

# THE INFORMATORY PURPOSE IN COPYRIGHT: TOWARDS A NEW AUTONOMOUS CONCEPT OF EU LAW?

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19 APRIL 2021



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**Do we know how much (press) information we can freely share online under the aegis of the “informatory purpose”?**

# Informatory purpose in EU copyright law

## ART.5(3)(C) INFOSOC

“(...) reproduction by the press, communication to the public or making available of published articles on current economic, political or religious topics or of broadcast works or other subject-matter of the same character, in cases where such use is not expressly reserved, and as long as the source, including the author's name, is indicated, or use of works or other subject-matter in connection with the reporting of current events, **to the extent justified by the informatory purpose** and as long as the source, including the author's name, is indicated, unless this turns out to be impossible”

## ART.5(3)(F) INFOSOC

“(...) use of political speeches as well as extracts of public lectures or similar works or subject-matter **to the extent justified by the informatory purpose** and provided that the source, including the author's name, is indicated, except where this turns out to be impossible”

# Informatory purpose in broad sense

- **Ad hoc copyright exceptions**
- **Exclusion of news of the day/facts/mere press information (Art.2(8) BC)**
- **Art. 10 ECHR**
- **Art.11 CFREU**

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and **to receive and impart information** and ideas without interference by public authority and regardless of frontiers. (2) The **freedom and pluralism of the media** shall be respected.
- **Promotion of access to culture & information**
- **DSM and EU portability**

# EU copyright law & the digital press

- **Informatory purpose = purpose of informing citizens about public life**
- **Rising focus on the press industry**
- **Art.15 DSM Directive**  
press publishers' neighboring right, whose boundaries are drawn in terms of
  - limited duration (2 years)
  - modality (hyperlinking, non-commercial uses)
  - quantity (individual words, very short extracts)
  - **informatory purpose?**



# The dark side of the moon?

# The role of the CJEU

## SPIEGEL ONLINE (2019)

if a work is available online and relevant to the public discussion on current events, press publishers can reproduce it online in its **entirety** without the authorization of the right holder

– **all types of works and subject matter?**

## SVENSSON (2014) + VG BILD-KUNST (2021)

if a right holder gives authorisation to the publication of his/her work on the website of a newspaper without TPMs, he/she has authorized access to all Internet users

– **abuse of TPMS? overcoming the “all rights reserved” practice in digital press?**

# The prospective developments

- Towards a “new” balance between press publishers, online intermediaries, and press consumers
- EU legislator’s intervention is unlikely
- CJEU: complementing the harmonization of the notion of “current events” (what), with an **EU uniform interpretation of “informatory purpose”** (how much)



# THANK YOU

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