

MLI and Pinsent Masons join forces to produce conference



Pinsent Masons

Top global firm Pinsent Masons will host MLI's Annual Global Conference to take place in London in June 2020

Media Law International is producing a conference on 23 June that will explore challenges, trends and developments in the media industry, legal and business, after high demand from market participants.

The event has attracted interest from some of the world's leading media companies and law firms, as speakers and delegates.

The Annual Global Conference is being produced in collaboration with an Advisory Board that includes Fox Networks Group, Viacom International Media Networks, Kantar, Sony Pictures Television, Samsung,

The Guardian, Centennial Media, AC Music Entertainment and All Stars Music.

Topics include digital content, press and entertainment, and will be discussed within a structure of panel sessions and presentations.

MLI is proud to partner with Pinsent Masons to produce our Annual Global Conference, which will be held at the firm's international headquarters in London.

As well as Pinsent Masons, the conference is sponsored by firms from the US, the UAE, Russia, Poland and the UK. The conference will present leading speakers from The →

President blocks Albania's "anti-defamation law"

Albania's president Ilir Meta has vetoed a controversial media law proposed by Prime Minister Edi Rama to parliament for reconsideration.

Mr Meta withdrew the "anti-defamation law" on 12 January on the grounds that it violated the constitution and has the potential to stifle freedom of the media.

In the explanatory notes that accompanied his decree, Mr Meta commented that the new law 'could place Albania on the brink of authoritarianism and endanger its [EU] integration and the very existence of democracy in the country.'

The draft law would create an administrative body with the authority to order online media companies to retract news stories found to be in violation of privacy rights. The government body would also have powers to issue fines.

Socialist Prime Minister Mr Rama has proposed similar initiatives in the past, claiming that online media requires "disciplining" and that the proposed laws are "fully compatible with international standards".

Under the constitution, the president can reject laws that have been approved by parliament only once. The parliament, which is controlled by the Socialist Party, can either accept the decree and begin a new process of the law, or dismiss the decree with a majority

Local and international rights organisations have described the draft law as a "censorship package" intended to "regulate" online media, which could increase

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Contributors





A Berkshire Hathaway Company

Billionaire Warren Buffett to sell Berkshire Hathaway for USD140m to Lee Enterprises

Berkshire Hathaway has agreed to sell its newspaper business to local news provider Lee Enterprises in a USD140 million cash transaction, announced on 29 January.

The deal includes 31 daily newspapers, including the Omaha World-Herald in Berkshire's hometown in Nebraska, Buffalo News in New York, Richmond Times-Dispatch in Virginia and Tulsa World in Oklahoma.

Lee Enterprises owns 50 daily newspapers and will now take ownership of newspapers it has managed since 2018, which Berkshire Hathaway bought in 1977 by the company's Chairman and CEO, Warren Buffett.

In a statement, Mr Buffett commented:

'My partner Charlie Munger and I have known and admired the Lee organization for over 40 years. They have delivered exceptional performance managing BH Media's newspapers and continue to outpace the industry in digital market share and revenue.'

Mr Buffett continued: 'We had zero interest in selling the group to anyone else for one simple reason: We believe that Lee is best positioned to manage through the industry's challenges.'

Newspapers are a small part of Mr Buffett's conglomerate, which as more than 90 operating businesses such as BNSF railroad and Geico auto insurer. ■

MLI and Pinsent Masons join forces

← Guardian, Kantar, FilmWave, Charles Russell Speechleys, Al Tamimi, Norris McLaughlin, McCann FitzGerald and others.

Fiona Robertson from Al Tamimi will speak on content production and the complex issues that lawyers need to address, and producers face, when cameras are taken to other countries. Mark Hill from Charles Russell Speechleys will present on the changing media landscape in the UAE and

internationally. Both lawyers are the UAE's most prominent.

Danny de Warren, Producer, at FilmWave, will discuss the practical application of legal and business affairs in the production environment.

Christophe Dickes, Global Copyright Director at Kantar, will speak on the European Copyright Directive. Mr Dickes is also Copyright Commissioner for FIBEP and AMEC.

India's new social media rules cause privacy concerns

The Indian government has introduced controversial rules that would allow the authorities to trace origins of a social media post within 72 hours of a request, raising concerns about user privacy of over 400 million people.

The new rules will be published at the end of February and are intended to increase accountability through social media.

The draft law comes as governments around the world try to hold social media companies more accountable for content on their platforms.

"The guidelines for intermediaries are under process," said N.N. Kaul, the media adviser to the Minister of Electronics and Information Technology. He added: "We cannot comment on the guidelines or changes till they are published."

The new law would require social media companies such as YouTube, WhatsApp and TikTok to keep records of posts on file for 180 days to support the government with potential investigations.

Commenting in a statement on 12 February, WhatsApp wrote: 'Strong encryption is a necessity in modern life. We will not compromise on security because that would make people less safe.'

The instant messaging service added: 'For even more protection, we work with top security experts, employ industry leading technology to stop misuse as well as provide controls and ways to report issues - without sacrificing privacy.' ■

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Gill Phillips, Director of Editorial Legal Services at the Guardian Media Group will cover legal and ethical issues relating to reputation protection in media, including digital media.

The conference will be the first of our annual events that will bring together leading industry practitioners from the business and legal sectors, covering topics of commercial and legal importance globally. ■

Argentina: Legal framework on limits of liability Arnaldo Cisilino, PAGBAM

Liability for third-party content and the right to be forgotten

Arnaldo Cisilino



Lawyer Arnaldo Cisilino outlines limits on liability of internet intermediaries in Argentina

In Argentina, there exists neither an expressed legal framework on the liability of Internet intermediaries, nor the right to be forgotten.

One of the very few applicable regulations is federal Law 26032 (2005), which establishes that "The search, reception and dissemination of information and ideas of all kind through the Internet service is considered included within the constitutional guarantee that protects freedom of expression."

As a consequence of almost a decade of scholarly debate and jurisprudence, the Argentine Supreme Court (CSJN) finally defined the first issue in landmark decisions Rodríguez, María Belén v. Google (2014) and Gimbutas (2017).

Pursuant to these rulings, search engines and other online intermediaries are not responsible for linking third party illegal content unless, having been informed of its existence, fail to

adopt the necessary measures for its respective elimination or blocking (rule similar to "notice and take down").

The CSJN recognised the essential role that search engines and other intermediaries represent in the exercise of freedom of expression and, consequently, it is inappropriate to impose monitoring obligations in search of possible illegal content, as this would contradict existing constitutionally protected freedoms.

The CSJN distinguished the cases where it is sufficient for the victim to notify the intermediary as opposed to those requiring the intervention of a competent authority.

This rule demands the distinction between content that is "clearly illegal" (e.g. child pornography, racial hatred, privacy violations, etc.) from that whereby infringement is questionable or demands clarification.

Subsequently, in C. Z., M. vs Google (2018), the CSJN reaffirmed that the interested party in question, and not the search engine per se, assumes the responsibility of specifically identifying the content through the "uniform resource locators" (URLs).

Additionally, both in Rodríguez (2014) and Gimbutas (2017), it was ruled that the "image search" service is also an illicit exercise of the right to publish and search for information, as images fulfill a function of "link" to existing information on third-party sites. Therefore, search engines must not obtain previous consent to include images in the form of "thumbnails".

With respect to the "right to be forgotten", to date it has not encountered a favorable reception in Argentine courts.

Although there is not yet a Supreme Court decision, it is possible to establish some rules from lower court jurisprudence.

In that sense, it was defined that the burden of proof of illegality or, where appropriate, expiration, excess or irrelevance of certain information always rests with the alleged victim who requested the deletion or blocking.

The examination will be more rigorous if the claimant is a public person or public official, or the content is considered of public interest. The blocking or rectification of journalistic information does not proceed, even if the information has become obsolete or proved incorrect, but it was true at the time of publication.

It should also be noted that Argentina's Data Protection Law (2000) expressly excludes from its provisions all databases and sources of journalistic information, and that only a representative of a court has the sole right to order the removal, the updating or deletion of data, in so much as it does not relinquish such right to any state or administrative entity, including the data protection authority.

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{ Belgium: Sports events and broadcast proceeds



Lawyer Flip Petillion discusses pro league football clubs and disputes over distribution of proceeds from television broadcast deals

Broadcasting sports events generates money, a lot of money in some sport disciplines. Licensees generate revenue through the sale of commercials and advertising in the stadiums, as well as throughout the televised programmes.

In turn, licensees pay a fee to the licensors, usually the organisers of the games. In the football world, the broadcast rights are increasingly managed collectively through the national federations or so-called leagues. They cover either an entire season or a special event.

Over many years, the national football leagues have entered into television broadcast deals. These deals cover a certain period (two to three seasons or even more) and a number of live matches per season.

The largest domestic deal is the English Premier League, which has agreed a deal for 2019 to 2022 of an estimated £5 billion for the three years including 200 live matches per season. It is said to be the highest value deal per game.

Belgium's first division, also called the Belgian Pro League, covers 24 professional clubs. The 16 best clubs form the first division A, and the eight runners up take it up against each other in the first division B.

The Belgian Pro League is currently ranked in Europe's top 10 leagues. The Pro League television broadcast deal covers 240 matches and playoffs.

As was done in previous years, the Pro League has issued a tender for the broadcasting rights for the next years. This approach was imposed by the Belgian competition authority.

In 2017, Telenet and VOO had successfully bid for the broadcasting rights of the Belgian Pro League for three seasons.

The contract was worth €75 million per season, to be shared by the Belgian clubs. Telenet and VOO have broadcasted the league for three seasons in Flanders and Wallonia respectively.

The deal was not exclusive, as Proximus also obtained certain rights. Eleven Sports Network also made a bid for the TV rights – allegedly submitting the highest bid – but some side conditions made their bid to fail.

With a bid slightly exceeding €100 million, it was announced that Eleven Sports Network won the bid for the next five seasons (2020-25).

That is the easy part of the story. The key question is, however, how to share the revenue of the deal among the clubs.

In Belgium, a top share can amount to €8 million or more and a small share not much more than €2 million. Revenue sharing has traditionally been made on the basis of performance of the clubs.

However, in Belgium, all clubs are equal but some are more equal than others. The top five of Belgian clubs (currently Club Brugge, Anderlecht, Standard, Racing Genk and AA Gent) traditionally walked away with the majority of the revenue while smaller clubs shared the balance.

There is one particular smaller club that is looking to implementing a change. The successful and growing former first division B player Antwerp FC (now in the top 5 of the best performing first division A clubs) wants a bigger piece of the cake.

AA Gent first joined Antwerp FC in its endeavours but pulled out after a while. Its long-standing ranking among the top 5 may have been the decisive factor in that decision.

The parties have been negotiating a deal for several weeks. Now, other criteria have been put forward such as viewing figures or the clubs' commercial value.

While a majority decision suffices to agree to grant the deal to Eleven Sports Network, the agreement on the share of the revenues of the deal requires unanimity among all the member clubs of the league.

Belgium: Sports events and broadcast proceeds



(read their respective ranking in which they end in the League). The ratio between the maximum and minimum a club can receive will be 1.8:1.

Applying a similar flexible ratio and an objective application of the criteria that are currently advanced might result in a fair compromise for the Belgian Pro League members.

Revenue sharing could be done on the basis of different blocks of revenues each on the basis of different criteria.

Block 1: an equal base share to all Belgian Pro League clubs

Block 2: a share based on performance by each club

Block 3: a share based on viewing figures

Block 4: a share based on commercial value

Historic long-standing top 5 members could obtain a preferential share of block 1 on the basis of their position in Blocks 3 and 4, even if they do not perform well during a season.

The biggest challenge is determining the commercial value of a Pro League club.

There is a clear need for transparency, objective criteria and observance of financial fair play rules.

Some clubs are in a dreadful financial position and, for one or two, bankruptcy is looming.

Public prosecutors seem to be more and more interested in the football business and not just game results...

While we write this, the Belgian Pro League club representatives are negotiating the distribution behind closed doors.

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So, how will that be solved? Inspiration could be found in the English Premier League.

The Premier League's football teams are said to have agreed a new formula for sharing any future increase in international broadcast revenue from season 2019-20 onwards (in addition to domestic revenue distribution).

The Premier League clubs will distribute all international broadcast revenue equally and will distribute increases on the basis of performance



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