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AVIS DU COMITE DES EVALUATIONS D'IMPACT

Accompanying document to the

**COMMUNICATION ON DEVELOPING THE GENERAL POLICY
FOR THE FIGHT AGAINST CYBER CRIME**

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Brussels, 9 March 2007
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Opinion

Title

**Impact Assessment on: Communication on Developing the
General Policy for the fight against Cyber Crime**

(Draft version of 26 February 2007)

Lead DG

DG JLS

1) Impact Assessment Board Opinion

(A) Context

The impact assessment concerns a draft Communication on developing the General Policy for the fight against Cyber Crime. A more prevention oriented policy on cyber security was adopted in two Commission Communications in May and November 2006. In the CLWP 2007, the Commission envisaged a comprehensive update of the Commission's cyber crime policy including issues such as the protection of the critical information infrastructure, terrorist use of internet. This Communication corresponds to this update.

(B) Positive aspects

A further impact assessment is planned to prepare a possible legislative initiative in 2007 on identity theft (a possible element of the preferred policy option).

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments will be transmitted directly to the author DG.

General recommendation: A more focused analysis should be presented of the problem, objectives and policy options, giving particular attention to the justification for EU action and providing a realistic picture of its likely added value (in relation to the scale of the problem), considering the limited scale of EU intervention under the preferred option.

(1) The definition of problems and objectives should be clarified, ranked and focused, given the limited scope for intervention at EU level. The problem areas of

cyber crime (including how the problems are likely to evolve) and the objectives should be clarified and prioritised to provide a realistic and clearer explanation of the added value of EU action in the fight against cyber crime, taking into account also the current process of ratification of the Council of Europe Convention on cyber crime and the influence of EU integration on cyber crime.

(2) The presentation of policy options should be simplified and strengthened as regards the subsidiarity and value added aspects. The IA report should be simplified by limiting itself to an assessment of the main 'strategic' policy options rather than proceeding first with detailed sub-options and regrouping them later under these options. The policy options should be clearly related to the objectives that follow from the problem definition (see above). On the other hand, the analysis of the options should be strengthened by a systematic application of the subsidiarity test and identification of the value added of EU action in relation to the scale of the problem. This applies in particular for the preferred policy option which essentially foresees a central coordinating role for the Commission and a possible legislative initiative on identity theft in 2007.

(3) A clearer discussion of economic and social impacts is advisable. This analysis should focus on the 'strategic' options and it should remain proportionate to the expected impacts (in particular, no further quantification appears to be needed) and it should be explicit where impacts are expected to be modest. In this context, it would be advisable to align analysis and terminology with the IA Guidelines (currently, reference to 'social impacts' appear to refer to a wider notion of societal impacts).

(D) Procedure and presentation

It appears that all necessary procedural elements have been complied with.

Certain formulations of the IA report must be revised to avoid the impression that the Commission's final decision is pre-empted (e.g. pages 27, 28, 31, 32).

2) IAB scrutiny process

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