

EUROPEAN ECONOMIC AREA
STANDING COMMITTEE
OF THE EFTA STATES

2/AV/W/001
10 March 1998
Brussels

WORKING GROUP ON AUDIOVISUAL SERVICES

EFTA COMMENTS ON THE PROPOSAL FOR A EUROPEAN PARLIAMENT
AND COUNCIL DIRECTIVE ON THE LEGAL PROTECTION OF SERVICES
BASED ON, OR CONSISTING OF, CONDITIONAL ACCESS
(COM(97) 356 FINAL)

Note by the Secretariat

1. The EFTA States consider the proposal for a Directive on the legal protection of services based on, or consisting of, conditional access as an important initiative from the European Commission.
2. The EFTA States agree that the hacking of decoding devices is an international problem that has to be solved at an international level. If this does not happen, the pirate industry will take advantages of the differences in legislation. The EFTA States agree that there is a need for harmonised legislation with a high degree of protection.
3. The present wording of the Directive does not, in the view of the EFTA States, fully address one of the key problems faced by the industry. The proposed Directive prohibits only *commercial activities* related to piracy products. The purpose and goal of any antipiracy legislation should be to solve the problem by stopping piracy, and it is difficult to achieve this aim if only the manufacture and marketing is made illegal, i.e. not *the use of illicit devices*.
4. By defining the use of illicit devices as a criminal offence one would expect a drop in the demand for such devices. This would also make it easier to change the public's attitudes towards piracy. The main concern is that if use is not made a criminal offence at an EEA level, the manufacturers will probably transfer their activities to countries outside the EEA. As a consequence, the manufacturers will sell their products to European users by marketing the piracy products (i.a. on Internet) from countries outside the EEA. The Directive should therefore include **a ban on the private use of piracy products**.
5. The EFTA States propose that a new paragraph to Article 3 is added in the proposal. In Article 3 the following should be added:

(continued)

(d) *the private use of illicit devices.*

6. The EFTA States ask the Commission to consider this proposal and to make our view known in the ongoing process.

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