

**Meeting between A.I. PELTOMÄKI and B.J. WATROUS**  
**Brussels, 01 February 2016**

Name of the Director who has cleared the briefing: Gwenole COZIGOU

BASIS request ID: GROW/4051

Room, time: GROW Meeting Room BREY 14/69, 15:00

Participants: B. J. Watrous, Vice President & Chief IP Counsel, Apple Inc

Name of main contact person: [REDACTED]

Telephone number: [REDACTED]

Directorate/Unit: C/3, Advanced Engineering and Manufacturing Systems

<b>BRIEFING NOTE</b>
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**Scene setter/Context of the meeting:**

1. The meeting with Mr B.J. Watrous, Vice-President and Chief IP Counsel of Apple, is to discuss the issue of common chargers for mobile phones and portable devices.
2. The EC has been in contact with the mobile manufacturers since 2009, when a MoU was signed, to make them adopt the common charger voluntarily. The MoU expired in 2012 and a new MoU is needed to cover the new generation of mobile phones. There is also a clear political request from the EP to ensure the availability of a common charger.
3. Apple is refusing to adopt the common charger of next generation, devices based on the USB Type-C standard, to the same content it has refused to adopt the current common charger, based on micro-USB Type-B.
4. At the end of November 2015, Apple sent us a study by Charles River Associates (CRA) to defend their approach on "constraining innovation", "use of detachable cables" and "confusion of consumers" (see Annex).

**Objective of the meeting:**

- To convey a strong and firm message to Apple that the Commission is determined to go ahead with the common charger. It would preferably rely on a voluntary agreement; however, it does not exclude having recourse to a legal act if necessary.
- To make it clear that proprietary solutions, as suggested by Apple, are only acceptable if an adaptor is offered with the mobile phone.
- To prevent additional delays in the adoption of the MoU and to schedule an appropriate timeline.

## **MAIN KEY messages for the meeting:**

1. **The EC is determined to go ahead in adopting a common charger** for mobile phones and portable devices. **The priority is to find a solution based on a voluntary agreement.** In the absence of a voluntary agreement, the Commission will consider to follow the regulatory approach by preparing a delegated act pursuant to Article 3 of the Radio Equipment Directive (Directive 2014/53/EU).
2. It is recalled that the original MoU dates back to 2009 and Apple was among the original co-signatories. The common charger initiative is and has been a success in terms of (i) benefits to the consumers, (ii) harmonization of the DSM in this field, (iii) reduction of electronic waste and (iv) opportunities for mobile accessories makers. This initiative has also been *de facto* adopted in a variety of countries outside the Single Market. Consequently, **the EC has the firm intention to avoid a new fragmentation of the charger market.**
3. There is a clear understanding of what is perceived as the "common charger". It concerns the interface and not the plug with detachable cables. This is clearly the spirit of the previous MoU and the request of the public.

## Defensives / Q&A

**Question:** *Has the EC taken into account the risks of constraining innovation by imposing a common charger?*

**Answer:** The common charger has not prevented the vast majority of mobile manufacturers to innovate their products. Independently from the charger, all the high-end mobiles and portable devices (including Apple's) have comparable dimensions and performance and hence the **alleged risks and costs** from constraining innovation appear to be **disproved** by the **market** itself. In addition, the EC has not enforced a common technical solution to the manufacturers who have been set completely free to decide it. Providing **adaptors** in the iPhone/iPad boxes has been suggested as another compromise solution, but Apple has never agreed with this option.

**Question:** *Why cannot we distribute an external power supply and detachable cables with different interfaces?*

**Answer:** First of all, **this does not represent a common solution** for chargers. **The political request of the EP in this sense is clear.** This is also why adaptors are just a compromise solution. Secondly, in the last years **common chargers** have been shown to (i) deliver **benefits** to the consumers, (ii) **harmonize** the DSM, (iii) **reduce** the electronic waste, and (iv) **facilitate** the manufacturers of accessories.

**Question:** *Adaptors are not an option for Apple, as they affect the quality of their products. Why shall we compromise?*

**Answer:** In China, Apple distributed iPhones with **adaptors** in the same box.

**Question:** *The Impact Assessment (IA) of Charles River Associates (CRA) of 7<sup>th</sup> October 2015 reached completely different conclusions than the Commission's. Why do you disregard that?*

**Answer:** We have read the IA from CRA, yet an analysis on behalf of DG GROW was already produced by the Risk and Policy Analysts in August 2014. **The EC agrees with the conclusions in this study.** In addition, the EC has to respect the political mandate of the EP. **The spirit of the Radio Equipment Directive** of 2014, with regard to the adoption of a common charger, **is extremely clear.**

**Question:** *Did you consider that Apple customers are concerned and they will be confused by the passage from "Lightning" to common chargers?*

**Answer:** First of all, **no confusion was generated** when the customers of all the other manufacturers moved from several standards to the current charger. On the contrary, **the feedback received from the public was enthusiastic.** There is no evidence available about concerns in Apple's customers. In addition, **in the laptop market Apple is already migrating from "Lightning" to USB type C.**

## **Background information**

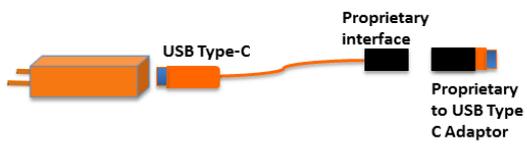
- In June 2009, a Memorandum of Understanding (MoU) was signed, in which mobile phone manufacturers agreed to harmonise chargers for new models of data-enabled handsets coming onto the market as of 2011. The MoU expired at the end of 2012 but it has been effectively extended by a number of its signatories through two subsequent 'Letters of Intent' (LoI), signed in 2013 and 2014.
- The Commission has taken contact with the representatives of major manufacturers of mobile telephones and has invited them to make proposals to consolidate the achievements of the 2009 regarding harmonization of a charging capability for mobile phones and to ensure a smooth transition towards the next generation of devices.
- A 'Study on the impact of the Memorandum of Understanding on harmonization of chargers for mobile telephones and to assess possible future options' has been finalized in August 2014 and has been made available on the Europa website.
- As it is confirmed in the above study, the widespread adoption of common chargers has been recognized as a success of the Commission, in terms of (i) reduced electronic waste, (ii) improved consumer convenience and (iii) harmonization of the charger market (DSM).
- The best option for this voluntary agreement is a common charger USB Type-C, without the need to use any adaptors. However, as a compromise, an adaptor could be accepted. According to the above study, USB Type-C is expected to offer a number of advantages. In fact, most stakeholders support the use of connector 'USB Type C' on the mobile phone.
- In the absence of a voluntary agreement, the regulatory approach can be considered in order to require mobile phones to be compatible with a common charger. The Commission is empowered to prepare delegated act in this area, pursuant to Article 3 of the new Radio Equipment Directive (Directive 2014/53/EU). Non-complying mobiles can therefore be withdrawn from the market and/or prevented to be made available on it.
- Apple, on the other hand, wishes to continue to use its proprietary interface for chargers. Whilst Apple was one of the co-signers of the MoU, they have not pursued any steps to adopt the common interface for chargers. Apple currently supports external power supplies (plugs) to be connected to mobile phones via detachable cables.
- There are very weak technical reasons preventing Apple to adopt the common charger. It is also important to remark that the EC has always set the Association of mobile manufacturers (Digital Europe, where also Apple participates) free to decide on the best technical solution for common chargers, also not to limit innovation. USB Type C performances are very similar (and sometimes even superior) to Apple's "Lightning".
- There were several meetings with DIGITAL Europe, as well as bilateral meetings with Apple (4 times in 2015) on the issue of common charger, without positive outcome.
- The Commission services have informally received a draft of Letter of Intent from mobile phone manufacturers, with a weakened commitment for the

future, in December 2015. Its content does not live up to the political expectations.

- Charging solutions considered in the meeting with our Cabinet:

Option 1  Option 1: Charger with fixed cables, USB type

Option 2  Option 2: Charger comprised of external power supply and a detachable cable

Option 3  Option 3: Charger (with either fixed or detachable cable) with adapter

Short Biography of Mr Watrous

[Redacted]

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