



Malta-EU Steering & Action Committee

COMPETITIVENESS AND CONSUMER AFFAIRS



18.09.09

EU Joint Transfer Pricing Forum

COM(2009) 472 – Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on the work of the EU Joint Transfer Pricing Forum in the period March 2007 to March 2009 and a related proposal for a revised Code of Conduct for the effective implementation of the Arbitration Convention (90/436/EEC of 23 July 1990)

This Communication reports on the work of the EU Joint Transfer Pricing Forum (JTPF) over the last two years. The JTPF is an expert group that was set up by the Commission in 2002. The JTPF's mandate is to find pragmatic solutions to problems arising from the application of the arm's length principle¹ and to ensure the elimination of any double taxation that may arise. Furthermore, the Communication presents in annex a revised Code of Conduct for the Arbitration Convention (AC). As a result of a monitoring exercise on the application of the existing Code of Conduct, it was recognised that the three-year target for resolution specified within the Code of Conduct was difficult to achieve and further work was needed to clarify the process to facilitate resolution within the three-year time frame. Consequently, some revisions are proposed to provide the necessary clarification on specific provisions of the Arbitration Convention.

Regarding the work of the JTPF in the period from March 2007 to March 2009, the Commission expresses its thanks to the JTPF members for their constructive contributions to pragmatic recommendations in reaching solutions to the issues identified.

The Commission fully supports the conclusions and suggestions of the JTPF in its reports on penalties and transfer pricing and on the interpretation of some provisions of the AC. On the basis of this work, the Commission has drawn up the proposal for a revised Code of Conduct for the Arbitration Convention.

¹ The 'arm's length' principle is an internationally recognised principle, for tax purposes, that the conditions attached to transfers between associated enterprises should not differ from those which would be established between enterprises that are not associated.



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The Commission considers that the recommendations included in the proposal for a revised Code of Conduct will improve the efficiency of the instrument and should lead to quicker resolution of transfer pricing disputes.

IP rights

COM(2009) 467 – Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee Enhancing the enforcement of intellectual property rights in the internal market

Intellectual property rights (IPR) are one of the cornerstones of a competitive, wealth-generating, knowledge-based society. IPR infringements cause widespread economic harm and an increasing number of counterfeit products now pose a real threat to consumer health and safety. In particular, the increase in fake medicines is of growing concern. The Commission has implemented a legal framework within the Single Market that provides the tools to enforce IPR in a fair, effective and proportionate way. The IPR Enforcement Directive is one of the cornerstones of this. It has harmonised the laws of Member States with regard to civil measures for the enforcement of all IPR and a proposal on criminal sanctions is currently under discussion in the Council.

The EU Customs Regulation, which allows for the detention of goods suspected of infringing IPR, is another pillar of the legal framework. The Commission is currently consulting Member States and stakeholders on how this Regulation can be further improved.

With a principal body of laws in place, the Commission now proposes to supplement the regulatory framework with complementary non-legislative measures. In this Communication the Commission outlines said complementary non-legislative measures which will provide more collaborative and focused enforcement across the Internal Market. The measures it lists are:

- supporting enforcement through an EU Counterfeiting and Piracy Observatory;
- fostering administrative cooperation throughout the Internal Market;
- facilitating voluntary arrangements between stakeholders.

The Commission is convinced that these measures will significantly strengthen the fight against counterfeiting and piracy, in the common interest of European citizens, business and the economy as a whole.