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FEDERAL TRADE COMMISSION  
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Re: *In the Matter of Negotiated Data Solutions LLC*  
*File No. 051-0094*

Dear Honorable Attorneys General:

Thank you for your comments as the Attorneys General of California, Connecticut, Idaho, Illinois, Iowa, Kansas, Maine, Massachusetts, Mississippi, Oklahoma, Oregon, Rhode Island, Washington and West Virginia (“the States”) regarding the proposed consent order accepted for public comment in the above-captioned matter. The States note that they have a direct interest in the integrity of standard setting. State agencies are among the purchasers of products that benefit from the efficiencies of standardization. Moreover, government agencies often incorporate standards into codes and regulations, relying on the expertise of standard setting organizations and avoiding the costs of duplicative research and testing. The Commission has reviewed the comments of the States, and has placed them on the public record of the proceeding.

The States’ comment letter expresses support for the Commission’s decision in this matter and favors final adoption of the proposed order. The States note that standard setting activities have the potential for significant consumer benefit as well as for anticompetitive harm. The States discuss the concept of patent ambush, in which a company that refuses to comply with standard setting organization requirements as to patent disclosure and the provision of licensing assurances, later engages in opportunism once the industry is locked into a standard incorporating its technology. The States explain that conduct in the standard-setting arena that falls short of being deceptive can still be anticompetitive. The States conclude that renegeing by N-Data on its promised terms was coercive and not justified by efficiencies. The States’ comment concludes that the Commission’s proposed remedy in this matter is reasonable.

Thank you for your interest in this matter. After considering all the comments, including the comment of the States, the Commission has determined that the public interest would be served best by issuing the Decision and Order in final form without modification.

By direction of the Commission, Chairman Kovacic dissenting.

Donald S. Clark  
Secretary