



12 February 2007

Mr Wubbo de Boer
President of the Office for Harmonisation in the
Internal Market (OHIM)
Avenida de Europa 4
E-03008 Alicante

THE SECRETARY GENERAL

Dear President,

BUSINESSEUROPE, the Confederation of European Business, would like to fully endorse the Commission proposal to introduce a method of regular and automatic review of trademark fees due to the Office for Harmonisation in the Internal Market (OHIM) based on OHIM's financial perspectives. This should be applied in circumstances of both budget surpluses and budget shortages, making use of a standard approach.

A well-functioning and efficient trademark protection system at both Community and national level is vital for trademark owners. Trademark owners expect to pay fees that reflect the fair and reasonable costs involved in obtaining appropriate protection for their intellectual property rights.

As a result of OHIM's efforts to increase efficiency, a substantial surplus has accumulated and is still growing despite the fee decrease agreed in 2005. This situation does not correspond to the requirement for a balanced budget and should be addressed in a way that is beneficial to trademark owners.

Surplus funds beyond a level in line with normal business practice should be addressed by means of reduced fees, in order to return the surplus to the users from whom it was generated and by allowing OHIM to set its own fees each year to ensure that this will not happen again. This solution would also avoid the need for regular revisions of the Community Trademark (CTM) Regulation with all the complexities of such a legislative procedure and allow OHIM the flexibility required to operate within a secure and reasonable financial framework.

BUSINESSEUROPE cannot support any suggested diversion to National Offices or other bodies of money paid by users to OHIM. Bearing in mind that many National Offices are not self-financing, this could also result in a diversion of funds to national budgets and ultimately an unacceptable cross-subsidisation.



Nevertheless, 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. National Offices could, for example, also maintain registers of national trademarks essential for the good functioning of seniority claims, an aspect made all the more important by the link of the Community and International Registration systems. Improved cooperation between National Offices and OHIM is also necessary for a well-functioning trademark system in Europe.

Therefore, we would like to reiterate our strong support for the Commission proposal regarding OHIM's budgetary structure.

We thank you in advance for taking our comments into account in the context of your continuing deliberations on the issue.

We remain at your disposal to discuss our position further.

Yours sincerely,

Philippe de Buck