

April 20, 2007

Serious concerns with proposed directive Com(2006)168

Dear MEP,

On behalf of the members of the Irish Free Software Organisation (IFSO), I am writing to you to express a number of serious concerns we have regarding the proposed directive Com(2006)168 “on criminal measures aimed at ensuring the enforcement of intellectual property rights”. It is scheduled for consideration by the European Parliament on Wednesday 25th April.

Our organisation supports measures for tackling organised crime and counterfeiting operations. However, ambiguities in the current draft of the directive extend its scope beyond those activities, possibly criminalising the legitimate actions of individuals and businesses. Our particular concern is that the freedom to write new and useful computer programs will be threatened by uncertainty about the legal consequences of doing so, if somebody uses that program to commit, say, copyright infringement.

We ask that you vote to reject the directive, or support amendments which have the following effect:

1. The scope of the “infringements” should be explicitly limited to “trademark counterfeiting” and “copyright piracy”. The terms “intentional infringement” and “commercial scale” should be clearly defined (e.g., “a large number of repeated infringements committed in pursuit of a direct pecuniary gain”).
2. Given the ambiguity over what constitutes an infringement, “attempting, aiding or abetting and inciting” should not be subject to criminal sanctions.
3. There is a danger that rightsholders might use the threat of criminal charges to deter competition. Therefore, there should be some form of safeguard against the misuse of enforcement.

The Foundation for a Free Information Infrastructure (FFII) has published a list of amendments which deal with the concerns we have raised above. We strongly urge you to support its position.

For more information on IFSO’s position on this directive, contact Malcolm Tyrrell by e-mail at contact@ifso.ie or by telephone at [removed].

Yours sincerely,

Ben North,
For and on behalf of IFSO.