

ESOCE-NET

European Society of Concurrent Engineering - Net

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DE Cluster Meeting Session A1 Legal and Contractual Framework

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Objectives & Topics

Objective

To discuss legal issues relevant to the DE concept

Topics

- **Presentation of LEGAL-IST study on Open Source Software**
- **Outcomes from the Cambridge Conference**
- **Outcomes from the LEGAL-IST workshop @ ESoCE-Net Annual Conference**
- **Open discussion**

OSS Study Report

- **Generic study, applicable to DE concept but also to other business models**
- **Comparative study**
- **Study has focussed in 3 main legal areas:**
 - **Copyright law (authorship, exploitation rights, virality notions in OSS licenses, compatibility of different OSS licenses, infringement actions)**
 - **Patent law (pitfalls & recommendations in current patent practice for software; patent clauses in OSS licenses; recommendations for addressing risks for OSS with regard to existing patents; recommendations for in- and out-licensing OSS under certain OSS license)**
 - **Contract law (qualification of OSS licenses as general terms & conditions; recommendations for valid incorporation of OSS licenses into contracts; qualification of warranties and liability disclaimers in current OSS licenses according to EU law; recommendations to developers and acquirers how to best implement warranties and liability clauses)**

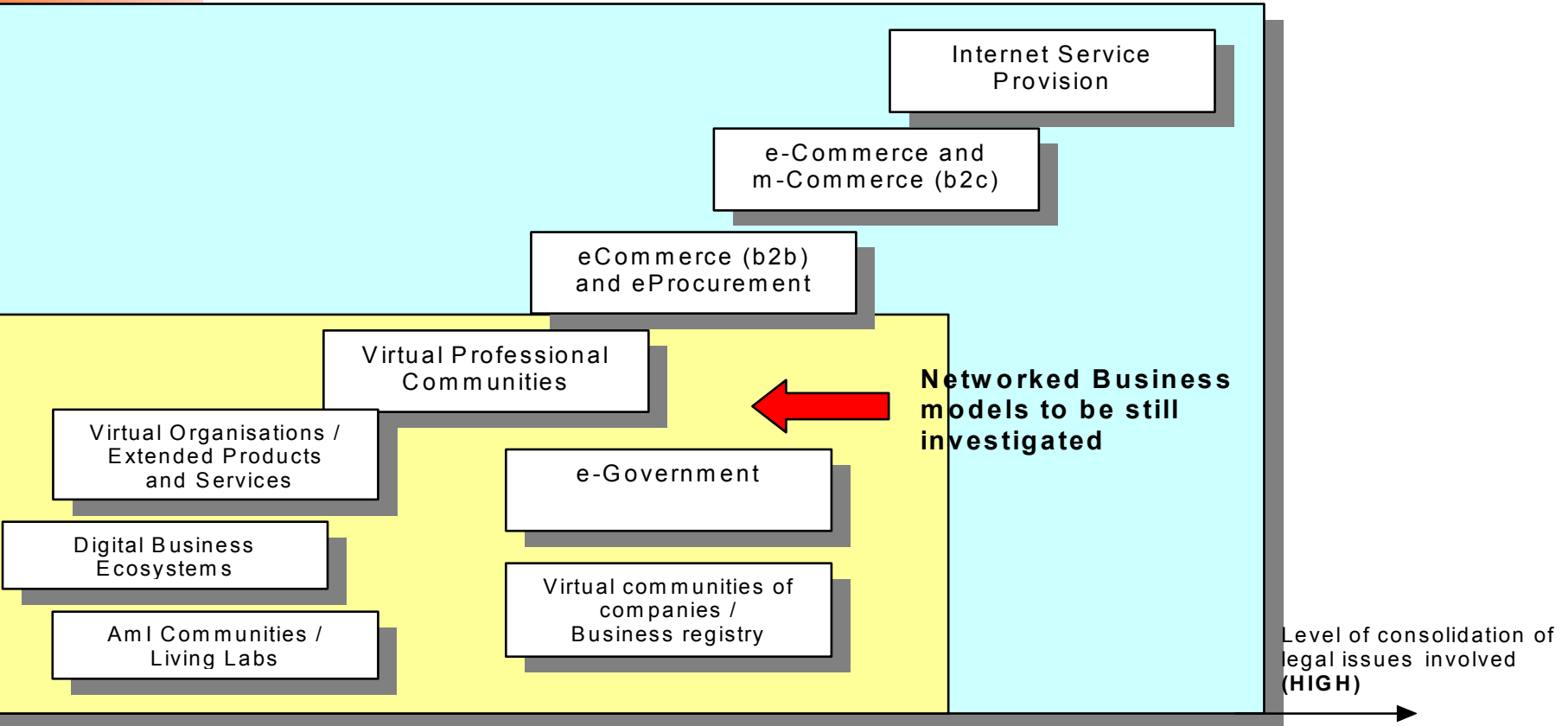
Some Unresolved Legal Problems for E-Business

Fundamental Needs for Electronic Markets:

- **Trust**
 - **Contracting (still depends on national legislation, General Terms of Marketplaces – conflict with consumer protection?)**
 - **Reliability**
- **Security**
 - **Identity (digital signatures are still rarely used, Phishing Activities, Identity theft, Obligation of Market Places)**
- **Liability Issues**

LEGAL-IST Wks Report

Adoption level
(implementation status) **(HIGH)**



Workgroup of DE

- **Open source software;**
- **Legal structure and framework;**
- **Trusted interaction with third parties; and**
- **Liability between members.**

Session's summary

- Several legal issues shall be further considered / analysed with regard to DE concept
 - Generic (possibly common with other clusters)
 - Trust,
 - Security,
 - Identity management
 - Interoperable e-invoicing
 - Specific
 - OSS, especially
 - warranties and liability relevant to DE infrastructure offered for further applications or services;
 - risks for OSS exploitation arising out of current software patent practices
 - Complexity of legislation in Europe (different national rules)
 - Legal Framework
 - Internal relationships of the members (allocation of liabilities, knowledge share ...)
 - External relationships with third parties (suppliers, users / customers)
- The way forward: Increase awareness at cluster level