

logic, algorithms or programming language behind it. The rights holder is granted the exclusive right to authorize the reproduction, sale, rental and adaptation of the program. Concerning 'reverse engineering', whereby a program is decompiled so as to find out its base structure in order to design compatible programs,³ the Directive makes the practice permissible when it is necessary to ensure the interoperability of programs, but not for developing a substantially similar product. In this way, the EC has attempted to achieve a balance between providing necessary copyright protection and promoting free competition in the market. The Directive is to be implemented by 1 January 1993.

A discussion paper entitled "Broadcasting and Copyright in the Internal Market" (III-F-5263-90-EN) was released in November 1990. As a step towards strengthening the legal framework laid out in the "Television Without Frontiers" Directive (89/552/EEC), the discussion paper addresses copyright issues in relation to satellite broadcasting and cable retransmission. The proposals put forward in this document are based on four general principles: i) retransmission by cable of a program from another member state is subject to copyright obligations, ii) authorization from the copyright owners must then be obtained through private contracts, iii) collective administration must be provided, and iv) a non-mandatory mediation process and mechanisms to prevent abuse of rights should be developed. The future content of a proposed directive will depend on the outcome of the discussions generated by this document.

In December 1990, the Commission unveiled a two year work program, as a follow-up to the 1988 Green Paper, aimed at establishing a 'level playing field' in the area of copyright and neighbouring rights legislation. One of the priorities of this program is reflected in the draft decision that all member states should, by the end of 1992, ratify and/or adhere to the Berne Convention and the 1961 Rome Convention on the Rights of Performers, Record Producers, and Radio and Television Broadcasters. This will provide a common base from which harmonization of Community legislation will be easier.

The first legislative proposal under the copyright program is the draft directive on rental and lending rights (COM(90) 586 final - SYN 319), tabled in December 1990. The directive would extend to authors, performers and producers of sound recordings (records, video/audio cassettes and compact discs)

³ This was the most contentious issue during debate on the proposed directive.