



Response from the Danish Government to the public consultation on patents and standards

Denmark appreciates the opportunity to provide input to the Commission's consultation on patents and standards.

Denmark recognises the important role patents and standards have in encouraging innovation and in the diffusion of knowledge and technology in the EU.

From a Danish point of view the use of patents (or other intellectual property rights) in standards should not be seen as adverse phenomena. The use of patented technology in a standard can in some circumstances be the best way to reach the functional requirements of the given standard and also lead to a quicker diffusion of the patented technology than otherwise.

The interplay between patents and standards does hold potential for conflicts between the interests of the patent holders and the standard users. Many of these issues are regulated through established patent policies in the standards setting organizations that provide a framework for the inclusion of patent protected technology in standards.

In Denmark our experience is that the current framework governing patent in standards works rather well and that serious conflicts are rather infrequent. We are familiar with situations in international standardisation where conflicts have arisen but revised guidelines seem to a large degree to have solved the issues.

Therefore, the Danish Government recommends that future policies from the European Union should continue to promote voluntary, market-led standardisation and leave the patent-policies to the standard setting organization themselves.

Some issues have occurred due to lack of transparency on existing patents. The Danish government recommends, where necessary, a greater cooperation between standard setting organizations and patent offices in

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identifying existing patents on the particular field that might oppose free use of the standard under development. This would give the standard setting parties an external and specialized examination of the potential exposure to patented technology and thus reduce the information asymmetry between the parties.