

Editorial

Special Issue on Contracts on Digital Goods and Services

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1 The European Commission's proposal for a Directive on contracts for the supply of digital content¹ has provoked a lively debate regarding the rights and duties of consumers of digital content, and about the rights and duties of service providers. The Commission's proposal addresses the legal characterization of contracts for the supply of digital content, their interoperability and portability, the consequences of conceiving data as counter-performance, the consumer's right to retrieve data and content, and a number of other relevant issues at the intersection of contract law, information technology, intellectual property and competition law. However, the proposed directive also contains remarkable gaps which are left to be filled by national laws of the member states. The political and academic debate on contracts for the supply of digital content is currently mainly focussed on the European legislative procedure. However, discussions on the member states' level with regard to the implementation of the Directive are already in sight.

2 Against this background, the authors of this editorial organized a conference on "Contracts on Digital Goods and Services" which was held at Humboldt-University, Berlin on October 6, 2016. The presentations given at the conference engendered intense discussions among the participants, who ranged from academics and legal practitioners to representatives from European and national governmental entities and stakeholders. This special issue features some of the papers presented at the conference. *Axel Metzger* (Berlin) carries out a

contract law analysis of data as counter-performance and asks what rights and duties parties have. *Yoan Hermstrüwer* (Bonn) provides a behavioural economic analysis of big data and consent. *Hervé Jacquemin* (Namur) explores the characterization of contracts on the supply of digital content from a French and Belgian perspective. *Heike Schweitzer* (Berlin) and *Wolfgang Kerber* (Marburg) provide a legal and economic analysis of interoperability in the digital economy. *Ruth Janal* (Berlin) investigates data portability both under the General Data Protection Regulation and the proposed Directive on contracts for the supply of digital content. We would like to thank the editor-in-charge and his team for the possibility to publish the papers from the conference in a special issue of JIPITEC!

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¹ Proposal for a Directive on certain aspects concerning contracts for the supply of digital content, COM/2015/0634 final - 2015/0287 (COD).