

RULES OF PROCEDURE OF THE GROUP OF EXPERTS ON LICENSING AND VALUATION OF STANDARD ESSENTIAL PATENTS

Having regard to Commission Decision C(2018) 4161 of 5 July 2018 setting up the group,

Having regard to the standard rules of procedure of expert groups¹,

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Point 1

Operation of the group

The group shall act at the request of DG Internal Market, Industry, Entrepreneurship and SMEs (“DG GROW”), which shall cooperate closely with other Commission services concerned.

The Chairperson may appoint individual members of the group as rapporteurs.

Point 2

Convening a meeting

1. Meetings of the group are convened by the Chairperson, either on its own initiative, or at the request of a simple majority of members after DG GROW has given its agreement.
2. Joint meetings of the group with other groups may be convened to discuss matters falling within their respective areas of responsibility.
3. Meetings of the group shall be held on Commission premises.

Point 3

Agenda

1. DG GROW shall draw up the agenda in consultation with the rapporteurs and send it to the members of the group.
2. The agenda shall be adopted by the group at the start of the meeting.

Point 4

Documentation to be sent to group members

1. The secretariat shall send the invitation to the meeting and the draft agenda to the group members no later than fourteen calendar days before the date of the meeting.

¹ C(2016) 3301 (Annex 3).

2. The secretariat shall send documents on which the group is consulted to the group members no later than ten calendar days before the date of the meeting.
3. In urgent or exceptional cases, the time limits for sending the documentation mentioned in paragraphs 1 and 2 may be reduced to five calendar days before the date of the meeting.

Point 5

Opinions of the group

1. As far as possible, the group shall adopt its opinions, recommendations or reports by consensus.
2. In the event of a vote, the outcome of the vote shall be decided by simple majority of all members. The members that have voted against shall have the right to have a document summarising the reasons for their position annexed to the opinions, recommendations or reports.

Point 6

Sub-groups

1. DG GROW may set up sub-groups for the purpose of examining specific questions on the basis of terms of reference defined by DG GROW. Sub-groups shall operate in compliance with the Commission's horizontal rules on expert groups ('the horizontal rules') and shall report to the group. They shall be dissolved as soon as their mandate is fulfilled.
2. The members of sub-groups that are not members of the group shall be selected via a public call for applications, in compliance the horizontal rules².

Point 7

Invited experts

DG GROW may, after consultation of other Commission services concerned, invite experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the group or sub-groups on an *ad hoc* basis.

Point 8

Observers

1. Organisations directly involved in the field of licensing and/or valuation of standard essential patents ("SEPs") may be granted an observer status, in compliance with the horizontal rules, by direct invitation.
2. Organisations appointed as observers shall nominate their representatives. Observer organisations shall be responsible for ensuring that their representatives provide a high level of expertise in the field of licensing and/or valuation of SEPs. DG GROW may refuse the nomination by an organisation of a representative if this nomination does not

² See Articles 10 and 14.2.

comply with the requirements set out in Article 10 of Commission Decision C(2018) 4161 of 5 July 2018. In such case, the organisation concerned shall be asked to appoint another representative.

3. Observers and their representatives may be permitted by the Chairperson to take part in the discussions of the group and provide expertise. However, they shall not have voting rights and shall not participate in the formulation of recommendations or advice of the group.

Point 9

Written procedure

1. If necessary, the group's opinion or recommendation on a specific question may be delivered via a written procedure. To this end, the secretariat sends the group members the document(s) on which the group is being consulted.
2. However, if a simple majority of group members asks for the question to be examined at a meeting of the group, the written procedure shall be terminated without result and the Chairperson shall convene a meeting of the group as soon as possible.

Point 10

Secretariat

DG GROW shall provide secretarial support for the group and any sub-groups. Commission officials from other departments involved in the EU approach to SEPs and with an interest in the proceedings may attend the meetings of the group.

Point 11

Minutes of the meetings

Minutes on the discussion on each point on the agenda and on the opinions delivered by the group shall be meaningful and complete. Minutes shall be drafted by the secretariat under the responsibility of the Chairperson.

Point 12

Attendance list

At each meeting, the secretariat shall draw up, under the responsibility of the Chair, an attendance list also specifying, where appropriate, the Member States' authorities, organisations or other public entities to which the participants belong.

Point 13

Conflicts of interest

1. The Chairperson of the expert group or sub-group shall, at the first meeting of each calendar year, remind all members appointed in a personal capacity of their obligation to promptly inform DG GROW of any relevant change in the information previously provided, including as regards upcoming activities, in which case they must immediately

submit a newly completed declaration of interests describing the change, in order to enable DG GROW to assess it in due course, in compliance with the horizontal rules.

2. Should a conflict of interest in relation to an expert appointed in a personal capacity arise, DG GROW shall take all appropriate measures, in compliance with the horizontal rules³.
3. Conflicts of interest shall be reported in writing, e.g. in the minutes of the group's meeting. Information registered must be adequate, relevant and not going beyond what is necessary for the purpose of the management of the conflict of interest.

Point 14

Correspondence

1. Correspondence relating to the group shall be addressed to a DG GROW functional mailbox provided to the group members at the first meeting of the group.
2. Correspondence for group members shall be sent to the e-mail address which they provide for that purpose.
3. A representative of DG GROW and the Chairperson shall always be in copy of any communications.

Point 15

Transparency

1. The group shall be registered on the Register of expert groups.
2. As concerns the group composition, the following data shall be published on the Register of expert groups:
 - (a) the name of individuals appointed in a personal capacity;
 - (b) the name of individuals appointed to represent a common interest; the interest represented shall be disclosed;
 - (c) the name of observer organisations;
 - (d) the name of observer organisations' representatives.
3. DG GROW shall make available all relevant documents, including the agendas, the minutes and the participants' submissions, either on the Register of expert groups or *via* a link from the Register to a dedicated website, where this information can be found. Access to dedicated websites shall not be submitted to user registration or any other restriction. In particular, DG GROW shall publish the agenda and other relevant background documents in due time ahead of the meeting, followed by timely publication of minutes. Exceptions to publication shall only be foreseen where it is deemed that

³ See Article 11

disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) N° 1049/2001⁴.

Point 16

Access to documents

Applications for access to documents held by the group shall be handled in accordance with Regulation (EC) No 1049/2001⁵.

Point 17

Deliberations

In agreement with DG GROW, the group may, by simple majority of its members, decide that deliberations shall be public.

⁴ These exceptions are intended to protect public security, military affairs, international relations, financial, monetary or economic policy, privacy and integrity of the individual, commercial interests, court proceedings and legal advice, inspections/investigations/audits and the institution's decision-making process.

⁵ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).