

2008 – A Watershed for 'Openness'?

Annual Report 2008

www.openforumeurope.org

OpenForum Europe supports an open, competitive ICT market. Since its inception in 2002 it has provided a European focus for the support of Open Standards and increased business use of Open Source Software. Increasingly over this time it has moved from straight education, encouragement, challenge and communication of best practice to direct campaigning, particularly within government and the public sector. OFE has sought areas of consensus avoiding unnecessary conflict or resorting to rhetoric or unsubstantiated evangelism.

2008 – A Watershed for 'Openness'?

Looking back, 2008 will probably be perceived as a watershed for the recognition of 'openness' as an inevitable commercial requirement. European public sector have not been slow in communicating their expectations of openness to the ICT industry. Even the most laggard and protective suppliers are now responding positively to that challenge. 2008 will be remembered by many for the controversy initiated by the the OOXML submission to ISO by ECMA in 2007 for approval as an alternative international Open Document Format. The final submission of the OOXML specification to the ISO Ballot Resolution Meeting in Geneva hit the 2008 headlines internationally. By then the controversy had already caused considerable damage had been done to the reputations of Microsoft, ECMA and ISO. More important than the vote was the parallel and resulting discussions on the true impact and cost of supplier lock-in and the need to defend against loss of competition and future innovation. Unsurprisingly it has been European Government who have responded first to this debate with a series of policy announcements on the use of open standards and also open source software. 'Openness' has been recognised as more than a technology issue, and for instance the preservation of an 'open internet' could require critical legislation. Some of these announcements are straight (future) policy and strategy – but increasingly they are being backed up by procurement decisions. Indeed 2008 may be remembered as the first year when fine words were not seen as enough, and parallel action on implementation was necessary.

But if Government was asking, was industry responding? Again partially yes. Many of the largest (and smallest) companies were reacting positively. Of course many suppliers (including those members of OFE) had already made that judgement that an open market was more beneficial to their shareholder interests than to the protection of the status quo through arbitrary lock-in. For some this was a natural decision, because of their development strategy, others saw the market dynamics changing so rapidly that they could build a stronger future based around a new open business model. Others were newcomers focussing on new niches within that new business model. The rest? Well again we have seen huge changes in attitude from companies who have recognised that within a proprietary solution 'openness' can be protected and maintained through

scrupulous adoption of open standards for full interoperability. And the laggards? Some companies will continue to seek to preserve the status quo. Not surprising if your business model relies solely on maintenance of a licence based upgrade cycle, more surprising if you are an outsourcer/integrator.

Governments Lead with Open Standards

Publication of Version 1 of the European Interoperability Framework (EIF) in 2004 created a focus for global thinking on the needs of government for interoperability, resulting in many Governments effectively leapfrogging Europe in the definition and implementation of their strategies. Countries like Brasil, Uruguay and South Africa formally adopted policies that either mandated adoption of open standards or gave direct preferences for public procurement. Japan passed an open standards software incentive as part of its omnibus Special Taxation Measure law. In Hyderabad at the UN Internet Governance Forum participants signed a DCOS agreement on procurement in support of interoperability and open standards.

In Europe many countries had already confirmed national interoperability frameworks, having participated in the development of EIF Version 2, they have been well placed to announce upgrades. Belgium, Denmark and the Netherlands led this work. The Dutch Government in particular formalised earlier policies with an announcement that means in principle that the use of open standards is now mandatory for IT public purchases worth more than €50k. The precedent set by such governments has proved a focal point for the opposition to open standards – mainly coming from organisations representing proprietary software companies. Such appeals, including one to the European Commission have not been successful, and were dealt a blow in June when speaking at an OFE breakfast briefing in June, the Commissioner for Competition, Neelie Kroes confirmed the Commission's view as she came out strongly in favour of Open Standards and stressed the important role that governments can play in promoting their use through public procurement. The Commissioner said that it was time for the EU to practice what it preaches when it comes to interoperability and Open Standards, arguing that governments must not through their purchasing choices force citizens and businesses to acquire closed technology.

<http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/08/317> . She completed her speech by emphasising,

“I know a smart business decision when I see one – choosing open standards is a very smart business decision indeed.”

In fact the European Commission had already declared powerful strategies in support of open standards both within research and for internal use, a point substantiated by the Commissioner within the same speech:

“...for all future IT developments and procurement procedures, the Commission shall promote the use of products that support open, well documented standards. Interoperability is a critical issue for the Commission, and usage of well-established open standards is a key factor to achieve and endorse it”.

Critics, however, will point to careful use of words and lack of a generally accepted agreement in the Commission on the definition and usage of terms. These unresolved issues remain visible in the discussion on revision to the Standardisation legislation. This discussion now centres around the treatment of consortia (the current rules mandate only a limited number of formal SDOs) who currently are not accepted (even market leaders like W3C and OASIS), and the treatment of IPR inc patents within standards. Neither issue is likely to be resolved until later in 2009, and views if anything have become more polarised. We see great gaps between the views of the Telecommunications and IT industries, as well as between those in the industry who wish to wish to promote a business built on developing interoperability standards versus those (the majority?) who wish for such standards to enable a wider and competitive choice of solution enabled by such standards. Unsurprisingly the focus is on every word and nuance within such definitions. The EC held an informative and illuminating conference on IPR and Standards which emphasised not only the points above, but also the divergence in thinking between those who have come from a standardisation background and where openness refers solely to the openness of the process, versus those who view the openness as much as the result achieved in the market. For OFE a key issue remains to avoid discrimination of open

source based business models. A summary of the OFE position on open standards can be read at <http://www.openforumeurope.org/library/onepage-briefs/ofe-open-standards-onepage-2008.pdf/view>. OFE was one of the first organisations to sign the IGF DCOS statement and the Hague Declaration initiated by ESOMA.

Consultation Document on EIF V2.0 launched

The proposals for Version 2 of the EIF were announced in the Summer. Some 53 responses (inc OFE) were received during the consultation document. The OFE view (<http://www.openforumeurope.org/library/comments>) has been one primarily of strong support. We have respected the effort to move the EIF towards one of pragmatism and implementation and in the difficult areas of IPR and terminology believe the EIF has reached a sensible balance. We noted the EIF has been cautious in not conflicting with EC current standardisation policy, and in focusing on the specific requirements for pan European Government services particularly and uniquely on the area of interoperability. Many of the opposing comments made seem to have ignored this point and have attempted to influence comment by drawing on issues unrelated to interoperability – by maybe this is deliberate? The discussion on EIF will continue to be a major focus for OFE in 2009 since it sets the scene for both pan European and national initiatives.

An Open Internet

This was the focus of OFE's first major European conference held in Geneva, key-noted by Vinf Cerf, and now has been continued by the work of OFE's special interest group. The first results of this deliberation was published by OFE in November (<http://www.openforumeurope.org/press-room/press-releases/openforum-europe-welcomes-council-and-commission-intentions-to-promote/>) timed to coincide with Telecommunications Ministers conclusions on the September 2008 European Commission document “Future networks and the Internet”, which also marked the beginning of an important policy debate around the ever increasing economic importance of the sector. OFE welcomed the Commission initiative and in particular its focus on open standards and open and non-discriminatory access to the Internet. OFE advocated policies that keep the internet open and free from lock-in to specific commercial interests.

The ODF Open Document Format Flourishes

Despite the eventual ISO approval of OOXML it is ODF that is succeeding in the market. No less than 16 governments have now chosen ODF as their preferred open document format, with Germany being the latest in the list of governments making this decision. Support for ODF has now moved beyond the desk top with support within applications and the launch of the ODF Toolkit Union. Microsoft were the latest to offer full native support for ODF within Service pack 2 of Office 2007, a year ahead of support for their own OOXML. Sceptics, however, view the announcement with some caution, and note that whilst ODF focuses on shortly submitting version 1.2 to OASIS for approval, Microsoft have instead chosen to go backwards to version 1.1. OFE will continue to coordinate the work of the ODF Alliance in Europe and expects 2009 to see a rapid growth in implementation rates. OFE continues to caution about inappropriate use of current proprietary formats within MS Office 2007 which exemplify the dangers of lock-in.

An Open European Parliament

There is increased recognition of the notion that Open Standards, in addition to providing cost benefits, are essential for ensuring equal access to public information. This focus on the implications for democracy of ICT choices made by the public sector is starting to interest parliamentarians in particular. In 2008, several initiatives in the European Parliament highlighted the link between Open Standards and the citizen's right to access information and to participate in the democratic process.

The Liberal MEP Marco Cappato tabled a number of Written Questions on the issues of Open Source and Open Standards, including specific ones on what measures the EU institutions intend to take to ensure that its

IT infrastructure is fully equipped to accept and generate documents in ODF format. In May, five MEPs across the political spectrum introduced a joint Written Declaration to the European Parliament calling for a change of the European Parliament's ICT systems:
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+WDECL+P6-DCL-2008-0046+0+DOC+PDF+V0//EN&language=EN>

In April, a [conference](#) was held in the European Parliament, supported by OFE, focusing on Open Standards and the need to prevent lock-in to proprietary solutions against the background that a functioning participative democracy relies increasingly on the ability of citizens and stakeholders to access public information and to communicate with officials and elected politicians electronically. Speakers representing academia and Member State administrations considered the situation where public institutions were locked into the ICT products of a single vendor, discussed the implications of this for participative democracy and fair competition, and considered the prospects for the European Parliament to adopt the use of open standards and open source software and to promote interoperability in the European ICT sector. The OFE supported Open Parliament petition www.openparliament.eu was since granted a one hour hearing in Parliament.

Fine Words but.....?

Monitoring public procurement is an important test of adoption of openness since public procurement constitutes an important share of the market for companies in the EU. In 2002, the total EU procurement market (purchases of goods, services and public works by governments and public utilities) was worth €1.5 trillion or over 16% of EU GDP¹. It should be noted that these figures include procurement only in the EU of 15 Member States at that time. In addition, the value of public procurement contracts has been growing constantly. The total amount of public procurement in EU 15 increased by 31% from 1995 to 2002.

OFE and its members have a profound interest in the openness, transparency, and efficiency of the European software market. EU efforts in public eProcurement are proof the EU and its Member States share that concern². Software procurement, a key enabler of eGovernment, is indeed both a private and a public sector concern.

Over the last few years, we have seen a number of notices in the Official Journal of the EU (OJEU) seeking offers by CAs for the purchase of IT related supplies and/or services, where the CAs use the name of a product to set out the technical, functional and other performance requirements of the supplies or services they require. Due to the lack of empirical evidence, the widespread nature of this practice has been missing from public debates to date.

OFE set out to test this by carrying out an indicative study, which indicated that there were a large number procurements made outside of the current EU public procurement laws which are built on two guiding principles of transparency and non-discrimination OFE monitored public procurement notices for computer software published in the Official Journal of the EU. 136 contact notices were scanned for trademarks in the period from February 1 to April 25, 2008. The results showed that 25 percent of the tenders mentioned company brand names were mentioned in procurement documents, effectively preventing competition from alternative products. <http://www.openforumeurope.org/press-room/press-releases/procurement-study-release.pdf/view>

Also in October, in response to demand from Member State administrations, the IDABC programme of the European Commission published a document aimed at helping Member States procure and take advantage of public procurement and Open Source software. The document showed that software tenders by public administrations in the Member States often do not comply with EU regulations because they illegally favour proprietary applications. The authors of the study suggested specifying Open Standards in software tenders could avoid such situations of unlawful bias. IDABC's Karel De Vriendt said that tenders that do not comply with EU regulations could be protested against and may be taken to court. <http://www.osor.eu/expert->

1 DG Internal Market: A report on the functioning of public procurement markets in the EU: benefits from the application of EU directives and challenges for the future, 2004.

2 See http://ec.europa.eu/information_society/activities/egovernment/implementation/ict_psp/doc/eProcurement_Factsheet.pdf

Open Source hits Mainstream

It is unlikely that any serious pundit will now have any doubt that open source has now entered the main stream world and can no longer be ignored by even its greatest critic. Many will argue over the prime reason for this – whether it is because of market financials, and the opportunity of cost savings – the greater efficiency of the development methodology- the opportunity for solution sharing- a move to a services led market – introduction of web books - greater confidence from buyers or investors, - etc. As before Governments have been an early adopter. The EIF is an important example where OSS has been recognised as offering specific advantages over and above those of open standards. Many European national governments have taken this lead with publication of their own strategies. The EC have been a strong leader across many directorates recognising European potential both for pan European services, research, support for the European software industry, for SMEs and in support of innovation. The IDABC unit have extended the Open Source Repository to encourage a move to wider public sector implementation. The best quote, however, comes from the Standish Group:

“...the Open Source movement is no longer the anti-software establishment.....Open Source is the software establishment”

It is for this reason that Europe needs to recognise the power of change in the market and the opportunity created for Europe by OSS. The FLOSS Impact study commissioned by the EC from the University of Maastricht in 2007 headlined the likely growth and the range of positive measures on offer to Europe. Instead the EC has largely chosen by default a passive approach, and opportunity is being missed. Even the EIF Version 2 which seeks to present a level playing field for OSS is being attacked internally. Possibly the greatest missed opportunity of all?

Interoperability Needs a Special Focus

All these initiatives and conversations do lead to one overall conclusion - Interoperability is a special case. The EIF has recognised this and focussed its attention purely on this requirement. The Standardisation Review has yet to do so.

The evidence from OASIS is quite insightful. OASIS tend to focus on standards in the area of interoperability and historically, unlike W3C, have allowed all version of RAND licensing. Despite this, and that they draw members from all business models, in 65 current committees evaluating new standards - 64 have selected Royalty Free.

Extract the requirements of interoperability out into a separate pot and suddenly the differences become minimised. Is this the next step?

Looking Forward to 2009

In 2008 we can look back on a series of market announcements that have indirectly heavily influenced the enormous progress towards 'openness'. Will we see the same in 2009? Already we see the rush for Linux based netbooks, extending the visibility of open source solutions at the 'front-line'. We see the interest and investment going in to 'cloud computing' whom many, including ourselves, see as more than just the latest in hype, providing a new market dependent on full openness, not just of interoperability standards but of the openness of the data. We are likely to see even greater interest in identity management, who owns this data, and how it can be switched between solution suppliers. The decision by Nokia in 2008 to take over Symbian and place it into an open source foundation tears at the heart of mobile telephony business models, and will accelerate the demise of the telecomms dictated view on standards and standardisation. Google's announcement of Android and separately of Chrome can be expected to be other significant factors. Financial pressures on businesses will, however, impose their own risks notably in area of end user connectivity and potential discrimination of citizens. Open source can expect another glory year, benefiting strongly from an organisation's inevitable cost analysis on expenditure. However, limited availability of

external investment may particularly affect SMEs who paradoxically are best positioned to take advantage of open source models.