

# Fair Competition in the Digital Market



**BERTELSMANN**



## BERTELSMANN

Bertelsmann is a media, services and education company that operates in about 50 countries around the world. It includes the broadcaster RTL Group, the trade book publisher Penguin Random House, the magazine publisher Gruner + Jahr, the music company BMG, the service provider Arvato, the Bertelsmann Printing Group, the Bertelsmann Education Group and Bertelsmann Investments, an international network of funds. The company has 119,000 employees and generated revenues of €17.2 billion in the 2017 financial year. Bertelsmann stands for entrepreneurship and creativity. This combination promotes first-class media content and innovative service solutions that inspire customers around the world.



Dear readers, dear friends of Bertelsmann,

The creative industry in Europe is at a crossroads. At this point, it is still one of the continent's most important economic sectors. In Germany, France and the UK alone, a total of 453,000 companies large and small provide more than two million jobs that pay into the social security system. Every year, creative companies in these three countries contribute €161 billion to Europe's gross value added.

But the creative industry faces great challenges. U.S. tech platforms like Facebook, Amazon, Apple, Netflix and Google are increasingly turning into competitors. This is a whole new dimension of competition, which we meet with creativity and entrepreneurship.

- As Europe's largest media company, we invest more than five billion euros a year in creative content: in video, books and music, in quality journalism, and in education.
- We offer safe advertising environments and high reach. In Germany, RTL and Gruner + Jahr together reach 99 percent of all households.
- We are expanding our digital expertise, particularly in advertising technology, and enter into strategic alliances with partners.
- At the same time, we are working with the major tech platforms and growing along with them.

All successes aside, we, like all creative companies in Europe, are disadvantaged in competition with the tech platforms. There is an urgent need to modernize the regulatory framework for creative businesses in Europe – and to remove shackles that no longer reflect the reality of digital markets with new global competitors. Then, the success story of our industry can and will continue – in the interest of numerous jobs, high value creation, and a creative, pluralistic media landscape.

Yours sincerely,

Thomas Rabe



# Fair Competition in the Digital Market

Six recommendations for transparency, accountability and  
a regulatory level playing field

# Fair Competition in the Digital Market

Six recommendations for transparency, accountability and a regulatory level playing field

Today, global digital platforms, such as Amazon, Google, Facebook, shape – and often dominate – the digital economy. They also expand faster into the direction of media companies than vice versa. This results in an unprecedented concentration of market power in the hands of these digital platforms as de facto gatekeeper, which requires fair and proportionate regulation of all market players to achieve a level playing field. However, current legislation in key international markets is fragmented, outdated and does not reflect consumer interests and international market realities in the digital environment. It is time for digital platforms to take full responsibility, reflecting their market power, daily mass reach and influence on societies – and legislators must establish appropriate rules and standards with a holistic mindset.

The public value created by content companies must correlate to the economic value returned to them in order to ensure a healthy, pluralistic media ecosystem with diversity in voices, products, services and business models. For our high-quality content and services to thrive, we need to be able to capture a fair share of the data and advertising economy.

To achieve this, we have six recommendations to regulators:

1. Appropriate accountability of all players reflecting consumer and business realities
2. Fair access to data
3. Efficient and agile enforcement of modern competition and antitrust rules to reflect market realities
4. Fair share of the advertising market to finance content investments
5. Fair balance of rules for digital platforms and media companies
6. Fair taxation

„Es gibt keine Wettbewerbsgleichheit mit Google & Co“

F.A.Z., 03/02/2018

Het Financieele Dagblad, 03/28/2018



**Bert Habets**  
Chief Executive Officer of  
RTL Group

F.A.Z., 06/25/2018

„Wir können gegen Amazon oder Netflix punkten“

Es gibt keine fairen Wettbewerbsbedingungen zwischen den europäischen Medienunternehmen wie RTL und den globalen Giganten wie Amazon und Co. Unsere europäischen Märkte sind extrem stark reguliert, zum Teil mit uralten Vorschriften aus dem analogen Zeitalter.

**OMZETBELASTING**  
**Bertelsmann:**  
**Europese**  
**bedrijven**  
**harder geraakt**

Bertelsmann chief hits out at EU digital tax plan

ft.com, 03/27/2018



„Der Vertrauensschaden geht weit über Facebook hinaus“

Der Gütersloher Medienriese Bertelsmann ist zugleich Geschäftspartner und Rivale von Facebook. Der Vorstandschef spricht über eine komplexe Beziehung und über Datenschutz.

handelsblatt.com, 03/27/2018  
Handelsblatt 03/28/2018

Die Freunde sind die Feinde

Die großen US-Internetkonzerne sind Konkurrenten und Kunden von Bertelsmann zugleich. Konzernchef Thomas Rabe beklagt jetzt den unfairen Wettbewerb und fordert Gleichbehandlung

Thomas Rabe, Chairman and Chief Executive Officer of Bertelsmann, Süddeutsche Zeitung, 03/28/2018



„Uns verbindet eine innige Hassliebe“

**Julia Jäkel zur Facebook-Debatte:**  
**„Cambridge Analytica hat Wissen über die Nutzer waffenfähig gemacht“**

Julia Jäkel  
Chief Executive Officer of Gruner + Jahr

„Eine Krise der demokratischen Öffentlichkeit“

Die Verlagschefin von Gruner + Jahr spricht über die Verrohung der globalen Kommunikation durch Facebook & Co., die Verantwortung der deutschen Wirtschaft und die Zukunft des gedruckten Wortes.

Bertelsmann critique la taxe numérique

Les Echos, 03/28/2018



## Appropriate accountability of all players reflecting consumer and business realities:

Liability for online content is regulated by legislation pre-dating the existence of many US platforms and their businesses<sup>1)</sup>. Digital platforms have long ceased to be mere providers of technological infrastructure. Platforms do not just enable consumers and media companies to distribute and communicate their content – they also influence content in their news feeds via algorithms – all too often with the predisposition towards more radical, sensationalist content. Recent events have demonstrated that algorithm-driven platforms are highly vulnerable towards disinformation online, manipulated content and fraud. New business models of digital platforms expand into curating content – which is regulated at a much higher level for content/media companies – especially broadcasters. There is a significant mismatch between the value that digital platforms draw from (user generated) content and the revenue returned to the content providers.

We need a newly tiered liability regime, reflecting the massive impact of digital platforms on consumers, society and the whole value chain, and which ensures that the de facto curating activities of digital platforms entail the same kind of liability.

## Examples

In Germany, media and press companies enjoy freedom of the press – in their reporting, media companies must respect the personal rights of people and companies, which, like freedom of the press, have constitutional status. The balancing of these interests is reflected in media regulation, which, for example, legally obliges press companies to maintain journalistic due diligence. This obligation stems from State Press Acts and from the Interstate Broadcasting Treaty.

Breaching these duties leads to extensive sanctions. If, for example, negligent research leads to an article containing false claims about a person, the person concerned can sue the publisher and editor for damages. Depending on the severity of the breach, they are entitled to injunctive relief, retraction, or even monetary compensation. Furthermore, all State Press Acts and the Interstate Broadcasting Treaty enshrine the claim to counterstatement. This claim gives the person concerned the right to have their account of an event disseminated, irrespective of the truthfulness of the account in the article they are disputing.

Finally, the majority of German publishing houses have made a voluntary commitment to respect the German Press Council Press Code when reporting in their media. The German Press Council Complaints Rules give every citizen the right to file complaints about violations of the Press Code. In the event of an infringement, the Press Council will issue a note, a censure, or a public reprimand. The latter are published by the Press Council at <http://www.presserat.de/pressekodex/uebersicht-der-ruegen/> and as a rule also by the publisher concerned.

Beyond special media law regulations, journalists and publishers are also subject to sanctions under general criminal law. Regarding publications, those are about utterance offences such as slander and defamation, as well as delicts in the field of image publication. Whereas in the context of research, those are delicts which violate the integrity of data or are undermining administrative enquiries or proceedings. As a result, media and press companies are subject to extensive regulation regarding compliance with journalistic standards.

<sup>1)</sup> e.g. Section 230 of the US-Communications Decency Act of 1996, EU E-Commerce Directive of 2000, US Digital Millennium Copyright Act of 1998, EU Directive on the harmonisation of certain aspects of copyright and related rights in the information society of 2001).

# 2

## Fair access to data:

Asymmetrical access to data and a lack of transparency harms consumers, the diversity of the media landscape and the digital economy. Consumption of media content generates valuable data, which should be accessible to the media companies financing such content. The ever-increasing concentration of aggregated user data in the hands of a few digital platforms would be further reinforced by the ePrivacy Regulation as currently envisioned. Global digital platforms have built data ecosystems allowing them to easily obtain consent in exchange for access to their services. Similarly, media companies should remain free to make access to their editorial content conditional on the right to collect and process the data of their users. Furthermore, the concept of central privacy settings in browsers and devices would strengthen the gatekeeper role of digital platforms – but consumption of media needs to be independent of browsers and devices.

The global digital platforms are, by far, the biggest collectors and processors of data in the digital economy. We need a more balanced framework that recognizes the contribution of media companies to the data ecosystem and ensures fair access to data and freedom of business model, while protecting consumer privacy and trust.

## Examples

The draft ePrivacy Regulation currently under debate stipulates a general obligation to obtain user consent. This consent rule would result in a drastic reduction of targeted advertising, causing that the offer can no longer be maintained with advertising revenues. Without advertising revenue, free professional journalism in the digital world would be at risk.

The ePrivacy Regulation would strengthen the influence of large US platforms at the expense of providers of journalistic content. By means of default settings in browsers, apps and operating systems, the regulation under discussion would exclude third-party cookies. This turns browser operators into powerful “gatekeepers”.

To combat abuse and fraud on the Internet, the option to recognise Internet access devices is needed. The ePrivacy Regulation lacks a legal basis for a “anti fraud solution” based on the recognition of Internet access devices, i.e. a clause that would permit the collection of hardware and software data or the use of cookies for fraud prevention and combating abuse. Unless such a legal basis is provided, this effective form of fraud prevention especially in eCommerce would become impossible. Opt-in is not a viable solution because fraudsters simply would not give their consent.

The draft ePrivacy Regulation stipulates that users would have to be given comprehensive access to an online offer, even if users do not consent to receiving customised advertising. Since users would have to be given full access to the site in any case, there would generally be negligible motivation to opt in and consent to the collection and processing of data. However, only customised advertising based on these methods enables a vendor to provide an online offer free of charge.

The advertising industry’s budgets would be shifting to offers that can still use targeting – with “login giants” as the main beneficiaries. Thereby the ePrivacy Regulation would primarily serve to strengthen major US platforms such as Google and Facebook.

## 3

## Efficient and agile enforcement of modern competition and antitrust rules to reflect market realities:

The current competition and antitrust law in Europe (and the US) does not reflect the realities of the digital ecosystem. The mechanics of the platform economy, notably the so-called network effect, fuel rapid growth of platform companies to unprecedented size, market power and influence on public opinion. Antitrust law and enforcement of it must take into account these effects even before the tipping point has been reached and – if too late – provide for effective means to prevent platforms from an abuse of such market power and from other anti-competitive behaviour.

It should be made easier for media companies to engage in mergers and new forms of cooperation in the media sector – otherwise, competition with US platforms remains impossible. The success of video-on-demand platforms depends on their ability to offer the widest possible selection of content, from various media companies.

We need dynamic enforcement of the current materiality rules, as well as procedural rules that can be adapted quickly, to reflect the rapidly changing market conditions and their effect on competition and on consumers.

## Examples

The project by big commercial TV players to form a neutral technology platform comprising all TV broadcasters of Germany for a onestop catch-up TV service was prohibited by the German Cartel Office a few years ago (2011/12) – de facto a free ride for Amazon and Netflix in the German market.

Another striking example of the outdated and narrow approach to market definitions stems from the analogue print market – only the readers market of women's magazines is in itself divided into five separate markets – quickly leading to "assumed market dominance" – which does not reflect the user's approach to consuming media in the current environment. On the other hand, the European Commission unproblematically approved Facebook's take-over of Whatsapp showing a very hands-off approach towards digital platforms.

A final example of the completely outdated view on markets is the German law on media concentration, which in fact is solely aimed at corporations such as Bertelsmann – since it focuses on broadcasting only.

# 4

## Fair share of the advertising market to finance content investments:

Media companies produce and curate creative content and high-quality journalism responsibly and hence ensure creative diversity, brand safety and consumer trust. For many (or most) media companies, this is primarily financed by advertising revenues. Advertising bans or restrictions on media companies make competition with US digital platforms more difficult.

In order to achieve a level-playing field in accessing the digital advertising markets we need more flexibility in advertising regulation – and this needs to be applicable to all players equally, no matter how consumers receive the content, via TV or via digital platforms.

## Examples

Viewers and politicians expect RTL to interrupt its regular programming for Breaking News in certain situations, and to report live on events of special news value. From a business perspective, this means lost advertising revenue, as in this context, the broadcasting of commercials booked for regular programmes is neither permitted nor desirable. The AVMS Directive does not allow the broadcaster to make up for lost revenue from booked commercials at a later hour, so it penalizes the broadcaster with the hourly limit. By doing so, the directive practically provides an incentive for private broadcasters to keep broadcasting their entertainment programming during breaking news situations instead of acting as socio-politically desired.

If a broadcaster like RTL shows a full-length feature film for children (without advertising due to the interruption ban), it is denied the right to refinance the film in the hours before or after with additional advertising income. This hits the broadcaster even harder because such films are associated with high licensing costs. From a re-financing viewpoint, the lack of flexibility in broadcasting commercials makes it extremely difficult for a commercial TV channel to broadcast high-quality children's films.

Especially at the start of a new, self-produced series whose success is particularly important to both the producer and the broadcaster, and which they want to establish among viewers, it can make sense to show as little advertising as possible in the first few episodes in order to introduce the plot. This decision by the broadcaster is punished with an immediate loss of revenue during primetime, since he cannot "make up" the unused advertising air time at a later hour. This makes it much more difficult to refinance a series involving major investment.

## 5

## Fair balance of rules for digital platforms and media companies:

The asymmetry in regulation of digital platforms is most obvious in comparison with the highly regulated landscape for broadcasters (at EU and national level). Linear audiovisual media services (broadcasts) are still facing special regulation as far as advertising restrictions, including programme-related obligations (regional windows, third party content) are concerned. As long as these obligations remain in place, a fair balance for more rights towards media platforms has to be re-established by means of access, findability and signal integrity. And as a baseline we always require strong and robust copyright and neighbouring rights protection. Furthermore, to achieve a level playing field with digital platforms in their broader role as intermediaries and bottleneck for all types of content, questions of transparency and non-discrimination need to be addressed. Digital platforms have become the touch point for billions of consumers to access and explore media content. Access to such content takes place via search or recommendation engines and social media platforms. The platforms actively influence what is presented to their users and how it is presented. Therefore, the digital platforms have become powerful intermediaries who stand between the content providers and their audiences. In addition, digital platforms are setting (and frequently changing) the technical standards in the digital marketplace other market players have to adhere to – this makes fair competition impossible.

The rights of media companies on audiovisual platforms should therefore be enhanced to redress the imbalance resulting from their (high) special regulatory obligations in order to achieve a level playing field towards platforms. Tech standards set by digital platforms alone as a result of their market power should be subject to monitoring and regulation to ensure non-discriminatory access to such standards and transparency.

## Examples

Although RTL's linear programmes and the content offered by a digital platform such as Youtube can be viewed on the same screen, we are subject to much stricter regulatory standards. Broadcasting is one of the most heavily regulated sectors in Europe. This is particularly evident in the fields of advertising and duties of care for the user (protection of minors, consumer protection).

According to the current legal situation, television broadcasters can only serve a stand-alone commercial before a programme in exceptional cases. At the same time, the advertising market demands this mechanism both online and in television broadcasting, as it is common practice on all online platforms (such as Youtube). Television broadcasters are unable to appropriately satisfy this demand, and thus have a competitive disadvantage. Therefore, in the future, the exception should become the rule in order to enable to serve stand-alone commercials. It is even more important to make the permitted advertising volume more flexible. The windows envisaged by the EU, which would allow for a flexible shifting of the advertising volume to a respective share of 20%, can be described as a step in the right direction.

In addition, it should not be allowed to overlay broadcast content with third-party content without the broadcaster's consent – this applies to both advertising and media content. If content is overlaid or replaced with advertising and the revenue does not benefit the broadcaster, it deprives private broadcasters of their financial basis. Via so-called recommendations, users of the broadcasting programme are to be directed to a video-on-demand service. This is a misuse of the role of the gatekeeper in order to gain a competitive advantage.

# 6

## Fair taxation:

The current de facto tax advantage of digital platforms, involving significantly different levels of taxation for them in key international markets, needs to be further addressed by policymakers. A level playing field needs to be achieved with a comprehensive tax policy response coordinated at international level.

We need a new tax framework that understands and reflects the nature of global digital business models and avoids unfair double-taxation to other players as collateral damage of tax initiatives. It is essential that governments and businesses work together to develop an efficient tax framework to harmonize international tax rules.

## Examples

Bertelsmann CEO Thomas Rabe has criticized the EU's digital tax plan. He argued that a three percent levy on digital advertising revenues, as proposed by the European Commission, could result in a „double taxation“ of European corporations like Bertelsmann, which already pay a considerable amount of taxes on their European earnings.

*Financial Times*

New European tax plans targeting digital revenue could exacerbate the existing competition problems presented by American tech companies, Bertelsmann SE & Co. KGaA chief executive Thomas Rabe said Tuesday. If Bertelsmann, Europe's biggest media company by revenue, also had to pay the charges on digital revenue, „I would find this quite inappropriate,“ Mr. Rabe said. „We are paying direct taxes already...in all the countries where we operate,“ Mr. Rabe added. „We would be effectively taxed twice“ in Europe, he said.

*Dow Jones*

The German media giant Bertelsmann has criticized the European Commission's plans for a digital tax. The company's CEO Thomas Rabe said that was in favor of creating a level playing field between his company and US tech companies. However, the idea of three percent tax charge on revenues generated from digital services would not only apply to the so-called GAFA, but to all companies. This would effectively lead to double taxation of Bertelsmann's digital activities, Rabe said.

*Les Echos*



Interviews and  
Editorial  
Thomas Rabe



Sechs Minuten Werbung je halbe Stunde sind ihm zu wenig: Thomas Rabe fordert Chancengleichheit mit Internetkonkurrenten.

Foto Matthias...

Im Gespräch: Thomas Rabe, Vorstandsvorsitzender von Bertelsmann

## „Es gibt keine Wettbewerbsgleichheit mit Google & Co.“

Bertelsmann-Chef Thomas Rabe über die neue Dimension im Mediengeschäft, die Bezahlbereitschaft der Kunden im Internet und die ostwestfälische DNA des Konzerns.

*Herr Rabe, bald stellen Sie die Geschäftszahlen von Bertelsmann für 2017 vor. Sind Sie Ihrem ehrgeizigen Ziel, bis 2020 rund 20 Milliarden Euro Umsatz und 3 Milliarden Euro operativen Gewinn zu machen, näher gekommen?*

2017 war ein richtig gutes Jahr für Bertelsmann. Wir bewegen uns schrittweise in Richtung unserer Ziele von 20 Milliarden Euro Umsatz, 3 Milliarden operatives Ergebnis und mehr als 1 Milliarde Gewinn. 2011 haben wir mit einem Umsatz von etwa 15 Milliarden Euro begonnen, aber hiervon in den vergangenen Jahren fast 2 Milliarden verkauft. Der tatsächliche Ausgangspunkt lag also bei etwa 13 Milliarden Euro. Letztes Jahr sind wir, so viel kann ich verraten, bei gut 17 Milliarden Euro gelandet, haben also einen guten Teil der Wegstrecke schon geschafft. Das operative Ergebnis ist auf einen neuen Höchstwert gestiegen, und auch der Gewinn lag bei mehr als 1 Milliarde Euro.

*Planen Sie Übernahmen? Das würde das Wachstum beschleunigen.*

Wir prüfen ständig Gelegenheiten und kaufen immer wieder zu, wollen aber verstärkt organisch wachsen.

*Das bedeutet?*

Wir sind lange Jahre organisch nicht gewachsen, nun liegen wir bei knapp 2 Prozent. Das wird getragen von unseren digitalen Wachstumsgeschäften, die wir in den letzten Jahren auf- und ausgebaut haben. Diese wachsen im Schnitt um 5 bis 6 Prozent, einige sogar noch stärker um bis zu 30 Prozent.

*Zum Beispiel.*

Zum Beispiel die Digitalgeschäfte der

Nein. Digitalisierung schafft Wachstum und neue Chancen in allen Geschäften. Nehmen Sie das Musikgeschäft. Das wächst spürbar durch die rasante Entwicklung des Streamings. Die Bereitschaft der Kunden, für Musik zu bezahlen, ist definitiv vorhanden. Das gilt auch für das Online-Videogeschäft oder für das elektronische Buch. Man kann also nicht sagen, dass im Digitalen keine Bezahlbereitschaft besteht.

*Auch bei den Zeitschriften von Gruner und Jahr?*

Im Journalismus sind, verglichen mit anderen Medien, Bezahlangebote am schwierigsten. Das ist seit Jahren so, und es ist, von wenigen Ausnahmen abgesehen, ein weltweites Phänomen.

*Warum?*

Es gibt zu viele kostenlose Angebote, auf die die Leser ausweichen können. Und die Bezahlangebote sind nicht immer nutzerfreundlich.

*Werbung verändert sich, wird personalisiert.*

Daten und deren Nutzung für personalisierte Werbung sowie personalisierte Inhalte werden immer wichtiger, auch deswegen haben wir Datenallianzen geschaffen. Und Künstliche Intelligenz bietet interessante Möglichkeiten, zum Beispiel bei der Automatisierung unserer Dienstleistungen.

*Der nächste Bestseller ihres Verlags Penguin Random House wird also bald von einer Maschine geschrieben?*

Eher nicht. Künstliche Intelligenz wird menschliche Tätigkeit zunächst dort ersetzen, wo sie einem wiederkehrenden Muster folgt, also repetitiv ist. Kreative Tätigkeit ist alles andere als repetitiv. Künstliche Intelligenz wird sie daher nicht ersetzen, sehr wohl aber unterstützen, um noch bessere mediale Inhalte zu schaffen und auf die Belange der Nutzer abzustimmen.

*Sie wollen sich von dem Kundenbetreuungsgeschäft und den Call Centern bei Arvato trennen und nur Logistik, IT und Finanzdienstleistungen behalten. Dabei müsste der Kontakt zum Einzelkunden am Markt gerade wegen der Digitalisierung und Automatisierung doch*

sche Entwicklung und den Ausbau von Offshore-Standorten notwendigen Mittel bereitzustellen. Entsprechend prüfen wir nun, diese Geschäfte an einen Investor oder einen Partner zu geben.

*Haben Sie schon Interessenten?*

Das Geschäft ist für verschiedene Investoren interessant. Wir wollen im Mai auf Investoren und mögliche Partner zugehen. Dann werden wir versuchen, möglichst schnell zu einer Entscheidung zu kommen. Im Herbst werden wir hoffentlich eine Lösung haben.

*Das gilt auch für die Kontrolle von Inhalten und Hassrede im Netz, die Bertelsmann für Facebook macht?*

Ja. Wir haben uns vor einiger Zeit entschieden, für Facebook sogenannte Content-Moderation-Dienstleistungen zu erbringen. Wenn Sie sich ansehen, was sich über soziale Plattformen verbreitet, dann ist es notwendig, Inhalte nach bestimmten Maßstäben zu prüfen und gegebenenfalls zu löschen. In Deutschland gibt es ja inzwischen sogar eine rechtliche Verpflichtung, das zu tun. Dass dies in einer freiheitlichen Gesellschaft auch heikel ist, ist nicht zu bestreiten. Aber es ist gesellschaftlich wichtig.

*Facebook, Google, Netflix oder Amazon sind nicht nur Kunden bei Bertelsmann, sie sind auch Wettbewerber.*

Richtig, das ist mitunter für uns ein Spannungsverhältnis. Google und Facebook vereinen in etwa zwei Drittel der amerikanischen Online-Werbemarkt. Und sich und praktisch das gesamte Wachstum des Marktes. In Europa sind die Verhältnisse ähnlich. Netflix und Amazon investieren immer stärker in das Video-on-demand-Geschäft. Das hat natürlich Auswirkungen auf unsere weltweiten Geschäfte und die Reichweite von RTL.

*Das verändert den Wettbewerb für Bertelsmann massiv.*

Sehr massiv sogar. Die globalen Tech-Plattformen sind formidable Wettbewerber. Wir standen bislang im TV-Geschäft in Konkurrenz mit ProSieben oder TF1 in Frankreich, im Buchgeschäft mit Harper Collins oder Simon & Schuster. Wir haben uns gut geschlagen und unsere Marktanteile meist gehalten oder ausgebaut. Was jetzt passiert, das ist ein

Unsere erste Antwort ist: Wir investieren in Inhalte, in Summe jedes Jahr 5 Milliarden Euro. Und wir bieten Reichweiten an wie kein anderer: RTL und Gruner + Jahr erreichen zusammen 99 Prozent der deutschen Haushalte. Das hat für Werbung treibende einen hohen Wert. Vor allem aber bieten wir sichere Werbemöglichkeiten mit hochwertigen Formaten. Das ist unser Wort „Brand Safety“. Das ist für Kunden wichtig, weil Werbung nicht nur wirksam sein will, sondern auch sicher sein muss. Das ist ein Bereich, in dem wir unsere digitalen Fähigkeiten in den letzten Jahren massiv ausgebaut. Und, nicht zu vergessen, wir mit den Technologien der Konkurrenz zusammen. Unsere Digital-Partner Arvato erbringt für uns die Content-Moderation-Dienstleistungen zu erbringen. Wenn Sie sich ansehen, was sich über soziale Plattformen verbreitet, dann ist es notwendig, Inhalte nach bestimmten Maßstäben zu prüfen und gegebenenfalls zu löschen. In Deutschland gibt es ja inzwischen sogar eine rechtliche Verpflichtung, das zu tun. Dass dies in einer freiheitlichen Gesellschaft auch heikel ist, ist nicht zu bestreiten. Aber es ist gesellschaftlich wichtig.

bal aufgestellt, Regulierungen aber vorwiegend national, und sie sind teilweise aus der Zeit des analogeren Fernsehens.

*Der Wettbewerb verändert sich.*

Ja, darüber ist kein Zweifel. Das Problem ist, dass es eine Spannung zwischen dem Medienrecht und der Gleichheit der Wettbewerber gibt.

*Wie kann man das lösen?*

Das ist eine komplexe Frage. Wir müssen uns für einen Weg entscheiden, der die Interessen aller Beteiligten berücksichtigt.

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Franfurter Allgemeine  
ZEITUNG FÜR DEUTSCHLAND

Nivea soll es richten

Von Christian Müßger

Die empfindliche Haut der Menschen hat viele Chancen. Das sind die Chancen, die Nivea in der Nivea-Produktion-Cremes für die Hautschmurtzen soll von vielen sitzenden nem A hat

Source: FAZ (Mar 02, 2018)

## “There is no Level Playing Field with Google & Co.”

**Bertelsmann boss Thomas Rabe on the new dimension in the media business, customers' willingness to pay on the internet, and the Group's East Westphalian DNA.**

written by Carsten Germis.

**Mr. Rabe, you will be presenting Bertelsmann's financials for 2017 soon. Are you any closer to your ambitious goal of generating around 20 billion euros in revenues and 3 billion euros in operating profit by 2020?**

2017 was a really good year for Bertelsmann. We are gradually moving towards our goals of 20 billion euros in revenues, an operating result of 3 billion, and more than 1 billion in profits. In 2011, we started out with revenues of around 15 billion euros, but we've sold nearly 2 billion of this in the past few years. So our real starting point was at around 13 billion euros. Last year, that much I can reveal, we landed at a good 17 billion euros, so we've already covered a good bit of the route. Our operating result rose to a new high, and profit, too, exceeded 1 billion euros.

**Are you planning takeovers? That would accelerate your growth.**

We're always reviewing opportunities and do keep making acquisitions, but really we want to step up our organic growth.

**Which means?**

We didn't see organic growth for many years, and now we're at nearly 2 percent. This is being driven by the digital growth businesses we have established and expanded in recent years. On average they are growing by 5 to 6 percent, some of them even more strongly, by up to 30 percent.

**For example?**

For example, RTL Group's digital businesses. Or Relias, the online education business for the healthcare sector.

**How important are the digital businesses for your strategy?**

Very important. They support our growth. Take RTL and Gruner + Jahr's digital businesses, Fremantle's video productions, BMG's music, Arvato's services, or our education business. Digital businesses are gaining in importance everywhere. They currently contribute around 5 billion euros to revenues. We want to expand this towards 7 billion euros in the next few years.

**So the digitalization strategy is paying off?**

In our revenues and in the result.

**Are priorities in the Group shifting with digitalization?**

No. Digitalization creates growth and new opportunities across all businesses. Take the music business. It's growing markedly thanks to the rapid development of streaming. Customers are definitely willing to pay for music. The same goes for the online video business or for e-books. So you really can't say that there's no willingness to pay in the digital realm.

**Even in the case of Gruner + Jahr's magazines?**

Compared with other media, journalism has the most difficult time with paid content. This has been the case for years and, apart from a few exceptions, it's a global phenomenon.

**Why?**

There are too many free offers that readers can turn to. And the paid offers aren't always user-friendly.

**Advertising is changing, becoming more personalized.**

Data and its use for personalized advertising and personalized content is becoming more and more important, which is why we've created data alliances. And artificial intelligence offers interesting possibilities, for example in the automation of our services.

**So upcoming bestsellers from your Penguin Random House publishing group will soon be written by a machine?**

I think not. Artificial intelligence will initially replace human activity where it follows a recurring pattern, i.e. where it is repetitive. Creative activity is anything but repetitive. So artificial intelligence won't replace it, but it will provide support so as to create even better media content and tailor it to users' needs.

**You're planning to sell off Arvato's Customer Relations business and the call centers, and only keep Supply Chain Management (SCM), IT and Financial Services – even though contact with individual customers in the market should be a growth business, precisely because of digitization and automation. Why does Bertelsmann want to sell off the line of business in spite of this?**

True, the call center market is growing. However, we've built many growth businesses in recent years, and they all need capital for their further expansion. So we were spoiled for choice about which growth businesses to especially invest in. It wouldn't be right to take a scattergun approach [and invest just a little in every one of the businesses]. Especially as a privately owned company, we have to ask ourselves what resources are available for investment, and what priorities we set for them. In the case of our call centers, we came to the conclusion that these businesses have a slightly lower priority and that we aren't prepared to provide the business with the funds needed for its technological development and the establishment of offshore locations. Accordingly, we are now reviewing the option of giving these businesses to an investor or partner.

**Do you already have prospective buyers?**

The business is interesting for a variety of investors. We plan to approach investors and potential partners in May, after which we will try to reach a decision as soon as possible. We hope to have a solution by autumn.

**Does this cover the monitoring of online content and hate speech that Bertelsmann handles for Facebook as well?**

Yes. Some time ago, we decided to provide Content Moderation services for Facebook. If you take a look at what's being spread across social platforms, it is necessary to monitor content and delete it as needed, according to certain standards. In Germany there is even a legal obligation to do so now. Undeniably, this is a delicate subject in a liberal society. But it is important for society.

**Facebook, Google, Netflix and Amazon aren't just clients for Bertelsmann; they are also competitors.**

Correct. This creates tension for us at times. Google and Facebook collectively account for about two-thirds of the American online advertising market and virtually all of the market's growth. In Europe, the numbers are similar. Netflix and Amazon Prime are investing more and more in the video-on-demand business. This affects our global businesses and RTL's reach, of course.

**This massively changes the competition for Bertelsmann.**

Very massively, in fact. The global tech platforms are formidable competitors. In the past, our TV businesses competed with ProSieben or TF1 in France, and our book businesses with Harper Collins and Simon & Schuster. We stood our ground and were usually able to maintain or grow our market shares. What's happening now is a competition on an entirely different scale, with entirely different players who didn't even exist 10 years ago. We're dealing with competitors with global, scaled business models and very deep pockets. We need to adjust to that. Which is what we are doing.

**Will Bertelsmann be able to keep up?**

Let me preface my answer with a number. In Germany, the total volume of the TV advertising market is around 4.4 billion euros per year. According to estimates, Google and Facebook generate advertising revenues of around 5 billion euros in Germany alone. Ten years ago, that figure was zero. Nevertheless, we have grown our television business. We are more profitable than ever. So we seem to be doing something right.

**What?**

Our first response is: We invest in content, a total of 5 billion euros every year. And we offer reach like no other: RTL and Gruner + Jahr together reach 99 percent of German households. This is very valuable for advertisers. But above all, we offer safe advertising environments with high-quality formats – the buzzword being “brand safety”. This is extremely important because advertisers want to know where their advertising is shown. We have also massively expanded our technical and digital capabilities in online video and advertising technology. And, last not least, we also work with the technology platforms. Our services division Arvato provides services for all these platforms. RTL uses Youtube to distribute its ad-supported video-on-demand offer. That is today’s market reality.

**So competition is getting tougher?**

Yes, but we’re not complaining about it. The problem we have is that there is no level playing field between the tech platforms and the media companies.

**What makes you say that?**

It is a matter of unequal regulation, and this is a political problem.

**Where does Bertelsmann feel it is being put at a disadvantage?**

We don’t feel disadvantaged – it is a fact that we are: When you take a look at media regulation, the regulation of advertising markets, the application of competition law, there simply isn’t a level playing field between the tech platforms and the media companies. For example, TV channels are subject to much stricter standards than online video platforms. Youtube and co. can largely decide for themselves how much advertising they offer. For TV channels, there’s a clear rule: six minutes per half hour. It gets even more absurd in France, where there are stipulations about when movies can be shown. Today, in the age of Netflix and Amazon Prime, this rule is completely outdated. Then take a look at taxation, and you have a complete distortion of competition.

**Are you complaining about excessive taxes?**

No. It goes without saying that we pay taxes in all the countries we operate in. This is a social contribution that every company should make. On average, we pay 30 percent tax, which is roughly equivalent to the average tax rate in the major countries we operate in. We think that is only right and proper. But when other companies pay only a fraction of these taxes despite high profits, then that’s a problem.

**Are governments responding to this criticism?**

Unfortunately, we’ve only seen a fragmented approach at national and European level to date, and it’s not easy. Because the technology platforms are global, but regulations are predominantly national and some of them are still from the age of analog television.

**But that means there can be no German, only a European answer.**

Europeans are aware that they are in competition with other regions, across all industries. The question is – what does that mean and what consequences do we draw from it. The idea is to make Europe more competitive, through regulation or deregulation. This discussion will take place in the months ahead, when the new German government has formed and starts working, with France in particular, to reform the EU. In fact the preconditions for strengthening Europe are good. I feel this is an absolute necessity, especially in competition with the United States and China.

**How important is China for Bertelsmann?**

We can’t run our TV, book or magazine businesses in China the way we do in Europe or the U.S. We have to find other paths onto the market. In books and TV productions, we work with local partners. In the music industry, we have an exclusive marketing agreement with Alibaba. We also have operations in China through Arvato, because there are greater degrees of freedom than in the media business. But above all, our investment fund Bertelsmann Asia Investments is very successful there. Last year, the fund made a significant contribution to Group profit, by listing promising new companies on the stock exchange. The Chinese market is still a local market for media companies, no matter their size. It would be a big mistake to believe that business models from Europe also work one-to-one there.

**The internationalization of the Group is not yet reflected at the top of Bertelsmann.**

The Executive Board is currently German, that’s true. But there are six nationalities represented on the expanded Executive Board, the Group Management Committee. There we have this mix by background, gender and age. That does actually reflect the internationality of the company quite well. But it’s clear that we have to continue evolving at the top as well. We will do that over time.

**Under your leadership, Bertelsmann has become more digital and more international. What is happening to the company’s East Westphalian roots?**

I believe that Bertelsmann definitely still possesses that East Westphalian DNA. It includes a certain modesty, a pragmatism. And marked entrepreneurship. Bertelsmann’s post-war founder Reinhard Mohn, too, embodied all of that for me. It’s no coincidence that East Westphalia of all places is home to so many large, internationally successful, owner-managed companies.



**Bertelsmann-Chef Thomas Rabe:** „Wir setzen auf organisches Wachstum.“

Thomas Rabe

# „Der Vertrauensschaden geht weit über Facebook hinaus“

Der Gütersloher Medienriese Bertelsmann ist zugleich Geschäftspartner und Rivale von Facebook. Der Vorstandschef spricht über eine komplexe Beziehung und über Datenscha...

”

Es wäre falsch, wenn wir jetzt alle in Mithaftung genommen würden.

Sie haben schon früh eine Wettbewerbsgleichheit gibt, was Regulierung geht. Wird die Ver... schlimmer?

Das muss man ge... ne einheitliche Re... ist, wie diese Regulie... Geschäftsmodelle wirk... meinten Regulierung nic... werbsvorteile für die Tec... wie das bei der E-Privacy-R... Fall sein könnte.

Was würden Sie empfehlen? Man muss sich mit dem Regu... Medien insgesamt beschä... noch zeitgemäß? Da geb... beregulierung...

ter Märkte bei Zusammenschlüssen. Bisher sind... die Marktdefinitionen noch sehr lokal.

**Im vergangenen Herbst hat Gruner + Jahr-Chef Julia Jäkel via Handelsblatt zu einer Art W... boykott in Bezug auf Facebook aufgeruf... sie ihrer Zeit voraus?**

Bei Julia Jäkels Aufruf ging es nicht um... ma Datenmissbrauch, sondern darum... Werbetreibenden ein Bewusstsein... schärfen, dass privater Journalismus... ziert ist und ein sicheres We... Stichwort „Brand Safety“.

**Bertelsmann ist selbst Ge... Facebook: Ihre Tochterfirm... im Auftrag des sozialen... mentare und andere krit... ist diese virtuelle Putzko... Wir arbeiten hier gut mit... Aktuell arbeiten mehr... ter in der Facebook-Ei...**

**Sind Sie froh, dass Sie d... planten Verkauf von A... den?**

Nein, überhaupt nicht... für den wir stre... gehören unter... mit 30... gens... Vert... und... uns... hä... get...

Source: Handelsblatt (Mar 28, 2018)

## “The Loss of Trust Goes Far Beyond Facebook”

**Bertelsmann is both a partner and rival of Facebook. In an interview, Chairman & CEO Thomas Rabe talks about this difficult relationship.**

By Catrin Bialek and Thomas Tuma

Berlin – Times have been turbulent since the Facebook data scandal was made public. The data analysis company Cambridge Analytica had gained unauthorized access to more than 50 million Facebook accounts. The public, politicians, and businesses are appalled. In an interview with Handelsblatt, Thomas Rabe, Chairman & CEO of the Gütersloh-based Bertelsmann media group, explains why he is concerned and what collateral damage he fears. Bertelsmann is both a partner and rival of Facebook & co. At the moment, however, the competitive relationship is predominant, says Rabe.

**Mr. Rabe, even digital giants can be shaken – that’s what we’re experiencing right now with Facebook. How would you sum up the affair so far?**

It’s well known that Facebook offers free services and extracts payment for them in the form of data. And it’s also well known that Facebook uses the data for personalized content and advertising. The company has built up an advertising machine that is obviously well received by customers. This machine is very efficient, but it can also be abused.

**How surprised were you at the revelations about Cambridge Analytica, which allegedly abused the data of more than 50 million users?**

I had never even heard of the company. But I wasn’t surprised by the changing public perception of Facebook, including and especially in the U.S. Some even feel that the company has spun out of control in some areas. There’s a lot of criticism.

**For example?**

The possible influence in elections, the spread of fake news and hate comments, Facebook’s market dominance, but also a general unease among people regarding the use of their data. All of this is now coming to a head. Cambridge Analytica is, of course, an extreme case: Here, data was pumped out in an order of magnitude that’s hard to imagine. Facebook has to ask itself whether its control mechanisms are working. There has been a loss of trust that goes far beyond Facebook.

**Do you see collateral damage to the rest of the media industry?**

In any case it would be wrong for all of us to be held jointly culpable now.

Artwork: Christopher Lempluhl, picture from series “Berlin” © VG Bild-Kunst, Bonn 2018

**Don't you feel that stricter regulation is called for?**

There is the EU General Data Protection Regulation, which comes into force in May. There's a draft EU ePrivacy Directive which, in my view, is problematic because it restricts the use of data too extensively. One can only hope that decisions will be made with a sense of proportion.

**In the past, you frequently warned that there is no level playing field with tech companies when it comes to regulation or even taxation. Will the distortion get even worse now?**

That will have to be closely monitored. Having consistent regulation is one thing. The other is how this regulation affects different business models. And whether well-intentioned regulation could end up giving the tech groups competitive advantages again – as could certainly be the case with the ePrivacy Directive.

**What would you recommend?**

We need to look at the regulatory framework for the media as a whole. Is it even up to date? This includes issues such as advertising regulation, but also the definition of relevant markets when considering mergers. So far, the market definitions are still very local.

**Last fall, Gruner + Jahr boss Julia Jäkel called for a kind of advertising boycott against Facebook via Handelsblatt. Was she ahead of her time?**

Julia Jäkel's appeal was not about data misuse, but about raising awareness among advertisers that commercial journalism is financed by advertising and offers a safe advertising environment – the idea of "brand safety."

**Bertelsmann itself is a business partner of Facebook: Its subsidiary Arvato CRM deletes hate speech and other critical content on behalf of the social network. How big is this virtual clean-up crew?**

We work well with Facebook in this area. At this time, more than 1,000 Arvato employees work in the Facebook unit in Germany.

**Are you pleased to be getting rid of the unit soon with the planned sale of Arvato CRM?**

No, not at all. The CRM unit for which we are reviewing strategic options comprises a number of businesses with 36,000 employees. Besides, we've just renewed and expanded the Facebook contract. If it made us uncomfortable, we certainly wouldn't have done that.

**You earn money from the hate speech of others...**

... and I also consider it a societal imperative that critical content on Facebook must be checked – and in cases of doubt, deleted. In Germany the Network Enforcement Act clearly regulates that platforms such as Facebook are responsible for content. And I think that is only right.

**How far has the planned sale of Arvato CRM actually progressed?**

We expect to issue an "information memorandum" in May and approach potential buyers or partners for the business. The negotiations should be completed by fall.

**Who has already contacted you?**

Several interested parties, including strategic and financial investors, have contacted us. Some are interested in a market consolidation, others come from the U.S. and want to gain a stronger foothold in Europe. The CRM market is extremely active.

**That sounds very positive. So why do you want to dispose of the segment?**

The market is changing rapidly. Technological change plays a major role, especially the use of artificial intelligence, for which considerable investment is required. At Bertelsmann, we have eight growth platforms that have priority for investment – Arvato CRM isn't one of them.

**And the buyer may then have to prune the workforce?**

Our analysis shows that technology is going to play a larger role. This will change the business – not disruptively, but over time.

**What selling price are you aiming for?**

I can't say yet. In the end, the market will have to determine that. We will take great care that we not only get a reasonable sales price, but above all find a sound buyer who can do something sustainable with the business.

**In which of your growth areas can you imagine making acquisitions with the proceeds?**

Basically, we are increasingly focusing on organic growth. We will continue to make acquisitions here and there, for example in advertising technology.

**The planned sale of Arvato CRM is not the first major cut you've made at Bertelsmann. Years ago, you sold off the traditional book clubs. What reputation has this earned you in the company?**

It's not like we just coldly study our portfolio. Some decisions are heart-wrenching. Nevertheless, we have a responsibility to the company as a whole and must decide where we invest – and where we no longer invest. But you're right: These things have to be explained and communicated well. Which is what we do. The employees have been promised – and this is what I am willing to be judged by – that we will find the best possible buyer to continue the business and secure jobs.

**Your successful TV subsidiary RTL now faces strong competition from Netflix and Amazon Prime.**

**What will the business look like in five years?**

Linear television will continue to exist, but increasingly there will also be non-linear television. RTL has been responding to this for a long time. Thanks to several acquisitions over the past few years, we are the number one in terms of video views on Youtube, and are building new video-on-demand businesses, focusing on local content.

**Facebook, Amazon, Google and other U.S. giants are both partners and rivals to you.**

Absolutely.

**Which part of the relationship is predominant at the moment?**

You have to look at this in detail. Google, Facebook and Youtube are primarily financed through advertising – as is RTL. On the other hand, we provide services for the U.S. tech platforms, and produce content for Netflix and Amazon Prime. All in all, the competitive relationship predominates.

**Mr. Rabe, thank you for the interview.**

# Für eine wettbewerbsfähige Regulierung

## Europas Kreativindustrie darf im Wettbewerb mit Google und Facebook nicht benachteiligt werden

Noch gehört die Kreativbranche in Europa zu den wichtigsten Wirtschaftssektoren. Allein in Deutschland, Frankreich und Großbritannien stellen insgesamt 453 000 kleine und große Unternehmen mehr als zwei Millionen sozialversicherungspflichtige Arbeitsplätze. Sie leisten in den drei Ländern einen jährlichen Beitrag von 161 Milliarden Euro zur Bruttowertschöpfung, so eine exklusive Studie von Enders Analysis für Bertelsmann. Darüber hinaus – und das ist in diesen Zeiten noch wichtiger – tragen sie maßgeblich zu einer pluralistischen Gesellschaft bei.

Doch die Kreativbranche steht am Scheideweg. Amerikanische Tech-Plattformen wie Facebook, Amazon, Apple, Netflix und Google expandieren rasant und werden mehr und mehr zu Wettbewerbern: Google und Facebook allein verbuchen über 20 Prozent der weltweiten Werbeerlöse sowie mehr als 80 Prozent des Marktwachstums von 2016 bis 2017 für sich. Amazon Prime versorgt global mehr als 100 Millionen Nutzer mit Onlinevideo-Inhalten, Netflix sogar mehr als 125 Millionen. Auf Facebook und Youtube sind weltweit mehr als 2,1 beziehungsweise 1,5 Milliarden monatliche Nutzer aktiv.

Dies ist eine neue Dimension des Wettbewerbs, der wir uns mit Kreativität und Unternehmergeist stellen. Als größtes Medienunternehmen Europas investieren wir Jahr für Jahr mehr als fünf Milliarden Euro in kreative Inhalte: in Bewegtbilder, Bücher und Musik, in Journalismus, in Bildung. Wir bieten sichere Werbefelder und hohe Reichweiten. In Deutschland erreichen RTL und Gruner + Jahr zusammen 99 Prozent aller Haushalte. Wir bauen unsere Digitalkompetenz gerade die Werbetechnologie aus und gehen strategische Allianzen mit Partnern ein. Zugleich arbeiten wir mit den Tech-Plattformen auf vielfältige Weise zusammen und wachsen mit ihnen. Trotz aller Erfolge sind wir, wie alle Kreativunternehmen in Europa, im Wettbewerb mit den Tech-Plattformen benachteiligt. Grund sind unterschiedliche

Regulierungen, die der Marktrealität nicht mehr entsprechen. Wenn der Politik an einer starken europäischen Kreativindustrie gelegen ist, muss sie dringend handeln.

**1. Datenschutz:** Die Notwendigkeit eines vertrauensfördernden Datenschutzes steht spätestens seit dem Facebook-Skandal um Cambridge Analytica außer Frage. Mit der Datenschutz-Grundverordnung (DSGVO) hat die EU hier gerade einen Schritt unternommen, dessen rechtliche Auslegung und wirtschaftliche Folgen jedoch noch völlig unklar sind. Trotzdem wird derzeit auf EU-Ebene mit der ePrivacy-Verordnung schon die nächste Regulierung diskutiert. Die im Verordnungsentwurf vorgesehene Zustimmung der Nutzer zum Online-Targeting würde den Einsatz personalisierter Werbung drastisch reduzieren. Journalistische Angebote von Online-Diensten und News-Apps wären so kaum noch finanzierbar. Gleichzeitig würde die Vormachtstellung der Tech-Plattformen, die aufgrund ihrer Marktmacht eine Zustimmung für die Nutzung von Daten leichter erhalten, zementiert. Die Konzentration umfangreicher Nutzerdaten in den Händen weniger digitaler Plattformen würde sich so also noch verstärken. Wir plädieren deshalb für ein Moratorium: Die Politik sollte zwei Jahre warten, um die Auswirkungen der DSGVO zu analysieren und erst danach über etwaige weitere Schritte entscheiden. Die EU-Kommission hat kürzlich die Bedeutung Künstlicher Intelligenz (KI) hervorgehoben. Sie beruht auf der Kombination von Daten und Rechenleistung. Selbst die leistungsstärksten Computer benötigen enorme Datenmengen. Wenn die Datennutzung eingeschränkt wird, droht ein Stillstand im Bereich KI zu verzeichnen.

**2. Urheberrecht:** Das Urheberrecht ist die Grundlage für Kreativgeschäfte in der digitalen Welt. Wenn wir unsere kreativen Inhalte in die Reichweiten nutzen, sollte dies auch vergütet werden. Und sie dazu verpflichtet werden, aktiv Urheberrechtsverletzungen vorzubeugen. Die Haftungsprivilegien, nach denen

halte auf ihren Plattformen nicht haftbar gemacht werden, sind nicht mehr zeitgemäß. Diese Regelungen gehen auf Richtlinien aus einer Zeit zurück, in der viele Tech-Plattformen und Geschäftsmodelle noch nicht existierten. Die E-Commerce-Richtlinie der EU aus dem Jahr 2000 oder das Digital Millennium Copyright Act von 1998 sind nicht mehr zeitgemäß.

**3. Kartellrecht:** Das Wettbewerbsrecht in Europa bezieht sich auf Unternehmen primär auf nationaler Ebene. Die Wettbewerbsbehörden in den Mitgliedstaaten sind jedoch nicht in der Lage, die Wettbewerbsregeln durchzusetzen. Dies erschwert die wirtschaftlich sinnvollen Zusammenschlüsse von Unternehmen. Die 2011 Pläne der Kommission für Deutschland lehnt, eine Kartellbehörde in den Mitgliedstaaten zu schaffen. Ein Jahr später wurde das Kartellrecht in der EU reformiert. Die Kartellbehörden sind jedoch nicht in der Lage, die Wettbewerbsregeln durchzusetzen.

Source: FAZ, Editorial on Regulation, by Thomas Rabe, Chairman & CEO of Bertelsmann (Jul 2, 2018)

## For a Competitive Regulatory Policy

**Europe's creative industry must not be put at a competitive disadvantage vis-à-vis Google, Facebook & Co.**

The creative industry in Europe is at a crossroads. At this point, it is still one of the most important economic sectors. In Germany, France and the U.K. alone, a total of 453,000 companies large and small provide more than two million jobs that pay into the social security system. Every year, they account for €161 billion to Europe's gross value added, according to an exclusive study conducted for Bertelsmann by Enders Analysis. Moreover – and this is probably even more important in these times – they contribute significantly to a pluralistic society.

But the creative industry faces great challenges. U.S. tech platforms such as Facebook, Amazon, Apple, Netflix, and Google are expanding rapidly and are increasingly turning into competitors: Google and Facebook alone collect more than 20 percent of global advertising revenues and accounted for more than 80 percent of the market's growth from 2016 to 2017. Amazon Prime supplies online video content to more than 100 million users worldwide, Netflix to more than 125 million. More than 2.1 and 1.5 billion monthly users are active worldwide on Facebook and YouTube, respectively.

This is a whole new dimension of competition, which we meet with creativity and entrepreneurship.

- As Europe's largest media company, we invest more than five billion euros a year in creative content: in video, books and music, in journalism, and in education.
- We offer secure advertising environments and high media reach. In Germany, RTL and Gruner + Jahr together reach 99 percent of all households.
- We are expanding our digital expertise, particularly in advertising technology, and are entering into strategic alliances with partners, such as the European Net-ID Foundation, which offers users a central login for multiple online services.
- At the same time, we work with the major tech platforms in many different ways, and are growing along with them.

Yet, all success aside, like all creative companies in Europe we are at a disadvantage in our competition with the tech platforms. This is due to disparate regulatory policies that no longer correspond to the reality of the market. If politicians care about having a strong European creative industry, they must take urgent action.

Some examples:

- Data protection: The need for data protection legislation that promotes trust is absolutely beyond question since the Facebook/Cambridge Analytica scandal if not before. With the General Data Protection Regulation (GDPR), the EU has just taken a step, but its legal interpretation and economic consequences are still completely unclear. Nevertheless, the next piece of legislation, the ePrivacy

Regulation, is already being discussed at EU level. Requiring users' consent to online targeting (opt-in) as stipulated in the draft regulation would drastically reduce the use of personalized advertising on many media sites. As a result, journalistic online services and news apps could hardly be financed. At the same time, it would cement the tech platforms' supremacy, which due to their market power can more easily get users to opt in. The concentration of extensive user data in the hands of a few digital platforms would increase even further. We therefore call for a moratorium: Policymakers should wait two years to analyze the effects of the GDPR before deciding on further steps, if any.

The European Commission recently stressed the importance of artificial intelligence (AI) for Europe. AI is based on the combination of data and computing power. Even the most powerful computers need data. However, if the use of data is restricted too severely, Europe risks falling behind in AI.

- **Copyright:** Copyright forms the foundation of creative businesses, also in the digital world. If tech platforms use our creative content to increase their reach, this should not be possible without payment. Furthermore, they should be obligated to take more active steps against copyright infringements. Liability privileges, under which they are not responsible for content on their platforms, are no longer up to date. These rules date back to laws and directives from a time when many tech platforms and their business models did not yet exist, such as the EU E-Commerce Directive of 2000, or the US Digital Millennium Copyright Act of 1998.
- **Antitrust legislation:** For creative businesses, antitrust legislation in Europe primarily relates to national markets or even sub-sectors, which are very narrowly defined. This impedes economically meaningful collaboration and mergers or makes them impossible. For instance, in 2011 the Federal Cartel Office rejected plans by Mediengruppe RTL Deutschland and ProSiebenSat.1 to create a joint video-on-demand platform in Germany. Just a year later, in the United States, Facebook was allowed to completely take over the social network Instagram, just like WhatsApp in 2014. Nor did the takeover of YouTube by Google meet with any objections. In the U.S., the media world is currently being redistributed between tech platforms, infrastructure providers and media groups, e.g. through the merger of AT&T/Time Warner or the bidding contest between Comcast and Disney for parts of Fox. These are transactions worth billions. In Germany, by contrast, not even a comparatively small increase in minority TV holdings would be approvable to date. Similar restrictions apply in the magazine sector.
- **Advertising legislation:** Advertising is essential for the creative industry. It is a cornerstone of funding for creative and journalistic content. Currently, very different advertising regulations apply for broadcasters and "intermediaries" (the tech platforms): Commercial broadcasters such as RTL are allowed to show a maximum of twelve minutes of advertising per hour. Meanwhile, video offers on platforms such as YouTube and Facebook are practically exempt from this regulation, even though they are advertising giants: Google's parent company Alphabet generated around 86 percent of its billions in revenues in 2017 from advertising, and Facebook as much as 98 percent. The EU's revised Audiovisual

Media Services Directive will allow linear TV channels to go beyond twelve minutes per hour in future, as long as a maximum advertising time of 20 percent is not exceeded during core hours. This is good, but broadcasters will still continue to be much more heavily regulated than tech platforms in matters of advertising.

- **Media legislation:** Broadcasters are subject to extra requirements that are associated with high costs: For example, commercial TV channels in Germany are obligated to offer regional programming windows and make broadcasting times available for third-party programs. These requirements do not exist for the global tech platforms.
- **Taxation:** Like many other companies in Europe's creative industries, Bertelsmann pays an average of around 30 percent tax. This is part of our contribution to financing important governmental tasks and infrastructure. By contrast, the effective tax rate for many tech platforms is just 9.5 percent according to the EU Commission – a major disparity that distorts competition. While the problem has been recognized, it is not easy to solve. The taxation of digital revenues in Europe as is being discussed is problematic because it would lead to double taxation at the creative companies' expense.

To survive in the competition with the tech platforms, a modernization of the regulatory framework for creative companies in Europe is urgently needed – along with the removal of shackles that no longer reflect the reality of digital markets with new global competitors. Then, our industry's success story can and will continue – in the interest of numerous jobs, high value creation, and a creative, pluralistic media landscape.



# Europe's Creative Hubs

# Europe's Creative Hubs

Executive summary of: Europe's Creative Hubs Update 2018. The study was compiled in June 2018 by Enders Analysis in collaboration with Bertelsmann. Authors of the study: Dr. Alice Enders, Director of Research and Chris Hayes, Enders Analysis.

### Economic overview

France, Germany and the UK are Europe's three largest creative hubs. A 'creative hub' is a large and diversified market for the products of the creative industries (CI) encompassing:

- Millions of consumers enjoying films, TV programmes, videos, news, books, magazines, music and games, often without directly paying for them, such as advertising-supported news services, free-to-air (FTA) television and over-the-top video services
- Thousands of enterprises with millions of employees and freelancers, engaged in: publishing, printing and distributing books, newspapers and magazines; broadcasting, producing music and audiovisual (AV) works and associated retailing; and supplying professional and technical services to other businesses, such as advertising and design

There is no common definition of the creative industries (CI) in Europe. The definition in this report spans enterprises with a cultural purpose, such as book publishing, and those with a more prosaic commercial purpose, such as the AV, advertising, design and games software segments. This highlights the salient characteristic of the CI: the spark of an idea may be at the heart of a creative work, but the production and distribution of such works by enterprises requires a large diversity of roles and skills, spanning creative, technical and other roles, many requiring post-secondary education. For the small and medium-sized enterprises of the sector, locating operations in a creative cluster, a form of industrial organisation found in knowledge-intensive sectors, can compensate for lack of scale and/or competences.

### Creative industries are with growth rate of 25% in terms of gross value added (2010-2015)



Source: Eurostat SBS

Using Eurostat's SBS Database to measure the significance of commercial activity, the three creative hubs of France, Germany and the UK generated an estimated €161 billion of Gross Value Added (GVA) in 2015 together; 4.1% of non-financial GVA of €3,890 billion. This value-added was produced by 453,000 enterprises employing 2.15 million people. These data do not count the contribution of thousands of sole

traders and freelancers, which are both a salient feature of the CI. The not-for-profit and the public sectors are also excluded, although central to supporting commercial activity.

### Our summary metrics for 2015 reveal:

- The UK was the leading creative hub in Europe in 2015, with an estimated GVA of €76 billion (representing 5.4% of the non-financial economy) generated from the activities of 118,000 employers of approximately 725,000 people; officially, the more expansively defined UK's "creative industries" generated £88 billion of GVA in 2015 and occupied 1.9 million people directly, excluding distribution
- Germany's creative industries (CI) generated €52 billion of GVA, accounting for 3.3% of the non-financial economy, via the activity of 157,000 businesses employing over 947,000 people; including sole traders and freelancers, the expansively defined "cultural and creative industries" (CCI) generated an estimated €100 billion in GVA in 2016, from the activity of 253,200 enterprises employing 1.1 million people<sup>1)</sup>
- France's CI delivered GVA of €32 billion, equivalent to 3.5% of the non-financial economy, through the activity of 178,000 companies employing 478,000 people; the last official account reported €44.5 billion in GVA for the cultural industries for 2015<sup>2)</sup>, and France Créative reported 1.25 million people in 2013 directly engaged in the activities of creation, production and distribution of cultural and creative products across the territory<sup>3)</sup>

### Creative industries generate €161 billion in gross value added and jobs for 2.2 million people<sup>3)</sup> in France, Germany and UK in 2015



Source: Eurostat SBS / Enders

1) Federal Ministry for Economic Affairs and Energy (BMWi), 2017 Cultural and Creative Industries Monitoring Report, Summary, December 2017. BMWi relies on a database of VAT-paying enterprises, yielding 253,200 business units in the CCIs, overlapping with 253,200 self-employed/low turnover VAT registered enterprises.

2) Ministère de la Culture et de la Communication, Médias et Industries Culturelles, Chiffres clés 2018.

3) EY, Création sous tension, 2e Panorama de l'économie de la culture et de la création en France, Octobre 2015; EY, 1er Panorama des industries culturelles et créatives, Au Cœur du rayonnement et de la compétitivité de la France, Octobre 2013.

4) numbers do not include thousands more self-employed people

On a per capita basis, the UK is even further ahead of the other two: an estimated €1,164 in GVA per head in 2015, compared to €641 and €501 per head in Germany and France respectively. One reason is that UK domestic consumer expenditure on recreational and cultural services (including pay-TV, TV licence and video subscription fees) is the highest, at €774 per head in 2015. Other reasons for the relatively larger supply-side of the UK include the strength of exports of English-language AV and advertising products, and the UK's earlier recovery from the 2008-09 recession.

This relatively robust trend in the UK highlights the risks to the CI of Brexit. Since the UK's vote to leave the EU, the economy has softened, putting pressure on advertiser budgets and expenditure on media. Enterprises are holding back on investment decisions due to uncertainty. Exports of the AV cluster to the EU amounted to £4 billion in 2016 (46% of total UK AV exports) and are exposed to the UK's exit from the Single Market for AV media services. Furthermore, if free movement ends, it will be much more challenging for UK enterprises to attract creative talent.

#### Creative industries GVA, 2008-15 (€m)



Source: Eurostat SBS

The combined GVA of the three creative hubs rose to €161 billion in 2015 compared to €128 billion in 2010 (+25%, CAGR of 4.6%). In France and Germany respectively, the CI mainly serve domestic users and customers, apart from the games software industry, making the state of the domestic economy the primary differentiator of growth between the three creative hubs over 2010-15. In terms of GVA:

- UK CIs grew 57% over 2010-15, broadly outpacing the non-financial economy as a whole. The UK has chiefly ridden an advertising wave, in turn propelling the AV sector, which is a successful exporter of TV programmes to Europe and the United States
- Germany's CIs grew 14% over 2010-15. Since 2013, the CI have stalled, held back by mounting pains in print media and by stagnation in the advertising sector, despite moderate growth in AV and dynamic growth in games software
- France's CIs shrank by 5% due to the stagnant economy holding back advertising, although improving recently, and a decline in the print cluster

#### Performance of CI clusters, 2015

Cluster	France		Germany		UK	
	GVA (€m)	No of enterprises	GVA (€m)	No of enterprises	GVA (€m)	No of enterprises
Print media	9,707 <sup>1)</sup>	38,347	18,343	27,724	21,715	25,025
Audiovisual	10,805	24,338	13,906	11,592	19,941	26,204
Advertising	6,144	23,567	9,326	31,829	20,607	19,125
Other	5,628	91,767	10,779	86,276	13,804	47,776
<b>Creative industries</b>	<b>32,283</b>	<b>178,019</b>	<b>52,353</b>	<b>157,421</b>	<b>76,067</b>	<b>118,130</b>
% of non-financial economy	3.5%	6.1%	3.3%	6.5%	5.4%	6.1%

Source: Eurostat SBS

1) One component has been extrapolated

### Looking to the future

Leaving aside the UK's risks from Brexit, the creative industries of France, Germany and the UK respectively face common challenges in the digital age from new consumer behaviours and the advent of new competitors and new forms of competition for users and customers. As the digital age advances, it is no longer fanciful for publishers to envisage an absolute decline in the volume of content brought to market, menacing the tissue of enterprises, workers and freelancers that are the core value producers of the CI.

Consumers have switched out of physical formats in favour of digital formats. More generally, most people have migrated a large portion of their time to online services serving news, ebooks, on-demand music and video, and digital native applications like games and social media. Wide-spread adoption of smartphones, tablets and high-speed mobile and fixed-line broadband packages have delivered a digitally attuned customer base to all suppliers of goods and services.

This switch to digital by consumers has inevitably been detrimental to traditional media, despite the rise of multi-tasking. Publishers and retailers of music, books, video, news and magazines have been hit harder by these consumer trends than the AV and games segments. Points of sale for physical media are vanishing, and with them the potential for serendipitous discovery. There is some compensation for the music industry from consumers switching expenditure to 'experiences' such as live music festivals and events.

For news and magazine publishers, the switch of eyeballs to online has disrupted the flow of funds imperilling their survival. Circulation and advertising revenues are in decline, and news kiosks are being closed. Printing, advertising sales and back office functions are encountering diseconomies of scale, compelling consolidation. Online, the competition for user attention is far more intense than in the offline world.

The display advertising paradigm for companies has fundamentally changed due to the advent of social media platform Facebook and Google's video viewing platform Youtube. Each serves a vast inventory of targeted or personalised impacts to advertisers and marketers thanks to user data harvested from applications and web-tracking. Because publishers lack such deep data resources, Facebook and Google are attracting most of online display advertising expenditure.

TV advertising by contrast has held share of total display advertising budgets (about 1/3), and continues to surpass online display revenues. TV serves brands well, including digital natives. This stability has sustained the flow of funds from FTA and pay-TV broadcasters to the AV sector, along with the stability of the public broadcasting sector.

Yet many broadcasters are equally concerned by meeting the challenge of audience migration to online. One aspect is the prominence of broadcaster apps on connected TVs developed by Original Equipment

Manufacturers (OEMs). They also must aim to match the targeting served to advertisers by Youtube. The impact of digital on the advertising market is profound and far-reaching.

Some things however don't change. There are still large up-front costs and risks of funding content production. News origination may be lower cost than AV production, but a service still needs to fund a news room, impossible to cover on digital revenues alone.

The digital age also does not change the reliance of creators on a backbone of commercial enterprises to bring their works to the market. Publishers retain their core importance in terms of discovering and nurturing creative talent to produce hits, and navigating the fragmented landscape of digital platforms and formats to license works for digital distribution.

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# Bertelsmann Information and Facts





**RTL Group** is a leader across broadcast, content and digital, with interests in 56 television channels and 31 radio stations, content production throughout the world, and rapidly growing digital video businesses. The television portfolio of RTL Group includes RTL Television in Germany; M6 in France; the RTL channels in the Netherlands, Belgium, Luxembourg, Croatia and Hungary; and Antena 3 in Spain. The Group's flagship radio station is RTL in France, and it also owns or has interests in other stations in France, Germany, Belgium, the Netherlands, Spain and Luxembourg. Fremantle Media is one of the largest international creators, producers and distributors of multi-genre content outside the United States. Combining the on-demand services of its broadcasters, the multi-platform networks BroadbandTV, StyleHaul, Divimove, United Screens and Fremantle Media's 296 Youtube channels, RTL Group has become the leading European media company in online video. RTL Group also owns the advanced video ad-serving platform SpotX. Bertelsmann is the majority shareholder of RTL Group, holding 75 percent of its shares.

[www.RTLGroup.com](http://www.RTLGroup.com)

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[www.penguinrandomhouse.com](http://www.penguinrandomhouse.com)

The German-language **Verlagsgruppe Random House** in Munich, with renowned publishers such as Goldmann and Heyne, is not part of Penguin Random House from a legal point of view, but is under the same corporate management and is part of the Penguin Random House division.

[www.randomhouse.de](http://www.randomhouse.de)

# G+J



**Gruner + Jahr** creates media products for the digital society. With around 500 magazines and digital offerings in more than 20 countries, Gruner + Jahr is one of Europe's biggest magazine publishers. Its core markets are Germany and France. In France, G+J operates the country's leading bi-medial magazine publisher, Prisma Media. In Germany, G+J's major magazine brands, including "Stern," "Geo" and "Brigitte," are part of the publishing house. More than a dozen new titles, including "Flow," "Beef" and "Barbara," underscore G+J's position as an innovation leader in the magazine business. In the rapidly growing digital market, the Hamburg publishing house's journalistic websites command leading positions in the women's, family, people, living, food, popular science and news segments. G+J also operates high-traffic online communities including Chefkoch and Urbia, and its growing e-commerce business includes the "Schöner Wohnen" shop. Ligatus gives G+J a leading position in the European market for native advertising, while the G+J subsidiary Territory leads the market in content-driven communications. G+J owns majority stakes in the special-interest publisher Motor Presse Stuttgart and the DDV Mediengruppe in Dresden. Gruner + Jahr is wholly owned by Bertelsmann.

[www.guj.com](http://www.guj.com)

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**BMG** is the first new international music company of the streaming age, designed to help contemporary rock and pop artists and songwriters efficiently manage their music-related rights, ranging from songs and recordings to books and, increasingly, video assets. Creating a new competitive advantage with its core values of Fairness, Transparency and Service, BMG offers the traditionally separate music publishing and recording rights off the same state-of-the-art platform internationally. BMG's 14 offices across 12 core music markets now represent more than 2.5 million songs and recordings, including many of the most renowned and successful catalogs and artists in popular music history. BMG is wholly owned by Bertelsmann.

[www.bmg.com](http://www.bmg.com)

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**Arvato** is an international service provider. More than 70,000 employees develop and realize innovative solutions for business customers from all over the world, including CRM, SCM, finance and IT solutions. Enterprises representing many different industries rely on Arvato's integrated solution portfolio – from telecommunication firms to energy suppliers, banks, e-commerce retailers, IT companies and Internet providers. Arvato is wholly owned by Bertelsmann.

[www.arvato.com](http://www.arvato.com)

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The **Bertelsmann Printing Group** unites all of Bertelsmann's printing activities. This includes the German offset printing companies Mohn Media, GGP Media and Vogel Druck, the Prinovis gravure printing operations in Germany and the United Kingdom, and the offset and digital printing plants Berryville Graphics, Coral Graphics and OPM in the United States. The Group combines a wide range of print and service offers – from prepress services and printing to mailings and distribution of a variety of different print products including magazines, books, phone books, catalogs and brochures. Campaign, DeutschlandCard and the Dialogue business are also part of Bertelsmann Printing Group. The Bertelsmann division with more than 8,000 employees also includes the advertising agency MBS, RTV Media Group and the replication specialist Sonopress. Bertelsmann Printing Group is wholly owned by Bertelsmann.

[www.bertelsmann-printing-group.com](http://www.bertelsmann-printing-group.com)

## Bertelsmann Education Group



The **Bertelsmann Education Group** encompasses Bertelsmann's education businesses. The group is shaping professional learning in the 21st century with digital education and service offerings focused on the healthcare and technology sectors, and it draws on Bertelsmann's resources and global network. The Bertelsmann Education Group is wholly owned by Bertelsmann.

[www.bertelsmann-education-group.com](http://www.bertelsmann-education-group.com)

## BI Bertelsmann Investments



**Bertelsmann Investments** unites Bertelsmann's start-up investments around the world. In focus of its activities are the strategic growth regions Brazil, China, India and the United States. Shareholdings are acquired through the strategic investment funds Bertelsmann Brazil Investments (BBI), Bertelsmann Asia Investments (BAI), Bertelsmann India Investments (BII) and Bertelsmann Digital Media Investments (BDMI). Bertelsmann owns stakes in more than 160 innovative companies via these funds.

[www.bertelsmann-investments.com](http://www.bertelsmann-investments.com)

## Information about Bertelsmann

### Website

The Bertelsmann website gives a clear, comprehensive presentation of the media group with its structures, divisions, products and services. The website is also a point of contact for anyone interested in the latest news as well as facts and figures about Bertelsmann.

[www.bertelsmann.com](http://www.bertelsmann.com)



### Experience Bertelsmann

Bertelsmann's full range of creative products and services is presented in an attractive and entertaining way. The media group's colorful diversity is shown on Facebook and Instagram.

[f BertelsmannErleben](https://www.facebook.com/BertelsmannErleben)  
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### Create Your Own Career

As a global media, services and education company with well over 119,000 employees, Bertelsmann ranks among the top employers on both the national and international stage. The portal features current job openings as well as events and news related to working and pursuing a career at Bertelsmann.

[www.createyourowncareer.com](http://www.createyourowncareer.com)



### Annual Report

The Annual Report provides a summary of the company's business development. In it, Bertelsmann retrospectively presents highlights from the divisions along with its consolidated financial statements. The assets and financial position of each division are also laid out. In addition to the printed version, the report is also available as an interactive online version.

[www.bertelsmann.com/AR](http://www.bertelsmann.com/AR)



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[socialcloud.bertelsmann.com](http://socialcloud.bertelsmann.com)

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