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To: SNV Schweizerische Normen-Vereinigung,
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Reference: FSFE formal objection to the recent UK14 meeting
Department: FSFE Zurich Office

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Dear Sir,

FSFE would like to formally raise some concerns regarding the current SNV process for consideration of the proposed MS-OOXML standard.

The first issue FSFE would like to raise is an unresolved conflict of interest. SNV delegated its ISO recommendation on MS-OOXML to NK149, a committee chaired by Mr Istvan Sebestyen, Secretary General of ECMA. ECMA is the organisation that proposed MS-OOXML as an ISO standard. Perhaps to avoid suggestions of bias, Mr Sebestyen subsequently delegated NK149's decision to the UK14 sub-committee, for which he appointed his personal friend Mr Thomann as chair. However, as chair of the parent committee and by selection of the chair of UK14, Mr Sebestyen has an insufficiently resolved conflict of interest.

The second issue FSFE would like to raise is that during the UK14 meeting the chair rejected any discussion of the market situation as a valid argument against MS-OOXML. Concerns regarding Microsoft's monopolistic position in the European Union and the United States – as established by antitrust authorities in both economic areas – were disregarded on the grounds that JTC1 does not have the authority to research monopoly. This denial was justified on the formal grounds of applicability only within thirty day review period, and not during the five month ballot. However, according to section 11.1.2 of the ISO/IEC JTC1 Directives, any action or inaction can be appealed on questions of principle and ISO/IEC reputation, among others. Indeed, the ISO/IEC JTC1 Directives specifically reference cases in which an activity is "not in the best interests of international trade and commerce".

The third issue FSFE would like to raise is that evidence showing that MS-OOXML contradicts ISO directives has been ignored. ISO/IEC JTC1 Directives, section 1.2 and annex I state: "JTC 1 recognizes that interoperability is a major user

requirement which can be facilitated by standardization. Accordingly JTC 1 accepts the responsibility to identify the key interfaces and produce the key IT standards at those interfaces (including the relevant content standards, e.g. ODA, SGML, CGM) to facilitate practical, time and cost-effective interoperability, consistent with market requirements and current technologies." A market is normally understood to be an arena with multiple vendors and customers, with market requirements referring to the necessity of those vendors to provide competitive offerings. Although the CRM established that MS-OOXML is primarily a single-vendor format, this was rejected as evidence of contradiction to ISO/IEC directives.

The fourth issue FSFE would like to raise is that the UK14 committee - by discounting ISO Directives - potentially introduces a conflict with a WTO Agreement on Government Procurement. Switzerland is a party to this agreement, which specifies that "Technical specifications laying down the characteristics of products or services to be procured [...] shall not be prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade. (Article VI, paragraph 1.)" Given that MS-OOXML is the vendor-dependent format of a convicted monopolist - as established above - there is reason to believe it will provide a severe obstacle to international trade. The existence of some early adopters does not constitute evidence to the contrary.

The fifth issue FSFE would like to raise is that the supposed necessity of MS-OOXML - a view endorsed by the chairman of UK14 during the recent UK14 meeting - has been established on the grounds of false claims by the original applicant. Microsoft claimed MS-OOXML was established because its input into the existing Open Document Format (ODF) ISO standard for office documents were disregarded. However, research in OASIS shows this claim to be false. Microsoft was invited into the OASIS committee and was present as passive observer. Microsoft never became active in the committee by its own choice. Additionally, it must be pointed out that according to our research no request by Microsoft for additions to ODF has ever been denied.

The sixth issue FSFE would like to raise is that the recent UK14 meeting presented one-sided considerations only. It is true that some Swiss bodies have issued statements endorsing MS-OOXML. However, Microsoft has previously forced public administration into format-dependency and there is reason to believe such practices will continue. Furthermore, major corporations and public institutions have voiced their concerns over the economic damage done by accepting vendor-dependent formats. These perspectives were not reflected in the CRM outcome.

The seventh issue FSFE would like to raise is that the recent UK14 meeting failed to give legal issues due consideration. It has been established by other standardisation bodies that legal concerns regarding the implementability of a standard fall within the area of technical comments. However, the UK14 chairman insisted that such concerns be incorrectly classified as general and disregarded.

The eighth issue FSFE would like to raise is that the chair of the recent UK14 meeting made unwarranted assumptions. The chair's disregard of legal concerns took place on the false assumption that MS-OOXML offers at least RAND conditions. However, not all normatively referenced material in MS-OOXML comes from a JTC1 Approved Reference Specification Provider (ARO). Neither these materials nor the terms that apply to them are published. Therefore, it cannot be assumed that these materials are available under at least RAND conditions.

The ninth issue FSFE would like to raise is that the chair of the recent UK14 meeting disregarded represented concerns. Microsoft's 'Open Specification Promise' was not examined or properly discussed. This occurred despite the fact that the only parties in the room defending the sufficiency of the promise were the applicants themselves and the chair, on the

authority of his wife, who is not member of UK14 and was also not available to represent her position personally.

The tenth issue FSFE would like to raise is that the chair of the recent UK14 meeting disregarded voting rules established at beginning of meeting. At the beginning of the meeting the chair stated that decisions would be taken by single majority if a 75% majority was not reached. He additionally promised to not to overrule a clear majority. However, when the chair's recommendation for the SNV vote was rejected by a 7 to 4 majority for "disapprove, with comments", the chair disregarded the result.

The eleventh issue FSFE would like to raise is that due to the outcome of the recent UK14 meeting, it is no longer possible to come to a decision reflecting the substantial findings of the majority. The final vote of the recent UK14 meeting was structured in such a way that the result favoured by the clear majority will not be presented to UK14 members.

The twelfth issue FSFE would like to raise is that the chair of the UK14 committee attempted to misrepresent the decision he enforced despite the wishes of the majority of voters. In the JTC1 Directives Section 9.8 - the section relevant to fast track voting - it is clearly stated that "Conditional approval should be submitted as a disapproval vote" and that approval means agreement "of the technical content of the DIS as presented", which was clearly not the case.

FSFE believes that the issues listed above are serious and put into question the integrity of the process and its outcome. Furthermore, FSFE believes that these issues need to be addressed before the formal voting deadline for UK14 members has passed.

FSFE requests that the outcome of the previous meeting be declared invalid due to the numerous issues outlined above, and that the recommended vote for Swiss members be changed to "disapprove, with comments." Failing this, FSFE requests that the current chair of UK14 be declared invalid and replaced by a neutral chair.

FSFE hereby informs SNV that if these issues are not addressed in a timely manner, FSFE will examine the possibility of legal action.

Regards

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