

DG GROW
Meeting between Gwenole Cozigou and Klaus-Dieter Axt from
DigitalEurope
Brussels, 19th March 2018 at 5 pm

BASIS request ID: 5985

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Directorate/Unit: C/3

BRIEFING NOTE

Scene setter/Context of the meeting:

The meeting has been requested by DigitalEurope (DE) following our letter in which we expressed dissatisfaction with the content of their proposed Memorandum of Understanding (MoU) of November 2017. This follows the MoU of 2009 (expired in 2012 and then extended up to 2014). The proposed MoU has been deemed not satisfactory by the Commission, as it fails to meet a real commitment and the policy objectives of ensuring consumer's convenience and reducing waste.

The Commission has been criticised for not ensuring a solution on this long-standing issue during the IMCO scrutiny on 21st November. An oral question is on the agenda of the next IMCO session on 21st March for possible discussion at one of the upcoming EP Plenary meetings.

Consumers (ANEC) have expressed concerns, first on the safety of chargers and secondly, on eWaste reduction and consumer convenience.

Objective of the meeting:

- Express dissatisfaction (and the relevant reasons specified in the LTT below) for the submitted MoU.
- Inform that the Commission is considering the regulatory options due to the failure to reach a satisfactory voluntary agreement.

KEY messages – Line to take

- We are not satisfied with the level of commitment of this MoU. It increases the risk of fragmentation and is a step backwards from the current situation.
- On the contrary, there are some worrying elements, entailing even a step back. First of all, there is no perspective towards progress on achieving a real common charger, as three different options are suggested as complying with the definition of common charger. In addition, a series of elements are particularly problematic, namely: (i) the long transitional period (3-years), (ii) the lack of commitment for old smartphones, (iii) the very wide clause for exceptions, (iv) the lack of solution towards reduction of eWaste, (v) the lack of commitment on performance (fast charging).
- In order to be considered satisfactory, a revised MoU should have addressed all the above-mentioned issues.
- Given the failure to reach a satisfactory voluntary solution, the Commission is now obliged to consider regulatory options.

Key questions to the interlocutor?

When do you plan making the MoU public?

Do you think there is still scope for improvement or is the draft you sent us the final version?

Can you please enumerate the manufacturers that will sign this MoU?

Background information

Major producers of mobile telephones agreed in June 2009 to sign a Memorandum of Understanding (“MoU”) to harmonise chargers for data-enabled 'smartphones' sold in the EU. The common charger solution represented a significant improvement but included the possibility to use a different proprietary socket provided that adapters were made available in the EU market.

The duration of the original MoU was extended by two Letters of Intent (LoI) signed in 2013 and 2014. On 16th April 2014 the Radio Equipment Directive (RED 2014/53/EU) was approved, with a clear request from the co-legislators to enforce the adoption of common chargers (more specifically through Art. 3.3(a) setting out an empowerment for the Commission to adopt delegated acts). In the meantime, exchanges with the mobile phone industry and DigitalEurope continued.

DigitalEurope sent a new MoU in November 2017.

A few days later, in the IMCO scrutiny session of 21st November 2017, MEPs complained about the state-of-play of this file, blaming the Commission for the delayed adoption of delegated acts pursuant Article 3(3)(a) of the RED. On 15th January 2018, the Commission replied to DigitalEurope (Ares 242745) explaining the reasons for dissatisfaction and noting, in particular, that the submitted version does not meet the policy objectives of (i) interoperability and uniformity of performance, (ii) reduction and prevention of fragmentation, (iii) eWaste reduction and (iv) timeliness of the transitional time.

On 26 February 2018, DG GROW (C3) met representatives from the Legal Services of the three Institutions (Council, European Parliament and Commission). The outcome highlighted that the power conferred on the Commission under Article 3 (3) (a) RED is vague and does not explicitly allow the Commission to define 'the common charger'. Given the financial interests that could be affected when a solution is imposed via the regulatory process, there is a significant litigation risk. However, other options could be explored, e.g. defining performance parameters in a delegated act and issuing a mandate to ESOs to define technical specifications through standards. Alternatively, and especially if the objectives to be achieved are wider than the scope of RED, a proposal under ordinary legislative procedure may also be considered.

A meeting was then held with ANEC, on 6th March 2018, in order to better understand their concerns and priorities (safety – as several chargers on the market not provided by manufacturers of smartphones have been found to be unsafe, consumer convenience, waste reduction, etc.).

The EP has planned an oral question on 21st March 2018. This means there will be a discussion first in one of the upcoming IMCO meetings and, if the outcome is not satisfactory, then in Plenary.

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