



The European Copyright review

ADEPA virtual debate
4 August 2020

The EU Copyright review: background

- Why did we need an EU-wide Copyright review?
- What had to change?

Challenges

- Powerful tech lobby with increasing resources in Brussels
- “Link tax” narrative
- Terms of protection
- Strong resistance from NL and IE, home to many tech companies
- Populist governments supported “a free internet”
- Building a coalition with journalist associations

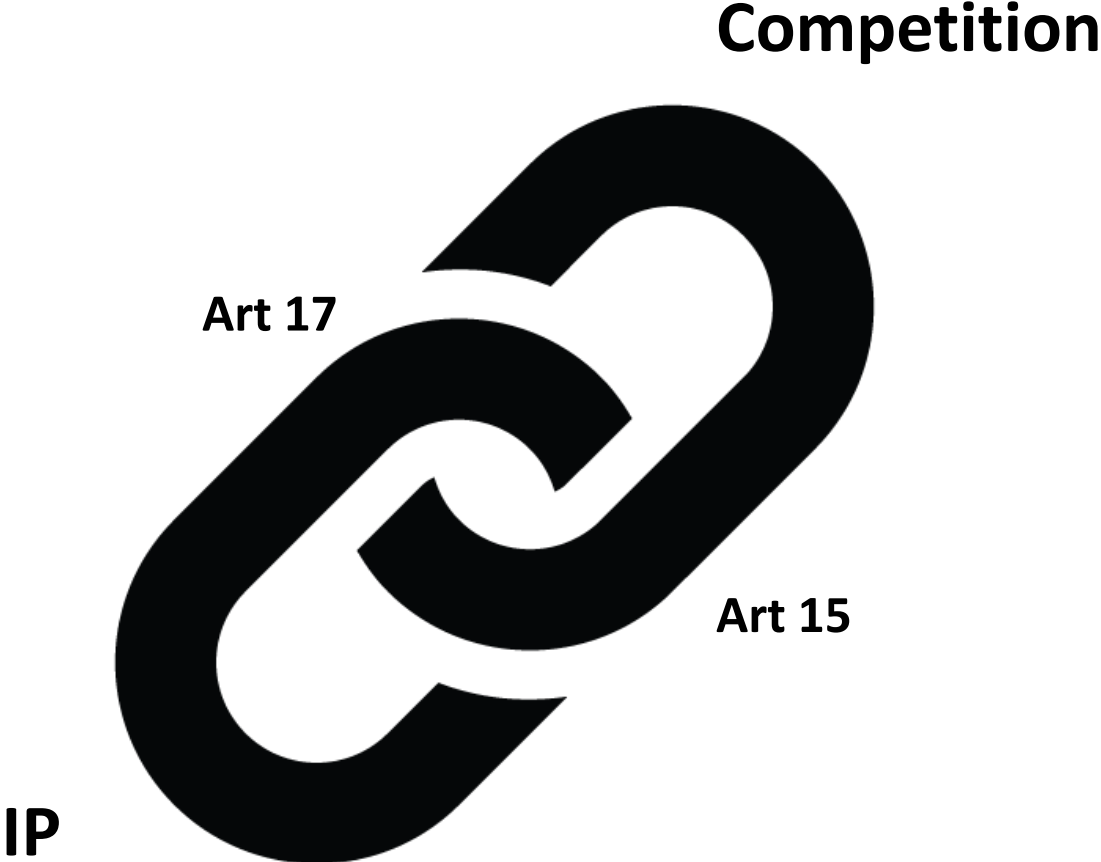
Outcome: the press publisher right (Article 15)

- Principle: Press publishers are recognised as rightsholders in the online world
- Concretely: exclusivity or monetisation of the use of press content by online platforms (e.g. news aggregators, search engines)
- Exclusions: 1) private or non-commercial uses 2) hyperlinks 2) very short extracts or individual words

Outcome: the value gap provision (Article 17)

- Principle: OCSSPs must seek authorisation to rightsholders for copyrighted content uploaded by users on their platforms.
- Remuneration channel: licenses cover UGC when users share news content on social media channels, private groups, etc.
- Anti-piracy solution: to block illegal distribution, e.g. Telegram cases in Italy and Spain
- But politically sensitive issue due to the debate on fundamental rights (e.g. freedom of expression and access to information) and monitoring/blocking technologies

The relation between Copyright and Competition



The relation between Copyright and Competition: the French case

- French press publishers right transposition law was adopted in July 2019 and came into force in October
- Google announced a change of settings obliging press publisher to opt in for visibility and to grant what amounts to a free license
- French Competition Authority's preliminary ruling of 9 April 2020: ordered good faith negotiations, open the data box and make remuneration proposal
- Impact of the decision
- Google's strategy: appeal and conclude bilateral agreements



The relation between Copyright and Competition: Google's strategy

- The Google Licensing Programme: bilateral agreements with the main media groups
- Appeals French preliminary ruling: saving time in judicial proceedings
- Divide and conquer approach and risk of a race to the bottom

The administration of the PPR going forward

- While pressure from Google is mounting, press publishers must quickly figure out their licensing/business strategy
- NME commissioned a competition feasibility analysis to address two important issues:
 - a) Preliminary question: The “*how*” - How can our members discuss the implementation of the PPR within the limits of competition law?
 - b) Main question: The “*what*” - What are the best courses of action or structures to administer the new PPR online?



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PRESS RELEASE

Facing digital giants, French and German press publishers unite to enforce their neighbouring right

French and German press publishers are setting up a new licensing company to jointly negotiate and enforce payment of revenues for the online uses of the neighbouring rights granted by the European Copyright Directive.

A year ago France was the first country to transpose the 2019 Directive on copyright and related rights in the Digital Single Market (Copyright Directive) with the statute of 24 July 2019. This granted press publishers a specific right to license their publications through digital platforms. The aim is to ensure remuneration from digital platforms for their use of press publications and that press publishers get a fair share of the value created.



THANK YOU

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