

Brussels, 9<sup>th</sup> February 2006

## Competition: Commission closes investigation following changes to Philips CD-Recordable Disc Patent Licensing

*The European Commission has closed an investigation into the CD-R Disc Licensing Programmes administered by Philips in Europe following changes to those programmes. The inquiry was launched in 2003, following a complaint by FIPCOM (the Federation of Interested Parties in fair Competition in the Optical Media sector) an association of European manufacturers of CD-Recordable discs. The complaint alleged that the terms and conditions of licensing of the CD-R technology violated the EC Treaty competition rules on restrictive business practices (Article 81) and abuses of dominant positions (Article 82). Philips revised the programmes to ensure that all the necessary information concerning the licensed technology is available and that the programmes are managed in a fair and non discriminatory way. In view of these improvements and the withdrawal of its complaint by FIPCOM subsequent to settlement negotiations, the Commission has decided to close the case.*

The new licensing conditions offered by Philips are likely to bring about lower prices and more transparency for millions of consumers of recordable CDs. Fair and non-discriminatory terms of licensing are essential to ensure that technology license agreements do not restrict competition.

Since 1996 Philips Electronics has offered European manufacturers a joint portfolio license which includes its own CD-R disc patents as well as those of Sony and Taiyo Yuden, a Japanese technology company. Philips undertook to discontinue the joint patent portfolio license programme in Europe with effect from 15 December 2005.

In addition, Philips has, beginning in 2001, offered an individual license, the Philips Only License Agreement (PLA), which is limited to its own CD-R patents. The revisions proposed by Philips to this agreement are considered satisfactory. The most important changes in the new licensing agreement are:

- making available on its website summary reports of independent experts regarding those Philips patents that are essential to produce CD-R discs
- adding the explicit obligation for Philips to address technical problems associated with the management of the CD-R standard
- updating the CD-R standard to clarify that discs that do not use Philips' Multi Speed proprietary technology but alternative high speed recording technologies qualify as CD-R discs.

Philips also reduced the level of royalty from 4.5 US cents to 2.5 US cents per disc, and undertook to apply this new rate retroactively from 1 October 2005 to the licensees that are compliant with the licensing program and have paid all royalties due.

The Commission intends to continue to closely monitor existing or new technology pools, in particular those that support or establish a *de facto* or a *de jure* industry standard in order to ensure that they comply with Community competition rules.