

## CJEU: German Government failed to notify German Press Publisher's Right in 2013

### German Government required to pass new European Press Publisher's Right immediately

Berlin, 12 September 2019. The Court of Justice of the European Union (CJEU) ruled today that the German Government was obliged to notify the 2013 German Press Publisher's Right according to the Information Directive (case number C-299/17). Before referring the case to the CJEU the Regional Court of Berlin had already stated that the action of VG Media against Google was „at least partly well founded“.

The decision contrasts starkly with the statements of the European Commission, several member states as well as the German government, according to which a notification was not required.

**Markus Runde, CEO VG Media:** „*The decision only concerns the past and does not contain any statements in regard to the influence of the DSM Directive of April 2019 on the referred questions to the CJEU. Therefore, the decision only covers the period between the year 2013 and 17 April 2019. The impact of the decision on the pendent proceedings will have to be assessed.*

*Furthermore, the decision does not influence the newly passed European Press Publisher's Right of the DSM Directive (Art. 15). The decision is technical and difficult to grasp. This is aggravated by the fact that the circumstances have changed completely since the case was referred to the CJEU. During this period the European lawmakers passed a union-wide Press Publisher's Right that will have to be applied in all member states. This new European Press Publisher's Right favours the Press Publishers by conferring wider and robust rights than the 2013 German law. The failure to notify the old law is already old news. We look forward to enforcing the new rights.*

*The Press Publishers solicit an immediate harmonisation of the European Press Publisher's Right in Germany as this is the only way to guarantee a free and democratic press. Google and other platform businesses should remunerate the Press Publishers for the use of their content. If the platform businesses continue to ignore the remuneration obligations, which should take into consideration the turnover of the platforms, the German Press Publishers will be forced to initiate court proceedings once again.“*

#### Background information:

The German parliament passed the national Press Publisher's Right in the year 2013. According to the statutes in question, search engine operators and aggregators of press products are obliged to pay a fair remuneration for the use of digital press products. The proceedings at the Regional Court of Berlin concern the legal enforcement of the German Press Publisher's Right against Google LLC, Mountain View, California. The proceedings became necessary as Google in principle opposed the obligation to pay a fair remuneration for using digital press products. In the case that Google now again refuses to conclude a license agreement with VG Media, the Regional Court of Berlin would have to decide on claims of VG Media concerning the disclosure of turnover and damages. Before referring the case to the CJEU the Regional Court of Berlin had already stated that the action of VG Media against Google was „at least partly well founded“. Should proceedings continue in front of the Regional Court of Berlin Google would be ordered to pay damages and to disclose its turnover in Germany to the public for the first time.

Other proceedings against Google as for instance a complaint of several German Press Publishers with the DG Comp of the European Commission concerning the abuse of power will continue nonetheless.

The German Press Publisher's Right is a role model for the European Press Publisher's Right included in the DSM Directive passed April this year. Member States are obliged to harmonise the European law into national legislation within the next 21 months.

VG Media is a German collective management organisation and manages copyrights and neighbouring rights for almost all private national broadcasters and for 200 Press Publishers.

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