



Rue des Pierres 29 bte 8, 1000 Bruxelles, Belgique
Tel 32 (0)2 551 01 90
Fax 32 (0)2 551 01 99
www.enpa.be

**Submission of the European Newspaper Publishers' Association –
ENPA**

Public Consultation on Content Online in the Single Market

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Executive Summary

- ENPA – the European Newspaper Publishers’ Association - welcomes the Commission’s consultation on content online which aims at promoting and removing barriers to competitiveness of European cultural content in the digital environment.
- Today, more than 2500 newspapers are available online in Europe and they offer a wide variety of services. They attract a considerable number of visitors on daily basis and are the most visited sites and the most trusted sources of information. Printed and online newspapers have a complementary role and there is no substitution from one media to another. Online newspapers are evolving toward multimedia and interactive sites allowing EU citizens to participate more than ever to democratic debate.
- ENPA would like to draw the Commission’s attention on three particular challenges that newspapers are facing in the digital environment:

Copyright and employment: For enabling users to access to newspapers’ content in various services and on different digital platforms, publishers as employers should be entitled to exercise employed journalists’ economic rights on copyrighted works without difficulties. Existing legislation in some Member States such as in the UK should be promoted as best practice model in Europe.

VAT on newspapers: Taxation of newspapers’ content is considered as an obstacle to press freedom and newspapers’ development. ENPA strongly supports the possibility for Member States to apply zero, super-reduced or reduced VAT rates on printed and online newspapers.

Interference with freedom of the press and newspapers’ content: The content online initiative should not open the door to new EU legislation that could restrict press freedom or interfere on newspapers’ content, whether in their printed or online versions. Ethical rules and self-regulation established by the profession itself and free from any government or EU intervention is the best guarantee for this fundamental right.

ENPA detailed responses to questionnaire

Types of creative content and services online

1. Do you offer creative content or services also online? If so, what kind of content or services? Are these content and services substantially different from creative content and services you offer offline (length, format, etc.)?

ENPA – the European Newspaper Publishers' Association – represents both printed and online newspapers. ENPA is a non-profit organisation of 5100 titles from 24 European countries (plus one observer member), representing the interests of newspaper publishers to the European Institutions. More than 120 million copies of newspapers are sold each day and read by over 235 million people in Europe. Newspapers online have a significant number of unique visits on their sites on daily basis.

In addition to the daily edition of the printed newspaper, publishers also offer other commercial services based on their quality content: press clipping services, archives, news alerts, blogs, short clips, classified ads, job announces, public sector information, financial information and data, listed companies' information, games, commercial promotions etc

Articles, photos and all other added value services published on the printed version of newspaper are available digitally and accessible in various forms.

For instance, the user can receive the same products as for the newspaper paper version on a pdf format. The newspaper content can also be individually accessible in archives, press clippings, databases etc. News alerts such as RSS feeds may be offered differently as they are shorter than newspaper's articles.

Tomorrow, newsrooms will be centred on multimedia operations, serving different types of media channels and outlets. Print newspapers will be published alongside an online version which will change all the time as stories and news items develop.

Consumption, creation and diversity of online content

3. Do you think the present environment (legal, technical, business, etc.) is conducive to developing trust in and take-up of new creative content services online? If not, what are your concerns: Insufficient reliability / security of the network? Insufficient speed of the networks? Fears for your privacy? Fears of a violation of protected content? Unreliable payment systems? Complicated price systems? Lack of interoperability between devices? Insufficient harmonisation in the Single Market? Etc.

Although publishers have been able to develop online newspapers with high quality standards and establish new services, they still face important challenges which could slow down or even prevent newspapers' competitiveness in the online media landscape if no solutions are provided:

- Exercise of economic rights by the publishers as an employer:

In most EU Member States, except in Ireland, UK and the Netherlands, publishers are not able to reuse employed journalists' content of the paper version in the online version without legal challenges.

In many countries, publishers need to negotiate with employed journalists in order to be able to publish articles online that have been published on the printed newspaper.

In a fast moving information society and a strong competition among the different media, publishers must be able to respond to users' demands for online content without going through difficult negotiation processes. In any other field of industry, it would be unimaginable to re-negotiate with companies own employees in order to use the fruits of their labour. This is thus reality in many publishing companies.

For these reasons, publishers should be entitled to fully exercise employed journalists' works' economic rights in order to meet the demands of the users and to remain competitive on the media market.

ENPA recommendation: in those countries which do not have a favourable legislation, the UK model - the employer is the first owner of the work created in the scope of employment - should be encouraged as best practice for the newspaper's sector. Or, it should be ensured that publishers as employers are entitled to exercise employed journalists economic rights attached to their works, unless otherwise agreed by contract.

- VAT standards rate for online newspapers

ENPA supports VAT zero rate for printed newspapers. Member States should always have the possibility to choose zero rate for newspapers or to continue to apply the zero rate to the printed press where they already do so in any future VAT regime.

For online newspapers, the current EU legal framework for VAT does not provide the possibility to benefit from a zero/reduced VAT rate. Such a situation is not acceptable considering that the Sixth Directive offers online broadcasters the possibility to benefit from a reduced rate. This creates a situation of unfair competition.

It has been argued that if online newspapers would benefit from reduced VAT rates, the EU would be forced to accept similar conditions for all types of news' services available on the Internet. However, press services are different from other news services, in terms of quality content, professional journalism and their role in democratic societies. This specific status of the press distinguishes online newspapers from other news offerings.

Finally, a reduced VAT rate for online newspapers is necessary to ensure that publishers can continue to provide quality content whilst remaining competitive on the media market.

ENPA Recommendation: In view of the future discussions on VAT reduced rates and VAT applied to electronic services, ENPA invites the EU to continue to allow Member States to apply zero/super-reduced/reduced rate on printed newspapers' sales. ENPA also invites the Commission to consider the need to ensure that online newspapers could benefit from zero/reduced VAT rate in order to maintain high quality information and enable online reading for the benefit of the users.

- Search engines using newspapers' content without authorisation

Latest developments in Belgium have indicated that some news services do not respect copyright rules when using newspapers content for their own commercial services. ENPA supports the legal action taken by the Belgian newspapers in order to tackle these unacceptable practices.

ENPA believes that the EU Copyright acquis is essential in order to protect publishers from unlawful commercial uses of newspapers' content without authorisation from publishers and without remuneration. Any revision of the copyright framework should not open the door to widen the exceptions for intermediaries.

ENPA is also supporting the ACAP project (Automated Content Access Protocol) which would enable to grant permissions information (for access and use of content) in a form that can be easily recognised and interpreted by a search engine "crawler" so that the search engine operator is enabled systematically to comply with such a policy or licence (see www.the-acap.org).

ENPA recommendation: ENPA recommends the Commission to ensure that the review of the EU copyright acquis does not endanger protection of newspapers' content, in particular when value added news services are using such content. ENPA also invites the Commission to acknowledge the decision of the Belgian court and the ACAP project initiated by the international and European publishers and their organisations.

- Access to sports' events

Discussions between WAN – World Association of Newspapers - and FIFA – International Federation of Football Associations - before the World Football Cup in Germany revealed some of the challenges that newspaper publishers face in terms of accessing to sport events and publishing pictures or reporting on these events.

Such a situation not only applies to sports but also to any other events of major importance for the public.

In order to respect contractual obligations of right holders, FIFA originally wanted to limit the number of photographs that could be published from the World Cup Games 2006, and required that they should only be published at the earliest after two hours the matches ended. WAN opposed the restrictions on the grounds that these restrictions interfered with the freedom to report.

In March 2006, WAN reached an understanding with FIFA that all said restrictions on digital publication of photographs of the 2006 FIFA World Cup in Germany will be lifted. The agreement removed the limits on the number of pictures that can be posted on Internet sites and permitted their free publication during the course of World Cup matches. The issue on whether publishers can publish pictures on mobile phones has not been part of the understanding between FIFA and WAN, although it is also in the public interest to receive information through the platform of consumers' choice.

ENPA will have similar discussions with UEFA for the Euro 2008 with the aim of achieving similar positive results, enabling newspapers publishers and journalists to exercise their profession and inform their readers on events of major importance.

ENPA believes that as long as these discussions with sports' federations are positive for newspapers activities, we do not see a specific need for the EU to intervene in this particular area with legislation and any other policies.

- Data retention/protection of sources/terrorism policy v. freedom of the press

In the scope of the fight against terrorism, the EU has strengthened its policies in various fields which could affect journalists' investigations and ultimately protection of sources.

Although ENPA acknowledges the real need to ensure a secure environment for all citizens, the objective should not be achieved at the detriment of other fundamental principles, such as press freedom.

A balance between the new policies and fundamental rights should always be made for each new proposal which could potentially have an effect on the latter.

ENPA recommendation: ENPA calls on the EU institutions to ensure that press freedom is not affected or lowered by the various new policies or instruments planned in the field of combating terrorism. Editorial freedom, protection of sources and no restriction to journalists' investigations are key principles to be followed for respecting press freedom.

4. Do you think that adequate protection of public interests (privacy, access to information, etc) is ensured in the online environment? How are user rights taken into account in the country you live / operate in?

- Public interest: Access to information is closely linked to freedom of the press and can be considered as part of the public interest. Access to sports' events by journalists and use of pictures in the paper and online versions of the newspapers should not be hindered by sports' event organisers in order for the public to be informed. Dissemination of picture of major importance on mobile phones events by the newspaper publisher is part of the public interest. It should therefore not fall under any kind of regulation or restriction on newspapers' content that is sent through mobile phones.
- Access to information: Most newspapers are freely accessible online. Furthermore, they provide different commercial services and products adapted to the various users. DRMs are not widely spread on online newspapers' content because news change constantly and the application of technological protection measures will not be manageable if it is applied to each article or photos.

Furthermore, it is in the interests of publishers to ensure a wide access to citizens of newspapers not only because it is good for the image of the newspapers but also because internet traffic generates more advertising revenues.

5. How important for you is the possibility to access and use all online content on several, different devices? What are the advantages and / or risks of such interoperability between content and devices in the online environment? What is your opinion on the current legal framework in that respect?

- From publishers' perspective, it is essential to be able to publish newspapers' content without obstacles in as many platforms as possible and to as many users as possible.
- Interoperability permits users to access content wherever they are and on various platforms and is thus important also for publishers and other media companies.
- Dialogue between the different sectors concerned and business/market solutions are ways to deal with such issues. No further or wider exceptions to the current copyright framework are necessary.

6. How far is cultural diversity self-sustaining online? Or should cultural diversity specifically be further fostered online? How can more people be enabled to share and circulate their own creative works? Is enough done to respect and enhance linguistic diversity?

Majority of newspapers are online. These online services have a significant offering every day, and also a considerable number of unique visitors on their sites on daily basis. In quite many European Union countries newspapers online are the most visited sites and the most trusted sources of information. Online users and readers rely especially on trusted brands which newspapers' titles represent.

Newspapers online for example in Italy, Hungary, Luxembourg, Ireland or Finland are offering very diverse information all the time and in all of the languages of the EU Member States. Whether the information is local, regional or national, political or sports news, the content is changing and the news stories are developing all the time. It is difficult to imagine more diverse and pluralistic content than newspapers' content, be it in print or online.

Newspapers online are also offering many possibilities for the readers to participate. Blogs, discussion forums, message boards and so on are enabling readers to involve themselves. Many newspapers online offer possibilities to send in their own content for example in the form of video-clips. Online environment has brought newspapers closer to the readers and citizens as ever before. It has to be though remembered that chief editors have legal responsibilities and therefore there has to be some kind of control as far as published material is concerned.

Now and then there are echoes that something needs to be done in order to secure cultural diversity and media pluralism. There have even been proposals for pan-European legislation on cross-media ownership. ENPA is not in favour of this type of legislation, simply because there is either competition law or media specific legislation in force in most of the EU member states. In addition, pan-European legislation could not take into account the differences in national markets and cultures. Therefore, ENPA does not see any reason why cultural diversity or media pluralism should be addressed in the context of "Content Online", especially in the form of policy or legislation.

In addition, ENPA would like to highlight the following key issues:

- Cultural diversity can be understood and interpreted in many different ways. Many attempts to determine its meaning or to measure it with specific instruments have created more questions than positive input.
- Newspapers are important contributors to cultural diversity and pluralism in Europe: they are published in their local language; they offer news from different perspectives reflecting the cultural and socio-economic differences of their places of publications, depending on the country where they are published.
- Publishers will maintain both paper and online editions which is an important contribution to cultural diversity and media pluralism.
- Readers have access to information at any time and any place on very different platforms: radio, TV, internet, mobile phone, newspapers, magazines, e-paper, free newspapers, etc. Furthermore, citizens can also contribute to cultural diversity by using blogs and building their own web pages (citizens' journalism). Each of these media has its own way to present and treat information. This multimedia dimension multiplies the effects of diversity, compared to the "older" mono-media traditional model (newspapers/radio/TV).
- Media concentration and convergence do not mean less pluralism or less diversity of information: to remain competitive in the media environment and to maintain quality information offering newspaper publishers need to expand their activities in various media without regulatory barriers.

Competitiveness of European online content industry

7. If you compare the online content industry in Europe with the same industry in other regions of the world, what in your opinion are the strengths and weaknesses of our industry in terms of competitiveness? Please give examples.

- The US model based on the “work for hire” principle in the field of copyright makes publishers’ life less complex in terms of management of rights and use of content on various platforms.
- In general, less regulation at EU level is also positive for competitiveness.

New business models and transition of traditional ones into the digital world

8. Where do you see opportunities for new online content creation and distribution in the area of your activity, within your country/ies (This could include streaming, PPV, subscription, VOD, P2P, special offers for groups or communities for instance schools, digital libraries, online communities) and the delivery platforms used. Do you intend to offer these new services only at national level, or in whole Europe or beyond? If not, which are the obstacles?

- In most EU countries, publishers already use various distribution platforms (internet, mobile, e-paper, etc) to enable different type of users to access newspaper’s content. Such services are offered to schools and libraries under normal licenses agreements.
- Considering that newspapers’ readership are mainly located in the country/region where the newspaper is published and considering the linguistic barrier, publishers’ cross-border services remain marginal.

9. Please supply medium term forecasts on the evolution of demand for online content in your field of activity, if available.

In general, users’ demand for online newspapers’ services increase as well as online advertising revenues.

Readership of printed newspapers remain generally stable in most EU countries; in some countries, it even increases especially because of free newspapers. This means that both media are still progressing positively and coexist and that there is no substitution of the printed version by the online.

The main revenue stream today still comes from the traditional printed newspaper business. However, there are great expectations that Internet activities contribute increasingly to the revenue stream, where advertising will play a major role. This tendency can be identified up to now.¹

In the online environment, competition is however even stronger in the advertising market, especially with online service providers and mobile phone services. A challenge for publishers is to continue to benefit from the growth of advertising market, ensuring that access to online newspapers is maximized whilst avoiding that third parties could abuse newspapers’ content without a proper remuneration to publishers (search engines’ issue).

Publishers are investing in new revenue-making companies, particularly those with multiple revenue streams like “pay for performance” or “cost per click”, online advertising, syndication and subscription. Publishers are also engaged in the development of multimedia content,

¹ Source: IFRA – The media future research initiative – Business Models of Newspaper Publishing Companies – www.ifra.com/wherenews

enhanced search capabilities, audience-focused marketing tactics and targeted advertising by user behaviour and demographics.²

Many publishers in Europe believe that the way of thinking is towards multimedia products across multiple channels in order to maximize reach and customer relationships and revenue in the market place.

10. Are there any technological barriers (e.g. download and upload capacity, availability of software and other technological conditions such as interoperability, equipment, skills, other) to a more efficient online content creation and distribution? If so, please identify them.

11. What kind of difficulties do you encounter in securing revenue streams? What should in your view be the role of the different players to secure a sustainable revenue chain for creation and distribution online?

ENPA would rather talk about challenges rather than difficulties to secure revenue streams:

- Advertising and sales (subscription and single copy sales) are the two main sources of revenues for newspapers.
- Maintaining and increasing advertising revenue is a key challenge. Publishers need to maintain ad revenues in both printed and online newspapers. Competition for advertising is stronger than before as there are much more actors on the whole media market, in addition to TV and radio: free newspapers, internet commercial services, mobile phone services, blogs, and all other new services that have been created for the digital environment.
- Another challenge for publishers is to prevent commercial direct or indirect use of content by third parties without publishers' authorisation (commercial companies like search engine but also public institutions such as libraries).
- Facilitating reuse by publishers of articles and photos of employed journalists on digital platforms (see ENPA response to question 2).

Payment and price systems

12. What kinds of payment systems are used in your field of activity and in the country or countries you operate in? How could payment systems be improved?

13. What kinds of pricing systems or strategies are used in your field of activity? How could these be improved?

- In most EU countries, online newspapers are available for free. In this situation, advertising revenues are essential if publishers want to offer free quality information on the internet.
- In addition, publishers offer further added value services against payment such as subscriptions to pdf version, access to online archives, sms news alerts and press clippings. In the future, these paid-for-services will be more common and media companies will most likely offer different types of payment systems.
- For these services, different pricing schemes are applicable. Libraries, universities or schools generally benefit from more favourable offers in terms of price.
- The VAT rate has also effects on newspapers' price. VAT on printed newspapers should be fixed and maintained at the lowest level, including zero rate. VAT standard

² Source: WAN – Shaping the Future of the Newspaper – New Revenue Strategy.
www.futureofthenewspaper.com

rate currently applies to online newspapers: it affects the take up of paid-for-services and new products available on newspapers' website.

Licensing, rights clearance, right holders remuneration

14. Would creative businesses benefit from Europe-wide or multi-territory licensing and clearance? If so, what would be the appropriate way to deal with this? What economic and legal challenges do you identify in that respect?

- Cross-border activities are marginal for newspapers compare to local sales and subscriptions.
- There is no particular demand for multi-territorial licensing of newspapers due to the linguistic differences and the local character of newspaper markets.
- Publishers are and should always be free to choose between individual or collective rights' management in the digital environment. As the cultural context and the commercial and digital development is diverse from one country to another, it would not be wise to intervene at EU level in terms of EU wide licensing as it would not take account of differences between sectors (music, films, newspapers, books, magazines, etc) and cultures in different countries.

15. Are there any problems concerning licensing and / or effective rights clearance in the sector and in the country or countries you operate in? How could these problems be solved?

- Publishers as employers should be entitled to exercise employed journalists' works' economic rights. This would facilitate licensing to users especially in the digital environment and various platforms. Solutions should be found ideally at the level of national legislation (for further explanations –see ENPA response to question 2)

16. How should the distribution of creative content online be taken into account in the remuneration of the right holders? What should be the consequences of convergence in terms of right holders' remuneration (levy systems, new forms of compensation for authorised / unauthorised private copy, etc.)?

- The establishment of a fixed levy as a form of compensation for private copying as proposed in France is not appropriate for newspaper publishers. It could represent an open door to copyright infringements and could harm the commercial digital services offered by publishers.
- The application of levies in the digital environment can only be considered on a case by case basis as the economic, cultural and digital situations vary from one country to another and from one sector to another. Levies cannot substitute DRMs and vice versa as they have a complementary role. In this respect, an EU intervention questioning the existence of certain levies could affect compensation that newspaper publishers currently receive, including the compensation from private copying.

Legal or regulatory barriers

17. Are there any legal or regulatory barriers which hamper the development of creative online content and services, for example fiscal measures, the intellectual property regime, or other controls?

- Online VAT standard rate (for further details – see response to question 2 and 18)

- In some EU countries, the absence of a legislation entitling publishers to exercise employed journalists' economic rights (for further details – see response to question 2)
- Content and advertising regulation:
In the debate on the revision of TV without Frontiers, ENPA strongly supports the complete exclusion of online newspapers from the scope of the new Directive.

Any attempt to include newspapers, directly or through the inclusion of non linear services in the scope, could threaten freedom of press, by submitting newspapers' publishing to the control of national regulatory authority. This would be against Article 11 of the European Convention of Human Rights.

Concerning advertising regulation, ENPA is not in favour of additional restrictions in the field of advertising. ENPA also calls on the Commission to respect the principle of separation of advertising and editorial and fair competition among the different media in the advertising market.

18. How does the country you mainly operate in encourage the development of creative online content and services?

- State aid to the press in some countries and favourable legislation in terms of cross-media ownership allowing publishers to merge activities with other media companies are part of the incentives to the development of online newspapers and related services.
- Zero VAT rate for printed and online newspapers are essential tools to further sustainability and competitiveness.

Networks

20. The Internet is currently based on the principle of "network neutrality", with all data moving around the system treated equally. One of the ideas being floated is that network operators should be allowed to offer preferential, high quality services to some service providers instead of providing a neutral service. What is your position on this issue?

Newspapers need to have the possibility to reach all readers in the online environment. Net neutrality is therefore important for every newspaper to be able to take part in the new media market on equal conditions.

Piracy and unauthorised uploading and downloading of copyright protected works

21. To what extent does your business model suffer from piracy (physical and/or online)? What kinds of action to curb piracy are taken in your sector/field of activity and in the country or countries you operate in? Do you consider unauthorised uploading and downloading to be equally damaging? Should a distinction be made as regards the fight against pirates between "small" and "big" ones?

- Piracy is particularly damaging for newspapers' activities when it takes place at a commercial scale rather than when it happens in the private area (by one single individual). It generally takes place in private companies or public institutions/bodies where many users could access newspapers' content, e.g. on companies' intranet. In some cases, news/press clipping aggregators and search engines also use part or all

newspapers' content (articles, photos, classifieds, job announces, etc) without authorisation from publishers.

- The Directive 2001/29/EC on copyright in the information society makes this distinction in inserting the private copying exception in Article 5§2b). The distinction between commercial and private infringements has also been made in Directive 2004/48/EC on enforcement of IP rights. Sanctions are also applied differently between “big and small infringers”, in the law and by the courts.
- The respect and enforcement of copyright legislation is essential to curb piracy. Various courts' cases (Dutch court's case on press clippings and Google case in Belgium) have proved the importance of the current EU framework on copyright to fight against large scale piracy. Such a protection should not be questioned.
- Concerning search engines, ENPA is participating in a joint publishers' initiative to establish a permission based framework enabling search engines to reuse newspapers' content in a lawful and easy manner. Such initiative is based on full respect of copyright legislation (www.the-acap.org).

22. To what extent do education and awareness-raising campaigns concerning respect for copyright contribute to limiting piracy in the country or countries you operate in? Do you have specific proposals in this respect?

- Education and awareness-raising campaign have generally a positive role to inform users on what they are allowed to do or not in the field of copyright.
- For example in Belgium, Copiepresse – the rights' managing company of Belgium newspapers - organised a successful campaign in order to inform users on the risk of abuse of copying (for further information, you can refer to the website of Copiepresse: [www. http://www.presscopyrights.be/fr/index.htm](http://www.presscopyrights.be/fr/index.htm)).

Rating or classification

24. Is rating or classification of content an issue for your business? Do the different national practices concerning classification cause any problem for the free movement of creative services? How is classification ensured in your business (self-regulation, co-regulation)?

Rating or classification of newspapers' content is not conceivable because it could lead to control of content by public authority and state interference with editorial content which would be contrary to press freedom.

ENPA believes that self-regulation, codes of conduct and ethical rules which are in place in all press companies or at national level, are functioning well and are the most appropriate way to fix ethical limits whilst respecting freedom of the press. The basic and immovable principle of self-regulation of the press is that it should be established by the profession itself and without any government intervention.

Digital Rights Management systems (DRMs)

Digital Rights Management systems (DRMs) involve technologies that identify and describe digital content protected by intellectual property rights. While DRMs are essentially technologies which provide for the management of rights and payments, they also help to prevent unauthorised use.

25. Do you use Digital Rights Management systems (DRMs) or intend to do so? If you do not use any, why not? Do you consider DRMs an appropriate means to manage and secure the distribution of copyrighted material in the online environment?

26. Do you have access to robust DRM systems providing what you consider to be an appropriate level of protection? If not, what is the reason for that? What are the consequences for you of not having access to a robust DRM system?

27. In the sector and in the country or countries you operate in, are DRMs widely used? Are these systems sufficiently transparent to creators and consumers? Are the systems used user-friendly?

28. Do you use copy protection measures? To what extent is such copy protection accepted by others in the sector and in the country or countries you operate in?

29. Are there any other issues concerning DRMs you would like to raise, such as governance, trust models and compliance, interoperability?

There is no clear and concise definition of DRM at this moment.

In the newspapers' sector, the use of DRMs is not widespread. Publishers generally rely on contractual agreements for licensing the use of newspapers' content.

Online newspapers' content changes everyday. Protecting each article, photo or other contents with DRMs or TPMs is very costly and difficult to manage for publishers, especially for SMEs, what most of European publishers are (over 95%).

The systems established so far are conditional access systems (password/username) for online archives, press clippings and other commercial services.

ENPA considers that DRMs should not be a condition or prerequisite for the application of copyright legislation. If publishers would be forced to use DRMs to benefit from copyright protection, users will not be able to access to online newspaper for free on a daily basis. It should be only up to the publisher to decide whether to use a DRM or not. The absence of DRM should not prevent publishers to be able to rely on copyright legislation for the protection of newspaper content.

Complementing commercial offers with non-commercial services

30. In which way can non-commercial services, such as opening archives online (public/private partnerships) complement commercial offers to consumers in the sector you operate in?

A public/private partnership between universities, schools, libraries and other educational establishments and newspaper publishers already exists in most of the EU countries.

Public institutions, such as libraries, universities and schools generally benefit from favourable contractual conditions in order to allow library users accessing newspapers' content within the institutions' premises.

Such a partnership is based on digital products and online services offered by publishers to public bodies. However, respect of copyright and of publishers' commercial activities and remuneration for newspapers' uses should not be neglected by the EU initiative on digital library. It is essential that the Commission understands better the operations on newspapers'

activities prior building up an EU online digital library and fully recognises that publishers are already making newspapers widely available online and for free. Libraries could undermine the commercial activities upon which newspapers depend by allowing third parties to access their content without permission.

Another form of public/private partnership also exists for newspapers in education: governments' public funding aims to promote the reading of newspapers in schools in order to foster reading, media literacy and opinion building of young people.

What role for public authorities?

32. What could be the role of national governments / regional entities to foster new business models in the online environment (broadband deployment, inclusion, etc.)?

ENPA would expect national governments to consider the following key concerns of newspaper publishers which are similar than those mentioned in this paper:

- Ensure in legislation that publishers are entitled to exercise employed journalists economic rights on their copyrighted works in those countries where such legislation is not in place.
- Zero VAT rate on online and printed newspapers.
- Facilitate media concentration/cross-media ownership to ensure the proper development of newspapers in the multimedia environment.
- Less regulation and respect of self-regulation.
- Avoid restriction on advertising and respect the principle of separation of advertising and editorial.
- Respect press freedom and editorial independence.
- Ensure copyright protection and enforcement; fight against piracy especially on a commercial scale.
- Promote media literacy and newspapers' reading in education.
- Remove barriers for journalist's access to events of major importance and avoid obstacles to publication of pictures on newspapers' paper and digital versions.

33. What actions (policy, support measures, research projects) could be taken at EU level to address the specific issues you raised? Do you have concrete proposals in this respect?

According to the different issues which particularly concern our sector in this paper, ENPA would like to make a distinction between:

- **Specific area where an EU intervention would be necessary:**

- VAT online: ENPA strongly supports the possibility for Member States to apply zero, super reduced or reduced rate on newspapers, whether online or on paper version. ENPA calls on the EU institutions to fully respect the possibility for Member States to apply zero, super reduced or reduced rate on printed newspapers. Such possibility should be also possible for newspapers online. However, the current EU legislation does not allow this possibility to Member States, which prevents the development by publishers of online commercial services and innovative products.

- Exercise of copyright in the scope of employment: ENPA calls on further analysis by the Commission on this issue. It would be important to examine the positive effects for newspapers' development if an appropriate legal framework allows publishers to exercise

employed journalists' economic rights of copyrighted works. Best practice model like the UK legislation should be encouraged.

- **Specific area where an EU intervention would NOT be necessary:**

- Media concentration/cross media ownership: Newspapers need to be economically viable in order to develop multimedia activities. An EU intervention regulating media concentration and cross-media ownership could have reverse effect on this development and prevent newspapers from being competitive in a media market where competition is strong.

- Media literacy: In most EU countries, programs of newspapers in education have been established to promote medial literacy and reading in schools; in some countries state funding have been allocated to keep these programs running. No further interventions are therefore necessary in this area from the EU institutions.

- Levies/rights management: As the situation is different from one content sector to another and the digital and commercial development of newspapers as well as the cultural content is not the same in all EU countries, ENPA would not support an EU intervention in the field of levies/rights' management.

- Press freedom: the EU institutions should avoid any intervention that could put at risks this pillar of European democracies. Newspapers online should therefore be completely excluded from the scope of the new Directive on TV without Frontiers in order to avoid interference on newspapers' editorial content.

- Advertising restrictions: ENPA opposes restriction on advertising content. ENPA insists on the need to preserve freedom of commercial expression and to guarantee the free movement of diverse forms of expression. Any statutory restrictions to advertise certain products or services that can be legally sold or offered will have a detrimental effect on newspapers' competitiveness. ENPA also supports the respect of the principle of separation of advertising and editorial and fair competition among the different media in the advertising market.

- Sports' rights: discussions between international organisations were successful, removing restrictions to report on the matches of the World Cup in Germany this summer. ENPA will also discuss with UEFA on similar issues. ENPA therefore favours constructive dialogues with sports' federations to find mutual understanding, rather than legislating which may not ensure sufficient flexibility.

ENPA is a non-profit organisation of 5100 titles from 24 European countries (plus one observer member), representing the interests of newspaper publishers to the European Institutions. More than 120 million copies of newspapers are sold each day and read by over 235 million people in Europe. Newspapers online have a significant number of unique visits on their sites on daily basis.

Valtteri Niiranen
ENPA Director

Sophie Scrive
ENPA Deputy Director

ENPA- European Newspaper Publishers' Association
Rue des Pierres 29 bte 8
1000 Bruxelles, Belgique

Phone : 32 2 551 01 90
Fax : 32 2 551 01 99
E-mail : sophie.scrive@enpa.be