



2016/0280(COD)

16.5.2017

# **EPP Alternative COMPROMISE AMENDMENT on Publisher's Right**

**Draft opinion**  
**Catherine Stihler**  
(PE599.682v01-00)

Copyright in the Digital Single Market

Proposal for a directive  
(COM(2016)0593 – C8-0383/2016 – 2016/0280(COD))

**Proposal for a directive**  
**Recital 31**

*Text proposed by the Commission*

***(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.***

RAPPOREUR  
CA 24 (replacing  
AMs: 170, 171,  
172)

***Deleted***

***EPP Alternative Comp AM  
(covering AMs 174, 175, 176)***

***(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications have invested heavily in digitalizing their content and yet are facing problems in licensing the online use of their publications and recouping their investments. Digital platforms such as new aggregators and search engines have developed their activities based on the investment by press publishers in the creation of content without contributing to its development. This poses a severe threat to the employment and fair remuneration of journalists and the future of media pluralism. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.***

Or. en

**Proposal for a directive**  
**Recital 32**

*Text proposed by the Commission*

***(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing***

PE604.530v01-00

RAPPOREUR  
CA 25 (replacing  
AMs: 20, 177,  
178,179, 180,  
181)

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***EPP Alternative Comp AM  
(covering AMs 182, 183)***

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*industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.*

industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of *print and* digital uses.

Or. en

**Proposal for a directive**  
**Recital 33**

*Text proposed by the Commission*

RAPPORTEUR  
CA 26 (replacing  
AMs: 21, 184,  
185, 186, 187,  
188)

**EPP Alternative Comp AM  
(covering AMs 189, 190, 191,  
192, 193)**

*(33) 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. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.*

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(33) 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. ***This protection should not extend to individual words or acts of a computation referencing or indexing system such as hyperlinking, but should cover extracts from texts if the latter contain the key information which was to be conveyed by means of publication and thus do away with any incentive to click further to the source of the publication.*** Periodical publications which are published for scientific or academic purposes, such as scientific journals, should ~~not~~ be covered by the protection granted to press publications under this Directive. ***This protection does not extend to acts of hyperlinking which do not constitute communication to***

**Proposal for a directive**  
**Recital 34**

*Text proposed by the  
Commission*

*RAPPORTEUR  
CA 27 (replacing  
AMs: 22, 194,  
195, 196, 197,  
198, 199, 200)*

**EPP Alternative Comp AM  
(covering AMs 201, 202, 203, 204)**

*(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.*

*Deleted*

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ~~insofar as digital uses are concerned~~ **and as the rental and lending right and the distribution right provided for in Directive 2006/115/EC. Short extracts of press publications may constitute a reproduction as they reflect an economic value and owe their fixation to the protected subject matter, i.e. the economic, organisational and editorial efforts of the press publisher necessary for such fixation and therefore interfere with the publisher's entrepreneurial efforts. The rights** should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive. **The protection granted to press publications under this Directive should also apply where the content is automatically generated by news aggregators or search engines.**

**Proposal for a directive**  
**Recital 35**

*Text proposed by the Commission*

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

*RAPPORTEUR*  
*CA*

No proposal

***EPP Alternative Comp AM***  
***(covering AM 209)***

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Or. en

**Proposal for a directive**  
**Recital 36**

*Text proposed by the Commission*

(36) Publishers, including those of press publications, books or scientific publications, often operate on the basis of the transfer of authors' rights by means of contractual agreements or statutory provisions. In this context, publishers make an investment with a view to the exploitation of the works contained in their publications and may in some instances be deprived of revenues where such works are used under

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exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should **be allowed to** determine that, when an author has transferred or licensed his rights to a publisher or otherwise contributes with his works to a publication and there are systems in place to compensate for the harm caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed what is required under the system in place.

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Or. en

**Proposal for a directive**  
**Article 11**

*Text proposed by the Commission*

*RAPPORTEUR*  
*CA 39 (replacing*  
*AMs: 61, 419,*  
*420, 421, 422,*  
*423, 424, 425)*

*EPP Alternative Comp AM*  
*(covering AMs 427, 428, 431,*  
*432, 433, 434, 435, 442, 443, 444,*  
*445, 506?)*

***Protection of press publications***  
***concerning digital uses***

***Deleted***

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***1. 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. 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 as well as Articles 3 and 9 of Directive 2006/115/EG for the digital use of their press publications.***

***1a. The protection afforded to publishers of press publications by the rights referred to in paragraph 1 shall not cover individual words or hyperlinks to works available on another website, where such links only contain information necessary to find and, or request the source's contents.***

***2. The rights referred to in paragraph 1 shall leave intact***

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*and shall in no way affect any rights provided for in Union law to authors and other rightholders, in respect of the works and other subject-matter incorporated in a press publication. Such rights may not be invoked against those authors and other rightholders and, in particular, may not deprive them of their right to exploit their works and other subject-matter independently from the press publication in which they are incorporated.*

**3.** *Articles 5 to 8 of Directive 2001/29/EC and Directive 2012/28/EU shall apply mutatis mutandis in respect of the rights referred to in paragraph 1.*

**4.** *The rights referred to in paragraph 1 shall expire 20 years after the publication of the press publication. This term shall be calculated from the first day of January of the year following the date of publication.*

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**3.** Articles 5 to 8 of Directive 2001/29/EC and Directive 2012/28/EU shall apply *mutatis mutandis* in respect of the rights referred to in paragraph 1.

**4.** The rights referred to in paragraph 1 shall expire ~~20~~ 50 years after the publication of the press publication. This term shall be calculated from the first day of January of the year following the date of publication.

**4a.** *The authors and other rightholders of the works and other protected subject matter contained in a press publication shall be have an appropriate share of the remuneration for the exploitation of the press publication.*

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*RAPPORTEUR*  
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No proposal

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exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should **be allowed to** determine that, when an author has transferred or licensed his rights to a publisher or otherwise contributes with his works to a publication and there are systems in place to compensate for the harm caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed what is required under the system in place.

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*420, 421, 422,*  
*423, 424, 425)*

*EPP Alternative Comp AM*  
*(covering AMs 427, 428, 431,*  
*432, 433, 434, 435, 442, 443, 444,*  
*445, 506?)*

***Protection of press publications***  
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***1. 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.***

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***1a. The protection afforded to publishers of press publications by the rights referred to in paragraph 1 shall not cover individual words or hyperlinks to works available on another website, where such links only contain information necessary to find and, or request the source's contents.***

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**3.** *Articles 5 to 8 of Directive 2001/29/EC and Directive 2012/28/EU shall apply mutatis mutandis in respect of the rights referred to in paragraph 1.*

**4.** *The rights referred to in paragraph 1 shall expire 20 years after the publication of the press publication. This term shall be calculated from the first day of January of the year following the date of publication.*

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