



Impact Assessment Institute

The Institute for Impact Assessment and Scientific Evaluation of Policy and Legislation

“Impartial Analysis for Policy Making”

Study scrutinising the

Inception Impact Assessment on:

Common chargers for mobile telephones and other compatible devices -
Ares(2018)6473169

Main Findings

The Impact Assessment Institute has scrutinised the Inception Impact Assessment (IIA) on Common chargers for mobile telephones and other compatible devices. The following are the main findings:

- The IIA is written in a mostly open manner and displays an appropriate level of analysis for this stage in the process.
- The characterisation of the industry's new MoU on common chargers is not fully accurate and leads to a premature conclusion on the most favourable type of initiative.
- In particular, the lack in the MoU of a commitment to provide adapters to a common charger should be recognised as the main issue to be analysed.
- The IIA overstates the extent of the Commission's prerogative to adopt measures to achieve harmonisation.
- The policy options and preliminary assessment of impacts are generally appropriate for this stage of a potential initiative.
- The potential for a non-regulatory approach to achieving interoperability requires full and balanced assessment in an equivalent manner to the options of a delegated act and ordinary legislation.

Visualisation

The following table provides a visual overview of the results of this report for each element of the evidence presented in the Impact Assessment, using an assessment from 1 to 7 to indicate the level of confidence (1 = highest, 7 = lowest confidence level).

Element	Assessment level & description (1...7)	Notes
Rhetoric	4 Concerns identified with analysis and/or evidence	The text focuses on the aspects of the status which point towards the need for EU intervention without fully balancing the main arguments.
Assumptions	4 Concerns identified with analysis and/or evidence	The characterisation of the new MoU and the underlying legislation omits some key elements.
Background data	2 Minor questions identified on analysis and/or evidence	The limited data presented derives from the ex-post study on the MoU and is sufficient for this stage of the initiative.
Analysis	2 Minor questions identified on analysis and/or evidence	The assessment of impacts remains appropriately open, with only two minor omissions identified.
Results	4 Concerns identified with analysis and/or evidence	The assertion of the Commission's powers to impose a solution indicates a possible predisposition to this option. The validity of the assertion itself is also in question.
Conclusion		

Key to assessment levels

1	2	3	4	5	6	7
Correct analysis, fully evidenced	Minor questions identified on analysis and/or evidence	Several questions identified on analysis and/or evidence	Concerns identified with analysis and/or evidence	Substantial concerns identified with analysis and/or evidence	Serious concerns identified with analysis and/or evidence	Incorrect analysis / evidence absent

1. Introduction and General Comments

This study scrutinises the European Commission Inception Impact Assessment (IIA) on Common chargers for mobile telephones and other compatible devices, published on 15th December 2019.

2. Section A. Context, Problem definition and Subsidiarity Check

The context of the initiative, in particular the expired 2009 memorandum of understanding¹ (MoU) on common chargers and two subsequent letters of intent (2013 and 2014), is clear and relevant and is a legitimate precedent for considering a new initiative.

The problem definition refers to a new industry MoU in March 2018², stating “proprietary solutions were proposed together with the previous USB 2.0 Micro B and the new USB Type C solutions” and the proposals “...did not however guarantee full interoperability between mobile phones.” This is the justification for proposing EU action to harmonise chargers.

The language in the problem definition partly describes the current situation but also omits some key details. It is correct that three solutions are proposed, which could limit interoperability. However the MoU clearly states that the industry’s commitment is to move towards USB Type-C as the common standard, which would imply phase-out of type-B. The presence of the legacy product on the market is a natural consequence of a phase-out.

It should be noted that for vendor-specific connectors the move towards Type-C refers to the power supply end not the device end, thereby not ensuring compatibility. There is no mention in the MoU of adaptors to ensure compatibility across all devices, in contrast to the original MoU.

The text further states “the introduction of the USB Type-C socket does not appear to provide any technical advantages to justify maintaining of proprietary solutions”. There is no reference to evidence or studies supporting this assertion, only a list of the relevant technical parameters without explicit data. The ex-post study on the impact of the MoU³ itself stated “several stakeholders have noted that the rapidly increasing power of modern smartphones means that it is in need of updating”, thereby acknowledging the potential need for new solutions.

In summary, the main difference in terms of the primary objective of interoperability in the new MoU compared to the original is the lack of the commitment to provide an adapter to a single standard connector. This is the key understanding that needs to be considered when determining whether and in what form EU intervention should be taken. In particular the move towards Type-C connectors requires further technical investigation.

The text appears to identify correctly the main issues of interoperability and increase in e-waste in the case a proliferation of charger types should occur.

¹ “MoU regarding Harmonisation of a Charging Capability for Mobile Phones”, 5th June 2009, <http://ec.europa.eu/DocsRoom/documents/2417/attachments/1/translations>

² “Memorandum of Understanding on the future common charging solution for smartphones”, 20th March 2018, <https://www.digitaleurope.org/resources/memorandum-of-understanding-on-the-future-common-charging-solution-for-smartphones/>

³ “Study on the impact of the MOU on harmonisation of chargers for mobile telephones”, 22nd August 2015, RPA, <http://ec.europa.eu/DocsRoom/documents/7432/attachments/1/translations>

2.1. Basis for EU intervention

The discussion on the justification for EU intervention correctly identifies the EU level, as opposed to the national one, as the appropriate one for this highly globalised industry, in case it is determined that such intervention is necessary. However, the statement that “In order to avoid fragmentation of the chargers internal market, EU action is needed to achieve a single market in this field” would need to be substantiated through a full assessment and consideration of alternative measures. The undertaking that “the proposed measures will not go beyond what is necessary in order to achieve those objectives” should be faithfully realised in determining the form and content of any future initiative.

The text refers to the Radio Equipment Directive and specifically Art 3(3)a on “...accessories, ...in particular common chargers.”, stating that this “empowers the Commission to impose harmonised solutions.” According to the text of the Directive, the Commission is empowered to adopt delegated acts to specify which categories or classes of equipment are concerned by the Article’s requirements, in particular the one to “...interwork with common chargers”. This does not explicitly empower the Commission to impose solutions, only to specify the categories/classes subject to the requirement (with the act also being subject to scrutiny of the Member States and European Parliament). The path towards a Commission initiative to harmonise the chargers is not as explicit as suggested and is open to interpretation.

The application of the ordinary legislative procedure under Article 114 TFEU, as further discussed in the text, would appear to be an appropriate legal basis for proceeding if deemed necessary.

Alongside these options, the potential of a non-regulatory initiative should be assessed. Since the main drawback of the MoU, as identified above, is the lack of interoperability between charging solutions, a simpler measure would seek to correct this aspect. This could potentially be achieved without ordinary or delegated legislation. In practice this could refer to a potential voluntary approach with enhanced cooperation with industry.

3. Section B. Objectives and Policy options

The objective is written very briefly, highlighting the main aims of limiting fragmentation and not hampering “technological evolution”. At this stage in the process it appears to be appropriate to use this broad framing language.

The three policy options include the full range from no action to regulation, again providing a suitably open path for an initial roadmap. The text also remains open to existing and potentially other technical scenarios and to considering devices other than smartphones, which may also be relevant.

4. Section C. Preliminary Assessment of Expected Impacts

This section summarises a number of potential impacts, without reference to evidence or studies. At this stage in the process this is valid, since the text does not project definitive impacts, only apparent ones. In future assessment it is necessary to remain fully open to impacts other than those mentioned here.

4.1. Likely economic impacts

In addition to economic impacts on manufacturers of mobile phones and of chargers, the impacts on consumers should also be considered since eventual cost increases or savings can be expected to be at least partially enjoyed or borne by purchasers of the equipment.

4.2. Likely social impacts

The added consumer convenience of standard chargers is almost by definition the main benefit expected from this initiative, which has already been experienced due to implementation of the current agreement.

The possibility that a common charging socket decreases quality should additionally be considered. With competition facilitated, many entrants are enabled to enter the market, with some offering ultra-low-cost but potentially also low-quality or counterfeit products, as identified in the ex-post study on the MoU.

4.3. Likely environmental impacts

The environmental impacts appear to be reasonably identified, pending full assessment.

5. Section D: Evidence Base, Data Collection and Better Regulation Instruments

The section on impact assessment should provide an overview of the resources and Commission services to be involved in the assessment.

The evidence base refers in particular to the ex-post evaluation of the MoU from 2014. This was a broad study, which identified benefits and drawbacks on the implementation of the MoU and made an initial assessment of future policy options. Due to the time elapsed since then and the fact that the MoU expired in 2014, the results should not be used as the main basis for the ongoing assessment. In particular, the market reaction during the time after expiration of the MoU should be studied in depth, to determine manufacturers' behaviour without an agreement in place and the implications of this for setting policy.

The public and targeted consultations appear to be sufficiently comprehensive. Since a key impact of this initiative is that on consumer convenience, which cannot be fully empirically measured, assessment of consumers' opinions will be a valuable input. This should not be done on the basis of the public consultation, since those individuals and organisations voluntarily responding to a policy questionnaire cannot be expected to be representative of all consumers, the users of mobile phones. Well-designed polling based on statistically robust samples will be necessary to provide adequate evidence on this point.

Annex 1: Accompanying statement

This report has been written according to the guiding principles of the Impact Assessment Institute: transparency, objectivity, legitimacy and credibility. It analyses the subject matter from a purely factual and scientific point of view, without any policy orientation. In respecting these principles it has been compiled following its written Study Procedures.

The analysis is open to review and criticism from all parties, including those whose work is scrutinised. Contacts with all relevant parties are recorded to ensure transparency and to guard against “lobbying” of the results.

By its nature the report has a critical characteristic, since it scrutinises the subject document with its main findings entailing the identification of errors, discrepancies and inconsistencies. In performing this work, the intention of the report is to be constructive in assisting the authors of the subject document and its background information as well as all relevant stakeholders in identifying the most robust evidence base for the policy objective in question. It should therefore be seen as a cooperative contribution to the policy making process.

This report is also to be considered as a call for additional data. Peer review is an essential step laid down in the procedures of the Impact Assessment Institute and this is manifested in the openness to further review and to identify new data. Even at publication of the final version, the report explicitly requests additional data where the readily available data was not sufficient to complete the analysis, and is open to newly arising data, information and analysis.