



*From A to Veck:*  
Standardization and the Law

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## “Open” Means an Open Process in Standards Development Organizations

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# Historical Meaning of “Open”

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- Present historical meaning to set the stage for later discussion
  - ANSI Essential Requirements: Due process requirements for American National Standards
  - Global Standards Collaboration Meeting #10 Resolution GSC-10/04: (Joint) Open Standards
    - <http://www.gsc.etsi.org/>



# ANSI Essential Requirements: Due process requirements for American National Standards

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- 1.1 Openness
- Participation shall be open to all persons who are directly and materially affected by the activity in question. There shall be no undue financial barriers to participation. Voting membership on the consensus body shall not be conditional upon membership in any organization, nor unreasonably restricted on the basis of technical qualifications or other such requirements.



# ANSI Essential Requirements: Due process requirements for American National Standards

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- 1.2 Lack of dominance
- The standards development process shall not be dominated by any single interest category, individual or organization. Dominance means a position or exercise of dominant authority, leadership, or influence by reason of superior leverage, strength, or representation to the exclusion of fair and equitable consideration of other viewpoints.



# ANSI Essential Requirements: Due process requirements for American National Standards

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- 1.3 Balance
- The standards development process should have a balance of interests. Participants from diverse interest categories shall be sought with the objective of achieving balance.



# ANSI Essential Requirements: Due process requirements for American National Standards

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- 1.4 Notification of standards development and coordination
- Notification of standards activity shall be announced in suitable media as appropriate to demonstrate an opportunity for participation by all directly and materially affected persons.



# ANSI Essential Requirements: Due process requirements for American National Standards

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- 1.5 Consideration of views and objections
- Prompt consideration shall be given to the written views and objections of all participants, including those commenting on the PINS announcement or public comment listing in Standards Action.



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- 1.6 Consensus vote
- Evidence of consensus in accordance with these requirements and the accredited procedures of the standards developer shall be documented.





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- 1.7 Appeals
- Written procedures of an ANSI-accredited standards developer (ASD) shall contain an identifiable, realistic, and readily available appeals mechanism for the impartial handling of procedural complaints regarding any action or inaction. Procedural complaints include whether a technical issue was afforded due process. Appeals shall be addressed promptly and a decision made expeditiously. Appeals procedures shall provide for participation by all parties concerned without imposing an undue burden on them. Consideration of appeals shall be fair and unbiased and shall fully address the concerns expressed.



# ANSI Essential Requirements: Due process requirements for American National Standards

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- 1.8 Written procedures
- Written procedures shall govern the methods used for standards development and shall be available to any interested person.



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- 1.9 Compliance with normative American National Standards policies and administrative procedures
- All ANSI-accredited standards developers (ASDs) are required to comply with the normative policies and administrative procedures established by the ANSI Executive Standards Council or its designee.



# Global Standards Collaboration

## Participating Standards Organizations

- ACIF Australian Communications Industry Forum Ltd AUSTRALIA
- ARIB Association of Radio Industries and Businesses JAPAN
- ATIS Alliance for Telecommunications Industry Solutions USA
- CCSA The China Communications Standards Association CHINA
- ETSI European Telecommunications Standards Institute EUROPE
- ISACC ICT Standards Advisory Council of Canada CANADA
- ITU International Telecommunication Union INTERNATIONAL
- TIA Telecommunications Industry Association USA
- TTA Telecommunication Technology Association KOREA
- TTC The Telecommunication Technology Committee JAPAN



# Global Standards Collaboration Resolution GSC-10/04: (Joint) Open Standards

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- Recognizing:
- a) that the issue of how to define “open standards” is gaining attention on a global scale. The reasons for this may differ regionally and are linked to a combination of factors including, but not limited to, policy considerations, legal implications, business strategies and the dynamics of the Information and Communication Technology (ICT) market;
- b) that standards should:
  - facilitate interoperability;
  - support fair trade and fair competition;
  - increase user, consumer, and government confidence; and
  - stimulate innovation



# Global Standards Collaboration Resolution GSC-10/04: (Joint) Open Standards

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- Considering:
- that the characteristics set forth above are achieved through the adoption of certain proven, widely-accepted principles.



# Global Standards Collaboration Resolution

## GSC-10/04: (Joint) Open Standards

- Resolves:
- that the Participating Standards Organizations (PSOs) define an “open standard” to include the following fundamental elements:
  - (1) the standard is developed and/or approved, and maintained by a collaborative consensus-based process;
  - (2) such process is transparent;
  - (3) materially affected and interested parties are not excluded from such process;
  - (4) the standard is subject to RAND/FRAND Intellectual Property Right (IPR) policies which do not mandate, but may permit, at the option of the IPR holder, licensing essential intellectual property without compensation; and
  - (5) the standard is published and made available to the general public under reasonable terms (including for reasonable fee or for free).



# Other Organizations That Apparently Follow “Open” as a Process

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- World Trade Organization
- US Government
- OASIS Consortium

