EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 4 January 2008

at the request of the Cypriot Ministry of Commerce on a draft law amending the Laws on copyright and related rights

(CON/2008/1)

Introduction and legal basis

On 22 November 2007 the European Central Bank (ECB) received a request from the Cypriot Ministry of Commerce for an opinion on a draft law amending the Laws on copyright and related rights of 1976 to 2006 (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty and the first and second indents of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[1], as the draft law relates to currency matters and means of payment. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

The main purposes of the draft law are to (i) provide for the exercise in Cyprus of the right to protect copyright in euro banknotes and coins; (ii) expressly subject the reproduction of euro banknotes, in Cyprus, to the reproduction rules laid down in Decision ECB/2003/4 of 20 March 2003 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes (hereinafter the 'ECB Decision')[2], subject to the control of the Central Bank of Cyprus (CBC); and (iii) to introduce sanctions, in the form of fines and/or imprisonment, for breaches of the reproduction rules laid down in the ECB Decision.

2. General observations

2.1 The draft law *inter alia* provides, in Section 3 thereof, that the exclusive right of enforcement of copyright over euro banknote designs is to be exercised in Cyprus by the ECB, in which that right is vested, or by the CBC on behalf of the ECB. The ECB deems Section 3 of the draft law to be unobjectionable, considering that, pursuant to Article 1 of Guideline ECB/1999/3 of 7 July 1998 on

1 OJ L 189, 3.7.1998, p. 42.

2 OJ L 78, 25.3.2003, p. 16.

certain provisions regarding euro banknotes, as amended on 26 August 1999[3], national central banks (NCBs) are expected to take all necessary and feasible measures, under their national legal systems, to ensure that there is no breach of the copyright over euro banknote designs and that the ECB's copyright over banknote designs needs to be applied and enforced in close cooperation between the ECB and the NCBs.

2.2 Section 4 of the draft law *inter alia* provides that the reproduction, in whole or in part, of euro banknotes requires approval by the CBC *and* is subject to the reproduction rules laid down in Article 2 of the ECB Decision. The ECB understands that Section 4 of the draft law intends to convert the ECB reproduction rules into *erga omnes* obligations, applicable to those reproducing euro banknotes as well as to the CBC - the national authority responsible, pursuant to Section 4, for the scrutiny of euro reproductions within Cyprus – and welcomes the inclusion of Section 4 in the draft law.

2.3 Section 5 of the draft law provides for penalties, in the form of a fine and/or imprisonment, in the event of, *inter alia*, unauthorised reproductions of euro banknotes in Cyprus. Since the ECB Decision applies without prejudice to the application of criminal law in the territory of its addressees, and Section 5 of the draft law is a necessary corollary of Section 4 thereof, the ECB has no comments on this aspect of the draft law.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 4 January 2008.

[signed]

The President of the ECB

Jean-Claude TRICHET

3 OJ L 258, 5.10.1999, p. 32.