

Conference on IP Enforcement Athens 2014

“Challenges facing enforcement authorities”

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Introduction

- The Observatory provides a platform for continuous engagement with a broad landscape of stakeholders
- Advantage?it allows us to identify gaps and challenges, e.g.
 - Those facing IP enforcement, and
 - Their impact on all sectors, including consumers

Reasons for problems facing IP enforcement

- Mainly relate to a lack of understanding and knowledge
 - Scope and scale and impact - data
 - Continuing pressure on enforcement authorities
 - Political will
 - Diverse legal frameworks
 - Key decision makers
 - Insatiable consumer demand for infringing products

1. Lack of reliable data

- Without robust data
 - On the scope, scale, and impact it is impossible to measure trends and threats
 - Focus resources
 - Prove the case to governments, policy makers and key decision makers

1. Lack of reliable data

- Many studies have been carried out **But**.....
 - No agreed methodology for collecting and analysing data on counterfeiting and piracy
 - Often studies have been 'snapshots', commissioned by different industries - different aims and approaches
 - Difficult to align data and draw comparisons
 - Secretive nature of counterfeiting and piracy
 - Some industry sectors hesitant to disclose information
 - A rapidly changing technical environment makes collection and analysis of data difficult

2. Diverse enforcement laws

- Report by Commission on application of the IPR Enforcement Directive clearly showed differences in how the Directive was transposed in the Member States
- Criminal sanctions in Member States have not been harmonised
- Complementary laws to assist enforcement, e.g. proceeds of crime and money laundering, not common in all Member States
- Different penalties and regimes

3. A lack of coordination and exchange

- Clear progress in how Member States and rights holders combat IP infringements.... **But...**
 - Cross border nature means more effective collaboration between national administrations and rights holders needed
 - Cooperation requires a clearer understanding of national authorities' strategies and structures
 - Improved methods for exchanging information with rights holders or colleagues in other countries needed
 - No EU wide mechanism to exchange information
 - Member States are not always able to benefit from the expertise of others

4. Insufficient knowledge in enforcement and judiciary

- Counterfeiting and piracy - a fast moving environment
- Those engaged in enforcement (*customs, police, regulatory services, prosecutors, and the judiciary*) need up to date understanding of ...
 - Most recent trends in the market
 - Developments in methods of investigation

5. Lack of consumer understanding

- Growing number of awareness raising programmes and activities, across the world... **But....**
- Many consumers either still confused or knowingly continue to buy or access infringing products

5. Lack of consumer understanding

- Recent Observatory “IP perception study” confirms:
 - Most Europeans know less than they think about IP
 - Many consumers place a positive value on IP, this does not always translate
 - Over a third of Europeans feel that the purchase of a counterfeit product can be justified on an individual basis
 - Often confusion about what is or not legal in relation to accessing online content
 - 42% of Europeans still consider it to be acceptable to download or access copyright protected content illegally when it is for personal use.

6. Lack of understanding in third countries

- Developing and emerging countries are particularly vulnerable to counterfeiting and piracy
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- Used by complex criminal networks as manufacturing and distribution bases
 - Many third countries face significant challenges and because do not have the structures, expertise and experience

To Sum up

- Overcoming such a range of enforcement related challenges means taking time to understand them properly
- This is the core principle of the Observatory
 - Aim to be in a position to choose the opportunities that are right for us to engage in, and most relevant to reducing potential harm
 - Observatory network allows us to make the right choices
 - Observatory is not going to solve the problems we face on its own
 - But not on our own, part of a complex EU and international network and not in competition

So

- Observatory working hard to build greater knowledge and more effective collaboration.
- Our objective to bring together
 - private sector stakeholders,
 - policy maker and institutions
 - customs, regulatory and enforcement authorities
 - legal practitioners judiciary, prosecutors etc
 - Technology experts
 - Researchers and analysts
- All expert and experienced in the work they are actively involved with.
- To do what?????

Our Aim?

- Use our resources to make the EU the least attractive location in the world for IP infringements to take place by supporting those in enforcement, through:
 - Transparency and balance
 - Building better evidence on scope, scale, impact, problems and gaps
 - Platforms for accessible information and greater collaboration with institutions across the EU and third countries
 - Tackling demand and safeguarding consumers and jobs by raising awareness across the board
 - New tools to enhance cooperation and understanding
 - Identifying best practices in enforcement
 - Knowledge building and training so enforcers have a better understanding before choosing how to respond
 - Strengthening international co-operation
- **This forms the basis of our Annual Work programmes and Strategic Plans.**



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