



**Interview with
Angela Mills Wade, European Publishers Council**

**For podcast release
Monday, August 8, 2017**

KENNEALLY: Journalists have a lot to keep them busy in 2017. Just in Europe alone there are Brexit, populism, and nationalism, as well as immigration to cover. The rise of so-called fake news and growing skepticism about professional journalism only make matters worse.

Welcome to Copyright Clearance's podcast series. I'm Christopher Kenneally for Beyond the Book.

The European Publishers Council is a lobby group of chairmen and CEOs from leading European media organizations. Based in Brussels, Belgium, home of the European Commission and numerous European Union government bodies including the European Parliament, the EPC reviews the impact of proposed European legislation on news publishing, newspapers, and journalism, and then expresses its collective opinion to legislators, politicians and opinion leaders.

Now, that's not a simple or straightforward task in 2017 either for the EU or the press as an institution. Angela Mills Wade is Executive Director for the EPC. She also serves as the chair of the UK Publishers Content Forum and is a member of the Board for Reporters Without Borders UK. It is her charge to take on the notoriously elaborate, even labyrinthine EU on the side of the media business. Angela Mills Wade joins me now from Brussels. Welcome to Beyond the Book, Angela.

WADE: Thank you very much. Good afternoon.

KENNEALLY: Yes. Good day and we appreciate your joining us today. Wanting to get an insider's view of the work you do there in Brussels. But before we discuss particular issues, for our audience, many of them in North America might not be familiar with all of this. Tell us about the work that's involved when you're trying to influence the content of final legislation that comes before the European Parliament.



BEYOND the BOOK

A Copyright Clearance Center Podcast

WADE: Well, as you may or may not know, the European Parliament is what they call a co-legislature with the national government. At the moment before Brexit, we have 28 members of the European Union. And the national governments in the council, together with the European Parliament, have to agree on the final shape of any piece of legislation, which is originally being proposed by the European Commission. So getting your voice heard and influencing the course of the legislation is no mean feat because it's sort of multifaceted.

The European Parliament is a very open organization, so normally speaking, it's not difficult to meet the members of the European Parliament who are taking decisions about your future through pieces of legislation. But on very controversial issues like copyright reform, it's very crowded, so there are many, many people seeking the time and attention of the members of the European Parliament.

So what we do is we have very streamlined communications. We focus on the people who are either writing the reports or the opinions that are to be taken into account by the lead reporter and the various members who are heading up delegations or political parties and who are the most active and the most engaged in the debates, whichever committee they're involved with.

So we write to them. We request meetings. We talk to them often more than once, answer their questions. We definitely don't talk at them. We try and have a dialogue to help them understand why we might be interested in a particular part of the legislation. So obviously, we'll talk later I'm sure about the publisher's right,.

They have a lot of questions and they want to really understand what's behind the proposal from the European Commission and how it would affect us and how it would benefit us and what our views are also of how it affects other players in the ecosystem like the users of the content.

KENNEALLY: Right. Thank you for that shortcut recipe to the sausage-making that goes on there at the European Parliament. And again, for our North American listeners, and particularly those in the United States, our First Amendment all but excludes the press from regulation. And in the European Parliament though that's not the case. And so, how easy is it for the Parliamentarians to seek to regulate the press and journalism and are there many such efforts?

WADE: They don't really seek to regulate the press per se. Copyright is a horizontal effort and they're not really regulating the press. They're actually empowering the



BEYOND the BOOK

A Copyright Clearance Center Podcast

press through the proposal of a neighboring right. So it doesn't in any sense regulate how the press operates or put any limits on how they would behave.

The treaties of the European Union don't actually allow the European Commission to regulate the press. They're there to defend fundamental rights. So fundamental rights are freedom of expression, freedom of information, the right to privacy, and so on and so forth.

So often the interventions by, say, the European Commission would be to really say to certain governments, hang on a minute. What you're doing at the moment really is not respecting the fundamental rights. It's not even respecting the treaty clauses that you as a government signed up to.

And you may be aware that there are some quite controversial difficult discussions between the European Commission and Poland at the moment. There have been also with Hungary and various other countries. So if the European Commission feels that the values that we all share and the fundamental rights that are kind of hardwired into the treaties are not being respected, they would call to account those member states.

So the areas of regulation are normally around harmonizing things that have already happened at national level when it comes to media. And really, it's only in the area of television where broadcasters are subject to certain rules and regulations at European level.

But again, those rules were designed to ensure that if you are broadcasting from your country into another, that you have a kind of a passport to do so, and you get your passport by complying by the harmonized rules, plus anything that was, of course, mandated at your own national level.

So I think there's often a kind of misunderstanding about interfering, say, with the media, and any moment that they try to do so or do so by accident. Normally it's kind of by accident. So they might be regulating something completely that you would never imagine would affect the work of journalists.

For example, insider dealing. There was a big regulation on insider dealing. And you wouldn't imagine that that would affect the free press. But the way it was actually worded until it was changed would've affected the ways journalists did their business in reporting on financial markets.



So you have to have an eye to watch these things that come in from left field. But normally the intention is not to limit or harm the press.

KENNEALLY: You use the term harmonizing and it suggests harmony. So I take your point that this is an effort towards finding harmony among the member states of the European Union.

But when it comes to harmony, there isn't a lot with this new copyright directive and the proposal that's been working its way through the system for a number of years now. And you're particularly concerned at the EPC about this new publisher's right that you've referred to, also called the ancillary right. And the EPC has recently blogged about this subject trying to set the record straight and even had to defend itself against some pretty harsh accusations.

So what is the argument? I suppose we have to begin by explaining for our listeners who wouldn't be familiar, what is the new publisher right that is at issue here?

WADE: There are already in lower European level neighboring rights. So what the European Commission has proposed is a neighboring right for press publishers. Broadcasters, music and film producers already benefit from a neighboring right at the European level, so this is to bring press publishers in line with other producers of content.

So in your role of a producer of content and for press publishers, we're talking about the press publication as a whole, so what is made available as a whole from websites or via apps on mobile, would have its own protection. It's kind of like a legal wrapper around what is being made available by the publisher. And those neighboring rights are called neighboring rights because they sit alongside the underlying rights of the authors.

So at European level in most countries the ownership of the individual articles or the images for press would lie with the journalists and the photographers. But those rights are assigned through contracts of employment or if you're on a freelance through an agreement with the publisher.

But what is made available as a whole by the publisher would be protected under the law by a neighboring right. And that doesn't undermine or diminish those



BEYOND the BOOK

A Copyright Clearance Center Podcast

original authors' rights, but it does give the publisher legal standing in its own right, and that gives clarity in the market to any commercial organization that might want to reuse any part of what the publisher is making available to the public for their own commercial purposes, that terms and conditions apply and that an agreement would be sought by the publisher.

There's actually nothing in the proposal that makes anybody pay for anything. So you might read in some articles that, no, this is a tax and this is going to make platforms and search engines pay for the reuse of content. There's nothing in the proposal that mandates how any license agreement would be established and who pays or how much is paid. It's really about the giving clarity in the market to the standing of publishers and really just trying to redraw the map a bit because it's been all too easy for aggregators or other companies to help themselves to publishers' content and reuse it without permission.

So it's really saying, well, hang on a minute. If you would like to do that, we're happy for you to do so, but let's have a conversation about what terms apply.

KENNEALLY: Right. So, really, it's a matter of principle here, inserting this new right. The practical parts of it, the actual licensing terms would be left to the parties involved. And this is all part of a very complex effort to forge this new copyright directive for the EU.

And copyright reform wherever it's spoken of always means many things to many people. The copyright directive is an enormous project. But what would EPC like to achieve or to see achieved when it is finally passed before the Parliament?

WADE: Well, I think the copyright proposal is in several parts, and the European Commission is being very careful to provide a balance. They've not just gone for empowering right holders. They're also looking at exceptions and copyright legislation is always, well, usually, a balance of interests between right holders and users.

Quite rightly they've looked at other areas, not just empowering right holders, through a neighboring right for press publishers or the proposals further down in the draft directive around the so-called value gap. Around how copyright protected content is used on platforms.



A Copyright Clearance Center Podcast

They're also looking at exceptions and they're also looking at contracts, fair contracts, and transparency around how content is used and made available so that the authors themselves get a fair crack, crack of the whip as well. So the proposal is very much a balance.

So I hope when it is finally approved by the Parliament and the member states that that balance is maintained, because if it's not, then we could have a dysfunctional outcome. Because you do need this empowering of right holders to deal with the changes that have taken place in the ecosystem, as well as making sure that users are not disadvantaged in their own legitimate interests.

KENNEALLY: I think one way of looking at the copyright directive is that it's an attempt to align those conditions you described with the digital realities. And for newspaper publishers, news publishers I should say, the reality of the digital world has been one that's been pretty bracing for some and maybe it's an opportunity for others.

Talk about from the EPC's perspective how you view these platforms, Google, Amazon, Facebook, and Apple and whether they represent a threat to the media or perhaps an opportunity as well.

WADE: Well, I think first of all they really, really should be the biggest opportunity ever because the fact of the matter is that millions, billions of consumers all over the world log on and look for news, find news wherever they can. That is fantastic and should be applauded.

And so getting our audiences and getting global audiences indeed is in a way not the problem. The problem is all around how you maintain revenues for investment in the production of that news on a long-term sustainable basis.

So looking at it in a very classic way, those who distribute the content that is produced by others should be, let's just say, normal business partners. It should be the most natural thing in the world that there would be a win-win between those two parties.

What's happened is through probably very fast, accelerated change and growth of those platforms, there is a discordance between what should be a normal business partnership, and the neighboring right in a way is part of trying to recalibrate that so that publishers are valued for the investment that they make in the content that



A Copyright Clearance Center Podcast

all these billions of people all over the world want to read. So I think it should be an opportunity.

KENNEALLY: And that really comes down to a final point here which is the relationship between journalism and democracy that you have frequently pointed out from the EPC's perspective. Talk about that. Why is quality journalism, why is compensating media companies going to have an impact on the quality of the democracy we all live in?

WADE: Well, I think if you value a free, diverse, and independent press – when I say independent, I mean independently financed, independent from politics, and large commercial influence, it matters. It matters a lot.

And if publishers who are employing professionally trained journalists can't afford to fund everything from foreign war-torn reporting to very local correspondence, it matters a lot. And if readers have to rely only on user-generated content for their news or indeed can't even differentiate between the sources of where the information has come from in the first place. That really does matter for our democratic discourse.

And I think the fact that publishers still continue to invest in funding inquiries on a long-term basis as well as news of the day is to be applauded. And that's what often makes the difference.

And the fact that you have professional companies, employing professional journalists who have rights but also responsibilities, that's what makes a difference when you're calling governments to account. Because if you go on the record and you publish and, as they used to say in England, publisher be damned, you may indeed end up in court.

And you would end up in court to defend what you put on the record and you'd defend your journalists for doing so. And you'd defend and you'd ensure and you'd protect your journalists when they are in these dangerous and difficult situations so that they bring eyewitness account.

Now that eyewitness account may be spread like wildfire, far and wide immediately on social media, but that's not to say that it wasn't produced first and foremost by a journalist who might have risked his or her life to do that. And I think that's why it is important that publishers continue to have sustainable



BEYOND the BOOK

A Copyright Clearance Center Podcast

revenues to do that job so that there is this availability to hold power and authority to account and bring the important eyewitness account and ask those difficult questions.

Because you might be a blogger on the street and you might get the most fantastic photograph or video clip. But you're not in a position to go up and ask somebody the questions that perhaps a reporter would do.

KENNEALLY: Well, we certainly appreciate your answering our questions today. We've been speaking on Beyond the Book with Angela Mills Wade. She's the Executive Director for the European Publishers Council. Angela, thanks for joining us.

WADE: Thank you very much for the opportunity to talk about these important issues.

KENNEALLY: Beyond the Book is produced by Copyright Clearance Center, a global leader in content management discovery and document delivery solutions through its relationships with those who use and create content. CCC and its subsidiaries Rights Direct and Ixxus drive market-based solutions that accelerate knowledge, power publishing, and advanced copyright.

Beyond the Book co-producer and recording engineer is Jeremy Brieske of Burst Marketing. I'm Christopher Kenneally. Join us again soon on Beyond the Book.

END OF FILE