

The Consumer Voice in Europe

THE ROLE OF PUBLISHERS IN THE COPYRIGHT VALUE CHAIN

BEUC response to public consultation



Contact: Agustin Reyna - digital@beuc.eu

BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND
Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • www.twitter.com/beuc • consumers@beuc.eu • www.beuc.eu
EC register for interest representatives: identification number 9505781573-45



Co-funded by the European Union

Ref: BEUC-X-2016-065 - 30/06/2016

Why it matters to consumers

One of the biggest benefits brought by the internet to consumers is the possibility to access content via multiple online channels. Tools like news aggregators and open access portals allow consumers to access knowledge and compare news and opinions. An EU publishers' right could change that ecosystem if publishers are allowed to further restrict the accessibility to content by imposing new licensing obligations on all online platforms. This could be particularly problematic for publicly-funded research results published in scientific journals. Although there is a need to invest in quality content distributed online, copyright law should not be used as means to restrict access and fair use of creative content by consumers.

Summary

BEUC considers that there is no sufficient evidence to justify the introduction of a new right for publishers in the copyright framework. On the contrary, there are many open questions about how this right would work in practice and what impact it would have on consumers in the medium and long term.

In this regard, the European Commission should carefully assess the consumer dimension of a new neighbouring right for publishers by looking into the impact of such a right on:

- Availability of distribution channels, being news aggregators or open access portals
- Findability of content and accessibility, including the impact on pricing models for content aggregators
- Investment in quality content and remuneration for authors
- Freedom of expression and media pluralism

In our response to the public consultation we invite the European Commission to look at these elements and provide robust evidence before deciding on the introduction of a new publishers' right at EU level.

1. General remarks

BEUC considers that it is not possible to predict the impact of the creation of a neighbouring right covering publishers in all sectors. It is unclear what would be the benefits or disadvantages that consumers will face with the creation of such a right. However, based on previous experience in Italy, Spain and Belgium the impact on consumers could be negative if such a right is introduced at EU level.

The questions of the European Commission's consultation should rather seek to define the problems that need to be tackled in the publishing sector in order to identify the appropriate policy response.

As expressed in an [open letter](#) to the European Commission with other stakeholders, BEUC is concerned about measures restricting the enjoyment of internet freedoms by consumers. Therefore, BEUC will oppose to any measures that could jeopardise the ability to link and share content by consumers.

However, we understand that the European Commission's intention is not to undermine those freedoms but rather look at the creation of a neighbouring right for publishers. Thus, in our response to the consultation we focus on the practical impact that such a right could have on the consumer experience when accessing content online.

In any event, the European Commission must assess the feasibility of a neighbouring right for publishers against the EU Charter of Fundamental Rights and the international commitments of the European Union in the field of Intellectual Property Rights.

Against this background, BEUC recommends to the European Commission that in order to better ascertain the potential impact a neighbouring right covering publishers in all sectors would have on consumers, it should look into the Impact Assessment at the following elements:

First, in what regards prices, we are concerned that an EU publishers' right could have an impact on the price of devices allowing the reproduction of works as a consequence of the compensation right publishers will have for private copying. This debate is however not only relevant to a publishers' right but also to existing national models of compensation by means of private copying levies. In this regard, further research is needed about how levies are reflected in the prices of recording devices.

Second, concerning the exceptions under the Copyright Directive, it is important to understand whether there would be any repercussion on the existing user's exceptions under copyright law (i.e. private copying, quotation, etc.).

More specifically, regarding scientific journal publishers, we would like to stress the importance of maintaining the accessibility of scientific works after publication for consumers. Therefore, particular attention should be given to the question of what would be the impact if an EU publishers' right is extended to publishers of scientific journals concerning:

- Availability of research results after publication: would the author or the research institution be able after x period of time from the publication to make it available by other means?
- Open Access portals: what would be the impact of a publishers' right on open access websites?
- Quality: how would these new remuneration and compensation rights allocated to publishers of scientific journals be justified in terms of quality output of the articles they publish when the investment for the scientific publications often come from research centres and universities?

2. A neighbouring right for news publishers?

In what regards the creation of a neighbouring right limited to press publishers, we would like to underline that a similar right has already been established in Germany and Spain. In both cases, the impact on consumers was rather negative.

For this reason, it is of paramount importance that the European Commission takes into account the following elements when assessing the consumer impact of such a right:

- **Availability of news aggregators:** Would an EU publishers' right have an impact in terms of the availability of news services to consumers? Will it create barriers to the creation of news services or the growth/viability of small and medium sized service providers? Would an EU publishers' right create obstacles in terms of consumer access to existing services?
- **'Findability' of news:** One of the benefits of news aggregators is the possibility for consumers to find the relevant news (e.g. of the day or as a result of search parameters) centralised one place by means of snippets. If an EU publishers' right is meant to be introduced, could this have an impact on the numbers of sources that are now made available through the aggregators? This point is also important in relation to the eventual impact on media pluralism.
- **Quality of content:** One of the arguments in favour of the introduction of an EU publishers' right is the stimulation of content production. Under this point, we would encourage the European Commission to look at the link between the EU publishers' right and the authors' remuneration.
- **Media pluralism:** another benefit of news aggregators is given by the possibility of the consumer to check and compare different sources for news. If an EU publishers' right is introduced, all publishers would have to negotiate licenses which could lead to big publishers positioning their content more prominently in detriment of smaller players. This could cause a drop in the internet traffic towards the latter pushing them eventually outside the market.



This publication is part of an activity which has received funding under an operating grant from the European Union's Consumer Programme (2014-2020).

The content of this publication represents the views of the author only and it is his/her sole responsibility; it cannot be considered to reflect the views of the European Commission and/or the Consumers, Health, Agriculture and Food Executive Agency or any other body of the European Union. The European Commission and the Agency do not accept any responsibility for use that may be made of the information it contains.