

## Copyright, related rights and the news in the EU:

Assessing potential new laws

University of Amsterdam, [Agnietenkapel](#), Oudezijds Voorburgwal 2290231, 1012 EX  
Amsterdam, The Netherlands  
23 April 2016, 10.00-17.00

### Chairs:

Professors Lionel Bently, Bernt Hugenholtz, Ian Hargreaves

A one day CIPIL conference hosted at IViR. The conference is part of a two-year, AHRC funded [project](#) at CIPIL, Cambridge University, and JOMEC Cardiff University entitled *Appraising Potential Legal Responses to Threats to the Production of News in a Digital Environment*.



## Draft Programme

*Note: this programme is subject to amendment*

09:30 – 10:00 *Registration and coffee*

10:00 – 10:05 *Introduction and welcome*

**Session 1: Why are we here?** What problems face news publishers? Why is this important? Why might we expect a new European copyright or related law to help resolve them?

Chair: Ian Hargreaves

10:05 to 11:20

**Richard Danbury** Overview

*CIPIL*

**Jan Hegemann** The difficulties faced by news publishers, and the case for legal intervention

*Raue LLP*

**Matt Rogerson** Commercial news publishers, profit, the internet and copyright

*The Guardian*

**Andrew J Hughes** News, licensing, revenue and the Internet

*NLA Media Access*

*(speaking in a personal capacity)*

**Mark Seeley** STM publishers and the call for a new law

*RELX*

**Discussion**

11:20 to 11:40 *Tea, coffee and refreshments*

**Session 2: What went before?** What legal responses have there been in other countries, and what can be learnt from these about the prospects, requirements and effect of any new law?

Chair Bernt Hugenholtz

11:40 to 13:00

**Bernt Hugenholtz** Introduction

*IViR*

**Michael Grünberger** The German news publishers' ancillary right

*Universität Bayreuth*

**Raquel Xalabarder** The Spanish amendment of the quotation exception

*UOC*

**Søren Christian Søborg Andersen** Danish use of the *sui generis* database right, and the *Infopaq* litigation

*Horten*

**Chris Beall** US use of the 'hot news' tort, copyright and fair use

*LSKS Law*

**Discussion**

13:00 to 13:45 *Lunch*

**Session 3: Could a new law help?** What is the economic evidence? What legal restraints would a new law have to observe? What political concerns are likely to be raised by a new law?

Chair: Lionel Bently

13:45 to 15:15	
<b>Lionel Bently</b> <i>CIPIL</i>	Introduction
<b>Bertin Martens</b> <i>European Commission (in a personal capacity)</i>	The economic evidence on the impact of aggregation and news-related copyright laws on the business of news
<b>Bernt Hugenholtz</b> <i>IViR</i>	The current treatment of news under copyright, the rationales for this, and their implications for any new law.
<b>Marietje Schaake</b> <i>MEP</i>	The concerns of politicians
<b>Discussion</b>	

15:15 to 15:40 *Tea, coffee and refreshments*

**Session 4: What else might a law do?** The effects on consumers, the internet, new entrants to the market, and freedom of expression.

Chair: Ian Hargreaves

15:40 to 17:00	
<b>John Naughton</b> <i>Cambridge University</i>	Copyright, news, technology and democracy
<b>Agustín Reyna</b> <i>BEUC</i>	Effects on consumers
<b>James Mckenzie</b> <i>Cutbot</i>	New entrants to the market
<b>Mireille van Eechoud</b> <i>IViR</i>	Effects on freedom of speech and the right to know
<b>Discussion</b>	

## Speaker Biographies

**Søren Christian Søborg Andersen** is an attorney at the Danish law firm Horten. He advises on all aspects of intellectual property rights. He has wide experience in both patents and copyrights and transactions regarding intellectual property rights, including negotiating all manner of (licence) agreements. He also has extensive experience in regards to contentious IP matters, including PI cases before the Danish Bailiff's Courts and he has assisted on a number of high-profile Danish cases on copyrights and neighbouring rights. Søren Christian Søborg Andersen has also taught at CBS (the Copenhagen Business School) and at the University of Copenhagen.

**Chris Beall** is an accomplished trial attorney at the US law firm LSKS LLP. His practice focuses on representing news, publishing, entertainment, and other media clients in intellectual property matters, as well as in traditional media tort defense and First Amendment access and civil rights matters. He has litigated cases in federal and state courts throughout the USA. Chris teaches the media law seminar at the Sturm College of Law at the University of Denver, and he is a frequent speaker on First Amendment and copyright issues involving the news media. Chambers USA has described Chris as a "very acute trademark litigator" and "a trademark and copyright law expert." Best Lawyers has also recognized his "spectacular knowledge of media law." Before his legal career, Chris was a journalist with a number of different newspapers, including the *Providence Journal-Bulletin* and the *Las Vegas Review-Journal*.

**Professor Lionel Bently** is the Herchel Smith Professor of Intellectual Property Law and Director of the Centre for Intellectual Property and Information Law at the University of Cambridge; Professorial Fellow of Emmanuel College, Cambridge; and a barrister at 11 South Square, Gray's Inn. He is co-author, inter alia, of *Intellectual Property Law* (4th ed, 2014) (with Brad Sherman) and recently succeeded Paul Geller as the general editor of *International Copyright Law and Practice* (2014-). He was on the Copyright Expert Panel of the UK Government advisory board SABIP, the drafting committee of the 'Wittem Group' of European Copyright Professors working on a European Copyright Code, and currently chairs the European Copyright Society. He is co-PI of the AHRC-funded project on copyright, news and the digital environment.

**Dr Richard Danbury** is research associate on the AHRC-funded project *Appraising Potential Legal Responses to Threats to the Production of News in a Digital Environment*. He practiced briefly as a barrister, before spending 10 years as a broadcast journalist at the BBC, specializing in interviews and investigations. His doctorate is in media law, and considered the special treatment of institutional journalists in English law. He coordinates Channel 4's Investigative Journalism Training Scheme.

**Professor Mireille van Eechoud** is professor of Information Law, and director of IViR's LLM programme in Information Law. Much of her research is in the field of international and European intellectual property law, especially copyright and database protection. Her latest book on copyright is *The Work of Authorship*, M.M.M. van Eechoud (ed.), Amsterdam University Press 2014. This book was one of the outputs of the multidisciplinary research project she headed on creativity and collaborative authorship in copyright law (2010-2013), a collaboration with CIPIL (University of Cambridge) and the Media Studies department of the University of Bergen (Norway). A key research theme in Van Eechoud's current work is the emergent regulatory framework for open data and reuse of public sector data. Of special interest is the relationship between constitutional rights to information, data protection, transparency legislation and the commercial use of public sector information.

**Professor Dr. Michael Grünberger** LL.M. (NYU) holds the Chair of Civil, Commercial and Technology Law at the University of Bayreuth. His research focuses on intellectual property law, private law in the European multi-level system and methodology. For his thesis about the rights of performing artists "Das Interpretenrecht" ("Performers' Rights") the Faculty of Law of the University of Cologne awarded him the first prize for outstanding scientific achievements in 2006. His habilitation "Personale Gleichheit. Der Grundsatz der Gleichbehandlung im Zivilrecht" ("Personal Equality. The Principle of Non-Discrimination in Civil Law") received the award "Book of the Year 2014" from one of the most widely read German law journals "Neue Juristische Wochenschrift" (NJW). Michael Grünberger is Director of the Institute of Copyright and Media Law in Munich. He was the speaker of the Research Group for Intellectual Property and the Public Domain at the University of Bayreuth before he became Director of the Bayreuth Research Center for Intellectual Property, the Public Domain and Competition.

**Professor Ian Hargreaves** is Professor of Digital Economy at Cardiff University, a post he has held since 2010. Most of his career has been spent in journalism, with roles including Deputy Editor, Financial Times; Director BBC News and Current Affairs; Editor of the Independent and Editor of the New Statesman. In 2010/11, he led a review of intellectual property issues for the UK Government. The recommendations of the *Hargreaves Review* formed the basis of a programme of reform initiated by the coalition government led by Prime Minister David Cameron. His current research interests centre upon the creative economy. He is co-editor of the recently published: *The Creative Citizen Unbound: how social media and DIY culture contribute to democracy, communities and the creative economy*. (Policy Press). He also co-authored a *Manifesto for the Creative Economy* for Nesta in 2013. He has strong links with the Brussels-based Lisbon Council, where he serves as a Senior Fellow. He is co-PI of the AHRC-funded project on copyright, news and the digital environment.

**Professor Dr Jan Hegemann's** biography can be found here:

<http://raue.com/anwalt/jan-hegemann/>

**Professor Bernt Hugenholtz** is Professor of Intellectual Property Law and former director of IViR. In 1989 he received his doctor's degree *cum laude* from the University of Amsterdam, where he defended his thesis on copyright protection of works of facts. He has written numerous books, studies and articles on a variety of topics involving copyright, information technology, new media and the Internet. At the University of Amsterdam he teaches courses in copyright law, international copyright law and industrial property law. He was a member of the Amsterdam Bar and partner of the law firm Stibbe between 1990 and 1998. Since 2003 he has been a deputy judge at the Court of Appeal in Arnhem. Bernt is General Editor of the [Information Law Series](#), which is published by Kluwer Law International. Since 2007 he is also a member of the Faculty of Law of the University of Bergen, Norway (UiB) <http://www.uib.no/en>.

**Andrew J Hughes** is the International Director, NLA media access. He is speaking in a personal capacity. Andrew Hughes joined NLA media access in mid 2004. He was previously responsible for the business planning and operational implementation of the eClips database and led the team developing its wider applications. These included web licensing and content development – including the Meltwater legal action -, ClipShare (the online research service), the addition of magazine content, international and many other developments that have helped triple NLA revenue over the period. Andrew is also Secretary General of the Press Database and Licensing Network ([www.pdln.info](http://www.pdln.info)). Andrew was at NASDAQ listed OneSource (now Avention) from 1998 until 2004 where he was Vice President Content with responsibility for global content relationships and the UK and European operations. He created alliances with leading suppliers of CRM, portal and knowledge management solutions as well as with content providers like Dun & Bradstreet. Andrew joined OneSource Information Services from Financial Times where he was responsible for strategy, pricing, business development and content acquisition for products including FT Profile, content licensing and the formation of the NLA and FTSE International businesses. Andrew holds a BSc in Management Sciences and is an alumni of London Business School.

**Dr Bertin Martens** is a senior economist and team leader for the Digital Economy research programme at the Institute for Prospective Technological Studies (IPTS), one of the Joint Research Centres of the European Commission, based in Seville (Spain). He is speaking in a personal capacity. His current research interests focus on online services trade, the economics of online platforms and copyright in digital media. Prior to that, he was deputy Chief Economist for Trade in the European Commission in Brussels and carried out various other assignments in the European Commission, working extensively on international economic issues. He holds a PhD in economics from the Free University of Brussels.

**James Mckenzie** is one of the two co-founders of Cutbot, a media and public affairs monitoring company established in 2009. He is the former press officer for

the Greens in the Scottish Parliament, before that for the Scottish Parliament itself and for the Scottish Refugee Council. In 2014 Cutbot challenged the NLA at the Copyright Tribunal and got absolutely nowhere.

**Professor John Naughton** is a Senior Research Fellow in the Centre for Research in the Arts, Social Sciences and Humanities (CRASSH) at the University of Cambridge. He is also: Emeritus Professor of the Public Understanding of Technology at the Open University; Director of the Press Fellowship Programme at Wolfson College, Cambridge; and Technology columnist of the *Observer* newspaper. He is a Principal Investigator (with Sir Richard Evans and Professor David Runciman) on a five-year Leverhulme-funded project on *Conspiracy and Democracy* at CRASSH, and co-director of the *Technology and Democracy* research project — also at CRASSH. *A Brief History of the Future*, his book on the origins of the Internet, was shortlisted for the Aventis Prize. His latest book – *From Gutenberg to Zuckerberg: what you really need to know about the Internet* -- is published by Quercus Books.

**Agustín Reyna** works as a Senior Legal Officer and Digital Team Leader in BEUC, The European Consumer Organisation. BEUC represents 41 independent national consumer associations from 31 European countries. The primary task of BEUC is to act as a strong consumer voice in Brussels and to try to ensure that consumer interests are given their proper weight in the development of all EU policies. Within BEUC, Agustín works in the Legal and Economic Department following the development of consumer rights in the digital environment. He leads the Digital Team coordinating BEUC's policies in the area of copyright, data protection, telecommunications and competition. Argentinean born, Agustín obtained his law degree in the National University of Córdoba. He studied ICT law in Spain (ICADE, Comillas Pontifical University) and Belgium (CRIDS, University of Namur) and he is currently writing his doctoral dissertation on copyright and consumer protection under the supervision of Professor Norbert Reich (University of Bremen).

**Matt Rogerson** is the head of Public Policy at Guardian News & Media. He joined the Guardian in September 2013 following 5 years working at Virgin Media. Matt worked in Parliament for 5 years for two MPs. Matt's work at the Guardian includes looking at the impact of the Snowden revelations on approaches to data privacy, issues of media plurality in a digital world, the future regulation of news media, the role of copyright in relation to a world of platforms and the outcome of the ongoing BBC Charter Review.

**Mark Seeley** is Senior Vice President & General Counsel, Elsevier, and splits his time between the Cambridge, Massachusetts office and the Amsterdam headquarters. [Elsevier](#) is the leading publisher and information provider in science and health, and is part of the [RELX](#) group. Mark is the global General Counsel for Elsevier (which he joined in 1995), leading an international team of publishing and sales lawyers. The Global Rights (Rights & Permissions) team also

reports to Mark. Mark also serves on the Board of Directors of the [Copyright Clearance Center](#). Mark chairs the Copyright & Legal Affairs Committee of the [International Association of STM Publishers](#), and is a member of the AAP ([Association of American Publishers](#)) Copyright Committee. He is a regular contributor to STM association papers on copyright issues and best practices guidelines for research journal publishing, and is a frequent speaker at copyright, publishing and other industry conferences and events. Mark is currently serving as a liaison on the ALI project for a [Restatement of the Law, Copyright](#).

**Marietje Schaake MEP** is Marietje Schaake has served as a Member of the European Parliament for the Dutch Democratic Party with the Alliance of Liberals and Democrats for Europe political group since 2009. She is the ALDE Coordinator on the [International Trade committee \(INTA\)](#) and the spokesperson on the Transatlantic Trade and Investment Partnership (TTIP). Marietje additionally serves on the [committee on Foreign Affairs \(AFET\)](#), where she focuses on strengthening Europe as a global player. She focuses on the EU's neighbourhood policy, notably Turkey, Iran, North Africa and the broader Middle East. In the [subcommittee on Human Rights \(DROI\)](#) she speaks on human rights and coordinates the monthly human rights resolutions for the European liberals. In her work she has sought to include digital freedoms in EU foreign policy. Furthermore, Schaake serves as Vice-President of the delegation for relations with the United States, and as a substitute member on the delegation for Iran as well as on the delegation for the Arab peninsula. Marietje has pushed for completing Europe's digital single market and for copyright reform. She is strongly committed to an open internet in discussions about internet governance and digital (human) rights. She is the founder of the digital agenda caucus in European Parliament. In addition to her parliamentary work, Marietje Schaake is, amongst others, Member of the European Council on Foreign Relations, a Commissioner on the Global Commission on Internet Governance and a WEF Young Global Leader in the class of 2014. She serves as vice-president of the supervisory board of Free Press Unlimited.

**Professor Raquel Xalabarder** holds the Chair of Intellectual Property at the Universitat Oberta de Catalunya, where she was Director of the Law Degree (2002-2007) and Adjunct Director to the Vicerectorate of Academic Affairs and Faculty (2008-2013). *Master of Laws* by Columbia University Law School, New York (1993). *Doctor of Laws, cum laude por unanimidad*, by the Universitat de Barcelona (1997). *Visiting Scholar* at Columbia University Law School, New York (2000-2001) and *Honorarvetrag* at the Max Planck Institute for Intellectual Property, Munich (2008 and 2011). Vicepresident of ALADDA, Spanish group of ALAI, and member of the *European Copyright Society*. Prof. Xalabarder is a member of the Commission of Intellectual Property (Sec.1) at the Spanish Ministry of Culture, in charge of supervising the licensing and fees of Spanish collecting societies. Prof. Xalabarder has taught and published extensively on intellectual property, law of the internet and private international law.