



Mrs Margot Froehlinger  
Director  
European Commission  
DG MARKT -Directorate D - Knowledge based  
economy  
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200 rue de la Loi  
1049 Bruxelles

11 September 2008

Dear Mrs Froehlinger,

BUSINESSEUROPE would like to express its serious concerns about current discussions between EU Member States linked to the use of the accumulated OHIM surplus in connection with the reduction of Community Trademark (CTM) fees.

For the last few years, BUSINESSEUROPE has consistently supported the Commission proposals to streamline the review of the CTM fees due to OHIM and reduce certain fees.

We regret to note the lack of progress on this dossier prompted by national interests and concerns about the viability of national trademark systems. In our view, these concerns are unjustified since well-functioning and efficient trademark systems both at Community and national level are essential for rightholders.

National offices have an important role to play in the trademark system in Europe. Concerns that a further reduction of fees in Alicante would disadvantage national offices do not meet users' conception of their role and importance. Many users do not need protection at Community level, but they do require protection in one or more countries. Users will be willing to pay for services provided by National Offices.

However, we cannot support any suggested diversion to national offices or other bodies of money paid by users to OHIM for CTM registrations including ideas to share future renewal fees for CTMs.

Bearing in mind that many national offices are not financially independent, this could result in a diversion of funds to national budgets, an outcome that is certainly contrary to basic principles of good governance. We doubt that such ideas will provide incentives to national offices to modernise and improve their services to users.

Expanding the functioning of the cooperation fund to trademark related services could be a more reasonable path to explore provided that users are closely involved in this process. In our view it would make more sense for the surplus to be used to build up the common trademark database in the EU, facilitate access to foreign language IP documents for users (e.g. Chinese, Russian etc.), set up a common or at least compatible IT landscape between the users and the offices (including national offices).

To sum up, we fully support the proposal for a fee reduction and we consider that it is the only equitable solution for rightholders. However, we are against any channelling of the surplus or renewal fees to national offices.

Since it seems to be clear that even in the future we will have an ongoing surplus, BUSINESSEUROPE considers it necessary to have a permanent structure making decisions about the use of this future surplus and fixing the fee structure with representatives from the Commission, OHIM and users.

We are certainly willing to discuss our ideas more in depth with you if you consider this useful.

Yours sincerely,

Best regards,  
J. Chauvin

Jérôme P. Chauvin  
Director  
Legal Affairs Department  
Internal Market Department