



INITIATIVE FOR SOFTWARE CHOICE

“Enabling Internet Enterprise Development”

***-Technological Neutrality
in IT Public Procurement -***

United Nations Economic Commission for Europe

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Enabling Environment for Internet Enterprise Development

fundamental enabler elements include:

- **trade liberalisation and market access**
- **maintaining strong IPRs protection**
- **stable and predictable legal framework**
- **education and e-skills capacity building**
- **technological neutrality and non-discrimination**
- **open and competitive procurement processes**

A Policy Framework for Enabling IT Economic Growth

- **General Investment Policies**
 - **Free trade, good capital access, open and competitive procurement processes**
- **Targeted Software and Services Policies**
 - **Strong intellectual property protection , high quality human capital and e-Skills capacity building, incl. universal availability of public R&D**
- **Online Infrastructures**
 - **Basic online legal frameworks and telecom/internet infrastructures, strong network and information security, e-consumer confidence**



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Example: Focus on IT Public Procurement

How do these **key enabler** of Internet Enterprise Development apply to the public procurement of IT technology, in particular **software as the most prominent example** of procurement for government digital infrastructures?



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www.softwarechoice.org

- **ISC was established to ensure all software licensing and development models remain viable (proprietary, hybrid and open source)**
- **Software should be chosen on its **merits and value**, not through categorical preferences: tested by professional experiences and law (IPRs and public procurement regulations)**

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The ISC is based on four core principles:

- Procure software (case-by-case) on its **merits and value**, not on its license or development model
- Promote universal availability of government-funded research, **no R&D default preference**
- Promote **interoperability** through platform neutral and **open standards**
- Maintain **strong IPRs** to promote pro-competitive software development solutions

The ISC was created to address a growing number of **mandatory “preference” laws worldwide:**

- **Over two-dozen countries and/or sub-regional governments have proposed nearly 70 such discriminatory laws, decrees or policy proposals**
- **These proposals are driven by the perception and believe that OSS products:**
 - **are “better” and “cheaper”**
 - **are “more equal”, pro-competitive and secure**
 - **are more “fair” and “cooperative”**
 - **can reduce monopolistic behaviour**

Consequences of “preference” legislation:

- The **global Euro 200+ billion software market** is comprised primarily of proprietary and hybrid manufacturers (e.g. L/A: 5% use OSS; more than 50% use exclusively the proprietary model*)
- **Protectionism:** preference laws that exclude proprietary and hybrid software importers will deter investors (Ireland: number one worldwide)
- **Local resellers** of proprietary products will suffer
- **Local developers** who rely on strong IPRs to compete in a global market **would be hurt**

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Do Governments need these laws?

How to promote the local software industry?

- **Governments can accomplish this through university or other ICT training options**
- **Ensuring that IP laws are enforced**
- **Growth in gross investment in commercial software has promoted fast development of the country's ICT infrastructure (e.g. India)**
- **In most developing countries with existing software industries (e.g. L/A), a strong majority of developers produce or distribute proprietary software and collect royalties**

Do Governments need these laws?

The temptations and the facts:

- e-Security? No clear cut winner: read the press
- Interoperability? All products must **interoperate through open standards**
- License costs? Software is a fraction of the **TCO** through the whole value chain
- Free service? OSS is a “loss-leader” model: service costs will come down the road
- **Employment?** Expert services will be ‘**outsourced**’ to other regions or countries

Quo vadis?

- **WSIS Geneva 2003 Declaration and Action Plan**
 - in favour of neutral policies as key enabler
 - choice must be taken “*case by case*” based on the specific needs
- Focus of the political debate should be on legal grounds, and on economic, financial and technical facts with case-by-case procurement decisions

Conclusions: neutrality as key enabler

- Public Procurement “preference” laws **do not help**, aren’t needed and therefore should be avoided
- Lack of proof or reliable data over special value of OSS for **economic regeneration and development**
- The arguments for and against each kind of model are very finely balanced: **competitive advantages**
- **Neutrality** and open competitive public procurement policies will serve the public and citizens best

*Openness and neutrality principle reconfirmed by the **new EU Public Procurement Directives 2004***



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