



Business and Industry Advisory Committee to the OECD

Comité Consultatif Economique et Industriel Auprès de l' OCDE

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BIAC Calls on OECD to Launch Anti-Counterfeiting/Piracy Initiative

The Problem of Counterfeiting and Piracy Remains Pressing

Violations of intellectual property rights (IPRs) in the form of counterfeiting and piracy continue to pose significant threats to international trade and innovation as well as public health and safety. More recently it appears that infringements of intellectual property rights are also increasingly linked to organized crime. Interpol estimates that 7% of global trade now involves counterfeit products. Trade in infringing products is more than just a commercial or copyright problem. It also threatens consumer safety and leads to major losses in tax revenues for governments. New challenges posed to law enforcers by digital technologies add to the continued growth of tangible piracy and counterfeiting.

While laws providing protection for IPRs have proliferated in the past decade, effective enforcement of such laws is not uniformly or consistently achieved, even amongst OECD countries. Without effective enforcement of intellectual property rights, innovation and creativity are discouraged, opportunities for investment diminish and the pursuit of public goods like health and safety are threatened. In its December 2003 discussion paper, "Creativity, Innovation and Economic Growth in the 21st Century: An Affirmative Case for Intellectual Property Rights", BIAC recommended a number of steps the OECD could take to assist governments in combating counterfeiting and piracy, including the expansion and updating of the 1998 OECD study on the economic impact of counterfeiting.

OECD's Added Value in Addressing Anti-Counterfeiting/Piracy

Although the international community has made efforts to improve IPR protection and provide guidance on enforcement, much needs to be done to close information gaps and implement international agreements on IPR protection. BIAC believes that the structure, capacity and economic focus of the OECD makes it uniquely positioned to add value to existing national and international instruments and initiatives on IPR enforcement related to counterfeiting and piracy. OECD can add value to existing efforts by drawing on its core strengths in economic research and analysis, convening both public and private sector key experts, and through its training and outreach work with non-member countries.

Given the OECD's like-minded membership with similar perspectives on the issue, BIAC believes that quick and timely action is possible. Research and analytical work by the

OECD can improve the knowledge of the global scope and effects of counterfeiting and piracy. Peer reviews and outreach to non-members are an integral part of OECD work nowadays and can be used to monitor IPR enforcement. China, for example, has chosen the OECD as its central point of engagement on IPR issues.

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There is broad and growing support for the need for a consistent methodology for collecting data and measuring the harm caused by counterfeiting and piracy and for analyzing the effectiveness of existing efforts to address this problem. The OECD's 1998 report regarding the economic impact of counterfeiting shed valuable light on the magnitude of global counterfeiting and should be expanded and updated. Building on the 1998 report, **we call upon OECD to undertake a comprehensive study to analyze the scope and harmful effects of global counterfeiting and piracy problems across an increasingly broad range of sectors.**

The new study should develop methodologies for analyzing the scope and effects of counterfeiting and piracy as well as the effectiveness of existing practices for combating them. In particular, **new emphasis should be placed on health and safety implications, tax and revenue losses to governments, effects on local industry, and links to criminal activities**, including terrorism. Such a study may lay the foundation for ongoing work by OECD, including the creation of technical infrastructure, education and raising awareness of the general public and potential consumers of counterfeit products. We believe that OECD has a major role to play in this area.

At the same time, **BIAC calls upon OECD to raise the profile of IPR enforcement in on-going OECD activities**, to develop a well functioning internal coordinating mechanism to address this matter in a truly horizontal manner and to take advantage of the Organisation's multi-disciplinary nature. The importance of anti-counterfeiting and anti-piracy should be duly reflected in on-going OECD projects. This should also include the very **successful outreach work of the OECD with major non-member countries, such as China or Russia**, aimed at creating an attractive investment environment. Counterfeiting and piracy should also be reflected in the OECD peer review processes.

Following the successful high-level workshops on IPR held in China in April, OECD should collaborate with China and other non-member states to organize additional workshops and anti-counterfeiting/piracy work programs. Using its traditional role as convener and information hub, OECD should continue to organize a series of workshops and other events that bring together relevant actors to examine the various aspects of the problem and solutions. To effectively involve non-members generally, IPR enforcement should be given a continued high profile in OECD outreach activities.

In accordance with the outcome of the study, OECD should consider additional steps in its future work program on counterfeiting and piracy such as the development of appropriate best practices or recommendations, reflecting shared conceptions of effective strategies to combat counterfeiting and piracy.