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Problem Solvers to the Telecommunications Industry

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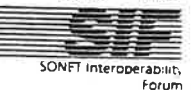
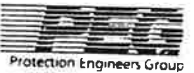
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April 11, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

Re: GC Docket No. 96-42 Implementation of Section 273(d)(5)
of the Communications Act of 1934 as amended by the
Telecommunications Act of 1996 - Dispute Resolution
Regarding Equipment Standards.

Dear Mr. Caton:

Enclosed herewith please find an original and eleven (11) copies of
the reply comments of the Alliance for Telecommunications
Industry Solutions, Inc., in the above-referenced proceeding.

If you have any questions, please call me at (202) 434-8828.

Sincerely,

Susan M. Miller
Vice President and General Counsel

cc: International Transcription Services

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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APR 11 '96

COMMUNICATIONS COMMISSION

In the Matter of

Implementation of Section 273(d)(5))
of the Communications Act of 1934)
as amended by the Telecommunications)
Act of 1996 - Dispute Resolution)
Regarding Equipment Standards)

GC Docket No. 96-42

REPLY COMMENTS OF THE
ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY SOLUTIONS INC.

Susan M. Miller, Esq.
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April 11, 1996

In the Matter of

**Implementation of Section 273(d)(5))
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**REPLY COMMENTS OF THE
ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY SOLUTIONS, INC.**

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**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

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Act of 1996 - Dispute Resolution)	
Regarding Equipment Standards)	

**REPLY COMMENTS OF THE
ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY SOLUTIONS, INC.**

The Alliance for Telecommunications Industry Solutions ("ATIS") submits these reply comments in connection with the Notice of Proposed Rulemaking in the above-referenced proceeding, released on March 5, 1996 (the "NPRM"), and specifically in response to the Commission's proposal that, pursuant to Section 273(d)(5) of the Communications Act, "binding arbitration" is to be used as a default dispute resolution process by non-accredited standards development organizations that set industry-wide standards and generic requirements for manufacturing telecommunications equipment.¹ These reply comments also address certain points raised in the initial comments submitted by other parties on April 1, 1996, in response to the NPRM.²

¹ NPRM, at ¶ 4.

² Comments were filed by Bell Atlantic, Bell Communications Research, Inc. ("Bellcore"), BellSouth, Corning Incorporated ("Corning"), Telecommunications Industry Association ("TIA"), and U S West.

In sum, ATIS submits that: 1) binding arbitration would not be an appropriate default dispute resolution process in the context of the development of telecommunications standards; 2) an ANSI-styled, consensus-based dispute resolution process internal to non-accredited standards development organizations would be the most appropriate default dispute resolution process; and 3) ATIS does not support the proposal of Corning because it would permit the undermining of the ATIS-sponsored Committee T1's procedures and work efforts and would improperly change the relationship of ANSI to accredited standards development organizations such as Committee T1.

I. INTRODUCTION

ATIS (formerly the Exchange Carriers Standards Association) has as its primary purpose to promote the timely resolution of national and international issues involving telecommunications standards and the development of operational guidelines. ATIS pursues this purpose through the sponsorship and support of fifteen (15) open industry committees and forums that address such issues as network interconnection, open network architecture, network outage analysis, installation, testing and maintenance, ordering and billing, toll fraud prevention, and electronic data interchange. They include the American National Standards Institute ("ANSI")-accredited standards Committee T1-Telecommunications ("Committee T1"), which develops American National Standards for network interfaces, as well as the Carrier Liaison Committee ("CLC"), which seeks to resolve, through consensus procedures, access and network interconnection issues arising on an industry-wide basis. ATIS also sponsors and supports, inter alia, the Information Industry Liaison Committee ("IILC"), which addresses industry-wide concerns about the provisions of open network architecture services, and the Telecommunications Industry Forum

("TCIF"), which gives practical application to standards on electronic data interchange, bar coding and standard coding language, as well as the development of implementation of guidelines on electronic bonding for the telecommunications industry.³

Each of these committees and forums, as well as the others sponsored and supported by ATIS, have adopted their own internal dispute and appeals resolution processes based upon consensus principles. As part of these processes, efforts are made to resolve negative views or dissenting comments which may be asserted by an interested party. But even in the event that the negative view cannot be resolved or the party chooses to maintain the negative, it does get considered, and the consensus process permits closure on the technical issue at hand in a timely manner so that industry participants can most effectively benefit from the ATIS committees' or forums' work.

II. BINDING ARBITRATION IN THE TELECOMMUNICATIONS STANDARDS CONTEXT WOULD BE INAPPROPRIATE.

Based upon its experience as the sponsor of accredited Committee T1 and other telecommunications industry committees and forums, (all of which have open, consensus-based procedures and dispute resolution processes), ATIS agrees with the comments submitted in this proceeding that binding arbitration is not an appropriate dispute resolution process in the telecommunications standards development context.⁴ Binding arbitration would not be consistent with the principles of consensus dispute resolution because any arbitration result will likely have

³ See Attachment A for a complete overview of the ATIS-sponsored committees and forums.

⁴ See comments of Bell Atlantic, at 2; comments of Bellcore, at 4; comments of BellSouth, at 2; comments of Corning, at 5; comments of TIA, at 2; and comments of U S West, at 2.

implications far beyond the parties specifically subject to the arbitration. Furthermore, ATIS questions whether neutral and knowledgeable arbitrators could be found to resolve what are typically highly complex technical issues. It is also questionable whether an arbitration procedure could be accomplished within the 30 day statutory period required by Section 273(d)(5) of the Communications Act.

III. A CONSENSUS-BASED, ANSI-STYLE PROCEDURE INTERNAL TO NON-ACCREDITED STANDARDS DEVELOPMENT ORGANIZATIONS WOULD BE APPROPRIATE.

For purposes of the NPRM, ATIS submits that an alternate dispute resolution process based upon principles of due process, openness and consensus, and modeled upon the procedures of the ANSI, would be most appropriate. In this regard, ATIS would support a process whereby any dissenting technical view would be escalated within the non-accredited standards development organization in which the standard or generic requirement was developed, for the purpose of developing a consensus regarding its technical merit. If a consensus of all relevant parties is developed, either in favor of the dissenting view or in opposition to it, the dispute should be considered resolved. A procedure of this type could be accomplished on an expedited 30 day basis.

ATIS does not support the adoption of the proposal by Corning.⁵ Most significantly, a procedure such as Corning's would permit "end-runs" around the carefully formulated and balanced processes of accredited standards development organizations such as Committee T1, particularly because T1's procedures would not accommodate the statutorily mandated 30 day

⁵ ATIS does not read the Corning proposal as narrowly as Bellcore (see Bellcore Comments at 19 n.14), and believes the proposal, if adopted, would impact ATIS-sponsored Committee T1.

review period of Section 273(d)(5) and still provide the opportunity for all interested parties to comment upon the matter. For example, each technical contribution or matter raised in Committee T1 is addressed through a letter ballot process at the working group level, the subcommittee level, and the full Committee T1 level. Any party with a direct and material interest in the matter at issue is free to comment upon the matter, and any negative or dissenting comments are addressed through a process which allows all other participants to consider the comments. In some instances, the negative or dissenting comments are accommodated in revisions to the standard at hand, and sometimes they are not. The process just described may take as long as several months until the matter obtains consensus approval by the entire Committee T1. In very few cases, if any, has the matter been resolved in less than 30 days. Thus, it would appear to be difficult, if not impossible, to complete any default dispute resolution process within the 30 day statutory period.

In addition, under the Corning proposal, non-participants in Committee T1 would be provided a “short-cut” for obtaining the imprimatur of Committee T1 approval, simply by raising a dispute on the matters being discussed in other non-accredited standards organization. The complaining (i.e., funding party) party could then identify Committee T1 as the “appropriate, ANSI-accredited SDO,”⁶ and seek resolution of its dispute by the Committee T1 technical subcommittee wherein the expertise resided to address the matter. Assuming the matter was referred to a T1 technical subcommittee that was even familiar with the subject matter at hand, that subcommittee’s meeting schedule might not permit a resolution within 30 days. The subject

⁶ See Corning Comments at 7. What would constitute an “appropriate” or “relevant” accredited SDO under the Corning proposal is not clear.

matter might have to be further referred to a technical working group of the subcommittee for consideration. In any event, under Committee T1's procedure, standards are not ultimately approved as a final matter at the technical subcommittee level, but require approval by the full Committee T1. Any short-cutting of this requirement would undermine the open, due process-based consensus approach that has allowed Committee T1 to achieve the results it has to date.

Further, since pursuant to Section 273, disputes can only be raised by a "funding party," whether the disputant is in fact a "funder" of the technical matter at hand would require disclosure. Such information does not typically get disclosed in industry activities, whether accredited or non-accredited. Nor does it seem appropriate information in this setting. And, even if such disclosures were agreeable to all participants, it is not clear who would be considered a "funding party" or what the criteria are for that status.

Moreover, the Corning proposal could significantly alter the relationship between ANSI and accredited organizations such as Committee T1. The Corning proposal could be read to make ANSI the decision making party for the assignment of specific issues to an accredited committee, in essence, have ANSI direct where such disputes should be resolved, rather than leaving it to the consensus of the membership of each such committee to make any determinations regarding the scope of the committee's work. This type of change would also undermine the essence of Committee T1. It would displace industry as the force behind the development of telecommunications standards and replace it with a centralized decision maker that may or may not have any knowledge of the technical issues at stake. Moreover, while ANSI's expertise lies with the consensus-based process that it supports and advocates, to place it in a position whereby it directs its accredited committees and organizations to hear certain disputes oversteps the role

that was contemplated for ANSI.

IV. CONCLUSION

For the foregoing reasons, ATIS submits that the Commission's proposal of binding arbitration is inappropriate in the instant context, and that instead an open, consensus-based procedure internal to the non-accredited organizations should become the default dispute resolution process for purposes of Section 273(d)(5) of the Communications Act. ATIS believes that the proposal of Corning poses significant issues whose outcome could negatively impact both accredited and non-accredited standards organizations.

Respectfully submitted,



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Vice President and General Counsel


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April 11, 1996

Committees

Standards and Guidelines Activities

**Standards Committee
T1 - Telecommunications**



T1A1
Performance and Signal Processing
Network Survivability
Multimedia Communications

T1E1
Power Systems Power Interface
Analog Access
Wideband Access
Electrical Protection


T1M1
Internetwork Planning/Engineering
Testing and Operations Systems and Protocols

T1P1
Personal Communications
Wireless Access and Terminal Mobility
Program Management and Standards

T1S1
Architecture and Service
Switching and Signaling Protocols
Broadband ISDN

T1X1
Synchronization Interface
Meta-data: Optics Hierarchical Interfaces

Carrier Liaison Committee



Network Operations Forum
Installation, Testing and Maintenance
Network Management
SS7 Network Testing
Toll Fraud Prevention

Industry Carriers Competibility Forum
Industry Numbering Committee
Data Integrity Group
LARG Users Group

Ordering and Billing Forum
Access Ordering Provisioning/Billing
Carrier Selection and Subscription
800/888 SMS Number Administration

Telecommunications Industry Forum



Bar Code
Bar Code Label Specifications
Product Package Guidelines

Information Product Interchange
Standard Generalized Markup Language
Technical Illustrations Interchange

Standard Coding
Product Identification Nomenclature Guidelines
Telecommunications Industry Product Identifier

Electronic Data Interchange
Data Interchange Standards
EDI Guidelines

Electronic Commerce
Electronic Communications
Re-engineering Business Processes


Electronic Communications Implementation Committee
Interactive Electronic Information
Implementation of Electronic Communications

Information Industry Liaison Committee




Open Network Architecture
CNA Services User Guide
Evolving Network Services Architecture

Protection Engineers Group




Electrical Protection Equipment
Arrester Unit Standards and Specifications

**Standards Committee 05
Wood Poles and Products**




Wood Crossarms and Timber for Utility Structures
ANSI Standards for Wood Poles Crossarms and Braces

Network Reliability Steering Committee




Analyze Network Outages
Initiate Corrective Action
Industry/FCC Reports
Liaison with Network Reliability Council

Electronic Communications Service Provider Committee

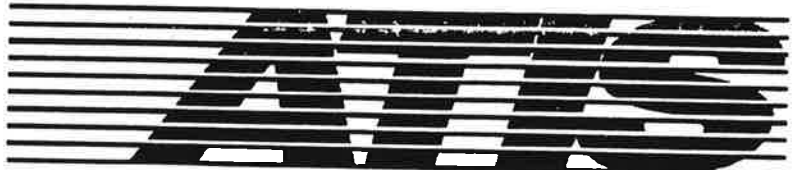


Liaison with Law Enforcement Agencies on Network Technology and Court Authorized Electronic Surveillance

SONET Interoperability Forum



Resolution of interoperability issues to Allow Widespread Deployment of Synchronized Optical Networks (SONET)



Alliance for Telecommunications Industry Solutions

Problem Solvers to the Telecommunications Industry

CERTIFICATE OF SERVICE

I, Vermel Allen, certify that this 11th day of April, 1996, I mailed, First Class mail postage prepaid, copies of the foregoing "Reply Comments of the Alliance for Telecommunications Industry Solutions, Inc." in GC Docket No. 96-42, to the parties on the attached service list.


Vermel Allen

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