

From: Ling, Hung (Nokia - US/Murray Hill) <hung.ling@nokia.com>
Date: Saturday, Nov 23, 2019, 8:43 AM
To: Anne Caldas <acaldas@ansi.org>
Cc: John Kolakowski <john.kolakowski@nokia.com>
Subject: RE: Response to comments - ExSC Operating Procedures - Mr. Ling

Dear Ms. Caldas,

Thank you for your email. Here are my additional comments to your response.

Concerning my comment B, I continue to believe there is inconsistency between what is written in section 2 "... **members of the ExSC shall be nominated by ExSC voting members...**" and the nomination process described in section 5. Reading together, as you suggested, highlighted even more the contradiction of the word "shall" from section 2. The recruitment flyer from 2018 you enclosed (which I must have missed or did not receive) said:

"To apply/obtain additional information: Please submit a letter of interest indicating your organization's support for your participation on the ExSC and a bio/resume to: Anne Caldas,"

If the highlighted words in section 2 are to remain, it should really be "... members of the ExSC **shall be nominated by the ExSC Nominating Committee** and" This will take into account the initial step of nomination/application from the ANSI community (section 5) and then the review by the Nominating Committee.

Secondly, In your response to my comment D, you said:

Please note that all members of the ExSC are required to work on all issues before the ExSC, meaning they cannot choose, for example, to only contribute to issues related to the patent policy.

I certainly understand the scope of responsibility of the ExSC and have not in any of my comments indicating that an ExSC member can choose and pick where to get involved. My own background and experience has been in technical R&D, SDO governance and standardization in my tenure with Nokia (previously Alcatel-Lucent, Lucent and AT&T). As an example, I was on the IEEE-SA Standards Board for close to 10 years and in many policy committees in other associations over the years. I want to make perfectly clear that my overall comments do not come from the IPR perspective only. (I believe some people would say current ExSC members could use or be exposed to more IPR expertise.)

Thank you for your attention.

Hung Ling
Nokia USA

From: Anne Caldas <acaldas@ansi.org>
Sent: Friday, November 22, 2019 7:02 AM
To: Ling, Hung (Nokia - US/Murray Hill) <hung.ling@nokia.com>
Cc: Kolakowski, John (Nokia - US) <john.kolakowski@nokia.com>; Anne Caldas <acaldas@ansi.org>
Subject: Response to comments - ExSC Operating Procedures - Mr. Ling

Dear Mr Ling -

Thank you for your comments. Please find below responses to your comments. Also attached is a clean, updated version of the ExSC Operating Procedures, which was approved by the Executive Committee of the ANSI Board of Directors on November 20, 2019.

Sincerely,
Anne

Anne Caldas
Sr. Director, Procedures & Standards Administration
ANSI
212-642-4914
acaldas@ansi.org

From: Ling, Hung (Nokia - US/Murray Hill) <hung.ling@nokia.com>
Sent: Monday, November 11, 2019 2:28 PM
To: PSA Department <PSA@ansi.org>
Cc: Hung Ling <hung.ling@nokia.com>; John Kolakowski <john.kolakowski@nokia.com>
Subject: my comment to the proposed 2020 ExSC Operating Procedures

Hello,

Below please find my comments and proposal to the 2020 ExSC draft Operating Procedure out for comment till November 11, 2019.

Thank you for the consideration.

Hung Ling
Nokia USA

Four comments on the “Operating Procedures of the ANSI Executive Standards Council” (Hung Ling, Nokia USA)

A. In the existing version under Section 4 “Officers”, it is stated that:
“In addition, the ExSC shall be composed of representatives of organization members, company members, government members, members of the Consumer Interest Council, and members-at-large. An attempt shall be made to have at least two members, with a maximum of six members, in each category. The ExSC shall

strive to a balance of representation among the category to the extent possible. However, in no case shall the membership of the ExSC be greater than 21.”

The above text that governs the balance and overall membership in the ExSC is being deleted from the 2020 version. This text is extremely important in eliciting the requirement of balance and representation across all ANSI member categories in an important Program Oversight Committee. So its deletion is highly unusual and regrettable. We strongly urge and must request that this language be added back to under Section 2 of the proposed 2020 version “ExSC Membership and Membership Rights” as paragraph 2.

RESPONSE: With respect to balance provisions and the make-up of the ExSC, although the proposed updated ExSC Operating Procedures continue to address balance (and the paragraph you reference in the current 2017 edition was removed only because it was deemed redundant of such similar, balance-related language), in light of your and other comments supporting retention of the 2017 text, that paragraph will be retained in the 2020 edition to provide further detail on this point. See attached ExSC Operating Procedures, section 2.

B. Under Section 2, it is stated in the second paragraph that “Except as otherwise delegated by the Board, members of the ExSC shall be nominated by ExSC voting members and appointed by ...”.

It is highly unusual in any committee (and indeed in any organization) that only the existing voting members can nominate voting members of the subsequent class. This does not purport to the concept of openness and balance and will certainly perpetuate the make-up of ExSC membership with little likelihood of introducing new blood and ideas into the ExSC. (Note that this is different from nominating ExSC leadership by/from the ExSC voting membership.) We request that this limitation be stricken from the 2020 version and replaced by:

“In any year in which the term of current members of the ExSC is to expire, the ExSC shall follow the nomination and election procedure stated in Section 5.”

RESPONSE: Please refer to the attached ExSC recruitment flyer. Nominations for ExSC Membership have always been open to any ANSI Member. When a nomination is received, regardless of the source, the nominee is invited to attend an ExSC meeting, the ExSC Nominating Committee considers the nomination and then may recommend (or not) membership. The ExSC votes by ballot on the recommendation (regardless of the source) of the ExSC Nominating Committee and that recommendation is finally submitted to the ANSI Board Executive Committee for approval. Please refer to Section 5 of the attached Operating Procedures of the ANSI ExSC; referring to section 2 alone is not sufficient.

C. With our proposal, the first three paragraphs of Section 2 “ExSC Membership and Membership Rights” should now read as:
“The requirements for membership and the officers of the ExSC are provided in the ANSI By-laws. The members of the ExSC shall, in that capacity, act as fiduciaries to ANSI and shall act in the best interest of

ANSI. The members of the EXSC shall also abide by ANSI's Conflict of Interest and Related Party Transaction Policy, as well as, the ANSI Code of Conduct and these Operating Procedures.

In addition, the ExSC shall be composed of representatives of organization members, company members, government members, members of the Consumer Interest Council, and members-at-large. An attempt shall be made to have at least two members, with a maximum of six members, in each category. The ExSC shall strive to a balance of representation among the category to the extent possible. However, in no case shall the membership of the ExSC be greater than 21.

In any year in which the term of current members of the ExSC is to expire, the ExSC shall follow the nomination and election procedure stated in Section 5.

Membership in ANSI by the entity with which the Member is affiliated shall be a prerequisite

RESPONSE: Please refer to response above. Please also see the following clarification that has been added to address the fiduciary responsibility of the ExSC, BSR and Appeals Board :

The requirements for membership and the officers of the ANSI ExSC are provided in the *ANSI By-Laws*. The members of the ExSC shall, in that capacity, act in good faith and as fiduciaries to ANSI and shall act in the best interest of ANSI when making decisions on behalf of ANSI. However, if ExSC voting members believe their duties to their employer or another third party conflict in any way with those of ANSI, they may simply recuse themselves from decision making on behalf of ANSI as detailed in Section x below. The members of the ExSC shall also abide by ANSI's Conflict of Interest and Related Party Transaction Policy, as well as, the ANSI Code of Conduct and these Operating Procedures.

D. It is not clear to me, as a voting member of the IPC, NPC and IPRPC that I have received any request to recommend candidates for the ExSC in past or current years while I get yearly request to nominate candidates to the policy committees. So it is important to follow the nomination process where it is stated in Section 5:

“Recommendations for ExSC membership shall be open to any reasonable sources. Recommendations may be requested from appropriate ANSI committees, forums and advisory groups. All recommendations shall be referred to the ExSC Nominating Committee for consideration.”

Given that ANSI has 790 company members and 350 organization members (even smaller number of ASDs), the representation on the ExSC is weighted heavily towards ASDs and under-represented by company members. As company members are the constituents and technical contributors to the ASDs, they have strong stakes in the outcome and decisions of the ExSC. I would appreciate an explanation why this imbalance in representation exists and will likely to persist unless there is a conscientious effort by ANSI to make correction. (There is certainly a violation in the past of the rule of “...with a maximum of six members, in each category.”)

RESPONSE: Please refer to the attached ExSC recruitment flyer and the earlier response above. In addition, the language that you reference that addresses categories of members, and which has been restored to the current draft, must be read in full as it includes the phrases “an attempt shall be made” and the ExSC “shall strive”:

Except as otherwise delegated by the Board, members of the ExSC shall be nominated by ExSC voting members and appointed by the Chair of the Board with the approval of the Board. In making these appointments, the Chair of the Board shall endeavor to ensure representation of all membership categories concerned with the activities of the ExSC. The ExSC shall be composed of representatives of organizational members, company members, governmental members, members of the Consumer Interest Council, and members-at-large. An attempt shall be made to have at least two members, with a maximum of six members, in each category. The ExSC shall strive to a balance of representation among categories to the extent possible. In no case shall the voting membership of the ExSC be greater than 21. Membership in ANSI by the entity with which the member is affiliated shall be a prerequisite for participation in the ExSC unless the Board specifically permits otherwise. Membership in the ExSC, however, shall be by the individual, not the entity with which such person is affiliated.

Finally, 2 additional company members will serve on the ExSC for 2020, making a total of 6 company members on the ANSI ExSC. Please note that all members of the ExSC are required to work on all issues before the ExSC, meaning they cannot choose, for example, to only contribute to issues related to the patent policy. The ExSC is a working committee of ANSI and is responsible for considering a broad range of issues via many ballots and task group teleconferences between meetings and appeals hearings. The ExSC requires a significant time commitment and one that potential candidates must embrace.