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NOTE

From: Czech delegation
To: Delegations

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Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL on copyright in the Digital Single Market
- CZ proposal on Article 11

Delegations will find in the Annex a proposal drawn up by the Czech delegation on Article 11.

CZ proposal regarding Coreper agenda item 5

Directive of the European Parliament and of the Council on copyright in the DSM

COREPER I meeting on 27 April 2018

Art. 11 - Protection of press publications concerning online uses

new para 5

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

Art. 18 - Application in time

Para 2 should be deleted.

Justification:

Imagine the day when the Directive enters into force. As from that day website operators will have to go through every single use of a press article on their service and check whether that article was published more than one year ago. If yes, the neighbouring right has expired and they do not have to worry about it. If it was published less than a year ago, they need to either remove the use of the article or contact the press publisher for a license for that single article. That means a lot of bureaucracy for the website operators and also for the press publishers who would receive these requests. Therefore, it will be more proportionate if the right only applies to works that are published from the date of entry into force of the Directive.

In a view of the above, we believe that further adjustments to the text are needed in order to make it more balanced. The aim of our proposal is to ensure that the neighbouring right in Article 11 will not be applied retroactively. Our amendment brings more legal certainty when applying Article 11. Furthermore, it limits possible litigation and avoids disproportionate bureaucracy both for the website operators as well as for press publishers.