



The American National Standards Institute
1899 L Street, NW
11th Floor
Washington, DC, 20036

Re: Proposed Changes to ANSI Essential Requirements Related to Conflict and Duplication within the ANSI Process (ExSC 8096)

Dear Secretary:

These comments are submitted on behalf of the Telecommunications Industry Association's (TIA) Standards & IPR Policy Committee (SIPC) concerning the American National Standards Institute's (ANSI) proposed changes to its Essential Requirements.

Based on its own experience as a standards developer, TIA believes that the current language in the ANSI *Essential Requirements* has been effective and works well in minimizing conflict and duplication.¹ To that end, TIA and its members support efforts by ANSI Accredited Standards Developers (ASDs) to foster cooperation and information-sharing with regard to their standardization projects in an effort to minimize unnecessary conflict and duplication. However, TIA questions the need for the proposed changes to the *Essential Requirements* as reflected in ExSC 8096, and respectfully requests that ANSI provide additional explanation that would justify these new, additional requirements, and also provide supporting examples.

From the perspective of the Information and Communications Technology (ICT) industry, TIA wishes to express concerns regarding the proposed "good faith" effort requirements on ASDs to "minimize unnecessary duplication" of standards absent a proven, "compelling need" (e.g., Section 2.4.3). These proposed requirements will (1) hamper the ability of ICT ASDs to respond in a timely manner to rapidly changing market demands, (2) chill innovation in the ICT standardization system, and (3) create a potential for

¹ In section 2.4.2 of the current ANSI *Essential Requirements*, ANSI-Accredited Standards Developers are required to "make a good-faith effort to resolve potential conflicts and to coordinate standardization activities intended to result in harmonized American National Standards." A good faith effort "shall require substantial, thorough and comprehensive efforts to harmonize a candidate ANS and existing ANSs. Such efforts shall include, at minimum, compliance with all relevant sections of these procedures. Developers shall retain evidence of such efforts in order to demonstrate compliance with this requirement to the satisfaction of the appropriate ANSI body." TIA believes that this and other relevant sections of the *Essential Requirements* sufficiently address potential conflict and unnecessary duplication issues.



anticompetitive behavior in several ways. For these reasons, TIA believes that the proposed requirements would have adverse implications for ICT standardization by ASD's.²

I. Introduction

TIA represents a large number of information and communications technology companies and organizations in standards, government affairs, market intelligence and product-oriented environmental compliance. A major function of TIA is the writing and maintenance of voluntary industry standards and specifications, as well as the formulation of positions for presentation on behalf as the United States National Body in international standards fora. TIA is accredited by ANSI to develop voluntary industry standards for a wide variety of telecommunications products and sponsors more than 70 standards formulating committees. These committees are made up of over 1,000 volunteer participants, which include representatives from manufacturers, service providers and end-users, including the government. TIA's SIPC is focused on, among others, policy issues related to the ICT standardization system.

II. Proposed Rules will Decrease the Ability of ICT Standards to React to Market Demand

U.S. industry competitiveness depends on standardization, particularly in sectors such as ICT that are dynamic and technology-driven. As the U.S. Patent & Trademark Office has noted, the U.S. is a market-driven, highly diversified society, and its standards system encompasses and reflects this framework, which extends to adoption of standards.³ TIA agrees, and specifically notes that both the U.S. and international ICT standards systems have experienced tremendous growth, development and diversity.

The success of the standards produced by an ICT ASD should not be based upon processes or procedures, but rather should primarily be a result of a number of market-based ICT factors (such as responsiveness to different customer needs, effectiveness of the standard and associated technologies, etc.) that impact ultimate acceptance by industry. Giving one standard some level of priority over another in the same technology area based on which one was finalized first will adversely impact the flexibility, competition and choice that fuel the ICT industry and help bring new innovative solutions to the marketplace.

² TIA does support the proposed change to Section 2.5.1.1, which provides a helpful clarification to the effect that a PINS form may be submitted, but is not required, at the initiation of a project to reaffirm or withdraw an American National Standard.

³ See World Intellectual Property Organization (WIPO) Standing Committee on the Law of Patents, Statement of the United States Patent & Trademark Office (March 25, 2009) available at <http://publicaa.ansi.org/sites/apdl/Documents/Standards%20Activities/Critical%20Issues/Open%20Standards/USPTO-WIPO-Statement.pdf>



Section 2.4.3 proposes that ASDs be required to conduct “a preliminary comprehensive review of existing projects to ensure that the contemplated project does not conflict with or duplicate a previous one,” as well as “outreach to other SDOs involved in similar areas to ensure that a standard does not already exist or is under development.” The proposed requirements on ASDs in Section 2.4.3 will likely have a negative impact on the dynamic ICT standards ecosystem by requiring ASDs to prove a “compelling need” for multiple standards in the same technology area.

Within the ICT sector multiple standards are often needed within the same technology area in order to provide choice, address different user requirements, or respond to marketplace needs (such as home networks, cellular standards, database access models, document formats, Web programming models, and digital image and media formats). While the proposed new ANSI requirements may have a negative effect on standard setting activities in general, these proposed burdens will have a particularly inflated effect on ICT standardization due to the fast-paced nature of this sector’s development. TIA submits that it is the ICT market – not ANSI’s *Essential Requirements* – that should primarily determine which standard or standards are adopted and used in the industry. If ANSI adopts procedures that undercut the ability of ASDs in the ICT industry to quickly react to market demand, this may discourage such ASDs’ involvement in the ANSI process. The current procedures in the ANSI *Essential Requirements* to reduce unnecessary conflict and duplication have worked and are sufficient to encourage coordination among ICT ASDs when appropriate.

III. Proposed Rules will Decrease Diversity and Interoperability in Standardization for ICT Sector

Competition and diversity among standards bodies has resulted in a dynamic ecosystem that is very valuable to the ICT industry sector. By allowing for multiple standards in the same sectors of ICT, increased choice has allowed for the market to drive innovation, facilitated by interoperability.

Imposing mandatory burdens on ASDs such as those under Section 2.4.3 will minimize the number of interoperable technologies that are made available as a direct result of ASD work in the ICT sector. In this way, the proposed policies in Section 2.4.3 will have a damaging effect on the ability of the ICT sector to meet market demands and permit new, innovative solutions to come forward. This likely will have the effect of creating disincentives for participation in ICT standardization by ASDs, and may drive more of the ICT industry to other standards-setting venues.



IV. Proposed Rules will Inhibit Standards Development for ICT Sector due to Increased Administrative Burdens

In addition, the proposed language will inflate the amount of time, effort, and ultimately, expense, to ultimately develop a standard. The increased time and expense to develop standards under the ANSI process likely will have a chilling effect on the willingness of ASDs to participate in the ANSI process. Increased time to develop standards in the ANSI process also likely will hinder these ASDs ability to produce ICT standards in response to a rapidly changing ICT marketplace and competitive ecosystem. Therefore, TIA strongly opposes burdening ASDs with the proposed duties in Sections 2.4.3 and 2.5.1.3.

TIA urges ANSI to examine, for example, ICT home networking standards. As ANSI is aware, there are a multitude of such home networking standards in existence, and there continues to be significant growth in this area of ICT standardization. Under the current framework, ASDs involved in this area of technology are able to respond to market demand as quickly as possible while at the same time complying with necessary ANSI procedures, and produce relevant standards. ANSI's current framework therefore allows for the market to determine which standard(s) are adopted for certain uses, and allows for the most effective and innovative associated technologies to be diffused with minimal administrative burdens. Mandating "comprehensive review" of the work of other ASDs and further coordination with those ASDs before being able to undertake development of standards in the ANSI process will drastically increase the administrative burden on ASDs and will slow down standardization and technological innovation. Such processes will inhibit the U.S. formal ICT standardization system from continuing to evolve and thrive, as it has done for nearly 50 years, and could potentially result in an ASD choosing to simply develop their standard outside of the ANSI process.

V. Proposed Rules in Section 2.4.3 May Have Unintended Consequences

TIA wishes to express a concern regarding the effect the proposed language in ExSC 8096 could unintentionally create. Namely, such processes could create a "race to be first" incentive, or in other words, one ASD could, by virtue of publishing an ICT standard before any others in a general technology area, seek to preclude further standards development in that area by other ASDs. TIA submits that this approach could have an adverse impact on the ability of ASDs to compete and develop standards in the same technology area that may address different user needs. This in turn could further inhibit innovation in the ICT standards development system and the ability of new standards solutions to compete in responding to changing marketplace needs. It is not clear how this proposal would be to the advantage of ANSI-accredited ASDs in the ICT sector and their stakeholders.



VI. Conclusion

TIA supports the current approach outlined in the ANSI *Essential Requirements* to address conflict and duplication issues and has found it to be effective. That approach, while requiring ASDs to share information and consult each other (with input from their stakeholders), adds value while not unduly burdening ASDs or disrupting the dynamic ICT standardization ecosystem. If this new language is adopted, however, it will be to the detriment of the ASDs in the ICT industry and the stakeholders they serve. For the reasons detailed above, TIA urges ANSI to reconsider the new proposed requirements regarding conflict and duplication and the unintended delay and consequences which may result.

Respectfully submitted,

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