

DIGITAL INTEROPERABILITY FORUM STATEMENT ON THE EUROPEAN COMMISSION PROPOSAL FOR A REGULATION ON STANDARDISATION¹.

The **Digital Interoperability Forum² (DIF)** is a cross-sector association of global players involved in the pay content delivery chain (transmission, hardware, software, middleware, platform operation and content provision), facilitating the availability of content across multiple platforms and devices. **DIF** members are: **BSkyB, Canal+, Deutsche Telekom, Irdeto, Liberty Global, Microsoft, Nagravision, NDS, Pace, Sky Deutschland, Sky Italia, Viaccess and Zetacast.** **DIF** members are actively involved in standards creation organisations such as DVB, and Cable Europe Labs and many are also members of standards bodies, such as ETSI. **DIF** members are also actively engaged in developing collaborative industry specifications such as CI+ and UltraViolet. All of this activity is undertaken on the basis that standards development and implementation should be voluntary and market-led.

DIF welcomes the Commission proposal on standardisation as a useful step towards modernising and improving the efficiency of the standardisation process. In particular **DIF** supports the Commission's acknowledgement that *"the development of voluntary standards should be **market –driven** whereby the **needs of the economic operators and stakeholders directly or indirectly affected by the standard prevail and should take into account the public interest and be based on consensus"***³ (emphasis added). In **DIF's** view this must remain the foundation of all standardisation activity in the EU and beyond.

Modernising the standardisation process should not, however, be at any cost. In particular too much emphasis on the **speed of the standardisation process** runs the risk that standards are imposed too soon, locking-in industry to solutions

¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European Standardisation and amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC of the European Parliament and of the Council

² www.difgroup.eu

³ Recital 8

which are immature or are promoted by a few interested parties, with a dampening effect on diversity, innovation and competition. The **speed** for adopting a European standard is linked not only to the working process of the standardisation organisation but also to industry's need for a standard.

DIF maintains that industry is best-placed to develop and implement standards and specifications which achieve required levels of **interoperability**. **DIF** notes that interoperability is a frequently misused term. Interoperability itself is often used as the rationale for the imposition of specific approaches or standards, or other form of regulatory intervention, without a substantiated justification or understanding of consumer expectations. Consumers do not expect all devices or products to be interoperable – and in this context ICT devices are no different to many other products. For example, a part for a car manufactured by company A is unlikely to work on a car manufactured by company B. Similarly a set top box specified for a cable operator will not work with a satellite operator's service, or indeed with another cable operator's service. Consumers understand this situation yet interoperability is often pursued by regulators without proper regard for its impact on innovation, choice and price.

If exceptional circumstances arise where there is an unavoidable, justified and proportionate need for legislative or regulatory intervention which involves the mandation of a standard or specification then full consultation and involvement of all stakeholders is, in **DIF's** view, a pre-condition to any action by the Commission (including under the delegated acts⁴ process and Committee procedure⁵).

In this context **DIF** considers that the Commission's acknowledgement that it may be appropriate *"to recognise technical specifications which are not national, European or international standards"*⁶ should be supported. **DIF** agrees that such specifications must be accepted by the market and meet the requirements of openness, consensus, transparency, maintenance, availability, FRND IPR, relevance, neutrality and stability and quality⁷. Thus, any such specification would conform to the principles required of EU standards.

⁴ Article 16 and 17

⁵ Article 18

⁶ Article 9

⁷ Annex II

DIF agrees also that standards can have a role to play in achieving societal objectives such as safety, environmental protection, accessibility, etc⁸. **DIF** members recognise their responsibility towards the achievement of societal objectives. However, **DIF** considers that it is important that the primary purpose of, and rationale for, a standard is made clear. In other words care should be taken to ensure that societal goals do not diminish industry interests in developing and implementing a standard (which could result in a lower rate of adoption, etc).

The Commission proposes that the standardisation process would benefit from greater involvement of NGOs and SMEs⁹ and makes consequential proposals in relation to financing, etc¹⁰. **DIF** supports the notion that stakeholder participation in standardisation should be encouraged and notes that even for larger companies participation in standardisation fora has become increasingly expensive (not just in terms of membership fees but also the resource cost of supporting the activity) as the number of fora and standards organisations has proliferated. Careful consideration should be given to how effective participation of NGOs and SMEs can be achieved within budget constraints. On the other hand, however, care should be taken to ensure that participation is not at the expense of the other objectives of the proposed Regulation, i.e., a faster, more streamlined approach to standardisation. These primary goals have to be reconciled with the potentially contradictory effects of wider stakeholder participation.

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⁸ Recital 12

⁹ Recitals 13 and 15

¹⁰ See Article 12 in relation to NGOs