

BDZV Newspaper Congress 2017
Dr. Mathias Döpfner, President
Stuttgart, September 18, 9 a.m.

Address to the members of the German Newspaper Publishers Association (BDZV)
In attendance: Winfried Kretschmann, Minister-President of Baden-Württemberg

Minister-President Kretschmann, at the BDZV it is a custom that we hold our annual conference alternately at the headquarters of our association in Berlin or as a guest of one of our members on site. This year we were very happy to accept the invitation of the Südwestdeutsche Medienholding with the Stuttgarter Zeitung and Stuttgarter Nachrichten to the Carl Benz Arena here in Baden-Württemberg. In this federal state, high economic power is combined with sustainability, and globally active key industries encounter countless patents and discoveries by individual researchers and inventors. This evening we will have the opportunity in the Mercedes-Benz Museum to pay tribute to the down-to-earth spirit of innovation for which Baden-Württemberg is rightly praised.

Ladies and Gentlemen, one year ago you elected me unanimously as President of the BDZV for four years. That was a stupid thing to do. Because now you can't change it. Even though some of you may feel the same way as the employees of a firm that has organized a staff swimming contest as the highlight of a company outing. The boss has been bragging all day about what an excellent swimmer he is. But when it comes to it, he starts to falter, gets into trouble. He can hardly keep his head above the water. The apprentice swims by. And discreetly rescues his boss from drowning. The next day the boss says: "I will grant you a wish for that! What do you wish for most of all?" The apprentice thinks about this for a while and then he finally says, "Please don't tell anyone in the company that it was me who saved you ..."

Despite all our enthusiasm for the new technologies, we should not forget that it is not the American online platforms such as Google, Twitter and Facebook, but rather serious sources of information such as our newspapers, which with their professionalism and diversity make a significant contribution to the freedom and democracy of our society. Gruner + Jahr boss Julia Jäkel is right to demand that companies in the German economy should think carefully against this background about the environment in which they spend their advertising budget – either in the neighborhood of fake news or there, where serious information is at home. This is not a question of charity, but of pragmatic action.

This summer, the EU Commission imposed a fine of 2.4 billion euros on Google – the highest ever penalty imposed by the Commission on a single company. It is now clear that Google had favored its own shopping services over those of its competitors, that it downgraded them and thus misled consumers.

It is right that the EU Commission should hold Google accountable for this after years of investigation. It was also to be expected that Google would take legal action to prevent this. I think we can look forward calmly to the legal clarification.

Furthermore, the proceedings also have a symbolic effect, which is of particular importance to us as newspaper publishers: Because the dissemination of our editorial content via monopoly distribution platforms such as the press wholesaler is very much dependent on the fact that wholesale distribution is non-discriminatory, this freedom from discrimination must also be the benchmark for the dissemination of content, goods and services on dominant distribution platforms such as Google. This may at first sound

like a matter of course, but it is not: for up until now search engines have been able to pursue their economic goals largely without discrimination rules.

With its ruling against Google Shopping, the EU Commission has for the first time made this benchmark of “non-discrimination” binding throughout Europe against market dominating online platforms. This sets a precedent for journalism in the digital world: once we have established the principle of non-discrimination for Google Search, it is only the logical next step to apply this principle to the use of our editorial content on market-dominant digital platforms. This is the symbolic power with which we have to bring to the Google procedure in terms of content! And we will be monitoring very closely to see whether Google actually does put an end to the abuses that have been identified.

For every day in Germany alone, many millions of people use at least one digital platform to inform themselves about current affairs in politics, business and culture. These highly frequented platforms thus determine the classification of content relevant to culture and opinion-forming. However, the criteria used by Google, Facebook and other platforms to sort and display content and opinions are anything but transparent. We will therefore work to ensure that the traceability of professional press services on prominent online platforms is ensured through measures to ensure platform and search engine neutrality.

The importance of free journalism for society and democracy has not yet been recognized everywhere, however: because the basic conditions for our industry have not exactly become any simpler: In the first place, I would like to mention the extreme cost burden associated with delivery. Together, we are committed to ensuring that every subscriber continues to have the option of having his newspaper delivered to his home on a daily basis at a reasonable price. But this will only work, however, if the government's levies on newspaper delivery workers in minor employment are

significantly reduced in the coming legislative period. In other sectors, such as medical care or household services, policymakers have reduced non-wage labor costs in similar situations. It is high time that constitutionally protected distribution of newspapers in Germany was also secured accordingly.

But we also have to do everything in the marketplace to ensure comprehensive access to our journalistic products in the future. For example, the press wholesaler must continue to ensure that our newspapers are available for sale on all relevant publication days of the week throughout Germany. Only if this is ensured can the freedom of the press in our country develop fully. It simply cannot be that politicians are putting yet another spoke in the wheel of the publishing houses, which, already burdened by the difficult structural change, will add an extra mid-range three-digit million euro sum to them in this critical phase. Minister-President Kretschmann, we hope that the German federal states will give their strong support to this issue, which is of such importance for rural areas.

A more pleasant topic: the Ninth Amendment of the Act against Restraints on Competition has now been implemented. It makes stronger publishing co-operations possible below the editorial level. This will allow publishers to collaborate more closely in the areas of administration, marketing and distribution. But this success was also a tough battle which took many years. This amendment is long overdue for the existence of small and medium-sized publishers, but in essence it has come ten years too late.

I ask myself: why is it that our interests are sometimes neglected by German policymakers? The answer is very simple: because for many politicians, our work is so everyday that the crucial point may perhaps be overlooked: that the quality and diversity of the journalistic offerings appearing in Germany are not a matter of course, but rather that they are earned every day under difficult economic and demographic conditions as

well as making an indispensable contribution to freedom and democracy. Once this diversity loses its balance, it is almost impossible to restore it.

Public service broadcasting also makes an important contribution to freedom and democracy. The only difference is: the ARD and ZDF do not have to refinance themselves freely on the market as we do, but consider their fee revenues as a matter of course secured by the Federal Constitutional Court in Karlsruhe. The problem here is that any institution like the ARD or ZDF – that points like a reflex to Karlsruhe every time there is any criticism of its lavish administrative structure, or every time there is an inquiry into the number and orientation of its numerous radio and television programs, is thereby showing that it considers the broadcasting fees to be a free ticket to extend its mandate for basic services into the endless. It is gambling with its ability to initiate necessary reforms on its own and thus give the public broadcasting sector a real perspective for the future.

We are still experiencing a flood of text-based free offerings on the Internet, a state-run press financed with public funds, which distorts competition and leaves us as press publishers with hardly any opportunities for development. Anyone who, as we have known for a few days now, can afford to spend 440 million euros on sports broadcasting rights alone, a total of more than 500 million euros on sports reporting, can no longer be beaten in the market.

After we had exhausted all possibilities of reaching an amicable agreement with the ARD by means of negotiation, several of our member publishers have meanwhile started to sue individual state broadcasting corporations for their text-based, press-like online offerings. Actually, it's sad that it had to come to this. We would have preferred to have followed a more constructive path. I very much hope that the Minister-Presidents will very soon establish clear boundaries for broadcasters.

Minister-President Kretschmann, I would like to ask you to pay much more attention to the concerns of press publishers in future legislation. Otherwise, a life-threatening imbalance will arise for us in the medium term in relation to public broadcasting. And the dual system in Germany – one of the best in the world – will begin to suffer. It needs the diversity of the private offerings. Only state television and the state press on the Internet – that would be something more to the taste of North Korea.

In this context, I would like to make one further comment: the standard which is applied to the online services offered by ARD must, incidentally, also serve as a benchmark for local reporting by cities and municipalities in their official gazettes and other municipal organs of communication: if the official gazettes which are financed by public tax revenues begin to compete in terms of content with local and regional daily newspapers, a line has been crossed. I have therefore asked our experts to develop measures to counteract this state intervention into free local and regional journalism. The same applies to municipal online offerings and the news apps of a number of public utilities, which have begun to expand their services in various municipalities to include journalistic offerings. We will certainly not accept this, where it distorts competition to the detriment of newspaper publishers!

Let us now take a look ahead to the next legislative period. Important political projects at both the German and European levels will have a say in determining whether free and independent journalism in Germany and Europe has a future as a business model: First and foremost, I would like to mention the Publisher's Right proposed by the EU Commission under the aegis of Günther Oettinger, which – if it comes to pass, as proposed by the EU Commission – will for the first time give press publishers their own legal claim across Europe to prevent the unauthorized use of our content and, insofar as we agree to its use, to demand equitable remuneration.

Our opponents are using all their tricks, half-truths and false allegations to try and thwart the plans of the European Commission. The so-called “Save the Link” campaign almost succeeded in torpedoing important votes in European Parliament committees. They even invented the battle term “Link Tax” to discredit this most essential project. That's two pieces of fake news for a start. Firstly, because it is not about or against links, which are not affected in any way by the Publisher's Right. And secondly, precisely the one thing it isn't is a tax, but rather the right of those who create content at great cost to determine whether and at what price they grant the right of use to a third party who wants to use and market this content for commercial purposes. Fortunately, the majority of parliamentarians did not allow themselves to be misled by such propaganda maneuvers. Let us not labor under any misconceptions: the Publishers' Right has not yet been approved, but thanks to the efforts of the German and European Publishers' Associations, we have certainly made considerable progress.

Dieter Gorny, the president of the German music industry, is right to say that technological development cannot work without content. The development of the iPod would have been inconceivable without the music that can be played on it.

I am convinced that this is also increasingly true of our industry: the technical devices such as tablets and smartphones that we use to consume our digital content are becoming increasingly similar in terms of their perfection. Differentiation is therefore achieved in perspective, mainly through content. The quality of our journalistic contributions thus becomes the fuel for the device industry. What's more, protecting intellectual property and preserving the diversity of content is a European project. Europe is not a soulless platform. But rather a content continent. A little more self-awareness in order to acknowledge this and act accordingly would do us all good.

There is a lot of potential lying dormant within us that we only have to exploit in order to maximize our success. Against this background, the newly created Nova Prize for Innovation, which we are awarding for the first time at this Congress, has arrived at just the right moment. Together with you, I look forward to honoring the first prize-winners and can only encourage you all to take part in the competition next year as well, thereby showing the public that the entrepreneurial spirit in the German newspaper industry is alive and well and is generating many new ideas that no one would have believed that we, dismissed as dinosaur publishers, would have been capable of.

The rules governing the storage and processing of data ultimately determine which innovations can be developed and successfully marketed in the European internal market. To cut to the chase: the European Commission should pay more attention to the interests of European companies. If European legislators design their directives and regulations in the field of data legislation in such a way that the main beneficiaries of regulation are the US online platforms, then something is fundamentally wrong.

A current example is the planned ePrivacy Directive, which, as things stand at present, not only grants first party cookies privileges over third-party cookies, but also shifts the power over data protection from the EU to the USA, because in future the US-dominated browsers will be able to query user's preferences and thus control which cookies are blocked and which are not. There is also the threat of a universal "opt-in", which the "log-in" based US platforms can easily acquire through their millions of user accounts. This would create a high barrier for most of the European digital companies. If the Directive were to be adopted in this form, it would be an anti-European law originating in Brussels.

For this reason, we call for European companies not to be placed at a competitive disadvantage by means of such data protection regulations, which are particularly easy

for log-in-based platforms to comply with because they already hold a considerable amount of personal data.

To make sure there are no misunderstandings: the protection of privacy in the digital world is a precious commodity which must not be endangered through inadequate standards. I am also of the opinion that a well-balanced approach to data protection for the European economy can even become a genuine competitive advantage. German publishers have been demonstrating for decades how responsibly they handle the customer data entrusted to them. However, it is also important that we are able to continue to pursue our business models without excessively high hurdles and that the rules apply equally to all market participants – and that in the end those who always abide by the rules are not fools.

Minister-President Kretschmann, the federal states are currently also addressing the issue of data protection and in particular the so-called media privilege, which enables journalists to collect important data for their work. The freedom of the digital – as well as the printed – press necessitates the fact that neither data protection law nor data protection supervision apply to editorial work from research to publication. This has until now been safeguarded by the State Press Acts for the printed press and the Interstate Broadcasting Agreement for the digital press. Mr. Kretschmann, the federal states must not deviate one iota from this protection of the freedom of the press. Here too we are hoping for your support.

All these issues show: as the BDZV – where there are common interests – we must define and implement our goals in cooperation with all the other associations from the creative industry in the German Content Alliance. Only then will we reach the critical mass required to win over national and international policymakers.