

Brussels, 26 April 2006

Counterfeiting and piracy: Commission proposes criminal law provisions to combat intellectual property offences

The Commission has today adopted a proposal for a directive to combat intellectual property offences that amends the proposal approved by it on 12 July 2005. It is thus responding to the Court ruling of 13 September 2005 in Case C-176/03, according to which the criminal law provisions necessary for the effective implementation of Community law are a matter for Community law¹. Accordingly, the proposal for a Council framework decision to strengthen the criminal law framework to combat intellectual property offences² has been withdrawn and its provisions incorporated into the amended proposal for a directive.

According to Commission Vice-President Franco Frattini, who is responsible for justice, freedom and security matters, the new provisions proposed by the Commission represent the criminal law dimension of the fight against counterfeiting and piracy in Europe. Effective approximation of Member States' criminal legislation in this field is the minimum needed to pursue together a major campaign aimed at eradicating these phenomena, which are causing serious harm to the economy. Nowadays, criminal organisations are focusing on these activities, which are often more lucrative than other forms of trafficking and on which the authorities do not crack down as much. Counterfeiters and pirates undermine legitimate businesses and pose a threat to innovation. What is more, in many cases the counterfeit goods are prejudicial to public health and safety. For the most recent statistics on counterfeiting listed by Member State please see the link:

http://europa.eu.int/comm/taxation_customs/customs/customs_controls/counterfeit_piracy/statistics/index_en.htm

The proposed measures are designed to bring Member States' criminal legislation more closely into alignment and to improve European cooperation so as to combat more effectively counterfeiting and piracy, which are frequently committed by criminal organisations, often pose a risk to health and safety, and seriously harm the interests of many sectors in the European economy.

The arrangements will have to be applied to all types of intellectual property right infringements. In the directive, all intentional infringements of an intellectual property right on a commercial scale, including attempting, aiding and abetting such infringements, are treated as criminal offences. The minimum sentence is a term of four years' imprisonment where the infringement is committed under the aegis of a criminal organisation or carries a serious risk to the health and safety of individuals. The amount of the fine will have to be at least EUR 100 000 or EUR 300 000 where there is a link with a criminal organisation or any risk to health and safety. Member States may impose heavier penalties or fines.

¹ <http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=fr&Submit=Rechercher&docj=docj&numaff=C-176%2F03&datefs=2005-09-13&datefe=&nomusuel=Commission&domaine=&mots=&resmax=100>

² http://www.cc.cec/home/daserv/sq/sqvista/i/sqv2/repo/repo.cfm?institution=COMM&doc_to_browse=COM/2005/0276&refresh_session=YES