



Preventive Actions by the European Commission to reduce IP infringement levels within the EU

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Internal Market
and Services



European Commission's key objective(s) and approach in the field of IP enforcement

1. Objectives:

Optimise incentives for innovation

Maximise growth and sustainable job creation

2. Approach:

"Follow the money" with five pillars:

- i. Tracking and evaluating the societal costs of the problem
- ii. Awareness raising
- iii. Harmonised, effective and proportionate civil redress framework and customs framework
- iv. Facilitate inclusive preventive schemes
- v. Share best practice

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Preventive schemes

- Based on ensuring that "**due diligence**" is applied throughout the IP value-added chain.
- **Upstream** of rights-holders – ensuring that all "input" providers and sub-contractors avoid that IP infringing products and services can enter the market.
- **Downstream**- ensuring that advertisers, shippers, distributors and payment service providers prevent IP infringers from making money from selling or promoting their products and services.
- These approaches are **voluntary but must be inclusive** of all players involved including the rights-holders themselves.
- **Final consumers will have to "buy in" to these schemes** that are costly if they are to be successful.



Upstream preventive schemes

Know your supplier/contractor

Supply chain auditing and track and trace systems: "Know your suppliers and apply fair commercial practices" and "follow your products".

If you are selling "quality" ,you should be able to defend that "quality" label.

Consumers no longer focus on intrinsic quality of a product. They want to ensure that the relevant branded product meets their "values".

Makes good business sense to apply such auditing practices but it costs money to do so.



Upstream preventive schemes

Actions foreseen in 2015

Workshops with ethical auditors, rights-holders, suppliers, social partners and NGOs to determine best practices including on cost distribution.

Evaluate how track and trace systems can be used to ensure chains do not "leak" and to empower consumers to buy in to such systems.

Supply chains are international so we wish to engage with trading partners to develop such best practices at international level.



Downstream preventive schemes

Due diligence to hinder promotion, distribution of and payment for IP infringing products

Right-holders, wholesalers, retailers (off-line and on-line), shippers, payment service providers, consumers and tax-payers all benefit from markets built on trust and fair commercial practices so, in theory everyone has to gain.

Stakeholder agreements allowing for the establishment of detection and hindrance of IP infringing offers are therefore possible.



Downstream preventive schemes

Actions foreseen in 2015

Extension of existing Memorandum of Understanding (MoU) against the on-line sale of counterfeit goods.

Launch of stakeholder dialogues with the advertising profession and payment service providers.

Discussions on extending MoUs at international level.



Conclusions

1. Preventive, voluntary and inclusive schemes are an integral part of the European Commission's IP enforcement policy.
2. Such schemes are costly to implement and so the policy-maker has a role to facilitate the development and diffusion of best practise in this area.
3. All stakeholders including right-holders must be involved and must invest in the process.
4. Consumers and citizens/taxpayers have to be involved from the outset since their "buy in" is essential to the success of such schemes.



Conclusions

5. To be relevant the schemes must in time extend across external borders and include the actors in the IP chain within the territories of the EU's trading partners.
6. The European Commission is therefore keen to discuss the development of such schemes with its trading partners.



Contact details

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For information on the MoU against the sales of counterfeit goods on-line:

http://ec.europa.eu/internal_market/iprenforcement/docs/memorandum_04052011_en.pdf