

6 September 2019

Bundesministerium der Justiz und für Verbraucherschutz  
Mohrenstraße 37  
10117 Berlin  
Germany

Dear Madam Minister,

We, the undersigned organizations representing news publishers in Europe and in the United States, are writing to you with regards to the public consultation on the implementation of the European Union Copyright Directive, DSM-RL (EU) 2019/790, in Germany. We all share an interest in ensuring that the Publishers' Right created by Article 15 of the Directive benefits all shareholders equally, regardless of their place of establishment.

Article 15 of the final Directive requires Member States to “*provide publishers of press publications established in a Member State with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the online use of their press publications by information society service providers.*” While Recital 32 of the Council’s negotiating draft noted that the right “should **only** benefit” publishers established in the EU, the word “**only**” was removed from the corresponding recital in the final Directive (Recital 55). We believe that the Directive therefore sets only the floor, not the ceiling for the scope of beneficiaries, allowing Member States to expand the protections created by Article 15 to non-EU publishers during the transposition process.

Including non-EU publishers in the scope of the protection would benefit all publishers, including those based in the EU. Absent language extending the right to all publishers, online platforms who are required to obtain a license from European publishers would be incentivized to use and carry content from non-EU publishers while not obtaining licenses from European publishers. This would lead to an uneven playing field, where European publishers are forced to agree to unfair license terms or to free licenses in order to compete with non-European publishers in the EU digital marketplace.

Free and thriving press is a fundamental cornerstone of a healthy civic society, and the Copyright Directive marks a major step forward in protecting high-quality journalism in Europe. It is now up to the Member States to make sure the Directive achieves its goals, without unintended negative consequences. It is for these reasons that we strongly encourage the German Government to transpose Article 15 of the Copyright Directive so that it benefits news publishers globally, regardless of their place of establishment.

Sincerely,

