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SPAIN VERSUS THE INTERNET

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In separate lawsuits launched in the mid-aughts, a group of newspapers in Belgium and the Agence France-Presse news agency in France sued Google for displaying snippets of text from their articles in Google News results. They argued that the snippets violated their copyright. In the years that followed, as Google News expanded its influence around the globe, both the A.F.P. and the Belgian newspapers reached agreements with Google to display the text, after all—in 2007 and 2012, respectively. The financial details of the deals weren't disclosed, but all of the parties professed to be pleased at the outcome, and the fight faded from headlines, especially in the U.S.



Those lawsuits might have been footnotes in the history of European Internet law. But in the continent's publishing circles, the intriguing question that they had raised—could it be illegal for Internet companies to reprint text, even small amounts, from other publishers?—kept coming up. Last year, Germany began letting publishers charge Google News and other aggregators for publishing bits of text drawn from their articles. That change ended up having little effect, in practice, because Google said that it would take material from publishers that didn't charge, and so many of them opted against charging.

But recently, under pressure from publishers, the government of Spain went still further, passing a law that *requires* Spanish publishers, starting next month, to charge any aggregation service that reposts passages from their articles. (A management organization would handle the fee transfers.) If companies don't charge for this access, they face a fine of about seven hundred and fifty thousand dollars. In response, on Thursday morning, Google announced that it would remove Spanish publishers from Google News, and would shut down the aggregator in Spain early next week.

Richard Gingras, the head of Google News, explained in a blog post that Google gets no direct revenue from the service: it doesn't show any ads alongside search results, the way it does on its traditional search pages. Presumably, the company feels that any indirect benefit it receives—attracting visitors who go on to use its regular search site, for example—is outweighed by the loss of revenue from being charged by publishers. “This new approach is simply not sustainable,” Gingras wrote.

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Gingras's complaint about unsustainability applies equally to the current situation for Spanish publishers. As in other countries, the Internet has upended their old business model of printing ads alongside articles, on paper. European newspaper circulation has fallen more than twenty per cent over the past five years. People are reading the news online, but there's far less revenue to be found in online advertising than in print. People also read the news differently than they once did—cobbling together their understanding of the news, piece by piece, from various sources, instead of just picking up one newspaper from the doorstep. To find those sources, they sometimes turn to aggregators like Google News, and that's where the new law comes in.

The idea behind the law is that aggregators shouldn't be able to show people the news—even little bits of it—without compensating the publishers who do the hard work of reporting it; Google points out that it doesn't make money from showing the headlines and snippets in Google News, and that in fact it generates revenue for publishers worldwide by referring people to their Web sites. Perhaps more important, Google News doesn't link to publishers' stories unless the publishers explicitly request it.

At first glance, the implications of the law seem relatively small. Google didn't directly generate revenue from the service, so it didn't have much to lose. And while Spanish publishers lose a source of traffic, they depend far less on Google News than U.S. publishers do—the site is the thirtieth most visited in the U.S. but only the two-hundred-and-twenty-sixth in Spain, according to data cited in the *Times* by the measurement firm SimilarWeb.

But the implications of the law could go beyond the question of whether Google News is good or bad for publishers. The law troubles advocates of Internet freedom (and, one imagines, Google and other Internet companies) because it seems to fit into a broader pattern, in Europe, of government actions that undermine what is sometimes known as the “right to link.” The best-known example of this is the decision, in May, by the European Court of Justice, that Europeans have a right to have links to information about them removed from search results—the “right to be forgotten,” which Jeffrey Toobin covered for the magazine in September.

“Linking is fundamental to the way the Web works,” Jeremy Malcolm, a policy analyst at the Electronic Freedom Foundation, told me. Search engines work by turning up links to sites whose content matches a search query; much of the sharing that takes place on social-media sites is of links; journalists themselves—including for this Web site—use links in their articles to provide context for their own pieces. (And, of course, those links are often accompanied by text snippets.) Malcolm noted that, in February, the European Court of Justice affirmed that when a Web-site owner links to a person's copyrighted work on another site, that doesn't constitute copyright infringement. But, he told me, “Having said that, there is no positive right to link expressed in legislation or any international

In a post on E.F.F.'s Web site, Malcolm worried about the precedent that the Spanish law could set. In October, the European commissioner for the digital economy, Günther Oettinger, told the German newspaper *Handelsblatt*, "If Google takes intellectual property from the E.U. and works with it, the E.U. can protect this property and can demand a charge for it"; he said a law to that effect could be in place by 2016. Malcolm wrote, in his piece, "Once it becomes illegal for aggregators to freely link news summaries to publicly-available websites, it becomes that much easier for those who want to prohibit other sorts of links, such as links to political YouTube videos, to make their case."

This might be a bit of a stretch, as applied to Europe, where Internet laws are generally sympathetic toward citizens, if not toward Internet companies. But it is far from unheard of elsewhere. As I wrote earlier this month, Internet freedom is declining worldwide. In his post, Malcolm referred specifically to a case in Morocco last year in which Ali Anouzla, the Moroccan editor of the Web publication Lakome, was arrested and charged with supporting terrorism after he linked to a newspaper article that displayed a YouTube video allegedly posted by a terrorist group. Ironically, the newspaper to which Anouzla linked was the Spanish publication *El País*.



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