

Article 11

Protection of press publications concerning online uses

1. Member States shall provide publishers of press publications established in a Member State with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the online use of their press publications by information society service providers. These rights shall not apply to private or non-commercial uses of press publications carried out by individual users.

The protection granted under the first subparagraph shall not apply to acts of hyperlinking.

The rights referred to in the first subparagraph shall not apply in respect of uses of individual words or very short extracts of a press publication.

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

When a work or other subject-matter is incorporated in a press publication on the basis of a non-exclusive licence, the rights referred to in paragraph 1 may not be invoked to prohibit the use by other authorised users. The rights referred to in paragraph 1 may not be invoked to prohibit the use of works or other subject matter whose protection has expired.

3. Articles 5 to 8 of Directive 2001/29/EC and Directives 2012/28/EU and (EU) 2017/1564 shall apply *mutatis mutandis* in respect of the rights referred to in paragraph 1.

4. The rights referred to in paragraph 1 shall expire 2 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.

Paragraph 1 shall not apply to press publications first published before [entry into force of the Directive].

4a. Member States shall provide that the authors of the works incorporated in a press publication receive an appropriate share of the revenues that press publishers receive for the use of their press publications by information society service providers.

Recitals

(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 wide availability of press publications online has given rise to the emergence of new online services, such as news aggregators or media monitoring services, for which the reuse of press publications constitutes an important part of their business models and a source of revenues. Publishers of press publications are facing problems in licensing the online use of their publications to the providers of these kind of

services, making it more difficult for them to recoup their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement of rights in press publications regarding online uses by information society service providers in the digital environment are often complex and inefficient.

(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 industry and thereby to foster the availability of reliable information. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of online uses by information society service providers, leaving unaffected current copyright rules in Union law applicable to private or non-commercial uses of press publications by individual users, including when they share press publications online. 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 published by publishers established in a Member State in respect of online uses by information society service providers within the meaning of Directive (EU) 2015/1535 of the European Parliament and of the Council¹. The legal protection for press publications provided for by this Directive should benefit publishers established in a Member State and having their registered office, central administration or principal place of business within the Union.

The concept of publisher of press publications should be understood as covering service providers, such as news publishers or news agencies, when they publish press publications within the meaning of this Directive.

(33) For the purposes of this Directive, it is necessary to define the concept of press publications so that it only covers journalistic publications, published in any media, including on paper, in the context of an economic activity which constitutes a provision of services under Union law. The press publications to be covered would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest, including subscription based magazines, and news websites. Press publications contain mostly literary works but increasingly include other types of works and subject-matter, notably photographs and videos. Periodical publications published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. Neither should this protection apply to websites, such as blogs, that provide information as part of an activity which is not carried out under the initiative, editorial responsibility and control of service provider, such as a news publisher.

(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 online uses by information society service providers are concerned. The rights granted to the publishers of press publications should not extend to acts of hyperlinking. They should also not extend to the mere facts reported in the press publications. They should also be subject to the same provisions on exceptions and

¹ [Directive \(EU\) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services \(OJ L 241, 17.9.2015, p. 1–15\).](#)

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.

(34a) Uses of press publications by information society service providers can consist of the use of entire publications or articles but also of parts of press publications. Such uses of parts of press publications have also gained economic relevance. At the same time, the use of individual words or very short extracts of press publications by information society service providers may not undermine the investments made by publishers of press publications in the production of content. Therefore, it is appropriate to provide that the use of individual words or very short extracts of press publications should not fall within the scope of the rights provided for in this Directive. Taking into account the massive aggregation and use of press publications by information society service providers, it is important that the exclusion of very short extracts should be interpreted in such a way as not to affect the effectiveness of the rights provided for in this Directive.

(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 or against other authorised users of the same works and other subject-matter. 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.

Authors whose works are incorporated in a press publication should be entitled to an appropriate share of the revenues press publishers receive for the uses of their press publications by information society service providers. This is without prejudice to Member States' laws on ownership or exercise of rights in the context of employment contracts, provided that they are compliant with Union law.