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WORKING PAPER

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INFORMATION

From:	Presidency
To:	Working Party on Intellectual Property
Subject:	Presidency Flash - Intellectual Property WP on 10 May 2017

In view of the Intellectual Property Working Party meeting on 10 May 2017, delegations will find in Annex the Presidency Flash.



MALTA EU 2017

Working Party on Intellectual Property



**10 May 2017
Justus Lipsius Building**



Working Party on Intellectual Property

10 May 2017

Justus Lipsius Building

Dear colleagues,

At our working party meeting under the Maltese Presidency held on the 21st – 22nd March 2017 substantial constructive discussion was carried out concerning the Presidency's First Issues Paper on the articles of the Directive on Copyright in the Digital Single Market dealing with Exceptions and Limitations and Out of Commerce.

We look forward to another productive discussion at our next working party on Intellectual Property which will be held on the 10th May 2017. By means of this flash we would like to inform you of how the Presidency would like, with your collaboration, to proceed during this meeting.

During this meeting, we intend to start examining the Presidency's Second Issues Paper which deals with other parts of the Directive on Copyright in the Digital Single Market namely from Article 10 relating to Negotiation Mechanism to Article 17 which concerns the Final Provisions – Amendments to other Directives. This Second Paper tries to highlight the queries and certain aspects in the proposal which seem to require clarification and on which Member States have voiced concerns such as, whether the proposed mechanism is sufficient to contribute efficiently to a greater availability of audio visual works on Video on Demand platforms and if such mechanism will contribute to structured dialogues leading to agreements between the parties. In relation to the protection of press publications concerning digital uses this Issues paper tries to examine whether the definition of 'press publication' as set out in Article 2(4) should be further clarified and whether this should include hyperlinks and snippets amongst other things. Other aspects contained in this Paper relate to whether the proposal should further clarify the scope of the rights to ensure the strengthening of the position of press publishers. The use of



protected content by service providers storing and giving access to large amounts of works and other subject matter is also another topic that will be dealt with in this Issues paper. This matter of this proposal being consistent with the E-Commerce Directive and whether the principle for fair remuneration in contracts of creators is duly protected are also outlined in this paper. Finally, this Paper looks at the relation between the exceptions of Directives 2001/29 and 96/9 and those envisaged by this new proposal.

However, during our meeting of the 10th May 2017 we will limit our discussion by going through the queries raised in relation to Article 10 - Negotiation Mechanism in particular, but not limited to, the efficiency of such a mechanism and its practical implementation and Article 11 - Protection granted to Press Publications concerning digital uses in conjunction with Article 2(4) the definition of press publishers in relation to what kind of publications are covered by the proposal and the interplay between copyright and related rights on the same press publication and the possible impacts on licensing practices. Moreover, we will also discuss the proposed term of protection for this new ancillary right.

It is envisaged that the discussions on the issues paper will commence in the afternoon of 10 May, whilst in the morning we will be coordinating our discussions and preparations for the thirty-fourth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) which will take place in Geneva on 12-16 June 2017. The upcoming IGC meeting will focus on Traditional Cultural Expressions (TCE), the stock-take of work carried out in this Committee and the recommendation to the WIPO General Assembly for a new mandate to be given to the IGC.

For this purpose the Presidency in collaboration with the Commission has drawn up a document which provides some background information on IGC 33, as well as information on meeting management for IGC 34, the EU study proposal on TCE, the list of outstanding issues on TCE and a stock-take on Genetic Resources, Traditional Knowledge and TCE. The document includes proposals for an EU position on certain aspects under the afore-mentioned items and puts forward questions for discussion during this meeting.



Finally this document also contains a table in Annex consisting of the text of WIPO/GRTKF/IC/34/6 on TCEs and EU comments and position on certain articles within this text which aims to steer our discussions and move towards an EU position on certain aspects.

We look forward to the upcoming discussions and to seeing you all at our next meeting.

Sincerest Regards

The MT Presidency Team

Noel, Michelle, Godwin, Josephine and Marisa