

**From:** Berfin Eken  
**Sent:** Tue, 28 Sep 2021 10:08:37 +0200  
**To:** I Registrator  
**Subject:** VB: Tysklands förslag till ny artikel 27a om redaktionellt innehåll  
**Attachments:** 210921\_Tischvorlage\_DSA\_Art 27 a (neu).docx  
**Categories:** LWi

---

**Från:** Petra Wikström <[petra.wikstrom@schibsted.com](mailto:petra.wikstrom@schibsted.com)>  
**Skickat:** den 27 september 2021 10:34  
**Till:** Filippa Arvas Olsson <[filippa.arvas-olsson@regeringskansliet.se](mailto:filippa.arvas-olsson@regeringskansliet.se)>; Berfin Eken <[berfin.eken@regeringskansliet.se](mailto:berfin.eken@regeringskansliet.se)>; Helene Engellau <[helene.engellau@regeringskansliet.se](mailto:helene.engellau@regeringskansliet.se)>; Marita Ljunggren <[marita.ljunggren@gov.se](mailto:marita.ljunggren@gov.se)>  
**Kopia:** Anna Sööder <[anna.sooder@schibsted.com](mailto:anna.sooder@schibsted.com)>  
**Ämne:** Tysklands förslag till ny artikel 27a om redaktionellt innehåll

Hej på er,

Vi har diskuterat frågan om ett undantag för redaktionellt innehåll i DSA och som ni vet så är det en jätte viktig fråga för Schibsteds tidningar i Sverige Aftonbladet och Svenska Dagbladet.

Vi har ett förslag till text till en ny artikel 27a som vi tycker skulle vara den bästa formuleringen för ett sådan undantag, se nedan.

Men, som vi och ni vet så har Tyskland tagit fram ett förslag som tyvärr inte går så långt som vi skulle vilja. Jag har en regelbunden kontakt med det tyska näringsministeriet som har skickat oss förslaget de presenterat i rådsarbetsgruppen, se nedan. De har bett om våra synpunkter på förslaget, vilket jag nu även skickar åt er för transparens och vidare diskussioner.

Vi funderar gärna på denna fråga tillsammans mer er för att försäkra att vårt innehåll inte kan ändras eller tas ner av plattformarna och att våra läsare kan lita på att ansvaret för vårt innehåll är hos ansvarig utgivare, inte hos de globala sociala nätverken.

Med vänlig hälsning,

Petra

Schibsteds förslag till ny artikel 27a

**"Article 27a**

***Mitigation of risks for the freedom of expression and freedom and pluralism of the media***

1. The additional obligations under paragraph 2 apply to very large online platforms that allow for the dissemination of
  - (a) press publications within the meaning of Article 2(4) of Directive (EU) 2019/790 [DSMD],
  - (b) audiovisual media services within the meaning of Article 1(1) point (a) of Directive 2010/13/EU [AVMSD], or

(c) other editorial media, that are published in compliance with applicable Union and national law under the editorial responsibility and control of a press publisher, audiovisual or other media service provider who can be held liable under the respective laws of a Member State.

2. Very large online platforms in the meaning of paragraph 1 shall

- a. be prohibited from removing, disabling access to, suspending or otherwise interfering with such content or services or suspending or terminating the service providers' accounts on the basis of the alleged incompatibility of such content with their terms and conditions, and
- b. ensure that the freedom of expression and the freedom and pluralism of the media is always adequately and effectively protected."

**Petra Wikström**

Director of Public Policy

+46 72 2501249

**Schibsted**

[linkedin](#) | [twitter](#) | [facebook](#) | [instagram](#)

---

**Från:** Petra Wikström <[petra.wikstrom@schibsted.com](mailto:petra.wikstrom@schibsted.com)>

**Datum:** fredag, 24 september 2021 14:41

**Till:** [petra.wikstrom@schibsted.com](mailto:petra.wikstrom@schibsted.com) <[petra.wikstrom@schibsted.com](mailto:petra.wikstrom@schibsted.com)>

**Ämne:** Sv: Our meeting last week

Dear Armin,

Thank you for sharing your proposal with me. I have discussed it with my team and we have the following observations.

Although we very much appreciate that Germany wants to help the media sector by proposing a text that aims to protect editorial content, we unfortunately do not believe the German proposal will be enough to give us legal certainty about how our content is spread on these platforms.

We very much support the 1st paragraph in your proposal about the importance to protect freedom of expression and freedom of media pluralism, this is an important principle that needs to be enshrined in the DSA.

Paragraph 2 on an information requirement could be useful, as we need to establish a better working relationship with the platforms than we have today. However, we are not sure that this will help much, although it may be a step in the right direction.

However, paragraph 3 is according to us very problematic. This puts the burden of proof on the media service provider and give us very little room for maneuver. If the terms and conditions ban naked children or drugs on the platform and we have an article with a picture of a girl in a war or an article about drug abuse, we have no leeway to negotiate with the platform as the paragraph gives the platform the final say. This paragraph would according to us strengthen the platform's decision-power of our content. We would suggest to delete this paragraph from the proposal.

I hear from Axel Springer that they are very much against this proposal. We are also disappointed that it does not contain the legal certainty that we would need. At the same time I think that it would be important to have something in the Council text about the importance of protecting editorial content on the platform at least for the trilogues in order to negotiate the issue with the EP.

As a general comment we hear that many Member States, including Sweden, do not want to limit the platform's freedom to do business and regulate their terms and conditions. Although this a very applaudable principle, it does not really relate to reality as all regulations limit freedom of business. In the media sector we have several rules restricting advertising for example, which is also a limitation of the freedom to conduct business. So we do not see why online platforms should be able to set all the rules themselves based on their terms and conditions.

I would be happy to continue the discussion with you on this important topic.

Kind regards,

Petra

---

**Från:** [Armin.Jungbluth@bmwi.bund.de](mailto:Armin.Jungbluth@bmwi.bund.de) <[Armin.Jungbluth@bmwi.bund.de](mailto:Armin.Jungbluth@bmwi.bund.de)>

**Datum:** onsdag, 22 september 2021 12:39

**Till:** [petra.wikstrom@schibsted.com](mailto:petra.wikstrom@schibsted.com) <[petra.wikstrom@schibsted.com](mailto:petra.wikstrom@schibsted.com)>

**Ämne:** Our meeting last week

Dear Petra,

as promised last week please find enclosed a proposal by Germany on "secondary control" which we introduced in the respective Council working group yesterday. I will discuss it with the German publishers and Springer today.

Happy to have your view on the proposal.

Kind regards,

Armin

Dr. Armin Jungbluth

---

Division VIA3 - Legal framework for digital services, media industry  
Federal Ministry for Economic Affairs and Energy

Scharnhorststraße 34-37, 10115 Berlin, Germany

Phone: +49-(30)-18-615-7290

E-Mail: [Armin.Jungbluth@bmwi.bund.de](mailto:Armin.Jungbluth@bmwi.bund.de)

Internet: <http://www.bmwi.de>

The protection of your data is important to us. You can find out more about how your personal data are handled by the Federal Ministry for Economic Affairs and Energy in the data protection statement at [www.bmwi.de/privacy-policy](http://www.bmwi.de/privacy-policy).