

May 12, 2014

The Honorable Howard Shelanski, Administrator
Office of Information and Regulatory Affairs
U.S. Office of Management and Budget
725 17th Street, NW
Washington, DC 20503
Submitted Electronically

Dear Mr. Shelanski,

Re: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities

Nokia Solutions and Networks (NSN) respectfully submits the following comment regarding the proposed revisions to OMB Circular A-119 published on February 11, 2014¹:

On page 22, the proposed revision document² suggests revised text as follows:

This evaluation should include consideration of the economic effect of intellectual property rights (IPR) policies of the voluntary consensus standards bodies on standards implementers, such as the extent to which entities practicing the standards may obtain licenses to patented technology incorporated into the standard on a non-discriminatory and reasonable royalty or royalty-free basis. This evaluation should also include consideration of whether such IPR policies bind subsequent transfers of patented technology incorporated into the standard.

NSN is concerned that, as drafted, the proposed text does not reflect the balance that is necessary for successful standardization. Standards have no use unless they can be widely adopted, BUT, standards will not exist unless there are sufficient incentives for their creation and maintenance.

¹ NSN is also joining another submission by Qualcomm, Ericsson, Alcatel-Lucent and Dolby.

² Available at <http://www.whitehouse.gov/sites/default/files/omb/inforeg/revisions-to-a-119-for-public-comments.pdf>

This balance must be maintained to encourage standardization in highly complex technologies which require contributions from multiple stakeholders over many years. A more balanced statement would read:

This evaluation should include consideration of the economic effect of the intellectual property rights (IPR) policies of the voluntary consensus standards bodies. Such considerations would include, for example, on standards implementers, such as the incentives provided by the IPR policies for the continuing development of the standards and an appropriate return on investment for those contributing technology to the standard, as well as the extent to which entities practicing the standards may obtain licenses or other rights to practice patented technology incorporated into the standard on a non-discriminatory and reasonable royalty ~~or royalty-free~~ basis. This evaluation should also include consideration of whether such IPR policies bind subsequent transfers of patented technology incorporated into the standard.

This is really the goal of all IPR policies for voluntary consensus standards: to promote the use of standards and to make them widely available at a reasonable cost, while maintaining sufficient incentives for their initial and continuing development. Standardization would not exist if this balance were not maintained.

We appreciate the opportunity to weigh in on the process and we can make ourselves available to discuss these issues further at your or your staff's, convenience.

Sincerely,

Kerry Philip Miller
Senior IPR Licensing Counsel
Nokia Solutions and Networks
kerry.miller@nsn.com

John Kolakowski
Senior IPR Licensing and Litigation Counsel
Nokia Solutions and Networks
john.kolakowski@nsn.com