

Alternative compromise to Art 11: Covering AM 17-20, 52-55, 281-348, 518-522, 731-784, ITRE 17-ITRE 20, ITRE 43-ITRE 46, CULT 23-27, CULT 43, CULT 71-75, IMCO 17-IMCO 20, IMCO 38

(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. [...] ***The sustainability of the press publishing industry should therefore be ensured.***

(31a) In the transition from print to digital, publishers of press publications are ***increasingly*** facing problems in licensing the online use of their publications and recouping their investments. ***Press publications contain mostly literary works but increasingly include other types of works and subject-matter, notably photographs and videos. Due to the large number of authors and other rightholders involved in the creation of a press publication, licensing and enforcement of the rights in press publications are often complex and inefficient in the digital environment. Publishers can face difficulties notably when proving that rights in such works and other subject-matter have been transferred or licensed to them for the purposes of concluding licences or enforcing the rights in respect of their press publications.***

(31b) ***Publishers of press publications need to acquire all the relevant economic rights from the authors and other rightholders to incorporate their works or other subject-matter in a press publication. This principle should continue to apply. However, the licensing and enforcement of the rights acquired vis-à-vis third parties should be facilitated, while at the same time not affecting contractual arrangements concluded between the publishers of press publications, on the one side, and the authors and other rightholders, on the other side. It is therefore necessary to provide at Union level a rebuttable presumption to allow the publisher to be regarded as the person entitled to conclude licences and enforce the rights of reproduction and making available to the public concerning the digital use of works and other subject-matter contained in the press publication provided that the name of the publisher appears on the publication.***

(32) ***Deleted.***

(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 in any media, ***including on paper, and such that it is understood as -an economic activity which constitutes a provision of services under Union law. The press publications that should be covered are those whose purpose is to inform the general public and which are periodically or regularly updated.*** Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications published for scientific or academic purposes, such as scientific journals, should not be covered by the ***presumption of rights granted to publishers for press publications*** laid down in this Directive.

(34) ***Deleted.***

(35) The ***presumption for publishers of press publications laid down in*** 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 *presumption laid down in this Directive* against authors and other rightholders *or against other authorised users of the same works and other subject-matter*.

## Article 2 Definitions

For the purposes of this Directive, the following definitions shall apply:

[...]

(4) 'press publication' means a fixation of a collection of literary works of a journalistic nature *and constitutes an individual item within a periodical or regularly-updated publication under a single title, such as a newspaper, having the purpose of providing information related to news or other topics and published in any media under the initiative, editorial responsibility and control of a service provider; scientific journals or peer-reviewed works shall not be considered a press publication for the purpose of this Directive.*

## Article 11 *Licensing and enforcement of rights in press publications concerning digital uses*

1. Member States shall provide *that, in the absence of proof to the contrary, the publisher of a press publication shall be regarded as the party entitled to conclude licences and to seek application of the measures, procedures and remedies referred to in Directive 2004/48/EC and in Article 8 of Directive 2001/29/EC in respect of the rights provided for in Article 2 and 3(2) of Directive 2001/29/EC, concerning the digital use of the works and other subject-matter incorporated in such a press publication, provided that the name of the publisher appears on the publication.*

2. *The presumption provided for in paragraph 1 shall not 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. Press publishers shall not invoke the presumption against the authors and other rightholders and, in particular, shall not deprive them of their right to exploit their works and other subject-matter independently from the press publication in which such works and other subject-matter are incorporated.*