



To: The European Commission, DG Enterprise and Industry  
Submitted by: The Internet Architecture Board (IAB) on behalf of the Internet Engineering Task Force (IETF)  
Re: Comments on White Paper: Modernising ICT Standardisation in the EU – The Way Forward (White Paper)  
Date: August 28, 2009

Ladies and Gentlemen,

As both a leadership committee of the Internet Engineering Task Force (IETF) and an advisory body to the Internet Society (ISOC), the Internet Architecture Board (IAB) responsibilities include architectural oversight of IETF activities and the Internet Standards Process, including policies for many protocol parameters administered by IANA. The IAB also acts as a representative of the IETF in liaison relationships with outside organizations. It is in the context of this liaison role that the IAB is responding to your request.

The IAB applauds the Commission's effort to review and enhance standards-development processes in the European Union. Although the IETF is a global organization, many IETF participants are based in, or have a significant market presence, in Europe. The leadership of both the IETF and the IAB have European representation, and the IETF itself has conducted numerous of its meetings in Europe, including its most recent meeting in Stockholm and a forthcoming meeting in Maastricht. Further, many of the standards that today drive consumers interest in the Internet are the result of research and development in Europe, such as the World Wide Web that has its roots in research at CERN.

As such, the IETF and IAB are gratified by the Commission's recommendation, contained in Chapter 2.5 of the White Paper, that the work of international standards fora such as IETF be recognized more broadly among European standardisation organisations (ESOs), and that IETF standards be eligible for referencing by ESOs. We believe that such recognition can only lead to improved technical solutions and standards for the benefit of all.

We would like to point out, however, that the Commission's specific recommendation concerning the referencing of standards produced by fora such as IETF, which is contained in Recommendation (h) of the White Paper, may require slight modifications in order to enable the greatest level of compatibility with the IETF. Recommendation (h) states, in its entirety:

- (h) The Commission suggests enabling the referencing of specific fora and consortia standards in relevant EU legislation and policies subject to a positive



evaluation of the standard and the forum or consortium processes *with regard to the attributes list as described in Chapter 2.1.* (emphasis added)

The IETF embodies, and has been a leader in implementing, many of the attributes that the Commission recommends for ESOs in Chapter 2.1, including openness, consensus decision making and transparency of both technical and administrative deliberations. Likewise, IETF standards reflect most of the attributes recommended by the Commission, including public availability, relevance, neutrality, stability and quality.

In two limited cases, however, the history and nature of the IETF and its participants have caused a divergence from the Commission's recommended attributes. We would like to explain the reasons for this divergence and suggest that the Commission consider the necessity for these attributes in its recommendation, both as to IETF specifically, and as to other fora and ESOs, in general.

## Seeking Participation of Stakeholders

The first divergence occurs in Chapter 2.1, Recommendation (3) relating to "balance" in the standardisation process. This Recommendation reads:

(3) Balance. The standardisation process is accessible at any stage of development and decision making to relevant stakeholders. *Participation of all interested categories of stakeholders is **sought** with a view toward achieving balance.* (emphasis added)

The IETF is an open, voluntary organization, accessible at any stage of development and decision making to relevant and informed parties. Participants are self-selecting and engage in IETF standardisation activities because of their interest, whether technical, academic or commercial, in the subject matter. In practice, given its focus, IETF participants tend to be engineers, protocol designers, academics, and network operators.

As such, the IETF embodies the true nature of open and accessible processes, anticipating participation from all relevant stakeholders, without presuming to identify or seek them out, recognizing that self-identification is often most accurate.

The IETF and IAB exert no control over the nature or identity of participants in IETF activities (other than rare instances in which participation privileges of disruptive individuals are suspended or terminated). While, as a technical matter, the IETF might not be viewed as conforming with the final sentence of Recommendation (3), due to the open nature of IETF participation, we believe that IETF activities, deliberations, and (rough) consensus based decisions are, in fact, quite balanced and reflective of the views, sometimes vastly divergent, of all relevant constituencies. As stated in the IETF



Mission Statement (RFC 3935 [1]), “any interested person can participate in the work, know what is being decided, and make his or her voice heard on the issue.” We believe that this sentiment, which constitutes one of the core values of the IETF, results in greater balance than could ever be achieved through top-down management.

Where the IETF does seek interest explicitly is in collaboration with other SDOs. The IETF took the initiative to implement a so-called “new-work” announcement list (at the moment implemented via email) where SDOs, including the IETF, announce when new work items are added. This outreach enables SDOs to collaborate and coordinate at as early a stage as possible, and to detect and resolve potential overlap and conflict between work items of the SDOs. In many cases, such overlap is resolved by explicit identification of the responsible SDO, and agreement on how collaboration between the SDOs is to work during the development of the standard.

## **Intellectual Property Rights**

The second area of divergence between the IETF’s practice and the Commission’s recommendations occurs with respect to Chapter 2.1, Recommendation (3) concerning attributes of standards. This Recommendation reads:

- (3) Intellectual property rights. IP essential to the implementation of standards is licensed to applicants on a (fair) reasonable and non-discriminatory basis ((F)RAND) which includes, at the discretion of the IPR holder, licensing essential IP without compensation.

IETF protocols and standards are embodied in a broad range of Internet-related technologies, from hardware routers and bridges, to personal computers, mobile communications devices, and pure software applications. The developers, vendors and users of these products have different, sometimes widely divergent, views and strategies regarding intellectual property. These differences have arisen historically, as different industries and practices have evolved over the years. The IETF does not dictate the intellectual property policies of its participants. Rather, it requires that participants disclose any intellectual property interests that they may have in IETF standards, whether finalized or under development (see RFC 3979 [2]). Working groups are empowered to consider this information in advancing and modifying affected standards. In many cases, IETF participants commit to license intellectual property that is essential to the implementation of IETF standards on a (F)RAND or explicitly compensation-free basis. However, in some cases this commitment is not made. Working groups can act accordingly and, in some cases, have discontinued work on standards, or substantially changed technical designs, when known intellectual property issues have presented perceived obstacles to broad adoption of a standard. This includes cases where RAND-like licenses have been promised, as there have been



questions as to what “Reasonable” implied in the specific case, and only completely compensation-free solutions have been accepted. As stated in RFC 3979:

In general, IETF working groups prefer technologies with no known IPR claims or, for technologies with claims against them, an offer of royalty-free licensing. But IETF working groups have the discretion to adopt technology with a commitment of fair and non-discriminatory terms, or even with no licensing commitment, if they feel that this technology is superior enough to alternatives with fewer IPR claims or free licensing to outweigh the potential cost of the licenses.

In short, the IETF trusts its open, balanced and transparent processes to arrive at optimal solutions, both technically and with respect to intellectual property.

Again, we applaud the Commission’s efforts toward the modernisation of standardisation in the EU. We look forward to the day when ESOs will be free to adopt and reference IETF standards, and anticipate further opportunities to cooperate with ESOs in standardisation activities of mutual benefit whenever possible within the IETF framework and policies. Please feel free to contact the IAB if you would like to discuss any of the matters raised by this letter, or if you would like to initiate further dialog with the IETF and IAB.

Finally, we would like to refer to the report on Enhanced Cooperation that we recently submitted to the UN [3]. It may contain relevant background information on the IETF and how it cooperates in the global setting.

On behalf of the Internet Architecture Board:

Olaf Kolkman  
IAB Chair

#### REFERENCES

[1] RFC 3935 A Mission Statement for the IETF, H. Alverstrand, <http://tools.ietf.org/rfc/rfc3935.txt>

[2] RFC 3979 Intellectual Property Rights in IETF Technology, S. Bradner (Editor), <http://tools.ietf.org/rfc/rfc3979.txt>

[3] IAB’s response to the UN’s request for a report on Enhanced Cooperation <http://www.iab.org/documents/correspondence/2008-11-26-IETF-response-UN-enhanced-cooperation.pdf>