Overall comments

Open response on behalf of EURIM (The Information Society Alliance) to the Government consultation on Open Standards.

EURIM (www.eurim.org.uk) is a cross-party, pan-industry policy research group concerned with the formation and scrutiny of legislation, regulation and government initiatives related to UK/EU competitiveness in the global information society and to the effective use of technology to serve society as a whole. It uses funding from its corporate and associate members to organise working groups of politicians, advisors, officials, industry, professional bodies, trade associations and interest groups. By seeking consensus and focusing on IT governance and security of information, EURIM's Information and Identity Governance Group fosters an understanding of, and highlights good practice in, information management across borders, regulations and cultures.

Although the consultation raises a wide spectrum of views amongst EURIM members the overall policy objectives of the level playing field and removing externalities on third parties is fully supported and endorsed.

We have limited our response for clarity on the key areas where EURIM contributors are in agreement

The overall approach has raised a number of key queries that have been sent prior to this response. We would recommend these issues are at least clearly addressed in the follow up to the consultation.

Specific examples or illustrative scenarios

The introductory policy background statement says that the draft policy is aimed   at "support[ing] a level playing field," improving 'access to government IT procurement'

and government's lack of "flexibility to switch between suppliers and products", yet no examples are given to illustrate these problems and thus set the draft policy and the need for it in a fully rounded context. It would be helpful if there were:

    (i)   examples of where lack of market access and lack of market diversity have demonstrably limited government procurement options and explain how the draft policy will remedy these if enacted.

    (ii)   examples of where the lack of flexibility to switch between suppliers and products has demonstrably limited government procurement options and explain how the draft policy will remedy these if enacted.

    (iii)   examples of areas where lack of mandation between open standards has resulted in unresolved issues that the draft policy will remedy if enacted.

    (iv)   examples of specific solutions to problems that the new policy is necessary to enable, i.e. that cannot be deployed now.

In short, at least by example, this would help illustrate how government practice would either change or be made more consistent and predictable under the envisaged policy.

Criteria assessment

Are all of the five criteria that are expressed in the definition of an open standard, pass/fail criteria that will all be applied to every standard under consideration. ie must each standard pass all five tests?

Can you also clarify who applies the '5 point test' and what are their terms of reference?

We assume for the purposes of this response that all five criteria should be equally applied.

Public Procurement versus Competition based intervention

Owing to the language used it is not entirely clear if the policy:

(i) is aimed at changing the behaviour of the public sector as a buyer/consumer of IT products and services (i.e. an internal procurement matter),

(ii) or is it designed to change the behaviour of the IT industry (including the standards making parts of it) from which IT products and services are obtained/procured because you perceive there is a market failure of some kind that must be addressed?

(iii) or is it a combination of (i) and (ii)?

In the absence of clarity the consensus is that if this is envisaged as a procurement policy primarily aimed at government's own behaviour, ie (i) above, then the situation and discussion is as below. This is the assumed position for the rest of the response but the language of the policy and its execution should be carefully monitored to ensure it is restricted to a procurement policy and not misinterpreted. If, on the other hand, this is a general market intervention based on perceived market failure then this issue should be the subject of the proper level of investigation by the Competition authorities and not handled solely via public procurement.

There are views that this is an intervention policy that could compel licencing on royalty free terms - and the response on Cabinet Office on whether this is a market intervention or a procurement policy will clearly be crucial in judging this point. If it were such a market intervention then it would clearly distort the playing field in the opposing direction. The alternative view - that this is a public procurement policy only - would of course mean only that a customer preference has been expressed that a commercial operator could fulfil or not on commercial grounds as per any other selection criteria.

EURIM does note that the current scope is "open standards for software interoperability, data and document formats", but would suggest that in a cloud-based and service-oriented world it is essential that the scope includes IT services, including web services in order to achieve the objectives. Its application to the procurement of other IT-intensive services may also need to be clarified and assessed.

Mandation and Vendor Neutral 'open' architecture

Care is needed when mandating standards to ensure they deliver tangible value, in the broadest terms. It is not sufficient for standards to be technically robust and interesting – indeed mandating such standards can be damaging to credibility of the underlying policy.

Above all, it is critical that any standards which the government mandates have been properly assessed as fit for purpose and have received marketplace acceptance. There is clear EURIM agreement that mandation should only follow a clear transparent and published economic case including:
- a cross government rather than departmental assessment
- cost of investment replication vs benefit of simplification
- conversion overheads and interoperability costs
- externalities both within public sector and with third parties
- exit and change cost

Mandation does carry a degree of risk that should be assessed around the risk of homogeneity and the potential need to have an exit path from the choice should it be required. This is not substantially different from any active large scale procurement but should be considered. Part of this risk is related to "picking the wrong standard" whether that is a standard that only the government ultimately supports or one that fails to provide future innovation and support for government needs. To assess this risk the timescales for benefit realisation and the value of those benefits must be included to balance against exit costs.

One clear implication of the risk management is to restrict the mandation to the minimum, potentially including possibly no mandation within the overall open standards requirement.

It is generally agreed that the number of times there will be a choice of open standards and that those choices are also incompatible to the point of causing serious interoperability issues and investment costs will be small.

Another key issue to avoid unintended consequences is to define the scope of the mandation via the use case or the reference architecture.   Reference architectures will need to be defined in terms of components that are integrated using open standards in order to allow component substitution and give context for the mandation.

In this sense the reference architectures must be:

- context specific
- vendor neutral
- business model neutral (eg in house, service based, open source, proprietary etc)
- complete in the sense it both specifies the open standards used between components but also limits the interaction to those open standards - ie additional proprietary functionality should be prevented.
- Allow component substitution

A robust exception handling process for deviations from the reference architecture should be provided for in a similar way to handling exceptions to the open standards policy.

It should also be pointed out that only if reference architectures are defined by open standards and open standards are actually enforced in use does it significantly improve the ability to substitute one product for another within the architecture and without requiring other potential system changes.

Requirement for complementary policies

It is essential to have a robust and well resourced approach to policy implementation and benefits realisation, including engagement, information, education and support for management and information professionals involved in achieving the new vision for government information systems and services. Legislation and clear accountability within all departments may be part of the means to that end but change is always more effective if leaders promote it and staff have been engaged.   The adoption of professional practices by individuals and achievement of process maturity by organisations is essential. People and their skills are key.

In this context the current approach of focusing on policy compliance at the pre-procurement approval stage for large projects is unlikely to allow full implementation of the policy and fulfil the benefit realisation objective.

Clarity on allowable exceptions and how exceptions will be approved and handled above and beyond 'clear business reasons'. It is vital that exception handling does not undermine the policy objective, is rules based and can be appealed to by either procurer or supplier on a non-discrimnatory basis.

Whilst the approach of requiring open standards to fulfill the level playing field and maximise choice is proposed, it should also be pointed out that there are clear and credible benefits to using any fit for purpose technical standard that fulfil the less restrictive WTO requirements (http://www.wto.org/english/docs_e/legal_e/17-tbt_e.htm annexe 3).

Hence, even if an 'open standard' however defined is not available then a standard that is judged to be partly compliant with the criteria could be have partial benefits that are nonetheless economically valid.

It is however generally agreed amongst EURIM members that whatever the definition and its legal impact open standards will only be a minor part of setting a level playing field. The key difference of opinion being the issue as to whether it is a critical element or not.

A clear requirement for a standards policy to enhance interoperability is the need to address non compliant legacy implementations in use. Actual process will vary depending on the exact application but this needs to be defined in each case before deployment of the mandated solutions.

Particularly with interoperability requirements any legacy issues, non-compliant working practices and future exemptions must be restricted to set 'closed' or 'gated' user groups and clear boundaries given to the use of exemptions both in terms of closed user groups and in setting clear timescales to achieve compliance. Otherwise the vector or network effect will ensure that exemptions will spread, undermining the goal of the policy.