Joint drafting proposal on art.16 (1 a) of the Digital Content Directive from the Italian and Polish delegations

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“1a. Where the consumer terminates a contract with an initial fixed duration of more than 12 months in accordance with paragraph 1 and the contract includes a promotional advantage directly linked to the agreed duration of the contract, the trader shall be entitled to a proportionate compensation under the following conditions.

Where the contract includes goods or services provided to the consumer as a promotional advantage, the compensation shall correspond to     the *pro rata temporis* value of the goods or services as agreed at the time of the conclusion of the contract

Where the promotional advantage is goods, the consumer may choose either to return the goods or to retain them.  In this case, the trader shall be entitled to a proportionate compensation as calculated above.

Where the contract includes price reductions as a promotional advantage, the compensation shall correspond to either:

i)                   the total amount of price reductions enjoyed by the consumer until the termination of the contract, or

ii)                 the remaining part of the price due to the trader until the end of the agreed duration of the contract,

whichever amount is smaller.

The amount of compensation and the method for its calculation and payment shall be stipulated by the contract, and the consumer shall be informed of those conditions in a clear and comprehensible manner before the conclusion of the contract.

[Member States may prescribe other methods of calculating the compensation rate, provided that such methods do not lead to a level of compensation exceeding the compensation as calculated above.]”