Dear Werner, dear Liliane,

Thank you again for taking the time to meet with us and for listening to Nokia’s concerns regarding DG GROW’s proposed SEPs initiative.

As noted in our meeting, accordingly, any legislative proposals that delay or decrease our licensing revenues, or which substantially increase our costs, unfortunately, DG GROW’s leaked SEP initiative does both. This is a function of both ill-considered policy decisions, and rushed, imprecise drafting.

We address in detail, the ill-considered policy decisions in Annex 1 (attached). Issues with the drafting are addressed in Annex 2 (attached). These infirmities are a result of DG GROW not consulting with European industry on their specific proposals and even shielding the details of the proposals from their Commission colleagues until the very last moment.

DG GROW’s SEP initiative is obviously unbalanced. All the proposals address the theoretical possibility of hold-up, not the reality of hold-out. Accordingly, implementers are flooding the Commission with letters supporting the proposal (apparently at DG GROW’s behest). None of the European leaders in 5G/6G are supporting the proposal. This alone, should give the Commission pause for thought. Indeed, both the massive support from the implementer camp, and articles in the media, suggest a degree of regulatory capture.

DG GROW’s rushed and non-transparent process did not allow it to consider the international and geo-political implications of its draft initiative. Those provisions would 1) drive SEP licensor-initiated litigation outside of the EU (e.g. to the UK), 2) drive SEP licensee-initiated litigation...
outside of the EU (e.g. to China), and 3) undermine the EU’s WTO complaint regarding the protection and enforcement of SEPs and access to courts in Europe.

DG GROW is now scrambling to figure out ways to address these concerns and the international dimension. Such fundamental concerns cannot be fixed in the next week, or in trilogue. Proper consultation with Europe’s leaders in 5G/6G is necessary, including on the mandatory conciliation and aggregate royalty aspects of the proposal that have been introduced at a late stage and were not included in the Call for Evidence or public consultation.

In view of the foregoing, we reiterate our earnest request, in the strongest possible terms, to delay publication of DG GROW’s SEP initiative beyond the arbitrary date of 26 April (World IP Day). We will work constructively with the Commission to develop provisions that address legitimate concerns without destroying European leadership in 6G and beyond and putting the entire open standards ecosystem at risk. If the initiative does go forward on the 26 April, we will have no choice but to use every effort to challenge this one-sided and harmful initiative in Council and in Parliament.

We have a mutual objective in maintaining EU leadership in 5G/6G. We do not want this to suffer the same fate as the EU chip industry. I urge you and your colleagues to find a way that we can work together to create an initiative which is fit-for-purpose and supports the EU’s strategic and policy objectives.

Best regards,

Nokia Technologies

At Nokia, we create technology that helps the world act together.