

FREE SOFTWARE FOUNDATION EUROPE (FSFE)
STATEMENT TO THE 3rd SESSION OF THE
COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY ([CDIP/3](#))

(Geneva, 27 April – 1 May 2009)

Mr Chairman,

On behalf of the [Free Software Foundation Europe](#) please allow me to congratulate you for having been reaffirmed as the chair of this [CDIP](#) and thank you for your kind consideration in allowing NGOs to speak. Our congratulations also go to the secretariat for their work on the implementation of the [Development Agenda](#), which clearly is being pursued with constructive engagement.

We followed the deliberations of Member States with great interest, and have a number of comments pertaining to issues related to Small and Medium Enterprises (SME) empowerment, innovation, competition as well as IT deployment by [WIPO](#). Mindful of your our time we will limit our oral intervention to issues of competition policy, but request to be granted submission of our [full statement](#) to the report. The statement has also been provided on the table outside this room.

FSFE sees a gap for the project addressing recommendations 7, 23 and 32 regarding the interface between exclusive rights and competition. As [discussed](#) throughout the last [Standing Committee on the Law of Patents \(SCP/13\)](#), exclusive rights and competition are strongly linked in the area of standards and Open Standards for Information Technologies, in particular. Due to the ubiquity of IT and its enabling role for economy as a whole, these competitive issues leverage their effects into all sectors of economy and are therefore central for the project.

We believe that it would be useful for this project to be connected with the work of the SCP, and take into account the work of authorities in this field, such as the European Commission's initiative for [Interoperable Delivery of European eGovernment Services to public Administrations, Businesses and Citizens \(IDABC\)](#).

Another relevant source of information are the findings of the European Commission on abusive behaviour regarding [standards in the Workgroup Server market](#) and the ongoing [investigation regarding abuse of Web standards](#). We also submit to the Secretariat that the records of the European Court of First Instance (CFI) provide practical evidence regarding a dominant vendor's attempt to assert exclusive rights as grounds for refusal to supply competitors with essential interoperability information.

Regarding the Global Meeting on Emerging Copyright Licensing Modalities, we welcome the balance and inclusiveness that the Secretariat has shown in its inclusion of Free Software. As correctly highlighted, the [Free Software](#) model has been evolving over the past 20 years into a multi-billion dollar industry for which Gartner Group [expects an adoption rate of 100%](#) before the end of this year. We would therefore submit that Free Software has already arrived in the mainstream of the industry, and suggest that while it is still the fastest growing model, it might no longer be emerging.

Thank you, Mr Chair.

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*A digital version with links to references studies and information is available upon request,
all [FSFE](#) statements also available at <http://fsfeurope.org/projects/wipo/>.*