

Proposed Revision to the ANSI Essential Requirements (ExSC_017_2019)

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by

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INTRODUCTION

In general, I support the intent of most of the proposed changes to the Essential Requirements (ER) contained in ExSC_017_2019 as they help clarify and improve the balance requirements for establishing standards-writing consensus bodies. Based on some 47 years of working both inside and outside the voluntary standards system, I have seen up close what works, and I have seen what does not work. In my view, proper balance is the core underpinning to the success of that system. Moreover, without a proper balance, the resultant standard cannot call itself a consensus standard because its creation did not include the proper mix—i.e., balance—of directly and materially affected stakeholders. This guiding principle must always be adhered to in practice in order for standards granted the status of American National Standard (ANS) to be respected as consensus standards—standards that reflect the needs of society and that adequately improve the quality of life for its citizens.

For those standards that focus on correcting unreasonable risks to the health and safety of end-use consumers, the principle of balance is especially important. Historically, unbalanced committees have too often failed to achieve adequate injury reduction. The time spent on an unbalanced committee thus becomes a wasted opportunity to reduce death and injury to consumers and workers. This is disservice to society, especially if that failure occurred because the committee membership was unbalanced to favor one of the primary interest categories.

In my opinion, balance is always achievable if there is the will to require it. The next revision of the ER is one of those opportunities.

LINES 35-39

I support this new language in general, but I find part of it confusing. I propose changing the language as follows:

¹ Commissioner, U.S. Consumer Product Safety Commission, 1973-82
Technical Director, Senior Vice-President, Consumer Reports, 1982-2005
ANSI Board of Directors, 2006-present

Consensus body members, including consultants, shall normally be classified in accordance with the business or other interests of their employers or the sponsor they represent in connection with the standards development activity. In cases where a consensus body member receives funding from the sponsoring ASD or other entity, that information should be disclosed to demonstrate that funding's impact on the participant's interest classification. For example, when an ASD funds the travel expenses of a consumer representative, that representative should still be classified "User-consumer."

Deleted:
 Deleted: if it will

LINES 41-71

I agree with the general goal this section. It attempts to describe how to classify various stakeholders consistent with the criteria enunciated elsewhere. I propose including Table 1 in the revised ER, which illustrates the manner in which various stakeholders should be classified into the three major interest categories. Table 1 appears on page 4 of this document.

LINES 47-49

I support this new language, but I think it is incomplete as written. I propose adding text to the end of the sentence as follows:

A General Interest category, if one is offered, should include only those whose business or other interests are not covered by a discretely defined category, or those who represent multiple interest categories none of which is financially connected to Business Interest groups either on the committee or off the committee.

This is an important statement, one that underscores the critical role that financial independence plays in the General Interest category.

LINES 55-56

I disagree with the heavy emphasis placed on "requisite technical knowledge" for users. Especially in the User-consumer group, user experience is also an invaluable perspective to provide the committee. Similarly, the risk levels in products and services that are established by the standard need careful scrutiny and acceptance during the standard development process by end users who will be subjected to those risks in complying products. Thus, in my view, the current text is too restrictive. I propose the language be broadened to read as follows:

Whenever possible, user participants should be sought who have basic user skills such as user experience with the product, familiarity with technical aspects of the product, and basic concepts of risk analysis, but other users should also be sought as well.

Deleted: shall be those with
 Deleted: the requisite technical knowledge
 Deleted: may also participate

LINES 54-71

The use of examples such as LINES 59-71 are helpful to the reader as they illustrate more clearly how the various perspectives of the committee members should be classified when forming a consensus body. Following this lead, as I stated above, I have attached Table 1, which is a more detailed listing of interest groups. Just as there are four examples of Users in LINES 54-71, the proposed Table 1 has an extensive listing of interest groups that would comprise the three major interest categories.

One of the major characteristics of a balanced and transparent consensus body is that those stakeholders who derive revenue from the manufacture, distribution, and sale of a product are all placed in the Producer Interest category. In that way, all entities with a financial tie to the industry whose product is the subject of the standard are placed together. Stakeholders in the other two categories, the User Interest and General Interest, are independent of any financial connection to the industry.

I propose that Table 1 be included in the revised Essential Requirements as an illustrative guide for how the system should work in an effort to assess and ultimately achieve balance.

I have also included Table 2, which illustrates an example of committee imbalance. Indeed, Table 2 demonstrates the value of including Table 1 as part of the revised Essential Requirements.

TABLE 1 (Proposed for inclusion in revised ER)**THREE MAJOR INTEREST CATEGORIES**

PRODUCER INTEREST	USER INTEREST*	GENERAL INTEREST*
(stakeholders who derive revenue, directly or indirectly, from the manufacture, distribution, and sale of the product being addressed)	(stakeholders who have various experiences as users of the product being addressed)	(stakeholders who have various areas of expertise relevant to the product being addressed and are independent of the Producer Interest category)
Producer-manufacturers	User-individual consumers	General-medical experts
Producer-retailers	User-hobbyists	General-university researchers
Producer-importers	User-consumer groups	General-government experts
Producer-distributors	User-labor	General-professional societies
Producer-trade associations	User-industrial	General-test labs
Producer-paid consultants	User-government	General-independent tech experts
Producer-expert witnesses		General-non-industry lawyers
Producer-industry lawyers		General-“think tanks”
		General-trade associations (unrelated to committee focus)

*NO commercial interest in standard. Participants in this category have no commercial interest in the outcome of the standard; have not received compensation from any member of the Producer Interest category, both on and off the committee, regarding the product standard under consideration; and do not anticipate compensation in the foreseeable future.

TABLE 2 (example of imbalance)
THREE MAJOR INTEREST CATEGORIES

PRODUCER INTEREST (see Table 1)	USER INTEREST* (see Table 1)	GENERAL INTEREST* (see Table 1)
Producer-manufacturers 9	User-individual consumers 2	General-medical experts 2
Producer-retailers 3	User-hobbyists 0	General-university researchers 1
Producer-importers 1	User-consumer groups 2	General-government experts 1
Producer-distributors 1	User-labor 1	General-professional societies 1
Producer-trade association 1	User-industrial 0	General-test labs 1
Producer-paid consultants 2	User-government 1	General-independent tech experts 2
Producer-expert witnesses 1		General-non-industry lawyers 0
Producer-industry lawyers 0		General-“think tanks” 0
		General-trade associations 0 (unrelated to committee focus)
Total = 18	Total = 6	Total = 8

*NO commercial interest in standard. Participants in this category have no commercial interest in the outcome of the standard; have not received compensation from any member of the Producer Interest category, both on and off the committee, regarding the product standard under consideration; and do not anticipate compensation in the foreseeable future.

Table 2 is an example of a hypothetical committee with 32 voting members, distributed as shown by the bold numbers on the right side of each of the 23 stakeholder groups listed.

The historical criteria for balance are a) no single interest category constitutes more than one-third of the membership of a consensus body dealing with safety-related standards, or b) no single interest group constitutes a majority of the membership of a consensus body dealing with other than safety-related standards.

In this example, as constituted, there is a clear lack of balance among the three major interest categories—Producer Interest (18/32), User Interest (7/32), and General Interest (8/32). Since the imbalance favors the Producer Interest category—and virtually all members of that category are either employed by or connected financially to the industry in some way—the committee’s decisions are all-too-likely to reflect the industry’s positions. This committee is out of balance and needs some sort of adjustment to bring it into balance before it starts its work. To avoid problems illustrated in Table 2, Table 1 should be part of the revised Essential Requirements.²

² Had the historical balance criteria been applied separately to each of the 23 classification groups, no balance irregularities would surface. But that would be a bizarre and untenable conclusion because the committee membership significantly favors the Producer Interest. Hence, such an approach to assessing balance is misleading and not useful.