

**Meeting between Gwenole Cozigou and Klaus Dieter Axt from
Digitaleurope**

Brussels, 28 March 2017 – 14:30

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BRIEFING NOTE

Scene setter/Context of the meeting:

COMMON CHARGER: Apple is strongly objecting to the proposal sent by the Commission in December 2016. They want to keep their cable, impacting the interoperability of mobile phones adopting the common interface. They are looking for inconsistencies in the positions of the Commission, in order to re-open the discussions. All the other manufacturers are willing to accept the proposal of the Commission but ask for a transitional period for its implementation amongst minor other changes.

STANDARDS: ETSI is late with the preparation of the standards and many of them have errors. The Commission is asked to take measures to compensate for their unavailability. These vary from the publication of old standards with footnotes inserted by the Commission making references to the new (not yet published) standards to the extension of the transitional period.

Objective of the meeting:

COMMON CHARGER:

- Promote a fast adoption of a new MoU for the common charger, even if not signed by all manufacturers (as in the past).
- Be open to receive the comments on some points of the letter of December 2016 and in particular negotiate the transitional period, bearing in mind that some manufacturers can exploit this opening to delay the introduction of the common charger.

STANDARDS:

- Explain that the Commission has been making all possible efforts to compensate for the poor and delayed work of ETSI. However, some standards require further work by ETSI. The extension of the transitional period takes too long and has the risks of reopening the Directive.
- Pass a clear message to industry that the ball is now in ETSI's corner. Many solutions could be found if ETSI is more constructive and flexible and fully exploits its own possibilities for urgent measures. Industry should also react to the delays of ETSI and CENELEC not only in the preparation of standards, but also in passing on the clear inputs of the Commission. No reaction for ETSI to the letter of the Commission of 10th March.

KEY messages

COMMON CHARGER

- Manufacturers should agree on the new version of the MoU in the shortest possible time with a clear commitment.
- Interoperability of chargers with common interfaces has to be guaranteed.
- Any transitional period should be adequate and not to open to abuses (e.g. from Apple).

STANDARDS

- The delays in the production of standards and the lack of commitment of ETSI are of the utmost concern for the Commission and the industry. We need to work together to improve their working methods.
- If ETSI behaves constructively we can publish 100 standards + possible other 17 and anticipate many of those on their way.
- The extension of the transitional period or other unlawful ways to cite standards are not being considered.
- Regarding the standards that have not yet been submitted to that Commission, it is up to ETSI to find ways to speed-up the delivery process. The Commission cannot be asked to take legally unacceptable solutions (like publishing old standards with footnotes containing technical parameters) to sort out ETSI's mess.

Line to take

COMMON CHARGER

1. Open to negotiations on some minor points.
2. Cables and adapters are to be considered in the interest of consumers and manufacturers choosing the common interface.
3. With respect to the transitional period, wait for their input. In the first meeting they mentioned 2 years, in the last 5 years.

STANDARDS

1. Standards are the only (voluntary) part of the implementation of the RED that has been mandated to the industry by means of the ESOs.
2. The Commission is doing as much as it can to compensate for the failure of ETSI. Rather than a complaint-attitude we would expect a resolution-attitude.
3. It is also noted that ETSI does not pass-on most of the clear messages of the Commission to their members, jeopardizing the outcome of the work.

Defensives / Q&A

Question: Why are not cables intended as an adaptor, harmonising the power suppliers?

Answer: Power suppliers are not the charger. The requests from the EP and the consumers are clear in that regard. Moreover, power suppliers will not be harmonised, as they will allow the USB Type A and C cables (as requested by the other manufacturers). As a consequence, you have to harmonise the interface on the mobile or use an adaptor as a compromise solution

Question: (in the case of compulsory adaptors) Is the Commission dictating the content of the box?

Answer: No, but the RED establishes the conditions of placement on the market. It is clear that Article 3(3)(a) has to be fulfilled, in the spirit of the request of the co-legislators, when radio equipment is placed on the market. If there is no adaptor (USB-C to lightning), the Apple phones cannot interwork with the common charger (option 1) so they should not be placed on the market.

Background information

COMMON CHARGER

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".

The Commission services have received two draft Letters of Intent in December 2015 and May 2016 from mobile phone manufacturers. Their content was not matching the political expectations.

In December 2016 the Commission sent a proposal for a suitable agreement on the Common Charger.

STANDARDS

There were 166 standards on Article 3(2) – i.e. requiring a notified body in case of its unavailability – under the RTTED. Out of the 166, at the date of 22/03/2017,

- 8 already existing standards originating from the previous directive (RTTE) framework can be published if ETSI commits to amend them within 2 years (to update them to the new directive- formal elements to be updated).
- 118 new RED standards have been received: 110 new standards assessed by the Commission, 8 new standards to assess
- 40 new standards are still awaited by COM

Out of the 110 assessed standards, 67 have been published or will be still in April.

Out of the 43 (110-67) received, assessed and not yet published:

- 4 are on hold (being discussed with ETSI).
- 14 have major issues (non-compliance with EU law, missing or worsen requirements, erroneous Annexes), of which 5 can be published if ETSI provides an editorial change (3 weeks required, ETSI is holding it since September 2016).
- 25 with minor issues (publishable after just a commitment that they will be amended by ETSI within 2 years - commitment not received from ETSI yet).

As a consequence, provided ETSI commits to correct the standards concerned within two years, there will at least be 100 standards published. To those hopefully could be added the 8 standards still being assessed, the 4 standards under discussion with ETSI and the 5 standards that should be subject to an editorial change. This would bring the total to 117.

We are still expecting additional standards from ETSI.

In order to ease the process and minimise the issue, we suggested ETSI to fasten its internal process which seems to be resisted by them.

In addition with respect to standards covered by CENELEC (other standardisation body) whether available or not it does in any case not constitute an additional cost to industry given the fact that manufacturers can use self-declaration of conformity.

However, about 40 standards will still be missing. A few of them which are problematic as they have been mentioned by the 2 major associations of manufacturers (Digital Europe and Orgalime) as crucial as they cover a big part of their markets. These are:

- EN 300 718-3 (expected delivery in January 2018)
- EN 301 893 (expected delivery in June 2017)
- EN 302 567 (expected delivery in June 2017)
- EN 302 608 (expected delivery in June 2017)

Please note that the standards with an expected delivery in June are currently in their final version in ETSI and could be delivered in May if it was not for the fulfilment of the ETSI's procedure.

Industry and Member States are pushing the Commission to also find a solution for these standards, in particular, **about EN 301 893 (WiFi), proposing a solution to use the existing R&TTED standards, which lack the receiver parameters.**

One of the envisaged solutions proposed by the industry is to publish on the OJ the old R&TTED standard with a note reading *Note 2: This standard provides presumption of conformity with the essential requirements of Directive 2014/53/EU if also the receiving parameter in clause 4.2.8 of EN 301 893 v2.1.0 is applied.*

However it is legally not possible to make reference to draft standards; the status of such a document is not recognised in our legislation as a deliverable of the ESOs.

From our point of view the only possibility to solve this situation is that ETSI submits a slightly revised version of the standard published under the R&TTE **EN 301 893 v1.8.1** and directly refers within this standard to the receive parameters in the new version **EN 301 893 v2.1.0**.

We can publish both versions of the standards, the old one will get a date of withdrawal of 2-3 years (until industry is ready) and be superseded by the new one within this period.

It appears however that ETSI is not willing to touch the old standard.

