

From: Anne Caldas <acaldas@ansi.org>
Sent: Thursday, June 18, 2020 1:01 PM
To: Pat Davison <PDavison@mhi.org>
Cc: Anne Caldas <acaldas@ansi.org>; Jim Thompson <Jthomps@ansi.org>
Subject: ANSI ExSC Response to Public Comments - Davison/MHI

Greetings –

Thank you for submitting the attached public comments, which have been reviewed by the ANSI Executive Standards Council (ExSC). As a result of this review, an updated proposal has been approved for public comment and will be announced in *ANSI Standards Action* (www.ansi.org/standardsaction) this Friday, June 19, 2020. A copy of the updated proposal is attached, with any new comments on this proposal due to psa@ansi.org by July 20, 2020.

The ExSC received a number of comments regarding section 3.2 of the *ANSI Essential Requirements*. In particular, commenters have raised questions about: (1) the meaning of the undefined term "proprietary"; and (2) the scope of some of the examples provided in subsection 3.2.2. In response, the ExSC has added a new second sentence to clarify that the word "proprietary" in this context means "products or services that are the property of an owner and cannot be obtained or recreated without the consent of such owner." The examples of "proprietary products or services" have been clarified ("label" and "copyrighted user manual" have been removed) and expanded ("copyrighted materials" has been added) in the third sentence, which now reads: "For example, an ANS may not endorse or require the purchase or use of brand-name tools or components, licenses, manufacturer lists, service provider lists, and copyrighted materials." These revisions are intended to make clear that the purpose of Section 3.2.2 is to preclude a situation where an American National Standards (ANS) obligates or actively encourages an implementer to acquire products/services from a particular source.

The ExSC believes the current revisions, adding a definition of "proprietary" and replacing "copyrighted user manual" and "label" with a revised list of examples, that now includes "copyrighted materials," will make clearer that this section is not intended to address what a manufacturer decides is appropriate to include or not include in its own product manual or how the manual is used but, rather, to what an ANS itself can and cannot compel. In addition, a footnote has been added making clear that the term "copyrighted materials" is not intended to include manufacturers' instruction/safety manuals when a reference to such documents is incorporated by reference into the text of an ANS when done for non-commercial technical, or safety-related purposes, as long as such references do not otherwise violate other provisions of the Commercial Terms and Conditions Policy (*e.g.*, they cannot also contain warranties, guarantees and like commercial clauses).

The ExSC's response to your specific comments follows:

1. Is accredited laboratory an acceptable requirement? Yes, because the requirement would be a decision made by a consensus body and would not specify which accredited conformity assessment body, for example, 17025 accreditation. This is consistent with the attached updated proposed revision. In addition, generic conformity assessment requirements are allowed now, as is “accredited” conformity assessment – both must be generic and may not specify the name of a conformity assessment body.
2. ASDs are not under any obligation imposed by ANSI to monitor compliance with the terms of an ANS.
3. Disagree with proposals to add “testing facility accreditation” and “accreditation”: as long as the “accreditation” requirement is generic, e.g., 17025, not for example Company A, etc., then it is acceptable

Sincerely,
Anne

Anne Caldas
Secretary, ANSI Executive Standards Council (ExSC)
212-642-4914
acaldas@ansi.org