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# EU Law News

A bi-monthly review of EU legal developments  
affecting business in Europe



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## Communication on Patents

### The quest for a better patent system.

The European Commission wants to make the Community patent a reality and improve the existing patent litigation system. A Community patent would be far more attractive and cost-efficient than the present bundle of national patents. For example, the risk of multiple patent litigation in several countries leads to unnecessary costs for all the parties involved and causes legal uncertainty.

Many stakeholders have criticised the Council's Common Political Approach, adopted in 2003, because of high translation costs and excessive centralisation. Charlie McCreevy, Commissioner for Internal Market and Services, said that Europe cannot afford to lose ground in patent policy. He proposes to discuss the various options with the Council and the Parliament.

Member States are polarised on patent jurisdiction arrangements because some support the draft European Patent Litigation Agreement (EPLA) in the context of the European Patent Convention, and some prefer the establishment of a specific Community jurisdiction for patent litigation. The Commission believes that consensus could be built on the basis of an integrated approach, for example, by the creation of a unified and specialised patent judiciary, with competence for litigation on European patents and future Community patents. A separate and comprehensive Communication on Intellectual Property Rights (IPR) is planned for 2008.



## Anti-trust: Global Co-ordination

**The European Commission and the US Department of Justice have carried out global inspections in the marine hose sector and have arrested eight executives.**

European Commission officials have carried out unannounced inspections at the premises of several marine hose producers in France, Italy and the UK. The hoses transport crude oil and petroleum products. The Commission said that the companies concerned could have violated Article 81 of the EC Treaty.

As a sign of the increasing globalisation of anti-trust action, the Commission co-ordinated its investigative measures with the US Department of Justice in the context of a suspected worldwide cartel concerning marine hoses, at various times from 1999 to now. The Department of Justice conducted a series of arrests of eight foreign executives while they were visiting the United States. Compared with the usual interviews or searches used in the past, the arrests underline a more aggressive approach by the Department. A conviction would result in jail sentences of up to ten years. There is also an increase in demands to resolve cartel complaints through plea agreements with foreign executives, for which average jail terms have increased to an average of five to eight months

## Transatlantic Deal

### EU and US leaders agree on the removal of trade barriers.

The lowering of regulatory barriers for the world's largest trading partners will be overseen by a special economic council co-chaired by White House economic adviser Allan Hubbard and Günter Verheugen, European Commissioner responsible for Enterprise and Industry. Automotive industry regulations, energy security, climate change, and financial markets are just a few of the areas covered in the new deal.

In a speech at a Healthcare Innovation Conference, Günter Verheugen said the Summit outcome will also benefit public health by promoting trade, investment, co-operation and innovation in the healthcare industry, for example by means of electronic health record systems, co-operation on medical devices, and simplification in the application of pharmaceuticals regulation. As reported in *EU Law News* of March-April 2007, European airlines will also gain better access to the US market, and US airlines can fly directly to and from European airports. A second stage agreement is expected for 2008.

Both governments want to increase competitiveness across the Atlantic, but underline the importance of agreement on the Doha Round. One step forward is the creation of the International Conference on Harmonisation, a forum that will bring pharmaceutical industry leaders together with regulators from the US, EU and Japan in efforts to develop harmonised regulatory guidelines for pharmaceuticals.

## Proposed EU Budget 2008

### Growth and employment become top priority

As a result of budget reforms in recent years, the EU's spending on growth and employment policies will grow by 4.2% and represent the highest share (44.2%) of the 2008 budget, ahead of agriculture and natural resources. At €129.2 billion, the total budget goes up by 2% compared with 2007.

Research expenditure will increase in particular, by some 11%, investments in trans-European energy and transport networks by 14%, and lifelong learning programmes by 9%. Expenditure in the EU's main environmental protection

programme, Life+, increases by 11% and many other EU policies support the environment, especially in research. Other priority areas include freedom, security and justice, citizenship programmes, public health and consumer protection.

## Financial Services

### The Commission has launched a debate on retail financial services, while Finance Ministers are resisting pressure for more rules to control hedge funds.

In early May, the European Commission published a Green Paper, setting out its policy on financial products, such as bank accounts, loans, mortgages, investments and insurance provided to individual consumers. The aim is to strengthen and deepen the Commission's understanding of the problems faced by consumers and industry in this area. The Commission seeks to develop integration in retail financial services markets in three main ways: (1) properly regulated open markets and strong competition; (2) consumer protection rules and assurance that providers are financially sound and trustworthy; and (3) provision of appropriate and timely information, high-quality advice and a level playing field between products. The Commission welcomes comments on these proposals by 16 July 2007, will organise a hearing on 19 September 2007 and publish a review in the autumn.

Despite strong political pressure, notably from Germany, holder of both the EU Presidency and the chair of the G8, the ECOFIN agreed in May not to regulate the hedge fund sector. Finance Ministers said that the current supervision was adequate. However, in response to concerns expressed, they promoted the idea that the sector should accept greater transparency and a voluntary code of conduct. The rapid growth of hedge funds means that they currently hold assets of about €1,200 billion. Despite concerns over financial stability, the prevailing argument was that the funds play a role in supporting growth and job creation through the proper allocation of capital.

**This publication has been carefully prepared but is intended for general guidance only. On any specific matter, reference should be made to the appropriate adviser.**

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