



Brussels, 13 December 2017

CM 5466/17

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COMMUNICATION

NOTICE OF MEETING AND PROVISIONAL AGENDA

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Subject: Working Party on Civil Law Matters (Contract Law)

Date: 18 December 2017

Time: 9.30

Venue: COUNCIL
JUSTUS LIPSIUS BUILDING
Rue de la Loi 175, 1048 BRUSSELS

1. Adoption of the agenda

2. Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on certain aspects concerning contracts for the supply of digital content
 - A. **Debriefing about the 1st and 2nd trilogue and exchange of views and, where possible, confirmation of a compromise wording on the following points:**
WK 14627/17
 - (a) **Exclusions from scope:** wording of Article 3(5)(a) (row 140)

- (b) Supply & Lack of supply:** Article 5(2)(a) (row 168) “made available or accessible to/has reached”, and Article 11(2)(a) (row 255) addition of “equally”.
- (c) Conformity & Third party rights:**
- (i) Article 5a EP text (row 174) and Article 6(1) Council text (row 176) idea of having a chapeau provision
 - (ii) Article 6(1)(a) (row 177) addition of “duration”, Article 6(1)(b) (row 178) addition of “at the latest, and Article 6(1)(c) (row 180) addition of “including on installation”
 - (iii) Article 6a(1) (row 194) addition in chapeau of “where applicable”, and Article 6a(1)(a) (row 195) (addition of an example)
 - (iv) Article 6a(1)(b) (row 196) (alignment with Directive 1999/44)
 - (v) Article 6a(1)(b)(ii) (row 198) “same or comparable way”
 - (vi) Article 6a(2) (row 203) and recital (35a) Council text (row 73) where to address “short term interruptions”?
 - (vii) Article 8 (rows 214, 215) “violation/restriction/infringement” or other term
- (d) Remedies for lack of conformity:**
- (i) Article 12(4) (row 275) requirement of “unequivocal statement for price reduction”
 - (ii) Article 12(5) (row 277) and Article 2(11a) EP text (row 131) definition of “minor lack of conformity”
 - (iii) Article 12(5a) (row 278) “consumer’s contribution to non-conformity”
- (e) Liability & burden of proof:**
- (i) Article 9(b)(ii) (row 242) “becomes apparent or occurs”
 - (ii) Article 10 (3) (row 234) “supplier’s information obligation”
 - (iii) Idea to merge Articles 9 and 9a (point (g) in WK 14627/12017)
- (f) Terminology:** "trader" versus "supplier"

B. Debriefing about the 1st and 2nd trilogue and exchange of views on the following issues:

WK 14627/17

- (a) **Data cluster:** (Articles 3(1),(4),(8) (rows 134, 138, 153) and Article -1 of the EP text (row 107))
- (b) **Open source license:** (Article 3(5)(ea) EP text (row 145))
- (c) **Conformity:**
 - (i) Article 6a(4) (row 207) Security updates
 - (ii) Article 6a(5) (row 208) GDPR as conformity criterion

3. Any other business

NB: Council documents are available on Delegates Portal. Room attendants will provide copies on request at the earliest opportunity.

NB: Delegates requiring day badges to attend meetings should consult document **14387/1/12 REV 1** on how to obtain them.