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Federal Trade Commission/Office of the Secretary  
600 Pennsylvania Ave., NW  
Room H-135 (Annex X)  
Washington, DC 20580

### Re: Patent Standards Workshop, Project No. P11-1204

Dear Mr. Clark:

The American National Standards Institute ("ANSI") respectfully submits the following supplemental response to the Federal Trade Commission's ("FTC's") Request for Comments in connection with its June 21, 2011 Workshop on Intellectual Property Rights In Standard Setting.

ANSI wishes to respond to comments made by Mr. Joseph Farrell, Director, Bureau of Economics, at the conclusion of the Workshop, relating to the role of consumers in standard setting. Mr. Farrell noted a need for consumer involvement in standards-setting activities. He noted that one of the Commission's goals was to try to bring consumers more fully to the "standards table" and he questioned how that might be done. ANSI has always considered consumer involvement in standards setting valuable<sup>1</sup>. As detailed below, ANSI engages in significant outreach efforts to consumer interests and we believe we have been instrumental in including the consumer perspectives in both policy development at ANSI and in standards development by our accredited SDOs.

For example, ANSI includes consumer interests in its policy development at the Board level and the Executive Committee and through the ANSI Consumer Interest Forum ("CIF") which is one of four ANSI membership forums, which are defined by interest category and intended to address issues of importance to that category of ANSI members. The CIF actively works to facilitate the representation of consumer interests in voluntary standards and conformity assessment activities throughout the world. Consumers are defined by ANSI as those individuals who use goods or services to satisfy their individual needs and desires, rather than to resell them or to produce other goods or services with them.

Some of the broad issues that the Consumer Interest Forum works to advance include:

- Outreach and networking: build stronger relationships between ANSI and national and international organizations to:
  - Increase standards awareness among consumer representatives, including increased participation in CIF and ANSI by government, consumers, business, and trade associations;
  - Build dialogue on key issues by providing a primary forum and information source on consumer interest issues related to voluntary standards and conformity assessment;
  - Develop effective information exchanges among consumer professionals;

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<sup>1</sup> See [www.ansi.org/consumer](http://www.ansi.org/consumer)

- Provide consumer feedback to the ANSI Federation;
- Policy development: facilitate enhanced consumer interest participation throughout the ANSI process and organization.
- Consumer participation: encourage consumer participation in the development of standards for consumer products and services to identify and meet consumer concerns and needs.

The ANSI CIF is also the U.S. liaison to ISO COPOLCO (Consumer Policy Committee of the International Organization for Standardization). COPOLCO provides a forum for the exchange of information and experience on consumer participation in the international standardization work of ISO and, by liaison, in IEC (the International Electrotechnical Commission). Participation in the CIF is open to any consumer representatives or other ANSI members with an interest in consumer issues who are willing to actively participate in its work and who express an interest in membership. Membership in ANSI is not required.

ANSI understands that consumer representatives may find it difficult to fund participation in these activities. Consumer representatives who wish to participate at ANSI are offered financial incentives to do so. Indeed, since 2000 ANSI has provided funding to permit consumer representatives to attend CIF meetings and to participate as members of ANSI's Board of Directors and Policy Committees.<sup>2</sup> ANSI's financial incentives program for consumer representatives provides for reimbursement of domestic and international travel expenses incurred in connection with attending ANSI governance meetings and when attending meetings as an authorized ANSI delegate, and for reimbursement of appropriate ANSI membership fees. The program has been successful in enabling consumer representatives employed by or affiliated with prominent consumer organizations to participate on the ANSI Board and in the Institute's governance activities, as well as in the policy-related activities of ISO COPOLCO.

Separate from the policy-developing work of the CIF, ANSI's own procedures governing the conduct of its accredited SDOs with respect to American National Standards -- the ANSI Essential Requirements: Due process requirements for American National Standards ("Essential Requirements") -- expressly require that ANSI-accredited standards developers engage in specific outreach activities to attempt to include all "materially interested" parties, including consumers where appropriate based on the nature of the standards under development. Section 2.3 of the Essential Requirements states in part that:

The interest categories appropriate to the development of consensus in any given standards activity are a function of the nature of the standards being developed. Interest categories shall be discretely defined, cover all materially affected parties and differentiate each category from the other categories. Such definitions shall be available upon request. In defining the interest categories appropriate to a standards activity, consideration shall be given to at least the following:

- a) producer;
- b) user;
- c) general interest.

The "consumer" interest category, which is a subset of "users," is also expressly called out in Section 2.3 as an additional interest category. Some ANSI-accredited standards developers have specific consumer advisory groups to help provide consumer feedback on their standards development activities.

Moreover, any consumer (like any materially affected party) who wishes to submit public comments in connection with a proposed American National Standard ("ANS") or a revision to an existing ANS may do so in accordance with established procedures and be assured that his/her comments will be considered during the standards development process.

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<sup>2</sup> In addition to the CIF, ANSI's Board of Directors -- the body which sets the strategic direction for the Institute -- includes consumer representatives from the National Consumers League, Consumers Union/Consumer Reports, National Association of Consumer Agency Administrators, and a Consumer Representative who was formerly a commissioner with the Consumer Products Safety Commission.

The ANSI Essential Requirements, which also include ANSI's patent policy (discussed at length in ANSI's initial submission to the FTC on June 21, 2011), are maintained by ANSI's Executive Standards Council ("ExSC"), a program oversight committee within ANSI's organizational structure that is by design composed of representatives of organizational members, company members, governmental members, members of the Consumer Interest Forum, and members-at-large. The ExSC strives to achieve a balance of representation among these categories to every extent possible. Currently a representative of the Consumer Product Safety Commission serves as a Standards Advisor to the ExSC and previously served as a member, thus serving in some capacity for well over a decade.

In closing, we believe that ANSI's efforts to include consumer interests in policy development at the CIF, the ANSI Board and other Institute committees, and to address the need for consumer participation in standards development where such participation is warranted, does provide a substantial opportunity to consumer interests at the standards table. ANSI would be pleased to meet with the FTC to answer questions and explore ways in which we could further engage with the Commission to pursue these and other goals.

Respectfully submitted,



**American National Standards Institute**

By: Patricia Griffin, Vice President and General Counsel