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ECIS comments on the final version of the study on ICT standardisation policy and the Commission's Way Forward Document

The European Committee for Interoperable Systems ("**ECIS**") appreciates this opportunity to comment on the *final EU Study on the specific policy needs for ICT standardisation* ("**Final Study**"). Where relevant, we have also commented on the draft Commission Way Forward paper, which sets out the Commission's views on how to implement some of the recommendations in the report.

Subject to the specific comments below, in general ECIS supports the recommendations made in the study. These clearly reflect the outcome of a well-planned preparation process, which included a great deal of collaboration between the various stakeholders. Similar collaboration would also be welcome in the actual implementation of the standard-setting policy planning.

Our detailed comments are set out below. For ease of reference, we have first included the text of the recommendation, followed by our comments.

Recommendation 1
The European Commission, together with the Member States, should establish an innovative and consistent ICT standardisation policy that should subsequently be implemented in a coherent and co-ordinated manner. The new ICT standardisation policy should pay attention to the policy context in which standardisation takes place. Policy should, therefore, differentiate between: • standardisation efforts in support of New Approach legislation (e.g., At&T directive, EMC directive);   • standardisation efforts in support of the non-New Approach legislation (e.g., signature directive, Communications Framework directive)   • standardisation efforts in support of EU policies in the public interest domain (e.g., eHealth policy, eAccessibility);   • standardisation efforts outside of the legislative or public interest policy area (e.g., competitiveness, innovation).   Depending on the policy areas, different actions for EU ICT standardisation policy should be defined.

> The policy should be fully in line with the standardisation principles laid out by the Council Resolution (1999), the WTO TBT agreement (1995) and the Global Standards Collaboration (GSC) open standards Resolution (2005).

ECIS fully agrees that a "one-size-fits-all" standardisation policy would not be efficient in ensuring that the goal of encouraging European competitiveness is met. Therefore a policy approach that is tailored to fit each particular context is indeed the approach that should be adopted. The work of EIF/IDABC for eGovernment standardization and interoperability is an area of exemplary efforts in this regard. However, even though the policy should differentiate between the various types of standardisation scenarios, it is important that certain general principles are respected, regardless of the context.

The most important principle by far, is the requirement for the use of open standards. The use of open standards is one of the key means of achieving *interoperability*, which as the study notes, "is necessary for the EU EU ICT standardisation policy to view […] as a priority."[1] The GSC resolution was helpful in recognising the importance of open standards, but the definition it adopted should be considered as more of a high-level guideline than a concrete definition as such, as it does not address certain key elements of what it is that makes open standards truly open.

Guidance on characteristics of open standards can be drawn from the Commission document "Open Standards in the ICT Domain" distributed at the November 5, 2007 meeting of the ICT Standardization Steering Committee. This document captures most of the criteria usually associated with best practices in standardization and open standards.

Members of ECIS stress that an open standard has the following characteristics:[2]

- Collaborative and democratic development and management process;
- Transparent evolution and management process open to all interested parties;
- Approved through due process by consensus among participants;
- Faithful implementations of the standard must interoperate;
- Platform-independent, vendor-neutral, and usable by an unrestricted number of competing implementations;
- Openly published including specifications and documentation sufficient for fully independent implementations; and
- Available royalty-free or on a FRAND basis that does not discriminate against the open source software development or licensing model.[3]

> **Recommendation 2**
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> The European Commission should reinforce dialogue between the European Council and the

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[1] *EU Study on the specific policy needs for ICT standardisation* ("**Final Study**"), page 78.

[2] See *ECIS: Interoperability and Open Standards*, http://www.ecis.eu/inter/interoperability_and_open_standards.html.

[3] The level of royalties is highly dependent on the specific policy context and ECIS refers to its response to recommendaton 10, regarding lack of guidance on what FRAND should be taken to mean in terms of appropriate levels of royalty. ECIS additionally wishes to point out that there is significant use of royalty-free IPR licensing in software standardization.

European Parliament about ICT standardisation policy and the subsequent use of ICT standards in EU policies.

ECIS agrees.   Better dialogue between the decision-makers can help in ensuring standardisation policy initiatives are formulated in a manner that is of the most use to those affected.

Recommendation 3

The European Commission should foster a high level strategy dialogue between Member States, technology providers, technology users, public interest organisations, SDOs and specification providers. Dialogue should focus on the effective implementation of ICT standards, identify policy priorities for standardisation, advise on international relations, and potential co-operation, with a view to making effective use of all available resources and providing policy makers with the required standards. The organisational implementation of this dialogue should allow an institutional dialogue between Member States and the European Commission on matters within their specific responsibilities.

ECIS fully agrees.   Dialogue between the decision-makers and the stakeholders in the standardisation process is, in many ways, even more important than reinforced dialogue between decision-makers. Standardisation policy initiatives need to reflect the needs of the industry and consumers, and the only way to ensure that happens is to engage all the stakeholders in dialogue over the direction that standardisation initiatives should take. The ICT Standardisation Policy Steering Committee meetings, as well as the open workshop arranged in connection of the preparation of the Final Study, where a good start, but more needs to be done in ensuring that stakeholders are involved in the concrete aspects of EU standardisation efforts.

Recommendation 4

The high-level strategy dialogue should be complemented by a platform permitting an organisational dialogue between SDOs and specification providers, technology users and providers, and public interest organisations. The platform should decide on practical matters and co-operation issues in view of implementing the standardisation priorities and possible accompanying measures.

ECIS supports this recommendation. For reasons stated above, increased co-operation with stakeholders is an indispensable element of an efficient and useful standardisation policy.

Recommendation 5

To respond rapidly to standardisation needs set by i2010 and the innovation policy, the new ICT standardisation policy of the European Commission should build upon the synergies provided by a better integration of European Standardisation Organisations and relevant consortia and fora activities in the domain. A further integration of for a and consortia by including deliverables within the EU standards catalogue or by direct mandating of fora and consortia, should, however, take into account the specific requirements set by Public Authorities for standards to be used in association with EU legal and policy acts. A differentiation of criteria for this integration and the use of the deliverables should be carried out in accordance with the differentiation suggested in Recommendation 1.

ECIS agrees in principle, although it is important to consider carefully how the "further integration" would be implemented in practice. However, as consortia and fora play a very important role in the standard-setting process in the ICT industry, it is important to ensure that their important contribution to the standard-setting landscape is given proper recognition. On the other hand, certain quality controls need to be maintained (*e.g.,* in the case of formal standard setting organisations) to ensure that both the standards and the process leading to their adoption conform to the general principles applicable to all standard setting bodies, in particular the requirement for open standards and an open standard setting process.

Recommendation 6
The European Commission should respond to the growing "user" impact on the effective implementation of standards. In its response, the European Commission should differentiate between: • industrial users of ICT solutions; and • other indirect users of ICT solutions and standards such as consumers and SMEs. The concept of "inclusive standardisation process", in particular, is one of the European standardisation principles, that could benefit from further clarification in accordance with the specific needs of each category.

To the extent that the recommendation envisages a differential treatment of the two types of users - in the sense that industrial users have a direct interest in the standard itself, whereas consumers, SMEs and other customers are more interested in the consequences of the choice of a given standard (*e.g.*, whether it allows them to interoperate with their peers or not) - then ECIS supports the recommendation. However, to the extent that the recommendation aims to differentiate in terms of importance of the needs of the two types of users, then ECIS strongly disagrees. Although consumer interests in the standardisation process are likely to differ from those of industrial users, they are by no means less important.

Recommendation 7
The European Commission should include, within the new ICT standardisation policy, a clear vision on the desired impact of the EU ICT standardisation efforts on a global level and focus on the protection of EU cultural interests in international standardisation work and on the promotion of European standards at an international level for reasons of competitiveness.

ECIS agrees that, particularly in the global ICT industry, the Commission's standardisation policy initiatives need to be based on assessment of the international policy context. To the extent possible, international standards should be given priority over national or regional standards, as they provide a better platform for cross-border competition that helps nurture innovation, which in turn benefits the end-customers.

Recommendation 8
In order to promote the implementation of European standards and in order to increase the interoperability of European applications and services, the European Commission, the Member States and all public administrations should refer to European standards in the procurement of ICT products, services and applications. The reference to European standards needs to be re-enforced in general through European public procurement legislation.

The priority of European standards over national (Member State specific) standards is fully supported by ECIS but this should not lead to global fragmentation on a regional basis. Although in principle European standards should indeed be promoted, this should come at the expense of ignoring international standards that are globally accepted. Particularly in the ICT industry, global standards should be given preference over regional or national ones. Interoperability should be limited by geographic borders, but ECIS fears that a legally mandated preference for European standards over international standards could lead to this outcome.

Recommendation 9
The European Commission should re-enforce the relationship between R&D on the one hand and standardisation on the other; the results of the COPRAS and INTEREST projects need to be further analysed and integrated into the new ICT standardisation policy.

ECIS agrees.

Recommendation 10
The European Commission should include, in the new ICT standardisation policy, tools that promote the use and implementation of European standards. It is recommended to The following measures could be considered: • a coherent and harmonised (free) availability policy for standards/specifications established by all standards/ specification producing organisations within the European standardisation system; • a thorough study on the relationship between the intellectual property rights (IPRs) and ICT standards to be initiated by the European Commission, the purpose of which should be to launch a global discussion with other global regions. • a coherent, transparent accessibility and participation policy for all standards/specification providing organisations within the European standardisation system; • an evaluation on the effect of partition of systems via the standardisation definition in order to make them more accessible to SMEs; • specific measures that allow increasing trust and stability prior to the implementation of standards such as: conformance testing, certification aspects, interoperability testing, mandatory implementation prior to the final acceptance of the standards (either simple coding implementation or reference implementation), etc.

ECIS agrees with the recommendation. In particular, it considers that there is a pressing need for further study into the relationship between IPRs and standardisation. A proper appreciation of the interplay between the two is important for an effective standardisation system, which could otherwise be hindered by uncertainties regarding the influence that IPR owners have over the process and the eventual implementation of the standard in question. For example, the meaning of (F)RAND licensing obligations should be set out clearly, so as to avoid the implementation and development of a standard being hindered by potentially unreasonable claims from rights-holders, but at the same time ensuring that, where applicable, (F)RAND licensing is a sufficient incentive for right holders to contribute to the standard. In particular,

investigation is called for into the question of what royalty levels individually and in the aggregate are compatible with (F)RAND commitments.

Yours sincerely,

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