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**MINISTRSTVO ZA GOSPODARSTVO**

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## **World Intellectual Property Organization**

**Subject: Surveillance in the field of intellectual property Market inspectorate of Republic of Slovenia**

Market inspectorate of Republic of Slovenia is a constituent body of the Ministry of the Economy. We are responsible for surveillance of execution of 143 Slovenian regulations, the most important areas include consumer protection legislation, product safety, trade, catering, crafts, services, pricing, tourism, competition protection and copyrights.

In Slovenia the area of intellectual property in general is governed by the Industrial Property Act (Official Gazette. 51/06), which provides right holders' legal protection only by court.

Specific issues in this area are in the public interest, therefore the administrative powers are activated and this also includes surveillance, which is entrusted to Market Inspectorate of Republic of Slovenia. The organization and powers of Market Inspectorate are briefly presented below.

### Competition protection – selling of fake goods

Market inspectorate is competent for surveillance of the Protection of Competition Act, (Official Gazette 18/1993) since 1993. Article 13 of the Act provides act of unfair competition when a firm operates in conflict with good business practices, which causes or may cause damage to other market participants. Unfair competition also includes the unjustified use of the name, company name, brand or any other indication of another entity, irrespective of whether the other company gave its approval if it is created or may create confusion in the market, or sell goods with the terms or details that create or may create confusion as to the origin, production methods, quality and other characteristics of the goods.

Market Inspectorate establish inspection procedure on the basis of the application (usually from general importers) that competitors allege unfair competition. A prerequisite for initiating the procedure is that the holder of the trademarks filed in the court action.

If the process determines fake goods and consequently an infringement of Protection of Competition Act, Market Inspectorate temporarily prohibit acts of unfair competition (prohibition on selling fake goods) with a decision. However, unfair competition also constitutes minor offense, punishable by a fine.

In 2009, the Inspectorate considered only one example, when the dealer sold fake toys. The decision and fine for minor offense were issued under the Competition Act.

In 2010, the Market Inspectorate also considered one case of unfair competition – selling of fake hours via the Internet, but the violation of Competition Act was not found.

In connection with the fake goods another rule from the jurisdiction of our inspectorate should be mentioned, Consumer Protection against Unfair Commercial Practices Act (Official Gazette. 53/07). According to the Article 7 the commercial practice is considered as misleading, when the trader hands company product, which is similar to a product of another manufacturer and deliberately mislead consumers into believing that the product is the manufacturer, although this is not true.

If the company use unfair business practices, or is about to use it, Inspectorate can prohibit the use of such practices. This actions also constitutes minor offense, punishable by a fine.

## Copyright

### 1. General

Market Inspectorate under the Copyright and Related Rights Act supervises copyright material in area of public performance of music through regular inspections in all areas of work, mostly in restaurants, bars and similar premises and accommodations. For the public performance of copyrights music works by radio or television in bars or facility is necessary to have arranged copyrights with the relevant copyright collecting societies for the protection of copyrights.

From 2008 to 2010, the market inspectors reviewed the 1545 restaurants and accommodations. In 202 cases a decision was imposed, to arrange the copyrights for public performance of music with relevant collecting society. In 158 cases the infringement of Copyright and Related Rights Act was found and respective competences were taken (fine for minor offense, warning).

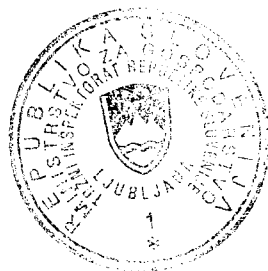
### 2. Copyright in computer programs

In accordance with the provisions of the Copyright and Related Rights the following economic rights is applicable to computer programs: the right of reproduction (is the author's exclusive right to fix the work in a material medium or in another copy directly or indirectly, temporarily or permanently, by any means and in any form, in whole or in part), the right of distribution (is the author's exclusive right to put into circulation the original or copies of the work by sale or other form of transfer of ownership, or to offer the same to the public with such intent), rental right (is the author's exclusive right of making available for use the original or copies of a work, for a limited period of time, and for direct or indirect economic advantage) and right of making available (is the author's exclusive right that a work, by wire or wireless means, is made available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them or that a work is transmitted to a member of the public based on an offer, intended for the public).

The specially qualified group of market inspectors carried out the controls given the special nature of inspection in respect of computer programs. In accordance with the provisions of the Inspection Act an inspector has the right to conduct inspection of the economic entity on the basis of the law (without special permission of the court) and without prior notice. Market Inspectorate control subjects selected randomly or based on applications received. Randomly selected subjects are chosen individually or by the industries in which they operate. In previous years selected subjects were chosen from lawyers, media organizations (radio and TV organizations, newspapers, magazines...), architects and others.

In the years from 2008 to 2010 Market Inspectorate conducted 417 inspections in which the 2284 computers were checked. On the computers 13124 computer programs that user's use at their work was examined with random selection method. Of all the programs examined individual subjects did not demonstrate legitimate use for 1626 (12.4%) programs. From the 417 examined subjects in 252 subjects (60.4%) was identified at least one illegal use of a computer program.

<b>Aktion</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>SUM</b>
Number of conducted inspections	128	110	179	417
Number of checked computers	774	768	742	2284
Number of checked computer's programs	4631	4749	3744	13124
Number of illegal programs	617	588	421	1626
Percentage of illegal programs	13,3%	12,4%	11,2%	12,4%
Number of subjects in the offense	90	70	92	252
Percentage of subjects in the offense	70,3%	63,6%	51,4%	60,4%



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