ECIS European Committee
for Interoperable Systems

ECIS ivzw-aisbl
Louizalaan 65 avenue Louise Box 2
B-1050 Brussels, Belgium

T/F +32 (0)2 706 24 15
info@ecis.eu
www.ecis.eu

**Statement by Thomas Vinje, Legal Counsel and Spokesman for ECIS:
ECIS Reaction to Microsoft Declaration on Standardisation & Interoperability**

(Microsoft has today issued a declaration of principles[1] addressing issues of direct concern to ECIS, and relevant to on-going European anti-trust enforcement.)

Brussels - 21 February 2008 – The proof of this pudding will be in the eating. The world needs a permanent change in Microsoft's behaviour, not just another announcement. We have heard high-profile commitments from Microsoft a half-dozen times over the past two years, but have yet to see any lasting change in Microsoft's behaviour in the marketplace.

In August 2007 – one month before the European Court of First Instance threw out Microsoft's appeal of the European Commission's condemnation on every significant point – Microsoft announced "Windows Principles: Empowering choice, opportunity and interoperability." At that same moment, Microsoft *had yet to comply* with the Commission's original decision of March 2004 requiring disclosure of interoperability information. Nor did those "Windows Principles" address in any meaningful way the fundamental abuses of which Microsoft had been found guilty.

Be that at is may, the September 2007 Court judgment now *compels* Microsoft to end monopoly abuses which restrict full and fair competition. This is not a matter of choice. Nor should Microsoft itself be the ultimate judge of what constitutes acceptable practice, particularly in view of newly announced investigations by the European Commission into Microsoft's practices, as well as last month's extension of US government scrutiny of Microsoft's inadequate efforts to comply with the US anti-trust decision.

In light of this history, it is far too early to say whether, in Microsoft's own words, "the actions announced today reflect a strategic change in [Microsoft's] approach to interoperability". And even if that proves to be the case, it is far too early to say whether this new, unilateral "approach to interoperability" will bring Microsoft into compliance with anti-trust law in Europe and elsewhere. At this point, we can only observe that today's announcement raises far more questions than it answers. For example :

- Microsoft promises not to sue open source developers for "non-commercial distribution". That's presumably great news for hobbyists, but completely excludes some of Microsoft's most threatening potential competitors. We don't think that is what the European Commission and the European Court have in mind.

1
 Press Release: Microsoft Makes Strategic Changes in Technology and Business Practices to Expand Interoperability
 http://www.microsoft.com/presspass/press/2008/feb08/02-21ExpandInteroperabilityPR.mspx

- Regarding the commitment to "enhancing support for industry standards": Whose standards? For years now, Microsoft has either failed to implement or has actively corrupted a range of truly open standards adopted and implemented by the rest of the industry. Unless and until that behaviour stops, today's words mean nothing.

More fundamentally, today's announcement is still all about the rest of the world interoperating with Microsoft on Microsoft's own terms, not the other way around. So long as that is the strategic orientation, the interoperability devil will always be in the technical and commercial details.

As either luck or Microsoft's timing would have it, an important test of what Microsoft really means by "enhancing support for industry standards" will come next week at a meeting of the International Standards Organisation (ISO). If Microsoft is committed to truly *open* standards, it would embrace the existing ISO cross-platform standard for document processing, the Open Document Format (ODF), rather than push forward its proprietary Windows-dependent standard for document processing, OOXML. ODF already has wide industry acceptance, permits unconditional open competition and thus promotes competition-driven innovation.

But despite all the standards support rhetoric from Redmond, Microsoft has yet to implement ODF natively in its own systems. The best proof of Microsoft's intention to live by the principles it has announced today would be for it to agree now to harmonize its efforts with the ODF standard, rather than trying to position OOXML as a "better" competing standard.

About ECIS
ECIS is an international non-profit association founded in 1989 that strives to promote market conditions in the ICT sector allowing vigorous competition on the merits and a diversity of consumer choice. ECIS has actively represented its members on many issues related to interoperability and competition before European, national and international bodies, including the EU institutions and WIPO. ECIS' members include large and smaller information and communications technology hardware and software providers Adobe, Corel, IBM, Nokia, Opera, Oracle, RealNetworks, Red Hat, and Sun Microsystems.

ECIS media desk at POD Associates:
+32 2 735 43 70
email: info@ecis.eu