



E U R O P E A N C E N T R A L B A N K

OPINION OF THE EUROPEAN CENTRAL BANK

of 15 September 1999

**at the request of the Euro Changeover Board of Ireland
on a draft legislative proposal for a Copyright and Related Rights Bill, 1999**

(CON/99/12)

1. On 3 August 1999 the European Central Bank (ECB) received a request from the Euro Changeover Board of Ireland for an ECB Opinion on a draft legislative proposal entitled “Copyright and Related Rights Bill, 1999” and in particular on Section 189 thereof.
2. The ECB’s competence to deliver an opinion is based on Article 105 (4), second indent, of the Treaty establishing the European Community and Article 2 (1), first indent, of the Council Decision (98/415/EC) of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions, as the legislative proposal contains provisions concerning currency matters. In accordance with Article 17.5, first sentence, of the Rules of Procedure of the European Central Bank, this ECB Opinion has been adopted by the Governing Council of the ECB.
3. The draft legislative proposal represents a comprehensive restatement and amendment of the Irish law on copyright. Of particular relevance to the ECB are the provisions contained in the draft legislative proposal concerning the copyright in legal tender banknotes denominated in the euro unit, the common face and national face of coins denominated in euro or in cent and commemorative coins issued by the Minister for Finance. The draft legislative proposal complements and amends the Economic and Monetary Union Act, 1998, which contained provisions relating to the issuance of such coins and the copyright in euro banknotes and coins, and on which the European Monetary Institute rendered its Opinion CON/98/18.
4. Section 189 of the draft legislative proposal on which the ECB is being consulted contains nine sub-sections replacing the existing copyright legislation. Section 189(2) provides that notwithstanding anything contained in the relevant part of the draft legislative proposal, the

copyright in legal tender notes denominated in the euro unit shall be perpetual and vests in the ECB. Section 189(5)(a) provides that notwithstanding anything contained in the relevant part of the draft legislative proposal, the copyright in the common face of coins denominated in euro or in cent and issued by the Minister for Finance under the Economic and Monetary Union Act, 1998, and the copyright in the artistic work defining the design of any such face shall be perpetual and vest in the European Community and may be assigned by the Commission of the European Communities on behalf of the European Community. Sections 189(5)(b) and (c) provide that notwithstanding anything contained in the relevant part of the draft legislative proposal, the copyright in any national face of such coins denominated in euro or in cent and the copyright in all commemorative coins issued by the Minister for Finance under the Economic and Monetary Union Act, 1998, and the copyright in the artistic work defining the design of any such face or coin shall be perpetual and vest in the Minister for Finance.

5. The ECB notes that the draft legislative proposal provides for copyright in both legal tender and non-legal tender banknotes and coins. It might be worth considering whether this point should be expressly clarified in the draft legislative proposal.
6. The ECB recalls that in its Recommendation of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7),¹ the ECB recommended that Member States should ensure that banknote designs may legally benefit from copyright protection. The ECB therefore recognises the desirability of explicitly confirming in Irish legislation the existence of the ECB's copyright in legal tender banknotes denominated in the euro unit. However, the ECB questions whether, as a matter of Irish law, it is necessary to achieve such legislative clarity by providing that the copyright in legal tender banknotes denominated in the euro unit shall be perpetual and vest in the ECB. Any intellectual property rights enjoyed by the ECB with regard to such banknotes are not directly established under Irish legislation. Similarly, any intellectual property rights enjoyed by the European Community in the common face of coins denominated in euro or in cent, and the copyright in the artistic work defining the design of any such face, are not directly established under Irish legislation. By extension, the right of the Commission of the European Communities to assign such copyright on behalf of the European Community does not arise directly under Irish legislation.
7. The ECB confirms that it has no objection to this ECB Opinion being made public by the competent national authorities at their discretion.

¹ OJ C 11, 15.1.98, p. 1ff.

Done at Frankfurt am Main on 15 September 1999.

The President of the ECB

[signed]

Willem F. Duisenberg