

Newsletter

Issue 86 - November 2017

SELECTED NEWS

Contracts for the supply of digital content



At their joint meeting on 21 November, IMCO and JURI committees will vote on the report on contracts for the supply of digital content. There is a clear gap in EU legislation in the area of defective digital content, as most EU Member States do not have any legislation in this area. The proposed directive on digital content will help consumers to benefit from a higher level of consumer protection. Its provisions are consistent with the draft report on the Commission amended proposal on the sales of goods of 31 October 2017, in particular regarding its scope, and consumers' remedies. The draft report also provides for specific rules on conformity with the contract, reversal of burden of proof (if the digital content or digital service - such as cloud computing - is defective, the consumer can ask for a remedy without having to prove that the defect existed at the time of supply), and right to terminate long-term contracts.

LINK: [Subject file](#)

Single digital gateway

On 21 November, IMCO will consider the draft report by Marlene Mizzi (S&D) on the Single Digital Gateway. In her draft report, the Rapporteur broadly supports the overall objectives of the Commission's proposal and the idea of moving the EU and Member States towards digitalisation of their administrations.



At the same time, the Rapporteur addresses the opinion of the European Data Protection Supervisor (EDPS) that provides comments and recommendations on how to better safeguard the right to privacy and the protection of personal data in the proposed Regulation, and puts forward a number of improvements as regards the quality requirements related to information, online procedures and assistance and problem solving services. Furthermore, she suggests additional provisions to clarify the requirements on access to online procedures. And finally, she supports the changes introduced to the IMI Regulation, while suggesting that IMI should also be used for data protection purposes. The deadline for amendments is on 28 November 2017.

DRAFTSPERSON: [Marlene Mizzi \(S&D\)](#)

[Procedure file](#)

EXCHANGE OF VIEWS WITH COMMISSIONER MOSCOVICI

On 20 November IMCO will discuss with Commissioner Moscovici, the current topics related to the customs file. Among these is the IT architecture of the customs administration, where there is certainty now that a certain number of the projects and applications will not be completed at the expected deadline of 2020. This creates the need to amend article 278 of the Union Customs Code. The technical modifications that are in preparation to the Delegated Act of the UCC will be detailed by the Commissioner, as well as the steps undertaken

by the services under his responsibility to respond to the requests of the recent resolution of the European Parliament for a report on the implementation of the code. It is expected that the Commissioner will give his views on the preliminary conclusions of the Special report on EU customs by the Court of Auditors, whose final findings will be made available before the end of the year and an insight on the midterm review of the program Customs 2020.

NEXT COMMITTEE MEETINGS

(20-21 NOVEMBER 2017)

[Watch the committee meeting live](#)

Empowering the competition authorities to be more effective enforcers and to ensure the proper functioning of the internal market

The Committee will consider the compromise amendments proposed by the rapporteur on the opinion on the ECN+ proposal, and vote on the opinion on 21 November. The rapporteur has proposed two compromise amendments on the common minimum level for fines which can be imposed by a national competition authority. In addition, the voting list includes a series of oral amendments. These are, in essence, compromise amendments, and also take into account the position of the ALDE Group, which failed to table its amendments under the amendments deadline.

DRAFTSPERSON: [Eva Maydell \(EPP\)](#)

[Procedure file](#)

Conditions and procedure by which the Commission may request undertakings to provide information in relation to the internal market

On 21 November, IMCO will consider the draft report by Eva Maydell (EPP) on the Single Market Information Tool (SMIT). In her draft report, the Rapporteur recognises the added value of a procedure by which the Commission may request undertakings to provide information in relation to the functioning of the internal market. However, she also expresses some serious concerns regarding various provisions of the proposed Regulation and makes proposals for improvements. The Rapporteur considers that SMIT should only be used as a last resort measure and only for limited number of narrowly targeted requests, and that information should only be requested in the context of infringement procedures. Furthermore, she finds it important that the Commission ensures confidentiality of sensitive information. With regard to penalties, she finds the imposition of fines disproportionate and suggest limitation to periodic penalty payments only. Finally, the Rapporteur suggest amendments to make requests to SMEs quasi-voluntary. The deadline for amendments is on 5 December 2017.

DRAFTSPERSON: [Eva Maydell \(EPP\)](#)

[Procedure file](#)

European strategy on Cooperative Intelligent Transport Systems



On 20 November, the IMCO Committee will consider the 39 amendments that have been tabled in IMCO to the draft opinion by Matthijs Van Miltenburg (ALDE) to TRAN Committee on A European Strategy on Cooperative Intelligent Transport Systems. The draft opinion recognises the potential in smarter use of data to make transport safer and more efficient. However, it draws attention to the importance of consumers' right to protection of personal data, user involvement and technical harmonisation. The amendments concern both the main elements of the draft opinion, but also add new elements on, among others, cybersecurity and high-speed technology.

DRAFTSPERSON: [Matthijs Van Miltenburg \(ALDE\)](#)

[Procedure file](#)

Services e-card

In their proposals the Rapporteurs focus on removing administrative obstacles in order to improve the functioning of the SM, and on clarifying many areas and addressing a number of concerns. They define more precisely the voluntary nature of the Services e-card, clarify responsibilities and powers of the home and host Member States (duty to check the validity of information by home MS, the right to carry out all controls and verifications under the Services Directive and the right to request a re-verification of information by the host MS). As to the scope, the Rapporteurs decided to exclude the construction sector at this stage, and propose a potential and conditional extension of the scope to other sectors, including the construction, at a later stage. They are of the view that the Services e-card will help fighting against letterbox companies, fraudulent activities and bogus self-employment.

DRAFTSPERSON: [Anneleen Van Bossuyt \(ECR\)](#)

[Procedure file](#)

DRAFTSPERSON: [Morten Løkkegaard \(ALDE\)](#)

[Procedure file](#)

Reform in professional services

On 20 November IMCO Members will consider compromise amendments to the draft report presented by Mr Nicola Danti on the implementation of Directive 2005/36/EC and the need for reforms in professional services. The Rapporteur has proposed several compromises on the need to adopt or maintain non-discriminatory and proportionate rules on access to professions, while guaranteeing high quality of the professional services. The vote in IMCO will take place on 4 December 2017.

DRAFTSPERSON: [Nicola Danti \(S&D\)](#)

[Procedure file](#)

Proportionality test before adoption of new regulation of profession

On 21 November IMCO Members will consider the compromise amendments to the proposal on a Proportionality test for regulated professions. Negotiations, led by the Rapporteur, Mr Andreas Schwab focused on the specificity of healthcare professions, on the need for transparency and public consultations when applying the proportionality test, as well as on facilitating cross-border provision of services. The vote in IMCO will take place on 4 December 2017.

DRAFTSPERSON: [Andreas Schwab \(EPP\)](#)

[Procedure file](#)

Report on competition policy 2016

The IMCO Committee will consider the amendments and compromise amendments tabled to draft opinion on the Commission's 2016 annual report on competition policy, and vote on the opinion. The rapporteur has presented ten compromise amendments. These cover all the paragraphs of the draft opinion, and present new text on certain issues, including the e-commerce sector enquiry, merger policy, procurement and price parity clauses. The scope of the opinion is broadened in comparison to the draft opinion, meeting a concern which had been raised by some groups.

DRAFTSPERSON: [Christel Schaldemose \(S&D\)](#)

[Procedure file](#)

European Defence Industrial Development Programme

The IMCO committee will consider the draft opinion on a Regulation establishing a European Defence Industrial Development Programme. The IMCO Rapporteur tabled 44 amendments on the Commission's proposal; in principle, she welcomes the proposal and the amendments contribute to transparency and openness of the Programme. Amongst others, it is sought to increase the required participation of undertakings and Member States; to clarify the application of the defence procurement Directive 2009/81/EC; to lower the budget to 355 million euros.

DRAFTSPERSON: [Anneleen Van Bossuyt \(ECR\)](#)

[Procedure file](#)

LAST COMMITTEE MEETINGS

(11-12 OCTOBER 2017)

Application of EU food and consumer protection laws to address the issue of dual quality of food products



On 11 October, the Deputy Director-General of DG Just and Consumers presented the recently published Commission notice on dual quality of products. The Commission notice comprises of a guidance to facilitate Member State authorities' application of central EU legislation and help them spot unlawful misleading of consumers. The Commission will also fund the development of a new methodology to improve comparative tests in Member States, as well as relevant studies in Member States. Members were very engaged in the discussion, clearly expressing their concerns that consumers in some Member States have access to products of lower quality than consumers in other Member States – without being properly informed.

[LINK: Press release](#)

Notification procedure



On 11 October the Committee considered the draft compromise amendments tabled by the Rapporteur to the Proposal for a Directive on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services. Following the previous IMCO discussions on this dossier and negotiations in the Shadows' meetings, the draft compromises focus on clarification of the notification obligation, consultation process on the notified draft measures, and on balancing of the Commission's powers with regard to Member States. The Members welcomed broad agreement on the compromises on Articles 3, 5 and 8; on the other hand, the Rapporteur and the Shadows acknowledged that there was still work to be done in an attempt to agree on two compromise amendments on Articles 6 and 7 which deal with empowerment of the Commission with regard to the notification obligation and the measures incompatible with the Services Directive, where differences among the political groups have not yet been overcome. In order to find a broader compromise on the aforementioned issues, the Rapporteur decided to ask for the postponement of the vote until 4 December.

[DRAFTSPERSON: Sergio Gutiérrez Prieto \(S&D\)](#)

[Procedure file](#)

Free flow of non-personal data in the European Union

On 12 October Deputy Director-General of DG CNECT, Claire Bury, presented the proposed Regulation on Free flow of non-personal data. She explained that the overarching objective was to unlock the massive potential of the EU data market by creating a more competitive and integrated internal market for data storage services and other data processing services. The main aim of the Regulation is to prohibit Member States from requiring businesses and citizens to store or process data within a specific territory. In the exchange of views that followed, Members noted they considered the proposal an important building block in improving the digital single market.

[LINK: Proposal for Regulation](#)

Towards digital trade strategy



On 12 October IMCO adopted its draft opinion on the INI Report "Towards a Digital Trade Strategy" with 20 votes in favour, 4 against and 3 abstentions. 40 AMs were tabled in IMCO, and a total of 6 Compromise Amendments were proposed by the rapporteur and adopted on the main elements of the draft opinion. Among them are the support for the European Commission's "Trade for All" Strategy, the need to encourage measures towards facilitating trade in digital goods and services and eliminating digital non-tariff barriers, and to be ambitious in framing issues to be addressed in the Strategy, and also promoting EU's standards and rules in International Trade agreements and organizations.

[DRAFTSPERSON: Daniel Dalton \(ECR\)](#)

[Procedure file](#)

Cybersecurity Package



On 12 October, the Commission presented to IMCO the Cybersecurity package that it published in September. The package consists of a proposal for a Regulation and several communications. The draft Regulation will reform the EU's Cybersecurity Agency (ENISA) and create a voluntary Cybersecurity Certification Framework for ICT products and services. In the exchange of views that followed the presentation, Members welcomed the Commission's action on cybersecurity, given the increase in cyber-attacks in recent times, which is a major concern for many citizens. Most questions related to the proposed certification framework for ICT products, and a number of Members raised questions about implementation and enforcement.

[LINK: Cybersecurity Package](#)

UPDATE ON IMCO TRILOGUES

European Electronic Communications Code (EECC) (Recast)

A first trilogue on the EECC was held on 25 October under ITRE leadership. As associated committee with exclusive responsibility for universal services and end-user rights amongst others, IMCO participated actively in the negotiations. Co-legislators addressed

the key political priorities including, from IMCO's side, the need to establish a balanced approach to end-user rights, protecting consumers whilst fostering innovation and the importance of addressing discrimination on intra-Union calls and setting up so-called reverse 112 public warning systems throughout Europe. The second trilogue will take place on 6 December.

[LINK: Subject file](#)

IMCO EVENTS

14th meeting IMCO Working Group on the Digital single Market

The 14th meeting of the IMCO Working Group on the Digital Single Market will take place on 22 November. The topic of the meeting is "Accommodation and transport services and the Digital Single Market: how to ensure consumer choice and fair competition". The Digital Revolution and the sharing economy have brought different

challenges in the online accommodation and transport services. The meeting will foster a discussion about how to guarantee the freedom to provide services, the existence of free and fair competition, and the protection of consumers. Members of the European Parliament, the Commission, stakeholders and experts will exchange views on the matter.

[LINK: Subject file:](#)

LEGISLATIVE SCRUTINY

Radio Equipment

On 21 November, IMCO will hold a "legislative scrutiny" session concerning the implementation of the Radio Equipment Directive (2014/53/EU). The Directive sets down requirements for radio equipment (TVs, mobiles, wi-fi, bluetooth etc) on safety, health protection and electromagnetic compatibility. Since 13 June 2017, radio equipment that manufacturers place on the market need to

comply with the 2014 Directive. The legislative scrutiny session will be an opportunity for Members to receive an update from the Commission on the state of implementation, in particular with regard to the delayed publication of harmonised technical standards and slow progress towards common mobile chargers.

[LINK: Radio Equipment Directive](#)

CONFERENCE ON PROFESSIONAL SERVICES: HOW DOES REGULATION MATTER (BRUSSELS, 9/11/2017)

On 9 November 2017 the European Commission organised a Conference on "Professional service: How does regulation matter", focusing on the lessons learned from the mutual evaluation of regulated professions (2014-2016). In their opening speeches Commissioner Elżbieta Bieńkowska and Andreas Schwab (EPP), highlighted that whereas professional regulation can be justified and necessary, it should also be non-discriminatory and proportionate. The objectives of the Services Package presented by

the Commission in January 2017 were among the themes that were explored by the different panels. National authorities, professional and consumer organisations had the opportunity to discuss the need for reforms in professional services. Academic experts presented their analysis on the effect of regulation on the quality of services, followed by reports on recent developments in a number of Member States.

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Closure date of the current issue: 15 November 2017

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