (Recital 33).
- As regards "**snippets**", reproducing or making available fragments or short extracts of press articles, which constitute the expression of an intellectual effort by the author, is already covered by copyright. Nevertheless, if the extracts are too short to reflect the author's intellectual creation, their reproduction will not require authorisation or payment. The neighbouring right granted to press publishers will not change that.

What is the added value of the new related right for press publishers?

- The new related right covering news publications will ensure that the organisational and economic contribution of press publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other creative sectors (film and phonogram producers, broadcasters). It will in particular provide these publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.
- It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).

- Overall we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the new right to help publishers developing further licence-based cooperation with innovative business models in the future.

Out of Scope

Value gap

[illegible]

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of Scope

Remuneration of authors and performers

- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

On DSM State of Play

General

Out of Scope

What is the Digital Single Market?

- [REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

Cybersecurity – [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

What has been done so far at the EU level for cybersecurity?

- [REDACTED]
- [REDACTED]

Investment needs in digital (including broadband) – [REDACTED]

[REDACTED]

Request (CAB GABRIEL/17) - Meeting between MEP Christian Ehler (EPP) and Commissioner Gabriel
(05/09/2017 16:30)

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

IV. Background

On Copyright reform

1. Directive on copyright in the DSM – State of play

a) In the European Parliament

In JURI (lead committee):

The draft report of Ms Comodini (EPP/MT) was delivered on 10 March. However, Ms Comodini has been replaced by Mr Axel Voss (EPP/DE) as rapporteur. Mr Voss does not necessarily share Ms Comodini's views as expressed in her report (e.g. he is closer to the Commission's views on press publishers' rights or value gap).

The shadow rapporteurs are Lidia Geringer (S&D/PL), Angel Dzhambazki (ECR/BG) Jean-Marie Cavada (ALDE/FR), Jiri Mastalka (GUE/CZ), Julia Reda (Greens/DE), Isabella Adinolfi (EFDD/IT) and Marie-Christine Boutonnet (ENF/FR).

924 amendments have been tabled (to be added to 72 in the draft report) and were discussed on 13 July. The vote for adoption of the draft report will take place on 10 October (tbc). *Out of Scope*

Overview of the main changes proposed in the amendments tabled in JURI:

[REDACTED]

On press publishers' rights, there is no consensus, including among political groups (EPP, ALDE, and S&D). Amendments are made with very opposite objectives, ranging from the complete deletion of the new right (Geringer, Mastalka, Reda and Adinolfi) to the extension of its scope (Voss, Cavada, Dzhambazki). The approach taken by Comodini is only followed by a couple of EPP members.

2. Evolution of the discussions on press publishers' rights

- [REDACTED]
- In the Parliament:
 - The text voted in IMCO does not include any amendment to Article 11. However, it contains other amendments, including a specific reference to the negative impacts on media pluralism and remuneration of journalists of platforms such as news aggregators and search engines free-riding press publishers' content (recital 31). The protection granted would also apply to print uses (in recital 32) and the rights of rental, lending and distribution (in recital 34). On hyperlinks (recital 33), the protection granted would not apply to "acts of a computation referencing or indexing system such as hyperlinking".
 - In the opinion adopted by CULT, the press publishers' rights have been maintained and extended to all uses (not only digital), with a carve-out for legitimate private and non-commercial use of press publications by individual users. The term of protection has been reduced to 8 years. A new provision has been added under Article 11, allowing MS to provide that a fair share of revenue derived from the use of press publishers' rights is attributed to journalists.
 - Finally, In ITRE, the Commission's proposal has been strengthened to apply the new rights also to scientific publications, analogue uses and situations where the content is automatically generated (e.g. news aggregators). At the same time, ITRE suggests applying it without prejudice to the rights of individuals for the use of links or extracts of a press publication for private use or not-for-profit, non-commercial purposes. A fair share of the remuneration is attributed to journalists, authors and other rightholders.

On DSM State of Play*Out of Scope***DSM Strategy (6 May 2015)**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DSM Mid-term Review (10 May 2017)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- **Data economy:** [REDACTED]

Request (CAB GABRIEL/17) - Meeting between MEP Christian Ehler (EPP) and Commissioner Gabriel
(05/09/2017 16:30)

- **Cybersecurity:** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
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[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Personal Data

Contacts:

Copyright reform: [REDACTED], DG CNECT I2 tel. [REDACTED]

DSM state of Play: [REDACTED], DG CNECT F1, tel. [REDACTED]

[Basis (CAB Gabriel/48)]

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 22 national associations, 5 international associations and 20 corporate members.

Its mission is to promote and protect the interests of European magazine publishers vis-a-vis the Institutions of the European Union. The main aim of EMMA is to ensure a long-term survival and prosperity of a plural, diverse and economically successful magazine publishing industry in the EU.

EMMA is with EPC (European Publishers Council), ENPA (European Newspaper Publishers) and NME (News Media Europe) one of the main associations representing press publishers in Europe.

Out of Scope

- [illegible]

Out of Scope

I. On the Digital Single Market Strategy

II. On copyright

State of play of the legislative process

The proposal for a Directive on copyright in the Digital Single market, adopted on September 2016, is being negotiated in the Parliament and the Council.

In the Parliament, the vote for adoption of the draft report in JURI (the lead committee), should take place the **10 of October**. 942 amendments have been tabled. The rapporteur, Ms Comodini (EPP/MT), has been replaced by A.Voss (EPP/DE) who does not necessarily share Ms Comodini's view as expressed in her draft report. He is notably closer to the Commission's view on press publishers. Other EP committees (IMCO, CULT, ITRE) have adopted their opinion in June and July. The adoption of the opinion of LIBE is expected in September. (See background)

In the Council, the Maltese presidency has proposed a compromise text covering the first part of the Directive (articles on exceptions and out of commerce). On the 30 of August, the Estonian Presidency sent to Member States a compromise text on the second part of the Directive (negotiation mechanism, publisher's right, value gap and remuneration), to be discussed during the Council Working Party meeting of 11 September 2017.

Regarding the publisher's right in particular, the Estonian presidency presents two options:

- option A maintains the approach of the related rights as in the Commission proposal providing with some clarification including that the right does not cover the digital use of text excerpts that do not meet the threshold of originality.
- option B replaces the related rights with a presumption in favour of press publishers which entitle them to conclude licence and to take action before courts as regard the digital uses of their publication.

This compromise text is still **not officially published** but has been leaked. It is not close to a final position (it has to be discussed amongst Member States), so we are not sure they will want to comment it.

Press publisher's views on the copyright package

As representative of the press publishers, they are expected to show the following views:

- They are very supportive of the introduction of **new related rights for press publishers**.

Regarding the current legislative process, they are expected to express strong concerns regarding some MEPs amendments including Ms Comodini's (EPP) proposal to replace **publisher's rights** by a **presumption** of representation for the purpose of enforcement, given that, in their view, this option would not recognise their role as creators and investors in a press publication nor help them in negotiations with online players. Similarly, they are likely to question the recent (leaked) compromise proposal presented by the Estonian presidency which presents two options, the second one being a presumption based solution which would facilitate not only the enforcement but also the licensing of rights by press publishers. Regarding the first option (the **maintaining of a publisher's right**),

Art.4 (2)

In these both regards, they will insist that they expect the Commission to keep strongly defending the press publisher's right (art.11) [REDACTED]

On the other hand, they are likely to be generally satisfied by the votes of the EP committees (CULT, ITRE and IMCO) in favour of the press publishers' rights. [REDACTED]

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

III. On e-privacy

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IV. On AVMSD

Out of Scope

- [REDACTED]

[REDACTED]

[REDACTED]

EMMA position

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

Objective(s)

I. On the Digital Single Market Strategy

- Reaffirm the Commission's commitment to achieving a fully-functioning Digital Single Market.
- Raise awareness of the upcoming proposals announced in the DSM Mid-term Review.

II. On copyright

- The ongoing negotiation in the Council and the Parliament have proven to be difficult regarding some of the areas press publishers are more interested in (see background). The introduction of the neighbouring rights for press publishers is in particular, being subject to controversy.
- In this context: we want **to reassure them that the Commission is standing behind its proposal**. At the same time, [REDACTED]

Article 4(3)

III. On e-Privacy (see scene setter)

IV. On AVMSD (see scene setter)

Line to take

Out of Scope

I. On the Digital Single Market Strategy and mid-term review

- [illegible]

II. On copyright

Out of Scope

General

- [illegible]

- [REDACTED]

On publisher's right

- The Commission's proposal is balanced and positive for press publishers. The ongoing negotiations in the Council and the Parliament have proven to be difficult, regarding some of the areas of interest to publishers (e.g. the publishers' right and TDM). Therefore, press publishers' support in the discussions will be important.
- Regarding the publishers' rights, the Commission's proposal aims to address the main problems faced by press publishers in the digital environment, both in terms of licensing and enforcement.
- The new right would help publishers in the licensing of their press publications in order to obtain a fair share of the revenues generated by the use of their content in the digital environment.
- Therefore, an approach that only addresses enforcement issues (Comodini's draft report) would not be sufficient to guarantee that the press publishers' role in investing and disseminating quality journalistic content is sufficiently recognised and compensated.
- Obviously, the deletion of the Commission's proposal on press publishers' rights would not meet our objectives regarding the press industry and would in the long run weaken media pluralism, democratic debate, quality of information and cultural diversity in the European society.
- Otherwise, the Commission is following closely the discussions in the different EP committees and in the Council. We are still analysing the proposed amendments and assessing the extent to which they could affect the effectiveness of the proposed intervention.

Out of Scope

III. On ePrivacy

- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IV. On AVMSD

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹ Judgment of 21 October 2015 in the "New Media Online GmbH"

Out of Scope

[REDACTED]

[REDACTED]

Defensive points

I. On the Digital Single Market Strategy

Out of Scope

What is the Digital Single Market?

- [REDACTED]
- [REDACTED]

Why are you reviewing it?

- [REDACTED]

II. On copyright

What is the Commission's assessment of the Compromise proposal tabled by the Estonian Presidency in the Council, regarding the press publisher's right? (Note that the EE text is not public but its content is now widely known as it leaked – C SSR should be aware of this to decide whether she wants to comment on it)

- The Commission is still carefully analysing the text tabled recently by the Estonian Presidency, proposing to Member States two options regarding the press publishers' right issue. The Commission has not changed its position. We believe that granting press publishers a neighbouring right is the most effective solution to ensure that the press sector is supported into its transition to the digital environment.
- Overall, in the current context of negotiations with the Council and the Parliament, our objective is to ensure that the Directive keeps the level of ambition of our proposals when adopted. In particular, we need to make sure that the Directive as eventually adopted provides a real value added to strengthen the copyright industries in the digital environment

The leaked compromise Proposal of the Estonian presidency put forward two options regarding the protection of press publishers. In the option A, they propose to maintain the approach of the related rights as in the Commission's Proposal but they clarify that the protection will only apply to extracts that meet the threshold of originality. What is the Commission's view on this clarification? Does it mean that the protection will not cover the snippets of press publications?

- The Commission is still carefully analysing the (leaked) text tabled recently by the Estonian Presidency, proposing to Member States two options regarding the press publishers' right issue, including such clarification.
- In general, the Commission's proposal remains "neutral" as regards the question as to whether and to what extent, the reproducing of "snippets" and/or displaying

of hyperlinks, constitute copyright protected acts under EU Law. In another words, the Commission's proposal is not intended to regulate this specific kind of situations. The protection of snippets and/or hyperlinks under copyright is a more general question that has become a more important topical issue with the adoption of the Proposal.

- With its proposal, the Commission's objective is to introduce a new category of neighbouring right holders - press publishers-. It does not aim at modifying the scope of what is already protected by copyright.
- Regarding the "snippets" in particular, reproducing or making available fragments or short extracts of press articles, which constitute the expression of an intellectual effort by the author, is already covered by copyright. The related rights granted to press publishers will not change that.
- The option A of the presidency compromise proposal seems to confirm the above-mentioned. It does not add any new requirement but just confirm the case law of the Court of Justice on the notion of originality. It clarifies that the protection will cover extracts (including "snippet") to the only extent that they fulfil the threshold of originality. As a consequence, if the extracts are too short to reflect the author's intellectual creation, they will not be covered by the new rights.

The Commission has proposed a new press publishers right for the online use of their publications. Does not the Commission's proposal risk to affect the functioning of Internet, especially the sharing of hyperlinks or of snippets, for instance when tweeting?

- The right of individual users to share hyperlinks or snippets, in particular in social networks, is not affected by the Commission's proposal. The proposal does not impact what individual users can do with press publications.
- The COM's objective is not to intervene on the way users share or use extracts of publications online, but on the way third parties obtain financial gain from these online uses.
- For that purpose, the COM has introduced a new category of neighbouring right holders - press publishers- but has not modified the scope of what is already protected by copyright.
- As regards hyperlinks, the proposed Directive specifies explicitly that the protection granted to press publishers does not extend to acts of hyperlinking, which do not constitute communication to the public (Recital 33).
- As regards "snippets", reproducing or making available fragments or short extracts of press articles, which constitute the expression of an intellectual effort by the author, is already covered by copyright. Nevertheless, if the extracts are too short to reflect the author's intellectual creation, their reproduction will not require authorisation or payment. The related rights granted to press publishers will not change that.

Why does not the proposal on publishers' rights cover the rights of distribution or communication to the public?

- The Commission has put forward a balanced proposal based on the evidence gathered during consultation with all relevant stakeholders.

- The identified problem related to the exploitation of press publishers' content is linked to the digital uses of your content.
- We need to make sure that we propose something which does not go beyond what is necessary to achieve our objective.

Why scientific publishers are not holders of related rights in the Commission's proposal?

- The Commission is aware of the important role and responsibility of scientific publishers in the investment and dissemination of scientific journals.
- The Commission's proposal on new related rights is targeted to press publishers. It is in this area where the main problems regarding the licensing and enforcement of rights have been identified. Press publishers are today facing significant problems regarding the recoupment of investments in their press publications.
- Although the transition to the digital environment is challenging for all sectors, the business models of STM publishers differ from the means of exploitation and reuse of news content by internet platforms, news aggregators and social networks.

What is the added value of the new related right for press publishers?

- The new related right covering news publications will ensure that the organisational and economic contribution of press publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other creative sectors (film and phonogram producers, broadcasters). It will in particular provide these publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.
- It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).
- Overall we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the new right to help publishers developing further licence-based cooperation with innovative business models in the future.

III. On ePrivacy

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Background notes

Out of Scope

I. On the Digital Single Market Strategy

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

DSM mid-term review

[REDACTED]

[REDACTED]

[REDACTED]

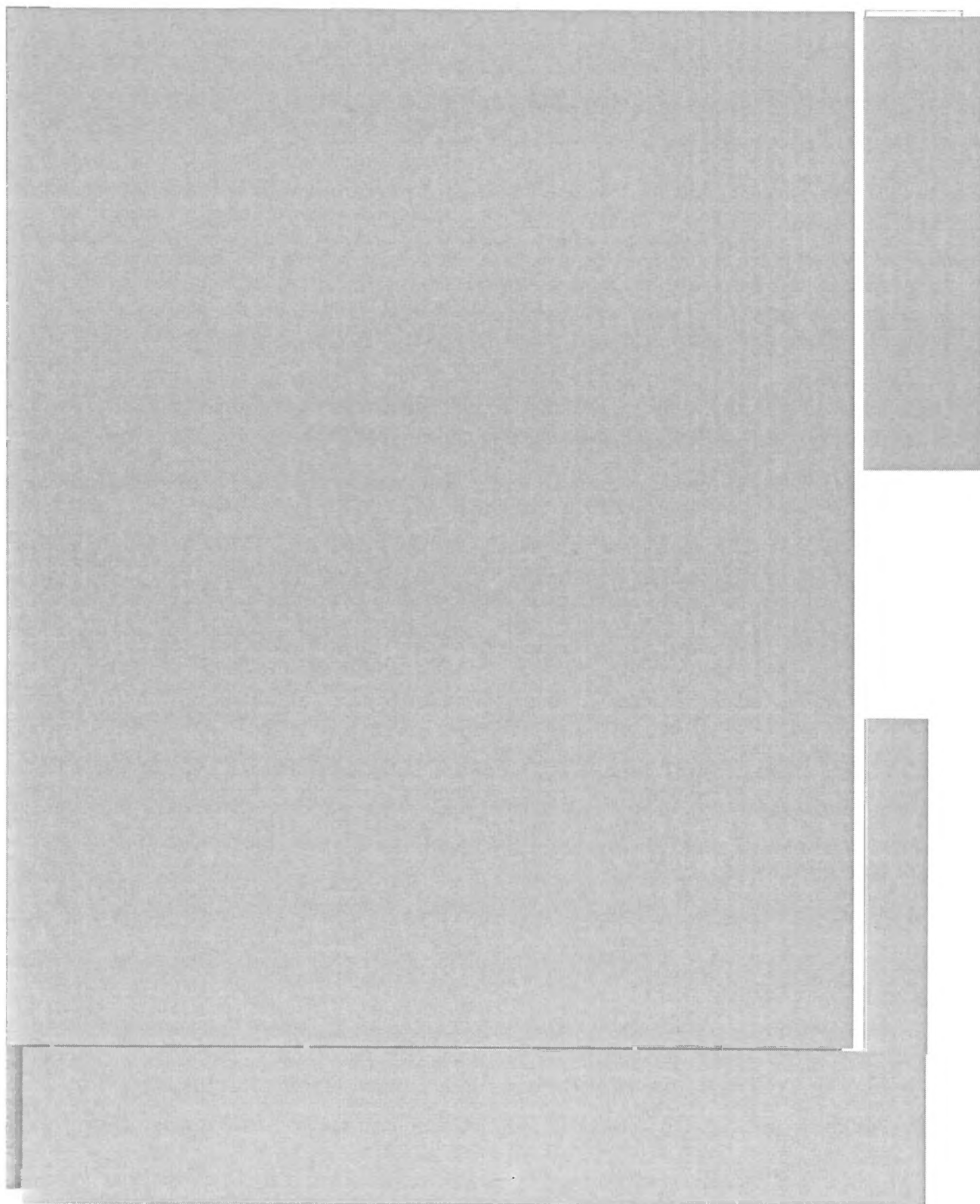
[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

DSM State of play

Out of Scope



II. On copyright

1. Directive on copyright in the DSM – State of play

a) In the European Parliament

In JURI (lead committee):

The draft report of Ms Comodini (EPP/MT) was delivered on 10 March. However, Ms Comodini has been replaced recently by Mr Axel Voss (EPP/DE) as rapporteur. Mr Voss does not necessarily share Ms Comodini's views as expressed in her report (e.g. he is closer to the Commission's views on press publishers' rights or value gap).

The shadow rapporteurs are Lidia Geringer (S&D/PL), Angel Dzhambazki (ECR/BG) Jean-Marie Cavada (ALDE/FR), Jiri Mastalka (GUE/CZ), Julia Reda (Greens/DE), Isabella Adinolfi (EFDD/IT) and Marie-Christine Boutonnet (ENF/FR).

924 amendments have been tabled (to be added to 72 in the draft report) and were discussed on 13 July. The vote for adoption of the draft report will take place on 10 October (tbc).

Out of Scope

Overview of the main changes proposed in the amendments tabled in JURI:

[REDACTED]

On press publishers' rights, there is no consensus, including among political groups (EPP, ALDE, and S&D). Amendments are made with very opposite objectives, ranging from the complete deletion of the new right (Geringer, Mastalka, Reda and Adinolfi) to the extension of its scope (Voss, Cavada, Dzhambazki). The approach taken by Comodini is only followed by a couple of EPP members.

[REDACTED]

[REDACTED]

In other EP committees:

IMCO adopted its opinion on 8 June (rapporteur: Catherine Stihler). [REDACTED]

[REDACTED]

CULT adopted its opinion on 11 July (rapporteur: Marc Joulaud). On value gap, [REDACTED]

[REDACTED]

[REDACTED] Publishers' rights are extended to analogue uses but reduced in its term of protection to 8 years and complemented by optional rules on journalists' remuneration.

ITRE adopted its opinion on 11 July (rapporteur: Zdzisław Krasnodębski). [REDACTED]

[REDACTED]

[REDACTED] Press publishers' rights are extended to scientific publications and to analogue uses and complemented by rules on fair remuneration of journalists and other authors in the publication. [REDACTED]

[REDACTED]

LIBE (rapporteur: Michał Boni) will vote its opinion in September (date to be defined).

b) In the Council

- [REDACTED]

Article 4(3)

*out of
scope*

- [REDACTED]
- [REDACTED]
- On 30/08/17, the Estonian Presidency sent to MS a compromise text covering the remaining articles of the Directive (negotiation mechanism, publishers' rights, value gap, and remuneration). This text is not public, but it leaked and it is now widely known by stakeholders

2. Evolution of the discussions on press publishers' rights

Art. 4 (3)

[REDACTED]

In particular regarding article 11 (and related recitals), the Estonian Presidency presents two options:

- Option A maintains the approach of the related rights as in the Commission's proposal, streamlining the text and providing some clarifications including that the right does not cover the digital use of short extracts that do not meet the threshold of originality.
- Option B replaces the related rights with a presumption in favour of press publishers, which entitles them to conclude licences and to take action before courts as regards digital uses of their publications. This option goes beyond the presumption originally presented by Ms Comodini (EPP - JURI) in the EP which only covered rights' enforcement (and not licences).
- In the Parliament:
 - The text voted in IMCO does not include any amendment to Article 11. However, it contains other amendments, including a specific reference to the negative impacts on media pluralism and remuneration of journalists of platforms such as news aggregators and search engines free-riding press publishers' content (recital 31). The protection granted would also apply to print uses (in recital 32) and the rights of rental, lending and distribution (in recital 34). On hyperlinks (recital 33), the protection granted would not apply to "acts of a computation referencing or indexing system such as hyperlinking".
 - In the opinion adopted by CULT, the press publishers' rights have been maintained and extended to all uses (not only digital), with a carve-out for legitimate private and non-commercial use of press publications by individual users. The term of protection has been reduced to 8 years. A new

provision has been added under Article 11, allowing MS to provide that a fair share of revenue derived from the use of press publishers' rights is attributed to journalists.

- Finally, In ITRE, the Commission's proposal has been strengthened to apply the new rights also to scientific publications, analogue uses and situations where the content is automatically generated (e.g. news aggregators). At the same time, ITRE suggests applying it without prejudice to the rights of individuals for the use of links or extracts of a press publication for private use or not-for-profit, non-commercial purposes. A fair share of the remuneration is attributed to journalists, authors and other rightholders.

III. On ePrivacy

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

3) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OBA (online behavioural advertisement) self-regulatory initiative

[REDACTED]

[REDACTED]

[REDACTED]

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In [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IV. On AVMSD

[REDACTED]

State of play

[REDACTED]

[REDACTED]

On media freedom and pluralism

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Personal Data

Contact(s):

- For DSM Strategy : [REDACTED] (DG CNECT, F1) tel.: [REDACTED]
- For Copyright: [REDACTED] (DG CNECT, I2) tel.: [REDACTED]
- For ePrivacy : [REDACTED] (DG CNECT, H), tel.: [REDACTED]
- For AVMSD: [REDACTED] (DG CNECT, I1), tel. [REDACTED]

Meeting between Representatives of European publishers and Commissioner
OETTINGER

CAB OETTINGER/1493

On 13 September 2017

I. Scene setter

For [organisation/interlocutor etc.]:

For DG CONNECT:

For the Cabinet:

Estimated duration:

Agenda:

Press publisher's views on the copyright package

As representative of the press publishers, they are expected to show the following views:

- They are very supportive of the introduction of **new related rights for press publishers**.

Regarding the current legislative process, they are expected to express strong concerns regarding some MEPs amendments including Ms Comodini's (EPP) proposal to replace **publisher's rights** by a **presumption** of representation for the purpose of enforcement, given that, in their view, this option would not recognise their role as creators and investors in a press publication nor help them in negotiations with online players. Similarly, they are likely to question the recent (leaked) compromise proposal presented by the Estonian presidency which presents two options, the second one being a presumption based solution which would facilitate not only the enforcement but also the licensing of rights by press publishers.

On the other hand, they are likely to be generally satisfied by the votes of the EP committees (CULT, ITRE and IMCO) in favour of the press publishers' rights.

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

IV. Background

1. Directive on copyright in the DSM – State of play

a) In the European Parliament

In JURI (lead committee):

The draft report of Ms Comodini (EPP/MT) was delivered on 10 March. However, Ms Comodini has been replaced recently by Mr Axel Voss (EPP/DE) as rapporteur. Mr Voss does not necessarily share Ms Comodini's views as expressed in her report (e.g. he is closer to the Commission's views on press publishers' rights or value gap).

The shadow rapporteurs are Lidia Geringer (S&D/PL), Angel Dzhambazki (ECR/BG) Jean-Marie Cavada (ALDE/FR), Jiri Mastalka (GUE/CZ), Julia Reda (Greens/DE), Isabella Adinolfi (EFDD/IT) and Marie-Christine Boutonnet (ENF/FR).

924 amendments have been tabled (to be added to 72 in the draft report) and were discussed on 13 July. The vote for adoption of the draft report will take place on 10 October (tbc).

Overview of the main changes proposed in the amendments tabled in JURI:

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

On **press publishers' rights**, there is no consensus, including among political groups (EPP, ALDE, and S&D). Amendments are made with very opposite objectives, ranging from the complete deletion of the new right (Geringer, Mastalka, Reda and Adinolfi) to the extension of its scope (Voss, Cavada, Dzhambazki). The approach taken by Comodini is only followed by a couple of EPP members.

Out of Scope

[REDACTED]

IMCO adopted its opinion on 8 June (rapporteur: Catherine Stihler).

Publishers' rights are extended to analogue uses but reduced in its term of protection to 8 years and complemented by optional rules on journalists' remuneration..

Press publishers' rights are extended to scientific publications and to analogue uses and complemented by rules on fair remuneration of journalists and other authors in the publication.

LIBE (rapporteur: Michał Boni) will vote its opinion in September (date to be defined).

b) In the Council

-

- [REDACTED]

Regarding the TDM exception in particular:

Out of Scope

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

2. Evolution of the discussions on press publishers' rights

- **In the Council**, a first discussion on the provision on press publishers' rights took place before the summer on the basis of a Presidency issue paper. Even though it is premature to refer to clear positions, [REDACTED]

Article 4(3)

[REDACTED] The Presidency sent to MS a compromise text on this provision to be discussed during the Council Working Party meeting of 11 September 2017.

In particular regarding article 11 (and related recitals), the Estonian Presidency presents two options:

- Option A maintains the approach of the related rights as in the Commission's proposal, streamlining the text and providing some clarifications including that the right does not cover the digital use of short extracts that do not meet the threshold of originality.
- Option B replaces the related rights with a presumption in favour of press publishers, which entitles them to conclude licences and to take action before courts as regards digital uses of their publications. This option goes beyond the presumption originally presented by Ms Comodini (EPP - JURI) in the EP which only covered rights' enforcement (and not licences).

This compromise text is still not officially published but has been leaked. It is not close to a final position (it has to be discussed amongst Member States), so we are not sure they will want to comment it.

- **In the Parliament:**

- The text voted in **IMCO** does not include any amendment to Article 11. However, it contains other amendments, including a specific reference to the negative impacts on media pluralism and remuneration of journalists of platforms such as news aggregators and search engines free-riding press publishers' content (recital 31). The protection granted would also apply to print uses (in recital 32) and the rights of rental, lending and distribution (in recital 34). On hyperlinks (recital 33), the protection granted would not apply to "acts of a computation referencing or indexing system such as hyperlinking".
- In the opinion adopted by **CULT**, the press publishers' rights have been maintained and extended to all uses (not only digital), with a carve-out for legitimate private and non-commercial use of press publications by individual users. The term of protection has been reduced to 8 years. A new provision has been added under Article 11, allowing MS to provide that a fair share of revenue derived from the use of press publishers' rights is attributed to journalists.
- Finally, In **ITRE**, the Commission's proposal has been strengthened to apply the new rights also to scientific publications, analogue uses and situations where the content is automatically generated (e.g. news aggregators). At the same time, ITRE suggests applying it without prejudice to the rights of individuals for the use of links or extracts of a press publication for private use or not-for-profit, non-commercial purposes. A fair share of the remuneration is attributed to journalists, authors and other rightholders.

Personal Data

DG CNECT – [REDACTED] 12 - [REDACTED]

Commissioner Gabriel's Dinner with ENPA CEOs**Scene Setter**

ENPA is an international non-profit organisation representing publishers of newspaper and news media on all platforms. ENPA is working on a number of areas of European policy and legislation which are essential for the effective day-to-day running of operations of local, regional and national newspapers. In a rapidly changing media environment, ENPA supports publishers with the aim of achieving a successful and sustainable future for independent news media in Europe.

Out of Scope

- **Fake News**

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

- **Media Freedom and pluralism/ AVMSD**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- **Copyright**

As one of the main associations representing press publishers in Europe (with EPC (European Publishers Council), EMMA (European Magazine Media Association) and NME (News Media Europe), **ENPA** is following closely the ongoing negotiations in the Parliament and the Council, on the proposal for a Directive on copyright in the Digital Single market.

State of play of the legislative process

In the Parliament, the vote for adoption of the draft report in JURI (the lead committee), should take place the **10 of October**. 942 amendments have been tabled. The rapporteur, Ms Comodini (EPP/MT), has been replaced by A.Voss (EPP/DE) who does not necessarily share Ms Comodini's view as expressed in her draft report. He is notably closer to the Commission's view on press publishers. Other EP committees (IMCO, CULT, ITRE) have adopted their opinion in June and July. The adoption of the opinion of LIBE is expected in September. (See background)

In the Council, the Maltese presidency [REDACTED]

Out of Scope

[REDACTED] On the 30 of August, the Estonian Presidency sent to Member States a compromise text on the second part of the Directive ([REDACTED], publisher's right, [REDACTED]n), to be discussed during the Council Working Party meeting of 11 September 2017.

Regarding the publisher's right in particular, the Estonian presidency presents two options:

- option A maintains the approach of the related rights as in the Commission proposal providing with some clarification including that the right does not cover the digital use of text excerpts that do not meet the threshold of originality.
- option B replaces the related rights with a presumption in favour of press publishers which entitle them to conclude licence and to take action before courts as regard the digital uses of their publication.

This compromise text is still **not officially published** but has been leaked. It is not close to a final position (it has to be discussed amongst Member States), so we are not sure the Csr will want to comment it. ENPA already published a legal analysis on it, contending that neither of the two options is a compromise (see below).

Press publisher's views on the copyright package

As representative of the press publishers, they are expected to show the following views:

- Their main point is to push for as broad as possible **new related rights for press publishers**.

Regarding the current legislative process, they will oppose any proposal to replace the **publishers' rights** by a **presumption**, such as the one proposed

by **Ms Comodini** (a presumption of representation for the purpose of enforcement) given that, in their view, this option would not recognise their role as creators and investors in a press publication nor help them in negotiations with online players. Similarly, they will oppose the presumption based solution proposed in the recent (leaked) text of the **Estonian Presidency** (under Option B), which would facilitate not only the enforcement but also the licensing of rights by press publishers.

Regarding the Option A of the EE Presidency text (the **maintaining of a publisher's right**), they consider that this option reduces the scope of the publisher's right initially proposed by the Commission as it would not protect press publishers against the use of short excerpts of their press products, because short excerpts will very often not meet the threshold of originality. In their view, this originality requirement- proper to copyright- does not apply to a related right: *"The protection of press publications should (...) be totally independent from the protection of the elements incorporated in a press /publication"* (extract from the legal analysis sent on 07/09/11)."

In these both regards, **they will insist that they expect the Commission to keep strongly defending the press publisher's right** (art.11) without originality requirement. They could even refer to the European Federation of Journalists (EFJ) support in favour of the publisher's right (April 2017), to suggest that the right be exercised through collective management organisations with both publishers and authors on their boards, so as to ensure fair **remuneration for authors** (journalists, etc.).

On the other hand, they are likely to be generally satisfied by the votes of the **EP committees** (CULT, ITRE and IMCO) in favour of the press publishers' rights. Moreover (and as a result), we can reasonably expect that JURI will support the Commission's proposal.

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

Objective

Copyright

- The ongoing negotiation in the Council and the Parliament have proven to be difficult regarding some of the areas press publishers are more interested in (see background). The introduction of the neighbouring rights for press publishers is in particular, being subject to controversy.
- In this context: we want **to reassure them that the Commission is standing behind its proposal.**

art. 4(3)

Line to take/ Speaking points

Copyright

Out of Scope

General

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

On publisher's right

- The Commission's proposal is balanced and positive for press publishers. The ongoing negotiations in the Council and the Parliament have proven to be difficult, regarding some of the areas of interest to publishers (e.g. the publishers' right and TDM). Therefore, press publishers' support in the discussions will be important.
- Regarding the publishers' rights, **the Commission is standing behind its proposal**. We believe that granting press publishers a neighbouring right is the most effective solution to ensure that the press sector is supported into its transition to the digital environment.
- An approach that only addresses enforcement issues (Comodini's draft report) would not be sufficient to guarantee that the press publishers' role in investing and disseminating quality journalistic content is sufficiently recognised and compensated. We have similar reservations regarding the presumption based solution presented by the Council, that we need however to understand better.
- Obviously, the deletion of the Commission's proposal on press publishers' rights would not meet our objectives regarding the press industry and would in the long run weaken media pluralism, democratic debate, quality of information and cultural diversity in the European society.
- Otherwise, the Commission is following closely the discussions in the different EP committees and in the Council. We are still analysing the proposed

amendments and assessing the extent to which they could affect the effectiveness of the proposed intervention.

Out of Scope

On the TDM exception

- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

List of questions

- **On Copyright**

a. The publisher's right

- Could you specify what are your main concerns regarding the "publisher's right" at this stage of the negotiations of the copyright package, both in the Parliament and the Council?

What is your main message for us?

- I guess you are you aware of the initiatives coming from online platforms notably to encourage and improve the cooperation with press publishers? We were informed notably about a recent Facebook initiative "Facebook Journalism project" in addition to their "Facebook Instant Article" (mobile publishing platform) which aims at helping publisher to reach an increasingly audience on mobile and to better monetise their content. What are your views as regards such initiatives or any other emerging led market solutions in relation to the press publishing sector?
- How are you seeing the evolution of the profession of press publisher in the coming years, regarding notably the digital exploitation of press publications?
- Have you any interesting example of cooperation of your members with online platforms (search engine, news aggregators) or other actors, which you would like to share with us?
- We heard your views regarding the need to protect press publishers against the systematic unauthorised uses of extracts of their press publications by search engines, news aggregators, etc. At the same time, we understand that press publishers do not want to affect the way readers access their content, or share link on social media. In other words, you don't want to criminalise internet users for the legitimate non-commercial use they do of press publications. How do you think these both aims could be reconciled? We would be grateful to hear your voice in this regard?
- How do you consider the relationships between press publishers and journalists? Are press publishers supporting a publisher's right solution that would allow the journalists to receive a share of the publishers' remuneration derived from the digital use of the press publication? If so, under which form?

b. The Text and data mining exception

Out of Scope

- 


Defensive points

- Media Freedom and pluralism/ AVMSD

Out of Scope

On advertising rules

[REDACTED]

On the scope of the Directive

Out of Scope

[REDACTED]

[REDACTED]

- Copyright

What is the Commission's assessment of the Compromise proposal tabled by the Estonian Presidency in the Council, regarding the press publisher's right? (Note that the EE text is not public but its content is now widely known as it leaked – Cssi should be aware of this to decide whether she wants to comment on it)

- The Commission is still carefully analysing the text tabled recently by the Estonian Presidency, proposing to Member States two options regarding the press publishers' right issue. The Commission has not changed its position. We believe that granting press publishers a neighbouring right is the most effective solution to ensure that the press sector is supported into its transition to the digital environment.
- Overall, in the current context of negotiations with the Council and the Parliament, our objective is to ensure that the Directive keeps the level of ambition of our proposals when adopted. In particular, we need to make sure that the Directive as eventually adopted provides a real value added to strengthen the copyright industries in the digital environment

The leaked compromise Proposal of the Estonian presidency put forward two options regarding the protection of press publishers. In the option A, they propose to maintain the approach of the related rights as in the Commission's

¹ Judgment of 21 October 2015 in the "New Media Online GmbH"

Proposal but they clarify that the protection will only apply to extracts that meet the threshold of originality. What is the Commission's view on this clarification? Does it mean that the protection will not cover the snippets of press publications?

- The Commission is still carefully analysing the (leaked) text tabled recently by the Estonian Presidency, proposing to Member States two options regarding the press publishers' right issue, including such clarification.
- In general, the Commission's proposal remains "neutral" as regards the question as to whether and to what extent, the reproducing of "snippets" and/or displaying of hyperlinks, constitute copyright protected acts under EU Law. In another words, the Commission's proposal is not intended to regulate this specific kind of situations. The protection of snippets and/or hyperlinks under copyright is a more general question that has become a more important topical issue with the adoption of the Proposal.
- With its proposal, the Commission's objective is to introduce a new category of neighbouring right holders - press publishers-. It does not aim at modifying the scope of what is already protected by copyright.
- Regarding the "snippets" in particular, reproducing or making available fragments or short extracts of press articles, which constitute the expression of an intellectual effort by the author, is already covered by copyright. The related rights granted to press publishers will not change that.
- The option A of the presidency compromise proposal seems to confirm the above-mentioned. It does not add any new requirement but just confirm the case law of the Court of Justice on the notion of originality. It clarifies that the protection will cover extracts (including "snippet") to the only extent that they fulfil the threshold of originality. As a consequence, if the extracts are too short to reflect the author's intellectual creation, they will not be covered by the new rights.

Regarding the TDM exception

Out of Scope

[REDACTED]

[REDACTED]

Background

- Media freedom and pluralism

Out of Scope

[REDACTED]

[REDACTED]
[REDACTED]
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- Fake News

Out of Scope

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]

- On copyright

Directive on copyright in the DSM – State of play

a) In the European Parliament

In JURI (lead committee):

The draft report of Ms Comodini (EPP/MT) was delivered on 10 March. However, Ms Comodini has been replaced recently by Mr Axel Voss (EPP/DE) as rapporteur.

The shadow rapporteurs are Lidia Geringer (S&D/PL), Angel Dzhambazki (ECR/BG), Jean-Marie Cavada (ALDE/FR), Jiri Mastalka (GUE/CZ), Julia Reda (Greens/DE), Isabella Adinolfi (EFDD/IT) and Marie-Christine Boutonnet (ENF/FR).

924 amendments have been tabled (to be added to 72 in the draft report) and were discussed on 13 July. The vote for adoption of the draft report will take place on 10 October (tbc).

Overview of the main changes proposed in the amendments tabled in JURI:

Out of Scope

On **press publishers' rights**, there is no consensus, including among political groups (EPP, ALDE, and S&D). Amendments are made with very opposite objectives, ranging from the complete deletion of the new right (Geringer, Mastalka, Reda and Adinolfi) to the extension of its scope (Voss, Cavada, Dzhambazki). The approach taken by Comodini is only followed by a couple of EPP members.

In other EP committees:

Out of Scope

IMCO adopted its opinion on 8 June (rapporteur: Catherine Stihler).

- [REDACTED]
- On the **publishers' rights**: The text voted does not include any amendment to Article 11. However, it contains other amendments, including a specific reference to the negative impacts on media pluralism and remuneration of journalists of platforms such as news aggregators and search engines free-riding press publishers' content (recital 31). The protection granted would also apply to print uses (in recital 32) and the rights of rental, lending and distribution (in recital 34). On hyperlinks (recital 33), the protection granted would not apply to "acts of a computation referencing or indexing system such as hyperlinking".

Out of Scope

CULT adopted its opinion on 11 July (rapporteur: Marc Joulaud).

- [REDACTED]
- The **press publishers' rights** have been maintained and extended to all uses (not only digital), with a carve-out for legitimate private and non-commercial use of press publications by individual users. The term of protection has been reduced to 8 years. A new provision has been added under Article 11, allowing MS to provide that a fair share of revenue derived from the use of press publishers' rights is attributed to journalists..

Out of Scope

ITRE adopted its opinion on 11 July (rapporteur: Zdzisław Krasnodębski).

- [REDACTED]
- On the **publishers' rights**: The Commission's proposal has been strengthened to apply the new rights also to scientific publications, analogue uses and situations where the content is automatically generated (e.g. news aggregators). At the same time, ITRE suggests applying it without prejudice to the rights of individuals for the use of links or extracts of a press publication for private use or not-for-profit, non-commercial purposes. A fair share of the remuneration is attributed to journalists, authors and other rightholders.

LIBE (rapporteur: Michał Boni) will vote its opinion in September (date to be defined).

Out of Scope

b) In the Council

- [REDACTED] Article 4(3)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Out of Scope
- [REDACTED]
- On 30/08/17, the Estonian Presidency sent to MS a compromise text covering the remaining articles of the Directive (negotiation mechanism, publishers' rights, value gap, and remuneration). This text is not public, but it leaked and it is now widely known by stakeholders.

Compromise text regarding the TDM exception (Maltese Presidency)

Out of Scope

- [REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
[REDACTED]
■ [REDACTED]

■ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

■ [REDACTED]
[REDACTED]

■ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Evolution of the discussion and Compromise (leaked) text on press publishers' rights (Estonian Presidency)

Out of Scope

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In particular regarding article 11 (and related recitals), the Estonian Presidency presents two options:

- Option A maintains the approach of the related rights as in the Commission's proposal, streamlining the text and providing some clarifications including that the right does not cover the digital use of short extracts that do not meet the threshold of originality.
- Option B replaces the related rights with a presumption in favour of press publishers, which entitles them to conclude licences and to take action before courts as regards digital uses of their publications. This option goes beyond the presumption originally presented by Ms Comodini (EPP- JURI) in the EP which only covered rights' enforcement (and not licences).

LIST OF PARTICIPANTS

(CV to be sent by ENPA to the CAB)

- Carlo Perrone, Società Edizioni e Pubblicazioni (SEP) (Il Secolo XIX) – ENPA President



Personal Data

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- Valdo Lehari Jr., Reutlinger General Anzeiger- ENPA Vice-President



Personal Data

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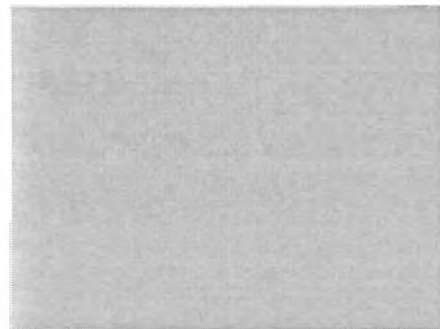
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED] - Member of ENPA Executive Committee and ENPA Board – President of family shareholders' Pool, Tamedia AG- Switzerland



Personal Data

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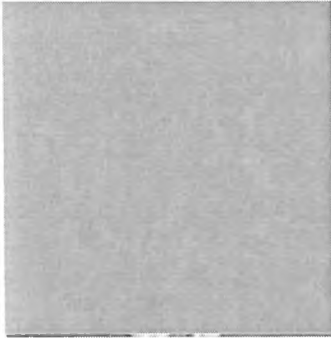
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- Francis Morel – Président of SPQN (Syndicat de la Presse Quotidienne Nationale), CEO of Les Echos (FR)



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- Denis Bouchez : Director of SPQN (Syndicat de la Presse Quotidienne Nationale) FR

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/ ENPA Board Member (BU)

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- **Tomas Tkacik, Present of Unie Vydavatelů, CEO of Business Media CZ (the Czech Republic),**



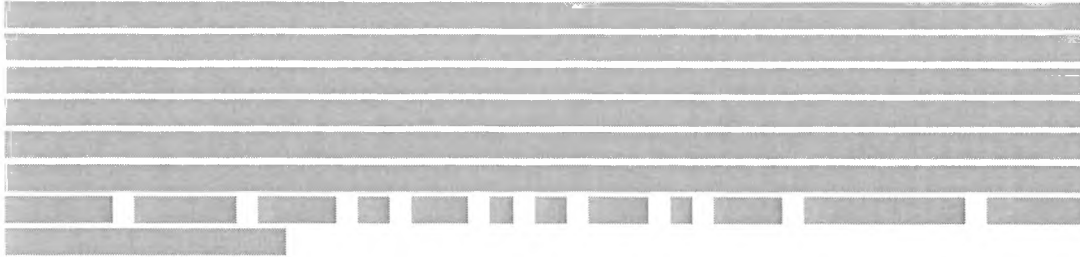
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- [REDACTED], ENPA Deputy Executive Director



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- [REDACTED], Head of Brussels' Office – Axel Springer



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Axel Springer

Axel Springer SE is a of the leading digital publisher in Europe. The digital media channels already contribute nearly three quarters of total pro-forma revenues today. The company is consistently pursuing the objective of building up a fast-growing and profitable digital portfolio, and for this reason is networking today more than ever before with the current generation of founders: digital start-ups.

Company Data (2014)

Employees 13,917

Total revenues € 3,037.9 million

Operating profit (EBITDA) € 507,1 million

Headquarters Berlin

Personal Data

Authors

- [REDACTED] (DG CNECT I) tel. [REDACTED] and [REDACTED] (DG CNECT I), tel. [REDACTED]
- [REDACTED] (DG CNECT I2), tel [REDACTED] and [REDACTED] (DG CNECT I2), tel. [REDACTED]
- [REDACTED] (DG CNECT I4), tel. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

For DG CNECT: No

For the Cabinet: GHO

Estimated duration of meeting: 1 hour

Agenda: -

Their Position

EPP

The EPP group has published a general line on the proposal for a Directive on copyright in the DSM. They support the Commission's proposal on press publishers' rights. On value gap,

[REDACTED]

*Out of
scope*

Axel Springer

As press publishers, on copyright, they are expected to show the following views:

- They are very supportive of the introduction of new related rights for press publishers and the introduction of mechanisms to allow the sharing of compensation stemming from exceptions to copyright between authors and publishers. Therefore, they will probably raise questions about the Commission's position regarding Ms Comodini's draft report (JURI draft report).

- [REDACTED]

Out of scope

Our Position

We consider the package is balanced and positive for press publishers.

The next steps include the negotiation in the Council and the Parliament, which will be difficult regarding some of the areas Axel Springer are more interested in (see background). The introduction of the neighbouring rights for press publishers and the value gap section are

being subject to controversy. Therefore, publishers' support in the discussions in the Parliament and Council [REDACTED]

Art.

4(3)

Line to Take

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- The Commission tabled ambitious and balanced proposals. Our objective now is to ensure that the Directive keeps the level of ambition of our proposals when adopted. We trust that the discussions in the Council and in the European Parliament will allow maintaining this ambition and striking the right balance between the different interests at stake.
- In particular, we need to make sure that the Directive as eventually adopted provides a real value added to strengthen the copyright industries in the digital environment, including in areas like the press publishers' rights.

Out of Scope

- [REDACTED]
- [REDACTED]

II. Questions and answers

Press publishers

The Commission has proposed a new press publishers right for the online use of their publications. Does not the Commission's proposal risk to affect the functioning of Internet, especially the sharing of hyperlinks or of snippets, for instance when tweeting?

- The right of individual users to share hyperlinks or snippets, in particular in social networks, is not affected by the Commission's proposal. The proposal does not impact what individual users can do with press publications.
- The COM's objective is not to intervene on the way users share or use extracts of publications online, but on the way third parties obtain financial gain from these online uses.
- For that purpose, the COM has introduced a new category of neighbouring right holders - press publishers- but has not modified the scope of what is already protected by copyright.
- As regards **hyperlinks**, the proposed Directive specifies explicitly that the protection granted to press publishers does not extend to acts of hyperlinking, which do not constitute communication to the public (Recital 33).
- As regards "**snippets**", reproducing or making available fragments or short extracts of press articles, which constitute the expression of an intellectual effort by the author, is already covered by copyright. Nevertheless, if the extracts are too short to reflect the author's intellectual creation, their reproduction will not require authorisation or payment. The neighbouring right granted to press publishers will not change that.

What is the added value of the new related right for press publishers?

- The new related right covering news publications will ensure that the organisational and economic contribution of press publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other creative sectors (film and phonogram producers, broadcasters). It will in particular provide these publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.
- It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).
- Overall we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the

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Personal Data

Contact: [REDACTED], CNECT I2, [REDACTED]

Background

1. Directive on copyright in the DSM – State of play

a) In the European Parliament

In JURI (lead committee):

The draft report of Ms Comodini (EPP/MT) was delivered on 10 March. However, Ms Comodini has been replaced recently by Mr Axel Voss (EPP/DE) as rapporteur. Mr Voss does not necessarily share Ms Comodini's views as expressed in her report (e.g. he is closer to the Commission's views on press publishers' rights or value gap).

The shadow rapporteurs are Lidia Geringer (S&D/PL), Angel Dzhambazki (ECR/BG) Jean-Marie Cavada (ALDE/FR), Jiri Mastalka (GUE/CZ), Julia Reda (Greens/DE), Isabella Adinolfi (EFDD/IT) and Marie-Christine Boutonnet (ENF/FR).

924 amendments have been tabled (to be added to 72 in the draft report) and were discussed on 13 July. The vote for adoption of the draft report will take place on 10 October (tbc).

Overview of the main changes proposed in the amendments tabled in JURI:

Out of Scope

[REDACTED]

On press publishers' rights, there is no consensus, including among political groups (EPP, ALDE, and S&D). Amendments are made with very opposite objectives, ranging from the complete deletion of the new right (Geringer, Mastalka, Reda and Adinolfi) to the extension of its scope (Voss, Cavada, Dzhambazki). The approach taken by Comodini is only followed by a couple of EPP members.

Out of Scope

[REDACTED]

[REDACTED]

In other EP committees:

Out of Scope

IMCO adopted its opinion on 8 June (rapporteur: Catherine Stihler). [REDACTED]

CULT adopted its opinion on 11 July (rapporteur: Marc Joulaud). [REDACTED]

[REDACTED] Publishers' rights are extended to analogue uses but reduced in its term of protection to 8 years and complemented by optional rules on journalists' remuneration.

Out of Scope

ITRE adopted its opinion on 11 July (rapporteur: Zdzisław Krasnodębski). [REDACTED]

[REDACTED] Press publishers' rights are extended to scientific publications and to analogue uses and complemented by rules on fair remuneration of journalists and other authors in the publication. [REDACTED]

LIBE (rapporteur: Michał Boni) will vote its opinion in September (date to be defined).

Article 4(3)

b) In the Council

- [REDACTED]
[REDACTED]
[REDACTED] Many MS raised concerns regarding the rationale of the proposed publisher's rights, their effectiveness and the lack of evidence. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- ### Out of Scope

Out of Scope

- Article 4(3)

Article 4(3)

Article 4(3)

- Article 4(3)

Annex

Curriculum Vitae of Axel VOSS (EPP/DE)

Commissioner Gabriel meeting with ENPA President Mr Carlo Perrone and Mathias Döpfner CEO of Les Echos
Strasbourg, 13/09/2017

Commissioner Gabriel meeting with ENPA President Mr Carlo Perrone and Mathias Döpfner CEO of Les Echos

Scene setter

ENPA (the European Newspaper Publishers' Association) is an international non-profit organisation representing publishers of newspaper and news media on all platforms.

In a rapidly changing media environment, ENPA supports publishers with the aim of achieving a successful and sustainable future for independent news media in Europe.

You will meet **Carlo Perrone**, president of ENPA and Vice-President of ITEDI (La Stampa; Il Secolo XIX). He will be accompanied by a delegation of press publishers, composed of **Mathias Döpfner**, CEO of Axel Springer and President of BDZV and **Francis Morel**, CEO of Les Echos.

Out of Scope

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

On copyright

State of play of the legislative process

The proposal for a Directive on copyright in the Digital Single market, adopted on September 2016, is being negotiated in the Parliament and the Council.

In the Parliament, the vote for adoption of the draft report in JURI (the lead committee), should take place the **10 of October**. 942 amendments have been tabled. The rapporteur, Ms Comodini (EPP/MT), has been replaced by A.Voss (EPP/DE) who does not necessarily share Ms Comodini's view as expressed in her draft report. He is notably closer to the Commission's view on press publishers. Other EP committees (IMCO, CULT, ITRE) have adopted their opinion in June and July. The adoption of the opinion of LIBE is expected in September. (See background)

In the Council,

[REDACTED] On the 30 of August, the Estonian Presidency sent to Member States a compromise text on the second part of the Directive (negotiation mechanism, publisher's right, value gap and

Out of Scope

remuneration), to be discussed during the Council Working Party meeting of 11 September 2017.

Regarding the publisher's right in particular, the Estonian presidency presents two options:

- option A maintains the approach of the related rights as in the Commission proposal providing with some clarification including that the right does not cover the digital use of text excerpts that do not meet the threshold of originality.
- option B replaces the related rights with a presumption in favour of press publishers which entitle them to conclude licence and to take action before courts as regard the digital uses of their publication.

This compromise text is still **not officially published** but has been leaked. It is not close to a final position (it has to be discussed amongst Member States), so we are not sure they will want to comment it.

Press publisher's views on the copyright package

As representative of the press publishers, they are expected to show the following views:

- They are very supportive of the introduction of **new related rights for press publishers**. Axel Springer is one of the main actors which has pushed the idea in Germany and then at EU level.

Regarding the current legislative process, they are expected to express strong concerns regarding some MEPs amendments including Ms Comodini's (EPP) proposal to replace **publisher's rights** by a presumption of representation for the purpose of enforcement, given that, in their view, this option would not recognise their role as creators and investors in a press publication nor help them in negotiations with online players. Similarly, they are likely to question the recent (leaked) compromise proposal presented by the Estonian presidency which presents two options, the second one being a presumption based solution which would facilitate not only the enforcement but also the licensing of rights by press publishers.

In this regard, they will insist that they expect the Commission to keep strongly defending the press publisher's right (art.11).

On the other hand, they are likely to be generally satisfied by the votes of the EP committees (CULT, ITRE and IMCO) in favour of the press publishers' rights.

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

Objectives:

On media freedom and pluralism and the AVMSD

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

On 'fake news' and platforms:

- [REDACTED]
- [REDACTED]
- [REDACTED]

On copyright:

- We consider the package is balanced.
- The ongoing negotiation in the Council and the Parliament have proven to be difficult regarding some of the areas press publishers are more interested in (see background). The introduction of the neighbouring rights for press publishers is in particular, being subject to controversy.
- In this context, we want to reassure them that the Commission is standing behind its proposal. [REDACTED]

*Article
4(3)*

Speaking points

Concernant la liberté et le pluralisme des médias:

Out of Scope

- [REDACTED]
- [REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

Out of Scope

- [REDACTED]

Concernant 'fake news' and platforms:

Out of Scope

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

Concernant le droit d'auteur:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Concernant le droit voisin des éditeurs de publication de presse:

- La proposition de la Commission est équilibrée et positive pour les éditeurs de presse. Les discussions actuelles au Conseil et au Parlement s'avèrent difficiles, en particulier, pour ce qui concerne les éditeurs, concernant le droit voisin des éditeurs de publication de presse et l'exception Text and Data Mining (TDM). **Le support des éditeurs de presse à cet égard est donc nécessaire.**
- Concernant le **droit voisin des éditeurs de publications de presse**, la proposition de la Commission vise à répondre aux problèmes principaux que ces derniers rencontrent dans leur transition numérique tant lorsqu'il s'agit de concéder des licences relatives à l'utilisation en ligne de leurs publications, que d'assurer le respect de leurs droits.
- Le nouveau droit voisin devrait précisément aider les éditeurs à obtenir un partage équitable des revenus générés par l'usage de leurs contenus dans l'environnement numérique, via la conclusion de licences.
- Par conséquent, une **solution de type "présomption"** telle que celle proposée par certains parlementaires (dont Mme Comodini PPE/JURI), qui se limiterait uniquement à favoriser le respect des droits des éditeurs dans l'environnement numérique, sans répondre à leurs problèmes en amont (exploitation de leurs droits), risque de ne pas être suffisante. Elle ne permettrait pas de garantir que le rôle des éditeurs de presse dans l'investissement et la dissémination d'un contenu journalistique de qualité soit adéquatement reconnu et rémunéré.
- Bien sûr, une solution **consistant à supprimer la proposition** de la Commission sur le droit voisin des éditeurs de presse ne rencontrerait pas nos objectifs vis-à-vis du secteur de la presse et à long terme, pourrait nuire au

pluralisme des médias, au débat démocratique, à la qualité de l'information et à la diversité culturelle dans la société européenne.

- Pour le surplus, la Commission suit attentivement les discussions dans les différentes Commissions du Parlement européen et au Conseil. Nous analysons encore les amendements proposés et vérifions dans quelle mesure ils pourraient affecter l'effectivité de l'intervention proposée.

LTT on Audiovisual Media Services Directive (AVMSD)

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

LTT – Commission's actions on media freedom and pluralism in the EU28

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Defensive points

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

What is the Commission's view of the state of media freedom and pluralism in Poland?

Out of Scope

- [REDACTED]

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-

What is the Commission's assessment of the Compromise proposal tabled by the Estonian Presidency in the Council, regarding the press publisher's right? (note that the EE text is not public but its content is now widely known as it leaked – C SSR should be aware of this to decide whether she wants to comment on it)

- The Commission is still carefully analysing the text tabled recently by the Estonian Presidency, proposing to Member States two options regarding the press publishers' right issue. The Commission has not changed its position. We believe that granting press publishers a neighbouring right is the most effective solution to ensure that the press sector is supported into its transition to the digital environment
- Overall, in the current context of negotiations with the Council and the Parliament, our objective is to ensure that the Directive keeps the level of ambition of our proposals when adopted. In particular, we need to make sure that the Directive as eventually adopted provides a real value added to strengthen the copyright industries in the digital environment

The leaked compromise Proposal of the Estonian presidency put forward two options regarding the protection of press publishers. In the option A, they propose to maintain the approach of the related rights as in the Commission's Proposal but they clarify that the

protection will only apply to extracts that meet the threshold of originality. What is the Commission's view on this clarification? Does it mean that the protection will not cover the snippets of press publications?

- The Commission is still carefully analysing the (leaked) text tabled recently by the Estonian Presidency, proposing to Member States two options regarding the press publishers' right issue, including such clarification.
- In general, the Commission's proposal remains "neutral" as regards the question as to whether and to what extent, the reproducing of "snippets" and/or displaying of hyperlinks, constitute copyright protected acts under EU Law. In another words, the Commission's proposal is not intended to regulate this specific kind of situations. The protection of snippets and/or hyperlinks under copyright is a more general question that has become a more important topical issue with the adoption of the Proposal.
- With its proposal, the Commission's objective is to introduce a new category of neighbouring right holders - press publishers-. It does not aim at modifying the scope of what is already protected by copyright.
- Regarding the "snippets" in particular, reproducing or making available fragments or short extracts of press articles, which constitute the expression of an intellectual effort by the author, is already covered by copyright. The related rights granted to press publishers will not change that.
- The option A of the presidency compromise proposal seems to confirm the above-mentioned. It does not add any new requirement but just confirm the case law of the Court of Justice on the notion of originality. It

clarifies that the protection will cover extracts (including "snippet") to the only extent that they fulfil the threshold of originality. As a consequence, if the extracts are too short to reflect the author's intellectual creation, they will not be covered by the new rights.

The Commission has proposed a new press publishers right for the online use of their publications. Does not the Commission's proposal risk to affect the functioning of Internet, especially the sharing of hyperlinks or of snippets, for instance when tweeting?

- The right of individual users to share hyperlinks or snippets, in particular in social networks, is not affected by the Commission's proposal. The proposal does not impact what individual users can do with press publications.
- The COM's objective is not to intervene on the way users share or use extracts of publications online, but on the way third parties obtain financial gain from these online uses.
- For that purpose, the COM has introduced a new category of neighbouring right holders - press publishers- but has not modified the scope of what is already protected by copyright.
- As regards hyperlinks, the proposed Directive specifies explicitly that the protection granted to press publishers does not extend to acts of hyperlinking, which do not constitute communication to the public (Recital 33).
- As regards "snippets", reproducing or making available fragments or short extracts of press articles, which constitute the expression of an intellectual effort by the author, is already covered by copyright. Nevertheless, if the extracts are too short to reflect the author's intellectual creation, their reproduction will not require

authorisation or payment. The related rights granted to press publishers will not change that.

Why does not the proposal on publishers' rights cover the rights of distribution or communication to the public?

- The Commission has put forward a balanced proposal based on the evidence gathered during consultation with all relevant stakeholders.
- The identified problem related to the exploitation of press publishers' content is linked to the digital uses of your content.
- We need to make sure that we propose something which does not go beyond what is necessary to achieve our objective.

Why scientific publishers are not holders of related rights in the Commission's proposal?

- The Commission is aware of the important role and responsibility of scientific publishers in the investment and dissemination of scientific journals.
- The Commission's proposal on new related rights is targeted to press publishers. It is in this area where the main problems regarding the licensing and enforcement of rights have been identified. Press publishers are today facing significant problems regarding the recoupment of investments in their press publications.
- Although the transition to the digital environment is challenging for all sectors, the business models of STM publishers differ from the means of exploitation and reuse of news content by internet platforms, news aggregators and social networks.

What is the added value of the new related right for press publishers?

- The new related right covering news publications will ensure that the organisational and economic contribution of press publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other creative sectors (film and phonogram producers, broadcasters). It will in particular provide these publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.
- It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).
- Overall we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the new right to help publishers developing further licence-based cooperation with innovative business models in the future.

Background notes

Out of Scope

EU legislative actions having an impact on media freedom and pluralism

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

EU-funded projects in the field of media freedom and pluralism

Out of Scope

[REDACTED]

[REDACTED]

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2016 Annual Colloquium on Fundamental Rights

Out of Scope

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¹ <http://cmpf.eui.eu/media-pluralism-monitor/mpm-2016-results/>

Background on AVMSD

Out of Scope

On scope:

[REDACTED]

[REDACTED]

On Advertising:

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

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On Independence of regulators:

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Fake news

Out of Scope

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- | [REDACTED]
- | [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Press and platforms

A recent report – The Platform Press - from the Tow Center for Journalism concludes as follows:

All news organizations, whether the most traditional publisher or the youngest start-up, now share a strategic necessity to think about their future health as tied to third-party platforms. Newsroom decisions and re-sources are increasingly oriented around the needs of external platforms; everything from commissioning stories, to integrating with a wide variety of technical standards.

Despite new opportunities and publishing models offered by the huge variety of platforms, most news organizations have not been able to find reliable return on investment. Publishers have been publicly skeptical of investing in platform strategies, but our data show that there is no retreat from a path of rapid convergence. This is troubling for small and mid-sized publishers, particularly at the regional and local levels, who feel the new paradigm discriminates against them...

Any desire to assist the viability of journalism, however well motivated, bumps up against the design and incentive structures of the platforms. Until these are changed, or until there is an effort to delineate and incentivize high-quality material, social platforms will continue to undermine rather than sustain good journalism.

The underlying problem is the asymmetry and vast difference in market power between the platforms and individual publishers, not to mention the technological capabilities of the platforms.

Directive on copyright in the DSM – State of play

a) In the European Parliament

In JURI (lead committee):

The draft report of Ms Comodini (EPP/MT) was delivered on 10 March. However, Ms Comodini has been replaced recently by Mr Axel Voss (EPP/DE) as rapporteur. Mr Voss does not necessarily share Ms Comodini's views as expressed in her report (e.g. he is closer to the Commission's views on press publishers' rights or value gap).

The shadow rapporteurs are Lidia Geringer (S&D/PL), Angel Dzhambazki (ECR/BG) Jean-Marie Cavada (ALDE/FR), Jiri Mastalka (GUE/CZ), Julia Reda (Greens/DE), Isabella Adinolfi (EFDD/IT) and Marie-Christine Boutonnet (ENF/FR).

924 amendments have been tabled (to be added to 72 in the draft report) and were discussed on 13 July. The vote for adoption of the draft report will take place on 10 October (tbc).

Overview of the main changes proposed in the amendments tabled in JURI:

Out of Scope

[REDACTED]

On press publishers' rights, there is no consensus, including among political groups (EPP, ALDE, and S&D). Amendments are made with very opposite objectives, ranging from the complete deletion of the new right (Geringer, Mastalka, Reda and Adinolfi) to the extension of its scope (Voss, Cavada, Dzhambazki). The approach taken by Comodini is only followed by a couple of EPP members.

Out of Scope

[REDACTED]

Out of Scope

In other EP committees:

IMCO adopted its opinion on 8 June (rapporteur: Catherine Stihler).

CULT adopted its opinion on 11 July (rapporteur: Marc Joulaud).

Publishers' rights are extended to analogue uses but reduced in its term of protection to 8 years and complemented by optional rules on journalists' remuneration.

ITRE adopted its opinion on 11 July (rapporteur: Zdzisław Krasnodębski).

Press publishers' rights are extended to scientific publications and to analogue uses and complemented by rules on fair remuneration of journalists and other authors in the publication.

LIBE (rapporteur: Michał Boni) will vote its opinion in September (date to be defined).

b) In the Council

Out of Scope

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Art. 4.3

•

- On 30/08/17, the Estonian Presidency sent to MS a compromise text covering the remaining articles of the Directive [REDACTED], publishers' rights, [REDACTED]). This text is not public, but it leaked and it is now widely known by stakeholders

Evolution of the discussions on press publishers' rights

- In the Council, a first discussion on the provision on press publishers' rights took place before the summer on the basis of a Presidency issue paper. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. The Presidency sent to MS a compromise text on this provision to be discussed during the Council Working Party meeting of 11 September 2017.

Article 4(3)

In particular regarding article 11 (and related recitals), the Estonian Presidency presents two options:

- Option A maintains the approach of the related rights as in the Commission's proposal, streamlining the text and providing some clarifications including that the right does not cover the digital use of short extracts that do not meet the threshold of originality.
- Option B replaces the related rights with a presumption in favour of press publishers, which entitles them to conclude licences and to take action before courts as regards digital uses of their publications. This option goes beyond the presumption originally presented by Ms Comodini (EPP - JURI) in the EP which only covered rights' enforcement (and not licences).
- In the Parliament:
 - The text voted in IMCO does not include any amendment to Article 11. However, it contains other amendments, including a specific reference to the negative impacts on media pluralism and remuneration of journalists of platforms such as news aggregators and search engines free-riding press publishers' content (recital 31). The protection granted would also apply to print uses (in recital 32) and the rights of rental, lending and distribution (in recital 34). On hyperlinks (recital 33), the protection granted would not apply to "acts of a computation referencing or indexing system such as hyperlinking".
 - In the opinion adopted by CULT, the press publishers' rights have been maintained and extended to all uses (not only digital), with a carve-out for legitimate private and non-commercial use of press publications by individual users. The term of protection has been reduced to 8 years. A new provision has been added under Article 11, allowing MS to provide that a fair share of revenue derived from the use of press publishers' rights is attributed to journalists.
 - Finally, In ITRE, the Commission's proposal has been strengthened to apply the new rights also to scientific publications, analogue uses and situations

where the content is automatically generated (e.g. news aggregators). At the same time, ITRE suggests applying it without prejudice to the rights of individuals for the use of links or extracts of a press publication for private use or not-for-profit, non-commercial purposes. A fair share of the remuneration is attributed to journalists, authors and other rightholders.

Contacts: [REDACTED] (CNECT.I1), tel.: [REDACTED] [REDACTED] (CNECT.I2),
tel.: [REDACTED] [REDACTED] (CNECT.I4), tel.: [REDACTED] *Personal Data*

Briefing for Commissioner Gabriel participating in dinner with S&D JURI members

Basis (CAB Gabriel/120)

State of play

Directive on copyright in the DSM

Axel Voss (EPP/DE) is the rapporteur in JURI. EPP has tabled a general line on the Directive, covering value gap, press publishers' rights and TDM (supporting the Commission's proposal on these issues and in favour of an additional clarification of criteria to determine that user-uploaded content platforms communicate to the public).

Article 4(3)

In contrast, S&D JURI members' position is quite divided (see background). This dinner could be a good opportunity to better understand their positions and suggest to move the discussions forward. S&D shadow is Ms Lidia Geringer (PL).

Out of Scope

Regulation on online transmissions and retransmissions of TV and radio programmes

Line to take

ON THE DIRECTIVE

Out of Scope

General

- [REDACTED]

On value gap (Article 13)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

On press publishers' rights

- In the area of press publishers' rights, there is a wide array of amendments suggested by your members. On the one hand, some of you proposed to broaden the scope of the Commission's proposal by applying the rights also to analogue uses or by creating additional remuneration rights for press publishers on top of the Commission's proposal. On the other hand, other S&D members have suggested the full deletion of the Article.
- The Commission's proposal strikes the right balance between these different options. It acknowledges press publishers' difficulties when seeking to monetise and control the distribution of their content online. But at the same time it does

so without going beyond what is necessary to solve their licensing and enforcement issues when it comes to the reuse of their content online.

- The new related right for press publishers will provide publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment. It will also allow press publishers to effectively act against illegal uses of press publications online.
- Overall, we expect the new right to give publishers a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. As the scope of what is protected by copyright (including on hyperlinks) is not affected by this right, what citizens can do today with press publications will not change.

Out of Scope

On exceptions (including new proposal on UGC)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

On the proposal to provide an unwaivable remuneration right for authors and performers

Out of Scope

- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

Conclusion

Out of Scope

- [REDACTED]
- [REDACTED]

Out of Scope

ON THE REGULATION

- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Personal Data

Authors: [REDACTED] (DG CNECT, I2); tel.: [REDACTED]

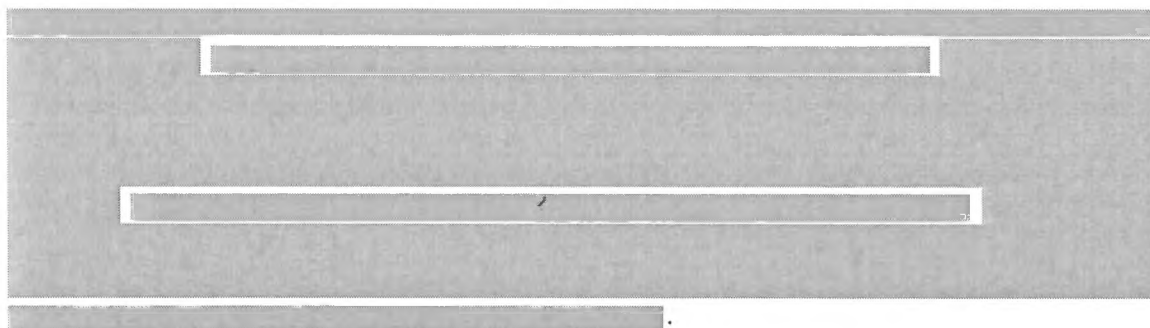
[REDACTED] (DG CNECT, I2); tel.: [REDACTED]

Background – S&D members' position in JURI

Directive

Article 4(3)

The positions of S&D members regarding the Commission's proposed directive are quite divided:



Per topic, taking into account tabled amendments to the Commission's proposal:

Out of Scope

1. Value gap:

- [Redacted]
- [Redacted]

2. Press publishers' rights:

- [Redacted]
- [Redacted]

Art.
4(3)

3. Exceptions:

Out of Scope

- [Redacted]
- [Redacted]

4. Out-of-commerce works:

- [Redacted]

[REDACTED]

5. Remuneration:

- [REDACTED]

6. Issues not in the Commission proposal:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Note: [REDACTED]

Article 4(3)

Regulation

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Meeting with Facebook Managing Director EU Affairs, [REDACTED]

Scene setter

*Personal
data*

You will meet with [REDACTED] - Managing Director for EU Affairs and
Head of Facebook's Brussels office.

This briefing is arranged thematically (i.e. AVMSD revision, platforms, copyright).

Out of Scope

AVMSD revision

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Online Platforms

[REDACTED]

[REDACTED]

Copyright

Out of Scope

On **copyright**, Facebook's public speech is based on the importance of a partnership-and-collaboration-based approach to their relation with rightholders. [REDACTED]

[REDACTED] They are also against Article 11 (press publishers' rights). [REDACTED]

[REDACTED]

Objectives

Out of Scope

AVMSD revision

- [REDACTED]

Online Platforms

Out of Scope

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Line to take

AVMSD revision

- On Country of Origin

[REDACTED]

- **On video-sharing platforms**

Out of Scope

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- **On Protection of minors**

Out of Scope

[REDACTED]

[REDACTED]

- **On Hate speech**

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Online Platforms

Out of Scope

P2B – Platforms-to-business unfair trading practices

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Communication on tackling illegal content online

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]

Legislative instrument as a follow-up?

Out of Scope

- [REDACTED]
- [REDACTED]

Copyright

- One of the main objectives of the Commission's proposal on copyright is to introduce fairer rules of the game for a better functioning copyright market place by addressing the difficulties faced by right holders when seeking to monetise and control the distribution of their content online. This includes two areas of which, I am aware, you are concerned: the provisions on value gap and press publishers' rights.

Out of Scope

- [REDACTED]

- It [REDACTED]

- [REDACTED]

- Regarding press publishers' rights, they will provide publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment. It will also allow press publishers to effectively act against illegal uses of press publications online.
- As press publishers will retain the flexibility to authorise and set the conditions for the use of their content, the new rights will give them a clearer legal framework to test new business models in the digital environment.

Defensive points

Out of Scope

AVMSD revision

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

What will be the types of video-sharing platforms covered? Will YouTube be covered? Will social media such as Facebook be covered?

Out of Scope

[REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

Out of Scope

- [REDACTED]

Out of Scope

Copyright

[REDACTED]

- [REDACTED]

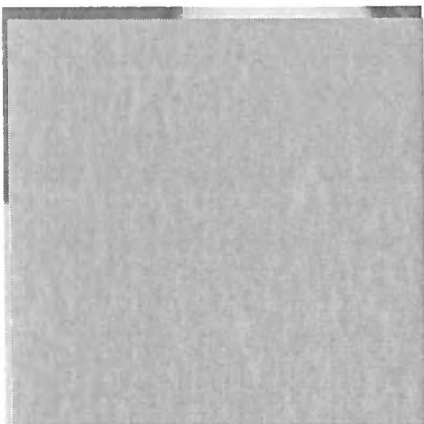
- [REDACTED]

- [REDACTED]

- [REDACTED]

Background notes

's Biography



Personal Data

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

AVMSD revision

Out of Scope

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[REDACTED]

Out of Scope

Status of legislative procedure

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

Online Platforms

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

3. [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED] **collaborative short-term rental accommodation services**
(DG GROW)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

The Copyright package

The Internet has changed the way in which copyrighted works are made accessible. A modern copyright framework needs to ensure that both the Internet users and copyright owners benefit from this dramatic change. The package aims to support cultural diversity, increase content available online and establish up to date and clear rules for all market players. The ultimate objective is a fair framework that delivers more in terms of access for users, opportunities for creators, competitiveness for the cultural and creative sector, and predictability for online players. We do not change the way consumers use and share content online.

We need to maintain a copyright environment in Europe that gives the incentives to invest in creative content. The revenues generated by creators, performers and those that invest in creative content are accruing disproportionately to a few large players who themselves do not engage in content creation. Over time, this risks leading to less

creation, less diversity, less quality and also the disappearance of the free press, which is a keystone of our democracy.

The proposals for a Directive on copyright in the Digital Single Market and for a Regulation on online transmissions and retransmissions of TV and radio programmes (adopted on 14 September 2016) provide concrete answers to all players along the value chain, from authors and performers to those that invest in creativity and to the citizens, who read, listen and watch Europe's creative output.

The copyright reform focuses on **three main objectives**:

1. More **cross-border access** for citizens to copyright-protected content online.
2. **Wider opportunities** to use copyrighted material for education, research, cultural heritage and disability (through so-called "exceptions").
3. **Fair rules of the game** for a better functioning copyright marketplace, which stimulates creation of high-quality content.

1. Cross-border access to content

A

Out of Scope

2. Exceptions

Out of Scope

3. A fair marketplace

Finally, we have provisions aimed at making the marketplace for copyright fairer and more transparent. These provisions stem from the principle that the investment of creators and creative industries has to be properly recognised and rewarded.

Introducing a new related right for **press publishers** for the use of their publications in digital environments will strengthen the bargaining position of publishers when they

negotiate the use of their content with online players. The proposal aims to help preserve the viability of an independent and high-quality press, which is critical for a pluralistic society and for democratic debate. Without such a right, which other creative industries already enjoy, the future of the European press would be at risk. The new right will not change the way consumers share and link to news online as they increasingly do on social media (no "Link Tax"!). We want the press industry to benefit from a fairer market place so that it can enjoy the best possible environment to develop innovative business models to continue offering quality content online, which is what consumers crave for.

Out of Scope

[REDACTED]

[REDACTED]

Personal Data

Contacts: [REDACTED] (CNECT.I1), tel.: [REDACTED]
(CNECT.F2), tel.: [REDACTED] (CNECT.I2), tel.: [REDACTED]

Meeting of Commissioner Gabriel with CEO Michael Mabe, International Association of STM Publishers
Scene setter

Michael Mabe represents the International Association of STM (scientific, technical and medical) publishers, an association of publishers active in the publication of scientific research results.

Copyright*Out of Scope*

The association of STM publishers is a vocal stakeholder in the field of copyright, in particular in the discussions about: (i) the **rights in publications** (rights for press publishers plus compensation for all kind of publishers – ‘Reprobel fix’) and (ii) [REDACTED]

[REDACTED]

[REDACTED]

STM contributed to the public consultation on the role of publishers in the copyright value chain, launched by the Commission in March 2016. STM advocated for the introduction on EU law of a new related right covering also scientific publishers. Mr Mabe furthermore participated in round table discussions with the publishing industry as regards a related right for publishers that Commissioner Oettinger hosted in the first half of 2016.

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

During the current mandate, two high level meetings between STM, represented by Michael Mabe, and the Commission regarding i.a. copyright have taken place. Mr Mabe met with VP Ansip on 8 February 2016 (Briefing CNECT/5552, topics discussed comprised [REDACTED]) and with DDG Claire Bury on 14 September 2016 (Briefing CNECT/5928, topics discussed notably: copyright package as whole, publishers' rights, TDM).

*Out of Scope***On the Database Directive***Out of Scope*

A [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Open Access to scientific research data

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

Objectives

Copyright

Out of Scope

- [REDACTED]
 - [REDACTED]
- [REDACTED]

Out of Scope

Open Access to scientific research data

- [REDACTED]
- [REDACTED]

Database Directive

Out of Scope

- [REDACTED]
- [REDACTED]

Line to take

Copyright

- The Commission has proposed two directives and two regulations for the modernisation of copyright rules across the EU in September 2016. In our proposals, we have identified the following main areas, where intervention is a priority in our view:

Out of Scope

- [REDACTED]

Out of Scope

- [REDACTED]
- Introducing **fairer rules of the game** for a better functioning copyright market place.

On a well-functioning market place: publishers' rights

- Regarding publishers' rights, the Commission proposes to intervene in two areas where problems have been identified.
- Firstly, the Commission proposes to introduce a new related right for press publishers, which will recognise the role press publishers play in investing in and creating quality journalistic content and give them a clearer legal framework to license their content for digital uses, protect it against piracy and explore innovative business models to eventually complete the transition to the digital environment.
- The Commission also proposes to intervene in order to allow Member States to provide the possibility for all publishers, including STM publishers, to claim a share of compensation stemming from exceptions. This proposal is flexible enough to allow existing systems of share of compensation between authors and publishers to keep functioning at national level.

On exceptions: TDM

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Open Access to scientific research data

Out of Scope

- [REDACTED]
- [REDACTED]

.....

1. The first step in the process of identifying a problem is to recognize that a problem exists. This involves gathering information about the situation and identifying the specific issue that needs to be addressed.

2. Once a problem has been identified, the next step is to define the problem clearly. This involves stating the problem in a concise and specific manner, identifying the scope of the problem, and determining the goals that need to be achieved.

3. The third step in the process is to generate potential solutions. This involves brainstorming ideas and considering different approaches to solving the problem. It is important to consider a wide range of options and to evaluate the potential benefits and drawbacks of each solution.

4. The fourth step is to select the best solution. This involves comparing the potential solutions and choosing the one that is most likely to be effective and feasible. It is important to consider the resources available and the time and effort required to implement each solution.

5. The final step in the process is to implement the chosen solution. This involves putting the solution into action and monitoring its progress. It is important to communicate the solution to all relevant parties and to ensure that everyone is working towards the same goal.

100

[illegible]

Out of Scope

[illegible]

Age group	Male (%)	Female (%)
18-24	~10	~10
25-34	~15	~15
35-44	~20	~20
45-54	~25	~25
55-64	~30	~30
65-74	~35	~35
75-84	~40	~40
85-94	~45	~45
95-104	~50	~50

- _____
- _____
- _____
- _____
- _____

Defensive points

Copyright

On publishers' rights

Why are STM publishers not holders of related rights in the Commission's proposal?

The Commission is aware of the important role and responsibility of scientific publishers in the investment and dissemination of STM publications.

The Commission's proposal on related rights is targeted to press publishers. It is in this area where the main problems regarding the licensing and enforcement of rights have been identified. Press publishers are today facing significant problems regarding the recoupment of investments in their press publications.

Although the transition to the digital environment is challenging for all sectors, the business models of STM publishers differ from the means of exploitation and reuse of news content by internet platforms, news aggregators and social networks.

On exceptions: TDM

Out of Scope

[illegible]

Out of Scope

[REDACTED]

[REDACTED]

Open Access to scientific research data

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On the Database Directive

Out of Scope

[REDACTED]

- [REDACTED]

[REDACTED]

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

Background notes

State of play of negotiations of the proposed Directive on Copyright in the DSM

[For details please see the note on the state of play produced by I.2. and sent to CAB on 3 November 2017]

European Parliament

In the European Parliament, Axel Voss (EPP/DE) is the rapporteur on the Directive. He will work notably on the basis of the EPP group general line, published on 5 July, which shows clear support for the Commission's proposal in particular regarding [REDACTED] and press publishers' rights. Mr Voss will need to take into account the high number of amendments tabled on the Directive in JURI (924 amendments) which reflect very divided views, in particular on [REDACTED], press publishers' rights [REDACTED]. The rapporteur will also have to consider the opinions of the associated committees (IMCO, CULT, ITRE, LIBE). All associated committees have now adopted their opinion except LIBE, where the vote previously planned for 5 October has been postponed without setting any concrete date (the opinion will only cover value gap).

Out of Scope

The vote in JURI has been postponed several times and is currently scheduled for January 2018.

Council

In the Council, the Estonian Presidency has issued on 30 October a revised compromise text covering the entire Directive. It has been discussed with Member States in the CWP of 6-7 November.

Out of Scope

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

Regarding press publishers' rights (article 11), the Presidency has decided to keep the two options that have already been discussed at CWP level for discussion at political level at a later stage.

Article 4(3)

[REDACTED]

The Estonian Presidency aims to bring a consolidated compromise text to Coreper by the end of the year.

State of play on the evaluation of the Database Directive

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

State of play on Open Access

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

Michael Mabe

technical and medical publishers, whether they be primary, secondary or new starts, large or small, commercial or not-for-profit.

Personal Data

Contacts:

██████████, CNECT.I.2, tel.: ██████████ (Copyright, CdF)

Personal data

██████████, CNECT.G1, tel.: ██████████ (Open Access to scientific research data)

██████████, CNECT.C1, tel.: ██████████ (State of play on Open Access)

Briefing @ CAB Gabriel/177

CAB GABRIEL MEETING WITH CHAIRMAN & CEO OF L'AGENCE FRANCE-PRESSE (AFP),
EMMANUEL HOOG

Scene setter and CV

Emmanuel Hoog

Personal data

He is **Chairman of Agence France-Presse (AFP)** since April 2010.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Agence France Press (AFP)

- AFP is a global **news agency** headquartered in Paris.
 - A news agency is an organization whose main business is to gather news reports and sell them to subscribing news organizations, such as newspapers, magazines and radio and television broadcasters (B2B Business).
 - According to **AFP charter**: "AFP's mission is to provide accurate, balanced and impartial coverage of news wherever and whenever it happens in the world on a continuous basis. Be it in text, photo, video, graphics or any other format, AFP's duty is to seek and publish the truth in an increasingly disrupted world of

information. As guaranteed by its founding statute, AFP speaks with an independent voice free of political, commercial or ideological influence."

- Founded in 1835, AFP is the **third largest news agency in the world**, after the Associated Press (AP) and Reuters.
- AFP's **201 bureaux** cover **151 countries** across the world, with 80 nationalities represented among its **2,296 collaborators**. The Agency operates regional hubs in **five geographical zones** (Nicosia, Montevideo, Hong Kong, Washington, D.C.)
- AFP covers all areas of information and transmits news in French, English, Arabic, Portuguese, Spanish, and German.
- **Some figures**: In 2016, AFP had a turnover of € 300,5 million, and 4827 customers throughout the world (74 % media, 26 % non-media). Per day, it represents 5000 stories, 3000 photos, 75 graphics and per year, 250 videos

Emmanuel Hoog (AFP)'s position on DG CNECT files

a) E-Privacy

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

b)

•

b) Copyright

Expected AFP's position on the proposal for a Directive on copyright – especially, on the "publisher's right" (article 11)

According to Article 11 of the Proposal, "*Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the digital use of their press publications*".

1° AFP is member of the European Alliance of News Agencies (EANA) that CONNECT 12 met on 18 January 2017. As confirmed by its position paper (in annex), AFP is expected to raise the same concerns and will in particular claim that they should also benefit from the protection granted by this Article 11.

- Press agencies main business is licensing media companies and others to use their content for publication on print and digital media outlet (B2B Business).
- Their concern is to finance and defend a sustainable production of unbiased, quality news journalism. Their business is declining and they consider that the press would not survive without them providing such content.
- For those reasons and since they consider that they are facing exactly the same challenges as press publishers, in particular, regarding the massive unauthorized use of their journalistic content by online intermediaries (social media, news aggregators), **they don't understand why they are kept away from the protection granted to article 11.**
- For them, it is crucial to equally have a related right allowing them to strengthen their position when negotiating and enforcing their right regarding **online intermediaries**. Moreover, they explained that when they license their content to media, they grant them non-transferrable licences. Therefore, they still keep the right to grant licences to news aggregators and social media.

AFP considers in addition that the neighbouring right should be administered by a **Collective Management Organisation (CMO)** in order to facilitate the collect and distribution of royalties amongst the multiple actors and ensure more balanced negotiations with online intermediaries.

In the Parliament, this extension of the protection to press agencies is supported by MEPs Mr. Cavada (ALDE) and Mr. Le Grip (EPP) who proposed the following amendment (art. 11 (1)): "*Member States shall provide publishers of press publications and press agencies with the rights (...)*".

This issue is also currently discussed **in France**. On 16 October 2017, Laurence Franceschini (Conseillère d'Etat) has been assigned the mission of defining better the scope of **the beneficiaries of the publisher's right**. They wonder in particular whether *press agencies* are covered by the protection provided for in Article 11. The report should be delivered to the Conseil Supérieur de la Propriété Littéraire et Artistique (CSPLA) by the 22 of December.

2° Furthermore, from the assumption that press agencies should benefit from the related right, Mr Hoog is expected to have a similar stance as the one of press publisher's main representatives, such as EPC, EMMA, ENPA, NME and the French SPQN in that respect.

- He should be supportive of the Commission's proposal in that respect (introduction of a related right on press publication) and therefore reluctant to accept alternatives, as the one discussed in the Council (presumption of entitlement regarding licensing and enforcement of rights in press publications), which press publishers see as insufficient.

Out of scope

- [REDACTED]

c) AVMSD

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

d) Fake News

Out of Scope

[REDACTED]

[REDACTED]

Objective:

Out of Scope

[REDACTED]

Line to take

a) E-privacy

Out of Scope

- [REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
[REDACTED]
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- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- 1) [REDACTED]

b) On copyright

On press publisher's rights

Regarding the beneficiaries of the neighbouring right

- The Commission recognises the challenges as well as the importance of press agencies in the press sector.

- We all share the same objective, which is to make sure that media can flourish in the future, for the benefit of the society, the right to information and media pluralism;
- The Commission has proposed to this end to introduce neighbouring rights in respect of digital uses of press publications.
- Under the terms of the Commission's proposal the beneficiaries of such rights are the "**publishers of press publications**" (Article 11 (1)). The notion of press publication is further defined in Article 2(4). **The protection is therefore neutral as regards who publishes the press publication.**
- As a result, when press agencies publish directly their own press publication (B2C), as defined in the proposal, they are **already covered** by Article 11 (and they would similarly be covered if the end result is a presumption).
- On the contrary, when press agencies do not publish directly the individual piece of news items but rather **sell them to news publishers** (B2B), in this case, as they are not having the same problems that we are trying to address in terms of better online licensing and enforcement of press publications, it is not clear why the Proposal should apply to them. In this case, they are not publishing the final product. As defined in the definition (Art. 2(4)), the press publication has indeed to be an individual item containing a collection of works (eg. different articles).

Regarding the state of play of the negotiation in the Council and the Parliament

- The Commission tabled ambitious and balanced proposals which aim to support cultural diversity, facilitate access and use of content in the digital environment and establish up-to-date and clearer rules for all market players.
- Our objective now is to ensure that the Directive keeps the level of ambition of our proposals when adopted and keep striking the right balance between the different interests at stake.
- Regarding the rights on press publications, the Commission is standing behind its proposal. We believe that granting publishers of press publication a neighbouring right is the most effective solution to ensure that the press sector is supported into its transition to the digital environment.
- We are working in close collaboration with the Parliament and the Council to make sure we achieve this objective, for the benefit of the EU citizens and the press sector.

c) On AVMSD

Out of Scope

Progress on the AVMSD file in general

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of Scope

On Advertising

[REDACTED]

[REDACTED]

Out of Scope

On Video-sharing platforms

- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]

In

Out of Scope

On independence of Regulators

1. [REDACTED]
 2. [REDACTED]
 3. [REDACTED]
 4. [REDACTED]
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 100. [REDACTED]

Out of Scope

On the scope of the Directive

1. The first step in the process of identifying a problem is to recognize that a problem exists. This involves gathering information about the situation and identifying the specific issue that needs to be addressed.

2. Once a problem has been identified, the next step is to define the problem clearly. This involves stating the problem in a concise and specific manner, identifying the scope of the problem, and determining the goals that need to be achieved.

3. The third step in the process is to generate potential solutions. This involves brainstorming ideas and considering different approaches to solving the problem. It is important to consider a wide range of options and to evaluate the potential benefits and drawbacks of each solution.

4. The fourth step is to select a solution. This involves evaluating the potential solutions and choosing the one that is most likely to be effective. This step may involve consulting with others and seeking their input.

5. The final step in the process is to implement the solution. This involves putting the chosen solution into action and monitoring its progress. It is important to evaluate the results of the solution and to make adjustments as needed.

Out of Scope

On media freedom and pluralism – Apart from AVMSD this can be also raised by AFP

-
- | Age Group | Percentage of Respondents |
|-----------|---------------------------|
| 18-29 | 85% |
| 30-49 | 80% |
| 50-64 | 75% |
| 65+ | 75% |

Out of Scope

- [REDACTED]

*Out of
Scope*

d) On Fake news

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

- [REDACTED]

Out of Scope

The role of the press

[REDACTED]

[REDACTED]

[REDACTED]

Empowering citizens

Out of Scope

[REDACTED]

[REDACTED]

Out of Scope

Importance of press and broadcasting in our approach

[REDACTED]

[REDACTED]

[REDACTED]

Propaganda and disinformation

[REDACTED]

Defensive points

a) On E-privacy

Out of Scope

[illegible]

Out of Scope

Why is the Commission centralising consent to the storage of cookies in the browser and why does the Commission make a distinction between first/third party cookies?

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

What about the OBA initiative? (Online Behavioural Advertisement self-regulatory framework – see scene setter for more info)

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Are cookie-walls allowed under the Proposal? (refusal of access to do the service when no consent is given to store cookies)

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of Scope

Out of Scope

- ### Out of Scope

Out of Scope

- ### Out of Scope

CAB Gabriel meeting CEO of AFP, Emmanuel Hoog

b) On Copyright

We know there are discussions in the Council regarding a presumption-based solution to replace the Commission's proposal on press publishers' rights. What is the Commission's view on this?

- The Commission has not changed its position. We believe that granting press publishers a neighbouring right is the most effective solution to ensure that the press sector is supported in its transition to the digital environment.
- Overall, in the current context of negotiations with the Council and the Parliament, our objective is to ensure that the Directive keeps the level of ambition of our proposals when adopted. In particular, we need to make sure that the Directive as eventually adopted provides a real value added to strengthen the copyright industries in the digital environment

Regarding the Commission's proposal on press publishers' rights, we also know there are ongoing discussions to clarify that the protection will only apply to extracts that meet the threshold of originality. What is the Commission's view on this clarification? Does it mean that the protection will not cover the snippets of press publications?

- With its proposal, the Commission's objective is to introduce a new category of related right holders - press publishers-. It does not aim at modifying the scope of what is already protected by copyright. This applies to the issue of hyperlinks but also to the snippets, as clarified in the recitals of the proposal.
- Regarding the "snippets" in particular, reproducing or making available fragments or short extracts of press articles which constitute the expression of an intellectual effort by the author, is already covered by copyright. The related rights granted to press publishers will not change that.

What is the Commission's view on making the exercise of the press publisher's rights subjected to a mandatory collective management?

- The Commission considers that a compulsory collective management of rights (which would be somewhat similar to the ES ancillary right) is a fundamentally different approach than the one proposed, which aims at providing for sufficient flexibility to improve situation in all contractual relationships.

By subjecting all digital exploitations of a press publications to compulsory management of right, such mechanism would indeed weaken the exclusive rights of publishers (and the underlying rights of authors) and would also have an impact on all the existing contracts that are individually negotiated with online service providers (other than Google, FB, etc.).

- Voluntary collective management could however still have a place, depending on arrangements at national level (ex.VG Media in DE).

What is the added value of the new related right for publishers of press publication?

- The new related right covering press publications will ensure that the organisational and economic contribution of publishers (such as newspaper and magazine publishers) is recognised and incentivised in EU law, as it is today the case for other creative sectors (film and phonogram producers, broadcasters). It will in particular provide these publishers with a substantial added value when it comes to licensing out their publications for online uses by third parties, something that is increasingly important for them in the digital environment.
- It will also allow press publishers to effectively act against illegal uses of press publications online, whereas today a court may ask a publisher to prove that it owns all the allegedly infringed rights (e.g. in one case reported by the publishing industry up to 22,000 contracts with journalists in order to file a lawsuit for the mass infringement of publishers' rights in DE).
- Overall we expect the new right to give publishers of press publications a clearer legal framework to test new business models in the digital environment to the ultimate advantage of the consumers. This is not only about news aggregators. For example, licensed multi-brand B2C services of the type of Netflix or Spotify are just starting to emerge in the publishing sector, with the Dutch company Blendle being the best known example at the moment; we expect the new right to help publishers developing further licence-based cooperation with innovative business models in the future.

c) On AVMSD

Out of Scope



Out of Scope

- [REDACTED]

- [REDACTED]

[REDACTED]

Out of Scope

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

Out of Scope

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

Out of Scope

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

d) On Fake news

[REDACTED]

Out of Scope

- T [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
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[REDACTED]
[REDACTED]

Background

a) Proposal for the ePrivacy Regulation

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OBA (online behavioural advertisement) self-regulatory initiative

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b) Copyright

Beneficiaries of the neighbouring right

Pursuant to **Article 11(1)** of the proposal for a Directive on copyright in the Digital Single Market: "*Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the digital use of their press publications*".

A press publication, means "a fixation of a collection of literary works of a journalistic nature, which may also comprise other works or subject-matter and constitutes an individual item within a periodical or regularly-updated publication under a single title, such as a newspaper or a general or special interest magazine, having the purpose of providing information related to news or other topics and published in any media under the initiative, editorial responsibility and control of a service provider". (Article 2 (4))

This provision has to be read together with **Recital 33** which set out that: "*for the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. (...)*"

State of play of the DSM Directive

In the European Parliament, Axel Voss (EPP/DE) is the rapporteur on the Directive. He will work notably on the basis of the EPP group general line, published on 5 July, which shows clear support for the Commission's proposal regarding TDM, press publishers' rights and value gap.

Mr Voss has just started the meetings with shadow rapporteurs. The vote in JURI has been postponed to 24-25 January 2018.

Out of Scope

In the Council, regarding the press publishers' rights (Article 11),

Article 4(3)

Out of Scope

Age Group	Percentage
18-24	100%
25-34	80%
35-44	60%
45-54	40%
55-64	20%
65-74	10%
75-84	5%
85+	2%

[REDACTED]

[REDACTED]

[REDACTED]

On Advertising:

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

On Media freedom and pluralism:

Out of Scope

EU legislative actions having an impact on media freedom and pluralism

- [illegible]

EU-funded projects in the field of media freedom and pluralism

Out of Scope

[illegible]

d) Fake news

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Personal Data

Contact:

- on Copyright: [REDACTED] (DG CNECT, I2), tel.: [REDACTED]
- on e-Privacy : [REDACTED] (DG CNECT, H1), tel.: [REDACTED]

² <https://youtu.be/wT6R4u5cLJs?t=14m36s>

- on AVMSD : [REDACTED] (DG CNECT, I1) tel.: [REDACTED] *Personal Data*
- on Fake News: [REDACTED] (Connect, I4), tel.: [REDACTED]

(CAB GABRIEL/170) - Meeting with Dr Kallen, CEO Hubert Burda Media

Scene setter and CV:

Hubert Burda Media is one of the largest publishers in Europe, employing more than 8,000 people across 12 countries. It is a privately held, family-owned company. Its portfolio of magazines includes over 300 titles, around 80 of which are published in Germany. The global annual revenues of the company exceed 2 billion euros. In 2015, launched TV Spielfilm, a platform offering viewers the possibility to watch over 50 TV channels as live-streams via PC, laptop, etc. the company owns magazines, websites (online magazines, search engine, electronic retailers, social network), TV (productions and shopping network) and radio broadcasters. In January 2017, Hubert Burda Media completed the acquisition of the Immediate Media group, taking ownership of over 60 titles, including Hitched.co.uk, an assortment of BBC titles (e.g. BBC Top Gear magazine) and Radio Times, the most profitable magazine in the UK.

Personal data

Dr. Paul-Bernhard Kallen has been serving as 's CEO since 2010. [REDACTED]

As press publishers, they are very supportive of the Commission's proposal to grant them rights related to **copyright**.

Out of
Scope

Commissioner Oettinger and Roberto Viola met Mr Kallen and [REDACTED] (Burda) on 28 November 2016.

personal
m data

Hubert Media's position on DG CNECT files:

a) On copyright:

- They are very supportive of the Commission's proposal regarding the introduction of a related right for press publishers. They are reluctant to accept alternatives, as the one discussed in the Council (presumption of entitlement regarding licensing and enforcement of rights in press publications), which they see as insufficient.

Out of Scope

- [REDACTED]
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[REDACTED]
[REDACTED]

Out of Scope

b) On the AVMSD:

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]

Out of Scope

c) On the Proposal for an ePrivacy Regulation:

- [REDACTED]
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c) On the data economy

Out of Scope

- [REDACTED]

Out of Scope

Objectives

- [REDACTED]
- [REDACTED]
- [REDACTED]

II. Speaking Points

Out of Scope

On copyright

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

On press publisher's rights

- The Commission's proposal is balanced and positive for press publishers. The ongoing negotiations in the Council and the Parliament have proven to be challenging, regarding some of the areas of interest to publishers (e.g. the publishers' right and TDM). Therefore, your support in the discussions remains important.
- Regarding the publishers' rights, the Commission is standing behind its proposal. We believe that granting press publishers a neighbouring right is the most effective solution to ensure that the press sector is supported into its transition to the digital environment.

On the TDM exception

Out of Scope

- [REDACTED]
- [REDACTED]

- [illegible]

On AVMSD

Out of Scope

- [illegible]

Commercial communications/advertising

Out of Scope

- [illegible]

Country of Origin principle

Out of Scope

- [illegible]

Out of Scope

Protection of minors

Out of Scope

- [REDACTED]
- [REDACTED]

European works

Out of Scope

- [REDACTED]
- [REDACTED]

Out of Scope

Financial contributions to be imposed on VoD providers established in another MS

- [REDACTED]

Out of Scope

Hate speech

- [REDACTED]
- [REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Out of Scope

Independence of Regulators

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

On the specificities of the German regulatory system:

Out of Scope

- [REDACTED]
[REDACTED]
[REDACTED]

Out of Scope

On media freedom and pluralism – Apart from AVMSD this can be also raised by BURDA

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

On ePrivacy

Out of Scope

- [REDACTED]
- [REDACTED]
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[REDACTED]

○ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Out of Scope

On the data economy:

• [REDACTED]

[REDACTED]

Meeting with Dr Kallen, CEO Hubert Burda Media
Brussels, 22 November 2017

- [REDACTED]
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[REDACTED]
[REDACTED]

DEFENSIVES

a) On Copyright

We know there are discussions in the Council regarding a presumption-based solution to replace the Commission's proposal on press publishers' rights. What is the Commission's view on this?

- The Commission has not changed its position. We believe that granting press publishers a neighbouring right is the most effective solution to ensure that the press sector is supported in its transition to the digital environment.
- Overall, in the current context of negotiations with the Council and the Parliament, our objective is to ensure that the Directive keeps the level of ambition of our proposals when adopted. In particular, we need to make sure that the Directive as eventually adopted provides a real value added to strengthen the copyright industries in the digital environment

Regarding the Commission's proposal on press publishers' rights, we also know there are ongoing discussions to clarify that the protection will only apply to extracts that meet the threshold of originality. What is the Commission's view on this clarification? Does it mean that the protection will not cover the snippets of press publications?

- With its proposal, the Commission's objective is to introduce a new category of related right holders - press publishers-. It does not aim at modifying the scope of what is already protected by copyright. This applies to the issue of hyperlinks but also to the snippets, as clarified in the recitals of the proposal.
- Regarding the "snippets" in particular, reproducing or making available fragments or short extracts of press articles which constitute the expression of an intellectual effort by the author, is already covered by copyright. The related rights granted to press publishers will not change that.

What will the Commission's position be if the Council and Parliament eventually propose the extension of scope of beneficiaries in the TDM exception?

- The exception - like any exception to copyright – needs to be balanced and proportionate to its objective of enhancing research in Europe while ensuring that rightholders' interests are respected and not affected where the market functions (this is currently the case notably as regards licences between publishers and life science companies). The Commission will defend that its proposal ensures a fair balance in that respect.

b) On AVMSD

Out of Scope

[illegible]

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

- [REDACTED]

c) On ePrivacy

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

• [REDACTED]

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[REDACTED]

[REDACTED] y.

[REDACTED]

Out of Scope

- [REDACTED]

[REDACTED]

[REDACTED]

- [illegible]

¹ we call direct marketing communications by email, SMS and phone calls already the more 'traditional' marketing means

- [REDACTED]

d) On the data economy

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

III. Background

Copyright – state of play of the DSM Directive

In the European Parliament, Axel Voss (EPP/DE) is the rapporteur on the Directive. He will work notably on the basis of the EPP group general line, published on 5 July, which shows clear support for the Commission's proposal regarding TDM, press publishers' rights and value gap.

Mr Voss has just started the meetings with shadow rapporteurs. The vote in JURI is scheduled for 20-21 November but it is likely to be postponed to December. [REDACTED]

Out of Scope

[REDACTED] The most difficult issues to address in JURI will be the value gap and the publishers' right (EPP in favour of the publishers' right and a [REDACTED] ECR in favour [REDACTED] but not of publishers' right, S&D and ALDE split, Greens and GUE against). [REDACTED]

In the Council, [REDACTED]

Article 4(3)

Background on AVMSD

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

On Advertising:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On Media freedom and pluralism:

[REDACTED]

Out of Scope

EU legislative actions having an impact on media freedom and pluralism

- [REDACTED]

[REDACTED]

EU-funded projects in the field of media freedom and pluralism

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Proposal for an ePrivacy Regulation

Out of Scope

[REDACTED]

Main measures of the Proposal:

Out of Scope

1) [REDACTED]

[REDACTED]

[REDACTED]

4) [REDACTED]

OBA (online behavioural advertisement) self-regulatory initiative

Out of Scope

[REDACTED]

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On the data economy

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

- [illegible]

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

Out of Scope

-
- | Age Group | Should Take Action (%) | Should Not Take Action (%) |
|-----------|------------------------|----------------------------|
| 18-29 | 85 | 15 |
| 30-49 | 85 | 15 |
| 50-69 | 85 | 15 |
| 70+ | 85 | 15 |

1. *Journal of the American Medical Association*, 2000; 283: 2689-2695.

- _____
- _____

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Out of Scope

Personal data

Contact(s): Copyright and CdF: [REDACTED] (CNECT, I2), tel.: [REDACTED] *Personal Data*

AVMSD: [REDACTED] (CNECT, I1), tel.: [REDACTED]

ePrivacy: [REDACTED] (CNECT, H1), tel.: [REDACTED]

Data economy: [REDACTED] (CNECT, G1), tel.: [REDACTED]

**Meeting Commissioner Gabriel with EFJ President Mogens Blicher Bjerregård –
CAB Gabriel Basis/188****Scene setter and CV**

Mr. Mogens Blicher Bjerregård (CV in Annex)



Personal data

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

EFJ

- The European Federation of Journalists (EFJ) is the largest organisation of journalists in Europe, representing over 320,000 journalists in 70 journalists' organisations across 44 countries. (headquarters in Brussels)
- The EFJ was created in 1994 within the framework of the International Federation of Journalists (IFJ) Constitution to represent the interests of journalists' unions and associations and their journalists.
- The EFJ fights for social and professional rights of journalists working in all sectors of the media across Europe through strong trade unions and associations. The EFJ promotes and defends the rights to freedom of expression and information as guaranteed by Article 10 of the European convention on human rights.
- The EFJ is recognised by the European Union and the Council of Europe as the representative voice of journalists in Europe. The EFJ is member of the Executive Committee of the European Trade Union Confederation (ETUC).

Other participants: see CVs in annex

- **Renate Schroeder**, Director of European Federation of Journalists since 2016.
- [REDACTED], Officer for authors' rights and head of Communication in the European Federation of Journalist. *personal data*

EFJ and Mr Mogens Blicher Bjerregård's position on DG CONNECT files

Out of Scope

I. Fake News

[REDACTED]

[REDACTED]

[REDACTED]

II. Media freedom and pluralism

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹ <https://ecpmf.eu/members>

² <https://mappingmediafreedom.org/#/>

[REDACTED]

III. Copyright

DG CONNECT met **EFJ** and **Mr Mogens Blicher Bjerregård** in their premises (with EU national journalist delegations) on 2 June 2017 and in our office on 20 September 2017.

As confirmed by their letter of 7 April 2017 (in annex), containing EFJ's official position regarding the Commission's Proposal on copyright in the Digital Single Market, EFJ is expected to raise the following concerns:

Out of Scope

- [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

- Regarding **Article 11** on the publisher's right

- They support the publisher's right, provided that authors get a share of any possible revenues. They propose turning the exclusive right (article 11) into a **remuneration right subject to a compulsory collective management** (shared 50-50% between publishers and authors) to

³ <https://europeanjournalists.org/blog/2016/12/21/media-against-hate-efj-launches-a-europe-wide-campaign-to-counter-hate-speech-in-the-media/>

ensure stronger negotiating power of authors/publishers vis-à-vis tech giants and an effective and fairer remuneration. In their view, "collective management is an equitable solution to ensure that the remuneration deriving from the exercise of the publishers' right is equally shared between authors and publishers".

- In their opinion, journalists' interests are not sufficiently reflected in the negotiation in EP and Council.

Art. 4(2)



- [Redacted line of text]

Out of Scope

- [Redacted list item]
- [Redacted list item]

Objective(s)

Out of Scope

I. Fake News

- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

II. Media pluralism and Freedom

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

III. Copyright

Out of Scope

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Line to take

Out of Scope

I. Fakes News

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- We therefore support initiatives to underpin quality journalism and media freedom and pluralism. In addition to the research projects I mentioned, there is an important elements in the proposed reform of the copyright regime, which seeks to create a new neighbouring right for publishers.

IV. Media freedom and pluralism

Out of Scope

a) In general

[illegible]

b) On collaboration with European Centre for Press and Media Freedom (ECPMF) and its future

Out of Scope

Age Group	Gender	Percentage Vaccinated
65 and older	Male	80%
65 and older	Female	80%
55-64	Male	70%
55-64	Female	70%
45-54	Male	60%
45-54	Female	60%
35-44	Male	50%
35-44	Female	50%
25-34	Male	40%
25-34	Female	40%
18-24	Male	10%
18-24	Female	10%

V. Copyright

a) On press publisher's rights

Regarding the state of play of the negotiation in the Council and the Parliament

- The Commission tabled ambitious and balanced proposals which aim to support cultural diversity, facilitate access and use of content in the digital environment and establish up-to-date and clearer rules for all market players.
- Our objective now is to ensure that the Directive keeps the level of ambition of our proposals when adopted and keep striking the right balance between the different interests at stake, including the journalists' ones.
- Regarding the rights in press publications, the Commission is standing behind its proposal. We believe that granting publishers of press publication a neighbouring right is the most effective solution to ensure that the press sector is supported into its transition to the digital environment.
- We expect that by facilitating the digital exploitation of press publications and making the enforcement of rights more efficient, the Commission's proposal will also have a positive impact on journalists and other authors working in the press sector.

Regarding a remuneration right subject to a compulsory collective management

- We recognise that journalists, as authors of contributions in press publications, are essential in the press sector, in providing reliable and quality journalistic content.
- We also understand the journalists' concerns in relation to the online re-use of their contributions by services other than publishers they have transferred the rights to, without getting any appropriate income in return.
- The Commission has proposed to introduce neighbouring (exclusive) rights in respect of digital uses of press publications, to guarantee notably that the press publishers' role in investing and disseminating quality journalistic content is sufficiently recognised and compensated.
- The proposal does not impose on press publishers an obligation to ask for payment or remuneration. It means that publishers will remain free to decide the conditions for the reuse of their content, according to their own business models.
- In that respect, the Commission considers that a compulsory collective management of the publishers' rights would be a fundamentally different approach than the one proposed, which aims at providing for sufficient flexibility to improve situation in all contractual relationships.
- Such approach would indeed weaken the exclusive rights of publishers (and underlying author's rights) and have an impact on all the existing contracts that are individually negotiated with service providers (other than Google, FB, etc.)
- We consider however that voluntary collective management of the publisher's right could still have a place, depending on arrangements at national level.

b) On Articles 14 to 16

- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

c) On the exceptions (teaching)

Out of Scope

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Defensive points

I. On Fake News

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

II. On Media Freedom and pluralism

[REDACTED]

Out of Scope

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

III. On copyright

On the publisher's right

What is the Commission's view on making the exercise of the press publisher's rights subjected to a mandatory collective management?

- The Commission considers that a compulsory collective management of rights (which would be somewhat similar to the ES ancillary right) is a fundamentally different approach than the one proposed, which aims at providing for sufficient flexibility to improve situation in all contractual relationships.

By subjecting all digital exploitations of a press publications to compulsory management of right, such mechanism would indeed weaken the exclusive rights of publishers (and the underlying rights of authors) and would also have an impact on all the existing contracts that are individually negotiated with online service providers (other than Google, FB, etc.).

- Voluntary collective management could however still have a place, depending on arrangements at national level (ex.VG Media in DE).

We know there are discussions in the Council regarding a presumption-based solution to replace the Commission's proposal on press publishers' rights. What is the Commission's view on this?

- The Commission has not changed its position. We believe that granting press publishers a neighbouring right is the most effective solution to ensure that the press sector is supported in its transition to the digital environment.
- Overall, in the current context of negotiations with the Council and the Parliament, our objective is to ensure that the Directive keeps the level of ambition of our proposals when adopted. In particular, we need to make sure that the Directive as eventually adopted provides a real value added to strengthen the copyright industries in the digital environment.

What will be the effect of the publisher's right on authors (such as journalists)?

- It is important to recall that the relationship authors-publishers will remain untouched. Press publishers will still need to acquire authors' authorisation to publish their contributions in a newspaper or a magazine, as they do today.
- Article 11(2) also makes sure that the new right does not affect the right of the authors to exploit their works independently from the press publication in which they are incorporated.

On Transparency

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

Out of Scope

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

Out of Scope

On Out of Commerce

[REDACTED]

- [REDACTED]

- [REDACTED]

Background

Out of Scope

I. On Fake News

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

II. On Media pluralism and freedom

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

III. On copyright

State of play of the negotiation of the DSM Directive

Out of Scope

In general

[REDACTED]

[REDACTED]

On the publisher's right (Article 11):

In the European Parliament, Axel Voss (EPP/DE) will work notably on the basis of the EPP group general line, published on 5 July, which shows clear support for [REDACTED] press publishers' rights [REDACTED]. The most difficult issues to address in **JURI** will be [REDACTED] the publishers'

*out of
scope*

Article 4(3)

The opinions published the three associated committees (**IMCO**, **CULT**, **ITRE**) mainly support the Commission's proposal. Regarding journalists, in the **CULT opinion**, a new provision is added under Article 11 allowing MS to provide that a fair share of revenue derived from the use of press publishers' rights is attributed to journalists. In the **ITRE opinion**, "Member States should ensure that a fair share of remuneration, derived from the use of the press publishers right, is attributed to journalists, authors and other rightholders.

In the Council, regarding the press publishers' rights (Article 11), [REDACTED]

Article 4(3)

On transparency (Articles 14 and 15):

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On the exceptions (teaching, preservation) and out of commerce

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

recently).

Contact(s):

- Fake news: [REDACTED] (DG Connect I4), tel.: [REDACTED] Personal data
- Media Pluralism: [REDACTED] (DG Connect I1), tel.: [REDACTED]
- Copyright: [REDACTED] (DG Connect I2), tel.: [REDACTED]

Meeting with Chairman of EPC, Mr Van Thillo (De Persgroep)

Scene setter

Christian Van Thillo is CEO of *De Persgroep* and, since November 2014, chairman of EPC (CV – see background). Mr Van Thillo chaired the EU Media Futures Forum, organised at the request of Commissioner Neelie Kroes in 2012. The Forum produced 8 recommendations including the modernisation of EU copyright rules, better access to content across Europe, better reward to creators, the alignment of on-line and off-line VAT rates, etc. (see background).

Media company **De Persgroep** offers news media, magazines, television, radio, online services and telecom on the international, national and local levels. It has over 5,000 employees working in the Netherlands, Belgium and Denmark. The group is composed of De Persgroep Nederland, De Persgroep Publishing, Mediahuis, Qmusic, Mediahuis and Berlingske Media.

The **European Publisher Council** (EPC), founded in 1991, is a high-level group of Chairmen and CEOs of leading European media corporations. Members are the most senior representatives of European newspaper and magazine publishers. Their companies are involved in multimedia markets, including newspaper, magazine, book, journal, internet, online database publishers, as well as radio and TV broadcasters.

EPC's position on Copyright

- Regarding the current legislative process on copyright, EPC is mainly concerned by evolution of the discussions in the Parliament and Council on the Commission's proposal on **press publisher's rights**. [REDACTED]

Article 4(2)

- In the Council, two options amending the proposal have been put forward by the Estonian Presidency. **Option A** is based on the Commission's proposal but includes a clarification so that extracts of press publications are protected provided that they are the expression of the intellectual creation of their authors;

Article 4(2)

- Option B** provides press publishers with a presumption of entitlement to license and enforce the rights in press publications.

Article 4(2)

- EPC will ask the Commission to keep strongly defending the press publisher's rights.

- [REDACTED]

Proposal for the Regulation on Privacy in Electronic Communications (ePrivacy) *Out of Scope*

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

Copyright: *On the Directive on copyright in the DSM*

Out of Scope

- The Commission's proposal is balanced and positive for press publishers. Discussions in the Council and the Parliament are in progress and are proving to be very difficult regarding some of the areas of interest to publishers (e.g. the publishers' right [REDACTED]). Therefore, EPC's support in the discussions will be important.

¹ See the full statement by EPC at: <http://epceurope.eu/europes-leading-publishers-regret-the-snap-outcome-of-the-e-privacy-regulation-in-the-european-parliament/>

- Regarding **the press publisher's rights**, the Commission keeps defending its proposal to grant exclusive rights to press publishers, which we believe is the best solution to solve the identified problems. We are in parallel analysing whether presumption-based solutions (such as in the so-called Option B of the Estonian Presidency draft proposal) address all the problems faced by press publishers in the digital environment, in term of both licensing and enforcement. We count on your support to better understand the pros and cons of all the options currently on the table.

Out of Scope

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

Out of Scope

[REDACTED]

[REDACTED]

ePrivacy

Out of Scope

- 1) [REDACTED]

Meeting with Chairman of EPC, Mr Van Thillo (De Persgroep)

3) [REDACTED]

Out of Scope

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] S
- We have received confidential evidence from the EPC, for which we are grateful and are analysis.
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Intermediary liability

Out of Scope

- [REDACTED]
- [REDACTED]

Background on intermediary liability:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

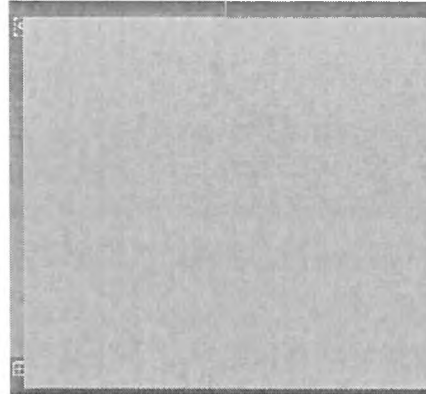
BACKGROUND

Personal data

a) Christian Van Thillo [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

b) State of play of the Copyright Directive

Out of scope

In the Council: the Estonian Presidency [REDACTED] [REDACTED] [REDACTED] [REDACTED]. This compromise text has been partially discussed with Member States in the CWP of 6-7 November (except the Article on publishers' right where two options have been maintained for discussions at political level). Discussions will continue on 23 November and 4-5 December. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

In the EP, the rapporteur in JURI Mr Voss (EPP/DE) has just started the meetings with shadow rapporteurs. The vote has recently been postponed to 24-25 January.

Out of Scope

[REDACTED]

Out of Scope

c) Final report of the EU Media Futures forum (chaired by Christian Van Thillo)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

Out of Scope

e) State of play of the legislative process regarding the proposal for the ePrivacy Regulation *Out of Scope*

[REDACTED]

[REDACTED]

[REDACTED]

f) OBA self-regulatory initiative

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Personal data

Contact: [REDACTED] (DG CNECT, H1), tel. [REDACTED], DG
CONNECT I.2., tel. [REDACTED] (DG CNECT), tel.: [REDACTED]