

'Locked in' at the European Parliament

IT monopolies, open standards, open source and EU procurement policy

Thursday 17 April 2008
European Parliament, Brussels

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Democracy, Participation and Open Standards

- Open Standards to achieve interoperability...

*"Interoperability is the ability of two or more systems or components to **exchange** information and to **use** the information that has been exchanged". (IEEE definition)*

No 'one' solution to achieve interoperability; Open Standards are one mean among others to achieve interoperability

- ... Interoperability is a tool to achieve competition and innovation
.... and consumer welfare in ICT environment



Democracy, Participation and Open Standards: where is the consumer interest?

- Monopolies are bad for consumers/users

Standards = natural monopolies; network effect (by users themselves)

Diversity in standards production is a good thing.

Open Standards: full competition.

- A question of **choice** (and price)

Better for user when not locked in.

“Diversity of choice and interoperability are good for consumers”

Governments agree on this **technology neutral** view.

But... things get more complicated when technology is involved.

- Interoperability is a common ground where businesses and consumer interests shall meet

Interoperability is dedicated to ICT business (cf. Microsoft OOXML)



Democracy, Participation and Open Standards:

... towards consumer/user welfare in the ICT sector

From a consumer/user perspective, software interoperability provides many advantages, such as:

- Access to better/more suitable software products or online services;
- The ability to benefit from the latest technological innovations and consequent adaptations;
- Decreased costs and increased choice through competition;
- Lower switching costs and ability to transfer data to different programmes and devices;
- The ability to safeguard data (documents, pictures, videos) over a long period of time;
- Fewer environmentally damaging discards of still usable equipment;
- Reduced potential for unfair contract terms;
- Reduced potential to be 'locked in' to one system or type of device.

Wider public interest: innovation, autonomy and diversity in the market



Democracy, Participation and Open Standards:

what needs to be improved...

- Standardization: need of more transparency / need of definition?

Several definitions of 'open standards' (W3C, EIF...)

However, risk of getting 'locked' into a single definition of open standards; there is never 'one' interoperability solution

Rather than focusing on a technical definition, policy makers should address explicit policy objectives (competition, functionality)

- Standardization: need of a democratic process

Standard setting processes should involve more consumers/users participation

Ex.: ISO and Microsoft OOXML 'open standard'



The position of TACD on Interoperability and Open Standards

TACD Resolution to EC and US Governments:

3. Promotion by governments for the creation and adoption of open standards in public procurement policies
5. Setting a legal framework applicable to interoperability: adapting existing consumer protection laws to the digital environment and adopting specific rules
7. Drawing the contours of competition law applicable to interoperability
9. Ensuring more transparency and participation of public and consumer organisations in standard setting processes



The position of TACD on Interoperability and Open Standards

1. Promotion of OS by governments

- Promote the creation and adoption of non-proprietary hardware and software interfaces through a combination of policy, legislation, regulation and procurement policies **in addition to voluntary standards.**
- Governments can use procurement decisions as a policy tool; Promote open standards in public procurement policies (ex.: mandatory e-Government interoperability frameworks, public services and information/data based on OS);
- Government procurement of software should include requirements that:
 - Word processing and presentation graphics programmes can read and write to open standards compliant document formats;
 - Computer printers can work with at least the three leading operating system platforms;
 - Audiovisual software and services that use open standards work on at least the three leading operating system platforms.



The position of TACD on Interoperability and Open Standards

2. To set up a legal framework for interoperability

- Adopt concrete definitions of interoperability and OS *when possible and appropriate*, with explicit policy objectives (competition and functionality)
- Adapt traditional ex-ante consumer protection laws to the digital environment: make interoperability a requirement for consumer welfare in the digital environment (warning labels on products to signal lack of interoperability, adapting unfair commercial practices laws, prohibiting unfair contract terms and sales...)
- Ensure disclosure of interoperability information that is essential to create interoperable applications and services
- Require a continual care and feeding obligation on Standards: testing and validation procedures



The position of TACD on Interoperability and Open Standards

3. To draw the contours of competition law applicable to interoperability

- Establish a **set of criteria upon which Open Source and proprietary software can compete with each other fairly**: should be based on both **technical merits** of software **and** the merits of **non-software features** (ex.: potential for software to be redistributed or modified because of permissible copyright licensing, availability of multiple service vendors, viability of the development community or company producing the software);
- Apply anti-trust legislation and investigate anti-competitive practices that affect interoperability



The position of TACD on Interoperability and Open Standards

4. To promote more democracy and transparency in standard setting processes

Introduce duties of public authorities with regard to equalizing the resources and capacities of different parties to participate in decision-making:

Governments should:

- Solicit public comment on additional areas where government procurement policy can be used to promote interoperability and open standards;
- Ensure the participation of consumer organizations in standards (creation and assessment of quality): increased public resources and greater openness in the standardization system (in legislative process and in *ad hoc* fora).

On a continuous basis.

Lack of reliable empirical evidence: case by case analysis in which users should be involved.



Conclusion

Policy makers should not be afraid of technology...

... should go beyond the ethics of the general 'user friendly' principles by giving them concrete material.

We all face interoperability problems in our daily life: it should be easy to set up *concrete* guidance principles to achieve interoperability

... to achieve consumer/user welfare in ICT environment.



... Thank you for your attention.

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