

ANEC position on the future challenges of ICT standardisation

Executive summary

The importance of Information and Communication Technologies (ICT) has been recognised in the Lisbon Strategy 2000, which aimed to make the EU the most competitive and knowledge based society in the world by 2010. With the re-launch of the Lisbon Strategy - as Jobs and Growth strategy - agreed by the European Council in early 2005, the European Commission decided to start a new initiative aimed at boosting competitiveness in the ICT sector. The new programme *i2010* (or European Information Society 2010) intends to create an internal market for electronic communications and digital services and make the European Information Society as inclusive and accessible as possible. Standardisation plays a key role in the widespread use of ICT products and services by consumers¹ in terms of accessibility, interoperability and safety.

Due to the enormous impact of the Information Society on the consumer, it is vital that standards elaborated for Information Society products and services take into account the views of the consumer. As a consequence, it is essential that the ICT standardisation process ensures full and effective consumer participation whilst responding to the fast changing specific market needs.

The aim of this position paper is to present ANEC's point of view on the future challenges of ICT standardisation and the impact on consumers in the overall political debate that is currently taking place at the European level.

ANEC believes that ICT standardisation should be based on the following principles, which go beyond the WTO TBT Agreement "Code of Good Practice for the preparation, adoption and application of standards":

- 1. Openness and transparency;**
- 2. Enhanced consumer participation;**
- 3. Consensus;**
- 4. Implementation and assessment of standards;**
- 5. Cautious use of New Deliverables and non-formal standard setting fora.**

¹ The consumer is a natural person or group of persons using products and/or systems for purposes, which are outside his or her trade, business or profession.

Background

The European Commission released, in October 2004, a Communication on the role of EU standardisation in the framework of European policies and legislations, as well as a Staff Working document of the challenges for European Standardisation with Annex 2 dedicated to ICT standardisation².

Both documents acknowledge that the ICT marketplace has changed over the years entailing a shift from hardware to software and to products and services with short-term life cycles. This implies a shift from traditional forms of standardisation towards informal standards setting fora and consortia. The Commission states that standardisation in support of legislation in the ICT sector should be reviewed as the role and structures of European Standards Bodies are challenged by the increasing role of fora and consortia.

ANEC too is of the opinion that there is a genuine need to reform the standardisation system so as to ensure effective consumer participation in order to develop standards that meet consumers' requirements, both in the ICT sector and in general.

PRINCIPLES OF STANDARDISATION IN THE ICT SECTOR

1. Openness and transparency

- **Availability of standards**

ANEC is of the opinion that standards should be widely available to all interested parties and not be used as a means of market segmentation. Therefore, ICT standards should either be free of Intellectual Property Rights concerns, or licensable on a fair, reasonable and non-discriminatory basis (FRAND). In addition, ANEC members appreciate the use of clear performance indicators to evaluate the output of public supported standardisation activities. Such indicators should refer to consumer interests and free availability of standards.

- **Open standardisation process**

ANEC recognises the need of increasing the efficiency of the standards bodies, namely the timely development of standards to respond to the fast moving ICT sector. However, decreasing the lead-time should not be achieved at the expense of quality and democracy. Therefore, ANEC believes that a balance between efficiency and openness must always be maintained.

² Commission Communication COM (2004) 674 of 18.10.2004 and Commission Staff Working Document 'The challenges for European standardisation' of October 2004.

The standardisation activity must be carried out under a public process, which implies that participation should be open to all interested parties. A public comment phase before the adoption of the standard is the appropriate way to ensure public scrutiny whereas it is not sufficient to obtain effective stakeholders involvement by making the activity publicly known ex post. The draft standards should be available on the standards organisations web page (without restricted access) in order to have an open consultation via the Internet.

From a consumers' point of view, the elaboration of open standards in a focused or closed group within the ESOs is only acceptable when they do not deal with mandated work or issues dealing with health, safety, environment and basic legal and economic interests of consumers.

2. Enhanced consumer participation

- **Availability of resources**

Although ICT standardisation is not exclusively based on national voting and representation, consumer participation is still lagging behind because of the lack of human and financial resources, especially at the national level. This is the result of the survey that the European Commission (DG SANCO) published in early 2005 to assess the participation of consumer representatives in the work of standard-setting bodies.

The findings of the survey confirm the results of earlier ANEC studies, mainly that in many European countries, consumer participation in national standardisation is rather weak or hardly exists, particularly in the new Member States.

Given that lack of public funding is one of the major obstacles for consumer participation in standardisation, it is crucial to provide funding for the co-ordination of consumer participation at EU level and to encourage national governments to provide resources to consumer organisations at national level.

The difficulty is how to achieve this. ANEC believes that legislation is needed to commit Member States to provide earmarked funds for consumer participation in standardisation without the payment of membership fees, for instance in a European standardisation law. This legislation should also refer to adequate structures for balanced representation of consumer interests.

- **Balanced representation**

European standardisation is supposed to be an open, transparent and consensus-driven process, which allows all stakeholders to participate and to safeguard their interests. Most often, however, industry representatives

dominate standardisation committees. Therefore, ANEC calls for adding the concept of balanced representation to the list of standardisation principles, to which the European standards bodies commit themselves, so that the European standardisation system ensures that all parties concerned are actually involved in a balanced way, that their views are adequately taken into account and that mechanisms are in place and accessible to all stakeholders to reconcile conflicting arguments. A practical tool would be to publish the names and affiliations of the experts participating in the standardisation process.

- **Consumers as users**

Consumers are often referred to as users of ICT product and services, together with Governments, Small and Medium Sized enterprises and non-ICT companies.

In ANEC's opinion, this definition does not capture the whole range of stakeholders' interests. Consumers use products and services systems for purposes which are outside their trade, business or profession. This non-differentiation between users and consumers is particularly unfortunate when it is essential to define the specific requirements in the standardisation process.

ANEC urges standards bodies and ETSI in particular, to recognise consumers as a specific category, in order to better identify and meet their requirements.

3. Consensus

An open standardisation process should be based on consensus which means no adoption of standards against sustained opposition of one group of stakeholders. When the national representation rule applies, it is essential that the various stakeholder positions are properly identified in addition to national views at all stages of the process. There should be a form of indicative voting for stakeholder organisations involved directly at the European or International level.

ANEC also sees a need to reform the standardisation system which will not be attained in one leap and a mix of instruments seems reasonable: for instance, enshrine in a general European standardisation law that standards implementing public policies have to be based on a consensus of all parties involved.

4. Implementation and assessment of standards

ANEC would like to stress the importance of the implementation of standards which meet consumer requirements, for instance with respect to eAccessibility. We believe in fact, that is crucial to develop resources and strategies to

globally promote standards, in particular those taking into account consumer needs. Consumers see standardisation as an appropriate tool to enhance basic consumer requirements such as safety, accessibility, security and privacy.

The establishment of internal mechanisms within standards organisations to monitor the implementation of standards would provide stakeholders with essential information on their market uptake and usefulness. ANEC suggests to set up a quality control system to evaluate the process and the content of mandated standards of public interest.

5. New Deliverables and non-formal standards setting fora

Most often, the formal standards-making process is too slow to produce the standards required by the ICT market in due time. The ESOs took action to meet market needs by developing so called *New Deliverables* such as the CEN Workshop Agreements (CWAs). ANEC recognises the need expressed in some areas by the market to develop specifications in a way faster than is possible with formal European standards. We do however, object to the reference, *New Deliverables* in European legislation, in particular when dealing with health, safety, environment and basic legal and economic interests of consumers.

The main reason for this position is inherent in the characteristics of *New Deliverables*, for instance CWAs. First of all, they do not require full stakeholder participation. Public enquiry is possible but not mandatory. CEN members are not responsible for the content. Last but not least, the lifetime of CWAs is limited to three years. Even though transformation into another deliverable is not excluded, the former Workshop participants might decide to withdraw the CWA.

Another response to the specific ICT market needs has been the considerable growth of informal industry lead standards consortia producing their own technical specifications. Informal standardising bodies may establish a closed group, often for commercial benefit, the output of which may not be publicly available.

From a consumer point of view, the lack of transparency and consensus involved raises concerns because they impede proper consumer participation.

However, ANEC, acknowledging the reality of the ICT standards scene, suggests the review of non-formal and alternative models of standardisation in terms of structure, openness, access, balance of interests, aims, values, and efficiency, to identify best practices for the established standards bodies. At the same time ANEC may consider becoming actively involved in some of the non-

formal and alternative standard setting organisations to defend consumer interests.

ANEC in Brief

ANEC is the European consumer voice in standardisation, representing and defending consumer interests in the process of standardisation and certification, also in policy and legislation related to standardisation. Our aim is a high level of consumer protection.

ANEC was set up in 1995 as an international non-profit association under Belgian law. It represents consumer organisations from the European Union Member States and the European Free Trade Association (EFTA) countries. Our General Assembly is composed of one national member per country, nominated jointly by the national consumer organisations in their country. The European Commission and EFTA fund ANEC, while national consumer organisations contribute in kind.

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