

## EICTA Comments on the draft EIF 2.0

Brussels, 18 September, 2008

With great interest did EICTA read the new draft version of the EIF 2.0. EICTA would like to thank the Commission for making available the draft to the public and very much welcomes the opportunity to provide comments.

EICTA very much supports the Commission's activities in promoting and facilitating the coordinated delivery of pan-European eGovernment services. Data integration and system interoperability are of utmost importance for an effective provision of eGovernment services in the EU internal market.

In formulating the comments, EICTA has taken into account the draft character of the document. EICTA will, therefore, provide comments on the major topics but refrain from commenting on the structure of the document. As the Commission explicitly states this is "an unabridged, preliminary work paper" and "has not been extensively polished". On a general level, EICTA found the structure not yet clear, sometimes even confusing, which also leads to potential inconsistencies and contradictions in the overall document.

### **Executive summary of the EICTA comments**

1. The document should be more precise that it only applies within its scope, i.e. the context of the delivery of pan-European eGovernment services from the perspective of an IT user.
2. Regarding eInclusion, public authorities should aim at implementing global standards available; with public authorities and service providers confirming their compliance to such a standard, e.g. via a suppliers declaration of conformity (SDoC), no further certification scheme or agency will be required;
3. EIF 2.0, in particular the sections on interoperability levels and on the GPSCM, should take more account of middleware and the required functionalities it provides and of SOA concepts;

4. The localisation of the EIF open standards debate within the European and international standardisation system and the differentiation that is made between standards on the one hand and technical specifications on the other is a clear improvement from EIF 1.0;
5. EIF 2.0 should be much clearer that it does not set a 'definition' on open standards but lists domain specific requirements;
6. It is contradictory to call the requirements for open standards a "minimal set of characteristics" while rightly acknowledging that not all relevant standards and specifications will meet these characteristics and therefore some pragmatism, e.g. along an "openness continuum", is required; hence EIF should rather talk about a set of "optimal requirements";
7. The requirements of 'irrevocable availability of IP' and 'no constraints on re-use of the standard' carried over from EIF v1.0 are problematic. EICTA proposes to revisit and rephrase these two criteria to tailor them more close to the eGovernment needs and to take into account the realities of the development and implementation of standards and specifications in the market place.
8. Draft EIF 2.0 makes a clear distinction between the concepts of open standards and open source; this is very important and valuable.

## Detailed EICTA Comments

### Clear scoping of EIF 2.0

It is EICTA's understanding that the EIF has got a very specific purpose: the delivery of pan-European eGovernment services (PEGS) and the interoperability required for realizing these PEGS effectively across borders. For this purpose the EIF develops a specific concept with specific requirements.

With this in mind, EICTA believes that the new EIF 2.0 document ought to be very clear about this scope and that the current draft should be improved on this. Such clarity on the purpose of the EIF and on its objectives will help to avoid misunderstandings, misinterpretations and confusion around the EIF. In particular, it will help to avoid that the EIF is misinterpreted as a holistic approach towards all ICT technologies, but that all statements and requirements are more clearly located within the context of the development and provision of PEGS.

### eInclusion and Accessibility

EICTA supports much of the content of "Underlying Principle 3: Build in e-Inclusion and accessibility for all". It is essential that Government services are made accessible to the elderly and disabled, and that public procurement policy is used to foster mainstream adoption of eAccessibility as a basic requirement.

EICTA very much supports that successful accessible systems require conformance to standards and technical specifications and that international standards will contribute to a coherent development in the market place and transparency for the benefit of the end user. EICTA therefore suggest that the adoption of version 2 of the W3C Web Content Accessibility Guidelines (WCAG2) is taken up by public authorities as a fundamental requirement for web sites, and that the appropriate ISO and ITU-T standards are adopted for other areas of technology.

The one area, however, with which EICTA strongly disagrees is the call for Member States and the European Commission to "support the set up of a certification scheme supported by a process addressing public services accessibility". EICTA does not believe that such a scheme would be workable, scalable or bring any value; EICTA does not understand, either, why a unique conformance scheme should be set-up for just one aspect of the performance of a product or service. A modern website is frequently highly dynamic and can change many times per day; plainly a certification "snapshot" would be meaningless in this context. And there are many hundreds of thousands of web pages, to certify these even once per year would require a huge bureaucratic and expensive infrastructure which would be an entirely disproportionate response to the issue.

EICTA agrees that compliance with WCAG2 is important but this can only be achieved when the web developer and administrator commit to incorporating appropriate steps as integral components in their processes to ensure that compliance is achieved, and then maintained through any update. Because of this EICTA suggests that it would be more appropriate to adopt the concept of Supplier's Declaration of Conformity (SDoC) which has been widely and successfully used for more than 30 years for electrical safety and other critical parameters.<sup>1</sup>

### Middleware as essential component of the interoperability layers and the Generic Public Services Conceptual Model (GPSCM)

The role and importance of middleware for the realisation of PEGS comes too short in the draft EIF 2.0. In fact, some passages read as if a middleware layer were only required in certain rare cases "where loosely coupled IT systems [...] must collaborate" (Section 6.6, p. 40). In fact, the entire GPSCM is presented in a way where the middleware layer and its key functionalities are not adequately represented and don't become visible.

This does not mean that the functionalities are completely ignored. The appropriate protocols and programming models are correctly identified and listed, and a good deal of the functionalities that middleware provides are included at some place or other in the current draft, in particular in section 7 on the GPSCM. They include process and workflow management, security aspects, the connection to a backend and libraries/registries etc. All of this is usually covered by middleware. And middleware also provides and manages the link in cases like the identified cross-sector and cross-administrative boundary cases. In this respect, in order to better reflect the different layers required for a GPSCM and in particular the middleware layer, the Commission should review section 7 – both the text and the

---

<sup>1</sup> See [http://www.eicta.org/index.php?id=33&id\\_article=171](http://www.eicta.org/index.php?id=33&id_article=171).

graphics. The fact that the graphics don't really follow common approaches of representing ICT architectures is irritating and makes it difficult to actually sense the meaning and intention of the section.

Similarly, the concept of Service Oriented Architectures (SOA) comes too short. The most common, effective and efficient way for integrating different Government processes and providing them in form of electronic service offerings is via a portal solution and by implementing a SOA-based infrastructure. In particular, in the light of interoperability, a service orientation increases flexibility, modularity and choices. Putting more emphasis on SOAs in the context of the GPSCM in the EIF 2.0 could significantly add clarity to the document and facilitate its implementation.

### Open Standards

EICTA very much welcomes that the draft for the EIF 2.0 clearly locates the discussion of open standards within the European and international standardisation framework including the respective terminology and definitions. This is a major improvement compared to the EIF 1.0 and adds a lot of clarity to the discussion.

Most notably, the open standards section correctly differentiates between standards on the one hand and technical specifications on the other. EICTA supports this differentiation and approach and reconfirms the necessity of including the deliverables from global industry fora and consortia for the EIF. Especially for the domain of electronic service offerings the standards from global industry fora and consortia are essential. In particular, EICTA supports the notion that foremost concern should not be given to the organisation that produces a standard or specification but whether a standard or specification is adequate „to fulfill the public administration needs“.

In section 8.4 on “The role of open standards or technical specifications” the draft EIF 2.0 refers back to the open standards definition of the EIF 1.0. The draft document correctly concedes that „there is no universally accepted ‘open standards’ definition“ (p. 54). On that base, however, the draft document reconfirms the criteria for open standards as laid down in EIF 1.0, calling them „minimal characteristics“. Yet, the draft continues in section 8.4 to outline why concessions to this standards definition might be required in several cases. And in section 8.5 the draft EIF 2.0 introduces the concept of an „openness continuum“ and acknowledges that different “shadings” of openness need to be considered in assessing specifications for a specific purpose.

EICTA very much welcomes the element of pragmatism that has been introduced by the draft EIF 2.0. However, in EICTA’s view, these sections are not yet clear enough and some passages seem to be even contradictory. The latter, for instance, applies to the fact that the set of four criteria for open standards and technical specifications is called “minimal” characteristics, yet the document makes very explicit that there might be cases where some of them can’t be fulfilled.

EICTA, therefore, proposes to review the wording in section 8.4 with the objective to increase the consistency of the overall concept. In EICTA's view, a possible solution could be found by focussing on requirement to open standards rather than reconfirming the EIF 1.0 definition. EIF 2.0 should be very clear that it lists requirements, not open standards criteria. And in order to properly complement with the element of pragmatism, EIF 2.0 should refrain from calling these requirements "minimal" but rather to refer to them as "optimal" requirements or characteristics. EICTA believes that these changes would significantly improve the line of thought in the document and, on a very relevant point, add clarity and consistency.

Regarding the requirements in detail, the following points are of particular concern: (i) the requirement made in the context of bullet item 3 that the intellectual property – i.e. patents possibly present – of (parts of) the open standard is irrevocably available; and (ii) the requirement made in bullet item 4 that there are no constraints on the re-use of the standard. EICTA noted in the comments paper on EIF v1.0<sup>2</sup> concerns regarding the same wording, which still apply. In particular, EICTA believes that it is unrealistic to expect standards and specifications to provide generally, i.e. through the internal policies governing the relevant bodies, that patents are irrevocably available and to ensure the absence of constraints of re-use.

As EICTA pointed out earlier in the EICTA Comments to IDA's European Interoperability Framework (Version 1.0, November 2004): "There is a very common and widely used term in (F)RAND licensing called "defensive suspension," by which the IPR licensor grants a license, but that license could be revoked if a licensee sues the licensor for patent infringement with respect to the licensor's compliant implementation of the same standard. The IPR policies of various major developers of open standards (e.g., W3C and WiFi Alliance) specifically allow for the use of defensive suspension provisions by licensors<sup>3</sup>

As EICTA also pointed out then, "the IPR policies of standards organizations typically permit IP licensors to utilize (F)RAND terms in licensing their IP, and some of those well-established terms could in some cases be construed as limiting constraints on the use and re-use. Such common (F)RAND terms include field-of-use restrictions, reciprocity requirements, and restrictions on sublicensing.<sup>4</sup> Constraints on the re-use of the standard can also be used by standards setting organizations to prevent the creation of "derivative" standards by third parties or ad-hoc groups which seek to develop related but different standards resulting in the "splintering" of a widely recognized open standard into related, but different standards which may not be fully interoperable."

---

<sup>2</sup> EICTA Comments to IDA's European Interoperability Framework (Version 1.0, November 2004).

<sup>3</sup> See W3C Patent Policy, Section 5.6, <http://www.w3.org/Consortium/Patent-Policy-20040205/>: "With respect to a Recommendation developed under this policy, a W3C Royalty-Free license shall mean a non-assignable, non-sublicensable license to make, have made, use, sell, have sold, offer to sell, import, and distribute and dispose of implementations of the Recommendation that:.... may be suspended with respect to any licensee when licensor is sued by licensee for infringement of claims essential to implement any W3C Recommendation."

<sup>4</sup> A field-of-use restriction is a provision specifying the particular purpose for which the license is granted and for which the patented technology may be used by the licensee. A reciprocity requirement is the quid pro quo required of the licensee to grant a license to any patents the licensee may own that are essential to implement the same standard.

Hence, standards promulgated by standards bodies that often are cited as examples of well-recognized, “open standards” developers (such as OASIS, W3C, IETF, IEEE, ETSI, ISO, IEC, ITU and those accredited by ANSI) would not and cannot meet the criteria set forth in EIF 1.0 and in section 8.4 of the draft EIF 2.0.

Additional to a clear statement that EIF v2.0 has evolved away from the formula used in v1.0 and lists optimal criteria rather than including them in a definition of open standards, EICTA proposes that criteria (3) and (4) are revisited and rephrased to take into account the experience with EIF v1.0. The following language would serve to state (a) that commitments to offer IP licenses that companies may undertake in the context of standardisation should be irrevocable and (b) that there should be no constraints on the normative referencing of data formats and application interfaces included in a standard or specification – both are in line with general practice in the development and implementation of standards and specifications:

(3) Commitments to *offer* licenses to patents present in an open standard or specification, in particular patents required for compliance of data formats and application interfaces to the open standard or technical specification, are irrevocable.

(4) There are no constraints on normative references to compliant data formats and application interfaces by other standards or technical specifications.

In this context, EICTA also noted that the IDABC Proposal for a CAMSS includes under Sec. 4 ‘Openness’ a new definition of ‘Open Intellectual Property Rights’ - “the standard or specification should be free to implement without economical, political or legal restrictions – now as well as in the future.” The same concerns as stated above apply to the gist of the definition, in particular to the reference to ‘legal restrictions,’ and our comments above apply *mutatis mutandis*. EICTA also believes that in order to clearly phrase this as a definition rather than a recommendation, ‘should be’ is better replaced with ‘is’.

## Open Source

EICTA welcomes the clear differentiation between open standards and open source. Both concepts are often confused so that the draft EIF 2.0 provides a good and useful distinction and thus avoids confusion.

## **Conclusion**

In summary, EICTA positively acknowledges the evolution from EIF 1.0 which can be seen in the draft of EIF 2.0. In the above comments, EICTA has identified some key areas where improvement yet has to be made.

As mentioned in the introduction, EICTA deliberately refrained from comments on the structure since the Commission explicitly states that the current deficiencies in the structure will still be dealt with. Nonetheless, EICTA would like to add a word of caution that, of course, major changes in the structure of the document will consequently influence the content and the interrelation of the various passages. EICTA, therefore, recommends that

the Commission will hold another stakeholder consultation once this rework of the document is available.

Similarly, the new EIF 2.0 will have to be considered in the broader framework of the EIS, EIAG and EIS. Since these documents are not yet available some room of uncertainty about how the entire concept fits together and about the explicit function of the EIF in the context of the full framework persist. Again, EICTA recommends holding incremental stakeholder consultations as the further documents and concepts are being developed and the full structure becomes more manifest.

Finally, EICTA would like to address the importance of a consistent approach of the Commission's initiatives regarding ICT and standardisation. In particular, consistency should be aimed for between the EIF and the planned changes to the ICT standardisation policy in preparation by DG Enterprise including, among other things, the list of 'attributes for eligibility' of standards and technical specifications for the European standardisation system.

EICTA hopes that the comments and proposals made in this document are helpful and can be taken into consideration by the Commission for the next steps in the development of the EIF 2.0. EICTA is ready to further support the Commission's work and shall be happy to enter into further dialogue and exchange on the specific topics.

## EICTA MEMBERSHIP

### About EICTA:

EICTA, founded in 1999 is the voice of the European digital technology industry, which includes large and small companies in the Information and Communications Technology and Consumer Electronics Industry sectors. It is composed of 59 major multinational companies and 40 national associations from 28 European countries. In all, EICTA represents more than 10,000 companies all over Europe with more than 2 million employees and over EUR 1,000 billion in revenues.

### The membership of EICTA:

#### Company Members:

Adobe, Agilent, Alcatel-Lucent, AMD, Apple, Bang & Olufsen, Brother, Canon, Cisco, Corning, Dell, EADS, Elcoteq, Epson, Ericsson, Fujitsu, Hitachi, HP, IBM, Infineon, Ingram Micro, Intel, JVC, Kenwood, Kodak, Konica Minolta, Lexmark, LG Electronics, Micronas, Microsoft, Motorola, NEC, Nokia, Nokia Siemens Networks, Nortel, NXP, Océ, Oki, Oracle, Panasonic, Philips, Pioneer, Qualcomm, Research In Motion, Samsung, Sanyo, SAP, Sharp, Siemens, Sony, Sony Ericsson, STMicroelectronics, Sun Microsystems, Texas Instruments, Thales, Thomson, Toshiba, UMC, Xerox.

#### National Trade Associations:

**Austria:** FEEL; **Belarus:** INFOPARK; **Belgium:** AGORIA; **Bulgaria:** BAIT; **Cyprus:** CITEA; **Czech Republic:** ASE, SPIS; **Denmark:** ITEK, IT-Branchen; **Estonia:** ITL; **Finland:** FFTI; **France:** ALLIANCE TICS, SIMAVELEC; **Germany:** BITKOM, ZVEI; **Greece:** SEPE; **Hungary:** IVSZ; **Ireland:** ICT Ireland; **Italy:** ANIE, AITech-ASSINFORM; **Malta:** ITTS; **Netherlands:** ICT~Office, FIAR; **Norway:** ABELIA, IKT Norge; **Poland:** KIGEiT, PIIT; **Romania:** APDETIC; **Slovakia:** ITAS; **Slovenia:** GZS; **Spain:** AETIC, ASIMELEC; **Sweden:** IT&Telekomföretagen; **Switzerland:** SWICO, SWISSMEM; **Turkey:** ECID, TESID, TÜBISAD; **Ukraine:** IT Ukraine; **United Kingdom:** INTELLECT.