

the Regulation to cover the infringement of copyright laws. A recent internal Commission progress report identified the weaknesses in the legislation which may prompt the Commission to toughen the provisions and call for increased international discipline.

### Copyright

Each EC member state maintains copyright legislation which results in disparities in scope and enforcement policies across the Community. Such disparities affect trade and make the piracy of materials easier, a situation exacerbated by the advance of new technologies. Case law of the ECJ has come to accept the existence of more extensive rights for authors, particularly as a result of differences between member states. Similarly, in the 1989 *Fima Patricia* case, the Court ruled that, given the discrepancies, member states can restrict imports from other member states that violate their own copyright standards. Consequently, the need for harmonization is reflected both in the aims of the single market and the need to provide encouragement, through protection, for investment in the development of new technologies. Although the EC has been exploring the basis for harmonizing copyright legislation since 1974, with little progress, the 1992 exercise has resulted in new impetus.

The most important initiative in this area was the 1988 Green Paper on Copyright and the Challenge of Technology (COM(88) 172). This discussion paper identified existing problem areas by addressing such issues as the commercial piracy of sound and video recordings, home copying, rental rights, computer software and databases. The Green Paper further noted that future directives would have to reconcile three conflicting interests: the economic interest of authors/creators; public access to information; and the value of creativity to the cultural identity of European nations.

The EC's first foray into copyright regulation was directed at computer software. Following almost two years of very heated debate and considerable lobbying, pitting large multinationals (largely American) against small and medium-sized firms (largely European), the Council adopted in May 1991 the Directive on the Legal Protection of Computer Programs (91/25/EEC). The Directive provides for the protection of computer programs as "literary works" within the meaning of the 1971 Berne Convention for the Protection of Literary and Artistic Works. As such, protection is to be granted for a minimum of 50 years and is based on the standard of "originality". This protection, however, is applied to the expression of the idea, but not the idea, principles,