Microsoft's Comments on UN APDIP IOSN's Draft Primer on Open Standards, v 1.1
September 30, 2005

The overarching aim of these comments and suggested edits is to make the Primer factually accurate and strike a balanced and objective approach on FOSS and proprietary software. This aim is consistent with the fact that this document is published under the auspices of the United Nations which institutionally is committed to a balanced approach to matters of technology policy.

In numerous places in the document, the unspoken implicit assumption is that proprietary standards cannot achieve interoperability. This is factually inaccurate. Proprietary does not imply "closed" or the opposite of interoperability; it simply indicates a different – often smaller and quicker –process was used to develop the standard at issue. Even when a standard is produced and controlled by a single entity and does not undergo a process of review and ratification through a standards body, as long as the standard is broadly accessible to all for use and implementation on reasonable terms, such a standard can still facilitate interoperability between products. PDF and ZIP (which is used in the OpenOffice.org file format submitted to OASIS) are two examples of standards that have achieved widespread acceptance and interoperability without being open standards, and while remaining under the ownership of a single entity. Other examples of broadly deployed proprietary standards that are widely licensed in the IT industry with a significant positive impact on interoperability include Adobe's PDF format and the Java and Win32 APIs. Many well-known and useful open standards today also originated from a single entity before formal adoption as an open standard, e.g. ISA (a specification by IBM, later standardized by IEEE), and NFS (Network File System, introduced by Sun Microsystems, later standardized by IETF).

The author should be clear in addressing issues of interoperability not to over-generalize. While adopting open standards is one good approach to achieving interoperability, it is not the only approach, and it is not the case that any other approach is without merit. Further, it is not the case that open standards exist in every field of technology. In many emerging areas, standards are still being developed by the industry. Blanket statements such as "It is vital that these IT implementations are compliant with standards that are open" (page 13) do not reflect the reality faced by many governments and organizations that there are numerous areas where open standards do not yet exist, and they have to work with other types of standards until a strong contender emerges. Premature governmental directives on the use of standards that are not yet ready and proven will stifle the industry and inhibit growth.

Governments and organizations should be, and are often, open to the possibility that some de facto standards, like PDF for example, are so widely and reasonably licensed and so broadly deployed and demanded that it makes sense to embrace such standards as part of a government's or organization's interoperability framework, rather than insisting on an open standard such as X.400. This is a much better approach than suggesting at the outset that all de facto standards, even those available royalty-free, should entirely be avoided by governments and other organizations. To completely ignore such standards as

a rule may make little sense and may actually impair interoperability, particularly if there is no adequate open standard substitute for such a de facto standard. This is how governments (e.g. Australia) and other organizations (e.g. APEC) continue to view and use such popular and accessible de facto standards. Therefore, while governments and organizations should be careful in reviewing and assessing de facto standards, they should also realize that they can often serve as helpful complements to open standards in enhancing interoperability, and may ultimately be approved as open standards themselves by a standards organization.

Other examples of statements in the Primer that need to be clarified factually include:

At page 43, FLAC while publicly available, is not an open standard. AAC, mentioned at page 44, as stated by the author, has become popular. This is despite the required royalties.

At page 63, regarding IETF, RFC 3979 is not the main document governing IETF's stand on IP rights. It deals only with patents. RFC 3978 deals with copyright.

At page 64, contributors of IETF's working group discussions are not expected to disclose any IP rights covered, but only those that the individual is reasonably and personally aware of and that he (or his employer) own or control. There is no obligation to disclose third party IP.

At page 64, relating to W3C, the participants are permitted to disclose their essential IP and declare their intention to exert their IP rights, charge royalties, impose RAND licensing restrictions, etc. It is only upon such disclosure and that the patent issue cannot be resolved that the matter is referred to the PAG. W3C's default is royalty-free, but it allows for RAND licensing through the PAG process. In the table on 65, it is thus also inaccurate to characterize W3C as a royalty-free only organization.

At page 72, the introductory paragraph on "Government/National Open Standards Policies and Initiatives" should make reference to open standards rather than FOSS as that is the subject matter of discussion in this Primer. Likewise, the title of this Primer should simply be "Open Standards."

At page 75, the author generalizes that most FOSS products make use of open standards. The two concepts are separate and there is no causal relationship between them.

In addition to the above, there are unfortunately also sections of text where an inflammatory tone is adopted, e.g.

the concluding section of the patents discussion at page 66 referring to BSA undermining FOSS;

at the bottom of page 14, the reference to users being held to ransom;

at the middle of page 15, the implication that non-open formats are subject to abuse;

at the middle of page 35, the attribution of the limited penetration of applications in graphics, multimedia and office applications to the dominance of some companies;

at bottom of page 43, the description of the MP3 standard as suffering from the use of patented technology;

at the middle of page 60, the assertion that commercial organizations have become more aggressive in pursuing and protecting their IPR in IT especially with regards to software patents;

at the top of page 72, the implication that there are dangers in using proprietary standards.

The sections identified above are not an exhaustive list of such instances in the document. These erroneous or unsubstantiated claims are counterproductive and do not serve the stated objective of the IOSN Primers. They incite negativity in the reader's mind rather than present the facts as completely as possible to the reader so that the reader can make his or her own analysis, assessment and conclusion.

Microsoft's Commitment to Interoperability and Industry Standards

As an IT industry leader whose technology products are used by millions of consumers, businesses and organizations worldwide, Microsoft has a responsibility to develop technology that is based on commonly used standards and to make sure our products work well with those of other companies – including our competitors. Interoperability is a technical and business imperative in today's heterogeneous IT environments. Microsoft facilitates interoperability between its products and thousands of third-party products and services in various ways, including active participation in hundreds of standards organizations, implementation of open standards and other standards in its products, and publication and broad licensing of Microsoft's proprietary technologies. For Microsoft, interoperability, the openness of our technology, and the widespread licensing of our intellectual property are responsible business practices.