

Mr Romano Prodi  
President of the European Commission  
Rue de Genève, 1  
BREY 12/100

B-1049 Bruxelles

9 September 2004

THE SECRETARY GENERAL

Dear President, *Dear Romano,*

UNICE has persistently emphasised the importance of a strong system for the legal protection of designs and welcomed the adoption of both the directive 98/71/EC on the legal protection of designs and the regulation creating the Community Design.

Intellectual property rights, including designs, are vital assets for companies as they encourage creative activity, trigger new investments in R&D, and promote competition and technical developments in the interests of society. The creative works they protect constitute one of the foundations of innovation which is the basis of growth, preservation of jobs and competitiveness.

UNICE has been informed of recent internal discussions in the Commission regarding the revision of directive 98/71 and the proposed introduction of the "repair" clause, namely the abolition of design protection for designs which constitute a component part of a complex product, for repair purposes.

Already during the adoption of directive 98/71, UNICE opposed the repair clause with thorough legal arguments<sup>1</sup>. Even though the debate on the "repair" clause in the past has centred on the automotive industry, it can in fact have repercussions on several industrial sectors which manufacture complex products.

UNICE is strongly concerned that abolishing intellectual property protection in a specific sector could create a dangerous precedent for the protection of intellectual property rights in other sectors. It should be left to the competition rules in the Treaty to balance a possible economic disequilibrium rather than restricting intellectual property protection.

Additionally, this derogation is in contradiction with the EU's general policy initiatives to reinforce the protection of intellectual property rights at all levels.

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<sup>1</sup> CBI, the Confederation of British Industry does not support this position.

UNICE hopes that the Commission will not rush to a formal adoption of a proposal that will not sufficiently take into consideration the interests of all stakeholders.

We remain at your disposal if we can be of any assistance to the debate.

Yours faithfully,

*Best regards*

Philippe de Buck