**Question for written answer E-008707/2016**

**to the Commission**

Rule 130

**Anneleen Van Bossuyt (ECR) and Sander Loones (ECR)**

Subject: Directive 2001/29/EC and payments to publishers

Directive 2001/29/EC harmonises limitations on reproduction rights. Article 5(2)(a) and (b) stipulates that ‘fair compensation’ should be provided in return for those limitations. The Court of Justice has confirmed in its Hewlett Packard judgment (C-572/13) that ‘fair compensation’ is an autonomous concept in the law of the European Union and that it must always be calculated using the criterion of the harm that has been caused to the authors of the protected works. The Court of Justice then held that Article 5(2)(a) and (b) precludes national legislation ‘which authorises the Member State … to allocate a part of the fair compensation payable to rightholders to the publishers of works created by authors, those publishers being under no obligation to ensure that the authors benefit, even indirectly, from some of the compensation of which they have been deprived.’

1. Can Member States nonetheless still provide for a right of compensation of their own for publishers (distinct from authors’ right to compensation for reproduction)? Or has Directive 2001/29/EC harmonised all compensation for reproduction/reprography?

2. If Member States can still provide for compensation of publishers, can such provisions come into conflict with State aid rules? For example, in certain circumstances, could ‘State resources’ and a ‘selective advantage’ be at issue? What points need to be considered in this context?