



# Creating and distributing press reviews

Practical tips and legal basics



# Preface

You are a press spokesperson, communication chief or the person in charge of media monitoring and evaluation at your company? You want to know the simplest way to create a press review and what rights you have to observe? On the following pages, we have put together for you the most important information regarding the legal situation of preparing and distributing press reviews.

Can articles from newspapers, magazines or online portals be readily used on corporate websites?  
Can press reviews be distributed to third parties?  
And what is the situation when contributions have been distributed without a licence?

With the help of this whitepaper, we can provide answers and offer fast and uncomplicated solutions.



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## Three ways of media monitoring



### **Search for articles on your own and gather them for a press review**

You can create press reviews by browsing newspapers or other media and filtering out relevant articles.

This approach provides only a limited overview but is still common practice, especially if the trade and local press is manageable or supraregional reporting is rare, or if media monitoring of a complex subject requires expertise that service providers do not have.

In such cases, contributions are often still cut out manually or copied, compiled into a press review, and forwarded to the respective readership.



### **Hire a media analyst or clipping service**

Another possibility is to commission a service company with the analysis of reporting. In that case, relevant topics and search terms are defined in advance. On this basis, the commissioned company analyses media content and subsequently processes the results according to your individual requirements.

Thus, the media monitoring company not only takes on continuous research and licensing but also provides its own editorial service by combining the researched contributions into a self-contained press review document.

For the process of research and licensing, these service providers often use the PMG press database, while possibly adding some individual, specific media.



## Using the PMG press database for research as well as for creating and distributing press reviews

To obtain a more comprehensive overview and to save time, it makes sense to use a database. In German-speaking countries, PMG maintains the largest press database updated daily. The first contributions of the day start coming in as early as 1 a.m.

Starting from 7 a.m. at the latest, contributions from over 90 per cent of the daily press, around 400 journals and magazines, and some 450 online publications are available day after day for full-text search. The advantage of using the database: reporting is analysed at the push of a button and you can immediately follow up with presence analyses and other analytic processes based on the research and include the result in your company's corporate design.



## **Basics: why do we need licences for press reviews?**

Published content, i.e. articles and media contributions, are regularly copyrighted works. The copyright protection is based on the author's individual intellectual creation. The author as the creator owns the rights both to the recognition of his/her authorship and to protection against distortions of it, as well as the exclusive commercial exploitation rights to his/her work. Therefore, anyone who digitises and distributes a media report for a press review - even if only within their own company - requires a licence from the author for this use.

This is what PMG takes care of: due to a chain of rights ranging from the author to the publishers to PMG, PMG is entitled to grant you the necessary licences for all publishing content in the PMG press database. In principle, the scope and thus the cost of these licences depend on the type and extent of distribution of the respective press review. In general, the following



applies: the more readers, the lower the licence fee per reader. If you use the PMG press database for your media analysis,

you will be already informed about the costs of licensing in the course of the analysis, so that you can purchase selected items with just a few mouse clicks. Even if you digitise your press review on your own, e.g. by scanning it, you can still carry out the required licensing via the PMG press database. To do this, you have to upload a spreadsheet containing data on the articles digitised by you in the PMG press database, thus acquiring all needed rights of usage and distribution for your press review.

Important: These licences are initially valid only for distribution within your organisation and for a period of four weeks after the publication date of each respective article or four weeks after purchasing the article in question from the PMG press database (storage of a digital voucher copy of the press review is possible for one year).

Archiving of the contributions beyond a period of four weeks requires a separate licence (see pages 10/11). However, no rule remains without exception: according to the German Federal Supreme Court (Bundesgerichtshof, BGH) case law and based on Section 49 of the German Copyright Act (Urheberrechtsgesetz, UrhG), certain articles may be used for digital press reviews without a publishing licence if this is in the interest of the general public. However, this applies only to individual articles that deal exclusively with political, economic or religious issues of the day. These may be used for internal press reviews for businesses or administrations (so-called in-house press reviews) and, in contrast to regular PMG licensing material, only in a graphical form which is not suitable for full-text search.

It should be noted that, in accordance with Section 49 para 1 sentences 2 and 3 UrhG, if you want to take advantage of this limited possibility of using articles for press reviews, you will have to pay appropriate remuneration to the collecting society VG Wort, which in turn pays remunerations to the authors.

If you have your articles licensed via PMG, the fees payable to VG Wort are already contained in the licensing fee and will be paid by PMG directly to VG Wort. You do not need to take care of anything else.



## Archiving contributions

The archiving of individual contributions or entire press releases beyond a period of four weeks requires the acquisition of additional rights.

In principle, it is possible to negotiate separate archiving rights for individual contributions in direct individual agreements with the publishers. For more than 90 per cent of the publications offered in the PMG press database, you can purchase archiving rights through PMG.

To do so, you select the option “PMG Archiving Rights” when concluding your regular press review contract. This makes archiving possible for up to ten years. The price is calculated per contribution.



## The legal situation

### Copyright and licensing via PMG

Copyright law protects the rights of the writers of articles and other media contributions, i.e. of the authors. Not just masterpieces of journalism are protected that way. On the contrary, case law makes only minor demands regarding the required individuality of literary works in order to place them under copyright protection (so-called “Kleine Münze”, German for “small coin”). Thus, according to Federal Supreme Court (BGH) case law, a modest degree of intellectual activity can already be sufficient for the protectability of texts (BGH, Ruling of 27/02/1981, GRUR 1981, 520, 521 - “Fragensammlung”, German for “questions collection”). Copyright protects authors not only with regard to their intellectual and personal relationship to their articles, but at the same time it also serves to secure fair remuneration for the use of the article (cf. Section 11 of the German Copyright Act [UrhG]).

However, the German Copyright Act also sets limits to authors' copyrights. Thus, Sections 44a et seq. UrhG aim to balance the interests of the authors, on the one hand, and those of the intermediaries and end users, on the other.

From a legal perspective, this can be accomplished in several ways. Lawmakers can downgrade the author's exclusive rights, for example, to a mere claim for remuneration, so that certain uses are possible without the author's consent but have to be compensated. Legislators regularly stipulate that these statutory remuneration claims may be asserted only through so-called collecting societies. Press reviews constitute such a case - in a very limited scope.

### **Section 49 of the German Copyright Act**

Pursuant to Section 49 para 1 sentence 1 UrhG, duplication and distribution of individual articles as well as associated published images from newspapers and other information sheets serving the interests of

the day in other information sheets of this kind (e.g. in press reviews) is permitted in principle if they concern political, economic or religious matters of the day and are not accompanied by a reservation of rights. However, according to Section 49 para 1 sentences 2 and 3 UrhG, the author of the content shall be paid reasonable remuneration, though this claim can be asserted only through a collecting society.

If contributions are used or distributed beyond their publication in the respective medium, e.g. in the context of a (print) press review, the respective authors are legally entitled to a fee. In Germany, VG Wort claims this compensation as a collecting society and pays authors the total volume of remunerations based on an individual analysis of all press reviews submitted as voucher copies to VG Wort, taking into account the length of the articles and their circulation.

According to Federal Supreme Court (BGH) case law, Section 49 UrhG also covers digital press reviews - with two important restrictions: first, they must be internal press reviews for businesses or administrations (so-called in-house press reviews). Second, articles may only be made accessible in a graphic form that, upon



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archiving, is not suitable for full-text searches (BGH, Ruling of 11/07/2002, GRUR 2002, 963 - "Elektronischer Pressespiegel", German for "digital press review").



### **Digital press reviews: PMG**

During the creation process of digital press reviews, rights of publishers in whose media the respective publications have been published can also be affected because of the strong limitations on the rights pursuant to Section 49 UrhG. This also applies to content made available at no cost to readers on the Internet, e.g. in the online portals of newspapers and magazines. Accordingly, in day-to-day practice, there are demarcation issues between the restricted rights of Section 49 UrhG and the publishers' licensing requirements.

Thus, to meet users' needs by way of a simplified transaction, publishers have created their own electronic access service in collaboration with PMG and authorised PMG to grant the required licenses

for all articles via the PMG press database. By this licensing, the publishers' claims are compensated.

At the same time, VG Wort and PMG have signed a cooperation agreement, which ensures that the legal claims for remuneration of authors are met in accordance with Section 49 UrhG.

Thus, the licensing of publishers' content through the PMG is a simple, legally safe solution for the creation and distribution of press reviews.

## Side note: ancillary copyright

In the digital world, press publishers are confronted with the fact that their online content is being used systematically by other commercial providers and beyond the mere use of hyperlinks. This systematic exploitation of publishing services should be better regulated by the ancillary copyright for press publishers, which came into effect on 1 August 2013 through Sections 87f to 87h UrhG. Following the example of the ancillary copyrights of phonogram and film producers, the new ancillary copyright protects the economic, organisational and technical activities of press publishers necessary for the creation of press products (BT-Drs. 17/11470, 8).



→ Basically, the ancillary copyright grants press publishers the exclusive right to make press products publicly accessible for commercial purposes. However, this protection covers only systematic uses of publishing services by search engines and service providers who process press products accordingly, such as so-called news aggregators. Individual words and smallest text parts are not covered by the protection.

The ancillary copyright protects publishers as manufacturers of press products. This protection extends to press products in their concrete preparation. It does not affect the unchanged existing copyright protection of authors, which extends to the respective text.

## Frequently asked questions

### **1** **May I copy or scan individual articles in smaller quantities and distribute them to a smaller circle of readers, such as at my company?**

As soon as you copy or scan an article, you reproduce it - and this affects the rights of the author. There is no de minimis limit. Hence, you must have the selected contributions licensed for each reproduction and distribution, even if it is only within a small circle of readers.

Note: According to Section 49 para 1 sentence 1 UrhG, the duplication and distribution of individual articles in press reviews is generally permissible if the articles exclusively deal with political, economic or religious issues of the day and are not accompanied by a reservation of rights. According to Section 49 para 1 sentences 2 and 3 UrhG, however, you must pay reasonable remuneration to VG Wort as a collecting society in return for this legally permitted

use (this VG Wort remuneration is included when licensing of articles is done via PMG).

## **2 Can I send printouts of the press review to customers, for example?**

It depends on which contract you conclude with PMG: by using "PMG Digital" and "PMG Rights", you acquire the rights to use contributions for a limited number of users. With them - for example your colleagues in the company - you may share the created press review. However, it does not include printing out the analysis and sending it to customers or other third parties, thereby redistributing it.

## **3 For how long can I keep press clippings or individual posts?**

Up to ten years - if you take this into account when acquiring the rights. For archiving, you need to add the option "Archiving Rights" when you conclude a press review agreement. Thus, all users registered with PMG to view the digital

press review are automatically entitled to access the press review archive. The ten-year period starts with the year following the date when the respective contribution was included in a press review. After that, all contributions must be deleted. If you do not select the additional "Archiving Rights" option, you may store a contribution only for a period of four weeks after its publication date or four weeks after purchasing it from the PMG press database (storage of a digital voucher copy is permitted for one year). Pursuant to Section 49 UrhG, a press review may be used only for information on current issues of the day. In practice, a storage period of seven days applies.

## **4 What happens when you create a press review and distribute it without having purchased the appropriate licences?**

If there is no case of restricted rights pursuant to Section 49 UrhG, you would violate the rights of authors and publishers. Such a case generally is subject to Section 106 para 1 UrhG: "Anyone who reproduces, distributes

or communicates to the public a work or an adaptation or alteration of a work without the consent of the rightsholder in other than the legally permitted cases will be punished with imprisonment for up to three years or with a fine.”

PMG, in consultation with publishers, has adopted the habit of seeking individual, rapid clarification in the form of appropriate retroactive licensing.





Overview:  
rights acquisition  
for press reviews  
at PMG

**Press review**

**PMG Digital**

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**Origin**

Digital procurement of articles and images

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**Sources**

All articles that are digitally available in the PMG press database

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**Text content**

All articles,  
no content limitations

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**Licensing procedure**

All downloaded articles and images of the press review are licensed automatically

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**Dissemination**

Intranet, e-mail,  
hardcopy/in-house

## PMG Rights Purchase

## Section 49 UrhG (VG Wort)

Self-digitisation of articles and images

Self-digitisation of articles and images

All articles that can be licensed through the PMG press database

Articles from daily newspapers and other information publications solely serving issues of the day; no scientific or professional journals

All articles, no content limitations

Articles, if they relate to political, economic or religious issues of the day

All self-digitised articles and images of the press review are to be licensed via upload of the license spreadsheet into the PMG press review portal

All self-digitised articles and images of the press review are to be licensed via upload of the license spreadsheet into the PMG press review portal

Intranet, e-mail, hardcopy/in-house

Intranet, e-mail, hardcopy/in-house



<b>Press review</b>	<b>PMG Digital</b>
<b>Retention period</b>	Four weeks from the day the respective contribution was purchased from the PMG press database
<b>Retention of a digital specimen copy</b>	One year
<b>Archiving of press reviews</b>	Ten years (with the "PMG Archiving Rights" option)
<b>Formats</b>	No format limitations
<b>Billing</b>	Article-by-article monthly billing by PMG
<b>Usage of the PMG press database (press review portal)</b>	Creation of the press review via the PMG press database, research in all available sources (full-text search and category search), search results are displayed in hit lists, article preview, e-mail forwarding of the hit lists (Pushdienst); AMM

**PMG Rights Purchase****Section 49 UrhG (VG Wort)**

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Four weeks from the date  
the respective contribution  
was published

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One week

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One year

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One week

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Ten years (with the  
“PMG Archiving Rights” option)

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Not possible

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No format limitations

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Image or graphic files only  
(facsimile), no full-text search

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Article-by-article  
monthly billing by PMG

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Article-by-article  
monthly billing by PMG

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For the licensing of the digital  
press review and if required  
for further research (with a  
supplementary agreement)

For the licensing of the digital  
press review in accordance  
with Section 49 UrhG

# About PMG Presse-Monitor

PMG Presse-Monitor GmbH is a company founded by a group of major German newspaper and magazine publishers. PMG is the leading German company for digital media monitoring and analysis, with the largest press database in the German market.

## Imprint

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As at: October 2020

**200,000 daily articles** from about 2,500 publications appear every day in the PMG press database. From 1 a.m. at the latest, our customers can access daily content. Not later than 7 a.m., all articles from available publications are ready for press review creation.

**800 newspaper and magazine publishers** feed their content into the PMG press database.

The media portfolio encompasses more than 90 percent of the German daily and weekly newspapers, about 400 periodicals and magazines, and about 450 online publications as well as several international newspapers.

**4,000 customers**, comprising companies, organisations, public institutions as well as media monitoring companies and PR agencies take advantage of our offers.

### **Any questions?**

Call us or write us an e-mail.

We look forward to your message.

[www.presse-monitor.de](http://www.presse-monitor.de)