Is a govt FRAND standard a steath tax?

Government and Open Standards are back in the news where we were quoted:

The Cabinet Office is supposed to be the strategic arm of government, but it needs an overarching strategy on open standards if open source is to work. If this can be done then the benefits are clear, interoperability will save money over time.

The government has produced studies in interoperability, and it is clear that it works throughout the economy in general in helping drive prices down. But it has shyed away from explicitly referring to the IT sector.

This has meant that there has been no compulsion for those not already interested in open standards to allow for them."

Last week we learned at TransferSummit that the government is working on a new definition of open standards and hopes to publish it by the end of the year.

What I don't understand is what was wrong with the old one, even though it only lasted three months.

In January 2011, only nine years after the government first indicated might need such a definition more detail here (registration required) the government published a policy procurement note which for all its lack of teeth contained as good a definition of open standards as one might hope for, looking for all the world as if had been copied from the FSFE website

If the government adopts any policy that opens the door to royalties for standards then it would be interesting to know whether they have considered that this could constitute the imposition of a new tax.

We were informed by a government answer to an FOI request that the debate on open standards was raging in the press and with lobbying organisations so we find ourselves wondering if FRAND is back on the table. We were not reassured by the answer to a
Parliamentary Question on open standards from which we learnt that:

The Government require that their ICT should be built on open standards, wherever possible, to improve competition and avoid lock-in to a particular technology or supplier.

(don't forget "wherever possible" includes "nowhere")

Fair, reasonable and non-discriminatory (FRAND) specifications may present some difficulties for the open source software development model in terms of patents and royalties.

(not an acknowledgement that FRAND will cause a problem)

To deliver a level playing field for both open source and proprietary software, open standards are needed

This answer does not provide any answer to the question "So what are you going to do then?". Moreover, there more to all this than a level playing field for open source software.

An increasing number of compulsory government interactions, tax returns for example, are only possible online. With perfect symmetry, interacting online for social payments also only works with MS Windows, all of this imposing costs on the user as a result of government intervention

We also know that the government "digital champion" has declared that government should force people online with online the default option

In such circumstances using standards that require the payment of royalties wll create more compulsory costs to users of online government which they will not be able to avoid. To this non-legal eye, such impositions look like a tax. If you are required to pay a levy as a result of government imposition then it's a tax and the total amount has to appear in the National Accounts.

Has anyone in Cabinet Office considered that?

-- Gerry Gavigan, Chair, 16 September 2011

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